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⁽¹⁾ Text with EEA relevance

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I

(Legislative acts)

REGULATIONS

**REGULATION (EU) No 1336/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011****amending Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for
countries and territories participating in or linked to the European Union's Stabilisation and
Association process**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European
Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

(1) Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process ⁽²⁾ introduced exceptional trade measures which provide for unlimited duty free access to the Union market for almost all products originating in the countries and customs territories benefiting from the Stabilisation and Association process. As Regulation (EC) No 2007/2000 was substantially amended several times, in the interests of clarity and rationality it was codified by Council Regulation (EC) No 1215/2009 ⁽³⁾.

(2) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, was signed in Luxembourg on 16 June 2008. Pending the completion of the procedures necessary for its entry into force, an Interim Agreement on trade and trade-related matters between the European Community, of

the one part, and Bosnia and Herzegovina, of the other part ⁽⁴⁾, was signed and concluded ⁽⁵⁾ and entered into force on 1 July 2008.

(3) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part was signed in Luxembourg on 29 April 2008. Pending the completion of the procedures necessary for its entry into force, an Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Serbia, of the other part ⁽⁶⁾, was signed and concluded ⁽⁷⁾ and entered into force on 1 February 2010.

(4) The Stabilisation and Association Agreements and the Interim Agreements establish a contractual trade regime between the European Union and Bosnia and Herzegovina, and between the European Union and Serbia. It is therefore necessary to amend Regulation (EC) No 1215/2009 by removing Bosnia and Herzegovina and Serbia from the list of beneficiaries of the tariff concessions for the same products under the contractual trade regime and to adjust the global tariff quota volumes for specific products for which tariff quotas have been granted under the contractual trade regime. Bosnia and Herzegovina and Serbia should, however, remain beneficiaries under Regulation (EC) No 1215/2009 in so far as that Regulation provides for concessions which are more favourable than those under the bilateral agreements.

(5) Regulation (EC) No 1215/2009 remains the main instrument governing trade relations with Kosovo ⁽⁸⁾. Kosovo's continued access to the Union market

⁽¹⁾ Position of the European Parliament of 13 October 2011 (not yet published in the Official Journal) and decision of the Council of 24 November 2011.

⁽²⁾ OJ L 240, 23.9.2000, p. 1.

⁽³⁾ OJ L 328, 15.12.2009, p. 1.

⁽⁴⁾ OJ L 233, 30.8.2008, p. 6.

⁽⁵⁾ OJ L 169, 30.6.2008, p. 10. Corrected version in OJ L 233, 30.8.2008, p. 5.

⁽⁶⁾ OJ L 28, 30.1.2010, p. 2.

⁽⁷⁾ OJ L 28, 30.1.2010, p. 1.

⁽⁸⁾ As defined by United Nations Security Council Resolution 1244(1999).

is crucial for Kosovo's economic recovery and for the whole region. At the same time, such access will not have negative consequences for the Union.

- (6) For those reasons and given the fact that Regulation (EC) No 1215/2009 ceased to apply on 31 December 2010, it is appropriate to extend the validity of Regulation (EC) No 1215/2009 until 31 December 2015.
- (7) In order to ensure the Union's compliance with its international obligations, the preferential arrangements set out in this Regulation should be made conditional on the continuation or renewal of the existing waiver from World Trade Organization (WTO) obligations obtained by the Union.
- (8) In order to protect the economic interests of operators, it is necessary to provide for transitional measures in respect of goods that are, at the date of application of this Regulation, in transit or in temporary storage in customs warehouses or in free zones.
- (9) In order to adopt the provisions necessary for the application of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the necessary amendments and technical adjustments to Annexes I and II following amendments to the Combined Nomenclature codes and to the TARIC subdivisions, as well as the necessary adjustments following the granting of trade preferences under other arrangements between the Union and the countries and territories referred to in this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (10) In order to ensure uniform conditions for the implementation of this Regulation with regard to the suspension of the entitlement to benefit from the preferential arrangements in the event of non-compliance, the issuing of authenticity certificates attesting that the goods originate in the country or territory concerned and correspond to the definition in this Regulation, and for the temporary suspension, in whole or in part, of the arrangements provided for in this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁽¹⁾.
- (11) In order not to disrupt trade, it is necessary for this Regulation to apply retroactively, as of 1 January 2011,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1215/2009 is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

Preferential arrangements

1. Subject to the special provisions laid down in Article 3, products originating in the customs territory of Kosovo, other than those of headings 0102, 0201, 0202, 0301, 0302, 0303, 0304, 0305, 1604, 1701, 1702 and 2204 of the Combined Nomenclature, shall be admitted for import into the Union without quantitative restrictions or measures having equivalent effect and with exemption from customs duties and charges having equivalent effect.

2. Products originating in Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro or Serbia shall continue to benefit from the provisions of this Regulation where so indicated. Such products shall also benefit from any concession provided for in this Regulation which is more favourable than that provided for under bilateral agreements between the Union and those countries.;

- (2) Article 2 is amended as follows:

- (a) point (a) of paragraph 1 is replaced by the following:

'(a) compliance with the definition of "originating products" provided for in Part I, Title IV, Chapter 2, Section 2 of Regulation (EEC) No 2454/93.;

- (b) the following paragraph is added:

'3. In the event of non-compliance by a country or territory with paragraphs 1 or 2, the Commission may, by means of implementing acts, suspend, in whole or in part, the entitlement of the country or territory concerned to benefits under this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

- (3) Article 3 is amended as follows:

- (a) paragraph 2 is replaced by the following:

'2. The customs duties applicable to imports into the Union of "baby-beef" products defined in Annex II and originating in the customs territory of Kosovo, shall be 20 % of the *ad valorem* duty and 20 % of the specific duty as laid down in the Common Customs Tariff, within the limit of an annual tariff quota of 475 tonnes expressed in carcase weight.

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

Any request for import within this quota shall be accompanied by an authenticity certificate issued by the competent authorities of the exporting territory and attesting that the goods originate in the territory concerned and correspond to the definition in Annex II to this Regulation. That certificate shall be drawn up by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

(b) paragraph 3 is deleted;

(c) paragraph 4 is replaced by the following:

‘4. Notwithstanding other provisions of this Regulation, and in particular Article 10, given the particular sensitivity of the agricultural and fishery markets, where imports of agricultural and fishery products cause serious disturbance to Union markets and their regulatory mechanisms, the Commission may adopt appropriate measures by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

(4) Article 4 is replaced by the following:

‘Article 4

Implementation of tariff quota for “baby beef”

The detailed rules for implementing the tariff quota for “baby-beef” products shall be determined by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

(5) Article 7 is replaced by the following:

‘Article 7

Conferral of powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 7a concerning:

- (a) necessary amendments and technical adjustments to Annexes I and II following amendments to the Combined Nomenclature codes and to the TARIC subdivisions;
- (b) necessary adjustments following the granting of trade preferences under other arrangements between the Union and the countries and territories referred to in Article 1.;

(6) the following Article is inserted:

‘Article 7a

Exercise of the delegation

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

2. The power to adopt delegated acts referred to in Article 7 shall be conferred on the Commission until the date of expiry of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before that date.

3. The power to adopt delegated acts referred to in Article 7 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5. A delegated act adopted pursuant to Article 7 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.;

(7) Article 8 is replaced by the following:

‘Article 8

Committee procedure

1. For the purposes of Articles 2 and 10, the Commission shall be assisted by the Western Balkans Implementation Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (*).

2. For the purposes of Article 3(4), the Commission shall be assisted by the committee established by Article 4(1) of Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (**). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

3. For the purposes of Article 3(2) and Article 4, the Commission shall be assisted by the committee established by Article 195(1) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (***). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

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

(*) OJ L 55, 28.2.2011, p. 13.

(**) OJ L 84, 31.3.2009, p. 1.

(***) OJ L 299, 16.11.2007, p. 1.;

(8) Article 10 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

‘(a) informed the Western Balkans Implementation Committee;’

(ii) the following subparagraph is added:

‘The measures referred to in the first subparagraph shall be adopted by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).’;

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

‘3. On conclusion of the period of suspension, the Commission shall decide either to terminate the provisional suspension measure or to extend the suspension measure in accordance with paragraph 1.’;

(9) in Article 12, the second paragraph is replaced by the following:

‘It shall apply until 31 December 2015.

The preferences provided for in this Regulation shall cease to apply, in whole or in part, in the event that they would not be permitted by a waiver granted by the WTO. Such cessation shall apply from the day on which the waiver is no longer in effect. The Commission shall, sufficiently prior to that date, publish a notice in the *Official Journal of the European Union* to inform operators and the competent authorities thereof. The notice shall specify which preferences provided for in this Regulation are no longer in effect and the date on which they cease to apply.’;

(10) Annex I is replaced by the text appearing in the Annex to this Regulation.

Article 2

Goods which, on 1 January 2011, are either in transit or in the Union in temporary storage in customs warehouses or in free zones and for which before that date a proof of origin of Bosnia and Herzegovina or Serbia has been properly issued in accordance with Part I, Title IV, Chapter 2, Section 2 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽¹⁾, shall continue to benefit from Regulation (EC) No 1215/2009 for a period of 4 months from the date of application of this Regulation.

Article 3

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

It shall apply from 1 January 2011.

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

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
M. SZPUNAR

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

ANNEX

‘ANNEX I

TARIFF QUOTAS REFERRED TO IN ARTICLE 3(1)

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Order No	CN Code	Description	Quota volume per year ⁽¹⁾	Beneficiaries	Rate of duty
09.1571	0301 91 10 0301 91 90 0302 11 10 0302 11 20 0302 11 80 0303 21 10 0303 21 20 0303 21 80 0304 19 15 0304 19 17 ex 0304 19 18 ex 0304 19 91 0304 29 15 0304 29 17 ex 0304 29 18 ex 0304 99 21 ex 0305 10 00 ex 0305 30 90 0305 49 45 ex 0305 59 80 ex 0305 69 80	Trout (<i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarki</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i>): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	15 tonnes	customs territory of Kosovo	0 %
09.1573	0301 93 00 0302 69 11 0303 79 11 ex 0304 19 18 ex 0304 19 91 ex 0304 29 18 ex 0304 99 21 ex 0305 10 00 ex 0505 30 90 ex 0305 49 80 ex 0305 59 80 ex 0305 69 80	Carp: live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	20 tonnes	customs territory of Kosovo	0 %
09.1575	ex 0301 99 80 0302 69 61 0303 79 71 ex 0304 19 39 ex 0304 19 99 ex 0304 29 99 ex 0304 99 99 ex 0305 10 00 ex 0305 30 90 ex 0305 49 80 ex 0305 59 80 ex 0305 69 80	Sea bream (<i>Dentex dentex</i> and <i>Pagellus</i> spp.): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	45 tonnes	customs territory of Kosovo	0 %
09.1577	ex 0301 99 80 0302 69 94 ex 0303 77 00 ex 0304 19 39 ex 0304 19 99 ex 0304 29 99 ex 0304 99 99 ex 0305 10 00	Sea bass (<i>Dicentrarchus labrax</i>): live; fresh or chilled; frozen; dried; salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	30 tonnes	customs territory of Kosovo	0 %

Order No	CN Code	Description	Quota volume per year ⁽¹⁾	Beneficiaries	Rate of duty
	ex 0305 30 90 ex 0305 49 80 ex 0305 59 80 ex 0305 69 80				
09.1515	ex 2204 21 93 ex 2204 21 94 ex 2204 21 95 ex 2204 21 96 ex 2204 21 97 ex 2204 21 98 ex 2204 29 93 ex 2204 29 94 ex 2204 29 95 ex 2204 29 96 ex 2204 29 97 ex 2204 29 98	Wine of fresh grapes, of an actual alcoholic strength by volume not exceeding 15 % vol, other than sparkling wine	50 000 hl ⁽²⁾	Albania ⁽³⁾ , Bosnia and Herzegovina ⁽⁴⁾ , Croatia ⁽⁵⁾ , the former Yugoslav Republic of Macedonia ⁽⁶⁾ , Montenegro ⁽⁷⁾ , Serbia ⁽⁸⁾ or customs territory of Kosovo	Exemption

⁽¹⁾ One global volume per tariff quota accessible to imports originating in the beneficiaries.

⁽²⁾ The volume of this global tariff quota shall be reduced if the quota volume of the individual tariff quota applicable under order No 09.1588 for certain wines originating in Croatia is increased.

⁽³⁾ Access for wine originating in Albania to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Additional Protocol on wine concluded with Albania. These individual tariff quotas are opened under order Nos 09.1512 and 09.1513.

⁽⁴⁾ Access for wine originating in Bosnia and Herzegovina to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Bosnia and Herzegovina. These individual tariff quotas are opened under order Nos 09.1528 and 09.1529.

⁽⁵⁾ Access for wine originating in Croatia to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Additional Protocol on wine concluded with Croatia. These individual tariff quotas are opened under order Nos 09.1588 and 09.1589.

⁽⁶⁾ Access for wine originating in the former Yugoslav Republic of Macedonia to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Additional Protocol on wine concluded with the former Yugoslav Republic of Macedonia. These individual tariff quotas are opened under order Nos 09.1558 and 09.1559.

⁽⁷⁾ Access for wine originating in Montenegro to this global tariff quota is subject to the prior exhaustion of the individual tariff quota provided for in the Protocol on wine concluded with Montenegro. This individual tariff quota is opened under order No 09.1514.

⁽⁸⁾ Access for wine originating in Serbia to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Serbia. These individual tariff quotas are opened under order Nos 09.1526 and 09.1527.

**REGULATION (EU) No 1337/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011**

concerning European statistics on permanent crops and repealing Council Regulation (EEC) No 357/79 and Directive 2001/109/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

(1) Council Regulation (EEC) No 357/79 of 5 February 1979 on statistical surveys of areas under vines ⁽²⁾ and Directive 2001/109/EC of the European Parliament and of the Council of 19 December 2001 concerning the statistical surveys to be carried out by the Member States in order to determine the production potential of plantations of certain species of fruit trees ⁽³⁾ have been amended several times. As further amendments and simplifications are now necessary, those acts should, for reasons of clarity and in accordance with the new approach to the simplification of Union legislation and better regulation, be replaced by one single act.

(2) In order to perform the task conferred upon it by the Treaty on the Functioning of the European Union (TFEU) and by Union legislation governing the common organisation of agricultural markets, the Commission needs to be kept accurately informed about the production potential of plantations of certain species of permanent crops within the Union. In order to ensure that the common agricultural policy is properly administered, the Commission requires data on permanent crops to be regularly provided on a five-year basis.

(3) Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on

European statistics ⁽⁴⁾ provides a reference framework for European statistics on permanent crops. In particular, that Regulation requires conformity with principles of professional independence, impartiality, objectivity, reliability, statistical confidentiality and cost-effectiveness.

(4) It is necessary to strengthen cooperation between the authorities involved in the drawing up and the publication of European statistics.

(5) When preparing and drawing up European statistics, account should be taken of international recommendations and best practices.

(6) Structural statistics on permanent crops should be available in order to ensure that the production potential and the market situation can be monitored. In addition to the information provided in the context of the single Common Market Organisation, information on the regional breakdown of statistics is essential. The Member States should therefore be required to collect this information and send it to the Commission on certain fixed dates.

(7) Structural statistics on permanent crops are essential for the management of markets at Union level. It is also essential for structural statistics on permanent crops to be covered in addition to the annual statistics on areas and production governed by other Union legislation concerning statistics.

(8) To avoid placing an unnecessary burden on farms and administrations, thresholds should be established that exclude non-relevant entities from the basic entities in respect of which statistics on permanent crops are to be collected.

(9) To guarantee the harmonisation of data, it is necessary to clearly state the most important definitions, the reference periods and the precision requirements to be applied in the production of statistics on permanent crops.

(10) To guarantee the availability of these statistics to users within the necessary timeframe, a time schedule for transmitting the data to the Commission should be established.

