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## Legislation

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Contents

### II *Non-legislative acts*

#### INTERNATIONAL AGREEMENTS

- ★ **Council Decision (EU) 2019/951 of 17 May 2019 on the signing, on behalf of the European Union, and provisional application of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024)** ..... 1
- Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024) ..... 3
- ★ **Information concerning the date of entry into force of the Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union** 30

#### REGULATIONS

- ★ **Council Regulation (EU) 2019/952 of 17 May 2019 on the allocation of fishing opportunities under the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024)** ..... 31
- ★ **Commission Implementing Regulation (EU) 2019/953 of 22 May 2019 conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'Nizza' (PDO)** ..... 33
- ★ **Commission Implementing Regulation (EU) 2019/954 of 22 May 2019 conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'La Jaraba' (PDO)** ..... 34
- ★ **Commission Implementing Regulation (EU) 2019/955 of 22 May 2019 conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'Vallegarcía' (PDO)** ..... 35

# EN

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

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

★ Commission Implementing Regulation (EU) 2019/956 of 22 May 2019 conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name ‘Los Cerrillos’ (PDO) .....	36
★ Commission Regulation (EU) 2019/957 of 11 June 2019 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and TDFAs <sup>(1)</sup> .....	37

#### DECISIONS

★ Council Decision (EU, Euratom) 2019/958 of 6 June 2019 appointing a member, proposed by the Republic of Bulgaria, of the European Economic and Social Committee .....	40
★ Council Decision (EU) 2019/959 of 6 June 2019 appointing a member, proposed by the Kingdom of Sweden, of the Committee of the Regions .....	41
★ Council Decision (EU) 2019/960 of 6 June 2019 appointing two members and two alternate members, proposed by the Czech Republic, of the Committee of the Regions .....	42
★ Commission Implementing Decision (EU) 2019/961 of 7 June 2019 authorising a provisional measure taken by the French Republic in accordance with Article 129 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) to restrict the use and the placing on the market of certain wood treated with creosote and other creosote-related substances (notified under document C(2019) 4122) <sup>(1)</sup> .....	44

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<sup>(1)</sup> Text with EEA relevance.

## II

(Non-legislative acts)

## INTERNATIONAL AGREEMENTS

## COUNCIL DECISION (EU) 2019/951

of 17 May 2019

**on the signing, on behalf of the European Union, and provisional application of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024)**

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 19 December 2006, the Council adopted Regulation (EC) No 2027/2006 <sup>(1)</sup>, concluding the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde <sup>(2)</sup> ('the Agreement'). The Agreement entered into force on 30 March 2007, was tacitly renewed and remains in force.
- (2) Following the Commission recommendation, the Council decided on 4 June 2018 to authorise the opening of negotiations with the Republic of Cape Verde for the conclusion of a new protocol implementing the Agreement.
- (3) The previous protocol to the Agreement has expired on 22 December 2018.
- (4) The Commission has negotiated on behalf of the Union a new protocol. As a result of those negotiations the new protocol was initialled on 12 October 2018.
- (5) The objective of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024) ('the Protocol') is to enable the Union and the Republic of Cape Verde to work more closely on promoting a sustainable fisheries policy, sound exploitation of fisheries resources in Cape Verde waters, and efforts by Cape Verde to develop a blue economy.
- (6) In order to ensure an expeditious start to fishing activities of Union vessels, the Protocol should be applied on a provisional basis as from the signature thereof.
- (7) The Protocol should be signed and applied on a provisional basis, pending the completion of the procedures necessary for its entry into force,

HAS ADOPTED THIS DECISION:

*Article 1*

The signing on behalf of the Union of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024) is hereby authorised, subject to the conclusion of the said Protocol.

<sup>(1)</sup> Council Regulation (EC) No 2027/2006 of 19 December 2006 on the conclusion of the Fisheries partnership agreement between the European Community and the Republic of Cape Verde (OJ L 414, 30.12.2006, p. 1).

<sup>(2)</sup> OJ L 414, 30.12.2006, p. 3.

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 date of the signature thereof <sup>(3)</sup>, pending the completion of the procedures necessary for its entry into force.

*Article 4*

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

Done at Brussels, 17 May 2019.

*For the Council*  
*The President*  
E.O. TEODOROVICI

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<sup>(3)</sup> The date from which the Protocol will be provisionally applied will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

**PROTOCOL**  
**on the implementation of the Fisheries Partnership Agreement between the European Community**  
**and the Republic of Cape Verde (2019-2024)**

*Article 1*

**Principles**

1. The European Union ('the Union') and the Republic of Cape Verde ('Cape Verde'), (together referred to as 'the Parties') hereby shall undertake to promote responsible fishing in the Cape Verde fishing zone on the basis of the principle of non-discrimination. Cape Verde undertakes to apply the same technical and conservation measures to all industrial tuna fleets operating in its fishing zone with the aim of contributing to proper fisheries governance.
2. The Parties shall undertake to ensure that the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde <sup>(1)</sup> ('the Agreement') is implemented in accordance with Article 9 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part <sup>(2)</sup>, as last amended ('Cotonou Agreement'), concerning essential elements regarding human rights, democratic principles and the rule of law, and fundamental elements regarding good governance, sustainable development and sound environmental management.
3. The Parties shall undertake to publish and exchange information on any agreement allowing foreign vessels to enter the Cape Verdean fishing zone and on the resulting fishing effort, in particular the number of authorisations issued and the catches made.
4. Pursuant to Article 6 of the Agreement, vessels flying the flag of a Member State of the Union ('Union vessels') may engage in fishing activities in the Exclusive Economic Zone (EEZ) of the Republic of Cape Verde only if they are in possession of a valid fishing authorisation issued by Cape Verde under this Protocol.
5. The Cape Verdean authorities shall ensure that Cape Verdean fishermen enjoy exclusive rights to the fishing zones below the limits laid down in this Protocol.

*Article 2*

**Period of application**

This Protocol and the Annex thereto shall apply for a period of five years from the first day of provisional application pursuant to Article 15, unless notice of termination is given under Article 14.

*Article 3*

**Fishing opportunities**

1. The fishing opportunities granted to Union vessels under Article 5 of the Agreement shall be as follows:
  - (a) freezer tuna seiners: 28 vessels;
  - (b) pole-and-line tuna vessels: 14 vessels;
  - (c) surface longliners: 27 vessels.

These fishing opportunities target fishing for highly migratory species listed in Annex I to the 1982 United Nations Convention on the Law of the Sea, within the limits set in Appendix 2 to this Protocol and with the exception of species which are protected or prohibited within the framework of the International Commission for the Conservation of Atlantic Tunas (ICCAT) or other international conventions:

2. Paragraph 1 shall apply subject to Articles 6 and 7.

*Article 4*

**Financial contribution**

1. The total value of this Protocol, for the period referred to in Article 2, is estimated at EUR 3 750 000.

<sup>(1)</sup> OJEU L 414, 30.12.2006, p. 3.

<sup>(2)</sup> OJ ECL 317, 15.12.2000, p. 3.

2. The annual amount of the financial contribution referred to in Article 7 of the Agreement is EUR 750 000, broken down as follows:

- (a) an annual amount as financial compensation for access to resources of EUR 400 000 per year, equivalent to a reference tonnage of 8 000 tonnes per year;
- (b) A specific amount of EUR 350 000 per year to support the implementation of Cabo Verde's sectoral fisheries policy.

Furthermore, it is estimated that the fees payable by vessel owners for the fishing authorisations issued under Articles 5 and 6 of the Agreement and according to the procedures set out in Chapter II, Section 2 of the Annex to this Protocol amount to EUR 600 000 per year.

3. Paragraph 1 of this Article shall apply subject to Articles 5, 6, 7, 10 and 14 of this Protocol and Articles 12 and 13 of the Agreement.

4. If the overall quantity of catches by Union vessels in Cape Verdean waters exceeds the reference tonnage laid down in point (a) of paragraph 2, the amount of the financial contribution laid down in that provision shall be increased by EUR 50 for each additional tonne caught. However, the total annual amount paid by the Union shall not be more than twice the amount indicated in point (a) of paragraph 2. Where the quantities caught by Union vessels exceed the quantities corresponding to twice the total annual amount, the amount due for the quantity exceeding that limit shall be paid in the following year.

5. Payment of the financial contribution laid down in points (a) and (b) of paragraph 2 shall be made no later than 90 days after the date of provisional application of this Protocol the first year and no later than the anniversary date of this Protocol the following years. The Cape Verdean authorities shall have full discretion regarding the use to which the financial contribution referred to in point (a) of paragraph 2 is put.

6. The financial contributions provided for in points (a) and (b) of paragraph 2 shall be paid into Public Treasury accounts of Cape Verde. The contribution provided for in point (b) of paragraph 2 shall be entered into the national budget. The Cape Verdean authorities shall notify the European Commission of the relevant bank account numbers on an annual basis.

#### Article 5

#### Sectoral support

1. Sectoral support, under this Protocol, shall contribute to the implementation of the national strategy for fisheries and the blue economy. Its aim is the sustainable management of fisheries resources and the development of the sector by, in particular:

- (a) strengthening the monitoring, control and surveillance of fisheries activities;
- (b) strengthening scientific knowledge of fisheries resources;
- (c) supporting coastal communities (fishing activities, training, employment, the safety of fishermen and economic development);
- (d) strengthening international cooperation;
- (e) supporting the blue economy and developing aquaculture.

2. No later than three months after the entry into force of this Protocol, the Parties shall agree, within the Joint Committee provided for in Article 9 of the Agreement ('the Joint Committee'), on a multiannual sectoral programme and detailed implementing rules, in particular:

- (a) annual and multiannual guidelines for using the financial contribution referred to in point (b) of Article 4(2) of this Protocol;
- (b) the objectives, both annual and multiannual, to be achieved with a view to introducing, over time, responsible and sustainable fishing, taking account of the priorities of Cape Verde in its national fisheries policy and other policies relating to or having an impact on the introduction of responsible and sustainable fishing;
- (c) the criteria and procedures used for evaluating the results obtained, on an annual basis.

3. Any proposed changes to the annual or multiannual sectoral programme shall be approved by the Joint Committee, where appropriate by exchange of letters.

