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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL REGULATION (EU) No 134/2012

of 23 January 2012

concerning the allocation of fishing opportunities under the Protocol to the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 22 November 2007, the Council adopted Regulation (EC) No 1446/2007 on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique ⁽¹⁾ (the 'Agreement'). A Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement ⁽²⁾ was attached thereto. That Protocol expired on 31 December 2011.
- (2) A new Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique (the 'Protocol') was initialled on 2 June 2011, providing EU vessels with fishing opportunities in the waters over which Mozambique have sovereignty or jurisdiction in respect of fisheries.
- (3) On 23 January 2012 the Council adopted Decision 2012/91/EU ⁽³⁾ on the signing, on behalf of the European Union, and provisional application of the Protocol.
- (4) The method for allocating the fishing opportunities among the Member States should be defined for the duration of the Protocol.
- (5) In accordance with Article 10(1) of Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters ⁽⁴⁾, if it appears

that the fishing opportunities allocated to the Union under a Fisheries Partnership Agreement are not fully utilised, the Commission is to inform the Member States concerned. The absence of a reply within deadlines to be set by the Council is to be considered as confirmation that the vessels of the Member State concerned are not making full use of their fishing opportunities in the given period. It is necessary to set such deadlines.

- (6) Since the Protocol to the Agreement expired on 31 December 2011, this Regulation should apply from 1 February 2012,

HAS ADOPTED THIS REGULATION:

Article 1

1. The fishing opportunities set out in the Protocol shall be allocated among the Member States as follows:

(a) tuna purse seiners:

Spain	22 vessels
France	20 vessels
Italy	1 vessel
<hr/>	
Total	43 vessels

(b) surface longliners:

Spain	16 vessels
France	8 vessels
Portugal	7 vessels
United Kingdom	1 vessel
<hr/>	
Total	32 vessels

⁽¹⁾ OJ L 331, 17.12.2007, p. 1.

⁽²⁾ OJ L 331, 17.12.2007, p. 39.

⁽³⁾ See page 3 of this Official Journal.

⁽⁴⁾ OJ L 286, 29.10.2008, p. 33.

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

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

4. The deadline by which Member States are to confirm that they do not fully utilise the fishing opportunities allocated

under the Agreement, as referred to in Article 10(1) of Regulation (EC) No 1006/2008, shall be set at 10 working days from the day on which Commission informs the Member States that the fishing opportunities have not been exhausted.

Article 2

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

It shall apply from 1 February 2012.

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

Done at Brussels, 23 January 2012.

For the Council
The President
M. GJERSKOV

COUNCIL DECISION

of 23 January 2012

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

(2012/91/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 22 November 2007, the Council adopted Regulation (EC) No 1446/2007 on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique⁽¹⁾ (the Agreement). A Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement⁽²⁾ was attached thereto. That Protocol expired on 31 December 2011.
- (2) The Union negotiated with Mozambique a new Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique (the Protocol), providing EU vessels with fishing opportunities in the waters over which Mozambique have sovereignty or jurisdiction in respect of fisheries.
- (3) As a result of those negotiations, the Protocol was initialled on 2 June 2011.
- (4) In order to ensure the continuation of fishing activities of EU vessels, the Protocol should be applied provisionally from the date of its signature, as provided for in Article 15 thereof.
- (5) The Protocol should be signed and applied on a provisional basis, pending the completion of the procedures for its conclusion,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique is hereby authorised on behalf of the Union, subject to the conclusion of the said Protocol.

The text of the Protocol is attached to this Decision.

Article 2

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

Article 3

The Protocol shall be applied on a provisional basis as from the signature thereof⁽³⁾, pending the completion of the procedures for its conclusion.

Article 4

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

Done at Brussels, 23 January 2012.

For the Council

The President

M. GJERSKOV

⁽¹⁾ OJ L 331, 17.12.2007, p. 1.
⁽²⁾ OJ L 331, 17.12.2007, p. 39.

⁽³⁾ The date of signature of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

PROTOCOL**setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique***Article 1***Period of application and fishing opportunities**

1. For a period of three (3) years, the fishing opportunities granted under Article 5 of the Fisheries Partnership Agreement shall be as follows:

Highly migratory species (species listed in Annex 1 to the 1982 United Nations Convention on the Law of the Sea):

- (a) 43 ocean-going tuna seiners; and
- (b) 32 surface longliners.

2. Paragraph 1 shall apply subject to Articles 5 and 6 of this Protocol.

3. Under Article 6 of the Fisheries Partnership Agreement, and Article 7 of this Protocol, vessels flying the flag of a Member State of the European Union may engage in fishing activities in Mozambique waters only if they are on the list of authorised fishing vessels of IOTC and in possession of a fishing authorisation issued under the conditions established in this Protocol in accordance with the Annex thereto.

*Article 2***Financial contribution — Methods of payment**

1. For the period referred to in Article 1, the total financial contribution referred to in Article 7 of the Fisheries Partnership Agreement shall be EUR 2 940 000 for the whole duration of this Protocol.

2. The total financial contribution shall comprise:

- (a) an annual amount for access to Mozambique fishing zone of EUR 520 000 equivalent to a reference tonnage of 8 000 tonnes per year; and
- (b) a specific amount of EUR 460 000 per year for the support and implementation of Mozambique' sectoral fisheries policy and maritime policy.

3. Paragraph 1 shall apply subject to Articles 3, 5, 6, 8 and 9 of this Protocol.

4. The European Union shall pay the financial contribution referred to in paragraph 1 at the rate of EUR 980 000 per year during the period of application of this Protocol, corresponding to the total amount fixed in paragraph 2(a) and 2(b) of this Article (i.e. respectively EUR 520 000 and EUR 460 000)

5. If the overall quantity of catches of tuna by European Union vessels in Mozambique fishing zone exceeds 8 000 tonnes per year, the amount of the annual financial

contribution for access rights shall be EUR 65 for each additional tonne caught. However, the total annual amount paid by the European Union shall not be more than twice the amount indicated in paragraph 2(a) (i.e. EUR 1 040 000). Where the quantities caught by European Union vessels in the Mozambique fishing zone exceed the quantities corresponding to twice the total annual amount, the amount due for the quantity exceeding that limit shall be paid the following year in line with the provisions of the Annex.

6. Payment shall be made no later than 60 days after this Protocol's provisional application as referred in article 15 for the first year, and no later than the anniversary date of this Protocol for the following years.

7. Mozambique shall have full discretion regarding the use to which the financial contribution specified in Article 2 paragraph 2(a) is put.

8. The financial contribution shall be paid or transferred into the single central treasury account. The account number shall be provided by the Mozambique authorities.

*Article 3***Promoting responsible fishing and sustainable fisheries in Mozambique' waters**

1. As soon as this Protocol enters into force and no later than three months after that date, the European Union and Mozambique shall agree, within the Joint Committee provided for in Article 9 of the Fisheries Partnership Agreement, on a multiannual sectoral program, according with the Mozambique Fisheries Masterplan and European Commission policy framework, and detailed implementing rules covering, in particular:

- (a) annual and multiannual guidelines for using the specific amount of the financial contribution referred to in Article 2 paragraph 2(b);
- (b) the objectives, both annual and multiannual, to be achieved with a view to introduce responsible fishing and sustainable fisheries, taking account of the priorities expressed by Mozambique in its national fisheries policy, and other policies relating to or having an impact on the promotion of responsible fishing and sustainable fisheries, including marine protected areas;
- (c) criteria and procedures including where appropriate budgetary and financial indicators, for evaluating the results obtained each year.

2. Any proposed amendments to the multiannual sectoral programme must be approved by both Parties within the Joint Committee.

3. Each year, Mozambique may allocate, if necessary, an additional amount to the financial contribution referred to in Article 2 paragraph 2(b) with a view to implementing the multi-annual programme. This allocation shall be notified to the European Union.

Article 4

Scientific cooperation on responsible fishing

1. The two Parties hereby undertake to promote responsible fishing in Mozambique waters based on the principle of non-discrimination between the different fleets fishing in those waters.

2. During the period covered by this Protocol, the European Union and Mozambique shall endeavour to monitor the state of fishery resources in the Mozambique's fishing zone.

3. Both Parties shall endeavour to respect the resolutions and recommendations of the Indian Ocean Tuna Commission (IOTC) and, the advice of the joint scientific working group provided for by Article 4 paragraph 2 of the Agreement, regarding conservation and responsible management of fisheries.

4. In accordance with article 4 of the Agreement, based on the recommendations and resolutions taken within the IOTC, and the best available scientific advice and, where appropriate, the results of the joint scientific meeting provided for by Article 4 of the Fisheries Partnership Agreement, the two Parties may consult each other within the Joint Committee provided for in Article 9 of the Fisheries Partnership Agreement and, where necessary, agree on the measures to ensure sustainable management of Mozambique' fisheries resources.

5. In case EU vessels land their catch in third countries, Mozambique authorities will have the possibilities of observing these landings.

Article 5

Adjustment of fishing opportunities by mutual agreement

1. The fishing opportunities referred to in Article 1 may be adjusted by mutual agreement in so far as the recommendations and resolutions of IOTC and the joint scientific working group support that such an adjustment will secure the sustainable management of tuna and tuna-like species in the Indian Ocean.

2. In this case the financial contribution referred to in Article 2 paragraph 2(a) shall be adjusted proportionately and *pro rata temporis*. However, the total annual amount paid by the European Union shall not be more than twice the figure indicated in Article 2 paragraph 2(a).

3. Both Parties shall notify each other of any changes in their respective fisheries policy and legislation.

Article 6

New fishing opportunities

1. In the event that European Union fishing vessels become interested in engaging in fisheries not provided for in Article 1

of the Fisheries Partnership Agreement, the Parties shall consult each other before any possible authorisation is granted for any such activities and, where appropriate, agree on the conditions for such fishing including effecting corresponding amendments to this Protocol and the Annex thereto.

2. The Parties should encourage experimental fishing, especially relating to under exploited deep water species, present in Mozambique waters. To this end, and at the request of one Party, the Parties shall consult each other with a view to determining on a case by case basis, the species, conditions and other parameters that are relevant.

3. The Parties shall carry out experimental fishing in accordance with parameters that will be agreed by both Parties in an administrative arrangement where appropriate. The authorisations for experimental fishing should be agreed for a maximum period of 6 months.

4. In the event that the Parties consider that experimental campaigns have given positive results, the Government of Mozambique may allocate fishing possibilities of the new species to the European Union fleet until the expiration of this Protocol. The financial compensation mentioned in Article 2 paragraph 2(a) of this Protocol shall consequently be increased. Ship-owners' fees and conditions as provided for in the Annex shall be amended accordingly.

