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I

(Legislative acts)

DIRECTIVES

DIRECTIVE (EU) 2015/2436 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 16 December 2015
to approximate the laws of the Member States relating to trade marks
(Recast)
(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 114(1) thereof,

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

- (1) A number of amendments should be made to Directive 2008/95/EC of the European Parliament and of the Council ⁽³⁾. In the interests of clarity, that Directive should be recast.
- (2) Directive 2008/95/EC has harmonised central provisions of substantive trade mark law which at the time of adoption were considered as most directly affecting the functioning of the internal market by impeding the free movement of goods and the freedom to provide services in the Union.
- (3) Trade mark protection in the Member States coexists with protection available at Union level through European Union trade marks ('EU trade marks') which are unitary in character and valid throughout the Union as laid down in Council Regulation (EC) No 207/2009 ⁽⁴⁾. The coexistence and balance of trade mark systems at national and Union level in fact constitutes a cornerstone of the Union's approach to intellectual property protection.
- (4) Further to the Commission's communication of 16 July 2008 on an industrial property rights strategy for Europe, the Commission carried out a comprehensive evaluation of the overall functioning of the trade mark system in Europe as a whole, covering Union and national levels and the interrelation between the two.

⁽¹⁾ OJ C 327, 12.11.2013, p. 42.

⁽²⁾ Position of the European Parliament of 25 February 2014 (not yet published in the Official Journal) and position of the Council at first reading of 10 November 2015 (not yet published in the Official Journal). Position of the European Parliament of 15 December 2015.

⁽³⁾ Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ L 299, 8.11.2008, p. 25).

⁽⁴⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ L 78, 24.3.2009, p. 1).

- (5) In its conclusions of 25 May 2010 on the future revision of the trade mark system in the European Union, the Council called on the Commission to present proposals for the revision of Regulation (EC) No 207/2009 and Directive 2008/95/EC. The revision of that Directive should include measures to make it more consistent with Regulation (EC) No 207/2009, which would thus reduce the areas of divergence within the trade mark system in Europe as a whole, while maintaining national trade mark protection as an attractive option for applicants. In this context, the complementary relationship between the EU trade mark system and national trade mark systems should be ensured.
- (6) The Commission concluded in its communication of 24 May 2011 entitled 'A single market for intellectual property rights' that in order to meet increased demands from stakeholders for faster, higher quality, more streamlined trade mark registration systems, which are also more consistent, user friendly, publicly accessible and technologically up to date, there is a necessity to modernise the trade mark system in the Union as a whole and adapt it to the internet era.
- (7) Consultation and evaluation for the purpose of this Directive has revealed that, in spite of the previous partial harmonisation of national laws, there remain areas where further harmonisation could have a positive impact on competitiveness and growth.
- (8) In order to serve the objective of fostering and creating a well-functioning internal market and to facilitate acquiring and protecting trade marks in the Union, to the benefit of the growth and the competitiveness of European businesses, in particular small and medium-sized enterprises, it is necessary to go beyond the limited scope of approximation achieved by Directive 2008/95/EC and extend approximation to other aspects of substantive trade mark law governing trade marks protected through registration pursuant to Regulation (EC) No 207/2009.
- (9) For the purpose of making trade mark registrations throughout the Union easier to obtain and administer, it is essential to approximate not only provisions of substantive law but also procedural rules. Therefore, the principal procedural rules in the area of trade mark registration in the Member States and in the EU trade mark system should be aligned. As regards procedures under national law, it is sufficient to lay down general principles, leaving the Member States free to establish more specific rules.
- (10) It is essential to ensure that registered trade marks enjoy the same protection under the legal systems of all the Member States. In line with the extensive protection granted to EU trade marks which have a reputation in the Union, extensive protection should also be granted at national level to all registered trade marks which have a reputation in the Member State concerned.
- (11) This Directive should not deprive the Member States of the right to continue to protect trade marks acquired through use but should take them into account only with regard to their relationship with trade marks acquired by registration.
- (12) Attainment of the objectives of this approximation of laws requires that the conditions for obtaining and continuing to hold a registered trade mark be, in general, identical in all Member States.
- (13) To this end, it is necessary to list examples of signs which are capable of constituting a trade mark, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings. In order to fulfil the objectives of the registration system for trade marks, namely to ensure legal certainty and sound administration, it is also essential to require that the sign is capable of being represented in a manner which is clear, precise, self-contained, easily accessible, intelligible, durable and objective. A sign should therefore be permitted to be represented in any appropriate form using generally available technology, and thus not necessarily by graphic means, as long as the representation offers satisfactory guarantees to that effect.
- (14) Furthermore, the grounds for refusal or invalidity concerning the trade mark itself, including the absence of any distinctive character, or concerning conflicts between the trade mark and earlier rights, should be listed in an exhaustive manner, even if some of those grounds are listed as an option for the Member States which should therefore be able to maintain or introduce them in their legislation.

- (15) In order to ensure that the levels of protection afforded to geographical indications by Union legislation and national law are applied in a uniform and exhaustive manner in the examination of absolute and relative grounds for refusal throughout the Union, this Directive should include the same provisions in relation to geographical indications as contained in Regulation (EC) No 207/2009. Furthermore, it is appropriate to ensure that the scope of absolute grounds is extended to also cover protected traditional terms for wine and traditional specialties guaranteed.
- (16) The protection afforded by the registered trade mark, the function of which is in particular to guarantee the trade mark as an indication of origin, should be absolute in the event of there being identity between the mark and the corresponding sign and the goods or services. The protection should apply also in the case of similarity between the mark and the sign and the goods or services. It is indispensable to give an interpretation of the concept of similarity in relation to the likelihood of confusion. The likelihood of confusion, the appreciation of which depends on numerous elements and, in particular, on the recognition of the trade mark on the market, the association which can be made with the used or registered sign, the degree of similarity between the trade mark and the sign and between the goods or services identified, should constitute the specific condition for such protection. The ways in which a likelihood of confusion can be established, and in particular the onus of proof in that regard, should be a matter for national procedural rules which should not be prejudiced by this Directive.
- (17) In order to ensure legal certainty and full consistency with the principle of priority, under which a registered earlier trade mark takes precedence over later registered trade marks, it is necessary to provide that the enforcement of rights which are conferred by a trade mark should be without prejudice to the rights of proprietors acquired prior to the filing or priority date of the trade mark. Such an approach is in conformity with Article 16(1) of the Agreement on trade-related aspects of intellectual property rights of 15 April 1994 ('TRIPS Agreement').
- (18) It is appropriate to provide that an infringement of a trade mark can only be established if there is a finding that the infringing mark or sign is used in the course of trade for the purposes of distinguishing goods or services. Use of the sign for purposes other than for distinguishing goods or services should be subject to the provisions of national law.
- (19) The concept of infringement of a trade mark should also comprise the use of the sign as a trade name or similar designation, as long as such use is made for the purposes of distinguishing goods or services.
- (20) In order to ensure legal certainty and full consistency with specific Union legislation, it is appropriate to provide that the proprietor of a trade mark should be entitled to prohibit a third party from using a sign in comparative advertising where such comparative advertising is contrary to Directive 2006/114/EC of the European Parliament and of the Council⁽¹⁾.
- (21) In order to strengthen trade mark protection and combat counterfeiting more effectively, and in line with international obligations of the Member States under the World Trade Organisation (WTO) framework, in particular Article V of the General Agreement on Tariffs and Trade on freedom of transit and, as regards generic medicines, the 'Declaration on the TRIPS Agreement and public health' adopted by the Doha WTO Ministerial Conference on 14 November 2001, the proprietor of a trade mark should be entitled to prevent third parties from bringing goods, in the course of trade, into the Member State where the trade mark is registered without being released for free circulation there, where such goods come from third countries and bear without authorisation a trade mark which is identical or essentially identical with the trade mark registered in respect of such goods.
- (22) To this effect, it should be permissible for trade mark proprietors to prevent the entry of infringing goods and their placement in all customs situations, including, in particular transit, transshipment, warehousing, free zones, temporary storage, inward processing or temporary admission, also when such goods are not intended to be placed on the market of the Member State concerned. In performing customs controls, the customs authorities should make use of the powers and procedures laid down in Regulation (EU) No 608/2013 of the European Parliament and of the Council⁽²⁾, also at the request of the right holders. In particular, the customs authorities should carry out the relevant controls on the basis of risk analysis criteria.

(1) Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21).

(2) Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15).

- (23) In order to reconcile the need to ensure the effective enforcement of trade mark rights with the necessity to avoid hampering the free flow of trade in legitimate goods, the entitlement of the proprietor of the trade mark should lapse where, during the subsequent proceedings initiated before the judicial or other authority competent to take a substantive decision on whether the registered trade mark has been infringed, the declarant or the holder of the goods is able to prove that the proprietor of the registered trade mark is not entitled to prohibit the placing of the goods on the market in the country of final destination.
- (24) Article 28 of Regulation (EU) No 608/2013 provides that a right holder is to be liable for damages towards the holder of the goods where, inter alia, the goods in question are subsequently found not to infringe an intellectual property right.
- (25) Appropriate measures should be taken with a view to ensuring the smooth transit of generic medicines. With respect to international non-proprietary names (INN) as globally recognised generic names for active substances in pharmaceutical preparations, it is vital to take due account of the existing limitations on the effect of trade mark rights. Consequently, the proprietor of a trade mark should not have the right to prevent a third party from bringing goods into a Member State where the trade mark is registered without being released for free circulation there based upon similarities between the INN for the active ingredient in the medicines and the trade mark.
- (26) In order to enable proprietors of registered trade marks to combat counterfeiting more effectively, they should be entitled to prohibit the affixing of an infringing trade mark to goods, and certain preparatory acts carried out prior to such affixing.
- (27) The exclusive rights conferred by a trade mark should not entitle the proprietor to prohibit the use of signs or indications by third parties which are used fairly and thus in accordance with honest practices in industrial and commercial matters. In order to create equal conditions for trade names and trade marks against the background that trade names are regularly granted unrestricted protection against later trade marks, such use should only be considered to include the use of the personal name of the third party. Such use should further permit the use of descriptive or non-distinctive signs or indications in general. Furthermore, the proprietor should not be entitled to prevent the fair and honest use of the mark for the purpose of identifying or referring to the goods or services as those of the proprietor. Use of a trade mark by third parties to draw the consumer's attention to the resale of genuine goods that were originally sold by, or with the consent of, the proprietor of the trade mark in the Union should be considered as being fair as long as it is at the same time in accordance with honest practices in industrial and commercial matters. Use of a trade mark by third parties for the purpose of artistic expression should be considered as being fair as long as it is at the same time in accordance with honest practices in industrial and commercial matters. Furthermore, this Directive should be applied in a way that ensures full respect for fundamental rights and freedoms, and in particular the freedom of expression.
- (28) It follows from the principle of free movement of goods that the proprietor of a trade mark should not be entitled to prohibit its use by a third party in relation to goods which have been put into circulation in the Union, under the trade mark, by him or with his consent, unless the proprietor has legitimate reasons to oppose further commercialisation of the goods.
- (29) It is important, for reasons of legal certainty to provide that, without prejudice to his interests as a proprietor of an earlier trade mark, the latter may no longer request a declaration of invalidity or oppose the use of a trade mark subsequent to his own trade mark, of which he has knowingly tolerated the use for a substantial length of time, unless the application for the subsequent trade mark was made in bad faith.
- (30) In order to ensure legal certainty and safeguard legitimately acquired trade mark rights, it is appropriate and necessary to provide that, without prejudice to the principle that the later trade mark cannot be enforced against the earlier trade mark, proprietors of earlier trade marks should not be entitled to obtain refusal or invalidation or to oppose the use of a later trade mark if the later trade mark was acquired at a time when the earlier trade mark was liable to be declared invalid or revoked, for example because it had not yet acquired distinctiveness through use, or if the earlier trade mark could not be enforced against the later trade mark because the necessary conditions were not applicable, for example when the earlier mark had not yet obtained a reputation.

- (31) Trade marks fulfil their purpose of distinguishing goods or services and allowing consumers to make informed choices only when they are actually used on the market. A requirement of use is also necessary in order to reduce the total number of trade marks registered and protected in the Union and, consequently, the number of conflicts which arise between them. It is therefore essential to require that registered trade marks actually be used in connection with the goods or services for which they are registered, or, if not used in that connection within five years of the date of the completion of the registration procedure, be liable to be revoked.
- (32) Consequently, a registered trade mark should only be protected in so far as it is actually used and a registered earlier trade mark should not enable its proprietor to oppose or invalidate a later trade mark if that proprietor has not put his trade mark to genuine use. Furthermore, Member States should provide that a trade mark may not be successfully invoked in infringement proceedings if it is established, as a result of a plea, that the trade mark could be revoked or, when the action is brought against a later right, could have been revoked at the time when the later right was acquired.
- (33) It is appropriate to provide that, where the seniority of a national mark or a trade mark registered under international arrangements having effect in the Member State has been claimed for an EU trade mark and the mark providing the basis for the seniority claim has thereafter been surrendered or allowed to lapse, the validity of that mark can still be challenged. Such a challenge should be limited to situations where the mark could have been declared invalid or revoked at the time it was removed from the register.
- (34) For reasons of coherence and in order to facilitate the commercial exploitation of trade marks in the Union, the rules applicable to trade marks as objects of property should be aligned to the extent appropriate with those already in place for EU trade marks, and should include rules on assignment and transfer, licensing, rights *in rem* and levy of execution.
- (35) Collective trade marks have proven a useful instrument for promoting goods or services with specific common properties. It is therefore appropriate to subject national collective trade marks to rules similar to the rules applicable to European Union collective marks.
- (36) In order to improve and facilitate access to trade mark protection and to increase legal certainty and predictability, the procedure for the registration of trade marks in the Member States should be efficient and transparent and should follow rules similar to those applicable to EU trade marks.
- (37) In order to ensure legal certainty with regard to the scope of trade mark rights and to facilitate access to trade mark protection, the designation and classification of goods and services covered by a trade mark application should follow the same rules in all Member States and should be aligned to those applicable to EU trade marks. In order to enable the competent authorities and economic operators to determine the extent of the trade mark protection sought on the basis of the application alone, the designation of goods and services should be sufficiently clear and precise. The use of general terms should be interpreted as including only goods and services clearly covered by the literal meaning of a term. In the interest of clarity and legal certainty, the Member States' central industrial property offices and the Benelux Office for Intellectual Property should, in cooperation with each other, endeavour to compile a list reflecting their respective administrative practices with regard to the classification of goods and services.
- (38) For the purpose of ensuring effective trade mark protection, Member States should make available an efficient administrative opposition procedure, allowing at least the proprietor of earlier trade mark rights and any person authorised under the relevant law to exercise the rights arising from a protected designation of origin or a geographical indication to oppose the registration of a trade mark application. Furthermore, in order to offer efficient means of revoking trademarks or declaring them invalid, Member States should provide for an administrative procedure for revocation or declaration of invalidity within the longer transposition period of seven years, after the entry into force of this Directive.