4. Each year, Cape Verde shall present to the Joint Committee a report setting out the progress of the projects implemented with the sectoral support. The report shall be examined by the Joint Committee, which will evaluate the results.
5. The sectoral support shall be paid in instalments according to the needs identified in the programming and the results obtained.
6. The Union may review or suspend, partially or totally, payment of the specific financial contribution provided for in point (b) of Article 4(2) of this Protocol in the event of failure to implement it or if the results obtained are inconsistent with the programming, following an evaluation carried out by the Joint Committee.
7. Payment of the financial contribution shall resume after consultation and agreement by both Parties when justified by the results of the implementation. Nevertheless, the specific financial contribution provided for in point (b) of Article 4(2) of this Protocol shall not be paid out beyond a period of six months after this Protocol expires.
8. The Parties shall ensure the visibility of the actions financed by the sectoral support.

#### Article 6

##### **Scientific cooperation to ensure responsible fishing**

1. During the period covered by this Protocol, the Union and the Cape Verdean authorities shall monitor the evolution of captures, the fishing effort and the state of fishery resources in the Cabo Verdean fishing zone with regard to all species covered by this Protocol. In particular, the Parties agree to improve data collection and analysis, with a view to drawing up a national action plan for the conservation and management of sharks in the Cape Verdean EEZ.
2. The Parties shall comply with the recommendations and resolutions of the ICCAT regarding the responsible management of fisheries.
3. In accordance with Article 4 of the Agreement, on the basis of the recommendations and resolutions adopted within the ICCAT and in the light of the best available scientific advice, the Parties may, by common agreement, convene a joint scientific meeting to review the status of the main species targeted by Union vessels, in particular pelagic sharks. The results of the scientific meeting shall be submitted to the Joint Committee. The Joint Committee shall, where appropriate, shall adopt additional measures to ensure the sustainable management of fisheries resources caught by Union vessels.
4. Given that pelagic sharks may be among the species caught by Union vessels in connection with tuna fisheries, and in view of the vulnerability of these species as expressed in ICCAT scientific opinions, any catches of the species in question by longline vessels engaged in fishing under this Protocol require particular attention in line with the precautionary principle. Both Parties shall cooperate with a view to improving the availability and monitoring of scientific data relating to the species caught.
5. To this end, both Parties shall set up a mechanism for strict monitoring of this fishery in order to ensure sustainable exploitation of the resource. The monitoring mechanism shall, in particular, be based on a quarterly exchange of data on shark catches. If, in the course of a year, these catches exceed 30 % of the reference tonnage referred to in point (a) of Article 4(2), reinforced monitoring based on a monthly exchange of data and consultation between the Parties shall be set up. If, in the course of a year, such catches reach 40 % of the reference tonnage referred to above, the Joint Committee shall, where appropriate, adopt further management measures setting a more adequate framework for the longliner fleet's activities.
6. The Joint Committee may decide to adjust the monitoring mechanism referred to above on the basis of the results of the work of the joint scientific meeting.
7. The Parties shall work together to strengthen the mechanisms for control, inspection and the combating of illegal, unreported and unregulated fishing in Cape Verde.

#### Article 7

##### **Review of fishing opportunities and technical measures by mutual agreement**

1. The Joint Committee may review the fishing opportunities referred to in Article 3 and adjust them by mutual agreement insofar as ICCAT recommendations and resolutions confirm that the adjustment guarantees the sustainable management of the fish species covered by this Protocol. In this case, the financial contribution referred to in point (a) of Article 4(2) shall be adjusted proportionately and *pro rata temporis* and the necessary amendments shall be made to this Protocol and to the Annex thereto.

2. The Joint Committee may, where necessary, examine and adapt by mutual agreement the provisions governing fishing activities and the rules for implementation of the sectoral support provided for in this Protocol.

#### Article 8

##### **Promoting cooperation among economic operators**

1. The Parties shall cooperate with a view to improving landing options in Cape Verdean ports.
2. The Parties shall endeavour to create conditions favourable to the promotion of relations between their enterprises in the technical, economic and commercial spheres, by encouraging the establishment of an environment favourable to the development of business and investment.

#### Article 9

##### **Cooperation in the field of the blue economy**

1. The Parties shall undertake to cooperate in order to promote the blue economy, in particular in the areas of aquaculture, maritime spatial planning, energy, marine biotechnology and the protection of marine ecosystems.
2. The Parties shall undertake to promote investments in fisheries and the maritime economy, in accordance with the objectives of the Special Partnership between Cape Verde and the Union.
3. The Parties shall cooperate in order to raise European Union private operators' awareness of commercial and industrial opportunities in the Cape Verdean fishing sector and maritime economy.
4. The Parties shall cooperate with a view to developing joint actions and exchanging information and best practices. To this end, they shall agree on focal points and communication arrangements.

#### Article 10

##### **Suspension of the implementation of this Protocol**

1. The implementation of this Protocol, including the payment of the financial contribution, may be suspended at the initiative of one of the Parties if one or more of the following conditions apply:
  - (a) in the event of force majeure or unexpected circumstances, preventing fishing activities in the Cape Verdean EEZ;
  - (b) significant changes in the formulation or implementation of the fisheries policy of either one of the Parties affecting the provisions of this Protocol;
  - (c) activation of the consultation mechanisms laid down in Article 96 of the Cotonou Agreement owing to violation of essential and fundamental elements of human rights and democratic principles set out in Article 9 of that Agreement;
  - (d) non-payment by the Union of the financial contribution provided for in point (a) of Article 4(2), for reasons other than those provided for in point (c) of this paragraph;
  - (e) a serious and unresolved dispute between the Parties on the application or the interpretation of this Protocol.
2. Where the application of this Protocol is suspended for reasons other than those given in point (c) of paragraph 1, the Party concerned shall be required to notify its intention in writing at least three months before the date on which suspension is due to take effect. Suspension of this Protocol for the reasons given in point (c) of paragraph 1 shall apply immediately after the suspension decision has been taken.
3. In the event of suspension, the Parties shall continue to consult with a view to finding an amicable settlement to their dispute. Once such settlement is reached, application 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 application of this Protocol was suspended.



*Article 11***Electronic data exchange**

1. Cape Verde and the Union shall undertake to rendering operational and maintaining the IT systems required for the electronic exchange of all the information and documents relating to the implementation of the Agreement.
2. The electronic version of a document shall be considered equivalent to the paper version in every respect.
3. Cape Verde and the Union shall inform each other without delay of any malfunction of a computer system. The information and documents relating to the implementation of the agreement shall then be automatically transmitted by an alternative mode of communication.

*Article 12***Confidentiality of data**

1. Cape Verde and the Union shall undertake to ensure that all nominative data relating to Union vessels and their fishing activities obtained within the framework of the Agreement will, at all times, be processed strictly in accordance with the principles of confidentiality and data protection.
2. The Parties shall ensure that only aggregate data on fishing activities in Cape Verdean waters are made publicly available, in line with the relevant provisions of ICCAT.
3. Data which may be considered confidential must be used by the competent authorities exclusively for the purposes of implementing the Agreement and for fishery management, controls and monitoring.

*Article 13***Applicable provisions of national law**

1. The activities of Union vessels operating in Cape Verdean waters under this Protocol shall be governed by the legislation in force in Cape Verde, in particular the Cape Verdean fisheries resources management plan, unless the Agreement or this Protocol, and the Annex and Appendices thereto, provide otherwise.
2. The Cape Verdean authorities shall inform the European Commission of any change or any new legislation relating to the fishing sector.

*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 would take effect.
2. Dispatch of the notification referred to in paragraph 1 shall give rise to consultations between the Parties.

*Article 15***Provisional application**

This Protocol shall apply provisionally from the date of signing.

*Article 16***Entry into force**

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



Za Republika Kabo Verde  
Por la República de Cabo Verde  
Za Kapverdiskou republiku  
For Republikken Kap Verde  
Für die Republik Cabo Verde  
Cabo Verde Vabariigi nimel  
Για τη Δημοκρατία του Πράσινου Ακρωτηρίου  
For the Republic of Cape Verde  
Pour la République du Cap-Vert  
Za Republiku Kabo Verde  
Per la Repubblica del Capo Verde  
Kaboverdes Republikas vārdā –  
Žaliojo Kyšulio Respublikos vardu  
A Zöld-foki Köztársaság részéről  
Għar-Repubblika ta' Cape Verde  
Voor de Republiek Kaapverdië  
W imieniu Republiki Zielonego Przylądka  
Pela República de Cabo Verde  
Pentru Republica Capului Verde  
Za Kapverdiskú republiku  
Za Republiko Zelenortski otoki  
Kap Verden tasavallan puolesta  
För Republiken Kap Verde



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## ANNEX

**CONDITIONS GOVERNING FISHING ACTIVITIES BY UNION VESSELS IN THE CAPE VERDEAN FISHING ZONE**

## CHAPTER I

**GENERAL PROVISIONS**

## 1. Designation of the competent authority

For the purposes of this Annex and unless otherwise specified, any reference to the Union or to Cape Verde as a competent authority shall mean:

- (a) for the Union: the European Commission, where applicable via the Union delegation to Cape Verde;
- (b) for Cape Verde: the Minister responsible for fisheries.

## 2. Fishing zone

The coordinates of the Cape Verdean EEZ are set out in Appendix 1. Union vessels may carry out their fishing activities beyond the limits laid down for each category in Appendix 2, with Cape Verdean fishermen retaining exclusive fishing rights below those limits.

Cape Verde shall, when issuing the fishing authorisation, inform the vessel owners of the coordinates of any zones closed to shipping and fishing. The Union shall also be informed.

## 3. Appointment of a local agent

Any Union vessel which plans to land or tranship in a Cape Verdean port may be represented by an agent resident in Cape Verde.

## 4. Bank account

Cape Verde shall notify the Union before the entry into force of this Protocol of the details of the bank account(s) into which the financial sums payable by Union vessels under the Agreement shall be paid. The associated bank transfer costs shall be borne by vessel owners.

## CHAPTER II

**FISHING AUTHORISATIONS***Section 1***Applicable procedures**

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

The fishing authorisations referred to in Article 6 of the Agreement shall be issued on the condition that the vessel is included in the Union fishing vessels register in accordance with the provisions of Regulation (EU) No 2017/2403 of the European Parliament and of the Council <sup>(1)</sup> on the sustainable management of external fishing fleets. All previous obligations of the vessel owner, the master, or the vessel itself arising out of their fishing activities in Cape Verde under the Agreement shall be met before such issuance.