Article 7

Conditions governing fishing activities — Exclusivity clause

Without prejudice to Article 6 of the Fisheries Partnership Agreement, European Union vessels may fish in Mozambique waters only if they are in possession of a valid fishing authorisation issued by Mozambique under this Protocol and the Annex thereto.

Article 8

Suspension and review of the payment of the financial contribution

1. Notwithstanding the provisions laid out in Article 9 of this Protocol, the financial contribution referred to in Article 2 paragraph 2(a) and (b) shall be reviewed or suspended after consultation between the two Parties:

- (a) if fishing activities in Mozambique fishing zone are prevented for reasons other than natural phenomena;
- (b) following significant changes in the policy guidelines of either one of the Parties affecting the relevant provisions of this Protocol.

2. Sectoral policy support results and value for money performances will be assessed by the Government of Mozambique or by an external evaluator to be procured by the government of the Mozambique. The results of this annual evaluation will be analysed in the framework of the Joint Committee as provided for in Article 3 of this Protocol.

Consequently if the performances of the sectoral policy support are found to be materially inconsistent with the budgeted program, the European Commission may suspend, totally or partially, the payment of the specific contribution provided for in article 2 paragraph 2(b).

3. Payment of the financial contribution and/or fishing activities may recommence once the situation has returned to the status prior to the occurrence of the abovementioned circumstances and if the two Parties agree to do so following consultation.

Article 9

Suspension of the implementation of the Protocol

1. Implementation of this Protocol shall be suspended at the initiative of either one of the Parties subject to consultations between and agreement of the Parties within the Joint Committee provided for in Article 9 of the Agreement:

- (a) if exceptional circumstances, other than natural phenomena, prevent fishing activities in Mozambique fishing zone;
- (b) in case the European Union fails to make the payments provided for in Article 2, paragraph 2 (a) for reasons not covered by Article 8 of this Protocol;
- (c) where a dispute arises between the Parties over the interpretation and implementation of this Protocol and the Annex thereto which cannot be settled;
- (d) if either one of the Parties does not respect the provisions laid out by this Protocol and the Annex thereto;
- (e) following significant changes in the policy guidelines of either one of the Parties affecting the relevant provisions of this Protocol;
- (f) if either one of the Parties ascertains a breach of essential and fundamental elements on human rights as laid out by Article 9 of the Cotonou Agreement, and following the procedure set out in Articles 8 and 96 thereof;
- (g) in case of non-compliance with the International Labour Organisation Declaration on Fundamental Principles and Rights at Work as provided in Article 3, paragraph 5 of the Fisheries Partnership Agreement.

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

3. In the event of suspension of implementation, the Parties shall continue to consult with a view to finding an amicable settlement to their dispute. Where such settlement is reached, implementation of this Protocol shall resume and the amount

of the financial contribution shall be reduced proportionately and *pro rata temporis* according to the period during which implementation of this Protocol was suspended.

Article 10

National law

1. The activities of European Union fishing vessels in Mozambique's waters are subject to the laws and regulations of Mozambique unless otherwise provided under this Protocol and the Annex thereto.

2. The authorities of Mozambique shall inform the European Commission of any changes or new legislation regarding the fishery policy.

Article 11

Confidentiality

The Parties shall ensure that, at any time, all data relating to EU vessels and their fishing activities in the Mozambican waters will be treated as confidential. These data are used exclusively for the implementation of the Agreement and for the purposes of fisheries management, monitoring, control and surveillance with the relevant competent authorities.

Article 12

Electronic exchanges of data

Mozambique and the European Union will undertake to implement without delay the necessary systems for the electronic exchange of all information and documents related to the implementation of the Agreement. The electronic form of a document at any point will be considered equivalent to the paper version.

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

Article 13

Duration

This Protocol and the Annex thereto shall apply for a period of three (3) years from its provisional application as determined in Article 15, unless notice of termination is given in accordance with Article 14.

Article 14

Termination

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

2. Dispatch of the notification referred to in the previous paragraph shall open consultations by the Parties.

*Article 15***Provisional application**

This Protocol shall be applied provisionally from the date of its signature but not earlier than 1 January 2012.

*Article 16***Entry into force**

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

Съставено в Брюксел на първи февруари две хиляди и дванадесета година.

Hecho en Bruselas, el uno de febrero de dos mil doce.

V Bruselu dne prvního února dva tisíce dvanáct.

Udfærdiget i Bruxelles den første februar to tusind og tolv.

Geschehen zu Brüssel am ersten Februar zweitausendzwoölf.

Kahe tuhande kaheteistkümnenda aasta veebruarikuu esimesel päeval Brüsselis.

Έγινε στις Βρυξέλλες, την πρώτη Φεβρουαρίου δύο χιλιάδες δώδεκα.

Done at Brussels on the first day of February in the year two thousand and twelve.

Fait à Bruxelles, le premier février deux mille douze.

Arna dhéanamh sa Bhruiséil, an chéad lá de Feabhra an bhliain dhá mhíle agus a dó dhéag.

Fatto a Bruxelles, addì primo febbraio duemiladodici.

Briselē, divtūkstoš divpadsmitā gada pirmajā februārī.

Priimta du tūkstančiai dvyliktų metų vasario pirmą dieną Briuselyje.

Kelt Brüsszelben, a kétézer-tizenkettedik év február havának első napján.

Magħmul fi Brussell, fl-ewwel jum ta' Frar tas-sena elfejn u tnax.

Gedaan te Brussel, de eerste februari tweeduizend twaalf.

Sporządzono w Brukseli dnia pierwszego lutego roku dwa tysiące dwunastego.

Feito em Bruxelas, em um de fevereiro de dois mil e doze.

Întocmit la Bruxelles la întâi februarie două mii doisprezece.

V Bruseli dňa prvého februára dvetisícdvanásť.

V Bruslju, dne prvega februarja leta dva tisoč dvanajst.

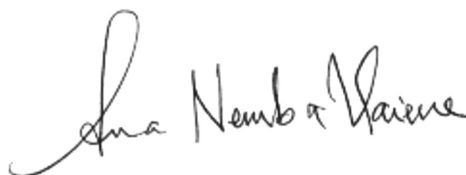
Tehty Brysselissä ensimmäisenä päivänä helmikuuta vuonna kaksituhattakaksitoista.

Som skedde i Bryssel den första februari tjugohundratolv.

За Европейския съюз
Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαϊκή Ένωση
For the European Union
Pour l'Union européenne
Per l'Unione europea
Eiropas Savienības vārdā –
Europos Sąjungos vardu
Az Európai Unió részéről
Ghall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Pentru Uniunea Europeană
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
För Europeiska unionen



За правителството на Мозамбик
Por el Gobierno de Mozambique
Za vládu Mosambiku
For Mozambiques regering
Für die Regierung Mosambiks
Mosambiigi valitsuse nimel
Για την Κυβέρνηση της Μοζαμβίκης
For the Government of Mozambique
Pour le gouvernement du Mozambique
Per il governo del Mozambico
Mozambikas valdības vārdā –
Mozambiko Vyriausybės vardu
Mozambik kormánya részéről
Ghall-Gvern tal-Możambik
Voor de regering van Mozambique
Pelo Governo de Moçambique
W imieniu rządu Mozambiku
Pentru guvernul Mozambicului
Za vládu Mozambiku
Za vlado Mozambika
Mosambikin tasavallan puolesta
För Moçambiques regering



ANNEX

CONDITIONS FOR THE EXERCISE OF FISHING ACTIVITIES BY EUROPEAN UNION VESSELS IN THE FISHING ZONE OF MOZAMBIQUE

CHAPTER I

GENERAL PROVISIONS

1. Designation of competent authority

For the purposes of this Annex and notwithstanding any indication to the contrary, any reference to the European Union (EU) or to Mozambique as a competent authority shall mean:

- for the EU: the European Commission, where applicable via the EU Delegation in Mozambique,
- for Mozambique: the Ministry of Fisheries.

2. Mozambique's fishing zone

All the provisions of the Protocol and its Annex apply exclusively in the fishing zone of Mozambique as indicated in Appendix 2.

3. Appointment of a local agent

Any EU vessel which plans to obtain a fishing authorisation under the present Protocol should be represented by a consignee resident in Mozambique.

4. Bank account

Mozambique shall notify the EU before the entry into force of the Protocol of the details of the bank account(s) into which the financial sums payable by EU vessels under the Agreement should be paid. The inherent costs linked to bank transfers shall be borne by ship-owners.

CHAPTER II

TUNA FISHING AUTHORISATIONS

1. Condition for obtaining a tuna fishing authorisation — eligible vessels

The tuna fishing authorisations referred to in Article 6 of the Agreement shall be issued on the condition that the vessel is included in the EU register of fishing vessels in the list of authorised fishing vessels of the IOTC and that all previous obligations of the ship-owner, the master, or the vessel itself arising out of fishing activities in Mozambique under the Agreement and the Mozambican fisheries legislation have been met.

2. Application for a fishing authorisation

The EU shall submit to Mozambique an application for a fishing authorisation in respect of any vessel wishing to fish under the Agreement at least 20 working days before the start of the period of validity requested using the form attached to this Annex as Appendix 1. The application must be typed or legibly written in block capitals.

For each initial application for a fishing authorisation on the basis of the Protocol in force, or following a technical change to the vessel concerned, the application shall be accompanied by:

- (i) the proof of payment of the advance payment fee for the period of validity of the fishing authorisation requested;
- (ii) the name, address and contact of:
 - the owner of the fishing vessel,
 - the operator of the fishing vessel,
 - the local consignee for the vessel, where there is one;
- (iii) a recent colour photograph of the vessel, showing a lateral view, and at least 15 cm x 10 cm in size;
- (iv) the seaworthiness certificate of the vessel;
- (v) the registration certificate of the vessel;
- (vi) the health certificate of the vessel, delivered by the EU competent authority;
- (vii) the contact details of the fishing vessel (fax, e-mail, etc.).

For renewal of a fishing authorisation under the Protocol in force for a vessel whose technical specifications have not been modified, the renewal application shall only be accompanied by proof of payment of the fee.

3. Advance payment fee

The amount of the advance payment fee is set on the basis of the annual rate specified in the technical sheets included in Appendix 2 to this Annex. It shall include all local and national taxes with the exception of port taxes, landing taxes, transshipment taxes and charges for the provision of services.

4. Provisional list of vessels authorised to fish

Once it has received the fishing authorisation applications, the national body responsible for supervising fishing activities shall immediately draw up, for each category of vessel, the provisional list of applicant vessels. This list shall be sent without delay to the EU by the Mozambique competent authority.