- (39) It is desirable that Member States' central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the European Union Intellectual Property Office in all fields of trade mark registration and administration in order to promote convergence of practices and tools, such as the creation and updating of common or connected databases and portals for consultation and search purposes. The Member States should further ensure that their offices cooperate with each other and with the European Union Intellectual Property Office in all other areas of their activities which are relevant for the protection of trade marks in the Union.
- (40) This Directive should not exclude the application to trade marks of provisions of law of the Member States other than trade mark law, such as provisions relating to unfair competition, civil liability or consumer protection.
- (41) Member States are bound by the Paris Convention for the Protection of Industrial Property ('the Paris Convention') and the TRIPS Agreement. It is necessary that this Directive be entirely consistent with that Convention and that Agreement. The obligations of the Member States resulting from that Convention and that Agreement should not be affected by this Directive. Where appropriate, the second paragraph of Article 351 of the Treaty on the Functioning of the European Union should apply.
- (42) Since the objectives of this Directive, namely to foster and create a well-functioning internal market and to facilitate the registration, administration and protection of trade marks in the Union to the benefit of growth and competitiveness, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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 Directive does not go beyond what is necessary in order to achieve those objectives.
- (43) Directive 95/46/EC of the European Parliament and of the Council ⁽¹⁾ governs the processing of personal data carried out in the Member States in the context of this Directive.
- (44) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾ and delivered an opinion on 11 July 2013.
- (45) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared with the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.
- (46) This Directive should be without prejudice to the obligations of the Member States under Directive 2008/95/EC relating to the time limit for transposition of Council Directive 89/104/EEC ⁽³⁾ into national law as set out in Part B of Annex I to Directive 2008/95/EC,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Scope

This Directive applies to every trade mark in respect of goods or services which is the subject of registration or of an application for registration in a Member State as an individual trade mark, a guarantee or certification mark or a collective mark, or which is the subject of a registration or an application for registration in the Benelux Office for Intellectual Property or of an international registration having effect in a Member State.

⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽³⁾ First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ L 40, 11.2.1989, p. 1).

*Article 2***Definitions**

For the purpose of this Directive, the following definitions apply:

- (a) 'office' means the central industrial property office of the Member State or the Benelux Office for Intellectual Property, entrusted with the registration of trade marks;
- (b) 'register' means the register of trade marks kept by an office.

CHAPTER 2

SUBSTANTIVE LAW ON TRADE MARKS

SECTION 1

Signs of which a trade mark may consist*Article 3***Signs of which a trade mark may consist**

A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

- (a) distinguishing the goods or services of one undertaking from those of other undertakings; and
- (b) being represented on the register in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

SECTION 2

Grounds for refusal or invalidity*Article 4***Absolute grounds for refusal or invalidity**

1. The following shall not be registered or, if registered, shall be liable to be declared invalid:
 - (a) signs which cannot constitute a trade mark;
 - (b) trade marks which are devoid of any distinctive character;
 - (c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services;
 - (d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade;
 - (e) signs which consist exclusively of:
 - (i) the shape, or another characteristic, which results from the nature of the goods themselves;
 - (ii) the shape, or another characteristic, of goods which is necessary to obtain a technical result;
 - (iii) the shape, or another characteristic, which gives substantial value to the goods;
 - (f) trade marks which are contrary to public policy or to accepted principles of morality;
 - (g) trade marks which are of such a nature as to deceive the public, for instance, as to the nature, quality or geographical origin of the goods or service;

- (h) trade marks which have not been authorised by the competent authorities and are to be refused or invalidated pursuant to Article 6ter of the Paris Convention;
 - (i) trade marks which are excluded from registration pursuant to Union legislation or the national law of the Member State concerned, or to international agreements to which the Union or the Member State concerned is party, providing for protection of designations of origin and geographical indications;
 - (j) trade marks which are excluded from registration pursuant to Union legislation or international agreements to which the Union is party, providing for protection of traditional terms for wine;
 - (k) trade marks which are excluded from registration pursuant to Union legislation or international agreements to which the Union is party, providing for protection of traditional specialities guaranteed;
 - (l) trade marks which consist of, or reproduce in their essential elements, an earlier plant variety denomination registered in accordance with Union legislation or the national law of the Member State concerned, or international agreements to which the Union or the Member State concerned is party, providing protection for plant variety rights, and which are in respect of plant varieties of the same or closely related species.
2. A trade mark shall be liable to be declared invalid where the application for registration of the trade mark was made in bad faith by the applicant. Any Member State may also provide that such a trade mark is not to be registered.
3. Any Member State may provide that a trade mark is not to be registered or, if registered, is liable to be declared invalid where and to the extent that:
- (a) the use of that trade mark may be prohibited pursuant to provisions of law other than trade mark law of the Member State concerned or of the Union;
 - (b) the trade mark includes a sign of high symbolic value, in particular a religious symbol;
 - (c) the trade mark includes badges, emblems and escutcheons other than those covered by Article 6ter of the Paris Convention and which are of public interest, unless the consent of the competent authority to their registration has been given in conformity with the law of the Member State.
4. A trade mark shall not be refused registration in accordance with paragraph 1(b), (c) or (d) if, before the date of application for registration, following the use which has been made of it, it has acquired a distinctive character. A trade mark shall not be declared invalid for the same reasons if, before the date of application for a declaration of invalidity, following the use which has been made of it, it has acquired a distinctive character.
5. Any Member State may provide that paragraph 4 is also to apply where the distinctive character was acquired after the date of application for registration but before the date of registration.

Article 5

Relative grounds for refusal or invalidity

1. A trade mark shall not be registered or, if registered, shall be liable to be declared invalid where:
- (a) it is identical with an earlier trade mark, and the goods or services for which the trade mark is applied for or is registered are identical with the goods or services for which the earlier trade mark is protected;
 - (b) because of its identity with, or similarity to, the earlier trade mark and the identity or similarity of the goods or services covered by the trade marks, there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association with the earlier trade mark.
2. 'Earlier trade marks' within the meaning of paragraph 1 means:
- (a) trade marks of the following kinds with a date of application for registration which is earlier than the date of application for registration of the trade mark, taking account, where appropriate, of the priorities claimed in respect of those trade marks:
 - (i) EU trade marks;
 - (ii) trade marks registered in the Member State concerned or, in the case of Belgium, Luxembourg or the Netherlands, at the Benelux Office for Intellectual Property;
 - (iii) trade marks registered under international arrangements which have effect in the Member State concerned;

- (b) EU trade marks which validly claim seniority, in accordance with Regulation (EC) No 207/2009, of a trade mark referred to in points (a)(ii) and (iii), even when the latter trade mark has been surrendered or allowed to lapse;
 - (c) applications for the trade marks referred to in points (a) and (b), subject to their registration;
 - (d) trade marks which, on the date of application for registration of the trade mark, or, where appropriate, of the priority claimed in respect of the application for registration of the trade mark, are well known in the Member State concerned, in the sense in which the words 'well-known' are used in Article 6bis of the Paris Convention.
3. Furthermore, a trade mark shall not be registered or, if registered, shall be liable to be declared invalid where:
- (a) it is identical with, or similar to, an earlier trade mark irrespective of whether the goods or services for which it is applied or registered are identical with, similar to or not similar to those for which the earlier trade mark is registered, where the earlier trade mark has a reputation in the Member State in respect of which registration is applied for or in which the trade mark is registered or, in the case of an EU trade mark, has a reputation in the Union and the use of the later trade mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark;
 - (b) an agent or representative of the proprietor of the trade mark applies for registration thereof in his own name without the proprietor's authorisation, unless the agent or representative justifies his action;
 - (c) and to the extent that, pursuant to Union legislation or the law of the Member State concerned providing for protection of designations of origin and geographical indications:
 - (i) an application for a designation of origin or a geographical indication had already been submitted in accordance with Union legislation or the law of the Member State concerned prior to the date of application for registration of the trade mark or the date of the priority claimed for the application, subject to its subsequent registration;
 - (ii) that designation of origin or geographical indication confers on the person authorised under the relevant law to exercise the rights arising therefrom the right to prohibit the use of a subsequent trade mark.
4. Any Member State may provide that a trade mark is not to be registered or, if registered, is liable to be declared invalid where, and to the extent that:
- (a) rights to a non-registered trade mark or to another sign used in the course of trade were acquired prior to the date of application for registration of the subsequent trade mark, or the date of the priority claimed for the application for registration of the subsequent trade mark, and that non-registered trade mark or other sign confers on its proprietor the right to prohibit the use of a subsequent trade mark;
 - (b) the use of the trade mark may be prohibited by virtue of an earlier right, other than the rights referred to in paragraph 2 and point (a) of this paragraph, and in particular:
 - (i) a right to a name;
 - (ii) a right of personal portrayal;
 - (iii) a copyright;
 - (iv) an industrial property right;
 - (c) the trade mark is liable to be confused with an earlier trade mark protected abroad, provided that, at the date of the application, the applicant was acting in bad faith.
5. The Member States shall ensure that in appropriate circumstances there is no obligation to refuse registration or to declare a trade mark invalid where the proprietor of the earlier trade mark or other earlier right consents to the registration of the later trade mark.
6. Any Member State may provide that, by way of derogation from paragraphs 1 to 5, the grounds for refusal of registration or invalidity in force in that Member State prior to the date of the entry into force of the provisions necessary to comply with Directive 89/104/EEC are to apply to trade marks for which an application has been made prior to that date.

*Article 6***Establishment a posteriori of invalidity or revocation of a trade mark**

Where the seniority of a national trade mark or of a trade mark registered under international arrangements having effect in the Member State, which has been surrendered or allowed to lapse, is claimed for an EU trade mark, the invalidity or revocation of the trade mark providing the basis for the seniority claim may be established *a posteriori*, provided that the invalidity or revocation could have been declared at the time the mark was surrendered or allowed to lapse. In such a case, the seniority shall cease to produce its effects.

*Article 7***Grounds for refusal or invalidity relating to only some of the goods or services**

Where grounds for refusal of registration or for invalidity of a trade mark exist in respect of only some of the goods or services for which that trade mark has been applied or registered, refusal of registration or invalidity shall cover those goods or services only.

*Article 8***Lack of distinctive character or of reputation of an earlier trade mark precluding a declaration of invalidity of a registered trade mark**

An application for a declaration of invalidity on the basis of an earlier trade mark shall not succeed at the date of application for invalidation if it would not have been successful at the filing date or the priority date of the later trade mark for any of the following reasons:

- (a) the earlier trade mark, liable to be declared invalid pursuant to Article 4(1)(b), (c) or (d), had not yet acquired a distinctive character as referred to in Article 4(4);
- (b) the application for a declaration of invalidity is based on Article 5(1)(b) and the earlier trade mark had not yet become sufficiently distinctive to support a finding of likelihood of confusion within the meaning of Article 5(1)(b);
- (c) the application for a declaration of invalidity is based on Article 5(3)(a) and the earlier trade mark had not yet acquired a reputation within the meaning of Article 5(3)(a).

*Article 9***Preclusion of a declaration of invalidity due to acquiescence**

1. Where, in a Member State, the proprietor of an earlier trade mark as referred to in Article 5(2) or Article 5(3)(a) has acquiesced, for a period of five successive years, in the use of a later trade mark registered in that Member State while being aware of such use, that proprietor shall no longer be entitled on the basis of the earlier trade mark to apply for a declaration that the later trade mark is invalid in respect of the goods or services for which the later trade mark has been used, unless registration of the later trade mark was applied for in bad faith.

2. Member States may provide that paragraph 1 of this Article is to apply to the proprietor of any other earlier right referred to in Article 5(4)(a) or (b).

3. In the cases referred to in paragraphs 1 and 2, the proprietor of a later registered trade mark shall not be entitled to oppose the use of the earlier right, even though that right may no longer be invoked against the later trade mark.

SECTION 3

Rights conferred and limitations

Article 10

Rights conferred by a trade mark

1. The registration of a trade mark shall confer on the proprietor exclusive rights therein.
2. Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the registered trade mark, the proprietor of that registered trade mark shall be entitled to prevent all third parties not having his consent from using in the course of trade, in relation to goods or services, any sign where:
 - (a) the sign is identical with the trade mark and is used in relation to goods or services which are identical with those for which the trade mark is registered;
 - (b) the sign is identical with, or similar to, the trade mark and is used in relation to goods or services which are identical with, or similar to, the goods or services for which the trade mark is registered, if there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association between the sign and the trade mark;
 - (c) the sign is identical with, or similar to, the trade mark irrespective of whether it is used in relation to goods or services which are identical with, similar to, or not similar to, those for which the trade mark is registered, where the latter has a reputation in the Member State and where use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trade mark.
3. The following, in particular, may be prohibited under paragraph 2:
 - (a) affixing the sign to the goods or to the packaging thereof;
 - (b) offering the goods or putting them on the market, or stocking them for those purposes, under the sign, or offering or supplying services thereunder;
 - (c) importing or exporting the goods under the sign;
 - (d) using the sign as a trade or company name or part of a trade or company name;
 - (e) using the sign on business papers and in advertising;
 - (f) using the sign in comparative advertising in a manner that is contrary to Directive 2006/114/EC.
4. Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the registered trade mark, the proprietor of that registered trade mark shall also be entitled to prevent all third parties from bringing goods, in the course of trade, into the Member State where the trade mark is registered, without being released for free circulation there, where such goods, including the packaging thereof, come from third countries and bear without authorisation a trade mark which is identical with the trade mark registered in respect of such goods, or which cannot be distinguished in its essential aspects from that trade mark.