## 2. Application for a fishing authorisation

The Union shall submit to Cape Verde an application for a fishing authorisation in respect of each vessel wishing to fish under the Agreement at least 15 days before the start of the period of validity requested, using the form in Appendix 3. The application must be typed or legibly written in block capitals.

The targeted species must be indicated clearly in the application for a fishing authorisation.

<sup>(1)</sup> Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ EU L 347, 28.12.2017, p. 81).

For each initial application for a fishing authorisation under the Protocol in force, or following a technical change to the vessel concerned, the application shall be accompanied by proof of payment of the flat-rate fee for the period of validity of the fishing authorisation requested and the flat-rate contribution for the observers referred to in Chapter IX, as well as:

- (a) the name and address of the vessel's local agent, where there is one;
- (b) a recent colour photograph of the vessel, showing a lateral view and at least 15 cm × 10 cm in size;
- (c) any other document specifically required under the Agreement.

As regards renewal of a fishing authorisation under the Protocol in force for a vessel whose technical specifications have not been modified, the renewal application need only be accompanied by proof of payment of the fee and flat-rate contribution towards the costs relating to the observer.

### 3. Issue of fishing authorisation

A fishing authorisation for tuna and tuna-like species (*'atum e afins'*) and other species authorised under this Protocol shall be issued by Cape Verde to the Union within 15 working days of receiving the full application file.

Where a fishing authorisation is renewed during the period in which this Protocol applies, the new fishing authorisation must contain a clear reference to the initial fishing authorisation.

The Union shall forward the fishing authorisation to the vessel owner or its agent. If the Union offices are closed, Cape Verde may send the fishing authorisation directly to the vessel owner or its agent, with a copy to the Union.

### 4. List of vessels authorised to fish

Once the fishing authorisation is issued, Cape Verde shall draw up without delay for each category of vessel the final list of vessels authorised to fish in the Cape Verdean zone. This list shall be sent immediately to the national body responsible for supervising fishing, and to the Union.

### 5. 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:

- (a) for the first year of application of this Protocol, the period between the date of its entry into force and 31 December of the same year;
- (b) thereafter, each complete calendar year;
- (c) for the last year of application of this Protocol, the period between 1 January and the date of expiry of this Protocol.

### 6. Keeping the fishing authorisation on board

A copy of this fishing authorisation shall be sent electronically immediately to the Union and to the vessel owners or their local agents. The copy, which is held on board, may be used for a maximum period of 60 calendar days after the date on which the authorisation was issued. After this period, the original of the fishing authorisation must be kept on board.

### 7. Transfer of fishing authorisation

A fishing authorisation shall be issued for a given vessel and shall not be transferable. However, where force majeure is proven, for example in the event of the loss or prolonged immobilisation of a vessel due to a serious technical failure, and, at the request of the Union, the fishing authorisation shall be replaced by a new authorisation, issued for another vessel similar to the vessel to be replaced.

The transfer shall involve the fishing authorisation to be replaced being returned by the vessel owner or its agent in Cape Verde, and Cape Verde drawing up the replacement authorisation as soon as possible. The replacement authorisation shall be delivered without further delay to the vessel owner or its agent when returning the authorisation to be replaced. The replacement authorisation shall take effect on the day on which the authorisation to be replaced is returned.

Cape Verde shall update the list of vessels authorised to fish as soon as possible. The new list shall be sent immediately to the national body responsible for supervising fishing, and to the Union.

## 8. Support vessels

At the request of the Union, and following an examination by the competent authorities, Cape Verde shall authorise Union fishing vessels holding a fishing authorisation to be assisted by support vessels.

The support vessels may not be equipped for fishing. This support must not include refuelling or the transshipment of catches.

Support vessels are subject to the same procedure as regards the sending of applications for fishing authorisations set out in this Chapter, to the extent applicable. Cape Verde shall draw up a list of authorised support vessels and send it to the Union immediately.

These vessels shall be subject to the payment of an annual fee of EUR 3 500.

### Section 2

#### Fees and advance payments

1. The fees to be paid by the vessel owners shall be EUR 70 per tonne caught.
2. Fishing authorisations shall be issued once the following anticipated flat-rate fees have been paid to the competent Cape Verdean authorities:
  - (a) For tuna seiners, EUR 6 510 per year, corresponding to a tonnage of 93 tonnes per vessel;
  - (b) For pole-and-line vessels, EUR 1 400 per year, corresponding to a tonnage of 20 tonnes per vessel;
  - (c) For surface longliners, EUR 3 850 per year, corresponding to a tonnage of 55 tonnes per vessel.
3. The anticipated flat-rate fee shall include all local and national taxes with the exception of port taxes, transshipment taxes and charges for the provision of services. For the first and the last year, the anticipated flat-rate fee and its equivalent in tonnes per vessel shall be calculated *pro rata temporis* based on the number of months covered by the authorisation.
4. The Union shall draw up for each vessel, on the basis of its catch reporting, a final statement of the fees owed by the vessel in respect of its annual season for the previous calendar year. The Union shall send this final statement to Cape Verde and to the vessel owner via the Member States before 30 April of the year in progress. Cape Verde may challenge the final statement, on the basis of documentary proof, within 30 days of their receipt. In the case of disagreement, the Parties shall consult each other in the Joint Committee. If Cape Verde does not object within 30 days, the final statement shall be considered to be adopted.
5. Where the final statement is greater than the anticipated flat-rate fee paid to obtain the fishing authorisation, the vessel owner shall pay the outstanding balance to Cape Verde within 45 days unless the vessel owner contests the payment. However, if the final statement is less than the anticipated flat-rate fee, the remaining amount may not be reclaimed by the vessel owner.

### CHAPTER III

#### TECHNICAL CONSERVATION MEASURES

Technical measures applicable to vessels holding a fishing authorisation with respect to fishing zones, fishing gear and by-catch are laid down for each category of fishing in Appendix 2.

The vessels shall comply with all the recommendations adopted by the ICCAT. In line with those recommendations, the Parties shall endeavour to reduce the level of by-catches of turtles, seabirds and other non-target species. The Union vessels shall release any such by-catches in the interest of increasing the chance of survival of the species concerned.

### CHAPTER IV

#### CATCH REPORTING

1. The master of a Union vessel fishing under the Agreement shall keep a fishing logbook, in accordance with the relevant ICCAT resolutions and recommendations. The master shall be responsible for the accuracy of the data recorded in the electronic fishing logbook.
2. All Union vessels holding an authorisation issued under this Protocol shall be equipped with an electronic system ('ERS') capable of recording and transmitting data on the vessel's fishing activity ('ERS data').
3. A vessel holding an authorisation issued under this Protocol and that is not equipped with an ERS, or whose ERS is not working, shall not be authorised to enter Cape Verde's fishing zone in order to engage in fishing activities.

4. Catches shall be notified as specified in Appendix 5.
5. ERS data shall be transmitted by the vessel to its flag State, which will make them automatically available for Cape Verde. The flag State shall ensure that the data are received and recorded in a computer database enabling the secure retention of the data for at least 36 months.
6. The flag State and Cape Verde shall ensure that they have the necessary IT equipment and software to automatically transmit ERS data.
7. ERS data must be transmitted using the electronic means of communication operated by the European Commission for exchanges of fisheries data in a standardised form.
8. Where the provisions concerning catch reporting are not complied with, Cape Verde may suspend the fishing authorisation of the vessel concerned until the missing catch report is obtained and penalise the vessel owner in accordance with the relevant provisions under the national legislation in force. If the offence is repeated, Cape Verde may refuse to renew the fishing authorisation. Cape Verde shall inform the Union immediately of any penalty applied in this context.
9. The flag State and Cape Verde shall each designate an ERS correspondent who will act as the point of contact for matters related to the implementation of this Protocol. The flag State and Cape Verde shall notify each other of the contact details of their ERS correspondents and, where appropriate, update that information without delay.

#### CHAPTER V

#### LANDINGS AND TRANSHIPMENTS

##### 1. Notice

The master of a Union vessel wishing to land in a Cape Verdean port, or to tranship catch from the Cape Verdean fishing zone, must notify Cape Verde, at least 24 hours before the landing or transhipment, of the following:

- (a) the name of the fishing vessel which is to land or tranship;
- (b) the port of landing or transhipment;
- (c) the date and time scheduled for the landing or transhipment;
- (d) the quantity (expressed in kilogrammes 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 transhipment, the name of the receiving vessel;
- (f) the health certificate of the receiving vessel.

Any transhipment operation must be carried out in the waters of a Cape Verdean port authorised for this purpose. Transhipment at sea is prohibited.

Non-compliance with these conditions shall lead to the application of the relevant sanctions provided for under the legislation of Cape Verde.

##### 2. Landing incentives

The Parties shall cooperate in order to contribute to the development of Cape Verde's fishing industry and enhance the economic and social impact of the Agreement, in particular by increasing landings by Union vessels and adding value to fishery products.

Owners of vessels fishing for tuna shall endeavour to land part of their catches from Cape Verdean waters. The landed catch may be sold to local enterprises at a price set by negotiation between the operators.

The implementation of the strategy aimed at increasing the rate of landings and the good working order of the port and processing infrastructure shall be subject to regular monitoring by the Joint Committee, following consultation of the operators concerned.

## CHAPTER VI

**CONTROL AND INSPECTION**

## 1. Entering and leaving the fishing zone

Any entry into or departure from the Cape Verdean fishing zone of a Union vessel holding a fishing authorisation shall be notified to Cape Verde within three hours before the entry or departure.

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

- (a) the date, time and point of passage scheduled;
- (b) the quantity of all species held on board, identified by its FAO alpha 3 code and expressed in kilogrammes of live weight or, if necessary, the number of individual fish;
- (c) the product presentation.

## 2. Vessel position messages — VMS

Any Union vessel authorised under this Protocol shall be equipped with a satellite-based vessel monitoring system (VMS), in accordance with the specifications set out in Appendix 4.

It is forbidden to move, disconnect, destroy, damage or render inoperative the continuous tracking system using satellite communications placed on board the vessel for the purposes of data transmission or to intentionally alter, divert or falsify data transmitted or recorded by such a system.

Notification shall be given preferably through the ERS/VMS or, in the event of malfunction of the system, by e-mail, fax or radio. Cape Verde shall immediately inform the vessels concerned and the Union of any change to the e-mail address, telephone number or transmission frequency.