⁽¹⁾ Position of the European Parliament of 15 November 2011 (not yet published in the Official Journal) and Decision of the Council of 1 December 2011.

⁽²⁾ OJ L 54, 5.3.1979, p. 124.

⁽³⁾ OJ L 13, 16.1.2002, p. 21.

⁽⁴⁾ OJ L 87, 31.3.2009, p. 164.

- (11) In accordance with Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) ⁽¹⁾, all Member State statistics transmitted to the Commission which are broken down by territorial unit are to use the NUTS classification. Consequently, in order to establish comparable regional statistics on permanent crops, the territorial units should be defined in accordance with the NUTS classification. However, since, for sound management of the wine and vine sector, other territorial breakdowns are necessary, different territorial units can be specified for that sector.
- (12) Methodological and quality reports are essential in order to assess the quality of the data and to analyse the results, and such reports should therefore be provided on a regular basis.
- (13) Since the objective of this Regulation, namely the establishment of a common framework for the systematic production of European statistics on permanent crops, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.
- (14) In order to ensure a smooth transition from the regime applicable under Directive 2001/109/EC, this Regulation should allow for the granting of a derogation to Member States where the application of this Regulation to their national statistical systems would require major adaptations and would be likely to cause significant practical problems.
- (15) In order to take into account economic and technical developments, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the breakdowns of species by groups, density classes and age classes set out in Annex I and the variables/characteristics, size classes, degree of specialisation and vine varieties set out in Annex II, except in respect of the optional nature of the required information. It is of particular importance that the Commission carry out the appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (16) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers ⁽²⁾.
- (17) Regulation (EEC) No 357/79 and Directive 2001/109/EC should be repealed.
- (18) In order to ensure the continuity of activities provided in the framework for European statistics on permanent crops, this Regulation should enter into force the day following its publication and apply from 1 January 2012.
- (19) The Standing Committee for Agricultural Statistics has been consulted,
- HAVE ADOPTED THIS REGULATION:
- Article 1*
- Subject matter**
1. This Regulation establishes a common framework for the systematic production of European statistics on the following permanent crops:
- (a) dessert apple trees;
 - (b) apple trees for industrial processing;
 - (c) dessert pear trees;
 - (d) pear trees for industrial processing;
 - (e) apricot trees;
 - (f) dessert peach trees;
 - (g) peach trees for industrial processing;
 - (h) orange trees;
 - (i) small citrus fruit trees;
 - (j) lemon trees;
 - (k) olive trees;
 - (l) vines intended for the production of table grapes;
 - (m) vines for other purposes.
2. The production of European statistics on the permanent crops referred to in points (b), (d), (g) and (l) of paragraph 1 shall be optional for the Member States.

⁽¹⁾ OJ L 154, 21.6.2003, p. 1.

⁽²⁾ OJ L 55, 28.2.2011, p. 13.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'permanent crop' means a crop not grown in rotation, other than permanent grassland, which occupies the soil for a long period and yields crops over several years;
- (2) 'parcel planted' means an agricultural parcel, as defined in point (1) of the second paragraph of Article 2 of Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector ⁽¹⁾, planted with one of the permanent crops referred to in Article 1(1) of this Regulation;
- (3) 'planted area' means the area of the parcels planted with a homogeneous plantation of the relevant permanent crop, rounded to the nearest 0,1 hectare (ha);
- (4) 'harvest year' means the calendar year in which the harvest begins;
- (5) 'density' means the number of plants by hectare;
- (6) 'usual planting period' means the period of the year when permanent crops are usually planted starting in mid-autumn and finishing by mid-spring of the following year;
- (7) 'planting year' means the first year where the plant has vegetative development after the day on which it is installed on its definitive production place;
- (8) 'age' means the number of years since the planting year, which shall be considered to be year 1;
- (9) 'dessert apple tree, dessert pear tree and dessert peach tree' means apple tree plantations, pear tree plantations and peach tree plantations, except those specifically intended for industrial processing. Where it is not possible to identify the plantations intended for industrial processing, the correspondent areas shall be included under this category;
- (10) 'vines for other purposes' means all areas under vines to be included in the vineyard register as established under Article 3 of Commission Regulation (EC) No 436/2009 of 26 May 2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards

the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept ⁽²⁾;

- (11) 'dual-purpose grapes' means grapes from vine varieties listed in the classification of vine varieties drawn up by Member States in accordance with Article 120a(2) to (6) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽³⁾ that are produced, for the same administrative unit, both as wine grape varieties and, as the case may be, as table grape varieties, varieties for the production of dried grapes or varieties for the production of wine spirits;
- (12) 'combined crops' means a combination of crops occupying a parcel of land at the same time.

Article 3

Coverage

1. Statistics to be provided on permanent crops referred to under points (a) to (l) of Article 1(1) shall be representative of at least 95 % of the total planted area producing entirely or mainly for the market of each permanent crop referred to in each Member State.
2. Notwithstanding paragraph 1, Member States may exclude holdings below a threshold of 0,2 ha of each permanent crop producing entirely or mainly for the market in each Member State. If the area covered by such holdings is less than 5 % of the total planted area of the individual crop, Member States may increase that threshold provided that this does not lead to the exclusion of more than an additional 5 % of the total planted area of the individual crop.
3. The area of combined crops shall be distributed between the different crops in proportion to the area of ground they occupy.
4. The statistics on the permanent crop referred to in point (m) of Article 1(1) of this Regulation shall be provided using the data available in the vineyard register implemented in accordance with Article 185a of Regulation (EC) No 1234/2007 for all the holdings included in this register, as defined in point (a) of Article 3(1) of Regulation (EC) No 436/2009.

Article 4

Data production

1. Save where the option referred to in Article 1(2) has been exercised, Member States with a minimum planted area of 1 000 ha of each individual crop referred to in points (a) to (l) of Article 1(1) shall produce, during 2012 and every 5 years thereafter, the data referred to in Annex I.

⁽¹⁾ OJ L 316, 2.12.2009, p. 65.

⁽²⁾ OJ L 128, 27.5.2009, p. 15.

⁽³⁾ OJ L 299, 16.11.2007, p. 1.

2. Member States with a minimum planted area of 500 ha of the crop referred to in point (m) of Article 1(1) shall produce, during 2015 and every 5 years thereafter, the data referred to in Annex II.

3. In order to take into account economic and technical developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 11 concerning the amendment of:

- the breakdowns of species by groups, density classes and age classes set out in Annex I, and
- the variables/characteristics, size classes, degree of specialisation and vine varieties set out in Annex II,

except in respect of the optional nature of the required information.

In exercising this power, the Commission shall ensure that the delegated acts do not impose a significant additional administrative burden on the Member States and on the respondents.

Article 5

Reference year

1. The first reference year for the data referred to in Annex I with regard to the statistics on permanent crops referred to in points (a) to (l) of Article 1(1) shall be 2012.
2. The first reference year for the data referred to in Annex II with regard to the statistics on the permanent crop referred to in point (m) of Article 1(1) shall be 2015.
3. The statistics on permanent crops provided shall refer to the planted area after the usual planting period.

Article 6

Precision requirements

1. Member States conducting sample surveys in order to obtain statistics on permanent crops shall take all necessary steps to ensure that the coefficient of variation of the data shall not exceed, at national level, 3 % for the planted area for each of the crops referred to in Article 1(1).
2. Member States which decide to use sources of statistical information other than surveys shall ensure that the information thereby obtained is of at least equal quality to the information obtained from statistical surveys.
3. Member States which decide to use an administrative source to provide the statistics on permanent crops referred to in points (a) to (l) of Article 1(1) shall inform the Commission in advance and shall provide details concerning the method to be used and the quality of the data obtained from that administrative source.

Article 7

Regional statistics

1. Data with regard to statistics on permanent crops referred to in points (a) to (l) of Article 1(1) of this Regulation, and further specified in Annex I to this Regulation, shall be broken down by NUTS 1 territorial units as defined in Regulation (EC) No 1059/2003, save where a less detailed breakdown is specified in Annex I to this Regulation.
2. Data with regard to statistics on the permanent crop referred to in point (m) of Article 1(1) of this Regulation, and further specified in Annex II to this Regulation, shall be broken down by NUTS 2 territorial units as defined in Regulation (EC) No 1059/2003, save where a less detailed breakdown is specified in Annex II to this Regulation.

Article 8

Transmission to the Commission

1. Member States shall transmit to the Commission (Eurostat) the data set out in Annexes I and II by 30 September of the year following the reference period.
2. The Commission shall adopt implementing acts concerning the appropriate technical format for the transmission of the data set out in Annexes I and II. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2).

Article 9

Methodological and quality report

1. For the purposes of this Regulation, the quality criteria to be applied to the data to be transmitted are those referred to in Article 12(1) of Regulation (EC) No 223/2009.
2. By 30 September 2013, and every 5 years thereafter, Member States shall provide the Commission (Eurostat) with reports on the quality of the data transmitted and the methods used for statistics on permanent crops referred to in points (a) to (l) of Article 1(1) of this Regulation.
3. By 30 September 2016, and every 5 years thereafter, Member States shall provide the Commission (Eurostat) with reports on the quality of the data transmitted and the methods used for statistics on the permanent crop referred to in point (m) of Article 1(1) of this Regulation.
4. The reports shall describe:
 - (a) the organisation of the surveys covered by this Regulation and the methodology applied;
 - (b) the level of precision and the coverage achieved for the sample surveys referred to in this Regulation; and

(c) the quality of sources other than surveys which are used, using the quality criteria referred to in paragraph 1.

5. Member States shall inform the Commission of any methodological or other change that might have a considerable effect on the statistics on permanent crops, not later than 3 months before that change enters into force.

6. The principle that additional costs and burdens remain within reasonable limits shall be taken into account.

Article 10

Derogation

1. Where the application of this Regulation to the national statistical system of a Member State requires major adaptations and is likely to cause significant practical problems with regard to the permanent crops referred to in points (a) to (l) of Article 1(1), the Commission may adopt implementing acts granting a derogation from its application to that Member State until 31 December 2012. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2).

2. For the purposes of paragraph 1, a Member State shall present a duly justified request to the Commission not later than 1 February 2012.

3. Those Member States benefiting from a derogation shall continue to apply Directive 2001/109/EC.

Article 11

Exercise of delegation

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

2. The power to adopt delegated acts referred to in Article 4(3) and Article 13 shall be conferred on the Commission for a period of 5 years from 31 December 2011. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.

3. The delegation of power referred to in Article 4(3) and Article 13 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5. A delegated act adopted pursuant to Article 4(3) and Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Article 12

Committee Procedure

1. The Commission shall be assisted by the Standing Committee for Agricultural Statistics established by Article 1 of Council Decision 72/279/EEC of 31 July 1972 setting up a Standing Committee for Agricultural Statistics⁽¹⁾. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

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

Article 13

Review

By 31 December 2018 and every 5 years thereafter, the Commission shall review the functioning of this Regulation. In the context of this review, the Commission shall assess whether it is necessary to produce all the data referred to in Article 4. Where the Commission considers that some of those data are no longer required, it shall be empowered to adopt delegated acts in accordance with Article 11 that delete certain data from Annexes I and II.

Article 14

Repeal

Regulation (EEC) No 357/79 and Directive 2001/109/EC are hereby repealed with effect from 1 January 2012.

References to the repealed Regulation and Directive shall be construed as references to this Regulation.

Article 15

Transitional provisions

By way of derogation from Article 14 of this Regulation, Directive 2001/109/EC shall remain applicable under the conditions provided for in Article 10 of this Regulation.

Article 16

Entry into force

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

It shall apply from 1 January 2012.

⁽¹⁾ OJ L 179, 7.8.1972, p. 1 (English special edition: Series I Chapter 1972(III), p. 838).

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

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
M. SZPUNAR

ANNEX I

Statistical data on fruit and olive plantations

1. Breakdown of species by 'Groups'

Species	Breakdown
Dessert apple trees	Group Boskoop rouge
	Group Braeburn
	Group Cox Orange
	Group Cripps Pink
	Group Elstar
	Group Fuji
	Group Gala
	Group Golden Delicious
	Group Granny Smith
	Group Idared
	Group Jonagold/Jonagored
	Group Morgenduft
	Group Red Delicious
	Group Reinette blanche du Canada
	Group Champion
	Group Lobo
	Group Pinova
	Others
Apple trees for industrial processing (optional)	
Dessert pear trees	Group Conference
	Group William
	Group Abate
	Group Rocha
	Group Coscia-Ercolini
	Group Guyot
	Group Blanquilla
	Group Decana
	Group Kaiser
	Others

Species		Breakdown	
Pear trees for industrial processing (optional)			
Dessert peach trees	Peaches other than nectarines and peaches for processing	Yellow flesh	Very early: harvest until 15 June
			Early: harvest between 16 June and 15 July
			Medium: harvest between 16 July and 15 August
			Late: harvested after 15 August
		White flesh	Very early: harvest until 15 June
			Early: harvest between 16 June and 15 July
			Medium: harvest between 16 July and 15 August
			Late: harvested after 15 August
		Doughnut peach	
	Nectarines	Yellow flesh	Very early: harvest until 15 June
			Early: harvest between 16 June and 15 July
			Medium: harvest between 16 July and 15 August
			Late: harvested after 15 August
White flesh		Very early: harvest until 15 June	
		Early: harvest between 16 June and 15 July	
		Medium: harvest between 16 July and 15 August	
		Late: harvested after 15 August	
Peach trees for industrial processing (including group of Pavie) (optional)			
Apricot trees		Very early: harvest until 31 May	
		Early: harvest between 1 and 30 June	
		Medium: harvest between 1 and 31 July	
		Late: harvest after 1 August	

Species	Breakdown	
Orange trees	Navel	Early: harvest between October and January
		Medium: harvest between December and March
		Late: harvest between January and May
	Blancas	Early: harvest between December and March
		Late: harvest between March and May
	Sanguine	
Others		
Small citrus fruit trees	Satsumas	Satsumas extra-early: harvest between September and November
		Other Satsumas: harvest between October and December
	Clementines	Clementines early: harvest between September and December
		Clementines medium: harvest between November and January
		Clementines late: harvest between January and March
	Other small citrus including hybrids	
Lemon trees	Winter varieties: harvest between October and April	
	Summer varieties: harvest between February and September	
Olive trees	For table olives, olives for oil or dual-purpose olives	
Table grape vines (optional)		
	White	Seedless
		Normal
	Red	Seedless
		Normal

2. Density classes

	Density classes	Apple and Pear trees	Peach, Nectarine and Apricot trees	Orange, Small citrus and Lemon trees	Olive trees	Table grape vines
Density (in number of trees/hectare)	1	< 400	< 600	< 250	< 140	< 1 000
	2	400-1 599	600-1 199	250-499	140-399	1 000-1 499
	3	1 600-3 199	≥ 1 200	500-749	≥ 400	≥ 1 500
	4	≥ 3 200		≥ 750		

3. Age classes

	Age classes	Apple and Pear trees	Peach, Nectarine and Apricot trees	Orange, Small citrus and Lemon trees	Olive trees	Table grape vines
Age (years since the planting year)	1	0-4	0-4	0-4	0-4	0-3
	2	5-14	5-14	5-14	5-11	3-9
	3	15-24	15 and over	15-24	12-49	9-19
	4	25 and over		25 and over	50 and over	20 and over

4. Summary

4.1. Area by age and density classes for each species at national level

Member State:

Species:

	Total	Age class 1	Age class 2	Age class 3	Age class 4
Total					
Density class 1					
Density class 2					
Density class 3					
Density class 4					

4.2. Area by age classes and regions for each species and group (no breakdown by density class)

Member State:

Species:

Group:

	Total	Age class 1	Age class 2	Age class 3	Age class 4
Total					
Region (NUTS 1)					
...					