The entitlement of the trade mark proprietor pursuant to the first subparagraph shall lapse if, during the proceedings to determine whether the registered trade mark has been infringed, initiated in accordance with Regulation (EU) No 608/2013, evidence is provided by the declarant or the holder of the goods that the proprietor of the registered trade mark is not entitled to prohibit the placing of the goods on the market in the country of final destination.

5. Where, under the law of a Member State, the use of a sign under the conditions referred to in paragraph 2 (b) or (c) could not be prohibited before the date of entry into force of the provisions necessary to comply with Directive 89/104/EEC in the Member State concerned, the rights conferred by the trade mark may not be relied on to prevent the continued use of the sign.
6. Paragraphs 1, 2, 3 and 5 shall not affect provisions in any Member State relating to the protection against the use of a sign other than use for the purposes of distinguishing goods or services, where use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trade mark.

*Article 11***The right to prohibit preparatory acts in relation to the use of packaging or other means**

Where the risk exists that the packaging, labels, tags, security or authenticity features or devices, or any other means to which the trade mark is affixed, could be used in relation to goods or services and that use would constitute an infringement of the rights of the proprietor of a trade mark under Article 10(2) and (3), the proprietor of that trade mark shall have the right to prohibit the following acts if carried out in the course of trade:

- (a) affixing a sign identical with, or similar to, the trade mark on packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark may be affixed;
- (b) offering or placing on the market, or stocking for those purposes, or importing or exporting, packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark is affixed.

*Article 12***Reproduction of trade marks in dictionaries**

If the reproduction of a trade mark in a dictionary, encyclopaedia or similar reference work, in print or electronic form, gives the impression that it constitutes the generic name of the goods or services for which the trade mark is registered, the publisher of the work shall, at the request of the proprietor of the trade mark, ensure that the reproduction of the trade mark is, without delay, and in the case of works in printed form at the latest in the next edition of the publication, accompanied by an indication that it is a registered trade mark.

*Article 13***Prohibition of the use of a trade mark registered in the name of an agent or representative**

1. Where a trade mark is registered in the name of the agent or representative of a person who is the proprietor of that trade mark, without the proprietor's consent, the latter shall be entitled to do either or both of the following:

- (a) oppose the use of the trade mark by his agent or representative;
- (b) demand the assignment of the trade mark in his favour.

2. Paragraph 1 shall not apply where the agent or representative justifies his action.

*Article 14***Limitation of the effects of a trade mark**

1. A trade mark shall not entitle the proprietor to prohibit a third party from using, in the course of trade:

- (a) the name or address of the third party, where that third party is a natural person;
- (b) signs or indications which are not distinctive or which concern the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of the service, or other characteristics of goods or services;
- (c) the trade mark for the purpose of identifying or referring to goods or services as those of the proprietor of that trade mark, in particular, where the use of the trade mark is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts.

2. Paragraph 1 shall only apply where the use made by the third party is in accordance with honest practices in industrial or commercial matters.

3. A trade mark shall not entitle the proprietor to prohibit a third party from using, in the course of trade, an earlier right which only applies in a particular locality, if that right is recognised by the law of the Member State in question and the use of that right is within the limits of the territory in which it is recognised.

*Article 15***Exhaustion of the rights conferred by a trade mark**

1. A trade mark shall not entitle the proprietor to prohibit its use in relation to goods which have been put on the market in the Union under that trade mark by the proprietor or with the proprietor's consent.
2. Paragraph 1 shall not apply where there exist legitimate reasons for the proprietor to oppose further commercialisation of the goods, especially where the condition of the goods is changed or impaired after they have been put on the market.

*Article 16***Use of trade marks**

1. If, within a period of five years following the date of the completion of the registration procedure, the proprietor has not put the trade mark to genuine use in the Member State in connection with the goods or services in respect of which it is registered, or if such use has been suspended during a continuous five-year period, the trade mark shall be subject to the limits and sanctions provided for in Article 17, Article 19(1), Article 44(1) and (2), and Article 46(3) and (4), unless there are proper reasons for non-use.
2. Where a Member State provides for opposition proceedings following registration, the five-year period referred to in paragraph 1 shall be calculated from the date when the mark can no longer be opposed or, in the event that an opposition has been lodged, from the date when a decision terminating the opposition proceedings became final or the opposition was withdrawn.
3. With regard to trade marks registered under international arrangements and having effect in the Member State, the five-year period referred to in paragraph 1 shall be calculated from the date when the mark can no longer be rejected or opposed. Where an opposition has been lodged or when an objection on absolute or relative grounds has been notified, the period shall be calculated from the date when a decision terminating the opposition proceedings or a ruling on absolute or relative grounds for refusal became final or the opposition was withdrawn.
4. The date of commencement of the five-year period, as referred to in paragraphs 1 and 2, shall be entered in the register.
5. The following shall also constitute use within the meaning of paragraph 1:
 - (a) use of the trade mark in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered, regardless of whether or not the trade mark in the form as used is also registered in the name of the proprietor;
 - (b) affixing of the trade mark to goods or to the packaging thereof in the Member State concerned solely for export purposes.
6. Use of the trade mark with the consent of the proprietor shall be deemed to constitute use by the proprietor.

*Article 17***Non-use as defence in infringement proceedings**

The proprietor of a trade mark shall be entitled to prohibit the use of a sign only to the extent that the proprietor's rights are not liable to be revoked pursuant to Article 19 at the time the infringement action is brought. If the defendant so requests, the proprietor of the trade mark shall furnish proof that, during the five-year period preceding the date of bringing the action, the trade mark has been put to genuine use as provided in Article 16 in connection with the goods or services in respect of which it is registered and which are cited as justification for the action, or that there are proper reasons for non-use, provided that the registration procedure of the trade mark has at the date of bringing the action been completed for not less than five years.

*Article 18***Intervening right of the proprietor of a later registered trade mark as defence in infringement proceedings**

1. In infringement proceedings, the proprietor of a trade mark shall not be entitled to prohibit the use of a later registered mark where that later trade mark would not be declared invalid pursuant to Article 8, Article 9(1) or (2) or Article 46(3).

2. In infringement proceedings, the proprietor of a trade mark shall not be entitled to prohibit the use of a later registered EU trade mark where that later trade mark would not be declared invalid pursuant to Article 53(1), (3) or (4), 54(1) or (2) or 57(2) of Regulation (EC) No 207/2009.

3. Where the proprietor of a trade mark is not entitled to prohibit the use of a later registered trade mark pursuant to paragraph 1 or 2, the proprietor of that later registered trade mark shall not be entitled to prohibit the use of the earlier trade mark in infringement proceedings, even though that earlier right may no longer be invoked against the later trade mark.

SECTION 4

Revocation of trade mark rights

Article 19

Absence of genuine use as ground for revocation

1. A trade mark shall be liable to revocation if, within a continuous five-year period, it has not been put to genuine use in the Member State in connection with the goods or services in respect of which it is registered, and there are no proper reasons for non-use.
2. No person may claim that the proprietor's rights in a trade mark should be revoked where, during the interval between expiry of the five-year period and filing of the application for revocation, genuine use of the trade mark has been started or resumed.
3. The commencement or resumption of use within the three-month period preceding the filing of the application for revocation which began at the earliest on expiry of the continuous five-year period of non-use shall be disregarded where preparations for the commencement or resumption occur only after the proprietor becomes aware that the application for revocation may be filed.

Article 20

Trade mark having become generic or misleading indication as grounds for revocation

A trade mark shall be liable to revocation if, after the date on which it was registered:

- (a) as a result of acts or inactivity of the proprietor, it has become the common name in the trade for a product or service in respect of which it is registered;
- (b) as a result of the use made of it by the proprietor of the trade mark or with the proprietor's consent in respect of the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

Article 21

Revocation relating to only some of the goods or services

Where grounds for revocation of a trade mark exist in respect of only some of the goods or services for which that trade mark has been registered, revocation shall cover those goods or services only.

SECTION 5

Trade marks as objects of property

Article 22

Transfer of registered trade marks

1. A trade mark may be transferred, separately from any transfer of the undertaking, in respect of some or all of the goods or services for which it is registered.

2. A transfer of the whole of the undertaking shall include the transfer of the trade mark except where there is agreement to the contrary or circumstances clearly dictate otherwise. This provision shall apply to the contractual obligation to transfer the undertaking.
3. Member States shall have procedures in place to allow for the recordal of transfers in their registers.

Article 23

Rights in rem

1. A trade mark may, independently of the undertaking, be given as security or be the subject of rights *in rem*.
2. Member States shall have procedures in place to allow for the recordal of rights *in rem* in their registers.

Article 24

Levy of execution

1. A trade mark may be levied in execution.
2. Member States shall have procedures in place to allow for the recordal of levy of execution in their registers.

Article 25

Licensing

1. A trade mark may be licensed for some or all of the goods or services for which it is registered and for the whole or part of the Member State concerned. A licence may be exclusive or non-exclusive.
2. The proprietor of a trade mark may invoke the rights conferred by that trade mark against a licensee who contravenes any provision in his licensing contract with regard to:
 - (a) its duration;
 - (b) the form covered by the registration in which the trade mark may be used;
 - (c) the scope of the goods or services for which the licence is granted;
 - (d) the territory in which the trade mark may be affixed; or
 - (e) the quality of the goods manufactured or of the services provided by the licensee.
3. Without prejudice to the provisions of the licensing contract, the licensee may bring proceedings for infringement of a trade mark only if its proprietor consents thereto. However, the holder of an exclusive licence may bring such proceedings if the proprietor of the trade mark, after formal notice, does not himself bring infringement proceedings within an appropriate period.
4. A licensee shall, for the purpose of obtaining compensation for damage suffered by him, be entitled to intervene in infringement proceedings brought by the proprietor of the trade mark.
5. Member States shall have procedures in place to allow for the recordal of licences in their registers.

Article 26

Applications for a trade mark as an object of property

Articles 22 to 25 shall apply to applications for trade marks.

SECTION 6

Guarantee or certification marks and collective marks*Article 27***Definitions**

For the purposes of this Directive, the following definitions apply:

- (a) 'guarantee or certification mark' means a trade mark which is described as such when the mark is applied for and is capable of distinguishing goods or services which are certified by the proprietor of the mark in respect of material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics, from goods and services which are not so certified;
- (b) 'collective mark' means a trade mark which is described as such when the mark is applied for and is capable of distinguishing the goods or services of the members of an association which is the proprietor of the mark from the goods or services of other undertakings.

*Article 28***Guarantee or certification marks**

1. Member States may provide for the registration of guarantee or certification marks.
2. Any natural or legal person, including institutions, authorities and bodies governed by public law, may apply for guarantee or certification marks provided that such person does not carry on a business involving the supply of goods or services of the kind certified.

Member States may provide that a guarantee or certification mark is not to be registered unless the applicant is competent to certify the goods or services for which the mark is to be registered.

3. Member States may provide that guarantee or certification marks are not to be registered, or are to be revoked or declared invalid, on grounds other than those specified in Articles 4, 19 and 20, where the function of those marks so requires.
4. By way of derogation from Article 4(1)(c), Member States may provide that signs or indications which may serve, in trade, to designate the geographical origin of the goods or services may constitute guarantee or certification marks. Such a guarantee or certification mark shall not entitle the proprietor to prohibit a third party from using in the course of trade such signs or indications, provided that third party uses them in accordance with honest practices in industrial or commercial matters. In particular, such a mark may not be invoked against a third party who is entitled to use a geographical name.
5. The requirements laid down in Article 16 shall be satisfied where genuine use of a guarantee or certification mark in accordance with Article 16 is made by any person who has the authority to use it.

*Article 29***Collective marks**

1. Member States shall provide for the registration of collective marks.
2. Associations of manufacturers, producers, suppliers of services or traders, which, under the terms of the law governing them, have the capacity in their own name to have rights and obligations, to make contracts or accomplish other legal acts, and to sue and be sued, as well as legal persons governed by public law, may apply for collective marks.
3. By way of derogation from Article 4(1)(c), Member States may provide that signs or indications which may serve, in trade, to designate the geographical origin of the goods or services may constitute collective marks. Such a collective mark shall not entitle the proprietor to prohibit a third party from using, in the course of trade, such signs or indications, provided that third party uses them in accordance with honest practices in industrial or commercial matters. In particular, such a mark may not be invoked against a third party who is entitled to use a geographical name.

*Article 30***Regulations governing use of a collective mark**

1. An applicant for a collective mark shall submit the regulations governing its use to the office.
2. The regulations governing use shall specify at least the persons authorised to use the mark, the conditions of membership of the association and the conditions of use of the mark, including sanctions. The regulations governing use of a mark referred to in Article 29(3) shall authorise any person whose goods or services originate in the geographical area concerned to become a member of the association which is the proprietor of the mark, provided that the person fulfils all the other conditions of the regulations.

*Article 31***Refusal of an application**

1. In addition to the grounds for refusal of a trade mark application provided for in Article 4, where appropriate with the exception of Article 4(1)(c) concerning signs or indications which may serve, in trade, to designate the geographical origin of the goods or services, and Article 5, and without prejudice to the right of an office not to undertake examination *ex officio* of relative grounds, an application for a collective mark shall be refused where the provisions of point (b) of Article 27, Article 29 or Article 30 are not satisfied, or where the regulations governing use of that collective mark are contrary to public policy or to accepted principles of morality.
2. An application for a collective mark shall also be refused if the public is liable to be misled as regards the character or the significance of the mark, in particular if it is likely to be taken to be something other than a collective mark.
3. An application shall not be refused if the applicant, as a result of amendment of the regulations governing use of the collective mark, meets the requirements referred to in paragraphs 1 and 2.