Whilst they are in the Cape Verdean fishing zone, Union vessels holding a fishing authorisation shall be equipped with a VMS to enable automatic and continuous communication of their position, at all times, to the Fisheries Monitoring Centre (FMC) of their flag State.

Each position message must:

- (a) contain the vessel identification;
- (b) contain the most recent geographical position of the vessel (longitude, latitude), with a margin of error of less than 500 metres, and with a confidence interval of 99 %;
- (c) contain the date and time the position is recorded;
- (d) contain the vessel's speed and course.
- (e) comply with the format set out in Appendix 4.

Any vessel found to be fishing in the Cape Verdean fishing zone without having previously notified its presence shall be considered to be a vessel in breach of the rules.

## 3. Inspection

Inspection at sea in the Cape Verdean fishing zone, or in port, of Union vessels holding a fishing authorisation shall be carried out by vessels and Cape Verdean inspectors who are clearly identified as being assigned to carry out fishing checks.

Before going on board, the Cape Verdean inspectors shall inform the Union vessel of their decision to carry out an inspection. The inspection shall be carried out by a maximum of two inspectors, who must provide proof of their identity and official position as an inspector before carrying out the inspection.

The Cape Verdean inspectors shall only stay on board the Union 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.

Cape Verde may authorise the Union to participate in the inspection at sea as an observer.



The master of the Union vessel shall allow the Cape Verdean inspectors to come on board and carry out their work.

At the end of each inspection, the Cape Verdean inspectors shall draw up an inspection report. The master of the Union 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 Union vessel.

The Cape Verdean inspectors shall give a copy of the inspection report to the master of the Union vessel before leaving the vessel. Cape Verde shall send a copy of the inspection report to the Union within a period of eight days after the inspection.

## CHAPTER VII

### INFRINGEMENTS

#### 1. Handling of infringements

Any infringement committed by a Union vessel holding a fishing authorisation under this Annex shall be mentioned in an inspection report.

The signing of the inspection report by the master shall be without prejudice to the vessel owner's right of defence in respect of the alleged infringement.

#### 2. Detention of a vessel – information meeting

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

Cape Verde shall notify the Union within one working day of any detention of a Union vessel holding a fishing authorisation. The notification must be sent together with elements justifying the detention.

Before taking any measure against the vessel, the master, the crew or the cargo, with the exception of measures aimed at protecting evidence, Cape Verde shall organise, at the request of the Union, 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 vessel's flag State may attend this information meeting.

#### 3. Penalties for infringements – compromise procedure

The penalty for the infringement shall be set by Cape Verde according to the national legislation in force.

Where settling the infringement involves legal proceedings, provided that the infringement does not involve a criminal act, a compromise procedure shall be launched between Cape Verde and the Union before the legal proceedings are instigated with a view to determining the terms and level of the penalty. A representative of the vessel's flag State may participate in this compromise procedure. The compromise procedure shall finish at the latest three days after notification of the vessel's detention.

#### 4. Legal proceedings — bank security

If the 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 security at a bank designated by Cape Verde, the amount of which, as set by Cape Verde, shall cover the costs linked to the detention of the vessel, the estimated fine and any compensation. The bank security may not be recovered until the legal proceedings have been concluded.

The bank security shall be released and returned to the vessel owner immediately 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.

Cape Verde shall inform the Union of the outcome of the legal proceedings within eight days following the judgement.

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 security has been deposited.

CHAPTER VIII

**SIGNING-ON OF SEAMEN**

1. Number of seamen to sign on

During their fishing season in the Cape Verdean fishing zone, the Union vessels shall sign on Cape Verdean seamen, subject to the following limits:

- (a) the tuna seiner fleet shall sign on at least six seamen;
- (b) the pole-and-line tuna fleet shall sign on at least two seamen;
- (c) the surface longliner fleet shall sign on at least five seamen.

The owners of the Union vessels shall endeavour to sign on additional Cape Verdean seamen.

2. Free choice of seamen

Cape Verde shall hold a list of Cape Verdean seamen qualified to be signed on for Union vessels.

The vessel owner, or his agent, shall choose freely from the list of Cape Verdean seamen to be signed on and shall notify Cape Verde of their inclusion in the crew.

3. Seamen's contracts

The employment contract for Cape Verdean seamen shall be drawn up by the vessel owner or his agent and the seaman, represented by his union, if necessary. It shall be signed by the Cape Verdean maritime authority. It shall stipulate in particular the date and port of signing on.

The contract shall guarantee the seaman the social security cover applicable to him in Cape Verde. It shall include 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 Organization (ILO) shall be afforded to Cape Verdean seamen. This concerns in particular the freedom of association and 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 Cape Verdean seamen shall be paid by the vessel owner. They shall be set before the fishing authorisation is issued by mutual agreement between the vessel owner or his agent and Cape Verde.

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 seaman shall report to the master of the vessel to which he has been appointed the day before the signing-on date stipulated in the 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 will be considered to be null and void and the vessel owner will be automatically discharged from his obligation to sign him on. In this case the vessel owner shall not be liable to pay any financial penalty or compensation payment.

6. Failure to sign on seamen

Owners of vessels which fail to sign on Cape Verdean seamen shall be required to pay, before 30 September of the year in progress, for each seaman below the number set in paragraph 1, a flat rate of EUR 20 for each day their vessels are present in the Cape Verdean fishing zone.

## CHAPTER IX

**OBSERVERS**

## 1. Observation of fishing activities

Pending the implementation of a system of regional observers, vessels authorised to fish in the Cape Verdean fishing zone under the Agreement shall take on board, instead of regional observers, observers designated by Cape Verde in accordance with the rules set out in this Chapter.

Vessels holding a fishing authorisation shall be subject to a scheme for observing their fishing activities carried out within the framework of the Agreement.

This observation scheme shall conform to the provisions provided for in the recommendations adopted by the ICCAT.

## 2. Designated vessels and observers

Cape Verde shall designate the Union vessels which must allow an observer to embark and the observer assigned to them at the latest 15 days before the date provided for the embarkation of the observer.

When the fishing authorisation is issued, Cape Verde shall inform the Union and the vessel owner, or his agent, of the designated vessels and observers and the times at which the observer will be present on board each vessel. Cape Verde shall immediately inform the Union and the vessel owner or his agent of any change in the designated vessels and observers.

Cape Verde shall endeavour not to designate observers for vessels which already have an observer on board, or which are already formally obliged to allow an observer to embark during the fishing season in question as part of their activities in fishing zones other than the Cape Verdean zone.

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

## 3. Flat-rate financial contribution

At the time the fee is paid, the vessel owner shall pay Cape Verde a flat-rate sum of EUR 200 per year for each vessel.

## 4. Observer's salary

The salary and social contributions of the observer shall be borne by Cape Verde.

## 5. Embarkation conditions

The embarkation conditions for the observer, in particular the duration of presence on board, shall be defined by mutual agreement between the vessel owner or his agent and Cape Verde.

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

The vessel 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.

The observer shall be provided with every facility needed to carry out his duties. He shall have access to means of communication and to documents relating to the fishing activities of the vessel, in particular the fishing logbook and navigation log, and the parts of the vessel directly linked to his duties.

## 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.

#### 7. Embarkation and landing of observers

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

The vessel owner or his agent shall inform Cape Verde, with a notice period of 10 days before the embarkation, of the date, time and the port of embarkation of the observer. If the observer is embarked in a foreign country, his travel costs to the port of embarkation shall be borne by the vessel owner.

If the observer does not present himself for boarding within 12 hours of the date and time set, the vessel owner shall be automatically discharged from his obligation to allow the observer to embark. The vessel shall be free to leave the port and start fishing operations.

Where the observer is not disembarked in a Cape Verdean port, the vessel owner shall bear the costs of repatriation of the observer to Cape Verde as soon as possible.

#### 8. Observer's duties

The observer shall carry out the following duties:

- (a) observe the fishing activities of the vessel;
- (b) verify the position of the vessel during fisheries operations;
- (c) perform biological sampling in the context of a scientific programme;
- (d) note the fishing gear used;
- (e) verify the catch data for the Cape Verdean fishing zone recorded in the logbook;
- (f) verify the percentages of by-catch and estimate the discarded catch;
- (g) communicate observations by radio, fax or e-mail at least once a week while the vessel is fishing in the Cape Verdean fishing zone, including the quantity of catch and by-catch on board.

#### 9. 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 Cape Verde, which shall send a copy of it to the Union within eight days of setting the observer ashore.

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## APPENDICES TO THE ANNEX

Appendix 1 - Cape Verdean fishing zone

Appendix 2 - Technical conservation measures

Appendix 3 - Authorisation Application Form

Appendix 4 - Vessel monitoring system

Appendix 5 - Implementation of the electronic system for recording fishing activities (ERS)

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## APPENDIX 1

## CAPE VERDEAN FISHING ZONE

The Cape Verdean fishing area extends up to 200 nautical miles from the following baselines:

Point	Latitude North	Longitude West	Island
A.	14° 48' 43,17"	24° 43' 48,85"	I. Brava
C-P1 a Rainha	14° 49' 59,10"	24° 45' 33,11"	—
C-P1 a Faja	14° 51' 52,19"	24° 45' 09,19"	—
D-P1 Vermelharia	16° 29' 10,25"	24° 19' 55,87"	S. Nicolau
E.	16° 36' 37,32"	24° 36' 13,93"	Ilhéu Raso
F-P1 a da Peça	16° 54' 25,10"	25° 18' 11,00"	Santo Antão
F.	16° 54' 40,00"	25° 18' 32,00"	—
G-P1 a Camarín	16° 55' 32,98"	25° 19' 10,76"	—
H-P1 a Preta	17° 02' 28,66"	25° 21' 51,67"	—
I-P1 A Mangrade	17° 03' 21,06"	25° 21' 54,44"	—
J-P1 a Portinha	17° 05' 33,10"	25° 20' 29,91"	—
K-P1 a do Sol	17° 12' 25,21"	25° 05' 56,15"	—
L-P1 a Sinagoga	17° 10' 41,58"	25° 01' 38,24"	—
M-Pta Espechim	16° 40' 51,64"	24° 20' 38,79"	S. Nicolau
N-Pta Norte	16° 51' 21,13"	22° 55' 40,74"	Sal
O-Pta Casaca	16° 50' 01,69"	22° 53' 50,14"	—
P-Ilhéu Cascalho	16° 11' 31,04"	22° 40' 52,44"	Boa Vista
Pl-Ilhéu Baluarte	16° 09' 05,00"	22° 39' 45,00"	—
Q-Pta Roque	16° 05' 09,83"	22° 40' 26,06"	—
R-Pta Flamengas	15° 10' 03,89"	23° 05' 47,90"	Maio
S.	15° 09' 02,21"	23° 06' 24,98"	Santiago
T.	14° 54' 10,78"	23° 29' 36,09"	—
U-D. Maria Pia	14° 53' 50,00"	23° 30' 54,50"	I. de Fogo
V-Pta Pesqueiro	14° 48' 52,32"	24° 22' 43,30"	I. Brava
X-Pta Nho Martinho	14° 48' 25,59"	24° 42' 34,92"	—
II >	14° 48' 43,17"	24° 43' 48,85"	