4.3. Area by density classes and regions for each species and group (no breakdown by age class)

Member State:

Species:

Group:

	Total	Density class 1	Density class 2	Density class 3	Density class 4
Total					
Region (NUTS 1)					
...					

ANNEX II

Statistical data on vineyards

Meaning of abbreviations:

— No — number

— Hold or hold — holding

— Ha or ha — hectare

— Red — red/rosé

— Wht or wht — white

— nec — not elsewhere classified

— PDO — protected designation of origin

— PGI — protected geographical indication

Table 1: Wine-grower holdings by type of production ^(a)

Variables/Characteristics		No of holdings	Area (ha)
Areas under vines, total (in/not yet in production)	Total		
Areas under vines in production planted with:	wine grape varieties		
	— of which suitable for the production of wines with PDO		
	— of which suitable for the production of wines with PGI		
	— of which suitable for the production of wines without PDO or PGI		
	— of which 'dual-purpose grapes'		
	dried grapes		
	Total		
Areas under vines not yet in production, planted with:	wine grapes (including 'dual-purpose grapes')		
	— of which suitable for the production of wines with PDO		
	— of which suitable for the production of wines with PGI		
	— of which suitable for the production of wines without PDO or PGI		
	— of which 'dual-purpose grapes'		
	dried grapes		
	Total		
Vines (in/not yet in production) intended to produce:	material for the vegetative propagation of vines		
	other vines not elsewhere classified (nec)		

^(a) Member States concerned with regional breakdown: BG, CZ, DE, IT, EL, ES, FR, HU, AT, PT, RO, SI and SK.

Table 2: Wine-grower holdings by size class at national level**Table 2.1: Wine-grower holdings by size classes of the total area under vines, total vineyard**

Size classes of (ha)	No hold.	Area (ha)
< 0,10 (*)		
0,10 – < 0,50		
0,50 – < 1		
1 – < 3		
3 – < 5		
5 – < 10		
≥ 10		

(*) Only for the Member States concerned.

Table 2.2: Wine-grower holdings by size classes of the total area under vines, vines for wine grapes — Total

Data with the same breakdown as for Table 2.1.

Table 2.2.1: Wine-grower holdings by size classes of the total area under vines, vines for wine grapes suitable for the production of wines with PDO

Data with the same breakdown as for Table 2.1.

Table 2.2.2: Wine-grower holdings by size classes of the total area under vines, vines for wine grapes suitable for the production of wines with PGI

Data with the same breakdown as for Table 2.1.

Table 2.2.3: Wine-grower holdings by size classes of the total area under vines, vines for wine grapes of 'dual-purpose'

Data with the same breakdown as for Table 2.1.

Table 2.2.4: Wine-grower holdings by size classes of the total area under vines, wine grapes intended for obtaining wines without PDO and/or PGI

Data with the same breakdown as for Table 2.1.

Table 2.3: Wine-grower holdings by size classes of the total area under vines, vines for grapes to be dried

Data with the same breakdown as for Table 2.1.

Table 2.4: Wine-grower holdings by size classes of the total area under vines, vines not elsewhere classified (nec)

Data with the same breakdown as for Table 2.1.

Table 3: Wine-grower holdings by degree of specialisation and size classes at national level

Size classes (in column): see lines of Table 2 (< 0,1 ha/0,10 – < 0,50 ha/etc.).

Degree of specialisation	< 0,10 ha		...	
	No of hold.	Area (ha)	No of hold.	Area (ha)
Holdings with vines				
Holdings with areas under vines exclusively intended for wine production				
— of which holdings with areas under vines exclusively intended for the production of PDO and/or PGI wine				
— of which only PDO				
— of which only PGI				
— of which PDO and PGI				
— of which holdings with areas under vines exclusively intended for the production of non-PDO and/or non-PGI wine				
— of which holdings with areas under vines intended for the production of several types of wines				
Holdings with areas under vines exclusively intended for the production of dry grapes				
Holdings with other areas under vines				
Holdings with areas under vines intended for several types of production				

Table 4: Main vine varieties ^(a)

The breakdown of data should only be provided when the total area of the variety is of at least 500 ha.

The varieties to be identified in the tables are those included in the list of the main varieties and of corresponding areas communicated under Commission Regulation (EC) No 555/2008 of 27 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector ⁽¹⁾ (Annex XIII, Table 16).

Age classes to be used:

< 3 years

3-9 years

10-29 years

≥ 30 years

Main wine grape varieties by age class

Vine variety	< 3 years		...	
	No of hold.	Area (ha)	No of hold.	Area (ha)
Holdings with vines				
1. of which red varieties, total				
1.1. of which variety 1				
1.2. of which variety 2				

^(a) Member States concerned with regional breakdown: BG, CZ, DE, IT, EL, ES, FR, HU, AT, PT, RO, SI and SK.

⁽¹⁾ OJ L 170, 30.6.2008, p. 1.

Vine variety	< 3 years		...	
	No of hold.	Area (ha)	No of hold.	Area (ha)
1.3. of which variety ...				
...				
1.N. of which other red mixed varieties				
2. of which white varieties, total				
2.1. of which variety 1				
2.2. of which variety 2				
2.3. of which variety ...				
...				
2.N. of which other white mixed varieties				
3. of which different colour varieties, total				
3.1. of which variety 1				
3.2. of which variety 2				
3.3. of which variety ...				
...				
3.N. of which other mixed varieties of other mixed colours				
4. of which varieties without specified colour				

**REGULATION (EU) No 1338/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011**

**amending Council Regulation (EC) No 1934/2006 establishing a financing instrument for
cooperation with industrialised and other high-income countries and territories**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European
Union, and in particular Articles 207(2) and 209(1) thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure, in
the light of the joint text approved by the Conciliation
Committee on 31 October 2011 ⁽¹⁾,

Whereas:

- (1) Since 2007 the Community has streamlined its geographical cooperation with developing countries in Asia, Central Asia and Latin America, and with Iraq, Iran, Yemen, and South Africa under Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation ⁽²⁾.
- (2) The primary and overarching objective of Regulation (EC) No 1905/2006 is the eradication of poverty through the pursuit of the Millennium Development Goals. The scope of cooperation for the geographic programmes with developing countries, territories and regions established under that Regulation is furthermore limited materially to financing measures designed to fulfil the criteria for Official Development Assistance ('ODA criteria') established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development ('OECD/DAC').
- (3) It is in the Union's interests to further deepen its relations with the developing countries concerned, which are important bilateral partners and players in multilateral forums and in global governance. The Union has a strategic interest in promoting diversified links with those countries, in particular in areas such

as economic, commercial, academic, business and scientific exchanges. It therefore needs a financial instrument that allows the financing of such measures which, in principle, do not qualify as ODA under the ODA criteria but which are crucially important in terms of consolidating relations and which make an important contribution to promoting the progress of the developing countries concerned.

- (4) For that purpose, four preparatory actions were set out in the 2007 and 2008 budget procedures to initiate such enhanced cooperation in accordance with point (b) of Article 49(6) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾. Those four preparatory actions are: business and scientific exchanges with India; business and scientific exchanges with China; cooperation with middle-income group countries in Asia; and cooperation with middle-income group countries in Latin America. Under that Article the legislative procedure further to preparatory actions must be concluded before the end of the third financial year.
- (5) The objectives and provisions of Council Regulation (EC) No 1934/2006 ⁽⁴⁾ are appropriate to pursue such enhanced cooperation with countries falling under Regulation (EC) No 1905/2006. For that purpose, it is necessary to extend the geographical scope of Regulation (EC) No 1934/2006 and to provide for a financial envelope to cover cooperation with those developing countries.
- (6) Extending the geographical scope of Regulation (EC) No 1934/2006 brings the developing countries concerned within the scope of two different external action financial instruments. Care should be taken to ensure that those two financial instruments are kept strictly separate from each other. Measures which fulfil the ODA criteria will be financed under Regulation (EC) No 1905/2006, whereas Regulation (EC) No 1934/2006 will apply exclusively to measures which, in principle, do not fulfil those criteria. It is also necessary to ensure that the countries previously falling within the scope of Regulation (EC) No 1934/2006 — industrialised and other high-income countries and territories — are not placed at a disadvantage, particularly in financial terms, by the extension of that Regulation's geographical scope.

⁽¹⁾ Position of the European Parliament of 21 October 2010 (not yet published in the Official Journal) and position of the Council at first reading of 10 December 2010 (OJ C 7 E, 12.1.2011, p. 1). Position of the European Parliament of 3 February 2011 (not yet published in the Official Journal). Legislative resolution of the European Parliament of 1 December 2011 (not yet published in the Official Journal) and decision of the Council of 28 November 2011.

⁽²⁾ OJ L 378, 27.12.2006, p. 41.

⁽³⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁴⁾ OJ L 405, 30.12.2006, p. 41.

- (7) Since the economic crisis has placed budgets under extreme strain throughout the Union and the proposed extension embraces countries which sometimes demonstrate a similar level of competitiveness to that of the Union and have attained an average standard of living which approaches that of some Member States, Union cooperation should take into consideration efforts made by the recipient countries to comply with the international agreements of the International Labour Organisation and to participate in the general objectives of greenhouse gas emissions reduction.
- (8) The review of the implementation of the external action financial instruments has identified inconsistencies in the provisions that exclude costs relating to taxes, duties or other charges as ineligible. For the sake of consistency, it is proposed to bring those provisions into line with the other instruments.
- (9) Regulation (EC) No 1934/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1934/2006

Regulation (EC) No 1934/2006 is hereby amended as follows:

- (1) the title of the Regulation is replaced by the following:

‘Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories, and with developing countries falling under Regulation (EC) No 1905/2006 of the European Parliament and of the Council, for activities other than official development assistance’;

- (2) Articles 1 to 4 are replaced by the following:

‘Article 1

Objective

1. For the purpose of this Regulation, “industrialised and other high-income countries and territories” shall comprise countries and territories listed in Annex I to this Regulation and “developing countries” shall comprise countries falling under Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (*) and listed in Annex II to this Regulation. They are together hereinafter referred to as “partner countries”.

Union financing under this Regulation shall support economic, financial, technical, cultural and academic cooperation with partner countries in the areas set out in Article 4, falling within its spheres of competence. This Regulation shall serve to finance measures which, in principle, do not fulfil the criteria for Official Development Assistance (“ODA criteria”) established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development (“OECD/DAC”).

2. The primary objective of cooperation with partner countries shall be to provide a specific response to the need to strengthen links and to engage further with them on a bilateral, regional or multilateral basis in order to create a more favourable and transparent environment for the development of relations between the Union and partner countries in accordance with the principles guiding the Union’s external action as laid down in the Treaties. This refers amongst others to the promotion of democracy, respect for human rights and fundamental freedoms, the rule of law, as well as the promotion of decent work and good governance, and the preservation of the environment, in order to contribute to progress and sustainable development processes in partner countries.

Article 2

Scope

1. Cooperation shall be aimed at engaging with partner countries in order to enhance dialogue and rapprochement and to share and promote similar political, economic and institutional structures and values. The Union shall also aim at increasing cooperation and exchanges with established or increasingly important bilateral partners and players in multilateral forums and in global governance. The cooperation also covers partners with which the Union has a strategic interest in promoting links and its values as laid down in the Treaties.

2. In duly justified circumstances and in order to ensure the coherence and effectiveness of Union financing and to foster regional cooperation, the Commission may decide when adopting annual action programmes referred to in Article 6 that countries not listed in the Annexes are eligible for measures financed under this Regulation, where the project or programme to be implemented is of a regional or cross-border nature. Provisions shall be made for this in the multiannual cooperation programmes referred to in Article 5.

3. The Commission shall amend the lists in Annexes I and II following the regular OECD/DAC reviews of its list of developing countries, and shall inform the European Parliament and the Council thereof.

4. For Union financing under this Regulation, particular attention shall be paid where appropriate to the compliance of partner countries with the core labour standards of the International Labour Organisation (ILO) and to their efforts to pursue reductions of greenhouse gas emissions.

5. In relation to countries listed in Annex II to this Regulation, policy coherence with measures financed under Regulation (EC) No 1905/2006 and Regulation (EC) No 1337/2008 of the European Parliament and of the Council of 16 December 2008 establishing a facility for rapid response to soaring food prices in developing countries (**) shall be strictly observed.

Article 3

General principles

1. The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law and seeks to promote, develop and consolidate commitment to those principles in partner countries through dialogue and cooperation.

2. In the implementation of this Regulation a differentiated approach in designing cooperation with partner countries shall be pursued, where appropriate, to take account of their economic, social and political contexts as well as of the Union's specific interests, strategies and priorities.

3. Measures financed under this Regulation shall be consistent with and cover areas of cooperation set out notably in the instruments, agreements, declarations and action plans between the Union and partner countries, as well as areas pertaining to the Union's specific interests and priorities.

4. For measures financed under this Regulation, the Union shall aim to ensure coherence with other areas of its external action as well as with other relevant Union policies, in particular development cooperation. This shall be ensured by formulating policy, strategic planning and the programming and implementation of measures.

5. Measures financed under this Regulation shall complement and bring added value to the efforts undertaken by Member States and Union public bodies in the area of commercial relations and cultural, academic and scientific exchanges.

6. The Commission shall inform and have regular exchanges of views with the European Parliament.

Article 4

Areas of cooperation

Union financing shall support cooperation actions in accordance with Article 1 and shall be consistent with the overall purpose, scope, objectives and general principles of this Regulation. Union financing shall cover actions that, in principle, do not fulfil the ODA criteria, and which may include a regional dimension, in the following areas of cooperation:

- (1) the promotion of cooperation, partnerships and joint undertakings between economic, social, cultural, academic and scientific actors in the Union and partner countries;
- (2) the stimulation of bilateral trade, investment flows and economic partnerships, including a focus on small and medium-sized enterprises;
- (3) the promotion of dialogue between political, economic, social and cultural actors and other non-governmental organisations in relevant sectors in the Union and partner countries;
- (4) the promotion of people-to-people links, education and training programmes and intellectual exchanges and the enhancement of mutual understanding between cultures, particularly at the family level, including measures to ensure and increase Union participation in Erasmus Mundus and participation in European education fairs;
- (5) the promotion of cooperative projects in areas such as research, science and technology, sports and culture, energy (in particular renewable energy), transport, environmental matters (including climate change), customs, financial, legal and human rights issues, and any other matter of mutual interest between the Union and partner countries;
- (6) the enhancement of awareness about and understanding of the Union and of its visibility in partner countries;
- (7) support for specific initiatives, including research work, studies, pilot schemes or joint projects destined to respond in an effective and flexible manner to cooperation objectives arising from developments in the Union's bilateral relationships with partner countries or aiming to provide impetus to the further deepening and broadening of bilateral relationships with them.

(*) OJ L 378, 27.12.2006, p. 41.

(**) OJ L 354, 31.12.2008, p. 62.;

(3) in Article 5, paragraph 2 is replaced by the following:

‘2. Multiannual cooperation programmes shall cover no more than the period of validity of this Regulation. They shall set out the Union’s specific interests and priorities, the general objectives and the expected results. In particular with regard to Erasmus Mundus, programmes shall aim for the most balanced geographical coverage possible. They shall also set out the areas selected for financing by the Union and outline the indicative financial allocation of funds, overall, per priority area and per partner country or group of partner countries for the period concerned. Where appropriate, this may be given in the form of a range. Multiannual cooperation programmes shall be reviewed at mid-term, or ad hoc if necessary.’;

(4) the following Article is added:

‘Article 5a

The Union’s strategic interests, general objectives, priority areas for financing and expected results for cooperation with partner countries listed in Annex II

The multiannual cooperation programmes referred to in Article 5 with partner countries listed in Annex II shall be based on the following general objectives, priority areas for financing and expected results:

(1) Public diplomacy and outreach, having as objectives:

- to promote widespread understanding and visibility of the Union,
- to promote the Union’s views on important policy issues and the Union’s values of democracy, respect for human rights and fundamental freedoms,
- to encourage reflection and discussion on the Union and its policies, and on Union relations with partner countries listed in Annex II,
- to develop new approaches that give momentum to positive, result-oriented relations with countries which have little or no knowledge of the Union.