*Article 32***Use of collective marks**

The requirements of Article 16 shall be satisfied where genuine use of a collective mark in accordance with that Article is made by any person who has authority to use it.

*Article 33***Amendments to the regulations governing use of a collective mark**

1. The proprietor of a collective mark shall submit to the office any amended regulations governing use.
2. Amendments to the regulations governing use shall be mentioned in the register unless the amended regulations do not satisfy the requirements of Article 30 or involve one of the grounds for refusal referred to in Article 31.
3. For the purposes of this Directive, amendments to the regulations governing use shall take effect only from the date of entry of the mention of those amendments in the register.

*Article 34***Persons entitled to bring an action for infringement**

1. Article 25(3) and (4) shall apply to every person who has the authority to use a collective mark.
2. The proprietor of a collective mark shall be entitled to claim compensation on behalf of persons who have authority to use the mark where those persons have sustained damage as a result of unauthorised use of the mark.

*Article 35***Additional grounds for revocation**

In addition to the grounds for revocation provided for in Articles 19 and 20, the rights of the proprietor of a collective mark shall be revoked on the following grounds:

- (a) the proprietor does not take reasonable steps to prevent the mark being used in a manner that is incompatible with the conditions of use laid down in the regulations governing use, including any amendments thereto mentioned in the register;
- (b) the manner in which the mark has been used by authorised persons has caused it to become liable to mislead the public in the manner referred to in Article 31(2);
- (c) an amendment to the regulations governing use of the mark has been mentioned in the register in breach of Article 33(2), unless the proprietor of the mark, by further amending the regulations governing use, complies with the requirements of that Article.

*Article 36***Additional grounds for invalidity**

In addition to the grounds for invalidity provided for in Article 4, where appropriate with the exception of Article 4(1)(c) concerning signs or indications which may serve, in trade, to designate the geographical origin of the goods or services, and Article 5, a collective mark which is registered in breach of Article 31 shall be declared invalid unless the proprietor of the mark, by amending the regulations governing use, complies with the requirements of Article 31.

CHAPTER 3

PROCEDURES

SECTION 1

Application and registration*Article 37***Application requirements**

1. An application for registration of a trade mark shall contain at least all of the following:
 - (a) a request for registration;
 - (b) information identifying the applicant;
 - (c) a list of the goods or services in respect of which the registration is requested;
 - (d) a representation of the trade mark, which satisfies the requirements set out in point (b) of Article 3.
2. The application for a trade mark shall be subject to the payment of a fee determined by the Member State concerned.

*Article 38***Date of filing**

1. The date of filing of a trade mark application shall be the date on which the documents containing the information specified in Article 37(1) are filed with the office by the applicant.
2. Member States may, in addition, provide that the accordance of the date of filing is to be subject to the payment of a fee as referred to in Article 37(2).

*Article 39***Designation and classification of goods and services**

1. The goods and services in respect of which trade mark registration is applied for shall be classified in conformity with the system of classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957 ('the Nice Classification').
2. The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators, on that sole basis, to determine the extent of the protection sought.
3. For the purposes of paragraph 2, the general indications included in the class headings of the Nice Classification or other general terms may be used, provided that they comply with the requisite standards of clarity and precision set out in this Article.
4. The office shall reject an application in respect of indications or terms which are unclear or imprecise, where the applicant does not suggest an acceptable wording within a period set by the office to that effect.
5. The use of general terms, including the general indications of the class headings of the Nice Classification, shall be interpreted as including all the goods or services clearly covered by the literal meaning of the indication or term. The use of such terms or indications shall not be interpreted as comprising a claim to goods or services which cannot be so understood.
6. Where the applicant requests registration for more than one class, the applicant shall group the goods and services according to the classes of the Nice Classification, each group being preceded by the number of the class to which that group of goods or services belongs, and shall present them in the order of the classes.
7. Goods and services shall not be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification. Goods and services shall not be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

*Article 40***Observations by third parties**

1. Member States may provide that prior to registration of a trade mark, any natural or legal person and any group or body representing manufacturers, producers, suppliers of services, traders or consumers may submit to the office written observations, explaining on which grounds the trade mark should not be registered *ex officio*.

Persons and groups or bodies, as referred to in the first subparagraph, shall not be parties to the proceedings before the office.

2. In addition to the grounds referred to in paragraph 1 of this Article, any natural or legal person and any group or body representing manufacturers, producers, suppliers of services, traders or consumers may submit to the office written observations based on the particular grounds on which the application for a collective mark should be refused under Article 31(1) and (2). This provision may be extended to cover certification and guarantee marks where regulated in Member States.

*Article 41***Division of applications and registrations**

The applicant or proprietor may divide a national trade mark application or registration into two or more separate applications or registrations by sending a declaration to the office and indicating for each divisional application or registration the goods or services covered by the original application or registration which are to be covered by the divisional applications or registrations.

*Article 42***Class fees**

Member States may provide that the application and renewal of a trade mark is to be subject to an additional fee for each class of goods and services beyond the first class.

SECTION 2

Procedures for opposition, revocation and invalidity*Article 43***Opposition procedure**

1. Member States shall provide for an efficient and expeditious administrative procedure before their offices for opposing the registration of a trade mark application on the grounds provided for in Article 5.
2. The administrative procedure referred to in paragraph 1 of this Article shall at least provide that the proprietor of an earlier trade mark as referred to in Article 5(2) and Article 5(3)(a), and the person authorised under the relevant law to exercise the rights arising from a protected designation of origin or geographical indication as referred to in Article 5(3)(c) shall be entitled to file a notice of opposition. A notice of opposition may be filed on the basis of one or more earlier rights, provided that they all belong to the same proprietor, and on the basis of part or the totality of the goods or services in respect of which the earlier right is protected or applied for, and may be directed against part or the totality of the goods or services in respect of which the contested mark is applied for.
3. The parties shall be granted, at their joint request, a minimum of two months in the opposition proceedings in order to allow for the possibility of a friendly settlement between the opposing party and the applicant.

*Article 44***Non-use as defence in opposition proceedings**

1. In opposition proceedings pursuant to Article 43, where at the filing date or date of priority of the later trade mark, the five-year period within which the earlier trade mark must have been put to genuine use as provided for in Article 16 had expired, at the request of the applicant, the proprietor of the earlier trade mark who has given notice of opposition shall furnish proof that the earlier trade mark has been put to genuine use as provided for in Article 16 during the five-year period preceding the filing date or date of priority of the later trade mark, or that proper reasons for non-use existed. In the absence of proof to this effect, the opposition shall be rejected.
2. If the earlier trade mark has been used in relation to only part of the goods or services for which it is registered, it shall, for the purpose of the examination of the opposition as provided for in paragraph 1, be deemed to be registered in respect of that part of the goods or services only.
3. Paragraphs 1 and 2 of this Article shall also apply where the earlier trade mark is an EU trade mark. In such a case, the genuine use of the EU trade mark shall be determined in accordance with Article 15 of Regulation (EC) No 207/2009.

*Article 45***Procedure for revocation or declaration of invalidity**

1. Without prejudice to the right of the parties to appeal to the courts, Member States shall provide for an efficient and expeditious administrative procedure before their offices for the revocation or declaration of invalidity of a trade mark.

2. The administrative procedure for revocation shall provide that the trade mark is to be revoked on the grounds provided for in Articles 19 and 20.
3. The administrative procedure for invalidity shall provide that the trade mark is to be declared invalid at least on the following grounds:
 - (a) the trade mark should not have been registered because it does not comply with the requirements provided for in Article 4;
 - (b) the trade mark should not have been registered because of the existence of an earlier right within the meaning of Article 5(1) to (3).
4. The administrative procedure shall provide that at least the following are to be entitled to file an application for revocation or for a declaration of invalidity:
 - (a) in the case of paragraph 2 and paragraph 3(a), any natural or legal person and any group or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders or consumers, and which, under the terms of the law governing it, has the capacity to sue in its own name and to be sued;
 - (b) in the case of paragraph 3(b) of this Article, the proprietor of an earlier trade mark as referred to in Article 5(2) and Article 5(3)(a), and the person authorised under the relevant law to exercise the rights arising from a protected designation of origin or geographical indication as referred to in Article 5(3)(c).
5. An application for revocation or for a declaration of invalidity may be directed against a part or the totality of the goods or services in respect of which the contested mark is registered.
6. An application for a declaration of invalidity may be filed on the basis of one or more earlier rights, provided they all belong to the same proprietor.

Article 46

Non-use as a defence in proceedings seeking a declaration of invalidity

1. In proceedings for a declaration of invalidity based on a registered trade mark with an earlier filing date or priority date, if the proprietor of the later trade mark so requests, the proprietor of the earlier trade mark shall furnish proof that, during the five-year period preceding the date of the application for a declaration of invalidity, the earlier trade mark has been put to genuine use, as provided for in Article 16, in connection with the goods or services in respect of which it is registered and which are cited as justification for the application, or that there are proper reasons for non-use, provided that the registration process of the earlier trade mark has at the date of the application for a declaration of invalidity been completed for not less than five years.
2. Where, at the filing date or date of priority of the later trade mark, the five-year period within which the earlier trade mark was to have been put to genuine use, as provided for in Article 16, had expired, the proprietor of the earlier trade mark shall, in addition to the proof required under paragraph 1 of this Article, furnish proof that the trade mark was put to genuine use during the five-year period preceding the filing date or date of priority, or that proper reasons for non-use existed.
3. In the absence of the proof referred to in paragraphs 1 and 2, an application for a declaration of invalidity on the basis of an earlier trade mark shall be rejected.
4. If the earlier trade mark has been used in accordance with Article 16 in relation to only part of the goods or services for which it is registered, it shall, for the purpose of the examination of the application for a declaration of invalidity, be deemed to be registered in respect of that part of the goods or services only.
5. Paragraphs 1 to 4 of this Article shall also apply where the earlier trade mark is an EU trade mark. In such a case, genuine use of the EU trade mark shall be determined in accordance with Article 15 of Regulation (EC) No 207/2009.

*Article 47***Consequences of revocation and invalidity**

1. A registered trade mark shall be deemed not to have had, as from the date of the application for revocation, the effects specified in this Directive, to the extent that the rights of the proprietor have been revoked. An earlier date, on which one of the grounds for revocation occurred, may be fixed in the decision on the application for revocation, at the request of one of the parties.
2. A registered trade mark shall be deemed not to have had, as from the outset, the effects specified in this Directive, to the extent that the trade mark has been declared invalid.

SECTION 3

Duration and renewal of registration*Article 48***Duration of registration**

1. Trade marks shall be registered for a period of 10 years from the date of filing of the application.
2. Registration may be renewed in accordance with Article 49 for further 10-year periods.

*Article 49***Renewal**

1. Registration of a trade mark shall be renewed at the request of the proprietor of the trade mark or any person authorised to do so by law or by contract, provided that the renewal fees have been paid. Member States may provide that receipt of payment of the renewal fees is to be deemed to constitute such a request.
2. The office shall inform the proprietor of the trade mark of the expiry of the registration at least six months before the said expiry. The office shall not be held liable if it fails to give such information.
3. The request for renewal shall be submitted and the renewal fees shall be paid within a period of at least six months immediately preceding the expiry of the registration. Failing that, the request may be submitted within a further period of six months immediately following the expiry of the registration or of the subsequent renewal thereof. The renewal fees and an additional fee shall be paid within that further period.
4. Where the request is submitted or the fees paid in respect of only some of the goods or services for which the trade mark is registered, registration shall be renewed for those goods or services only.
5. Renewal shall take effect from the day following the date on which the existing registration expires. The renewal shall be recorded in the register.

SECTION 4

Communication with the office*Article 50***Communication with the office**

Parties to the proceedings or, where appointed, their representatives, shall designate an official address for all official communication with the office. Member States shall have the right to require that such an official address be situated in the European Economic Area.

CHAPTER 4

ADMINISTRATIVE COOPERATION*Article 51***Cooperation in the area of trade mark registration and administration**

The offices shall be free to cooperate effectively with each other and with the European Union Intellectual Property Office in order to promote convergence of practices and tools in relation to the examination and registration of trade marks.

*Article 52***Cooperation in other areas**

The offices shall be free to cooperate effectively with each other and with the European Union Intellectual Property Office in all areas of their activities other than those referred to in Article 51 which are of relevance for the protection of trade marks in the Union.

CHAPTER 5

FINAL PROVISIONS*Article 53***Data protection**

The processing of any personal data carried out in the Member States in the framework of this Directive shall be subject to national law implementing Directive 95/46/EC.

*Article 54***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 3 to 6, Articles 8 to 14, Articles 16, 17 and 18, Articles 22 to 39, Article 41, Articles 43 to 50 by 14 January 2019. Member States shall bring into force the laws, regulations and administrative provisions to comply with Article 45 by 14 January 2023. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 55***Repeal**

Directive 2008/95/EC is repealed with effect from 15 January 2019, without prejudice to the obligations of the Member States relating to the time limit for the transposition into national law of Directive 89/104/EEC set out in Part B of Annex I to Directive 2008/95/EC.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in the Annex.

*Article 56***Entry into Force**

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

Articles 1, 7, 15, 19, 20, 21 and 54 to 57 shall apply from 15 January 2019.