Pursuant to the treaty signed on 17 February 1993 between the Republic of Cape Verde and the Republic of Senegal, the maritime border with Senegal is delineated by the following points:

Point	Latitude north	Longitude west
A	13° 39' 00"	20° 04' 25"
B	14° 51' 00"	20° 04' 25"
C	14° 55' 00"	20° 00' 00"
D	15° 10' 00"	19° 51' 30"
E	15° 25' 00"	19° 44' 50"
F	15° 40' 00"	19° 38' 30"
G	15° 55' 00"	19° 35' 40"
H	16° 04' 05"	19° 33' 30"

Pursuant to the Treaty signed between the Republic of Cape Verde and the Islamic Republic of Mauritania, the maritime border between the two countries is delineated by the following points:

Point	Latitude north	Longitude west
H	16° 04,0'	019° 33,5'
I	16° 17,0'	019° 32,5'
J	16° 28,5'	019° 32,5'
K	16° 38,0'	019° 33,2'
L	17° 00,0'	019° 32,1'
M	17° 06,0'	019° 36,8'
N	17° 26,8'	019° 37,9'
O	17° 31,9'	019° 38,0'
P	17° 44,1'	019° 38,0'
Q	17° 53,3'	019° 38,0'
R	18° 02,5'	019° 42,1'
S	18° 07,8'	019° 44,2'
T	18° 13,4'	019° 47,0'
U	18° 18,8'	019° 49,0'
V	18° 24,0'	019° 51,5'
X	18° 28,8'	019° 53,8'
Y	18° 34,9'	019° 56,0'
Z	18° 44,2'	020° 00,0'

## APPENDIX 2

## TECHNICAL CONSERVATION MEASURES

## 1. Measures applicable to all categories:

## (a) Prohibited species:

In accordance with the Convention on the Conservation of Migratory Species of Wild Animals (CMS) and ICCAT resolutions, fishing for giant manta ray (*Manta birostris*), basking shark (*Cetorhinus maximus*), white shark (*Carcharodon carcharias*), bigeye thresher shark (*Alopias superciliosus*), hammerhead sharks in the Sphyrnidae family (with the exception of the bonnethead shark), oceanic whitetip shark (*Carcharhinus longimanus*) and silky shark (*Carcharhinus falciformis*) is prohibited.

Fishing for whale shark (*Rhincondon typus*) is prohibited in accordance with Cape Verdean legislation. Prohibition on removing shark fins:

It is prohibited to remove shark fins on board vessels, and to retain on board, tranship or land shark fins. Without prejudice to the above, in order to facilitate on-board storage, shark fins may be partially sliced through and folded against the carcass, but may not be removed from the carcass before landing.

## (b) Transhipment at sea:

Transhipment at sea is prohibited. Any transhipment operation must be carried out in the waters of a Cape Verdean port authorised for this purpose.

## 2. Specific measures

## SHEET 1: POLE-AND-LINE TUNA VESSELS

- (1) Fishing zone: beyond 12 nautical miles from the base line.
- (2) Authorised gear: pole and line.
- (3) Target species: yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and skipjack tuna (*Katsuwonus pelamis*).

By-catches: compliance with ICCAT and FAO recommendations.

## SHEET 2: TUNA SEINERS

- (1) Fishing zone: beyond 18 nautical miles from the base line, taking into account the archipelagic nature of the Cape Verdean fishing zone.
- (2) Authorised gear: seine.
- (3) Target species: yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and skipjack tuna (*Katsuwonus pelamis*).

By-catches: compliance with ICCAT and FAO recommendations.

## SHEET 3: SURFACE LONGLINERS

- (1) Fishing zone: beyond 18 nautical miles from the base line.
- (2) Authorised gear: surface longliners.



(3) Target species: swordfish (*Xiphias gladius*), blue shark (*Prionace glauca*), yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*).

By-catches: compliance with ICCAT and FAO recommendations.

### 3. Update

The Parties shall consult each other within the Joint Committee to update these technical conservation measures on the basis of scientific recommendations.

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## IV. FISHING ACTIVITY

20. Fishing gear authorised:  purse seine  longlines  pole-and-line

21. Place for landing catch:

22. License period requested from (DD/MM/YYYY) .../.../... to (DD/MM/YYYY)

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

Done at ....., on .../.../...

Applicant's signature: .....

\_\_\_\_\_

## APPENDIX 4

## VESSEL MONITORING SYSTEM

## 1. Vessel position messages — VMS

The first position recorded after entry into the Cape Verdean fishing 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 Cape Verdean fishing 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 of his vessel is fully operational and that the position messages are correctly transmitted to the FMC of the flag State.

In the event of breakdown, the VMS of the vessel shall be repaired or replaced within 30 days. After that period, the vessel shall no longer be authorised to fish in the Cape Verdean fishing zone.

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

## 3. Secure communication of the position messages to Cape Verde

The FMC of the flag State shall automatically send the position messages of the vessels concerned to the FMC of Cape Verde. The FMC of the flag State and of Cape Verde 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 FMCs of the flag State and of Cape Verde shall be carried out electronically using a secure communication system.

The FMC of Cape Verde shall inform the FMC of the flag State and the Union of any interruption in the reception of consecutive position messages from a vessel holding a fishing authorisation, where the vessel concerned has not notified its exit from the zone.

## 4. Malfunction of the communication system

Cape Verde shall ensure the compatibility of its electronic equipment with that of the FMC of the flag State and inform the Union 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 responsible if a vessel's VMS is found to have been tampered with in order to disturb its operation or falsify its position messages. Any infringement shall be subject to the penalties provided for by the Cape Verdean legislation in force.

## 5. Revision of the frequency of position messages

On the basis of documentary evidence proving an infringement, Cape Verde may ask the FMC of the flag State, copying in the Union, to reduce the interval for sending position messages from a vessel to every 30 minutes for a set period of investigation. This documentary evidence must be sent by Cape Verde to the FMC of the flag State and the Union. The FMC of the flag State shall immediately send the position messages to Cape Verde at the new frequency.

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

## 6. Communication of the VMS messages to Cape Verde

Data	Code	Obligatory (O)/Facultative (F)	Content
Start of record	SR	O	System detail indicating start of record
Addressee	AD	O	Message detail – Addressee Alpha-3 country code (ISO-3166)
From	FR	O	Message detail – Sender Alpha-3 country code (ISO-3166)
Flag State	FS	O	Message detail – Flag State Alpha-3 code (ISO-3166)
Type of message	TM	O	Message detail – Type of message (ENT, POS, EXI, MAN)
Radio call sign (IRCS)	RC	O	Vessel detail – Vessel international radio call sign (IRCS)
Contracting Party internal reference number	IR	F	Vessel detail – Unique contracting party Alpha-3 code (ISO-3166) followed by number
External registration number	XR	O	Vessel detail – Number on side of vessel (ISO 8859.1)
Latitude	LT	O	Vessel position detail – Position in degrees and decimal degrees N/S DD.ddd (WGS84)
Longitude	LG	O	Vessel position detail – Position in degrees and decimal degrees E/W DD.ddd (WGS84)
Cap	CO	O	Vessel course 360° scale
Speed	SP	O	Vessel speed in tenths of knots
Date	DA	O	Vessel position detail – Date of record of UTC position (YYYYMMDD)
Time	TI	O	Vessel position detail – Time of recording UTC position (HHMM)
End of record	ER	O	System detail indicating end of record

The following information is required at the time of transmission to allow the Cape Verdean FMC to identify the issuing FMC:

IP address of the FMC server and/or DNS references

SSL certificate (complete chain of certification authorities).

Each data transmission is structured as follows:

Characters used must comply with ISO 8859.1.

A double slash (//) and the characters 'SR' indicate the start of a message.

Each data element is identified by its code and separated from the other data elements by a double slash (//).

A single slash (/) separates the field code and the data.

The code 'ER' followed by a double slash (//) indicates the end of the message.

## APPENDIX 5

**IMPLEMENTATION OF THE ELECTRONIC SYSTEM FOR RECORDING FISHING ACTIVITIES (ERS)****Recording of fishing data and communication of statements by ERS**

1. The master of a Union fishing vessel holding an authorisation issued under this Protocol shall, when in the Cape Verdean fishing zone:
  - (a) record each entry into and exit from the fishing zone by a specific message indicating the quantities of each species held on board at the time of such entry into or exit from the fishing zone, and the date, time and position of such entry or exit. This message shall be transmitted no later than two hours before the entry or exit to the FMC of Cape Verde by ERS or by other means of communication;
  - (b) record daily the position of the vessel at noon if no fishing activity was carried out;
  - (c) record for each fishing operation carried out the position of that operation, the gear type and the quantity of each species caught, distinguishing between catches retained and discarded. Each species must be identified by its FAO 3 alpha code; express quantities in kilogrammes of live weight or, where necessary, the number of individual fish;
  - (d) transmit daily to its flag State, and no later than at 24:00, the data recorded in the electronic fishing logbook; this data shall be transmitted for each day spent in the Cape Verdean fishing zone, even where no catch has been taken. Data shall also be transmitted before leaving the fishing zone.
2. The master shall be responsible for the accuracy of the data recorded and sent.
3. In accordance with the provisions of Chapter IV of the Annex to this Protocol, the flag State shall make the ERS data available to the Fisheries Monitoring Centre (FMC) of Cape Verde.

The data in UN/CEFACT format shall be transmitted via the FLUX network provided by the European Commission.