Activities in support of those objectives should lead to a better perception and enhanced mutual understanding of the Union and of partner countries listed in Annex II, with a consequent beneficial effect on the economic and political relationships of the Union with its partners.

(2) Economic partnership and business cooperation, having as objective:

- to facilitate market access for Union companies, notably through programmes supporting them (including relevant regulatory support in relation to trade barriers), drawing on experience from long-standing business cooperation programmes.

Those programmes should, whenever applicable, be complementary to existing support measures. Those programmes should deliver concrete opportunities for improved business and scientific cooperation, increased turnover and investments in target areas and greater trade flows with partner countries listed in Annex II.

Those efforts shall be consistent with, and complementary to, the Commission’s broader strategy to develop Union competitiveness in global markets, and other Union policies towards specific regions and countries.

Resources shall be focused on countries where interventions can increase the participation of Union companies. Small and medium-sized Union enterprises, seeking access to the Asian, Latin American, Middle Eastern and South African markets shall be an important focus. Where appropriate, resources shall be focused on countries complying with the core labour standards of the ILO and which contribute to the global efforts to pursue reductions of greenhouse gas emissions.

(3) People-to-people links, having as objectives:

- to support high quality partnerships between higher education institutions in the Union and in third-countries as a basis for structured cooperation, exchange and mobility, at all levels of higher education (Action 2 — Strand 2: Partnerships with countries and territories covered by the Industrialised Countries Instrument), under Erasmus Mundus II. Action 2,
- to supplement Erasmus Mundus Action 2 scholarships, funded from the Development Cooperation Instrument (Action 2 — Strand 1: Partnerships with countries covered by the European Neighbourhood and Partnership Instrument, the Development Cooperation Instrument, the European Development Fund and the Instrument for Pre-Accession Assistance (former External Cooperation Window)), by supporting the mobility of Union students and professors to third countries,

- to promote together with civil society in its widest sense a better understanding of the Union as such, its positions on global issues and of economic, social and political integration processes, thus complementing the Union's formal relationships with governments,
- to promote cooperation, partnerships and joint undertakings between economic, social, cultural, academic and scientific actors in the Union and partner countries.

Those activities should help produce mutual benefits from education, culture and civil society cooperation. This shall be done through improvements in the quality of education offered and from confronting the mutual challenges of developing knowledge-based societies. The activities undertaken should add value to the cross-fertilisation of ideas, knowledge, research and technology results through academic and professional exchanges, particularly with partner countries that have higher education systems comparable to those of the Union.;

(5) in Article 6, paragraph 1 is replaced by the following:

'1. The Commission shall adopt annual action programmes based on the multiannual cooperation programmes referred to in Article 5 and shall transmit them simultaneously to the European Parliament and to the Council.;

(6) Article 7 is amended as follows:

- (a) the first paragraph becomes paragraph 1;
- (b) points (e) and (f) of paragraph 1 are replaced by the following:
 - '(e) joint bodies set up by partner countries and regions and the Union;
 - (f) Union institutions and bodies, in so far as they implement support measures specified in Article 9.;
- (c) the following paragraphs are added:

'2. Measures covered by Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (*), Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability (**) or Regulation (EC) No 1905/2006, and eligible for funding thereunder shall not be funded under this Regulation.

3. Union financing under this Regulation shall not be used to finance the procurement of arms or

ammunition, nor operations having military or defence implications.

(*) OJ L 163, 2.7.1996, p. 1.

(**) OJ L 327, 24.11.2006, p. 1.;

(7) in Article 8, paragraph 3 is replaced by the following:

'3. Union financing shall, in principle, not be used for paying taxes, duties or charges in the partner countries.;

(8) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Union financing may cover expenditure associated with the preparation, follow up, monitoring, audit and evaluation activities directly necessary for the implementation of this Regulation and the achievement of its objectives, and any other administrative or technical assistance expenditure that the Commission, including its Delegations in partner countries, may incur for the management of operations financed under this Regulation.;

(b) paragraph 3 is replaced by the following:

'3. The Commission shall adopt support measures not covered by the multiannual cooperation programmes and shall transmit them simultaneously to the European Parliament and to the Council.;

(9) Article 12 is amended as follows:

(a) the title is replaced by the following:

'Protecting the Union's financial interests';

(b) paragraphs 1 and 2 are replaced by the following:

'1. Any agreements resulting from this Regulation shall contain provisions ensuring the protection of the Union's financial interests, in particular with respect to irregularities, fraud, corruption and any other illegal activity, in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (*) and (Euratom, EC) No 2185/96 of 11 November 1996 concerning on the spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (**) and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) (***).

2. Agreements shall expressly entitle the Commission and the Court of Auditors to perform audits, including document audits or on-the-spot audits of any contractor or subcontractor who has received Union funds. They shall also expressly authorise the Commission to carry out on-the-spot checks and inspections in accordance with Regulation (Euratom, EC) No 2185/96.

(*) OJ L 312, 23.12.1995, p. 1.

(**) OJ L 292, 15.11.1996, p. 2.

(***) OJ L 136, 31.5.1999, p. 1.;

(10) Articles 13 and 14 are replaced by the following:

'Article 13

Evaluation

1. The Commission shall regularly evaluate the actions and programmes financed under this Regulation, where appropriate or at the request of the European Parliament or the Council, by means of independent external evaluation reports, in order to ascertain whether the objectives have been met and to enable it to formulate recommendations with a view to improving future operations. The results shall feed back into programme design and resource allocation.

2. The Commission shall send the evaluation reports referred to in paragraph 1 to the European Parliament and to the Council for information.

3. The Commission shall associate relevant stakeholders, including non-State actors, in the evaluation phase of the Union cooperation provided for under this Regulation.

Article 14

Annual report

The Commission shall examine the progress made on implementing the measures taken under this Regulation and shall submit to the European Parliament and the Council a detailed annual report on the implementation of this Regulation. The report shall set out the results of the implementation of the budget and present all the actions and programmes financed, and as far as possible, set out the main outcomes and impacts of the cooperation actions and programmes.;

(11) Article 16 is replaced by the following:

'Article 16

Financial provisions

The financial reference amount for the implementation of this Regulation for the period from 2007 to 2013 shall be EUR 172 million for countries listed in Annex I and EUR 176 million for countries listed in Annex II. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.;

(12) in the Annex, the title is replaced by the following:

'ANNEX I

List of industrialised and other high-income countries and territories covered by this Regulation;

(13) new Annexes II and III, the text of which is set out in the Annex to this Regulation, are added.

Article 2

Entry into force

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

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

Done at Strasbourg, 13 December 2011.

For the European Parliament

The President

J. BUZEK

For the Council

The President

M. SZPUNAR

ANNEX

‘ANNEX II

List of developing countries covered by this Regulation*Latin America*

1. Argentina
2. Bolivia
3. Brazil
4. Chile
5. Colombia
6. Costa Rica
7. Cuba
8. Ecuador
9. El Salvador
10. Guatemala
11. Honduras
12. Mexico
13. Nicaragua
14. Panama
15. Paraguay
16. Peru
17. Uruguay
18. Venezuela

Asia

19. Afghanistan
20. Bangladesh
21. Bhutan
22. Burma/Myanmar
23. Cambodia
24. China
25. India
26. Indonesia
27. Democratic People's Republic of Korea
28. Laos
29. Malaysia
30. Maldives
31. Mongolia
32. Nepal

33. Pakistan

34. Philippines

35. Sri Lanka

36. Thailand

37. Vietnam

Central Asia

38. Kazakhstan

39. Kyrgyz Republic

40. Tajikistan

41. Turkmenistan

42. Uzbekistan

Middle East

43. Iran

44. Iraq

45. Yemen

South Africa

46. South Africa

ANNEX III

Financial allocation of funds for cooperation with countries listed in Annex II

The distribution of funds by priority areas for cooperation with the partner countries listed in Annex II shall be the following for the period 2011-2013:

Priority area	
Public diplomacy and outreach	At least 5 %
Promotion of economic partnership and business cooperation	At least 50 %
People-to-people links	At least 20 %
Unallocated reserve and administrative costs	Maximum 10 %

COMMISSION STATEMENT CONCERNING ARTICLE 16

The Regulation addresses the issue of support for a number of specific non-Official Development Assistance (ODA) activities in countries covered by the Development Cooperation Instrument (DCI Regulation No 1905/2006). The Regulation is intended to be a one-off solution to this issue.

The Commission reaffirms that the eradication of poverty, including the pursuit of the Millennium Development Goals, is the primary objective of its development cooperation and remains a priority.

It recalls that the financial reference amount fixed in Article 16 for countries listed in Annex II will be implemented using dedicated budget lines which are intended for activities other than Official Development Assistance.

Furthermore, the Commission confirms its intention to respect the financial reference amount fixed in Article 38 of the Development Cooperation Instrument (Regulation No 1905/2006) for the period 2007-2013 as well as the provisions in the same Regulation regarding the fulfilment of the criteria for ODA. It recalls that on the basis of its current financial planning, this reference amount will be exceeded in 2013.

In this context, the Commission intends to propose draft budgets which ensure a progression in development assistance for Asia and Latin America under the DCI Regulation No 1905/2006 over the period until 2013 so that the currently projected ODA amounts under the DCI and the EU budget generally are not affected.

STATEMENT BY THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE USE OF DELEGATED ACTS IN THE FUTURE MULTIANNUL FINANCIAL FRAMEWORK (MFF) 2014-2020

The European Parliament and the Council take note of the Commission Communication 'A Budget for Europe 2020' (COM(2011) 500 ⁽¹⁾), in particular in relation to the proposed use of delegated acts in the future external financing instruments and await legislative proposals, which will be duly considered.

⁽¹⁾ The Commission in its Communication: A budget for Europe 2020 (COM(2011) 500), states that:

'Furthermore, the future legal bases for the different instruments will propose the extensive use of delegated acts to allow for more flexibility in the management of the policies during the financing period, while respecting the prerogatives of the two branches of legislator.'

and

'It is considered that democratic scrutiny of external aid must be improved. This could be achieved by the use of delegated acts in accordance with Article 290 of the Treaty for certain aspects of programmes, not only placing the co-legislators on an equal footing but also ensuring more flexibility in programming. For the EDF, it is proposed to bring scrutiny into line with the DCI, whilst taking into account the specificities of this instrument.'

REGULATION (EU) No 1339/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011
amending Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 209(1) thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure, in the light of the joint text approved by the Conciliation Committee on 31 October 2011 ⁽¹⁾,

Whereas:

- (1) A new framework for planning and delivering assistance was established in 2006 in order to make the Community's external assistance more effective and transparent. It contains Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) ⁽²⁾, Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument ⁽³⁾, Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories ⁽⁴⁾, Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability ⁽⁵⁾, Council Regulation (Euratom) No 300/2007 of 19 February 2007 establishing an Instrument for Nuclear Safety Cooperation ⁽⁶⁾, Regulation (EC) No 1889/2006 of the European Parliament and of

the Council of 20 December 2006 establishing a financing instrument for the promotion of democracy and human rights worldwide ⁽⁷⁾, and Regulation (EC) No 1905/2006 of the European Parliament and of the Council ⁽⁸⁾.

- (2) In implementing Regulation (EC) No 1905/2006, inconsistencies have emerged regarding exceptions to the principle of non-eligibility for Union financing of costs related to taxes, duties and other charges. It is therefore proposed to amend the relevant provisions of that Regulation in order to align it with the other instruments.
- (3) This Regulation does not go beyond what is necessary in order to achieve the objective pursued, in accordance with Article 5(4) of the Treaty on European Union.
- (4) Regulation (EC) No 1905/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Article 25(2) of Regulation (EC) No 1905/2006 is replaced by the following:

- '2. Union assistance shall not in principle be used for paying taxes, duties or charges in beneficiary countries.'

Article 2

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

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

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
 J. BUZEK

For the Council
The President
 M. SZPUNAR

⁽¹⁾ Position of the European Parliament of 21 October 2010 (not yet published in the Official Journal) and position of the Council at first reading of 10 December 2010 (OJ C 7 E, 12.1.2011, p. 11). Position of the European Parliament of 3 February 2011 (not yet published in the Official Journal). Legislative resolution of the European Parliament of 1 December 2011 (not yet published in the Official Journal) and decision of the Council of 28 November 2011.

⁽²⁾ OJ L 210, 31.7.2006, p. 82.

⁽³⁾ OJ L 310, 9.11.2006, p. 1.

⁽⁴⁾ OJ L 405, 30.12.2006, p. 41.

⁽⁵⁾ OJ L 327, 24.11.2006, p. 1.

⁽⁶⁾ OJ L 81, 22.3.2007, p. 1.

⁽⁷⁾ OJ L 386, 29.12.2006, p. 1.

⁽⁸⁾ OJ L 378, 27.12.2006, p. 41.

**STATEMENT BY THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE USE OF
DELEGATED ACTS IN THE FUTURE MULTIANNUL FINANCIAL FRAMEWORK (MFF)
2014-2020**

The European Parliament and the Council take note of the Commission Communication 'A Budget for Europe 2020' (COM (2011) 500 ⁽¹⁾), in particular in relation to the proposed use of delegated acts in the future external financing instruments and await legislative proposals, which will be duly considered.

⁽¹⁾ The Commission in its Communication: 'A budget for Europe 2020' (COM (2011) 500), states that:
'Furthermore, the future legal bases for the different instruments will propose the extensive use of delegated acts to allow for more flexibility in the management of the policies during the financing period, while respecting the prerogatives of the two branches of legislator.'
and
'It is considered that democratic scrutiny of external aid must be improved. This could be achieved by the use of delegated acts in accordance with Article 290 of the Treaty for certain aspects of programmes, not only placing the co-legislators on an equal footing but also ensuring more flexibility in programming. For the EDF, it is proposed to bring scrutiny into line with the DCI, whilst taking into account the specificities of this instrument.'

**REGULATION (EU) No 1340/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011**

**amending Regulation (EC) No 1889/2006 on establishing a financing instrument for the promotion
of democracy and human rights worldwide**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 209(1) and Article 212 thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure, in the light of the joint text approved by the Conciliation Committee on 31 October 2011 ⁽¹⁾,

Whereas:

- (1) A new framework for planning and delivering assistance was established in 2006 in order to make the Community's external assistance more effective and transparent. It contains Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) ⁽²⁾, Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument ⁽³⁾, Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories ⁽⁴⁾, Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability ⁽⁵⁾, Council Regulation (Euratom) No 300/2007 of 19 February 2007 establishing an Instrument for Nuclear Safety Cooperation ⁽⁶⁾, Regulation (EC) No 1889/2006 of the European Parliament and of

the Council ⁽⁷⁾, and Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation ⁽⁸⁾.

- (2) In implementing those Regulations inconsistencies have emerged regarding exceptions to the principle of non-eligibility for Union financing of costs related to taxes, duties and other charges. It is therefore proposed to amend the relevant provisions of Regulation (EC) No 1889/2006 in order to align it with the other instruments.
- (3) This Regulation does not go beyond what is necessary in order to achieve the objective pursued, in accordance with Article 5(4) of the Treaty on European Union.
- (4) Regulation (EC) No 1889/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Article 13(6) of Regulation (EC) No 1889/2006 is replaced by the following:

‘6. Union assistance shall not in principle be used for paying taxes, duties or charges in beneficiary countries.’

Article 2

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

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

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
M. SZPUNAR

⁽¹⁾ Position of the European Parliament of 21 October 2010 (not yet published in the Official Journal) and position of the Council at first reading of 10 December 2010 (OJ C 7 E, 12.1.2011, p. 14). Position of the European Parliament of 3 February 2011 (not yet published in the Official Journal). Legislative resolution of the European Parliament of 1 December 2011 (not yet published in the Official Journal) and decision of the Council of 28 November 2011.