The EU shall forward the provisional list to the ship-owner or to the consignee. If the EU offices are closed, Mozambique may send the provisional list directly to the ship-owner or their consignee with a copy to the EU.

5. Issue of fishing authorisation

Fishing authorisations for all vessels shall be issued to ship-owners or their consignee within 15 working days of receiving the full application by the competent authority. A copy of this fishing authorisation shall be sent immediately to the EU Delegation.

6. List of vessels authorised to fish

Once the fishing authorisation is issued, the national body responsible for supervising fishing activities shall draw up immediately for each category of vessel the final list of vessels which are authorised to fish in the Mozambique fishing zone. This list shall be sent immediately to the EU and shall replace the provisional list mentioned above.

7. Period of validity of the fishing authorisation

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

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

- (i) for the first year of application of the Protocol, the period between the date of its entry into force and 31 December of the same year;
- (ii) then, each complete calendar year;
- (iii) for the last year of application of the Protocol, the period between 1 January and the date of expiry of the Protocol;
- (iv) for the first and for the last year of the Protocol the advance payment fee should be calculated on the *pro rata temporis* basis.

8. Documents to be carried onboard

While in Mozambique waters or in Mozambique port, the following documents must be carried on board fishing vessel at all times:

- (a) the fishing authorisation;
- (b) documents issued by a competent authority of the flag State of such fishing vessel, showing:
 - the number under which the fishing vessel is registered, the vessel certificate of registry,
 - conformity certificate provided for by the International Maritime Organisation (IMO) Torremolinos Convention;
- (c) up-to-date certified drawings or descriptions of the layout of the fishing vessel and in particular, the number of fish holds of the fishing vessels, with the storage capacity expressed in cubic metres;
- (d) if any modification was made to the characteristics of the fishing vessel with respect to its length overall, its gross registered tonnage, the horsepower of its main engine or engines or its hold capacity, a certificate, certified by a competent authority of the flag State of the fishing vessel, describing the nature of such modification;
- (e) if the fishing vessel is equipped with chilled or refrigerated sea-water tanks, a document certified by a competent authority of the flag State of the vessel indicating the calibration of the tanks in cubic metres;
- (f) authorisation to fish outside the waters under the jurisdiction of the flag State issued in respect of the fishing vessel;
- (g) a copy of Mozambique Fisheries Law (Law No 3/90) and Marine Fisheries Regulations (REPMAR Decree No 43/2003).

9. Transfer of fishing authorisation

The fishing authorisation shall be issued for a given vessel and shall not be transferable.

However, where *force majeure* is proven, at the request of the EU, a vessel fishing authorisation may be replaced by a new authorisation, issued for another similar vessel or a substitute vessel, without payment of a new advance payment. In such case, the statement of fees for freezer tuna seiners and surface longliners in Chapter IV shall take into account the total catch of the two vessels in the zone of Mozambique.

The transfer shall involve the fishing authorisation to be replaced being returned by the ship-owner or its consignee in Mozambique and the immediate drawing up by Mozambique of the replacement authorisation as soon as possible. The replacement authorisation shall be issued without further delay to the ship-owner or its consignee when the authorisation to be replaced is returned. The replacement authorisation shall take effect on the day on which the authorisation to be replaced is returned.

Mozambique shall update the list of vessels authorised to fish as soon as possible. The new list shall be sent without delay to the national body responsible for supervising fishing, and to the EU.

10. Support vessels

Support vessels must be authorised in compliance with the provisions and conditions provided for in Mozambican legislation.

The annual licence fee applicable for the support vessel is EUR 3 580 per year.

The competent Mozambican authorities shall send the list of these authorisations to the Commission on a regular basis, via the Delegation of the EU in Mozambique.

CHAPTER III

TECHNICAL MEASURES

Technical measures applicable to the vessels holding a fishing authorisation, relating to the zone, fishing gear and additional catch, shall be defined for each fishing category in the technical sheets contained in Appendix 2 to this Annex.

The vessels shall respect the fisheries legislation of Mozambique and all the resolutions adopted by the IOTC (Indian Ocean Tuna Commission).

CHAPTER IV

CATCH REPORTING

1. Definition of the fishing trip

For the purposes of this Annex, the duration of a fishing trip by a EU vessel shall be defined as follows:

- the period elapsing between entering and leaving Mozambique's fishing zone, or
- the period elapsing between entering Mozambique's fishing zone and a transshipment in port and/or a landing in Mozambique.

2. Fishing logbook

The master of an EU vessel fishing under the Agreement shall keep an IOTC fishing logbook, for which the model for each category of fishing is included in Appendix 3 to this Annex.

The fishing logbook must comply with IOTC resolution 08/04 for longliners and resolution 10/03 for purse seiners.

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

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

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

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

3. Catch reporting

The master shall notify the vessel's catch by submitting to Mozambique its fishing logbooks for the period of its presence in the fishing zone of Mozambique.

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

- (i) when passing through a port of Mozambique, the original of each fishing logbook shall be submitted to the local representative of Mozambique, who shall confirm receipt thereof in writing; copy of the logbook shall be handed over to the Mozambique inspection team;
 - (ii) when leaving the fishing zone of Mozambique without first passing through a Mozambican port, the original of each fishing logbook shall be sent within a period of seven working days after arrival in any other port, and in any case within a period of 15 working days after leaving the Mozambican zone;
- (a) by e-mail, to the e-mail address given by the national body supervising fishing activities;
 - (b) or by fax, to the number given by the national body supervising fishing activities;
 - (c) or by the letter sent to the national body supervising fishing activities.

The two Parties shall establish from the 1 January 2012 a protocol for the electronic exchange of all catch and reporting data based on an electronic logbook; the two Parties shall then plan the implementation of the protocol and the replacement of the paper version of the catch reporting with an electronic version by 1 July 2012.

The master shall send a copy of all the fishing logbooks to the EU and its flag State competent authority. For tuna-fishing vessels and surface longliners, the master shall also send a copy of all the fishing logbooks to the Instituto Nacional de Investigação Pesqueira (IIP) and to one of the following scientific institutes:

- (i) Institut de recherche pour le développement (IRD);
- (ii) Instituto Español de Oceanografía (IEO);
- (iii) IPIMAR (Instituto Português de Investigação Marítima).

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

Where the provisions concerning catch reporting are not observed, Mozambique may suspend the fishing authorisation of the vessel concerned until the missing catch report is obtained and penalise the ship-owner in accordance with the relevant provisions under the national legislation in force. If the offence is repeated, Mozambique may refuse to renew the fishing authorisation. Mozambique shall inform the EU immediately of any sanction applied in this context.

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

For each ocean-going tuna seiner and surface longliner, the EU shall draw up, on the basis of its catch reporting confirmed by the above scientific institutes, a final statement of the fees owed by the vessel in respect of its annual season for the previous calendar year.

The EU shall send this final statement to Mozambique and to the ship-owner before 31 July of the year in progress. Mozambique may contest the final statement, on the basis of documentary proof, within 30 working days of its being sent. In the case of disagreement, the Parties shall consult each other in the Joint Committee. If Mozambique does not object within 30 working days, the final statement shall be considered to be adopted.

Where the final statement is greater than the anticipated flat-rate fee paid to obtain the fishing authorisation, the ship-owner shall pay the outstanding balance to Mozambique by 30 September of the year in progress. Where the final statement is less than the expected flat-rate fee, the remaining amount may not be reclaimed by the ship-owner.

CHAPTER V

LANDINGS AND TRANSHIPMENTS

Transhipments at sea are prohibited. All transhipment operations in port are monitored under the presence of Mozambican fishing inspectors.

The master of an EU vessel wishing to land or to tranship must notify Mozambique, at least 48 hours before landing or transhipment, of the following:

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

(e) in the case of transshipment, the name of the receiving vessel.

For the receiving vessels, not later than 24 hours before the beginning and at the end of the transshipment, the master of the receiving carrier vessel shall inform the Mozambican authorities of the quantities of tuna and tuna-like species transhipped to his vessel and complete and transmit the transshipment declaration to the Mozambican authority within 24 hours.

The transshipment operation is subject to a prior authorisation delivered by Mozambique to the captain or its consignee within 24 hours after the abovementioned notification. The transshipment operation must be carried out in a Mozambican port authorised for this purpose.

The designated fishing ports where transshipment operations are permitted in Mozambique are Maputo, Beira and Nacala (ports declared to the IOTC under resolution 10/11 and as per PSME requirements).

EU vessels landing in Mozambique port shall endeavour to make their by-catch available to the local processing companies at the local market price. Upon request from the EU fishing companies the Mozambican authorities shall provide a list and contact of the local processing companies.

Non-compliance with these provisions shall lead to the application of the relevant sanctions provided for under the legislation of Mozambique.

CHAPTER VI

CONTROL

1. Entering and leaving the zone

Any entry into or departure from the fishing zone of Mozambique of an EU vessel holding a fishing authorisation must be notified to Mozambique within three hours of the entry or departure.

When notifying its entry or departure, the vessel shall notify in particular:

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

Notification shall be given preferably by e-mail or, failing that, by fax, to an e-mail address or a telephone number or a fax number communicated by Mozambique, using the form attached to the Annex as Appendix 4. Mozambique shall confirm receipt thereof immediately by return e-mail or fax.

Mozambique shall immediately inform the vessels concerned and the EU of any change to the e-mail address, telephone number or transmission frequency.

Any vessel found to be fishing in the Mozambican fishing zone without having previously notified its presence shall be considered to be an unauthorised fishing vessel.

Any person infringing this provision shall be liable to the penalties and sanctions provided for by the Mozambican fisheries law.

The entry/exit catch reports must be kept onboard at least for one year from the date of the report transmission.

2. Periodic catch report

When an EU vessel is operating in Mozambique waters, the captain of an EU vessel holding a fishing authorisation must notify the Mozambique Authority every three days with the catch made in the fishing zone of Mozambique. The first catch declaration will start five days after the date of entry in Mozambique fishing zone.

Every five days when notifying its periodic catch report, the vessel shall notify in particular:

- (i) the date, time and position on reporting;
- (ii) the quantity of each target species caught and held on board during the five-day period, as identified by its FAO alpha 3 code and expressed in kilograms of live weight or, if necessary, the number of individual fish;
- (iii) the quantity of each by-catch species retained on board during the five-day period, as identified by its FAO alpha 3 code and expressed in kilograms of live weight or, if necessary, the number of individual fish;

- (iv) the quantity of each by-catch species discarded at sea during the five-day period, as identified by its FAO alpha 3 code and expressed in kilograms of live weight or, if necessary, the number of individual fish;
- (v) product presentation;
- (vi) for tuna purse seine fishing vessels:
 - number of successful sets on FAD since last report,
 - number of successful sets on free school since last report,
 - number of unsuccessful sets;
- (vii) for tuna longline fishing vessels:
 - number of sets since last report,
 - number of hooks deployed since last report.