Alternatively, until the end of the transition period, the data shall be transmitted via the Data Exchange Highway (DEH) in EU-ERS (v 3.1) format.

The FMC of the flag State shall transmit instant messages from the vessel (COE, COX, PNO) automatically and without delay to the FMC of Cape Verde. Other types of messages shall also be transmitted automatically once a day from the effective date of the use of the UN-CEFACT format or, in the meantime, shall be made available without delay to the FMC of Cape Verde upon request made automatically to the FMC of the flag State via the European Commission's central node. As from the effective implementation of the new format, the latter delivery mode will only concern specific requests for historical data.

4. The FMC of Cape Verde shall confirm that it has received the instant ERS data sent to it by means of a return message acknowledging receipt and confirming the validity of the received message. No acknowledgement of receipt shall be provided for the data that Cape Verde receives in response to a request it has submitted itself. Cape Verde shall handle all ERS data confidentially.

**Failure of the electronic transmission system on board the vessel or of the communication system**

5. The FMC of the flag State and the FMC of Cape Verde shall inform each other without delay of any event likely to affect the transmission of the ERS data of one or more vessels.
6. If the FMC of Cape Verde does not receive the data to be transmitted by a vessel, it shall notify this to the FMC of the flag State without delay. The FMC of the flag State shall swiftly look for the causes of this non-receipt of ERS data and inform the FMC of Cape Verde of the result of those investigations.
7. Where a failure occurs in the transmission between the vessel and the FMC of the flag State, the FMC of the flag State shall notify this without delay to the master or the operator of the ship or to his representative(s). On receipt of this notification, the master of the vessel shall transmit the missing data to the competent authorities of the flag State by any appropriate means of telecommunication every day, no later than 24:00.

8. In the event of a failure of the electronic transmission system installed on board the vessel, the master or the operator of the vessel shall ensure that the ERS is repaired or replaced within 10 days of detecting the failure. Once that deadline has passed, the vessel shall no longer be authorised to fish in the fishing zone and must leave or call at a Cape Verdean port within 24 hours. The vessel shall not be authorised to leave that port or to return to the fishing zone until the FMC of its flag State has established that the ERS system is functioning correctly once again.
  9. If the non-receipt of the ERS data by Cape Verde is caused by the failure of the electronic systems under the supervision of the Union or Cape Verde, the Party in question shall take prompt action to resolve the problem rapidly. The other Party shall be notified once the problem has been resolved.
  10. The FMC of the flag State shall send the FMC of Cape Verde every 24 hours, using any electronic means of communication available, all ERS data received by the flag State since the last transmission. The same procedure may be applied at the request of Cape Verde in the case of maintenance operations lasting more than 24 hours and affecting the systems under the supervision of the Union. Cape Verde shall inform its competent monitoring services so that Union vessels are not considered to be in breach of their obligation to transmit their ERS data. The FMC of the flag State shall ensure that the missing data are entered into the electronic database it keeps in accordance with point 3.
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**Information concerning the date of entry into force of the Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union**

The above mentioned Protocol between the European Union and the Hashemite Kingdom of Jordan entered into force on 1 April 2019.

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# REGULATIONS

## COUNCIL REGULATION (EU) 2019/952

of 17 May 2019

**on the allocation of fishing opportunities under the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024)**

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 19 December 2006, the Council adopted Regulation (EC) No 2027/2006 <sup>(1)</sup>, concluding the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde <sup>(2)</sup> ('the Agreement'). The Agreement entered into force on 30 March 2007, was tacitly renewed and remains in force.
- (2) The previous protocol to this Agreement has expired on 22 December 2018.
- (3) The Commission has negotiated on behalf of the Union a new protocol. As a result of those negotiations the new protocol was initialled on 12 October 2018.
- (4) In accordance with Council Decision (EU) 2019/951 <sup>(3)</sup>, the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024) ('the Protocol') was signed on 20 May 2019.
- (5) The fishing opportunities provided for in the Protocol should be allocated among the Member States for the duration of application of the Protocol.
- (6) The Protocol will apply on a provisional basis as from the of signature thereof in order to ensure an expeditious start to fishing activities of Union vessels. This Regulation should therefore apply from the same date,

HAS ADOPTED THIS REGULATION:

### *Article 1*

The fishing opportunities established under the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Capo Verde (2019-2024) shall be allocated among the Member States as follows:

(a) tuna seiners:

Spain: 16 vessels;

France: 12 vessels;

<sup>(1)</sup> Council Regulation (EC) No 2027/2006 of 19 December 2006 on the conclusion of the Fisheries partnership agreement between the European Community and the Republic of Cape Verde (OJ L 414, 30.12.2006, p. 1).

<sup>(2)</sup> OJ L 414, 30.12.2006, p. 3.

<sup>(3)</sup> Council Decision (EU) 2019/951 of 17 May 2019 on the signing, on behalf of the European Union, and provisional application of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024) (see page 1 of this Official Journal).

(b) surface longliners:

Spain: 21 vessels;

Portugal: 6 vessels;

(c) pole-and-line tuna vessels:

Spain: 8 vessels;

France: 4 vessels;

Portugal: 2 vessels.

*Article 2*

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

It shall apply from 20 May 2019.

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

Done at Brussels, 17 May 2019.

*For the Council*  
*The President*  
E.O. TEODOROVICI

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**COMMISSION IMPLEMENTING REGULATION (EU) 2019/953****of 22 May 2019****conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'Nizza' (PDO)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 99 thereof,

Whereas:

- (1) In accordance with Article 97(2) and (3) of Regulation (EU) No 1308/2013, the Commission examined Italy's application to register the name 'Nizza' and published it in the *Official Journal of European Union* <sup>(2)</sup>.
- (2) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (3) In accordance with Article 99 of Regulation (EU) No 1308/2013, the name 'Nizza' should be protected and entered in the register referred to in Article 104 of that Regulation.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name 'Nizza' (PDO) is hereby protected.

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

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

Done at Brussels, 22 May 2019.

*For the Commission*

Phil HOGAN

*Member of the Commission*<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.<sup>(2)</sup> OJ C 55, 12.2.2019, p. 6.

**COMMISSION IMPLEMENTING REGULATION (EU) 2019/954****of 22 May 2019****conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'La Jaraba' (PDO)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 99 thereof,

Whereas:

- (1) In accordance with Article 97(2) and (3) of Regulation (EU) No 1308/2013, the Commission has examined the application to register the name 'La Jaraba' sent by Spain and has published it in the *Official Journal of the European Union* <sup>(2)</sup>.
- (2) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (3) In accordance with Article 99 of Regulation (EU) No 1308/2013, the name 'La Jaraba' should be protected and entered in the register referred to in Article 104 of that Regulation.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name 'La Jaraba' (PDO) is hereby protected.

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

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

Done at Brussels, 22 May 2019.

*For the Commission,*  
*On behalf of the President,*  
Phil HOGAN  
*Member of the Commission*

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<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(2)</sup> OJ C 57, 13.2.2019, p. 5.

**COMMISSION IMPLEMENTING REGULATION (EU) 2019/955****of 22 May 2019****conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name ‘Vallegarcía’ (PDO)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 99 thereof,

Whereas:

- (1) In accordance with Article 97(2) and (3) of Regulation (EU) No 1308/2013, the Commission has examined the application to register the name ‘Vallegarcía’ sent by Spain and has published it in the *Official Journal of the European Union* <sup>(2)</sup>.
- (2) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (3) In accordance with Article 99 of Regulation (EU) No 1308/2013, the name ‘Vallegarcía’ should be protected and entered in the register referred to in Article 104 of that Regulation.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name ‘Vallegarcía’ (PDO) is hereby protected.

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

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

Done at Brussels, 22 May 2019.

*For the Commission,  
On behalf of the President,  
Phil HOGAN  
Member of the Commission*

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<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(2)</sup> OJ C 57, 13.2.2019, p. 10.

**COMMISSION IMPLEMENTING REGULATION (EU) 2019/956****of 22 May 2019****conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'Los Cerrillos' (PDO)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 99 thereof,

Whereas:

- (1) In accordance with Article 97(2) and (3) of Regulation (EU) No 1308/2013, the Commission has examined the application to register the name 'Los Cerrillos' sent by Spain and has published it in the *Official Journal of the European Union* <sup>(2)</sup>.
- (2) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (3) In accordance with Article 99 of Regulation (EU) No 1308/2013, the name 'Los Cerrillos' should be protected and entered in the register referred to in Article 104 of that Regulation.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name 'Los Cerrillos' (PDO) is hereby protected.

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

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

Done at Brussels, 22 May 2019.

*For the Commission,*  
*On behalf of the President,*  
Phil HOGAN  
*Member of the Commission*

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<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(2)</sup> OJ C 57, 13.2.2019, p. 16.

**COMMISSION REGULATION (EU) 2019/957****of 11 June 2019****amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and TDFAs****(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 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC<sup>(1)</sup>, and in particular Article 68(1) thereof,

Whereas:

- (1) On 20 April 2016, the Kingdom of Denmark submitted to the European Chemicals Agency ('the Agency') a dossier pursuant to Article 69(4) of Regulation (EC) No 1907/2006, in order to initiate the restrictions process as set out in Articles 69 to 73 of that Regulation (the 'Annex XV dossier'). The Annex XV dossier indicated that exposure to (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and any of its mono-, di- or tri-O-(alkyl) derivatives (those derivatives are referred to as TDFAs) combined with organic solvents in spray products causes serious acute lung injury and therefore poses a risk to human health. Accordingly, it was proposed to prohibit the placing on the market of those mixtures in spray products for supply to the general public. Denmark concluded that the Annex XV dossier demonstrated that action on a Union-wide basis is necessary.
- (2) Denmark proposed a concentration limit of 2 ppb by weight for the presence of (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and any of the TDFAs in mixtures containing organic solvents as such concentration limit corresponds to a limit of detection.
- (3) On 10 March 2017, the Agency's Committee for Risk Assessment (RAC) adopted an opinion, concluding that the risks to the general public arising from the use of proofing or impregnating spray products containing (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol or TDFAs and organic solvents are not adequately controlled and that the proposed restriction is the appropriate measure to reduce the risks. Moreover, RAC considered that the mixture of TDFAs and/or (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol with organic solvents should be labelled in a way that ensures that professional users of those products are aware of the specific hazard associated with the use of those mixtures.
- (4) On 15 June 2017, the Agency's Committee for Socioeconomic Analysis (SEAC) adopted its opinion, indicating that the proposed restriction, subject to modifications proposed by RAC and SEAC, is the most appropriate Union-wide measure to address the risks associated with the exposure to spray products containing mixtures of (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and TDFAs with organic solvents, in terms of its socio-economic benefits and socioeconomic costs. Taking into account the uncertainties with regard to the presence of the spray products concerned on the market for supply to the general public, the effectiveness of the proposed measure, as well as the probable low costs of the proposal, SEAC concluded that the proposed restriction is not disproportionate.
- (5) SEAC concurred with Denmark that a deferral of 18 months of the application of the restriction seems sufficient in order to allow stakeholders sufficient time to take appropriate measures to comply with the proposed restriction.
- (6) The Forum for Exchange of Information on Enforcement was consulted during the restriction process in accordance with Article 77(4)(h) of Regulation (EC) No 1907/2006 and its recommendations were taken into account.