⁽²⁾ OJ L 210, 31.7.2006, p. 82.

⁽³⁾ OJ L 310, 9.11.2006, p. 1.

⁽⁴⁾ OJ L 405, 30.12.2006, p. 41.

⁽⁵⁾ OJ L 327, 24.11.2006, p. 1.

⁽⁶⁾ OJ L 81, 22.3.2007, p. 1.

⁽⁷⁾ OJ L 386, 29.12.2006, p. 1.

⁽⁸⁾ OJ L 378, 27.12.2006, p. 41.

**STATEMENT BY THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE USE OF
DELEGATED ACTS IN THE FUTURE MULTIANNUL FINANCIAL FRAMEWORK (MFF)
2014-2020**

The European Parliament and the Council take note of the Commission Communication 'A Budget for Europe 2020' (COM (2011) 500 ⁽¹⁾), in particular in relation to the proposed use of delegated acts in the future external financing instruments and await legislative proposals, which will be duly considered.

⁽¹⁾ The Commission in its Communication: 'A budget for Europe 2020' (COM (2011) 500), states that:
'Furthermore, the future legal bases for the different instruments will propose the extensive use of delegated acts to allow for more flexibility in the management of the policies during the financing period, while respecting the prerogatives of the two branches of legislator.'
and
'It is considered that democratic scrutiny of external aid must be improved. This could be achieved by the use of delegated acts in accordance with Article 290 of the Treaty for certain aspects of programmes, not only placing the co-legislators on an equal footing but also ensuring more flexibility in programming. For the EDF, it is proposed to bring scrutiny into line with the DCI, whilst taking into account the specificities of this instrument.'

REGULATION (EU) No 1341/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011
amending Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 209(1) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure, in the light of the joint text approved by the Conciliation Committee on 31 October 2011 ⁽¹⁾,

Whereas:

- (1) The Union's development policy aims to reduce and ultimately eradicate poverty.
- (2) The Union, as a member of the World Trade Organisation (WTO), is committed to mainstreaming trade in development strategies and to promoting international trade in order to advance development and reduce — and, in the long term, eradicate — poverty worldwide.
- (3) The Union supports the African, Caribbean and Pacific (ACP) Group of States on their path to poverty reduction and to sustainable economic and social development, and recognises the importance of their commodity sectors.
- (4) The Union is committed to supporting the smooth and gradual integration of developing countries into the world economy with a view to sustainable development. The main ACP banana-exporting countries may face chal-

lenges in the context of changing trade arrangements, notably liberalisation of the most-favoured nation (MFN) tariff in the framework of the WTO and the bilateral and regional agreements concluded, or in the process of being concluded, between the Union and Latin American countries. Therefore, an ACP banana accompanying measures programme (the BAM programme) should be added to Regulation (EC) No 1905/2006 of the European Parliament and of the Council ⁽²⁾.

- (5) The financial assistance measures to be adopted under the BAM programme should aim at improving the living standards and living conditions of people in banana-growing areas and in banana value chains, specifically small farmers and small entities, as well as ensuring compliance with labour and occupational health and safety standards, and environmental standards, notably those regarding the use of and exposure to pesticides. Those measures should therefore support adaptation and include, when relevant, the reorganisation, of areas dependent upon banana exports to the European Union through sector-specific budget support or project-specific interventions. The measures should take into consideration the expected development of the banana export sector and aim to provide for social resilience policies, economic diversification or investment to improve competitiveness, where this is viable, taking into account the results of and experiences gained through the Special System of Assistance (SSA) to traditional ACP suppliers of bananas established in accordance with Council Regulation (EC) No 2686/94 ⁽³⁾ and the Special Framework of Assistance (SFA) for traditional ACP suppliers of bananas established in accordance with Council Regulation (EC) No 856/1999 ⁽⁴⁾ and Commission Regulation (EC) No 1609/1999 ⁽⁵⁾. The Union acknowledges the importance of promoting a more equitable distribution of banana revenues.
- (6) The BAM programme should accompany the adaptation process in ACP countries which have exported significant volumes of bananas to the Union in recent years and which may be affected by liberalisation in the framework of the Geneva Agreement on Trade in Bananas ⁽⁶⁾ and by the bilateral and regional agreements concluded, or in the process of being concluded, between the Union and Latin American countries. The BAM programme builds on the SFA for traditional ACP suppliers of bananas. It is in conformity with the Union's international obligations in the framework of the

⁽¹⁾ Position of the European Parliament of 21 October 2010 (not yet published in the Official Journal) and position of the Council at first reading of 10 December 2010 (OJ C 7 E, 12.1.2011, p. 17). Position of the European Parliament of 3 February 2011 (not yet published in the Official Journal). Legislative resolution of the European Parliament of 1 December 2011 (not yet published in the Official Journal) and decision of the Council of 28 November 2011.

⁽²⁾ OJ L 378, 27.12.2006, p. 41.

⁽³⁾ OJ L 286, 5.11.1994, p. 1.

⁽⁴⁾ OJ L 108, 27.4.1999, p. 2.

⁽⁵⁾ OJ L 190, 23.7.1999, p. 14.

⁽⁶⁾ OJ L 141, 9.6.2010, p. 3.

WTO, focuses on restructuring and boosting competitiveness, and is consequently temporary in nature, with a duration of three years (2011 to 2013).

- (7) The conclusions of the Commission Communication of 17 March 2010 entitled 'Biennial Report on the Special Framework of Assistance for Traditional ACP Suppliers of Bananas' indicate that past assistance programmes made substantial contributions to achieving improved capacity for successful economic diversification, although the full impact cannot be quantified, and that the sustainability of ACP banana exports remains fragile.
- (8) The Commission has carried out an evaluation of the SFA programme and has not carried out an impact assessment of the banana accompanying measures.
- (9) The Commission should ensure proper coordination of this programme with the regional and national indicative programmes operating in the beneficiary countries, in particular as regards the achievement of economic, agricultural, social and environmental objectives.
- (10) Almost 2 % of the world's trade in bananas is endorsed by fair trade producers' organisations. The minimum fair trade prices are set on the basis of a calculation of the 'sustainable production costs', established following consultations with stakeholders, with a view to internalising the costs of meeting decent social and environmental standards and generating a reasonable profit, enabling producers to safeguard their livelihoods in the long term.
- (11) To prevent the exploitation of local workers, actors in the production chain in the banana industry should agree to ensure that the revenue generated by the industry is allocated fairly.
- (12) Regulation (EC) No 1905/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1905/2006 is hereby amended as follows:

- (1) Article 4 is replaced by the following:

'Article 4

Implementation of Union assistance

Consistent with the overall purpose and scope, objectives and general principles of this Regulation, Union assistance shall be implemented through the geographic and thematic programmes set out in Articles 5 to 16 and the programmes set out in Articles 17 and 17a.;

- (2) the following Article is inserted:

'Article 17a

Main ACP banana-supplying countries

1. The ACP banana-supplying countries listed in Annex IIIa shall benefit from the banana accompanying measures programme (BAM programme).

- (a) General objectives:

Union assistance shall aim at:

- (i) supporting the adjustment process following liberalisation of the Union market for bananas in the framework of the WTO;
- (ii) combating poverty by improving the living standards and conditions of farmers and persons concerned.

- (b) General priorities:

Union assistance shall take into account the countries' policies and adaptation strategies, as well as their regional environment (in terms of proximity to outermost regions of the Union and overseas countries and territories) and shall focus on one or more of the following areas of cooperation:

- (i) addressing broader impacts generated by the adaptation process, particularly in local communities and the most vulnerable groups therein, related but not restricted to employment and social services, land use and environmental restoration;
- (ii) promoting the economic diversification of banana-dependent areas, where such a strategy is viable;
- (iii) enhancing the competitiveness of the banana export sector, where this is sustainable, taking into account the situation of different stakeholders in the chain.

Programmes shall promote compliance with labour and safety standards, as well as environmental standards, including the use of and exposure to pesticides.

- (c) General expected results:

The results of the assistance shall be in line with the objectives as set out in point (a) of this paragraph. In particular, and in cooperation with the beneficiary countries, Union assistance shall pursue results to be achieved in social, environmental and economic areas.

2. Within the amount referred to in Annex IV, the Commission shall fix the maximum indicative amount available to each eligible ACP banana-supplying country referred to in paragraph 1 of this Article on the basis of the following criteria:

- (a) level of trade in bananas with the Union, whereby higher Union imports from the ACP country concerned will reflect positively on the allocation. This criterion is based on the size of the banana export sector to the Union in the different countries. The average of the three highest annual tonnages of bananas imported by the Union from each eligible beneficiary country over the last five years preceding 2010 will be taken into account;
- (b) importance of banana exports to the Union in the economy, whereby higher levels of importance in the ACP country concerned will reflect positively on the allocation. This criterion will be measured by taking the value of Union banana imports from each eligible beneficiary country as a percentage of the country's gross national income (GNI) over the last three years preceding 2010 for which data are available;
- (c) level of development, whereby lower levels of development as recorded in the UN's human development index (HDI) in the ACP country concerned will reflect positively on the allocation. This criterion will be measured by the average HDI over the period 2005-2007, for which the same methodology was used by the UN.

The measurement of the allocation criteria shall be based on representative data preceding 2011 and covering a period not longer than five years. The indicative country allocations will take account in the same way of the three criteria across all eligible beneficiary countries.

On the basis of the application of the criteria referred to above, the Commission will inform the European Parliament and Council about the intended use of the indicative financial allocation referred to in Annex IV before the adoption of the multiannual support strategies mentioned in paragraph 3 of this Article. That information will set out, for each eligible ACP banana-supplying country, the indicative amount available.

3. The Commission shall adopt multiannual support strategies by analogy to Article 19, and in accordance with Article 21. It shall ensure that such strategies complement the geographic strategy papers of the countries concerned, and the temporary nature of the banana accompanying measures.

The multiannual support strategies for banana accompanying measures shall include:

- (a) an updated environmental profile paying due attention to the country's banana sector, inter alia, focusing on pesticides;

- (b) information on the achievements of past banana support programmes;
- (c) indicators to assess progress in relation to disbursement conditions, when budget support will be chosen as the form of financing;
- (d) the expected results of the assistance;
- (e) a time schedule of support activities and of expected disbursements;
- (f) the ways in which progress will be achieved and monitored in meeting internationally agreed ILO core labour standards and appropriate occupational safety and health conventions as well as relevant internationally agreed core environmental standards.

In the framework of the multiannual financial framework for 2007-2013, established by Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission in budgetary discipline and sound financial management (*), the BAM programme and the progress made by the countries concerned shall be the subject of an assessment, which shall include recommendations on any measures to be taken and the nature thereof.

(*) OJ C 139, 14.6.2006, p. 1.;

(3) Article 21 is replaced by the following:

'Article 21

Adoption of strategy papers and multiannual indicative programmes

Strategy papers and multiannual indicative programmes referred to in Articles 19 and 20, and any reviews thereof referred to in Article 19(2) and Article 20(1), as well as accompanying measures referred to in Articles 17 and 17a respectively, shall be adopted by the Commission in accordance with the procedure referred to in Article 35(2).;

(4) Article 29(1) is replaced by the following:

'1. Budget commitments shall be made on the basis of decisions taken by the Commission in accordance with Articles 17a(3), 22(1), 23(1) and 26(1).;

(5) in Article 31(1), the third subparagraph is replaced by the following:

'Participation in the award of procurement or grant contracts financed under a thematic programme as defined in Articles 11 to 16, and the programmes set out in Articles 17 and 17a, shall be open to all natural persons

who are nationals of, or legal persons who are established in, a developing country, as specified by the OECD/DAC and in Annex II, in addition to natural or legal persons eligible by virtue of the thematic programme or the programmes set out in Articles 17 and 17a. The Commission shall publish and update Annex II in accordance with regular reviews of the list of aid recipients of the OECD/DAC, and inform the Council thereof.;

(6) in Article 38, paragraphs 1 and 2 are replaced by the following:

‘1. The financial reference amount for the implementation of this Regulation over the period 2007-2013 is EUR 17 087 million.

2. The indicative amounts allocated to each programme referred to in Articles 5 to 10, 11 to 16 and 17 to 17a are laid down in Annex IV. These amounts are established for the period 2007-2013.;

(7) Annex IIIa, as contained in Annex I to this Regulation, is inserted;

(8) Annex IV is replaced by the contents of Annex II to this Regulation.

Article 2

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

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

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
M. SZPUNAR

ANNEX I

ANNEX IIIa

MAIN ACP BANANA-SUPPLYING COUNTRIES

1. Belize
 2. Cameroon
 3. Côte d'Ivoire
 4. Dominica
 5. Dominican Republic
 6. Ghana
 7. Jamaica
 8. Saint Lucia
 9. Saint Vincent and the Grenadines
 10. Suriname'
-

ANNEX II

ANNEX IV

INDICATIVE FINANCIAL ALLOCATIONS FOR THE PERIOD 2007-2013

(EUR million)

Total	17 087
Geographic programmes:	10 057
Latin America	2 690
Asia	5 187
Central Asia	719
Middle East	481
South Africa	980
Thematic programmes:	5 596
Investing in people	1 060
Environment and sustainable management of natural resources	804
Non-State actors and local authorities in development	1 639
Food security	1 709
Migration and asylum	384
ACP Sugar Protocol countries	1 244
Main ACP banana-supplying countries	190

**COMMISSION STATEMENT FOR THE BANANA ACCOMPANYING MEASURES (BAM)
PROGRAMME WITHIN THE DEVELOPMENT COOPERATION INSTRUMENT (DCI)**

In the specific case of the Banana Accompanying Measures (BAM) and in view of the rationale and the objectives of the programme as set out in Article 17a of the financing instrument for development cooperation (DCI), the European Commission confirms that, in determining the indicative country allocations, it will apply a methodology in an objective and uniform manner that takes account of the importance of the banana sector and the economic and developmental realities of each eligible beneficiary country.

The Commission declares that it intends to apply a methodology which will give approximately equal weight to the first two criteria, whilst the third criterion will be used as a development coefficient. The objective of this methodology is to give equivalent importance across all beneficiary countries to their level of trade in bananas with the European Union and the importance of banana exports to the Union to the economies of each beneficiary country. The relative level of development will modulate the allocations in favour of countries with lower development levels, in line with the Union's development objectives as set out in the Treaties and the DCI.

**STATEMENT BY THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE USE OF
DELEGATED ACTS IN THE FUTURE MULTIANNUL FINANCIAL FRAMEWORK (MFF)
2014-2020**

The European Parliament and the Council take note of the Commission Communication *A Budget for Europe 2020* (COM (2011) 500 ⁽¹⁾), in particular in relation to the proposed use of delegated acts in the future external financing instruments and await legislative proposals, which will be duly considered.

⁽¹⁾ The Commission in its Communication: A budget for Europe 2020 (COM (2011) 500), states that:

"Furthermore, the future legal bases for the different instruments will propose the extensive use of delegated acts to allow for more flexibility in the management of the policies during the financing period, while respecting the prerogatives of the two branches of legislator."

and

"It is considered that democratic scrutiny of external aid must be improved. This could be achieved by the use of delegated acts in accordance with Article 290 of the Treaty for certain aspects of programmes, not only placing the co-legislators on an equal footing but also ensuring more flexibility in programming. For the EDF, it is proposed to bring scrutiny into line with the DCI, whilst taking into account the specificities of this instrument".

**REGULATION (EU) No 1342/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011**

**amending Regulation (EC) No 1931/2006 as regards the inclusion of the Kaliningrad oblast and
certain Polish administrative districts in the eligible border area**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European
Union, and in particular point (b) of Article 77(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

(1) Union rules on local border traffic, established by Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention ⁽²⁾, in force since 2007, have avoided creating barriers to trade, to social and cultural interchange or to regional cooperation with neighbouring countries, while preserving the security of the entire Schengen area.