Notification shall be given preferably by e-mail or, failing that, by fax, to an e-mail address or a telephone number communicated by Mozambique, using the form attached to the Annex as Appendix 5. Mozambique shall immediately inform the vessels concerned and the EU of any change to the e-mail address, telephone number or transmission frequency.

Any vessel found to be fishing in the Mozambican fishing zone without having notified its five days periodic catch report shall be considered to be an unauthorised fishing vessel. Any person infringing this provision shall be liable to the penalties and sanctions provided for by the Mozambican Fisheries Law.

The periodic catch reports must be kept on board at least during one year from the date of the report transmission.

3. Inspection at sea

The inspection at sea in the zone of Mozambique of EU vessels holding a fishing authorisation shall be carried out by vessels and inspectors of Mozambique who are clearly identified as being assigned to carry out fishing checks.

Before going on board, the authorised inspectors shall warn the EU vessel of their decision to carry out an inspection. The inspection shall be carried out by fisheries inspectors, who must provide proof of their identity and official position as an inspector before carrying out the inspection.

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

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

The authorised inspectors shall give a copy of the inspection report to the master of the EU vessel before leaving the vessel. In case of infringement, a copy of the notification of the infringement should be transmitted also to the EU as foreseen in chapter VIII.

4. Pre-fishing briefing and Pre-fishing inspection

Every calendar year and before engaging in fishing activities, 33 % of EU vessels authorised to fish in Mozambican waters shall come to a Mozambican port for a pre-fishing briefing and a pre-fishing inspection.

The list of the designated vessels that should be inspected before engaging the fishing activity is communicated by Mozambican authority to the ship-owners and a copy is transmitted to the EU. For the vessels included in the list, the fishing authorisation will be handed over immediately after the inspection at port.

The ship-owner should inform 72 hours in advance the Mozambican authority about the timing and the port chosen for the inspection. Inspections will take place 24 hours upon arrival at the chosen port, namely Maputo, Beira or Nacala.

Mozambique may authorise the EU to participate in the inspection in port as an observer.

The master of the EU vessel shall allow the Mozambican inspectors to carry out their work.

At the end of each inspection, the Mozambican inspector shall draw up an inspection report. The master of the EU vessel has the right to include his comments in the inspection report.

The inspection report shall be signed by the inspector drawing up the report and the master of the EU vessel.

The Mozambican inspectors shall give a copy of the inspection report to the master of the EU vessel at the end of the inspection. Mozambique shall send a copy of the inspection report to the EU within a period of eight working days after the inspection.

5. Inspection in port in case of landing and transhipment

The inspection in a port of Mozambique of EU vessels which land or tranship their catch from the Mozambican zone shall be carried out by Mozambican inspectors who are clearly identified as being assigned to carry out fishing checks.

Inspectors must provide proof of their identity and official position as an inspector before carrying out the inspection. The Mozambican inspectors shall only stay on board the EU vessel for the time necessary to carry out the tasks related to the inspection and shall conduct the inspection in such a way as to minimise the impact on the vessel, the landing or transhipment operation and the cargo.

At the end of each inspection, the inspectors shall draw up an inspection report. The master of the EU vessel has the right to include his comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and the master of the EU vessel.

The Mozambican inspectors shall give a copy of the inspection report to the master of the EU vessel at the end of the inspection.

CHAPTER VII

SATELLITE MONITORING SYSTEM (VMS)

1. Vessel position messages — VMS system

EU vessels holding a fishing authorisation must be equipped with a satellite monitoring system (vessel monitoring system — VMS) to enable automatic and continuous communication of their position, every one hour, to the fishing control centre (Fisheries Monitoring Centre — FMC) of their flag State.

Each position message must contain:

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

Each position message must be configured in accordance with the format included in Appendix 5 to this Annex.

The first position recorded after entry into the Mozambican zone shall be identified by the code 'ENT'. All subsequent positions shall be identified by the code 'POS', with the exception of the first position recorded after departure from the Mozambican zone, which shall be identified by the code 'EXI'. The FMC of the flag State shall ensure the automatic processing and, if necessary, the electronic transmission of the position messages. The position messages shall be recorded in a secure manner and kept for a period of three years.

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

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

The EU vessels with defective VMS systems are not authorised to enter in the fishing zone of Mozambique.

When already operating in the fishing zone of Mozambique, in the event of breakdown, the VMS system of the vessel shall be repaired at the end of the trip or replaced within 10 days. After that period, the vessel shall no longer be authorised to fish in the Mozambican zone.

Vessels fishing in the Mozambican zone with a defective VMS system must communicate their position messages by e-mail or fax to the FMC of the flag State and of Mozambique, at least every two hours, and must provide all the compulsory information.

3. Secure communication of the position messages to Mozambique

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

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

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

4. Malfunction of the communication system

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

The master shall be considered to be responsible for any proven manipulation of the vessel's VMS system aimed at disturbing its operation or falsifying its position messages. Any infringement shall be subject to the penalties provided for by Mozambican legislation in force.

5. Revision of the frequency of position messages

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

The FMC of Mozambique shall then immediately notify the Control Centre of the flag State and the European Commission of the end of the inspection procedure;

At the end of the set investigation period, Mozambique shall inform the FMC of the flag State and the EU of any monitoring which is required.

CHAPTER VIII

INFRINGEMENTS

Failure to observe any of the rules and provisions of the Protocol the management and conservation of living resources measures or Mozambique fisheries legislation may be penalised by fines, suspension, revocation or non-renewal of the vessel's fishing authorisation.

1. Treatment of infringements

Any infringement committed in the Mozambican fishing zone by an EU vessel holding a fishing authorisation in accordance with the provisions of this Annex must be mentioned in an (inspection) report.

In case of an inspection on board, the signature of the inspection report by the master shall be without prejudice to the ship owner's right of defence in respect of an infringement. Where the master refuses to sign the inspection report, he writes in the inspection report the reasons of his refusal with the mention 'refusal to sign'.

For any infringement committed in Mozambique fishing zone by an EU vessel holding a fishing authorisation the notification of the infraction defined and the accessory sanctions imposed to the captain or the fishing company shall be sent directly to the shipowners following the procedures set in the Mozambique Fisheries Law. A copy of the notification should be sent to the flag State of the vessel and to the EU within 72 hours.

2. Detention of a vessel

Where permitted under the Mozambican legislation in force regarding the infringement, any EU vessel having committed an infringement may be forced to cease its fishing activity and, where the vessel is at sea, to return to a Mozambican port.

Mozambique shall notify the EU within 24 hours of any detention of an EU vessel holding a fishing authorisation. The notification will provide the reasons of the arrest and/or detention.

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

3. Penalties for infringements — Compromise procedure

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

In the event that the ship-owner does not accept the fines, a compromise procedure prior to launching the legal procedures shall be undertaken between the Mozambican authorities and the EU vessel to settle the issue amicably. A representative of the flag State of the vessel may participate in this compromise procedure. The compromise procedure shall finish at the latest 72 hours after the notification of the detention of the vessel.

4. Legal proceeding — Bank guarantee

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

The bank security shall be released and returned to the shipowner without delay after the judgment has been given:

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

Mozambique shall inform the EU of the outcome of the legal proceedings within eight days of the judgement being given.

5. Release of the vessel and the crew

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

CHAPTER IX

SIGNING-ON OF SEAMEN

1. Number of seamen to sign on

During their activities in Mozambique's fishing zone, the EU ocean-going tuna seiners shall sign-on at least 2 Mozambican qualified seamen per vessel. The longliners shall sign on at least one Mozambican qualified seaman per vessel.

The owners of EU vessels shall endeavour to sign on additional Mozambican seamen.

When no Mozambican seamen are taken on board, for any reason, EU ship-owners shall be obliged to pay a flat rate amount equivalent to a figure based on the number of days that the vessel operated in Mozambique fishing zone multiplied by the amount per day which is fixed at EUR 30 per seaman per vessel per day. The flat rate shall be paid to the Mozambique authorities at the latest by 31 December of the same year.

That sum shall be used for the training of seamen/fishermen in Mozambique and shall be paid into an account specified by the authorities of Mozambique.

2. Free choice of seamen

Mozambique holds a list of qualified seamen to be signed on for EU vessels.

The ship-owner, or their consignee, shall choose freely from this list the seamen to be signed on and shall notify Mozambique of their inclusion in the crew.

3. Seamen's contracts

The employment contract shall be drawn up by the ship-owner or its consignee and the seaman, if necessary represented by their union, in liaison with Mozambique. It shall stipulate in particular the date and port of signing on.

These contracts shall guarantee the seamen the social security cover applicable to them in Mozambique, including life assurance and sickness and accident insurance.

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

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

4. Seamen's wages

The wages of the Mozambican seamen shall be paid by the ship-owner. They shall be set before the fishing authorisation is issued and by mutual agreement between the ship-owner and its consignee in Mozambique.

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

5. Seamen's obligations

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

CHAPTER X

1. Observation of fishing activities

All EU vessels holding a fishing authorisation in Mozambique shall contribute EUR 300 to the fisheries observer programme to be paid into the competent authority specific account, when they apply for the fishing authorisation. This fund shall be used to cover administrative and management cost of the observers programme.

This observation programme shall conform to the provisions provided for in the resolutions adopted by the IOTC (Indian Ocean Tuna Commission).

2. Designated vessels and observers

Mozambique authorities shall draw a list of vessels designated to take an observer on board. This list shall be kept up to date. It shall be forwarded to the European Commission as soon as it has been drawn up.

The Mozambique authorities shall inform the ship-owners concerned of the name of the observers appointed to be taken on board of their vessel no later than 15 days before the observer's planned embarkation date.

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

3. Observer's salary

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

4. Embarkation conditions

The embarkation conditions for the observer, in particular the duration of presence on board, shall be defined by mutual agreement between the ship-owner or its consignee and Mozambique.

Observers shall be treated as officers. However, receiving the observer on board shall take into account the technical structure of the vessel.

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

The master shall take all the measures for which he is responsible to guarantee the physical safety and general wellbeing of the observer.

Observers shall be granted access to every facility needed to carry out their duties. They shall have access to means of communication and any documents on board, and to documents relating to the fishing activities of the vessel, in particular the fishing logbook, freeze log and navigation log, and the parts of the vessel directly linked to their duties.

5. Embarkation and landing of observers

The observer shall sign on in a port chosen by the ship-owner.

The ship-owner or its representative shall notify Mozambique, with a notice period of 10 days before the embarkation, of the date, time and port of embarkation of the observer. If the observer is embarked in a foreign country, their travel costs to the port of embarkation shall be borne by the ship-owner.