<sup>(1)</sup> OJ L 396, 30.12.2006, p. 1.

- (7) On 29 August 2017, the Agency submitted to the Commission the opinions of RAC and SEAC <sup>(1)</sup> based on which the Commission concluded that placing on the market for supply to the general public of spray products containing (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and/or TDFAs combined with organic solvents poses an unacceptable risk to human health, that needs to be addressed on a Union-wide basis.
- (8) Taking into account the Annex XV dossier and the opinions of RAC and SEAC, including on the availability of alternatives, the Commission considers that the proposed restriction, as amended, would address the identified concern without imposing a significant burden on industry, supply chain or consumers. Thus, the Commission concludes that the restriction proposed by Denmark, amended as proposed by RAC and SEAC, is an appropriate Union-wide measure to address the risk to the general public from spray products containing a mixture of (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and TDFAs with organic solvents.
- (9) Placing on the market for supply to the general public of spray products containing (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and/or TDFAs combined with organic solvents includes making them available to the general public.
- (10) Stakeholders should be allowed sufficient time to take appropriate measures to comply with the proposed restriction. The application of the new restriction should therefore be deferred.
- (11) Regulation (EC) No 1907/2006 should therefore be amended accordingly.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex XVII to Regulation (EC) No 1907/2006 is amended in accordance with the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 11 June 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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<sup>(1)</sup> <https://echa.europa.eu/previous-consultations-on-restriction-proposals/-/substance-rev/13918/term>



## ANNEX

In Annex XVII to Regulation (EC) No 1907/2006, the following entry is added:

<p>73. (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol Any of its mono-, di- or tri-O-(alkyl) derivatives (TDFAs)</p>	<ol style="list-style-type: none"><li>1. Shall not be placed on the market for supply to the general public after 2 January 2021 individually or in any combination, in a concentration equal to or greater than 2 ppb by weight of the mixtures containing organic solvents, in spray products.</li><li>2. For the purpose of this entry, "spray products" means aerosol dispensers, pump sprays, trigger sprays, marketed for proofing or impregnation spray applications.</li><li>3. Without prejudice to the implementation of other Union provisions concerning the classification, packaging and labelling of substances and mixtures, the packaging of spray products containing (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and/or TDFAs combined with organic solvents as referred to in paragraph 1 and placed on the market for professional use shall be marked clearly and indelibly: "for professional users only" and "Fatal if inhaled" with the pictogram GHS06.</li><li>4. Section 2.3 of Safety Data Sheets shall contain the following information: "mixtures of (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and/or any of its mono-, di- or tri-O-(alkyl) derivatives in a concentration equal to or greater than 2 ppb and organic solvents in spray products, are for professional users only and marked 'Fatal if inhaled'".</li><li>5. Organic solvents referred to in paragraph 1, 3, and 4 include organic solvents used as aerosol propellants.'</li></ol>
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# DECISIONS

## COUNCIL DECISION (EU, Euratom) 2019/958

of 6 June 2019

### appointing a member, proposed by the Republic of Bulgaria, of the European Economic and Social Committee

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 302 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal of the Bulgarian Government,

Having regard to the opinion of the European Commission,

Whereas:

- (1) On 18 September 2015 and 1 October 2015, the Council adopted Decisions (EU, Euratom) 2015/1600 <sup>(1)</sup> and (EU, Euratom) 2015/1790 <sup>(2)</sup> appointing the members of the European Economic and Social Committee for the period from 21 September 2015 to 20 September 2020.
- (2) A member's seat on the European Economic and Social Committee has become vacant following the passing away of Mr Bojidar DANEV,

HAS ADOPTED THIS DECISION:

#### Article 1

Mr Radosvet RADEV, *Executive President of the Bulgarian Industrial Association*, is hereby appointed as a member of the European Economic and Social Committee for the remainder of the current term of office, which runs until 20 September 2020.

#### Article 2

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

Done at Luxembourg, 6 June 2019.

*For the Council*

*The President*

A. BIRCHALL

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<sup>(1)</sup> Council Decision (EU, Euratom) 2015/1600 of 18 September 2015 appointing the members of the European Economic and Social Committee for the period from 21 September 2015 to 20 September 2020 (OJ L 248, 24.9.2015, p. 53).

<sup>(2)</sup> Council Decision (EU, Euratom) 2015/1790 of 1 October 2015 appointing the members of the European Economic and Social Committee for the period from 21 September 2015 to 20 September 2020 (OJ L 260, 7.10.2015, p. 23).

**COUNCIL DECISION (EU) 2019/959****of 6 June 2019****appointing a member, proposed by the Kingdom of Sweden, of the Committee of the Regions**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal of the Swedish Government,

Whereas:

- (1) On 26 January 2015, 5 February 2015 and 23 June 2015, the Council adopted Decisions (EU) 2015/116 <sup>(1)</sup>, (EU) 2015/190 <sup>(2)</sup> and (EU) 2015/994 <sup>(3)</sup> appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020. On 20 July 2015, by Council Decision (EU) 2015/1203 <sup>(4)</sup>, Ms Lotta HÅKANSSON HARJU was replaced by Ms Anna LJUNGDELL as a member. On 22 May 2017, by Council Decision (EU) 2017/884 <sup>(5)</sup>, Ms Anna LJUNGDELL was replaced by Ms Camilla JANSON as a member.
- (2) A member's seat on the Committee of the Regions has become vacant following the end of the term of office of Ms Camilla JANSON,

HAS ADOPTED THIS DECISION:

*Article 1*

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

— Ms Karin WANNGÅRD, *Ledamot i kommunfullmäktige, Stockholms kommun.*

*Article 2*

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

Done at Luxembourg, 6 June 2019.

*For the Council*

*The President*

A. BIRCHALL

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

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

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

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

<sup>(5)</sup> Council Decision (EU) 2017/884 of 22 May 2017 appointing a member, proposed by the Kingdom of Sweden, of the Committee of the Regions (OJ L 135, 24.5.2017, p. 21).

**COUNCIL DECISION (EU) 2019/960****of 6 June 2019****appointing two members and two alternate members, proposed by the Czech Republic, of the Committee of the Regions**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal of the Czech Government,

Whereas:

- (1) On 26 January 2015, 5 February 2015 and 23 June 2015, the Council adopted Decisions (EU) 2015/116 <sup>(1)</sup>, (EU) 2015/190 <sup>(2)</sup> and (EU) 2015/994 <sup>(3)</sup> appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020.
- (2) Two members' seats on the Committee of the Regions have become vacant following the end of the terms of office of Ms Adriana KRNÁČOVÁ and Mr Petr OSVALD.
- (3) An alternate member's seat on the Committee of the Regions has become vacant following the end of the term of office of Mr Tomáš HUDEČEK.
- (4) An alternate member's seat has become vacant following the appointment of Mr Jan MAREŠ as a member of the Committee of the Regions,

HAS ADOPTED THIS DECISION:

*Article 1*

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

(a) as members:

- Mr Zdeněk HRIB, *Člen zastupitelstva hl. m. Prahy,*
- Mr Jan MAREŠ, *Člen zastupitelstva statutárního města Chomutov,*

and

(b) as alternate members:

- Mr Martin DLOUHÝ, *Člen zastupitelstva hl. m. Prahy,*
- Mr Jaroslav ZÁMEČNÍK, *Člen zastupitelstva statutárního města Liberec.*

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

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

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

*Article 2*

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

Done at Luxembourg, 6 June 2019.

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

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**COMMISSION IMPLEMENTING DECISION (EU) 2019/961****of 7 June 2019****authorising a provisional measure taken by the French Republic in accordance with Article 129 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) to restrict the use and the placing on the market of certain wood treated with creosote and other creosote-related substances***(notified under document C(2019) 4122)***(Only the French text is authentic)****(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 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC<sup>(1)</sup>, and in particular Article 129(2) thereof,

Whereas:

- (1) By Order of 18 December 2018 on the restriction of the use and the placing on the market of certain treated wood ('the Order'), which was published in the Official Journal of the French Republic on 11 January 2019, France took a provisional measure in accordance with Article 129(1) of Regulation (EC) No 1907/2006 ('the provisional measure') because it considered having justifiable grounds for believing that urgent action was essential to protect the environment from the risks arising for the aquatic and/or terrestrial environmental compartment from wood treated with the substances creosote (CAS No 8001-58-9 and EC No 232-287-5); creosote oil (CAS 61789-28-4; EC No 263-047-8); distillates of coal tar, naphthalene oils (CAS 84650-04-4; EC No 283-484-8); creosote oil, acenaphthene fraction (CAS 90640-84-9; EC No 292-605-3); upper distillates of coal tar (CAS 65996-91-0; EC No 266-026-1); anthracene oil (CAS 90640-80-5; EC No 292-602-7); crude coal tar acid oils (CAS 65996-85-2; EC No 266-019-3); wood creosote (CAS 8021-39-4; EC No 232-419-1); and alkaline extract residues (coal) (CAS 122384-78-5; EC No 310-191-5), on their own or in a mixture with one or several other substances ('treated wood').
- (2) The provisional measure consists in a prohibition, with effect from 23 April 2019, of the placing on the market and the installation of treated wood. Under the provisional measure, treated wood cannot be reused nor put to another use by the person who used it. These prohibitions apply regardless of the date when the treatment of the wood took place.
- (3) On 25 February 2019, France informed the Commission, and on 5 March 2019 it informed the European Chemicals Agency ('the Agency') and the other Member States about the provisional measure, in accordance with Article 129(1) of Regulation (EC) No 1907/2006.
- (4) The Order allows, by way of derogation, wood treated with creosote (CAS 8001-58-9; EC No 232-287-5) to be placed on the market and installed for use as railway sleepers, and allows such wood already used as railway sleepers to be reused by its holder for the same use for an indefinite period of time. Moreover, the Order allows wood treated with that substance and intended for use as electrical or telecommunications transmission poles to be placed on the market and installed until 23 October 2019, with a possibility for certain operators to apply for an extension of that time-limit under certain conditions.
- (5) The Commission examined the Order together with the relevant scientific and technical information submitted by France. Moreover, the Commission gave the competent authorities of the Member States and stakeholders the opportunity to provide their views on the Order in the framework of a meeting of the Competent Authorities for Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and Classification, Labelling and Packaging (CLP) ('CARACAL') held on 19 March 2019.