*Article 57***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 16 December 2015.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
N. SCHMIT

ANNEX

Correlation table

Directive 2008/95/EC	This Directive
Article 1	Article 1
—	Article 2
Article 2	Article 3
Article 3(1)(a) to (h)	Article 4(1)(a) to (h)
—	Article 4(1)(i) to (l)
Article 3(2)(a) to (c)	Article 4(3)(a) to (c)
Article 3(2)(d)	Article 4(2)
Article 3(3), first sentence	Article 4(4), first sentence
—	Article 4(4), second sentence
Article 3(3), second sentence	Article 4(5)
Article 3(4)	—
Article 4(1) and (2)	Article 5(1) and (2)
Article 4(3) and (4)(a)	Article 5(3)(a)
—	Article 5(3)(b)
—	Article 5(3)(c)
Article 4(4)(b) and (c)	Article 5(4)(a) and (b)
Article 4(4)(d) to (f)	—
Article 4(4)(g)	Article 5(4)(c)
Article 4(5) and (6)	Article 5(5) and (6)
—	Article 8
Article 5(1), first sentence	Article 10(1)
Article 5(1), second sentence, introductory part	Article 10(2), introductory part of the sentence
Article 5(1)(a) and (b)	Article 10(2)(a) and (b)
Article 5(2)	Article 10(2)(c)
Article 5(3)(a) to (c)	Article 10(3)(a) to (c)
—	Article 10(3)(d)
Article 5(3)(d)	Article 10(3)(e)
—	Article 10(3)(f)
—	Article 10(4)
Article 5(4) and (5)	Article 10(5) and (6)
—	Article 11
—	Article 12
—	Article 13

Directive 2008/95/EC	This Directive
Article 6(1)(a) to (c)	Article 14(1)(a) to (c), and (2)
Article 6(2)	Article 14(3)
Article 7	Article 15
Article 8(1) and (2)	Article 25(1) and (2)
—	Article 25(3) to (5)
Article 9	Article 9
Article 10(1), first subparagraph	Article 16(1)
—	Article 16(2) to (4)
Article 10(1), second subparagraph	Article 16(5)
Article 10(2)	Article 16(6)
Article 10(3)	—
Article 11(1)	Article 46(1) to (3)
Article 11(2)	Article 44(1)
Article 11(3)	Article 17
Article 11(4)	Articles 17, 44(2) and Article 46(4)
—	Article 18
Article 12(1), first subparagraph	Article 19(1)
Article 12(1), second subparagraph	Article 19(2)
Article 12(1), third subparagraph	Article 19(3)
Article 12(2)	Article 20
Article 13	Article 7 and Article 21
Article 14	Article 6
—	Articles 22 to 24
—	Article 26
—	Article 27
Article 15(1)	Article 28(1) and (3)
Article 15(2)	Article 28(4)
—	Article 28(2) and (5)
—	Articles 29 to 54(1)
Article 16	Article 54(2)
Article 17	Article 55
Article 18	Article 56
Article 19	Article 57

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2015/2437

of 14 December 2015

on the conclusion, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) concerning the membership of the Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) The Union is competent to adopt measures for the conservation of marine biological resources under the common fisheries policy and to enter into agreements with third countries and international organisations.
- (2) Pursuant to Council Decision 98/392/EC ⁽²⁾, the Union is a Contracting Party to the United Nations Convention on the Law of the Sea of 10 December 1982. That convention requires all members of the international community to cooperate in conserving and managing the biological resources of the sea.
- (3) Pursuant to Council Decision 98/414/EC ⁽³⁾, the Union is a Contracting Party to the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.
- (4) On 1 December 2009 the Council authorised the European Commission to seek, on behalf of the Union, an amendment to the Convention for the Conservation of Southern Bluefin Tuna ('the Convention') in order for the Union to become a Contracting Party.
- (5) While the negotiations on the amendment to the Convention have not been conclusive, during its 20th meeting in October 2013, the Commission for the Conservation of Southern Bluefin Tuna ('CCSBT') amended the Resolution to establish an Extended Commission for the Conservation of Southern Bluefin Tuna ('CCSBT Extended Commission') to allow the Union to become a Member of the CCSBT Extended Commission through an Agreement in the form of an Exchange of Letters.

⁽¹⁾ Consent of 24 November 2015 (not yet published in the Official Journal).

⁽²⁾ Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

⁽³⁾ Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

- (6) On 20 April 2015 the Council authorised the signature and provisional application of the Agreement in the form of an Exchange of Letters between the European Union and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) concerning the membership of the Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna ('Agreement in the form of an Exchange of Letters').
- (7) Since vessels flying the flags of Member States of the Union fish resources in the area of distribution of Southern Bluefin Tuna, it is in the Union's interest to play an effective role in the implementation of the Convention.
- (8) Membership of the CCSBT Extended Commission will also promote consistency in the Union's conservation approach across oceans and reinforce its commitment to the long-term conservation and sustainable use of fisheries resources globally.
- (9) The Agreement in the form of an Exchange of Letters should therefore be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement in the form of an Exchange of Letters between the European Union and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) concerning the membership of the Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna is hereby approved on behalf of the Union ⁽¹⁾.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval with the Executive Secretary of the CCSBT, on behalf of the CCSBT, in accordance with Article 10 of the Convention.

Article 3

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

Done at Brussels, 14 December 2015.

For the Council
The President
F. ETGEN

⁽¹⁾ The Agreement in the form of an Exchange of Letters has been published in OJ L 234, 8.9.2015, p. 1, together with the Decision on signature.

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2015/2438

of 12 October 2015

establishing a discard plan for certain demersal fisheries in north-western waters

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC⁽¹⁾, and in particular Articles 15(6) and 18(1) and (3) thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act for a period of no more than three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Belgium, Ireland, Spain, France, the Netherlands and the United Kingdom have a direct fisheries management interest in the north-western waters. Those Member States have submitted a joint recommendation to the Commission after consultation of the North Western Waters Advisory Council. Scientific contribution was obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). The measures included in the joint recommendation comply with Article 15(6) of Regulation (EU) No 1380/2013 and therefore, in accordance with Article 18(3) of that Regulation, they should be included in this Regulation.
- (4) As regards the north-western waters, according to Article 15(1)(c) of Regulation (EU) No 1380/2013 the landing obligation should apply to the species that define the fisheries which are subject to catch limits at the latest from 1 January 2016. In accordance with the joint recommendation, the discard plan should cover fisheries which define the highly mixed cod, haddock, whiting and saithe fishery, Norway lobster (*Nephrops*) fishery, mixed common sole and plaice fishery, and hake fishery from 1 January 2016.
- (5) The joint recommendation suggested that an exemption for landing obligation be applied to Norway lobster caught by pots, traps or creels in ICES division VIa and subarea VII, as scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem. STECF concluded that the exemption was grounded. Therefore, the exemption concerned should be included in this Regulation.
- (6) The joint recommendation includes seven *de minimis* exemptions from the landing obligation for certain fisheries and up to certain levels. The evidence provided by the Member States was reviewed by the STECF, which in general concluded that the joint recommendation contained reasoned arguments that further improvements in the selectivity are difficult to achieve and/or regarding disproportionate costs in handling unwanted catches, supported in some cases with a qualitative assessment of the costs. In light of the above and in the absence of differing scientific information, it is appropriate to establish the *de minimis* exemptions in accordance with the percentage level proposed in the joint recommendation and at levels not exceeding those allowed under Article 15(1) of Regulation (EU) No 1380/2013.

⁽¹⁾ OJ L 354, 28.1.2013, p. 22.

- (7) The *de minimis* exemption for common sole, up to a maximum of 3 % in 2016-2018 of the total annual catches of this species by vessels using trammel and gill nets to catch common sole in ICES divisions VIId, VIIe, VIIf and VIIg, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that the exemption is well defined and therefore, the exemption concerned should be included in this Regulation.
- (8) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of less than 100 mm to catch whiting in ICES divisions VIId and VIIe, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that sufficient evidence is provided to support the exemption, but that additional information should be sought to evaluate the *de minimis* volume. Therefore, this exemption can be included in the Regulation only with a provision asking the Member States concerned to submit further data to the Commission to allow STECF to fully assess the current discard level compared to the volume of the *de minimis* requested.
- (9) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of not less than 100 mm to catch whiting in ICES divisions VIIb-VIIj, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that sufficient evidence is provided to support the exemption, but that additional information should be sought to evaluate the *de minimis* volume. STECF further noted that further selectivity studies were ongoing. Therefore, this exemption is included in the Regulation, with a provision asking the Member States concerned to submit further data to the Commission to allow STECF to fully assess current discard rates in the fisheries concerned.
- (10) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of less than 100 mm to catch whiting in ICES divisions VII (excluding VIIa, VIId and VIIe), is based on the fact that increases in selectivity are very difficult to achieve. STECF noted that the basis for this exemption has little quantified information on selectivity. STECF concluded that additional information should be sought to evaluate this *de minimis* exemption. Therefore, this exemption can be included in the Regulation only with a provision asking the Member States concerned to submit further data to the Commission to allow STECF to better assess the information supporting this exemption.
- (11) The *de minimis* exemption for Norway lobster, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES subarea VII, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that the exemption was grounded. Therefore, the exemption concerned should be included in this Regulation.
- (12) The *de minimis* exemption for Norway lobster, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES division VIa, is based on the fact that increases in selectivity are very difficult to achieve and there is supporting quantitative information on disproportionate costs of handling unwanted catches. STECF concluded that the exemption was grounded. Therefore, the exemption concerned should be included in this Regulation.
- (13) The *de minimis* exemption for common sole, up to a maximum of 3 % in 2016-2018 of the total annual catches of this species by vessels using gear with increased selectivity in ICES divisions VIId, VIIe, VIIf and VIIg, is based on the fact that increases in selectivity are very difficult to achieve. STECF noted that the exemption is to compensate for the use of a more selective gear and the *de minimis* exemption requested is to cover residual discards. Therefore, the exemption concerned should be included in this Regulation.
- (14) Since the measures provided for in this Regulation impact directly on the economic activities linked to and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication. It should apply from 1 January 2016 in order to comply with the time-frame set out in Article 15 of Regulation (EU) No 1380/2013. In accordance with Article 15(6) of that Regulation, this Regulation should apply for no more than 3 years,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation specifies the details for implementing the landing obligation, provided for in Article 15(1) of Regulation (EU) No 1380/2013, and shall apply from 1 January 2016 in the North-Western Waters, as defined in Article 4(2)(c) of that Regulation, in the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

The exemption from the landing obligation provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 for species for which scientific evidence demonstrates high survival rates shall apply to Norway lobster (*Nephrops norvegicus*) caught in pots, traps or creels (Gear codes ⁽¹⁾ FPO and FIX) in ICES division VIa and subarea VII.

Article 3

De minimis exemptions

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded:

- (a) for common sole (*Solea solea*), up to a maximum of 3 % in 2016, 2017 and 2018 of the total annual catches of this species by vessels using trammel and gill nets to catch common sole in ICES divisions VIId, VIIe, VIIf and VIIg;
- (b) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of less than 100 mm to catch whiting in ICES divisions VIId and VIIe;
- (c) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of not less than 100 mm to catch whiting in ICES divisions VIIb-VIIj;
- (d) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of less than 100 mm to catch whiting in ICES subarea VII, except divisions VIIa, d and e.
- (e) for Norway lobster (*Nephrops norvegicus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES subarea VII;
- (f) for Norway lobster (*Nephrops norvegicus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES division VIa;
- (g) for common sole (*Solea solea*), up to a maximum of 3 % in 2016, 2017 and 2018 of the total annual catches of this species by vessels using gear with increased selectivity (TBB gear with mesh size of 80-199 mm) in ICES divisions VIId, VIIe, VIIf and VIIg.

2. By 1 May 2016, Member States having a direct management interest in north-western waters shall submit to the Commission additional discard data and any other relevant scientific information supporting the exemptions laid down in paragraph 1(b), (c) and (d). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information by 1 September 2016 at the latest.

⁽¹⁾ Gear codes used in this Regulation are defined by the Food and Agriculture Organisation of the United Nations.

*Article 4***Vessels subject to the landing obligation**

1. Member States shall determine, in accordance with the criteria laid down in the Annex to this Regulation, the vessels subject to the landing obligation for each particular fishery.
2. By 31 December 2015, the Member States concerned shall submit to the Commission and other Member States, using the secure Union control website, the lists of vessels determined pursuant to paragraph 1 for each particular fishery set out in Annex. They shall keep those lists updated.

*Article 5***Entry into force**

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

It shall apply from 1 January 2016 until 31 December 2018.

Article 4 shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 12 October 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Fisheries subject to the landing obligation

(a) Fisheries in ICES division VIa and Union waters of ICES division Vb

Fishery	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Cod (<i>Gadus morhua</i>), Haddock (<i>Melanogrammus aeglefinus</i>), Whiting (<i>Merlangius merlangus</i>) and Saithe (<i>Pollachius virens</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	Where total landings per vessel of all species in 2013 and 2014 consist of more than 10 % of the following gadoids: cod, haddock, whiting and saithe combined, the landing obligation shall apply to haddock.
Norway lobster (<i>Nephrops norvegicus</i>)	OTB, SSC, OTT, PTB, SDN, SPR, FPO, TBN, TB, TBS, SX, SV, FIX, OT, PT, TX	Trawls, Seines, Pots, Traps & Creels	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 30 % of Norway lobster, the landing obligation shall apply to Norway lobster.

(b) Fisheries with combined TAC for ICES subareas VI and VII and Union waters of ICES division Vb for hake

Fishery	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Hake (<i>Merluccius merluccius</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 30 % of hake, the landing obligation shall apply to hake.
Hake (<i>Merluccius merluccius</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Gill Nets	All	All catches of hake shall be subject to the landing obligation.
Hake (<i>Merluccius merluccius</i>)	LL, LLS, LLD, LX, LTL, LHP, LHM	All Long lines	All	All catches of hake shall be subject to the landing obligation.

(c) Fisheries with TAC covering ICES subarea VII for Norway lobster

Fishery	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Norway lobster (<i>Nephrops norvegicus</i>)	OTB SSC, OTT, PTB, SDN, SPR, FPO, TBN, TB, TBS, SX, SV, FIX, OT, PT, TX	Trawls, Seines, Pots, Traps & Creels	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 30 % of Norway lobster, the landing obligation shall apply to Norway lobster.