If the observer does not arrive to embark within 12 hours of the date and time set, the ship-owner shall be automatically discharged from its obligation to allow the observer to embark.

It shall be free to leave the port and start fishing operations.

Where the observer is not disembarked in a port of Mozambique, the ship-owner shall bear the costs of accommodation and food during the time the observer is waiting for repatriation flight.

6. Observer's obligations

Whilst they are on board observers shall:

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

The observers shall communicate observations by radio, fax or e-mail at least once a week while the vessel is fishing in the Mozambican fishing zone, including the quantity of catches and by-catches on board and any other duties as required by the authority.

7. Observer's report

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

The observer shall send his report to Mozambique, which shall send a copy of it to the EU within 15 working days of the disembarkation of the observer.

APPENDICES TO THIS ANNEX

1. Appendix 1 — Application form for a fishing authorisation
 2. Appendix 2 — Technical sheets
 3. Appendix 3 — Fishing logbook
 4. Appendix 4 — Entry/exit notification form
 5. Appendix 5 — Format of VMS message position
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Appendix 1

APPLICATION FORM FOR A FISHING AUTHORISATION



REPÚBLICA DE MOÇAMBIQUE
MINISTÉRIO DAS PESCAS
ADMINISTRAÇÃO NACIONAL DAS PESCAS



PEDIDO DE LICENÇA DE PESCA
(Request for Fishing License)
A preencher pelo requerente
(Information Requirements)

Nome do Proprietário (Name of Owner)

Endereço completo (Complete Address)

Nome do armador (Name of Ship Operator)

Endereço completo (Complete Address)

Caixa Postal (PO Box) Telefone (Telephone) Fax

Nome (1) (Name [1])

B.I/Passaporte. n.º (National ID/Passport No) Local de emissão (Where issued)

Validade (Validity)/...../..... Morada (Home Address)

Solicita a emissão da licença para pesca (Type of License Being Requested): (2)

Para exercer na zona de (Zone of Fishing Requested)

Tendo como porto base (Base Port) Província (Province)

Utilizando as seguintes artes de pesca (using following fishing gear)

Para a captura de (Targeted species)

Características da embarcação (3) (4) (Vessel details/characteristics) (3) (4)

1. Nome (Name) Pavilhão/Bandeira (Flag) Bandeira prévia (Previous flag) N.º de registo (Regist No)
2. Porto de registo (Port registry) N.º de IMO (IMO No.) Ano de construção (Year of built) Estaleiro/País (Country)
3. Tipo de casco (Type of hull) Cor do costado (Hull Colour) Cor da superestrutura (Colour Superstructure)
4. Dimensões(metros) (Total dimensions): Comprimento total (length) Boca (Width) Pontal (Draught) Tonelagem de arqueação bruta (GT) Tons
5. Equipamento electrónico (6) (electronic equipment (6)): Rádio HF (HI radio) Rádio VHF (VHF radio) Sonda (Echo sound) Sonar avigador de satélite (Setellite Navigator) Girabússola (compass) Radar
6. Indicativo de chamada rádio (Radio call sign) N.º de insuflados previstos (No. of Ribs)
7. Sistema de VMS (VMS system) Tipo de DLA do VMS (Type VMS Transponder) Modelo do DLA do VMS (Model of Transponder) N.º de DNID VMS (VMS ALC No.)
8. Motor principal (Principal engine): Marca(mark) Capacidade para combustível (Fuel Capacity) (l). Potência (power/potence) HP
9. Aparelhos de pesca (Fishing equipment): N.º de guinchos (No. of winches) Capacidade (capacity) Tons Arrasto de plumas (Beam trawler) (6) Arrasto de popa (Stearn trawler) (6) N.º de artes (No. of fishing gears)
10. Carcterísticas das artes de pesca (Fishing gears Characteristics): Comprimento do cabo da rede (length of net cable)..... m
11. Conservação do pescado (Fishery Conservation) (6) (7):
Produtos terminados (Finished products):

Sala de processamento: S/N (Processment factory: Y/N)

Congelamento (Freezing): Por ar forçado: S/N (By forced air: Y/N) Capacidade em ton/dia) (Capacity in tons/day) Temp.(em °c) (time in °c

Por placas de contacto: S/N Capacidade(em ton/dia) Temp.(em °c) (//)
(By plates contact Y/N) (Capacity in tons/day)

Na câmara de armazenagem frigorífica: S/N Capacidade(em ton/dia) Temp.(em °c) (//)
(Storage in refrigerator) //

Armazenagem frigorífica: Porão 1 Capacidade (em ton) Temp.(em °c ...) (//)
(Storage refrigerator: Hold 1) //

Armazenagem frigorífica: Porão 2 Capacidade (em ton) Temp.(em °c ...) (//)
//

Armazenagem frigorífica: Porão 3 Capacidade (em ton) Temp.(em °c ...) (//)
//

Refrigeração: A gelo: S/N Caixas isotérmicas S/N (isothermic box) Capacidade (em ton)

(Refrigeration: ice Y/N) Porão isolado S/N (isolated storage) Capacidade (em ton)

Porão refrigerado: S/N (refrigerated storage) Capacidade (em ton) Temp.(em °c

Água do mar refrigerada: S/N Capacidade (em ton) Temp.(em °c

(seawater refrigerated: Y/N) (capacity in tons and temperature))

Condições para espécies vivas: S/N Quais

(conditions for alive species: Y/N wich one)

Água potável m3 Dessalinizadores: S/N Sanitários: S/N Número

(drinkable water capacity) (dessalinizators Y/N) (toilets) (number)

Equipamentos auxiliares de processamento: Classificadores: S/N Balanças: S/N

(auxiliar processing equipment) (classificators: Y/N) (balance: Y/N)

Trituradores: S / N Lavadores de Pescado: S / N Cozedores de Pescado: S / N

(Grinders: Y/N) (fisheries washers: Y/N) (fisheries cookers: Y/N)

Outros

(Others)

12. Historia da embarcação (Vessel history)

Nomes prévios (previous names):

Registos prévios (previous registers)

Indicativos de chamada prévio (previous rádio call sign)

Assinatura do requerente

(Signature of requerent)

....., aos de de (date and place)

Notas (Notes):

- (1) Nome do representante da empresa/director, gerente/agente local, etc (Name of Partner/director,local agent)
- (2) Indicar o pretendido: Industrial, semi industrial, operações de pesca conexas (Industrial, semi-industrial or relate fishing operations)
- (3) Anexe 3 fotografias a cores da embarcação (lateral, frontal e traseira, respectivamente) (3 photographs, front, side and back views)
- (4) De acordo com o título de registo de propriedade. (according the vessel registry docs)
- (5) Indicar se é de aço, Madeira ou Fibra de vidro. (indicate if it is wood, fiber or ace)
- (6) Assinale com X conforme aplicável (sign with x if applicable)
- (7) Anexe o fluxo de processamento (anexe processment lines)
- (12) Preencher se aplicável (fill in if applicable)

A preencher pela entidade emissora da licença de pesca

(Reserved to Agency issuance of license)

Autorizada a emissão da licença de pesca aos .../.../...

(License issue Authorized on .../.../...)

Emitida a licença de pesca N.º

(License number)

Válida até

(valid until

Condições especiais (Special conditions):

.....

Assinatura

(signature)

....., aos de de (date and place)

Appendix 2

TECHNICAL SHEETS

SHEET: TUNA SEINERS AND SURFACE LONGLINERS

Fishing zone:

Beyond 12 nautical miles from the base lines.

Geographical coordinates: see table below

Authorised gear:

Seine

Surface longliner

By-catches:

Compliance with IOTC Resolutions

Authorised tonnage/Fees:

Number of vessels authorised to fish

Ocean-going tuna seiner vessels : 43

surface longliner vessels: 32

Annual advance payment fee:

EUR 5 100 per ocean-going tuna seiner vessel, for 146 tonnes of catch of highly migratory and associated species

EUR 4 100 per surface longliner vessel > 250 GT, for 118 tonnes of catch of highly migratory and associated species

EUR 2 500 per surface longliner vessel < 250 GT, for 72 tonnes of catch of highly migratory and associated species

Additional fee:

EUR 35 per tonne caught

Mozambique national seamen

EUR 30 per seaman, per vessel, per day in case of non-embarking

Observers (contribution to the fisheries observer program)

EUR 300 per year, per vessel

Geographical coordinates:

Point	1	2	3	4	5	6	7	8	9	10	11
Latitude	26°50'S	26°00'S	25°10'S	24°45'S	22°42'S	21°34'S	20°03'S	16°38'S	15°40'S	11°50'S	10°26'S
Longitude	37°36'E	38°15'E	38°38'E	38°24'E	37°54'E	37°30'E	37°58'E	41°18'E	42°31'E	41°45'E	42°05'E

Appendix 3

FISHING LOGBOOK

—

Appendix 4

ENTRY/EXIT NOTIFICATION FORM

COMMUNICATION FORMAT REPORTS

ENTRY/EXIT REPORTS

PERIODIC CATCH REPORT WHEN IN MOZAMBIKAN EEZ

All reports shall be transmitted to the competent authority, the National Fisheries Administration of Mozambique, at:

e-mail: entryexitcatchmoz@gmail.com

(Alternative — fax: +258 21 320 335)

Please note that:

- entry or exit reports must be sent to the e-mail provided above within three hours before the event,
- catch must be reported per species and live weight,
- catch unit must be in kilogramme,
- the reporting of catch relates to both the targeted species and the by-catch species. The species list provided below can be changed according to the species caught.

1. Entry report format (within three hours before the event)

Subject text: Vessel Name/IN

Vessel name:

International radio call sign:

Date of entry (dd/mm/yyyy):

Time of entry (UTC):

Position of entry (Deg Mn Sec):

Total quantity of fish species on board at Entry in EEZ

Yellowfin (YFT) kg

Bigeye tuna (BET) kg

Skipjack (SKJ) kg

Albacore (ALB) kg

Marlin (MAR) kg

Swordfish (SWO) kg

Shortbill spearfish (SSP) kg

Sailfish (SFA) kg

Blue shark (BSH) kg

Porbeagle (POR) kg

Mako shark (MAK) kg

Great white shark (TIG) kg

Crocodile shark (PSK) kg

Thresher sharks (THR) kg

Oceanic whitetip shark (OCS) kg

Hammerhead Sharks (SPN) kg

Other Requiem sharks (CWZ) kg

Others (specify species + FAO Code) kg

Etc ...