<sup>(1)</sup> OJ L 396, 30.12.2006, p. 1.

- (6) Given the short time limit within which the Commission is required to take a decision on a provisional measure pursuant to Article 129(2) of Regulation (EC) No 1907/2006, the Commission must base its decision predominantly on the information submitted to it by France.
- (7) Entry 31 of Annex XVII to Regulation (EC) No 1907/2006 already prohibits the placing on the market of wood treated with the nine substances referred to in the Order, or with mixtures containing them, due to their known carcinogenic effects. Furthermore, concerns regarding those substances also arose due to the fact that some of their components are poorly degradable. Nevertheless, paragraph 2(b) of that entry allows wood treated in industrial installations or by professionals according to paragraph 2(a) of that entry which is placed on the market for the first time or retreated in situ, to be used for professional and industrial use only, for example on railways, in electric power transmission and telecommunications, for fencing, for agricultural purposes (for example stakes for tree support) and in harbours and waterways. Moreover, paragraph 2(c) of that entry allows treated wood which was treated before 31 December 2002 to be placed on the second-hand market for reuse.
- (8) By Commission Directive 2011/71/EU <sup>(2)</sup> creosote (CAS 8001-58-9; EC No 232-287-5) was approved as an active substance for use in biocidal products of product-type 8 until 30 April 2018, based on an assessment of whether wood preservatives containing creosote may be expected to satisfy the requirements laid down in Article 5 of Directive 98/8/EC of the European Parliament and of the Council <sup>(3)</sup>. By Commission Implementing Decision (EU) 2017/2334 <sup>(4)</sup>, the expiry date of approval of creosote for use in biocidal products of product-type 8 was postponed to 31 October 2020. The other eight substances mentioned in entry 31 of Annex XVII to Regulation (EC) No 1907/2006 have not been approved as active substances for use in biocidal products nor do they benefit from the transitional provisions of Article 89 of Regulation (EU) No 528/2012 of the European Parliament and of the Council <sup>(5)</sup> and therefore biocidal products containing them may not be placed on the market or used in the Union.
- (9) Following applications for mutual recognition of three authorisations granted by Sweden for biocidal products containing creosote in accordance with Regulation (EU) No 528/2012, France authorised the products covered by those applications only for the treatment of railway sleepers, but refused authorisation for other wood treatment uses <sup>(6)</sup>. In Implementing Decision (EU) 2018/1297 <sup>(7)</sup>, the Commission concluded that France's derogation from mutual recognition was justified on grounds of protection of the environment and of health and life of humans as referred to in points (a) and (c) of Article 37(1) of Regulation (EU) No 528/2012, in conjunction with the second subparagraph of Article 37(1) of that Regulation.
- (10) Despite France's refusal to authorise the use of biocidal products containing creosote for wood treatment uses other than the treatment of railway sleepers, neither entry 31 of Annex XVII to Regulation (EC) No 1907/2006, provided the conditions laid down in paragraph 2(b) of that entry are met, nor Regulation (EU) No 528/2012 precludes such wood treated with creosote from being placed on the market for the first time or installed in the territory of France, or any wood treated with creosote before 31 December 2002 from being placed on the French second-hand market for re-use.
- (11) According to the scientific-technical elements brought forward by France, the exposure levels linked to the outdoor use of wood treated with creosote and coming into contact with the soil or installed in fresh or salt water, as estimated by the Swedish authorities and evaluated by ANSES for the purposes of the authorisations for biocidal products containing creosote (CAS 8001-58-9; EC No 232-287-5) <sup>(8)</sup>, exceed the relevant Predicted No-Effect Concentrations (PNECs) which implies that the risk to the such environmental compartments is not adequately controlled. The French measure is taken to protect the environment from the resulting risk. However, exposure levels linked to railway sleepers, which are used outdoors but do not come into contact with the soil nor are installed in fresh or salt water, do not exceed the relevant PNECs. In order to limit in time as far as

<sup>(2)</sup> Commission Directive 2011/71/EU of 26 July 2011 amending Directive 98/8/EC of the European Parliament and of the Council to include creosote as an active substance in Annex I thereto (OJ L 195, 27.7.2011, p. 46).

<sup>(3)</sup> Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123, 24.4.1998, p. 1).

<sup>(4)</sup> Commission Implementing Decision (EU) 2017/2334 of 14 December 2017 postponing the expiry date of approval of creosote for use in biocidal products of product-type 8 (OJ L 333, 15.12.2017, p. 64).

<sup>(5)</sup> Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

<sup>(6)</sup> Decisions FR-2017-0034, FR-2017-0035 and FR-2017-0036, all dated 23 April 2018 and based on evaluation conclusions by the French 'Agence nationale de sécurité sanitaire de l'alimentation, de l'environnement et du travail' (ANSES) dated 19 May 2017, replaced by evaluation conclusions by ANSES dated 30 May 2018.

<sup>(7)</sup> Commission Implementing Decision (EU) 2018/1297 of 25 September 2018 on a derogation from mutual recognition of the authorisation of biocidal products containing creosote by France in accordance with Article 37 of Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 243, 27.9.2018, p. 19).

<sup>(8)</sup> As reported by the Conseil général de l'environnement et du développement durable, Evaluation des impacts d'une interdiction d'utilisation de la créosote en France, Rapport n° 010963-01, May 2017 [[http://cgedd.documentation.developpement-durable.gouv.fr/documents/cgedd/010963-01\\_rapport.pdf](http://cgedd.documentation.developpement-durable.gouv.fr/documents/cgedd/010963-01_rapport.pdf)].

possible the impacts on the environment due to such uses of treated wood, the measure taken by France should be considered urgent in the meaning of Article 129(1) of Regulation (EC) No 1907/2006. The French decisions not to authorise the relevant biocidal products for wood treatment uses other than the treatment of railway sleepers, found justified by the Commission in Implementing Decision (EU) 2018/1297, will start producing their protective effects as from 23 April 2019. However, risks from the use of such treated wood will remain partially unaddressed if such treated wood can still be placed on the market and installed on the French territory following treatment outside the French territory. It is therefore urgent to restrict such placing on the market and installation in the same timeframe, namely as from 23 April 2019.

- (12) Accordingly, the provisional measure can be considered as justified in accordance with Article 129(1) of Regulation (EC) No 1907/2006 with regard to wood treated with creosote (CAS 8001-58-9; EC No 232-287-5).
- (13) France also stated that the calculation of the Derived Minimal Effect Level (DMEL) for the non-threshold substance creosote in accordance with the Agency's guidance corresponds to a risk to the workers of  $10^{-5}$  and that, in accordance with the evaluation made by Sweden under Regulation (EU) No 528/2012, the risk to consumers is negligible.
- (14) Based on supplementary scientific and technical information submitted by France, the eight substances other than creosote mentioned in entry 31 of Annex XVII to Regulation (EC) No 1907/2006 are similar to creosote due to the similarity of the chemical, toxicological and ecotoxicological profiles of their components, so that the risks to the environment from the use of any wood treated with any of those substances are similar. Accordingly, the provisional measure can also be considered as justified in accordance with Article 129(1) of Regulation (EC) No 1907/2006 with regard to wood treated with any of those substances.
- (15) The Order imposes obligations for the treatment of waste from treated wood. As waste is not a substance, mixture or article within the meaning of Article 3 of Regulation (EC) No 1907/2006, the Commission considers that the provisions of the Order imposing such obligations, including the qualification of such waste as hazardous, fall outside the scope of this Decision.
- (16) As the provisional measure consists in a restriction on the placing on the market or use of substances, even if satisfying the requirements of Regulation (EC) No 1907/2006, more particularly those of entry 31 of Annex XVII of that Regulation, Article 129(3) of that Regulation requires that France initiate a Union restriction procedure by submitting to the Agency a dossier, in accordance with Annex XV ('Annex XV dossier'), within three months of the date of this Decision. That Annex XV dossier should also provide justifications for any proposals for derogations in line with the provisional measure as well as an assessment of the risk to human health.
- (17) Consequently, the provisional measure should be authorised.
- (18) In view of the time limit set in Article 129(3) of Regulation (EC) No 1907/2006 for initiating a Union restrictions procedure by the submission of a dossier to the Agency and in order to allow sufficient time for a decision to be taken in accordance with Article 73(2) of Regulation (EC) No 1907/2006, the authorisation should apply for a duration of 27 months.
- (19) This Decision does not prejudice in any way a Commission decision under Article 73 of Regulation (EC) No 1907/2006 if the conditions laid down in Article 68 of that Regulation are fulfilled.
- (20) This Decision is in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS DECISION:

#### Article 1

1. Subject to paragraph 2, the provisional measure notified to the Commission by France on 25 February 2019 concerning the restriction of the use and the placing on the market of certain treated wood ('the provisional measure'), is authorised for a duration of 27 months from the date of effect of this Decision.



2. The authorisation shall expire on the earlier of the following dates if any of them occurs before the expiry of the duration specified in paragraph 1:

- (a) where the Union restrictions procedure initiated with regard to the provisional measure results into an amendment of Annex XVII to Regulation (EC) No 1907/2006, the date on which that amendment becomes applicable;
- (b) six months after the Union restrictions procedure initiated with regard to the provisional measure is finalised without the Commission proposing a draft restriction.

*Article 2*

This Decision is addressed to the French Republic.

Done at Brussels, 7 June 2019.

*For the Commission*  
Elżbieta BIENKOWSKA  
*Member of the Commission*

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