(d) Fisheries in ICES division VIIa

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Cod (<i>Gadus morhua</i>), Haddock (<i>Melanogrammus aeglefinus</i>), Whiting (<i>Merlangius merlangus</i>) and Saithe (<i>Pollachius virens</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	Where total landings per vessel of all species in 2013 and 2014 consist of more than 10 % of the following gadoids: cod, haddock, whiting and saithe combined, the landing obligation shall apply to haddock.

(e) Fisheries in ICES division VIId

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Common Sole (<i>Solea solea</i>)	TBB	All Beam trawls	All	All catches of common sole are subject to the landing obligation.
Common Sole (<i>Solea solea</i>)	OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX	Trawls	< 100 mm	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 5 % of common sole, the landing obligation shall apply to common sole.
Common Sole (<i>Solea solea</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole shall be subject to the landing obligation.
Cod (<i>Gadus morhua</i>), Haddock (<i>Melanogrammus aeglefinus</i>), Whiting (<i>Merlangius merlangus</i>) and Saithe (<i>Pollachius virens</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls and Seines	All	Where total landings per vessel of all species in 2013 and 2014 consist of more than 25 % of the following gadoids: cod, haddock, whiting and saithe combined, the landing obligation shall apply to whiting.

(f) Fisheries in ICES division VIIe — common sole

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Common Sole (<i>Solea solea</i>)	TBB	All Beam trawls	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 10 % of common sole, the landing obligation shall apply to common sole.
Common Sole (<i>Solea solea</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole shall be subject to the landing obligation.

(g) Fisheries in ICES divisions VIIb, VIIc and VIIf-VIIk

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Common Sole (<i>Solea solea</i>)	TBB	All Beam trawls	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 5 % of common sole, the landing obligation shall apply to common sole.
Common Sole (<i>Solea solea</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole shall be subject to the landing obligation.

(h) Fisheries in ICES divisions VIIb, VIIc, VIIe and VIIf-VIIk

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Cod (<i>Gadus morhua</i>), Haddock (<i>Melanogrammus aeglefinus</i>), Whiting (<i>Merlangius merlangus</i>) and Saithe (<i>Pollachius virens</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	Where total landings per vessel of all species in 2013 and 2014 consist of more than 25 % of the following gadoids: cod, haddock, whiting and saithe combined, the landing obligation shall apply to whiting.

COMMISSION DELEGATED REGULATION (EU) 2015/2439
of 12 October 2015
establishing a discard plan for certain demersal fisheries in south-western waters

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the common fisheries policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC⁽¹⁾, and in particular Articles 15(6) and 18(1) and (3) thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act for a period of no more than three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the south-western waters. Those Member States have submitted a joint recommendation to the Commission after consultation of the South Western Waters Advisory Council. Scientific contribution was obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). The measures included in the joint recommendation comply with Article 15(6) of Regulation (EU) No 1380/2013 and therefore, in accordance with Article 18(3) of that Regulation, they should be included in this Regulation.
- (4) As regards the south-western waters, according to Article 15(1)(c) of Regulation (EU) No 1380/2013 the landing obligation applies to the species that define the fisheries at the latest from 1 January 2016. In accordance with the joint recommendation, the discard plan should cover the fisheries of common sole, hake and Norway lobster (only inside the stocks' distribution areas referred to as 'functional units') in ICES divisions VIIIa, b, d, e; Norway lobster in ICES divisions VIIIc and IXa (only inside functional units); common sole and plaice in ICES division IXa; and hake in ICES divisions VIIIc and IXa.
- (5) The joint recommendation suggested that an exemption from the landing obligation be applied to Norway lobster caught by trawls in ICES subareas VIII and IX, as existing scientific evidence indicates possible high survival rates, taking into account the characteristics of the gears targeting this species, the fishing practices and the ecosystem. The STECF in its evaluation concludes that more studies are needed to corroborate the existing findings, and notes that such studies are underway and planned. Therefore, this exemption should be included in the Regulation for the year 2016, with a provision asking the Member States concerned to submit further data to the Commission to allow STECF to fully assess the justifications for the exemption.
- (6) The joint recommendation includes three *de minimis* exemptions from the landing obligation for certain fisheries and up to certain levels. The evidence provided by the Member States was reviewed by the STECF. The STECF concludes that the joint recommendation contained reasoned arguments related to the difficulty of increasing selectivity combined with disproportionate costs of handling unwanted catches. In light of the above it is appropriate to establish the *de minimis* exemptions in accordance with the percentage level proposed in the joint recommendation and at levels not exceeding those allowed under Article 15(1) of Regulation (EU) No 1380/2013.

⁽¹⁾ OJ L 354, 28.1.2013, p. 22.

- (7) The *de minimis* exemption for common sole, up to a maximum of 5 % of the total annual catches of this species by vessels targeting this species in ICES divisions VIIIa and VIIIb with beam trawls and bottom trawls, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that the supporting information is sufficient to justify the exemption claimed. Therefore, the exemption concerned should be included in this Regulation.
- (8) The *de minimis* exemption for common sole, up to a maximum of 3 % of the total annual catches of this species by vessels targeting this species in ICES divisions VIIIa and VIIIb with trammel nets and gillnets, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that the supporting information is sufficient to justify the exemption claimed. Therefore, the exemption concerned should be included in this Regulation.
- (9) The *de minimis* exemption for hake, up to a maximum of 7 % in 2016 and 2017 and 6 % in 2018 of the total annual catches of this species by vessels targeting this species in ICES subareas VIII and IX with trawls, is based on the fact that viable increases in selectivity are very difficult to achieve. The existing supporting information presented demonstrates that increasing selectivity in the fisheries concerned would lead to losses of marketable fish that would make the fisheries potentially uneconomic. Moreover, STECF pointed out that it should be supplemented by further selectivity studies in the relevant fisheries. Therefore, this exemption should be included in the Regulation, with a provision asking the Member States concerned to submit further data to the Commission to allow STECF to fully assess the justifications for the exemption.
- (10) Since the measures provided for in this Regulation impact directly on the economic activities linked to and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication. It should apply from 1 January 2016 in order to comply with the time-frame set out in Article 15 of Regulation (EU) No 1380/2013. In accordance with Article 15(6) of that Regulation, this Regulation should apply for no more than three years,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation specifies the details for implementing the landing obligation, provided for in Article 15(1) of Regulation (EU) No 1380/2013, and shall apply in the south-western waters, as defined in Article 4(2)(d) of that Regulation, in the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

1. The exemption from the landing obligation provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 for species for which scientific evidence demonstrates high survival rates shall apply in 2016 to Norway lobster (*Nephrops norvegicus*) caught in ICES subareas VIII and IX by trawls (gear codes ⁽¹⁾: OTB, OTT, PTB, TBN, TBS, TB, OT, PT and TX).
2. Member States having a direct management interest in south-western waters shall submit, by 1 May 2016, additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information by 1 September 2016.

⁽¹⁾ Gear codes used in this Regulation are defined by the Food and Agriculture Organisation of the United Nations.

*Article 3***De minimis exemptions**

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded:
 - (a) for common sole (*Solea solea*), up to a maximum of 5 % of the total annual catches of this species by vessels using beam trawl (gear code: TBB) and bottom trawls (gear codes: OTB, OTT, PTB, TBN, TBS, TB, OT, PT and TX) targeting this species in ICES divisions VIIIa and VIIIb;
 - (b) for common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches of this species by vessels using trammel nets and gillnets (gear codes: GNS, GN, GND, GNC, GTN, GTR and GEN) targeting this species in ICES divisions VIIIa and VIIIb;
 - (c) for hake (*Merluccius merluccius*), up to a maximum of 7 % in 2016 and 2017 and up to 6 % in 2018 of the total annual catches of this species by vessels using trawls (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX and SV) targeting this species in ICES subareas VIII and IX.
2. By 1 May 2016, Member States having a direct management interest in the south-western waters shall submit to the Commission additional discard data and any other relevant scientific information supporting the exemption laid down in paragraph 1(c). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information by 1 September 2016.

*Article 4***Vessels subject to the landing obligation**

1. Member States shall determine, in accordance with the criteria laid down in the Annex to this Regulation, the vessels subject to the landing obligation for each particular fishery.
2. By 31 December 2015, the Member States concerned shall submit to the Commission and other Member States, using the secure Union control website, the lists of vessels determined pursuant to paragraph 1 for each particular fishery set out in Annex. They shall keep those lists updated.

*Article 5***Entry into force**

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

It shall apply from 1 January 2016 until 31 December 2018.

Article 4 shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 12 October 2015.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Fisheries subject to the landing obligation

(a) Fisheries in ICES divisions VIIIa, b, d and e

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Common sole (<i>Solea solea</i>)	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All Bottom Trawls	Mesh size between 70 mm and 100 mm wide	All catches of common sole are subject to the landing obligation.
	TBB	All Beam trawls	Mesh size between 70 mm and 100 mm wide	
	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	Mesh size larger or equal to 100 mm wide	
Hake (<i>Merluccius merluccius</i>)	OTT, OTB, PTB, SDN, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SX, SV	All Bottom Trawls & Seines	Mesh size larger or equal to 100 mm wide	All catches of hake are sub- ject to the landing obliga- tion.
	LL, LLS	All Long lines	All	
	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size larger or equal to 100 mm wide	
Norway lobster (<i>Nephrops norvegicus</i>) only inside func- tional units	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All Bottom Trawls	Mesh size larger or equal to 70 mm	All catches of Norway lob- ster are subject to the land- ing obligation.

(b) Fisheries in ICES divisions VIIIc and IXa

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Norway lobster (<i>Nephrops norvegicus</i>) only inside func- tional units	OTB, PTB, OTT, TBN, TBS, OT, PT, TX TB	All Bottom Trawls	Mesh size larger or equal to 70 mm	All catches of Norway lob- ster are subject to the land- ing obligation.

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Hake (<i>Merluccius merluccius</i>)	OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV	All Bottom Trawls and Seines	Vessels which fulfil the following cumulative criteria: 1. Use mesh size larger or equal to 70 mm 2. Total hake landings in the period 2013/2014 consist of: more than 10 % of all landed species and more than 10 metric tons.	All catches of hake are subject to the landing obligation.
	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Vessels which fulfil the following cumulative criteria: 1. Use mesh size between 80 and 99 mm wide 2. Total hake landings in the period 2013/2014 consist of more than 10 % of all landed species and more than 10 metric tons.	
	LL, LLS	All Long lines	Vessels which fulfil the following cumulative criteria: 1. Hook size bigger than 3,85 +/-1,15 length and 1,6 +/-0,4 width 2. Total hake landings in the period 2013/2014 consist of more than 10 % of all landed species and more than 10 metric tons.	

(c) Fisheries in ICES division IXa

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Common sole (<i>Solea solea</i>) and plaice (<i>Pleuronectes platessa</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	Mesh size larger or equal to 100 mm	All catches of common sole and plaice are subject to the landing obligation.

COMMISSION DELEGATED REGULATION (EU) 2015/2440**of 22 October 2015****establishing a discard plan for certain demersal fisheries in the North Sea and in Union waters of ICES Division IIa**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC⁽¹⁾, and in particular Article 15(6) and Article 18(1) and (3) thereof, and to Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms⁽²⁾, and in particular Articles 18a and 48a thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of delegated acts for a period of no more than three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Belgium, Denmark, Germany, France, the Netherlands, Sweden and the United Kingdom have a direct fisheries management interest in the North Sea. Those Member States have submitted a joint recommendation to the Commission after having consulted the North Sea Advisory Council and the Long Distance Advisory Council. Scientific contribution was obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). The measures included in the joint recommendation comply with Article 18(3) of Regulation (EU) No 1380/2013.
- (4) For the purposes of Regulation (EU) No 1380/2013, the North Sea comprises ICES zones IIIa and IV. As some demersal stocks relevant to the proposed discard plan are also to be found in Union waters of ICES Division IIa, Member States recommend that this Division is covered by the discard plan.
- (5) As regards the North Sea, in accordance with Article 15(1)(c) of Regulation (EU) No 1380/2013 the landing obligation applies to the species that define the fisheries which are subject to catch limits at the latest from 1 January 2016 in the mixed fisheries for cod, haddock, whiting and saithe; in the fisheries for Norway lobster; in the mixed fishery for common sole and plaice; in the fisheries for hake and in the fisheries for Northern prawn. In accordance with Article 15(5) of Regulation (EU) No 1380/2013, the discard plan identifies the species which have to be landed as from 1 January 2016. These species are saithe, haddock, Norway lobster, common sole, plaice, hake and Northern prawn. This discard plan also establishes an obligation to land bycatches of Northern prawn.
- (6) The joint recommendation suggested that two exemptions from the landing obligation be applied to Norway lobster caught, respectively, with pots and with certain bottom trawls (OTB, TBN⁽³⁾) in ICES Division IIIa. Based on the scientific evidence provided in the joint recommendation and reviewed by STECF and taking into account

⁽¹⁾ OJ L 354, 28.12.2013, p. 22.

⁽²⁾ OJ L 125, 27.4.1998, p. 1.

⁽³⁾ Gear codes used in this Regulation refer to those codes in Annex XI to Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common fisheries policy. For the vessels whose LOA is less than 10 metres gear codes used in this table refer to the codes from the FAO gear classification.

the characteristics of the gear, of the fishing practices and of the ecosystem, the Commission considers that those exemptions should be included in this Regulation. Member States should submit additional data in order to enable STECF to further assess the survival rates of Norway lobster caught with the trawls concerned and the Commission to review the relevant exemption after 2016.