2. Exit report format (within three hours before the event)

Subject text: Vessel Name/OUT

Vessel name:

International radio call sign:

Date of exit (dd/mm/yyyy):

Time of exit (UTC):

Position at exit (Deg Mn Sec):

Total quantity of fish species on board at Exit of EEZ

Yellowfin (YFT) kg

Bigeye tuna (BET) kg

Skipjack (SKJ) kg

Albacore (ALB) kg

Marlin (MAR) kg

Swordfish (SWO) kg

Shortbill spearfish (SSP) kg

Sailfish (SFA) kg

Blue shark (BSH) kg

Porbeagle (POR) kg

Mako shark (MAK) kg

Great white shark (TIG) kg

Crocodile shark (PSK) kg

Thresher sharks (THR) kg

Oceanic whitetip shark (OCS) kg

Hammerhead Sharks (SPN) kg

Other Requiem sharks (CWZ) kg

Others (specify + FAO Code)

Etc ...

3. Weekly/periodic catch report format (every three days when the vessel is operating in Mozambique waters)

Subject text: Vessel Name/WCR

Vessel name:

International radio call sign:

Date at reporting (dd/mm/yyyy):

Time at reporting (UTC):

Position at reporting (Deg Mn Sec)

Catch in Mozambique EEZ (kg)

Yellowfin (YFT) kg

Bigeye tuna (BET) kg

Skipjack (SKJ) kg

Albacore (ALB) kg

Marlin (MAR) kg

Swordfish (SWO) kg

Shortbill spearfish (SSP) kg

Sailfish (SFA) kg
 Blue shark (BSH) kg
 Porbeagle (POR) kg
 Mako shark (MAK) kg
 Great white shark (TIG) kg
 Crocodile shark (PSK) kg
 Thresher sharks (THR) kg
 Oceanic whitetip shark (OCS) kg
 Hammerhead Sharks (SPN) kg
 Other Requiem sharks (CWZ) kg
 Others (specify species + FAO Code)
 Etc ...

For tuna purse seine fishing vessel:

- number of successful sets on FAD since last report:
- number of successful sets on free school since last report:
- number of unsuccessful sets:

For tuna longline fishing vessel:

- number of sets since last report:
- number of hooks deployed since last report:

The table below shows the official alphanumeric codes (also called '3-alpha') for the species under the mandate of the IOTC. The English, French and Scientific names are taken from the FAO taxonomy.

Code	English Name	French Name	Scientific Name
ALB	Albacore tuna	Germon	<i>Thunnus alalunga</i>
BET	Bigeye tuna Patudo;	Thon obèse	<i>Thunnus obesus</i>
BFT	Bluefin tuna	Thon rouge	<i>Thunnus thynnus thynnus</i>
BIL	Marlins, sailfishes, spear fish	Poissons épée NCA (**)	<i>Xiphoidei NEI (*)</i>
BIP	Indo-Pacific Bonito	Bonito oriental	<i>Sarda orientalis</i>
BLM	Black Marlin	Makaire noir	<i>Makaira indica</i>
BLT	Bullet tuna	Bonitou	<i>Auxis rochei</i>
BLZ	Indo-Pacific Blue Marlin	Makaire bleu de l'Indo Pacifique	<i>Makaira mazara</i>
COM	Narrow barred Spanish Mackerel	Thazard rayé	<i>Scomberomorus commersoni</i>
DOT	Dogtooth tuna	Bonite à gros yeux	<i>Gymnosarda unicolor</i>
FRI	Frigate tuna	Auxide	<i>Auxis thazard</i>
FRZ	Frigate and Bullet tunas	Auxides et Bonitous	<i>Auxis spp.</i>
GUT	Indo-Pacific king mackerel	Thazard ponctué	<i>Scomberomorus guttatus</i>
KAW	Kawakawa	Thonine orientale	<i>Euthynnus affinis</i>
KGX	Seerfishes NEI (*)	Thazards NCA (**)	<i>Scomberini NEI (*)</i>

Code	English Name	French Name	Scientific Name
LOT	Longtail tuna	Thon mignon	<i>Thunnus tonggol</i>
MAR	Marlines NEI (*)	Makaire NCA (**)	
MLS	Striped Marlin	Marlin rayé	<i>Tetrapturus audax</i>
OBL	Billfishes, unclassified	Porte-épée non-classifiés	
OTH	Others NEI (*)	Autres NCA (**)	<i>Scombridae and Xiphoidei</i>
RSK	Requiem sharks		<i>Carcharinidae</i>
SBF	Southern Bluefin tuna	Thon rouge du sud	<i>Thunnus maccoyii</i>
SFA	Indo-Pacific Sailfish	Voilier de l'Indo-Pacifique	<i>Istiophorus platypterus</i>
SHK	Shark	Requins	
SKJ	Skipjack Listao;	Bonite à ventre rayé	<i>Katsuwonus pelamis</i>
SSP	Short-billed spearfish	Makaire à rostre court	<i>Tetrapterus angustirostris</i>
STS	Streaked seerfish	Thazard cirrus	<i>Scomberomorus lineolatus</i>
SWO	Swordfish	Espadon	<i>Xiphias gladius</i>
TUN	Tunas and Bonitos NEI (*)	Thons et bonites NCA (**)	<i>Thunnini and Sardini NEI (*)</i>
WAH	Wahoo	Thazard-bâtard	<i>Acanthocybium solandri</i>
YFT	Yellowfin tuna	Albacore	<i>Thunnus albacares</i>

(*) NEI: not elsewhere included.

(**) NCA: non compris ailleurs.

Appendix 5

FORMAT OF VMS MESSAGE POSITION

COMMUNICATION OF VMS MESSAGES

POSITION REPORT

Data element	Code	Mandatory/ optional	Content
Start record	SR	M	System detail — indicates start of record
Addressee	AD	M	Message detail — addressee. Alpha-3 ISO country code
From	FR	M	Message detail — sender. Alpha-3 ISO country code
Flag State	FS	O	Message detail — flag State
Type of message	TM	M	Message detail — message type [ENT, POS, EXI]
Radio call sign	RC	M	Vessel detail — international radio call sign of vessel
Contracting Party internal reference number	IR	O	Vessel detail — unique Contracting Party number (flag State ISO3 code followed by number)
External registration number	XR	M	Vessel detail — number marked on side of vessel
Latitude	LA	M	Vessel position detail — position in degrees and minutes N/S DDMM (WGS84)
Longitude	LO	M	Vessel position detail — position in degrees and minutes E/W DDMM (WGS84)
Course	CO	M	Vessel course 360° scale
Speed	SP	M	Vessel speed in tenths of knots
Date	DA	M	Vessel position detail — date of record of UTC position (YYYYMMDD)
Time	TI	M	Vessel position detail — time of record of UTC position (HHMM)
End record	ER	M	System detail — indicates end of record

M = mandatory data element.

O = optional data element.

Each data transmission is structured as follows:

1. characters are accorded to the ISO 8859.1 norm;
2. a double slash (//) and field code SR indicate the start of the message;
3. each data element is identified by its code and separated from the other data elements by a double slash (//);
4. a single slash (/) separates the field code and the data;
5. the ER code followed by a double slash (//) indicates the end of the message;
6. the optional data elements must be inserted between the start and the end of the message.

REGULATIONS

COMMISSION REGULATION (EU) No 135/2012

of 16 February 2012

amending Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste to include certain unclassified wastes in Annex IIIB thereto

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

revisions to the procedure for the review or adjustment of the lists of wastes contained in Annexes VIII and IX to the Basel Convention.

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

- (4) Finland, the Netherlands and Ireland submitted to the Secretariat of the Basel Convention applications for new entries to Annex IX to the Basel Convention on 14 January 2011, 25 January 2011 and 1 February 2011, respectively. Until a decision is made to include the unclassified entries in the relevant Annexes to the Basel Convention or to Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on the control of transboundary movements of wastes destined for recovery operations (OECD Decision), those entries can be added on a provisional basis to Annex IIIB to Regulation (EC) No 1013/2006.

Having regard to Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste ⁽¹⁾, and in particular Article 58(1)(b) thereof,

Whereas:

- (1) Ireland, Luxembourg, the Netherlands, Austria and Finland have submitted a request to the Commission to consider certain unclassified wastes for inclusion in Annex IIIB to Regulation (EC) No 1013/2006.

- (5) Regulation (EC) No 1013/2006 should therefore be amended accordingly.

- (2) The Commission has received comments from Bulgaria, the Czech Republic, Germany, France, Hungary, the Netherlands, Austria, Poland, Finland and Sweden with regard to the acceptability of the submitted requests to be considered as green listed waste for inclusion in Annex IIIB to Regulation (EC) No 1013/2006.

- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 39 of Directive 2008/98/EC of the European Parliament and of the Council ⁽³⁾,

- (3) Taking into account those comments, the Commission advised Ireland, the Netherlands and Finland to submit to the Secretariat of the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal ⁽²⁾ ('Basel Convention') applications for new entries to Annex IX to the Basel Convention, following the procedure of the Basel Convention's COP8 Decision VIII/15 regarding the

HAS ADOPTED THIS REGULATION:

Article 1

Annex IIIB to Regulation (EC) No 1013/2006 is replaced by the text set out in the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 190, 12.7.2006, p. 1.

⁽²⁾ OJ L 39, 16.2.1993, p. 3.

⁽³⁾ OJ L 312, 22.11.2008, p. 3.

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

Done at Brussels, 16 February 2012.

For the Commission
The President
José Manuel BARROSO

ANNEX

‘ANNEX IIIB

ADDITIONAL GREEN LISTED WASTE AWAITING INCLUSION IN THE RELEVANT ANNEXES TO THE BASEL CONVENTION OR THE OECD DECISION AS REFERRED TO IN ARTICLE 58(1)(b)

1. Regardless of whether or not wastes are included on this list, they may not be subject to the general information requirements laid down in Article 18 if they are contaminated by other materials to an extent which:
 - (a) increases the risks associated with the wastes sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account the hazardous characteristics listed in Annex III to Directive 2008/98/EC of the European Parliament and of the Council ⁽¹⁾; or
 - (b) prevents the recovery of the wastes in an environmentally sound manner.
2. The following wastes are included in this Annex:
 - BEU01 Pressure sensitive adhesive label laminate waste containing raw materials used in label material production not covered by Basel entry B3020
 - BEU02 Non-separable plastic fraction from the pre-treatment of used liquid packages
 - BEU03 Non-separable plastic-aluminium fraction from the pre-treatment of used liquid packages
 - BEU04 Composite packaging consisting of mainly paper and some plastic, not containing residues and not covered by Basel entry B3020
 - BEU05 Clean biodegradable waste from agriculture, horticulture, forestry, gardens, parks and cemeteries
3. The shipments of waste listed in this Annex are without prejudice to the provisions of Council Directive 2000/29/EC ⁽²⁾, including measures adopted pursuant to Article 16(3) thereof.