(2) The Kaliningrad oblast has an exceptional geographic situation: as a relatively small area completely surrounded by two Member States, it constitutes the only enclave in the European Union; its shape and the distribution of its population are such that applying the standard rules on the definition of the border area would artificially divide the enclave, whereby some inhabitants would enjoy facilitations for local border traffic while the majority, including the inhabitants of the city of Kaliningrad, would not. In the light of the homogeneous nature of the Kaliningrad oblast, for trade, social and cultural interchange and regional cooperation to be enhanced, a specific exception to Regulation (EC) No 1931/2006 should be introduced that would allow the entire Kaliningrad oblast to be considered as a border area.

(3) A specific border area on the Polish side should also be recognised as an eligible border area, in order for the application of Regulation (EC) No 1931/2006 in that region to have real effect through increased opportunities for trade, social and cultural interchange and regional

cooperation between the Kaliningrad oblast on the one hand and major centres in the North of Poland on the other.

(4) This Regulation is without prejudice to the general definition of the border area and to full respect for the rules and conditions set out in Regulation (EC) No 1931/2006, including the penalties to be imposed by Member States on border residents who abuse the local border traffic regime.

(5) This Regulation contributes to further promoting the strategic partnership between the European Union and the Russian Federation, in line with the priorities set out in the Roadmap of the Common Space on Freedom, Security and Justice, and takes into account the overall relationship between the European Union and the Russian Federation.

(6) Since the objective of this Regulation, namely the inclusion of the Kaliningrad oblast and certain Polish administrative districts in the eligible border area, cannot be sufficiently achieved by the Member States and can be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.

(7) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽³⁾ which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement ⁽⁴⁾.

(8) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾ which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁶⁾.

⁽¹⁾ Position of the European Parliament of 1 December 2011 (not yet published in the Official Journal) and Decision of the Council of 12 December 2011.

⁽²⁾ OJ L 405, 30.12.2006, p. 1.

⁽³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁵⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁶⁾ OJ L 53, 27.2.2008, p. 1.

- (9) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽¹⁾ which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽²⁾.
- (10) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of 6 months after the Council has decided on this Regulation whether it will implement it in its national law.
- (11) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽³⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (12) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁴⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application,
- HAVE ADOPTED THIS REGULATION:
- Article 1*
- Regulation (EC) No 1931/2006 is hereby amended as follows:
- (1) at the end of Article 3, point (2), the following sentence is added:
- ‘The areas listed in the Annex to this Regulation shall be considered as part of the border area;’
- (2) the text set out in the Annex to this Regulation is added as an Annex.
- Article 2*
- This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
M. SZPUNAR

⁽¹⁾ OJ L 160, 18.6.2011, p. 21.

⁽²⁾ OJ L 160, 18.6.2011, p. 19.

⁽³⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁴⁾ OJ L 64, 7.3.2002, p. 20.

ANNEX

'ANNEX

1. Kaliningrad oblast
 2. Polish administrative districts (powiaty) of województwo pomorskie: pucki, m. Gdynia, m. Sopot, m. Gdańsk, gdański, nowodworski, malborski
 3. Polish administrative districts (powiaty) of województwo warmińsko-mazurskie: m. Elbląg, elbląski, braniewski, lidzbarski, bartoszycki, m. Olsztyn, olsztyński, kętrzyński, mrągowski, węgorzewski, giżycki, gołdapski, olecki'.
-

**REGULATION (EU) No 1343/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011**

on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Whereas:

- (1) The European Community acceded to the Agreement for the establishment of the General Fisheries Commission for the Mediterranean (GFCM Agreement) pursuant to Council Decision 98/416/EC of 16 June 1998 on the accession of the European Community to the General Fisheries Commission for the Mediterranean ⁽³⁾ (GFCM).
- (2) The GFCM Agreement provides an appropriate framework for multilateral cooperation to promote the development, conservation, rational management and best utilisation of living marine resources in the Mediterranean and the Black Sea at levels which are considered sustainable and at low risk of collapse.
- (3) The European Union, as well as Bulgaria, Greece, Spain, France, Italy, Cyprus, Malta, Romania and Slovenia are contracting parties to the GFCM Agreement.
- (4) Recommendations adopted by the GFCM are binding on its contracting parties. As the Union is a contracting party to the GFCM Agreement, these recommendations are binding on the Union and should therefore be implemented in Union law unless their content is already covered thereby.
- (5) At its Annual Sessions in 2005, 2006, 2007 and 2008 the GFCM adopted a number of recommendations and

resolutions for certain fisheries in the GFCM Agreement area which have been temporarily implemented in Union law by the annual Regulations on fishing opportunities or, in the case of GFCM Recommendations 2005/1 and 2005/2, by Article 4(3) and Article 24 of Council Regulation (EC) No 1967/2006 ⁽⁴⁾.

- (6) For reasons of clarity, simplification and legal certainty, and since the permanent character of recommendations requires also a permanent legal instrument for their implementation in Union law, it is appropriate to implement these recommendations via a single legislative act, where future recommendations can be added by way of amendments to that act.
- (7) GFCM recommendations apply to the entire GFCM Agreement area, that is the Mediterranean and the Black Sea and connecting waters, as defined in the preamble to the GFCM Agreement, and therefore, for reasons of clarity and legal certainty, they should be implemented in a single separate Regulation rather than through amendments to Regulation (EC) No 1967/2006 which covers only the Mediterranean Sea.
- (8) Certain provisions contained in Regulation (EC) No 1967/2006 should apply not only to the Mediterranean Sea but to the entire GFCM Agreement area. Those provisions should therefore be deleted from Regulation (EC) No 1967/2006 and included in this Regulation. In addition, certain provisions regarding minimum mesh size that are laid down in that Regulation should be further clarified.
- (9) The 'fisheries restricted areas' established by GFCM recommendations for spatial management measures are equivalent to the 'fishing protected areas' as used in Regulation (EC) No 1967/2006.
- (10) At its Annual Session of 23 to 27 March 2009 the GFCM adopted, on the basis of scientific advice by the Scientific Advisory Committee (SAC), contained in the report of its 11th session (FAO report No 890), a recommendation on the establishment of a fisheries restricted area in the Gulf of Lions. It is appropriate to implement this measure by means of a fishing effort management system.
- (11) In Mediterranean mixed fisheries, the selectivity of some fishing gears cannot be permitted to go beyond a certain level. In addition to the overall control and limitation of

⁽¹⁾ OJ C 354, 28.12.2010, p. 71.

⁽²⁾ Position of the European Parliament of 8 March 2011 (not yet published in the Official Journal) and position of the Council at first reading of 20 October 2011. Position of the European Parliament of 13 December 2011.

⁽³⁾ OJ L 190, 4.7.1998, p. 34.

⁽⁴⁾ OJ L 409, 30.12.2006, p. 11; as replaced by corrigendum, OJ L 36, 8.2.2007, p. 6.

fishing effort, it is fundamental to limit fishing effort in areas where adults of important stocks aggregate, in order to ensure a risk of reproduction impairment that is low enough to allow for their sustainable exploitation. It is therefore advisable, in respect of the area examined by the SAC, first to limit the fishing effort to previous levels and then not to allow any increase of that level.

- (12) The advice upon which management measures are based should itself be based on the scientific use of relevant data on fleet capacity and activity, on the biological status of exploited resources and on the social and economic situation of fisheries. Those data need to be collected and submitted in time to allow the subsidiary bodies of the GFCM to prepare their advice.
- (13) At its Annual Session in 2008, the GFCM adopted a recommendation on a regional scheme of port state measures to combat Illegal, Unreported and Unregulated (IUU) fishing in the GFCM Area. While Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing⁽¹⁾ covers generally the content of that recommendation and has been applied since 1 January 2010, there are nevertheless some parts thereof, such as the frequency, the coverage and the procedure for port inspections, which need to be referred to in this Regulation in order to adapt them to the particularities of the GFCM Agreement area.
- (14) Implementing powers should be conferred on the Commission in order to ensure uniform conditions for the implementation of the provisions of this Regulation in respect of the format and transmission of: the report on the fishing activities carried out in fisheries restricted areas; applications for carrying over lost days due to bad weather in the closed season for dolphinfish fisheries and the report on such carrying over; the report in the context of collecting data on dolphinfish fisheries; information in respect of the use of minimum mesh size for nets used for trawling activities exploiting demersal stocks in the Black Sea; and data on statistical matrices, as well as in respect of cooperation and exchange of information with the Executive Secretary of the GFCM. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁽²⁾.
- (15) In order to ensure that the Union continues to fulfil its obligations under the GFCM Agreement, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of

the implementation in Union law of amendments, which have become binding on the Union, to existing GFCM measures which have already been implemented in Union law, as regards the provision to the Executive Secretary of the GFCM of information on minimum mesh size in the Black Sea; the transmission to the Executive Secretary of the GFCM of the list of authorised vessels for the purpose of the GFCM Register; port state measures; cooperation, information and reporting; the table, map and geographic coordinates of the GFCM Geographical Sub-Areas; port state inspection procedures for vessels; and GFCM statistical matrices. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down the rules for the application by the Union of the conservation, management, exploitation, monitoring, marketing and enforcement measures for fishery and aquaculture products established by the General Fisheries Commission for the Mediterranean (GFCM).

Article 2

Scope

1. This Regulation applies to all commercial fishing and aquaculture activities conducted by EU fishing vessels and nationals of Member States in the GFCM Agreement area.

It shall apply without prejudice to Regulation (EC) No 1967/2006.

2. By way of derogation from paragraph 1, this Regulation shall not apply to fishing operations conducted solely for the purpose of scientific investigations which are carried out with the permission and under the authority of the Member State whose flag the vessel is flying and of which the Commission and the Member States in whose waters the research is carried out have been informed in advance. Member States conducting fishing operations for the purpose of scientific investigations shall inform the Commission, the Member States in whose waters the research is carried out and the Scientific, Technical and Economic Committee for Fisheries of all catches from such fishing operations.

⁽¹⁾ OJ L 286, 29.10.2008, p. 1.

⁽²⁾ OJ L 55, 28.2.2011, p. 13.

Article 3

Definitions

For the purposes of this Regulation the following definitions shall, in addition to the definitions laid down in Article 3 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾ and Article 2 of Regulation (EC) No 1967/2006, apply:

- (a) 'GFCM Agreement area' means the Mediterranean and the Black Sea and connecting waters, as described in the GFCM Agreement;
- (b) 'fishing effort' means the product resulting from multiplying the capacity of a fishing vessel, expressed either in kW or in GT (gross tonnage), by the activity expressed in number of days at sea;
- (c) 'day at sea' means any calendar day on which a vessel is absent from port, irrespective of the amount of time in the course of that day that that vessel is present in an area;
- (d) 'EU Fleet Register number' means the Community Fleet Register number defined in Annex I to Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register ⁽²⁾.

TITLE II

TECHNICAL MEASURES

CHAPTER I

Fisheries restricted areas

Section I

Fisheries restricted area in the Gulf of Lions

Article 4

Establishment of a fisheries restricted area

A fisheries restricted area is established in the eastern Gulf of Lions, bounded by lines joining the following geographic coordinates:

- 42° 40' N, 4° 20' E
- 42° 40' N, 5° 00' E
- 43° 00' N, 4° 20' E
- 43° 00' N, 5° 00' E.

Article 5

Fishing effort

For demersal stocks, the fishing effort of vessels using towed nets, bottom- and mid-water longlines and bottom-set nets in

the fisheries restricted area as referred to in Article 4 shall not exceed the level of fishing effort applied in 2008 by each Member State in that area.

Article 6

Fishing track record

Member States shall, not later than 16 February 2012, submit to the Commission in electronic format a list of vessels flying their flag that had a track record of fishing during the year 2008 in the area referred to in Article 4 and in GFCM Geographical Sub-Area 7 as defined in Annex I. That list shall contain the name of the vessel, its EU Fleet Register number, the period for which the vessel was authorised to fish in the area referred to in Article 4 and the number of days spent by each vessel in the year 2008 in Geographical Sub-Area 7 and more specifically in the area referred to in Article 4.

Article 7

Authorised vessels

1. Vessels authorised to fish in the area referred to in Article 4 shall be issued with a fishing authorisation by their Member State in accordance with Article 7 of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽³⁾.

2. Fishing vessels which do not have records of fishing within the area referred to in Article 4 prior to 31 December 2008 shall not be authorised to start fishing therein.

3. Member States shall, not later than 16 February 2012, communicate to the Commission the national legislation in force on 31 December 2008 concerning:

- (a) the maximum number of hours per day a vessel is permitted to engage in fishing activity;
- (b) the maximum number of days per week a vessel is permitted to stay at sea and be absent from port; and
- (c) the compulsory times for fishing vessels to exit from, and return to, their registered port.

Article 8

Protection of sensitive habitats

Member States shall ensure that the area referred to in Article 4 is protected from the impact of any other human activity jeopardising the conservation of the features that characterise that area as an area of spawners' aggregation.

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 5, 9.1.2004, p. 25.

⁽³⁾ OJ L 343, 22.12.2009, p. 1.

Article 9

Information

Before 1 February of each year, Member States shall submit to the Commission in electronic format a report on the fishing activities carried out in the area referred to in Article 4.

The Commission may adopt implementing acts as regards detailed rules for the format and transmission of the report on such fishing activities. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(2).

Section II

Fisheries restricted areas in order to protect deep-sea sensitive habitats

Article 10

Establishment of fisheries restricted areas

Fishing with towed dredges and bottom trawl nets shall be prohibited in the following areas:

- (a) deep-sea fisheries restricted area 'Lophelia reef off Capo Santa Maria di Leuca' bounded by lines joining the following coordinates:

- 39° 27,72' N, 18° 10,74' E
- 39° 27,80' N, 18° 26,68' E
- 39° 11,16' N, 18° 32,58' E
- 39° 11,16' N, 18° 04,28' E;

- (b) deep-sea fisheries restricted area 'The Nile delta area cold hydrocarbon seeps' bounded by lines joining the following coordinates:

- 31° 30,00' N, 33° 10,00' E
- 31° 30,00' N, 34° 00,00' E
- 32° 00,00' N, 34° 00,00' E
- 32° 00,00' N, 33° 10,00' E;

- (c) deep-sea fisheries restricted area 'The Eratosthenes Seamount' bounded by lines joining the following coordinates:

- 33° 00,00' N, 32° 00,00' E
- 33° 00,00' N, 33° 00,00' E
- 34° 00,00' N, 33° 00,00' E
- 34° 00,00' N, 32° 00,00' E.

Article 11

Protection of sensitive habitats

Member States shall ensure that their competent authorities are called upon to protect the deep-sea sensitive habitats in the areas referred to in Article 10 from, in particular, the impact of any other activity jeopardising the conservation of the features that characterise those habitats.

CHAPTER II

Establishment of a closed season for the dolphinfish fisheries using fish aggregating devices

Article 12

Closed season

1. The common dolphinfish (*Coryphaena hippurus*) fisheries using fish aggregating devices (FADs) shall be prohibited from 1 January to 14 August of each year.

2. By way of derogation from paragraph 1, if a Member State can demonstrate that, due to bad weather, the fishing vessels flying its flag were unable to make use of their normal fishing days, that Member State may carry over days lost by its vessels in FAD fisheries until 31 January of the following year. In that case, before the end of the year Member States shall submit to the Commission an application in respect of the number of days to be carried over.

3. Paragraphs 1 and 2 shall also apply in the management zone referred to in Article 26(1) of Regulation (EC) No 1967/2006.

4. The application referred to in paragraph 2 shall contain the following information:

- (a) a report containing the details of the cessation of fishing activities in question, including appropriate supporting meteorological information;

- (b) the name of the vessel and its EU Fleet Register number.

5. The Commission shall decide on applications of the kind referred to in paragraph 2 within 6 weeks from the date of receipt of an application and shall inform the Member State in writing of that decision.