- (7) The joint recommendation includes five *de minimis* exemptions from the landing obligation for certain fisheries and up to certain levels. The evidence provided by the Member States was reviewed by the STECF, which in general concluded that the joint recommendation, supported in some cases with a qualitative assessment of the costs, contained reasoned arguments that further improvements in selectivity are difficult to achieve and/or imply disproportionate costs in handling unwanted catches. As such conclusion is not contradicted by differing scientific information, it is appropriate to establish the *de minimis* exemptions in accordance with the percentage level proposed in the joint recommendation, within the limits of Article 15(5)(c) of Regulation (EU) No 1380/2013.
- (8) The *de minimis* exemption suggested in the joint recommendation for common sole and haddock combined, up to a maximum of 2 % of the total annual catches of Norway lobster, sole and haddock in the fishery for Norway lobster by vessels using bottom trawls with a species selective grid in ICES Division IIIa, is based on the fact that increases in selectivity are very difficult to achieve. The STECF concluded that the supporting information is sufficient to justify the exemption claimed. Therefore, the exemption concerned should be included in this Regulation.
- (9) The *de minimis* exemption suggested in the joint recommendation for common sole, up to a maximum of 3 % of the total annual catches of this species by vessels using trammel and gill nets to catch common sole in ICES Division IIIa, Subarea IV and Union waters of ICES Division IIa, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that the supporting information is sufficient to justify the exemption claimed. Therefore, the exemption concerned should be included in this Regulation.
- (10) The *de minimis* exemption suggested in the joint recommendation for common sole smaller than 19 cm, up to a maximum of 3,7 % of the total annual catches of this species by vessels using beam trawl with a mesh size of 80-90 mm in ICES Subarea IV South of 55/56° N, is based on the fact that increases in selectivity are very difficult to achieve and that there is supporting quantitative information on disproportionate costs of handling of unwanted catches. The Commission considers that it is appropriate to include that exemption in this Regulation. Member States should submit additional data as regards the costs concerned, in order to enable the Commission to review that exemption after 2016.
- (11) The *de minimis* exemption suggested in the joint recommendation for common sole, up to a maximum of 7 % of the total annual catches of this species by vessels using beam trawls with increased selectivity in ICES Subarea IV, is based on the fact that increases in selectivity are very difficult to achieve. The STECF concluded that the supporting information is sufficient to justify the suggested exemption. Therefore, the exemption concerned should be included in this Regulation.
- (12) The *de minimis* exemption suggested in the joint recommendation for Norway lobster smaller than minimum conservation reference size, up to a maximum of 6 % of the total annual catches of this species by vessels using certain bottom trawls in ICES Subarea IV and Union waters of ICES Division IIa, is based on the fact there is supporting quantitative information on disproportionate costs of handling and disposal of unwanted catches. The STECF concluded that the supporting information is sufficient to justify the suggested exemption. Therefore, the exemption concerned should be included in this Regulation.
- (13) Article 18a of Regulation (EC) No 850/98 empowers the Commission to establish, for the purpose of adopting discard plans and for the species subject to the landing obligation, a minimum conservation reference size (MCRS) with the aim of ensuring the protection of juveniles of marine organisms. MCRS may derogate, where appropriate, from the sizes established in Annex XII to that Regulation. Currently, for Norway lobster a MCRS of 130 mm is established in that Annex XII. Scientific evidence reviewed by the STECF supports the setting of MCRS for Norway lobster at 105 mm. In particular, STECF concluded that the proposed MCRS is above the average maturity size and that the risk to the population of reducing the MCRS in ICES Division IIIa is small.

- (14) Discard plans may also include technical measures regarding fisheries or species covered by the landing obligation. In order to increase gear selectivity and reduce unwanted catches in the Skagerrak, it is appropriate to provide for a number of technical measures, which were agreed between the Union and Norway in 2011, ⁽¹⁾ and 2012 ⁽²⁾.
- (15) In order to ensure appropriate control, specific requirements for the Member States to establish lists of vessels covered by this Regulation should be laid down.
- (16) As the measures provided for in this Regulation have a direct impact on the economic activities linked to and the planning of the fishing season of Union vessels, it should enter into force immediately after its publication. It should apply from 1 January 2016 in order to comply with the time-frame set out in Article 15 of Regulation (EU) No 1380/2013. In accordance with Article 15(6) of that Regulation, this Regulation should apply for no more than one year,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation specifies the details for implementing the landing obligation, provided for in Article 15(1) of Regulation (EU) No 1380/2013, in the North Sea and in Union waters of ICES Division IIa that shall apply in the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

1. The exemption from the landing obligation provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013, for species for which scientific evidence demonstrates high survival rates, shall apply to the following catches of Norway lobster:

- (a) catches with pots (FPO);
- (b) catches in ICES Division IIIa with bottom trawls (OTB, TBN) with a mesh size of at least 70 mm equipped with a species selective grid with bar spacing of maximum 35 mm; and
- (c) catches in ICES Division IIIa with bottom trawls (OTB, TBN) with a mesh size of at least 90 mm equipped with a top panel of at least 270 mm mesh size (diamond mesh) or at least 140 mm mesh size (square mesh).

2. Norway lobster caught in cases referred to in paragraph 1(a), (b) and (c) shall be released immediately and in the area where it has been caught.

3. By 30 April 2016, Member States having a direct management interest in the North Sea shall submit to the Commission additional scientific information supporting the exemption laid down in paragraph 1(b).

⁽¹⁾ Agreed record of fisheries consultations between Norway and the European Union on the regulation of fisheries in the Skagerrak and the Kattegat for 2012.

⁽²⁾ Agreed record of fisheries consultations between the European Union and Norway on measures for the implementation of a discard ban and control measures in the Skagerrak area, 4 July 2012.

*Article 3***De minimis exemptions**

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded:
 - (a) for common sole and haddock combined, up to a maximum of 2 % of the total annual catches of Norway lobster, common sole and haddock in the fishery for Norway lobster by vessels using bottom trawls (OTB, TBN) of mesh size equal to or larger than 70 mm equipped with a species selective grid with bar spacing of maximum 35 mm in ICES Division IIIa;
 - (b) for common sole, up to a maximum of 3 % of the total annual catches of this species by vessels using trammel nets and gill nets (GN, GNS, GND, GNC, GTN, GTR, GEN, GNF) in the ICES Division IIIa, Subarea IV and Union waters of ICES Division IIa;
 - (c) for common sole smaller than 19 cm, up to a maximum of 3,7 % of the total annual catches of this species by vessels using beam trawls (TBB) of mesh size 80-90 mm in the southern part of the North Sea (ICES Subarea IV South of 55/56° N);
 - (d) for common sole below minimum conservation reference size, up to a maximum of 7 % of the total annual catches of this species by vessels using beam trawl (TBB) of mesh size 80-119 mm with increased mesh size in the extension of the beam trawl in ICES Subarea IV;
 - (e) for Norway lobster below minimum conservation reference size, up to a maximum of 6 % of the total annual catches of this species by vessels using bottom trawls (OTB, TBN, OTT, TB) of mesh size 80-99 mm in ICES Subarea IV and Union waters of ICES Division IIa.
2. By 30 April 2016, Member States having a direct management interest in the North Sea shall submit to the Commission additional scientific information supporting the exemption laid down in paragraph 1(c).

*Article 4***Minimum conservation reference size**

By way of derogation from the minimum conservation reference size established in Annex XII to Regulation (EC) No 850/98 and for the purposes of this Regulation, the minimum conservation reference size of Norway lobster in ICES Division IIIa shall be as follows:

- (a) total length of 105 mm;
- (b) carapace length of 32 mm.

*Article 5***Specific technical measures in the Skagerrak**

1. The carrying on board or the use of any trawl, Danish seine, beam trawl or similar towed net having a mesh size of less than 120 mm shall be prohibited.
2. By way of derogation from paragraph 1, trawls with at least 90 mm cod end may be used, provided they are equipped with:
 - (a) a square mesh panel of at least 140 mm;
 - (b) a diamond mesh panel of at least 270 mm placed in a four panel section and mounted with a joining ration of three meshes of 90 mm to one mesh of 270 mm; or

(c) a sorting grid with no more than 35 mm bar spacing.

The derogation provided for in points (a) and (b) of the first subparagraph shall apply provided the panel of the trawl is:

- at least 3 metres long,
- positioned no more than 4 metres from the cod line, and
- the full width of the top sheet of the trawl (i.e. from selvedge to selvedge).

3. By way of derogation from paragraph 1, the following trawls also may be used:

- (a) trawls with at least 70 mm square mesh cod end equipped with a sorting grid with no more than 35 mm bar spacing;
- (b) trawls with minimum mesh sizes of less than 70 mm when fishing for pelagic or industrial species, provided the catch contains more than 80 % of one or more pelagic or industrial species;
- (c) trawls with at least 35 mm cod end when fishing for *Pandalus*, provided the trawl is equipped with a sorting grid with a maximum bar spacing of 19 mm.

4. A fish retention device may be used when fishing for *Pandalus* in accordance with paragraph 3(c), provided there are adequate fishing opportunities to cover by-catch and that the retention device is

- constructed with a top panel of a minimum mesh size of 120 mm square mesh,
- at least 3 metres long, and
- at least as wide as the width of the sorting grid.

Article 6

List of vessels

Member States shall determine, in accordance with the criteria laid down in the Annex to this Regulation, the vessels subject to the landing obligation for each particular fishery.

By 31 December 2015 they shall submit to the Commission and other Member States, using the secure Union control website, the lists of all saithe targeting vessels, as defined in the Annex, established pursuant to the first paragraph. They should keep those lists updated.

Article 7

Entry into force

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

It shall apply from 1 January 2016 until 31 December 2016.

However, Article 6 shall apply as from the date of entry into force of this Regulation.

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

Done at Brussels, 22 October 2015.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Fisheries subject to the landing obligation

Fishing gear ⁽¹⁾ ⁽²⁾	Mesh size	Species concerned
Trawls: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	> 100 mm	All catches of saithe (if caught by a saithe targeting vessel ⁽³⁾), plaice and haddock. All by-catches of Northern prawn.
Trawls: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	In ICES Subarea IV and in Union waters of ICES Division IIa: 80-99 mm	In all areas, all catches of Norway lobster and common sole ⁽⁴⁾ . All by-catches of Northern prawn.
	In ICES Division IIIa: 70-99 mm	In ICES Division IIIa: all catches of haddock.
Trawls: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	32-69 mm	All catches of Northern prawn.
Beam trawls: TBB	> 120 mm	All catches of plaice. All by-catches of Northern prawn.
Beam trawls: TBB	80-119 mm	All catches of common sole. Any by-catches of Northern prawn.
Gillnets, trammel nets and entangling nets: GN, GNS, GND, GNC, GTN, GTR, GEN, GNF		All catches of common sole. All by-catches of Northern prawn.
Hooks and lines: LLS, LLD, LL, LTL, LX, LHP, LHM		All catches of hake. All by-catches of Northern prawn.
Traps: FPO, FIX, FYK, FPN		All catches of Norway lobster. All by-catches of Northern prawn.

⁽¹⁾ Gear codes used in this Table refer to those codes in Annex XI to Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common fisheries policy.

⁽²⁾ For the vessels whose LOA is less than 10 metres gear codes used in this table refer to the codes from the FAO gear classification.

⁽³⁾ Vessels are considered as saithe targeting if, when using trawls with mesh size ≥ 100 mm, they have had annual average landings of saithe of ≥ 50 % of all landings by the vessel taken in both EU and third country zone of the North Sea over the period of $x-4$ to $x-2$ where x is the year of application; i.e. 2012-2014 for 2016 and 2013-2015 for 2017.

⁽⁴⁾ Except in ICES division IIIa when fishing with trawls with a mesh size of at least 90 mm equipped with a top panel of at least 270 mm mesh size (diamond mesh) or at least 140 mm mesh size (square mesh) or 120 mm square mesh panel placed 6 to 9 meters from the cod-end.

COMMISSION REGULATION (EU) 2015/2441**of 18 December 2015****amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Accounting Standard 27****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008 ⁽²⁾ certain international standards and interpretations that were in existence at 15 October 2008 were adopted.
- (2) On 12 August 2014, the International Accounting Standards Board published amendments to International Accounting Standard (IAS) 27 *Separate Financial Statements* entitled *Equity Method in Separate Financial Statements*. The objective of the Amendments is to permit entities to use the equity method, as described in IAS 28 *Investments in Associates and Joint Ventures*, to account for investments in subsidiaries, joint ventures and associates in their separate financial statements.
- (3) Amendments to IAS 27 imply by way of consequence amendments to International Financial Reporting Standard (IFRS) 1 and IAS 28 in order to ensure consistency between international accounting standards.
- (4) The amendments to IAS 27 contain some references to IFRS 9 that at present cannot be applied as IFRS 9 has not been adopted by the Union. Therefore, any reference to IFRS 9 as laid down in the Annex to this Regulation should be read as a reference to International Accounting Standard (IAS) 39 *Financial Instruments: Recognition and Measurement*.
- (5) The European Financial Reporting Advisory Group confirms that the amendments to IAS 27 meet the criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.
- (6) Regulation (EC) No 1126/2008 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Annex to Regulation (EC) No 1126/2008 is amended as follows:
 - (a) International Financial Reporting Standard (IFRS) 1 *First-time Adoption of International Financial Reporting Standards* is amended as set out in the Annex to this Regulation;
 - (b) International Accounting Standard (IAS) 27 *Separate Financial Statements* is amended as set out in the Annex to this Regulation;
 - (c) International Accounting Standard 28 *Investments in Associates and Joint Ventures* is amended as set out in the Annex to this Regulation.

⁽¹⁾ OJ L 243, 11.9.2002, p. 1.⁽²⁾ Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).

2. Any reference to IFRS 9 as laid down in the Annex to this Regulation shall be read as a reference to IAS 39 *Financial Instruments: Recognition and Measurement*.

Article 2

Each company shall apply the amendments referred to in Article 1, at the latest, as from the commencement date of its first financial year starting on or after 1 January 2016.

Article 3

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

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

Done at Brussels, 18 December 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Equity Method in Separate Financial Statements

(Amendments to IAS 27)

Amendments to IAS 27**Separate Financial Statements**

Paragraphs 4–7, 10, 11B and 12 are amended and paragraph 18J is added.

DEFINITIONS

4. The following terms are used in this Standard with the meanings specified:

...

Separate financial statements are those presented by an entity in which the entity could elect, subject to the requirements in this Standard, to account for its investments in subsidiaries, joint ventures and associates either at cost, in accordance with IFRS 9 *Financial Instruments*, or using the equity method as described in IAS 28 *Investments in Associates and Joint Ventures*.