⁽¹⁾ OJ L 312, 22.11.2008, p. 3.

⁽²⁾ OJ L 169, 10.7.2000, p. 1.

COMMISSION IMPLEMENTING REGULATION (EU) No 136/2012**of 16 February 2012****concerning the authorisation of sodium bisulphate as feed additive for pets and other non-food producing animals****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of sodium bisulphate. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) The application concerns the authorisation of sodium bisulphate as a feed additive for pets and other non-food producing animals, to be classified in the additive categories 'technological additives' and 'sensory additives'.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 13 October 2011⁽²⁾ that, under the proposed conditions of use, sodium bisulphate does not have an adverse effect on animal health, human health or the environment, and that its use is considered efficacious as acidity regulator in feed for pets and other non food-producing animals, and as flavouring substance

in feed for pets. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (5) The assessment of sodium bisulphate shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of this preparation should be authorised as specified in the Annexes to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The preparation specified in Annex I, belonging to the additive category 'technological additives' and to the functional group 'acidity regulator', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

The preparation specified in Annex II, belonging to the additive category 'sensory additives' and to the functional group 'flavouring compounds', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 3

This Regulation shall enter into force on the 20th 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, 16 February 2012.

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ EFSA Journal 2011; 9(11):2415.

ANNEX I

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						mg/kg of complete feedingstuff with a moisture content of 12 %			
Category of technological additives. Functional group: acidity regulators									
1j514ii	—	Sodium bisulphate	<p><i>Additive composition</i></p> <p>Sodium bisulphate: $\geq 95,2$ %</p> <p><i>Characterisation of the active substance</i></p> <p>Sodium bisulphate CAS No 7681-38-1 NaHSO_4 Na 19,15 % SO_4 80,01 % Produced by chemical synthesis</p> <p><i>Method of analysis</i> ⁽¹⁾</p> <p>Determination of sodium hydrogen sulphate in feed additives: titrimetric method based on the determination of total soluble acidity of sodium bisulphate against a standard sodium hydroxide solution.</p>	Pets and other non-food producing animals	—	—	5 000	<ol style="list-style-type: none"> 1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. 2. For safety: breathing protection, eye protection and gloves shall be used during handling. 3. The mixture of different sources of sodium bisulphate must not exceed the maximum permitted level in complete feedingstuff of 5 000 mg/kg complete feedingstuff. 	8 March 2022

⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: http://irmm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

ANNEX II

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						mg/kg of complete feedingstuff with a moisture content of 12 %			
Category of sensory additives. Functional group: flavouring compounds									
1j514ii	—	Sodium bisulphate	<p><i>Additive composition</i> Sodium bisulphate: ≥ 95,2 %</p> <p><i>Characterisation of the active substance</i> Sodium bisulphate CAS No 7681-38-1 NaHSO₄ Na 19,15 % SO₄ 80,01 % Produced by chemical synthesis</p> <p><i>Method of analysis</i> ⁽¹⁾ Determination of sodium hydrogen sulphate in feed additives: titrimetric method based on the determination of total soluble acidity of sodium bisulphate against a standard sodium hydroxide solution.</p>	Pets	—	—	5 000	<ol style="list-style-type: none"> In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. For safety: breathing protection, eye protection and gloves shall be used during handling. The mixture of different sources of sodium bisulphate must not exceed the maximum permitted level in complete feedingstuff of 5 000 mg/kg complete feedingstuff. 	8 March 2022

⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: http://irmm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

COMMISSION IMPLEMENTING REGULATION (EU) No 137/2012**of 16 February 2012****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral trade negotiations, the criteria whereby the

Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 16 February 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	93,5
	JO	78,3
	MA	56,2
	TN	76,7
	TR	94,6
	ZZ	79,9
0707 00 05	JO	134,1
	MA	94,2
	TR	161,4
	ZZ	129,9
0709 93 10	MA	94,3
	TR	129,1
	ZZ	111,7
0805 10 20	EG	46,2
	IL	64,2
	MA	46,0
	TN	52,4
	TR	68,7
	ZZ	55,5
0805 20 10	IL	164,4
	MA	90,5
	ZZ	127,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	115,9
	MA	106,1
	TR	70,4
	ZZ	97,5
0805 50 10	EG	41,4
	TR	47,0
	ZZ	44,2
0808 10 80	CA	136,0
	CL	98,4
	CN	77,6
	MK	31,8
	US	152,8
	ZZ	99,3
0808 30 90	AR	94,8
	CL	141,4
	CN	49,7
	US	113,9
	ZA	131,8
	ZZ	106,3

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

COMMISSION IMPLEMENTING REGULATION (EU) No 138/2012

of 16 February 2012

amending the representative prices and additional import duties for certain products in the sugar sector fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year

THE EUROPEAN COMMISSION,

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

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

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2011/12 marketing year are fixed by Commission Implementing Regulation (EU) No 971/2011 ⁽³⁾. Those prices and duties were last amended by Commission Implementing Regulation (EU) No 78/2012 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with Article 36 of Regulation (EC) No 951/2006.

- (3) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year, are hereby amended as set out in the Annex hereto.

Article 2

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

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

Done at Brussels, 16 February 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 254, 30.9.2011, p. 12.

⁽⁴⁾ OJ L 27, 31.1.2012, p. 9.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 17 February 2012

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 12 10 ⁽¹⁾	42,50	0,00
1701 12 90 ⁽¹⁾	42,50	1,86
1701 13 10 ⁽¹⁾	42,50	0,00
1701 13 90 ⁽¹⁾	42,50	2,15
1701 14 10 ⁽¹⁾	42,50	0,00
1701 14 90 ⁽¹⁾	42,50	2,15
1701 91 00 ⁽²⁾	47,14	3,33
1701 99 10 ⁽²⁾	47,14	0,20
1701 99 90 ⁽²⁾	47,14	0,20
1702 90 95 ⁽³⁾	0,47	0,23

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

DECISIONS

COUNCIL IMPLEMENTING DECISION

of 14 December 2011

amending Implementing Decision 2011/344/EU on granting Union financial assistance to Portugal

(2012/92/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism ⁽¹⁾, and in particular Article 3(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Upon a request by Portugal, the Council granted financial assistance to it (Council Implementing Decision 2011/344/EU ⁽²⁾) in support of a strong economic and financial adjustment programme (Programme) aiming at restoring confidence, enabling the return of the economy to sustainable growth, and safeguarding financial stability in Portugal, the euro area and the Union.

(2) Under the Commission's current projections for nominal Gross Domestic Product (GDP) growth (– 0,6 % in 2011, – 1,9 % in 2012, 1,9 % in 2013 and 3,9 % in 2014), the fiscal adjustment path is in line with the Council Recommendation to Portugal of 2 December 2009 with a view to bringing an end to the situation of an excessive government deficit, pursuant to Article 126(7) of the Treaty, and consistent with a path for the debt-to-GDP ratio of 107,2 % in 2011, 116,2 % in 2012, 118,1 % in 2013 and 116 % in 2014. The debt-to-GDP ratio would therefore be stabilised in 2013 and be placed on a declining path thereafter, assuming further progress in the reduction of the deficit. Debt dynamics are affected by several below-the-line operations, including sizeable acquisitions of financial assets, in particular for possible bank recapitalisation and financing to state-owned enterprises (SOEs) and differences between accrued and cash interest payments.

(3) The quarterly quantitative performance criterion on the general government cash balance for the second quarter of 2011 was met and preliminary data suggest that this was also the case in the third quarter of 2011. However, with the information available as of early November, on a European Systems of Accounts (ESA95) basis, a budgetary gap of around 1,5 % of GDP is projected for 2011 as a whole. Part of this fiscal gap had been ascertained by August, in particular due to current expenditure overruns, lower-than-projected current non-tax revenue and higher-than-budgeted capital spending. The Portuguese Government had taken some measures to narrow this gap, namely a one-time surcharge in personal income tax and an increase in the VAT rate for natural gas and electricity, which was brought forward to 1 October 2011 from 2012. But these measures were not sufficient to close the fiscal gap, particularly as further slippages have been identified more recently, including higher interest payment, lower-than-projected capital revenue and sales of real estate. The Portuguese Government is seeking an agreement with the banks on a partial transfer of their pension funds to the State social security system, to be undertaken in full compliance with the Union State aid rules, and to be used exceptionally to meet the deficit target of 5,9 % of GDP in 2011. The Portuguese Government agreed not to rely on further transfers of pension funds to meet the Programme targets for the coming years.

(4) Progress is being made to strengthen public financial management through improved reporting and monitoring, and reforming the budgetary framework in line with the recommendations from Commission services and International Monetary Fund (IMF) staff.

(5) The stock of arrears should be significantly reduced over the Programme period. To this end, a strategy for the validation and settlement of arrears for the entities inside the general government as well as for SOEs classified outside the general government should be prepared. In this strategy, a roadmap should be provided which sets out how and when the stock of arrears should be stabilised. Moreover, various options of settling arrears should be explored, providing appropriate incentive mechanisms including the potential of rebates for early settlements and rewarding entities that no longer accumulate new arrears.

⁽¹⁾ OJ L 118, 12.5.2010, p. 1.

⁽²⁾ OJ L 159, 17.6.2011, p. 88.

- (6) Given the significant drag that the Autonomous Region of Madeira has exerted on Portuguese public finances, the Portuguese Government should prepare a financial arrangement with that region with a view to containing the high level of fiscal risks still remaining. The arrangement should be designed in line with the Programme and comprise, among others, a debt sustainability analysis.
- (7) Portuguese banks are to work towards meeting the higher capital requirements as stipulated by the Programme, taking also into account the implications deriving from the European Banking Authority-led exercise based on the valuation of sovereign exposures according to end-September market prices, the special on-site inspection programme and the transfer of banks' pension funds to the State social security system. A legal framework, the purpose of which is to provide temporary public support to banks, is under preparation. A balanced and orderly deleveraging of the banking sector remains critical, while safeguarding adequate credit for the productive sectors of the economy. The sale of Banco Português de Negócios is in its final stage although the transaction still needs clearance from the Union competition authorities. Progress has also been made to strengthen the supervisory and regulatory framework, including via technical assistance.
- (8) Progress in labour and product market reforms is essential to restore competitiveness and raise the growth potential. Labour market reforms to align the protection and rights under fixed and open-ended contracts and to establish an employer-financed fund for paying out workers' severance entitlements are advancing. The privatisation programme is being implemented under the new framework law for privatisation. A deep and urgent restructuring of SOEs is at the top of the Portuguese Government's agenda. Further progress is needed to lower entry barriers to the sheltered sectors with a view to fostering competition and reduce excessive rents. Structural reforms should be implemented decisively and closely monitored.
- (9) Notwithstanding the relatively large first and second disbursements, the Portuguese Government's cash position remains under strain. This is explained by increasing financing needs from SOEs, a sharp increase in households' redemption of savings certificates, and persisting financial market stress.
- (10) In light of these developments, Implementing Decision 2011/344/EU should be amended,

HAS ADOPTED THIS DECISION:

Article 1

Article 3 of Implementing Decision 2011/344/EU is hereby amended as follows:

- (1) paragraph 3 is replaced by the following:

'3. The general government deficit shall not exceed EUR 10 068 million (equivalent to 5,9 % of GDP based on current projections) in 2011, EUR 7 645 million (4,5 % of GDP) in 2012 and 3,0 % of GDP by 2013 in line with the excessive deficit procedure requirements. For the calculation of this deficit, the possible budgetary costs of bank support measures in the context of the Portuguese Government's financial sector strategy shall not be taken into account. Consolidation shall be achieved by means of high-quality permanent measures and minimising the impact of consolidation on vulnerable groups.'