6. The Commission shall inform the Executive Secretary of the GFCM of decisions taken pursuant to paragraph 5. Before 1 November of each year, Member States shall send to the Commission a report on the carrying over of days lost in the previous year as referred to in paragraph 2.

7. The Commission may adopt implementing acts as regards detailed rules for the format and transmission of the applications referred to in paragraph 4 and of the report on such carrying over referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(2).

Article 13

Fishing authorisations

Fishing vessels authorised to participate in the common dolphinfish fishery shall be granted a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009 and shall be included in a list containing the name of the vessel and its EU Fleet Register number, which the Member State concerned shall provide to the Commission. Vessels of an overall length of less than 10 metres shall be required to have a fishing authorisation.

This requirement shall also apply to the management zone referred to in Article 26(1) of Regulation (EC) No 1967/2006.

Article 14

Data collection

1. Without prejudice to Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy ⁽¹⁾, Member States shall set up an appropriate system of collection and treatment of fisheries catch and fishing effort data.

2. Member States shall report to the Commission by 15 January of each year the number of vessels involved in the fishery, as well as the total landings and transshipments of common dolphinfish carried out in the previous year by the fishing vessels flying their flag in each Geographical Sub-Area of the GFCM Agreement area as set out in Annex I.

The Commission may adopt implementing acts as regards detailed rules for the format and transmission of such reports. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(2).

3. The Commission shall forward the information received from the Member States to the Executive Secretary of the GFCM.

CHAPTER III

Fishing gear

Article 15

Minimum mesh size in the Black Sea

1. The minimum mesh size for nets used for trawling activities exploiting demersal stocks in the Black Sea shall be 40 mm. Panels of netting smaller than 40 mm mesh size opening shall not be used or kept on board.

2. Before 1 February 2012, the net referred to in paragraph 1 shall be replaced by a square-meshed net of 40 mm at the cod-end or, at the duly justified request of the ship-owner, by a diamond meshed net of 50 mm with an acknowledged size selectivity equivalent to or higher than that of square-meshed nets of 40 mm at the cod-end.

3. Member States whose fishing vessels conduct trawling activities exploiting demersal stocks in the Black Sea shall submit to the Commission, for the first time not later than 16 February 2012 and subsequently every 6 months, the list of fishing vessels that conduct such activities in the Black Sea and that are equipped with a square-meshed net of at least 40 mm at the cod-end or diamond meshed nets of at least 50 mm, as well as the percentage that such vessels represent of the whole national demersal trawl fleet.

The Commission may adopt implementing acts as regards detailed rules for the format and transmission of the

information referred to in this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(2).

4. The Commission shall forward the information referred to in paragraph 3 to the Executive Secretary of the GFCM.

Article 16

Use of towed dredges and trawl nets fisheries

The use of towed dredges and trawl nets fisheries at depths beyond 1 000 m shall be prohibited.

TITLE III

CONTROL MEASURES

CHAPTER I

Register of vessels

Article 17

Register of authorised vessels

1. Before 1 December of each year, each Member State shall send to the Commission, through the accustomed data-processing support, an updated list of the vessels of more than 15 metres in overall length flying its flag and registered in its territory that it authorises to fish in the GFCM Agreement area by issuance of a fishing authorisation.

2. The list indicated in paragraph 1 shall include the following information:

- (a) the vessel's EU Fleet Register number and its external marking, as defined in Annex I to Regulation (EC) No 26/2004;
- (b) the period during which fishing and/or transhipment is authorised;
- (c) the fishing gears used.

3. The Commission shall send the updated list to the Executive Secretary of the GFCM before 1 January of each year so that the vessels concerned can be entered on the GFCM register of vessels of more than 15 metres in overall length authorised to fish in the GFCM Agreement area (GFCM register).

4. Any change to be made to the list referred to in paragraph 1 shall be notified to the Commission for transmission to the Executive Secretary of the GFCM, through the accustomed data-processing support, at least 10 working days before the vessel begins fishing activity in the GFCM Agreement area.

5. EU fishing vessels of more than 15 metres in overall length that are not entered on the list referred to in paragraph 1 shall not fish, retain on board, tranship or land any type of fish or shellfish within the GFCM Agreement area.

⁽¹⁾ OJ L 60, 5.3.2008, p. 1.

6. Member States shall take the necessary measures to ensure that:

- (a) only vessels flying their flag that are included in the list referred to in paragraph 1 and that hold on board a fishing authorisation issued by them are permitted, under the terms of the authorisation, to carry out fishing activities in the GFCM Agreement area;
- (b) no fishing authorisation is issued to vessels that have carried out illegal, unregulated and unreported fishing (IUU fishing) in the GFCM Agreement area or elsewhere, unless the new owners provide adequate documentary evidence that the previous owners and operators no longer have any legal, beneficial or financial interest in, or exercise any control over, their vessels, or that their vessels neither take part in nor are associated with IUU fishing;
- (c) as far as possible, their national legislation prohibits owners and operators of vessels flying their flag that are included in the list referred to in paragraph 1 from taking part in, or being associated with, fishing activities carried out in the GFCM Agreement area by vessels not on the GFCM register;
- (d) as far as possible, their national legislation requires owners of vessels flying their flag that are included in the list referred to in paragraph 1 to be nationals or legal entities within the flag Member State;
- (e) their vessels comply with all the relevant GFCM conservation and management measures.

7. Member States shall take the necessary measures to prohibit fishing, retention on board, transshipment and landing of fish and shellfish caught in the GFCM Agreement area carried out by vessels of more than 15 metres in overall length that are not on the GFCM register.

8. Member States shall, without delay, communicate to the Commission any information showing that there are strong reasons for suspecting that vessels of more than 15 metres in overall length that are not on the GFCM register are fishing for or transshipping fish and shellfish in the GFCM Agreement area.

CHAPTER II

Port state measures

Article 18

Scope

This Chapter shall apply to third-country fishing vessels.

Article 19

Prior notice

By way of derogation from Article 6(1) of Regulation (EC) No 1005/2008, the period for prior notification shall be at least 72 hours before the estimated time of arrival at the port.

Article 20

Port inspections

1. Notwithstanding Article 9(1) of Regulation (EC) No 1005/2008, Member States shall carry out inspections in their designated ports of at least 15 % of landings and transshipment operations each year.

2. Notwithstanding Article 9(2) of Regulation (EC) No 1005/2008, fishing vessels that enter into a Member State's port without prior authorisation shall be inspected in all cases.

Article 21

Inspection procedure

In addition to the requirements provided for in Article 10 of Regulation (EC) No 1005/2008, port inspections shall comply with the requirements set out in Annex II to this Regulation.

Article 22

Denial of use of port

1. Member States shall not allow a third-country vessel to use their ports for landing, transshipping or processing fisheries products caught in the GFCM Agreement area and shall deny it access to port services, including, inter alia, refuelling and re-supplying services, if the vessel:

- (a) does not comply with the requirements of this Regulation;
- (b) is included in a list of vessels that have engaged in, or have supported, IUU fishing adopted by a regional fisheries management organisation; or
- (c) does not have a valid authorisation to engage in fishing or fishing-related activities in the GFCM Agreement area.

By way of derogation from the first subparagraph, nothing shall prevent Member States from allowing, in situations of *force majeure* or distress within the meaning of Article 18 of the United Nations Convention on the Law of the Sea ⁽¹⁾, a third-country vessel from using their ports for services strictly necessary to remedy such situations.

2. Paragraph 1 shall apply in addition to the provisions on denial of use of port provided for by Article 4(2) and Article 37(5) and (6) of Regulation (EC) No 1005/2008.

3. Where a Member State has denied the use of its ports to a third-country vessel in accordance with paragraph 1 or 2, it shall promptly notify the master of the vessel, the flag State, the Commission and the Executive Secretary of the GFCM of such action.

⁽¹⁾ OJ L 179, 23.6.1998, p. 3.

4. Where the grounds for denial referred to in paragraph 1 or 2 no longer apply, the Member State shall withdraw its denial and notify the addressees referred to in paragraph 3 of that withdrawal.

TITLE IV

COOPERATION, INFORMATION AND REPORTING

Article 23

Cooperation and information

1. The Commission and Member States shall cooperate and exchange information with the Executive Secretary of the GFCM, in particular by:

- (a) requesting information from, and providing information to, relevant databases;
- (b) requesting cooperation and cooperating in order to promote the effective implementation of this Regulation.

2. Member States shall ensure that their national fisheries-related information systems allow for the direct electronic exchange of information on port state inspections referred to in Title III between them and the Executive Secretary of the GFCM, taking due account of appropriate confidentiality requirements.

3. Member States shall take measures to share, by electronic means, information among relevant national agencies and to coordinate the activities of such agencies in the implementation of the measures set out in Chapter II of Title III.

4. Member States shall establish a list of contact points for the purpose of this Regulation, which shall be transmitted electronically, without delay, to the Commission and to the Executive Secretary and the contracting parties of the GFCM.

5. The Commission may adopt implementing acts as regards detailed rules for cooperation and the exchange of information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(2).

Article 24

Reporting of statistical matrices

1. Member States shall submit before 1 May of each year to the Executive Secretary of the GFCM the data for Tasks 1.1, 1.2, 1.3, 1.4 and 1.5 of the GFCM statistical matrix as set out in Section C of Annex III.

2. For the submission of data referred to in paragraph 1, Member States shall use the GFCM data-entry system or any other appropriate data submission standard and protocol that is set by the Executive Secretary of the GFCM and that is available on the GFCM website.

3. Member States shall inform the Commission of the data submitted on the basis of this Article.

The Commission may adopt implementing acts as regards detailed rules for the format and transmission of data referred

to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(2).

TITLE V

FINAL PROVISIONS

Article 25

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established by Article 30(1) of Regulation (EC) No 2371/2002. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

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

Article 26

Delegation of powers

As far as is necessary, in order to implement in Union law amendments that become obligatory for the Union to existing GFCM measures that have already been implemented in Union law, the Commission shall be empowered to adopt delegated acts, in accordance with Article 27, in order to amend the provisions of this Regulation in respect of the following:

- (a) the provision to the Executive Secretary of the GFCM of information under Article 15(4);
- (b) the transmission of the list of authorised vessels to the Executive Secretary of the GFCM under Article 17;
- (c) port state measures set out in Articles 18 to 22;
- (d) cooperation, information and reporting set out in Articles 23 and 24;
- (e) the table, the map and the geographical coordinates of GFCM Geographical Sub-Areas (GSAs) set out in Annex I;
- (f) port state inspection procedures for vessels set out in Annex II; and
- (g) GFCM statistical matrices set out in Annex III.

Article 27

Exercise of the delegation

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

2. The power to adopt delegated acts referred to in Article 26 shall be conferred on the Commission for a period of 3 years from 19 January 2012. The Commission shall draw up a report in respect of the delegation of power not later than 6 months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.

3. The delegation of powers referred to in Article 26 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

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

5. A delegated act adopted pursuant to Article 26 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Article 28

Amendments to Regulation (EC) No 1967/2006

Regulation (EC) No 1967/2006 is hereby amended as follows:

(1) in Article 4, paragraph 3 is deleted;

(2) in Article 9, paragraph 3 is replaced by the following:

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

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

'3. For towed nets, other than those referred to in paragraph 4, the minimum mesh size shall be at least:

- (a) a square-meshed net of 40 mm at the cod-end; or
- (b) at the duly justified request of the ship owner, a diamond-meshed net of 50 mm of an acknowledged size selectivity that is equivalent to or higher than that of nets referred to under point (a).

Fishing vessels shall be authorised to use and keep on board only one of the two types of nets.

The Commission shall submit a report on the implementation of this paragraph to the European Parliament and the Council by 30 June 2012, on the basis of which, as well as on the basis of the information supplied by Member States before 31 December 2011, it shall propose due amendments where appropriate;'

(3) Article 24 is deleted;

(4) in Article 27, paragraphs 1 and 4 are deleted.

Article 29

Entry into force

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

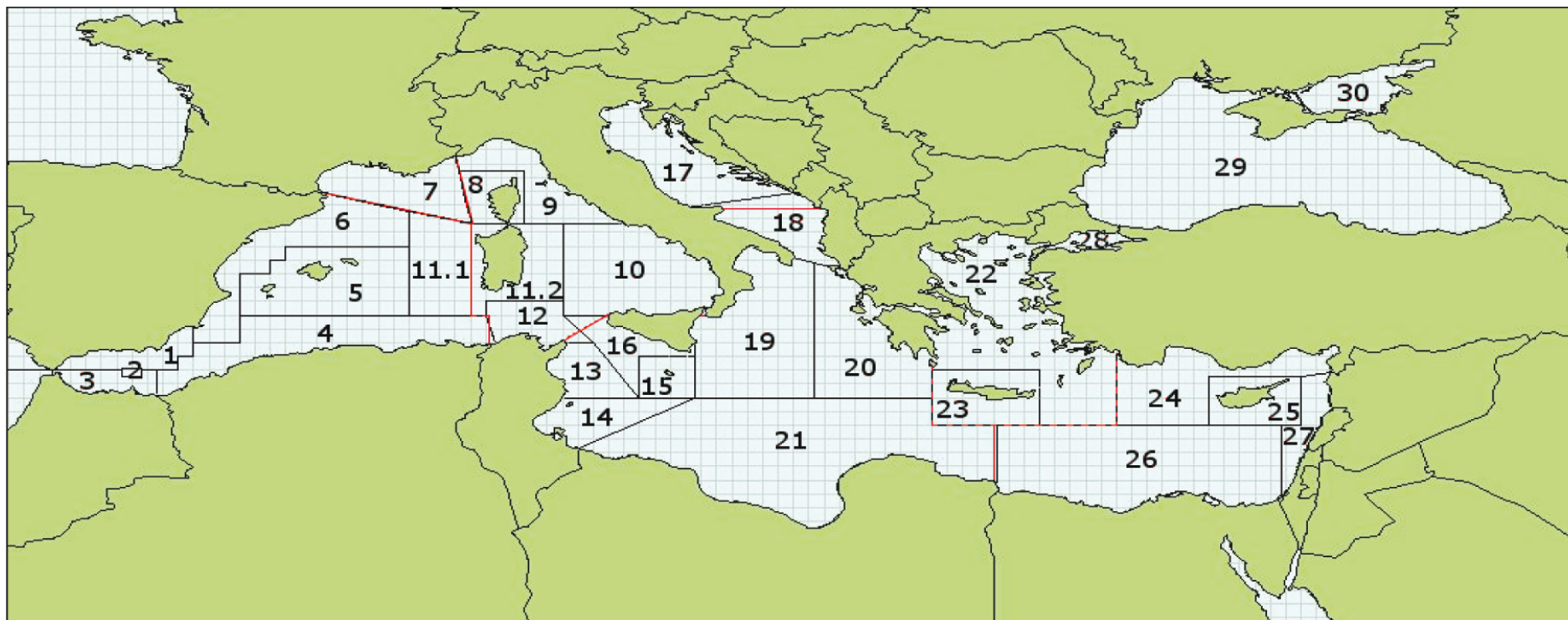
For the Council
The President
M. SZPUNAR

ANNEX I

A) Table of GFCM GSAs

FAO SUB-AREA	FAO STATISTICAL DIVISIONS	GSAs
WESTERN	1.1 BALEARIC	1 Northern Alboran Sea
		2 Alboran Island
		3 Southern Alboran Sea
		4 Algeria
		5 Balearic Island
		6 Northern Spain
		11.1 Sardinia (west)
	1.2 GULF OF LIONS	7 Gulf of Lions
	1.3 SARDINIA	8 Corsica Island
		9 Ligurian and North Tyrrhenian Sea
		10 South Tyrrhenian Sea
		11.2 Sardinia (east)
		12 Northern Tunisia
CENTRAL	2.1 ADRIATIC	17 Northern Adriatic
		18 Southern Adriatic Sea (part)
	2.2 IONIAN	13 Gulf of Hammamet
		14 Gulf of Gabes
		15 Malta Island
		16 South of Sicily
		18 Southern Adriatic Sea (part)
		19 Western Ionian Sea
		20 Eastern Ionian Sea
		21 Southern Ionian Sea
EASTERN	3.1 AEGEAN	22 Aegean Sea
		23 Crete Island
	3.2 LEVANT	24 North Levant
		25 Cyprus Island
		26 South Levant
		27 Levant
BLACK SEA	4.1 MARMARA	28 Marmara Sea
	4.2 BLACK SEA	29 Black Sea
	4.3 AZOV SEA	30 Azov Sea

B) Map of GFCM GSAs (GFCM, 2009)



— FAO Statistical Divisions (red) — GFCM GSA (black)

01 — Northern Alboran Sea	09 — Ligurian and North Tyrrhenian Sea	16 — South of Sicily	24 — North Levant
02 — Alboran Island	10 — South and Central Tyrrhenian Sea	17 — Northern Adriatic	25 — Cyprus Island
03 — Southern Alboran Sea	11.1 — Sardinia (west)	18 — Southern Adriatic Sea	26 — South Levant
04 — Algeria	11.2 — Sardinia (east)	19 — Western Ionian Sea	27 — Levant
05 — Balearic Island	12 — Northern Tunisia	20 — Eastern Ionian Sea	28 — Marmara Sea
06 — Northern Spain	13 — Gulf of Hammamet	21 — Southern Ionian Sea	29 — Black Sea
07 — Gulf of Lions	14 — Gulf of Gabes	22 — Aegean Sea	30 — Azov Sea
08 — Corsica Island	15 — Malta Island	23 — Crete Island	

C) Geographical coordinates for GFCM GSAs (GFCM, 2009)

GSAs	LIMITS	GSAs	LIMITS
1	Coast Line 36° N 5° 36' W 36° N 3° 20' W 36° 05' N 3° 20' W 36° 05' N 2° 40' W 36° N 2° 40' W 36° N 1° 30' W 36° 30' N 1° 30' W 36° 30' N 1° W 37° 36' N 1° W	8	43° 15' N 7° 38' E 43° 15' N 9° 45' E 41° 18' N 9° 45' E 41° 20' N 8° E 41° 18' N 8° E
2	36° 05' N 3° 20' W 36° 05' N 2° 40' W 35° 45' N 3° 20' W 35° 45' N 2° 40' W	9	Coast line France-Italy border 43° 15' N 7° 38' E 43° 15' N 9° 45' E 41° 18' N 9° 45' E 41° 18' N 13° E
3	Coast Line 36° N 5° 36' W 35° 49' N 5° 36' W 36° N 3° 20' W 35° 45' N 3° 20' W 35° 45' N 2° 40' W 36° N 2° 40' W 36° N 1° 13' W Morocco-Algeria border	10	Coast line (including North Sicily) 41° 18' N 13° E 41° 18' N 11° E 38° N 11° E 38° N 12° 30' E
4	Coast Line 36° N 2° 13' W 36° N 1° 30' W 36° 30' N 1° 30' W 36° 30' N 1° W 37° N 1° W 37° N 0° 30' E 38° N 0° 30' E 38° N 8° 35' E Algeria-Tunisia border Morocco-Algeria border	11	41° 47' N 6° E 41° 18' N 6° E 41° 18' N 11° E 38° 30' N 11° E 38° 30' N 8° 30' E 38° N 8° 30' E 38° N 6° E
5	38° N 0° 30' E 39° 30' N 0° 30' E 39° 30' N 1° 30' W 40° N 1° 30' E 40° N 2° E 40° 30' N 2° E 40° 30' N 6° E 38° N 6° E	12	Coast line Algeria-Tunisia border 38° N 8° 30' E 38° 30' N 8° 30' E 38° 30' N 11° E 38° N 11° E 37° N 12° E 37° N 11° 04' E
6	Coast line 37° 36' N 1° W 37° N 1° W 37° N 0° 30' E 39° 30' N 0° 30' E 39° 30' N 1° 30' W 40° N 1° 30' E 40° N 2° E 40° 30' N 2° E 40° 30' N 6° E 41° 47' N 6° E 42° 26' N 3° 09' E	13	Coast line 37° N 11° 04' E 37° N 12° E 35° N 13° 30' E 35° N 11° E
7	Coast line 42° 26' N 3° 09' E 41° 20' N 8° E France-Italy border	14	Coast line 35° N 11° E 35° N 15° 18' E Tunisia-Libya border
		15	36° 30' N 13° 30' E 35° N 13° 30' E 35° N 15° 18' E 36° 30' N 15° 18' E
		16	Coast line 38° N 12° 30' E 38° N 11° E 37° N 12° E 35° N 13° 30' E 36° 30' N 13° 30' E 36° 30' N 15° 18' E 37° N 15° 18' E
		17	Coast line 41° 55' N 15° 08' E Croatia-Montenegro border

GSAs	LIMITS
18	Coast lines (both sides) 41° 55' N 15° 08' E 40° 04' N 18° 29' E Croatia-Montenegro border Albania-Greece border
19	Coast line (including East Sicily) 40° 04' N 18° 29' E 37° N 15° 18' E 35° N 15° 18' E 35° N 19° 10' E 39° 58' N 19° 10' E
20	Coast line Albania-Greece border 39° 58' N 19° 10' E 35° N 19° 10' E 35° N 23° E 36° 30' N 23° E
21	Coast line Tunisia-Libya border 35° N 15° 18' E 35° N 23° E 34° N 23° E 34° N 25° 09' E Libya-Egypt border
22	Coast line 36° 30' N 23° E 36° N 23° E 36° N 26° 30' E 34° N 26° 30' E 34° N 29° E 36° 43' N 29° E

GSAs	LIMITS
23	36° N 23° E 36° N 26° 30' E 34° N 26° 30' E 34° N 23° E
24	Coast line 36° 43' N 29° E 34° N 29° E 34° N 32° E 35° 47' N 32° E 35° 47' N 35° E Turkey-Syria border
25	35° 47' N 32° E 34° N 32° E 34° N 35° E 35° 47' N 35° E
26	Coast line Libya-Egypt border 34° N 25° 09' E 34° N 34° 13' E Egypt-Gaza Strip border
27	Coast line Egypt-Gaza Strip border 34° N 34° 13' E 34° N 35° E 35° 47' N 35° E Turkey-Syria border
28	
29	
30	

ANNEX II

Port state inspection procedures for vessels

1. Vessel identification

Port inspectors shall:

- (a) verify that the official documentation on board is valid, if necessary, through appropriate contacts with the flag State or international records of vessels;
- (b) where necessary, arrange for an official translation of the documentation;
- (c) verify that the vessel's name, flag, any external identification number and markings (and International Maritime Organization (IMO) ship identification number when available) and the international radio call sign are correct;
- (d) as far as possible, examine whether the vessel has changed name and/or flag and, if so, note the previous name(s) and flag(s);
- (e) note the port of registration, name and address of the owner (and operator and beneficial owner if different from the owner), agent, and master of the vessel, including the unique ID for company and registered owner if available; and
- (f) note the names and addresses of previous owners, if any, during the past 5 years.

2. Authorisations

Port inspectors shall verify that authorisations to fish or transport fish and fishery products are compatible with the information obtained under point 1 and examine the duration of the authorisations and their application to areas, species and fishing gear.

3. Other documentation

Port inspectors shall review all relevant documentation, including documents in electronic format. Relevant documentation may include logbooks, in particular the fishing logbook, as well as the crew list, stowage plans and drawings or descriptions of fish holds if available. Such holds or areas may be inspected in order to verify whether their size and composition correspond to these drawings or descriptions and whether the stowage is in accordance with the stowage plans. Where appropriate, this documentation shall also include catch documents or trade documents issued by any regional fisheries management organisation.

4. Fishing gear

- (a) Port inspectors shall verify that the fishing gear on board is in conformity with the conditions of the authorisations. The gear may also be checked to ensure that features such as, inter alia, the mesh sizes (and possible devices), length of nets and hook sizes conform with applicable regulations and that identification marks of the gear correspond to those authorised for the vessel.
- (b) Port inspectors may also search the vessel for any fishing gear stowed out of sight and for fishing gear that is otherwise illegal.

5. Fish and fishery products

- (a) Port inspectors shall, to the greatest extent possible, examine whether the fish and fishery products on board were harvested in accordance with the conditions set out in the applicable authorisations. In doing so, port inspectors shall examine the fishing logbook and reports submitted, including those transmitted by a vessel monitoring system (VMS), as appropriate.
- (b) In order to determine the quantities and species on board, port inspectors may examine the fish in the hold or during the landing. In doing so, port inspectors may open cartons where the fish has been pre-packed and move the fish or cartons to ascertain the integrity of fish holds.
- (c) If the vessel is unloading, port inspectors may verify the species and quantities landed. Such verification may include product type, live weight (quantities determined from the logbook) and the conversion factor used for calculating processed weight to live weight. Port inspectors may also examine any possible quantities retained on board.

(d) Port inspectors may review the quantity and composition of all catch on board, including by sampling.

6. Verification of IUU fishing

Article 11 of Regulation (EC) No 1005/2008 applies.

7. Report

A written report shall be prepared and signed by the inspector on completion of the inspection and a copy provided to the master of the vessel.

8. Results of port state inspections

Results of port state inspections shall include at least the following information:

(1) Inspection references

- inspecting authority (name of inspecting authority or the alternate body nominated by the authority),
- name of inspector,
- date and time of inspection,
- port of inspection (place where the vessel is inspected), and
- date (date the report is completed).

(2) Vessel identification

- name of the vessel,
- type of vessel,
- type of gear,
- external identification number (side number of the vessel) and IMO-number (if available) or other number as appropriate,
- International Radio Call Sign,
- MMS I-number (Maritime Mobile Service Identity number), if available,
- Flag State (the State where the vessel is registered),
- previous names and flags, if any,
- home port (the port of registration of the vessel) and previous home ports,
- vessel owner (name, address, contact),
- vessel beneficial owner if different from the vessel owner (name, address, contact),
- vessel operator responsible for using the vessel if different from the vessel owner (name, address, contact),
- vessel agent (name, address, contact),
- names and addresses of previous owners, if any,
- name, nationality and maritime qualifications of master and fishing master, and
- crew list.

(3) Fishing authorisation (licences/permits)

- the vessels' authorisations to fish or transport fish and fish products,

- states issuing the authorisations,
 - terms of the authorisations, including areas and duration,
 - relevant regional fisheries management organisation,
 - areas, scope and duration of the authorisations,
 - details of allocation authorised — quota, fishing effort or other,
 - species, by-catch and fishing gear authorised, and
 - transshipment records and documents (where applicable).
- (4) Fishing trip information
- date, time, zone and place current fishing trip commenced,
 - areas visited (entry and exit from different areas),
 - transshipment activities at sea (date, species, place, quantity of fish transhipped),
 - last port visited,
 - date and time when current fishing trip ended, and
 - intended next port of call, as appropriate.
- (5) Result of the inspection on the catch
- start and end of discharge (times and date),
 - fish species,
 - product type,
 - live weight (quantities determined from the logbook),
 - relevant conversion factor,
 - processed weight (quantities landed by species and presentation),
 - equivalent live weight (quantities landed in equivalent live weight, as 'product weight multiplied with the conversion factor'),
 - intended destination of fish and fishery products inspected, and
 - quantity and species of fish retained on board, if any.
- (6) Results of gear inspection
- details of gear types.
- (7) Conclusions
- Conclusions of the inspection including identification of the violations believed to have been committed and reference to the relevant rules and measures. Such evidence shall be attached to the inspection report.
-

ANNEX III

(A) GFCM/SAC Fleet Segmentation

Groups	< 6 metres	6-12 metres	12-24 metres	More than 24 metres
1. Polyvalent small-scale vessels without engine	A			
2. Polyvalent small-scale vessels with engine	B	C		
3. Trawlers		D	E	F
4. Purse seiners		G	H	
5. Longliners		I		
6. Pelagic Trawlers		J		
7. Tuna seiners			K	
8. Dredgers		L		
9. Polyvalent vessels			M	

Description of segments

- A *Polyvalent small-scale vessels without engine* — All vessels less than 12 metres in length (LOA) without an engine (wind or propulsion).
- B *Polyvalent small-scale vessels with engine less than 6 m* — All vessels under 6 metres in length (LOA) with engine.
- C *Polyvalent small-scale vessels with engine between 6 and 12 metres* — All vessels between 6 and 12 metres in length (LOA) with engine, that use different gears during the year without clear predominance of one of them or that use a gear not considered in this classification.
- D *Trawlers less than 12 m* — All vessels less than 12 metres in length (LOA) allocating more than 50 percent of their effort operating with a demersal trawl.
- E *Trawlers between 12 and 24 m* — All vessels, between 12 and 24 metres in length (LOA) allocating more than 50 percent of their effort operating with a demersal trawl.
- F *Trawlers longer than 24 m* — All vessels over 24 metres in length (LOA), allocating more than 50 percent of their effort operating with a demersal trawl.
- G *Purse Seineers between 6 and 12 m* — All vessels between 6 and 12 m in length (LOA), allocating more than 50 percent of their effort operating with a purse seine.
- H *Purse Seineers longer than 12 m* — All vessels over 12 m in length (LOA), allocating more than 50 percent of their effort operating with a purse seine, excluding those using a tuna seine during any time of the year.
- I *Longliners longer than 6 m* — All vessels over 6 m in length (LOA), allocating more than 50 percent of their effort operating with a longline.
- J *Pelagic Trawlers longer than 6 m* — All vessels over 6 m in length (LOA), allocating more than 50 percent of their effort operating with a pelagic trawl.
- K *Tuna seiners* — All vessels operating with a Tuna Seine for any length of time during the year.
- L *Dredgers longer than 6 m* — All vessels over 6 m in length (LOA), allocating more than 50 percent of their effort operating with a dredge.
- M *Polyvalent vessels longer than 12 m* — All vessels over 12 metres in length (LOA), that use different gears during the year without clear predominance of one of them or that use a gear not considered in this classification.

Note: All the cells are open for collecting information. The cells left blank in the above table are considered as unlikely to have a significant population. However, if necessary, it is advisable to merge the information of a 'blank cell' with the most appropriate neighbouring 'grey cell'.

(B) Table on measurement of nominal fishing effort

Gear	Number and dimension	Capacity	Activity	Nominal Effort ⁽¹⁾
Dredge (for molluscs)	Open mouth, width of mouth	GT	Time fishing	Dredged bottom surface ⁽²⁾
Trawl (including dredges for flatfishes)	Type of trawl (pelagic, bottom) GT and/or GRT Engine power Mesh size Size of the net (width of mouth) Speed	GT	Time Fishing	GT × days GT × hours kW × days
Purse seine	Length and drop of the net GT Light power Number of small boats	GT Length and drop of the net	Search time Set	GT × Fishing sets Length of the net × fishing sets
Nets	Type of net (e.g. trammel net, gillnets, etc.) Net length (used in regulations) GT Net surface Mesh size	Net length and drop	Time fishing	Net length × days Surface × days
Long lines	Number of hooks GT Number of longline Characteristics of hooks Bait	Number of hooks Number of longline unit	Time fishing	Number of hooks × hours Number of hooks × days Number of longline units × days/hours
Traps	GT	Number of traps	Time fishing	Number of traps × days
Purse seine/FADs	Number of FADs	Number of FADs	Number of trips	Number of FADs × Number of trips

⁽¹⁾ The effort measures that do not include a time activity should be referred to a period of time (i.e. by year).

⁽²⁾ Should be referred to a particular area (indicating the surface) to estimate fishing intensity (effort/km²) and to relate the effort to exploited communities.

(C) GFCM Task 1 — Operational Units



GFCM Task 1:

GSA or other (specify): _____

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