- (2) paragraph 5 is amended as follows:

- (a) points (a) and (b) are replaced by the following:

'(a) 2011 fiscal deficit target shall be reached by an exceptional measure. Assets acquired as a result of the transfer of banks pensions funds to the State social security system shall not be used in a way detrimental to long-term sustainability of Portuguese public finances;

(b) Portugal shall adopt measures to reinforce public finance management. Portugal shall implement the measures provided for in the new Budgetary Framework Law, including setting up a medium-term budgetary framework and establishing an independent Fiscal Council. The budgetary framework at local and regional levels shall be considerably strengthened, in particular by putting forward the key options for the alignment of the respective financing laws to the requirements of the Budgetary Framework Law. Portugal shall step up reporting and monitoring of public finances and reinforce budgetary execution rules and procedures. The Portuguese Government shall prepare a strategy for the validation and settlement of arrears which is to present a roadmap setting out how and when the stock of arrears is to be stabilised and explore various options of settling arrears. Regarding Public Private Partnerships (PPPs), the Portuguese Government shall not enter into any new PPPs before the study results on existing PPPs envisaged in the Programme and the legal and institutional reforms proposed become available';

- (b) point (e) is replaced by the following:

'(e) Portugal shall continue opening up the economy to competition. The Portuguese Government shall take

the necessary measures to ensure that the Portuguese State or any public body does not conclude, in a shareholder capacity, agreements which may hinder the free movement of capital or influence the management control of companies. The new Privatisation Law shall also be respectful of the principles of free movement of capital and not grant or allow special rights to the State. A revision of competition law shall be undertaken aiming at improving the speed and effectiveness of enforcement of competition rules;'

(c) point (h) is replaced by the following:

'(h) Portugal shall prepare a financial arrangement with the Autonomous Region of Madeira (RAM) consistent with the Programme. Until the agreement of that arrangement and its implementation in the RAM budget, Portugal shall closely monitor the execution of the RAM budget, shall keep transfers from the State to the RAM government suspended and shall not honour any new commercial or financial debt or guarantees by the RAM government and its SOEs that are not approved by the Ministry of Finance;'

(3) paragraph 6 is amended as follows:

(a) points (a) to (d) are replaced by the following:

'(a) Portugal shall implement the privatisation programme. In particular, the sale of public sector shares in EDP shall be completed in 2012. In addition, the public sector shares in REN and GALP, and, if market conditions permit, TAP, shall be sold in 2012. A strategy for Parpublica shall be prepared, reconsidering the role of Parpublica as a public company and considering the possibility of winding down the company or consolidating it with the general government. The privatisation plan through 2013 shall also cover Aeroportos de Portugal, the freight branch of Comboios de Portugal, Correios de Portugal and Caixa Seguros, as well as a number of smaller firms;

(b) the measures defined in points (c) and (d), amounting to at least EUR 8,8 billion, shall be included in the 2012 budget. Further measures, mostly on the expenditure side, shall be taken to fill any possible gap arising from budgetary developments in 2012;

(c) the budget shall provide for a reduction of expenditure in 2012 of at least EUR 6,7 billion including a reduction in public sector wages and employment; cuts in pensions; a comprehensive reorganisation of the central administration, eliminating duplicities and other inefficiencies; reducing the number of municipalities and parishes; cuts in education and health; lower transfers to regional and local authorities; and

reductions in capital expenditure and in other expenditure as set out in the Programme;

(d) on the revenue side, the budget shall include revenue measures totalling around EUR 2,1 billion in a full year, including by broadening VAT bases through reducing exemptions and rearranging the lists of goods and services subject to reduced, intermediate and higher rates; an increase in excise taxes; broadening the corporate and personal income tax bases by reducing tax deductions and special regimes; ensuring the convergence of personal income tax deductions applied to pensions and labour income; and changes in property taxation by substantially reducing exemptions. These measures shall be complemented by action to fight tax evasion, fraud and informality;'

(b) points (k) and (l) are replaced by the following:

'(k) Portugal shall promote wage developments consistent with the objectives of fostering job creation and improving firms' competitiveness with a view to correcting macroeconomic imbalances. Over the Programme period, any increase in minimum wages shall take place only if justified by economic and labour market developments. Measures shall be taken to address weaknesses in the current wage bargaining schemes, including legislation to redefine the criteria and modalities of the extension of collective agreements and to facilitate firm-level agreements. Until then, the application of extensions shall be suspended;

(l) an action plan shall be prepared to improve the quality of secondary and vocational education and training;'

(c) the following point is added:

'(p) Portugal shall adopt measures to ensure the sustainability of the national electricity system leading to the elimination of the tariff debt by 2020 and ensuring it shall stabilise by 2013. These measures shall correct excessive rents and cover all their sources;'

(4) paragraph 7 is amended as follows:

(a) points (a) and (b) are replaced by the following:

'(a) the 2013 budget shall include fiscal consolidation measures amounting to at least EUR 3,4 billion aiming at a reduction of the general government deficit within the timeframe referred to in Article 3(3);

(b) the budget shall include revenue measures including in particular further broadening of corporate and personal income tax bases, higher excises taxes and changes in property taxation, yielding close to EUR 0,7 billion of additional revenue;'

(b) the following points are added:

- '(d) on the expenditure side, the budget shall provide for a reduction of at least EUR 2,7 billion, including reducing expenditures in the central administration, education and health; transfers to local and regional authorities; reduction of the number of employees in the public sector; and lower costs by SOEs;
- (e) Portugal shall improve the business environment by reducing administrative burden through the extension of simplification reforms (Points of Single Contact and 'Zero Authorisation' projects) to all sectors of the economy; and by alleviating credit constraints of small and medium-sized enterprises, including through the implementation of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (*).

(*) OJ L 48, 23.2.2011, p. 1.;

(5) paragraph 8 is amended as follows:

(a) the introductory wording is replaced by the following:

'8. With a view to restoring confidence in the financial sector, Portugal shall adequately recapitalise its banking sector and ensure an orderly deleveraging process. In that regard, Portugal shall develop and agree with the Commission, the ECB and the IMF a strategy for the future structure and functioning of the Portuguese banking sector so that financial stability is preserved. In particular, Portugal shall:';

(b) points (a) to (g) are replaced by the following:

'(a) advise banks to strengthen their collateral buffers on a sustainable basis and monitor the issuance of the government guaranteed bank bonds, which has been authorised up to EUR 35 billion in line with Union State aid rules;

(b) follow closely the plans presented by the banks to reach a core Tier 1 ratio of 9 % by end-2011 and 10 % at the latest by end-2012. The capital requirements stemming from valuing sovereign debt based on market prices according to the European Banking Authority shall be met in June 2012 together with the capital implications from the special on-site inspections programme and the transfer of the banks' pension funds to the State social security system. Banks shall present in February 2012 plans on how they intend to reach their capital needs in that year. If banks cannot

reach the capital requirement thresholds on time, they might temporarily require public provision of capital, which for privately owned banks shall be available through the EUR 12 billion bank solvency support facility established under the Programme;

(c) ensure a balanced and orderly deleveraging of the banking sector, which remains critical to eliminating funding imbalances on a permanent basis. Banks' funding plans aim at a reduction in the loan-to-deposit ratio to around 120 % by the end of the Programme and a reduction of the reliance on Eurosystem funding during the duration of the Programme. These funding plans shall be reviewed quarterly, with the next one due before the third Programme review. The Bank of Portugal shall take appropriate action in case of deviations from the banks' funding plans;

(d) complete the sale of Banco Português de Negócios respecting the Union State aid rules;

(e) ensure that the state-owned Caixa Geral de Depósitos (CGD) is streamlined to increase the capital base of its core banking arm as needed in 2011 without relying on the sale of its insurance arm. This sale is expected to take place in 2012 directly to a final buyer and to contribute to meeting that year's additional capital needs. Insofar as these needs cannot be met from internal group sources, CGD shall be provided with government capital support outside of the bank solvency support facility;

(f) ensure that the partial transfer of the banks' pension funds to the State social security system is done under actuarially balanced conditions, as well as respecting Union competition and State aid rules. In order to avoid having to take recourse to the bank solvency support within the Programme financing envelope, the Portuguese Government shall offer banks help to cover the impact of the transfer on capital by using part of the transfer to acquire common equity in the banks. The remainder of the transferred funds shall be deposited in a blocked account until the completion of the third Programme review;

(g) finalise the legal framework for access to capital from public sources by end-January 2012 consistent with Union State aid rules and in line with the principles laid down in the Memorandum of Understanding;';

(c) the following points are added:

'(i) ensure that before the third Programme review banks have incorporated the available results of the special on-site inspections programme in the stress test exercise with a 6 % Core Tier 1 threshold;

- (j) complete the legal framework for early intervention, resolution and deposit insurance for banks by end-2011 and by the same deadline the one for corporate and household debt restructuring.;

necessary fiscal consolidation and minimising harmful social impacts, particularly on the most vulnerable parts of Portuguese society.’.

- (6) paragraph 9 is replaced by the following:

Article 2

This Decision is addressed to the Portuguese Republic.

‘9. In order to ensure the smooth implementation of the Programme’s conditionality, and to help to correct imbalances in a sustainable way, the Commission shall provide continued advice and guidance on fiscal, financial market and structural reforms. Within the framework of the assistance to be provided to Portugal, together with the IMF and in liaison with the ECB, it shall periodically review the effectiveness and economic and social impact of the agreed measures, and shall recommend necessary corrections with a view to enhancing growth and job creation, securing the

Done at Brussels, 14 December 2011.

For the Council
The President
M. DOWGIELEWICZ

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