5. The following terms are defined in Appendix A of IFRS 10 *Consolidated Financial Statements*, Appendix A of IFRS 11 *Joint Arrangements* and paragraph 3 of IAS 28:

— associate

— equity method

— ...

6. Separate financial statements are those presented in addition to consolidated financial statements or in addition to the financial statements of an investor that does not have investments in subsidiaries but has investments in associates or joint ventures in which the investments in associates or joint ventures are required by IAS 28 to be accounted for using the equity method, other than in the circumstances set out in paragraphs 8–8A.**7. The financial statements** of an entity that does not have a subsidiary, associate or joint venturer's interest in a joint venture are not separate financial statements.

...

PREPARATION OF SEPARATE FINANCIAL STATEMENTS

...

10. When an entity prepares separate financial statements, it shall account for investments in subsidiaries, joint ventures and associates either:

(a) at cost;

(b) in accordance with IFRS 9; or

(c) using the equity method as described in IAS 28.

The entity shall apply the same accounting for each category of investments. Investments accounted for at cost or using the equity method shall be accounted for in accordance with IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations* when they are classified as held for sale or for distribution (or included in a disposal group that is classified as held for sale or for distribution). The measurement of investments accounted for in accordance with IFRS 9 is not changed in such circumstances.

...

- 11B When a parent ceases to be an investment entity, or becomes an investment entity, it shall account for the change from the date when the change in status occurred, as follows:
- (a) when an entity ceases to be an investment entity, the entity shall account for an investment in a subsidiary in accordance with paragraph 10. The date of the change of status shall be the deemed acquisition date. The fair value of the subsidiary at the deemed acquisition date shall represent the transferred deemed consideration when accounting for the investment in accordance with paragraph 10.
 - (i) [deleted]
 - (ii) [deleted]
 - (b) when an entity becomes an investment entity, it shall account for an investment in a subsidiary at fair value through profit or loss in accordance with IFRS 9. The difference between the previous carrying amount of the subsidiary and its fair value at the date of the change of status of the investor shall be recognised as a gain or loss in profit or loss. The cumulative amount of any gain or loss previously recognised in other comprehensive income in respect of those subsidiaries shall be treated as if the investment entity had disposed of those subsidiaries at the date of change in status.
12. Dividends from a subsidiary, a joint venture or an associate are recognised in the separate financial statements of an entity when the entity's right to receive the dividend is established. The dividend is recognised in profit or loss unless the entity elects to use the equity method, in which case the dividend is recognised as a reduction from the carrying amount of the investment.

...

EFFECTIVE DATE AND TRANSITION

...

- 18J** *Equity Method in Separate Financial Statements* (Amendments to IAS 27), issued in August 2014, amended paragraphs 4–7, 10, 11B and 12. An entity shall apply those amendments for annual periods beginning on or after 1 January 2016 retrospectively in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*. Earlier application is permitted. If an entity applies those amendments for an earlier period, it shall disclose that fact.

Consequential amendments to other Standards

IFRS 1 *First-time Adoption of International Financial Reporting Standards*

Paragraph 39Z is added.

EFFECTIVE DATE

...

- 39Z *Equity Method in Separate Financial Statements* (Amendments to IAS 27), issued in August 2014, amended paragraph D14 and added paragraph D15A. An entity shall apply those amendments for annual periods beginning on or after 1 January 2016. Earlier application is permitted. If an entity applies those amendments for an earlier period, it shall disclose that fact.

In Appendix D, paragraph D14 is amended and paragraph D15A is added.

Investments in subsidiaries, joint ventures and associates

- D14 When an entity prepares separate financial statements, IAS 27 requires it to account for its investments in subsidiaries, joint ventures and associates either:
- (a) at cost;
 - (b) in accordance with IFRS 9; or
 - (c) using the equity method as described in IAS 28.

...

D15A If a first-time adopter accounts for such an investment using the equity method procedures as described in IAS 28:

- (a) the first-time adopter applies the exemption for past business combinations (Appendix C) to the acquisition of the investment.
- (b) if the entity becomes a first-time adopter for its separate financial statements earlier than for its consolidated financial statements, and
 - (i) later than its parent, the entity shall apply paragraph D16 in its separate financial statements.
 - (ii) later than its subsidiary, the entity shall apply paragraph D17 in its separate financial statements.

IAS 28 Investments in Associates and Joint Ventures

Paragraph 25 is amended and paragraph 45B is added

Changes in ownership interest

25. If an entity's ownership interest in an associate or a joint venture is reduced, but the investment continues to be classified either as an associate or a joint venture respectively, the entity shall reclassify to profit or loss the proportion of the gain or loss that had previously been recognised in other comprehensive income relating to that reduction in ownership interest if that gain or loss would be required to be reclassified to profit or loss on the disposal of the related assets or liabilities.

...

EFFECTIVE DATE AND TRANSITION

...

- 45B *Equity Method in Separate Financial Statements* (Amendments to IAS 27), issued in August 2014, amended paragraph 25. An entity shall apply that amendment for annual periods beginning on or after 1 January 2016 retrospectively in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*. Earlier application is permitted. If an entity applies that amendment for an earlier period, it shall disclose that fact.

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2442**of 22 December 2015****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 22 December 2015.

For the Commission,
On behalf of the President,
Jerzy PLEWA

Director-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	236,2
	MA	104,4
	TR	109,8
	ZZ	150,1
0707 00 05	EG	174,9
	MA	90,3
	TR	143,9
	ZZ	136,4
0709 93 10	MA	45,8
	TR	145,2
	ZZ	95,5
0805 10 20	EG	52,8
	MA	65,7
	TR	77,0
	ZA	53,1
	ZZ	62,2
0805 20 10	MA	74,4
	ZZ	74,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	111,9
	TR	86,8
	UY	95,4
	ZZ	98,0
0805 50 10	TR	97,8
	ZZ	97,8
0808 10 80	CA	153,6
	CL	95,8
	US	172,3
	ZA	141,1
	ZZ	140,7
0808 30 90	CN	63,7
	TR	121,0
	ZZ	92,4

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION (EU) 2015/2443

of 11 December 2015

on the position to be taken on behalf of the European Union within the Association Council established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, as regards Title V of that Association Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 464(3) and (4) of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ⁽¹⁾ ('the Agreement') provide for the provisional application of the Agreement in part.
- (2) Article 3 of Council Decision 2014/492/EU ⁽²⁾ specifies the parts of the Agreement to be applied provisionally.
- (3) Article 462 of the Agreement provides that the application of Title V (Trade and trade-related matters) of the Agreement in relation to those areas of the Republic of Moldova over which the Government of the Republic of Moldova does not exercise effective control is to commence once the Republic of Moldova ensures the full implementation and enforcement of Title V on its entire territory.
- (4) Article 462 of the Agreement further provides that the Association Council is to adopt a decision on when the full implementation and enforcement of Title V of the Agreement on the entire territory of the Republic of Moldova is ensured.
- (5) The Republic of Moldova has informed the European Commission that it will be able to ensure the full implementation and enforcement of Title V of the Agreement on its entire territory from 1 January 2016.
- (6) It is necessary to monitor and regularly review the application of Title V of the Agreement in relation to the entire territory of the Republic of Moldova.
- (7) It is therefore appropriate to determine the Union position in relation to the application of Title V of the Agreement on the entire territory of the Republic of Moldova,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken by the Union within the Association Council established pursuant to Article 434 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, in relation to the full implementation and enforcement and to the application of Title V (Trade and trade-related matters) of the Agreement on the entire territory of the Republic of Moldova shall be based on the draft Decision of the Association Council attached to this Decision.

⁽¹⁾ OJ L 260, 30.8.2014, p. 4.

⁽²⁾ Council Decision 2014/492/EU of 16 June 2014 on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (OJ L 260, 30.8.2014, p. 1).

2. Minor technical corrections to the draft Decision may be agreed to by the representatives of the Union within the Association Council without any further decision of the Council.

Article 2

Within eight months of the entry into force of this Decision and once a year thereafter, the European Commission shall report to the Council on the application of Title V of the Agreement on the entire territory of the Republic of Moldova. If the Republic of Moldova no longer ensures the full implementation and enforcement of Title V of the Agreement in relation to those areas of the Republic of Moldova over which it does not exercise effective control, the representatives of the Union in the Association Council may, pursuant to a decision to be taken in accordance with Article 218(9) of the Treaty, request the Association Council to reconsider the continued application of Title V of the Agreement in the areas concerned.

Article 3

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

Done at Brussels, 11 December 2015.

For the Council
The President
F. BAUSCH

DRAFT

**DECISION No 1/2015 OF THE EU-REPUBLIC OF MOLDOVA ASSOCIATION COUNCIL
of ... 2015**

on the application of Title V of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, to the entire territory of the Republic of Moldova

THE ASSOCIATION COUNCIL,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ⁽¹⁾, and in particular Article 462 thereof,

Whereas:

- (1) In accordance with Article 464 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ('the Agreement'), parts of the Agreement have been applied on a provisional basis since 1 September 2014.
- (2) The Republic of Moldova has informed the European Commission that it will be able to ensure the full implementation and enforcement of Title V (Trade and trade-related matters) of the Agreement on its entire territory from 1 January 2016.
- (3) It is appropriate that the Association Council regularly review the application of Title V (Trade and trade-related matters) of the Agreement to the entire territory of the Republic of Moldova.
- (4) It is appropriate that the Association Committee in Trade configuration monitor the application of Title V (Trade and trade-related matters) of the Agreement to the entire territory of the Republic of Moldova and report regularly to the Association Council,

HAS ADOPTED THIS DECISION:

Article 1

1. Title V (Trade and trade-related matters) of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, shall apply to the entire territory of the Republic of Moldova from 1 January 2016.
2. The Association Council shall review the application of Title V (Trade and trade-related matters) of the Agreement to the entire territory of the Republic of Moldova within 10 months of the adoption of this Decision and once a year thereafter.
3. The Association Committee in Trade configuration shall monitor the application of Title V (Trade and trade-related matters) of the Agreement as referred to in paragraph 1. It shall report to the Association Council once a year and as circumstances require.
4. Title VII (Institutional, general and final provisions) of the Agreement shall apply to the extent that it is applied in connection with Title V (Trade and trade-related matters) of the Agreement.

Article 2

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

Done at ..., ...

*For the Association Council
The Chair*

⁽¹⁾ OJ L 260, 30.8.2014, p. 4.

COMMISSION IMPLEMENTING DECISION (EU) 2015/2444**of 17 December 2015****laying down standard requirements for the submission by Member States of national programmes for the eradication, control and surveillance of animal diseases and zoonoses for Union financing and repealing Decision 2008/425/EC***(notified under document C(2015) 9192)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC ⁽¹⁾, and in particular Article 36(5) thereof.

Whereas:

- (1) Regulation (EU) No 652/2014 lays down, inter alia, provisions for the management of expenditure relating to the food chain and animal health and requirements for the submission and the content of the national programmes for the eradication, control and surveillance of animal diseases and zoonoses.
- (2) Article 12(1) of Regulation (EU) No 652/2014 provides that each year, by 31 May at the latest, Member States are to submit to the Commission the national programmes starting in the following year for which they wish to apply for a grant.
- (3) Commission Decision 2008/425/EC ⁽²⁾ provides that Member States seeking a financial contribution from the Union for national programmes for the eradication, monitoring and control of certain animal diseases are to submit applications containing certain minimum information set out in Annexes I to V to that Decision.
- (4) Following the adoption of Regulation (EU) No 652/2014, standard requirements for the content and the submission by Member States of national programmes as defined in Article 9 of that Regulation should be revised to fully comply with the requirements of Article 12 of that Regulation.
- (5) In addition, the standard requirements for the content and submission by Member States of national programmes as defined in Article 9 of Regulation (EU) No 652/2014, should comply with the criteria for national eradication, control and monitoring programmes established by Commission Decision 2008/341/EC ⁽³⁾.
- (6) To be in line with evolving Union legislation, the electronic standard templates provided online on the Commission's website should be used for certain diseases to facilitate necessary modifications or including further details. The Commission will inform and discuss with Member States all necessary modifications of the electronic standard templates in the framework of the Standing Committee on Plants, Animals, Food and Feed. The revised electronic standard templates will be sent to all Member States at the latest by early March of the concerned year.

⁽¹⁾ OJ L 189, 27.6.2014, p. 1.

⁽²⁾ Commission Decision 2008/425/EC of 25 April 2008 laying down standard requirements for the submission by Member States of national programmes for the eradication, control and monitoring of certain animal diseases and zoonoses for Community financing (OJ L 159, 18.6.2008, p. 1).

⁽³⁾ Commission Decision 2008/341/EC of 25 April 2008 laying down Community criteria for national programmes for the eradication, control and monitoring of certain animal diseases and zoonoses (OJ L 115, 29.4.2008, p. 44).

- (7) For other diseases not included in electronic standard templates and for aquaculture diseases the use of non-electronic standard templates is considered the appropriate tool for submissions of national programmes, given the low number of submissions in the last years, which does not justify the development of specific electronic templates.
- (8) For the sake of clarity, Decision 2008/425/EC should therefore be repealed and replaced by this Decision.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

In addition to the content set out in Article 12(2) of Regulation (EU) No 652/2014, national programmes shall contain the information provided in the Annexes to this Decision.

Article 2

National programmes laid down in Article 9 of Regulation (EU) No 652/2014 shall be submitted on-line by using the corresponding standard electronic templates indicated in Annexes I to IV to this Decision or by mail by using the corresponding standard templates set out in Annex V to this Decision for diseases not included in the electronic templates and in Annex VI to this Decision for aquaculture diseases

Article 3

Decision 2008/425/EC is repealed.

Article 4

This Decision shall apply to submissions of national eradication, control and surveillance programmes for 2017 and following years

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 17 December 2015.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX I

The specific pdf template to be used to submit the national programmes on the animal diseases listed below, are available on DG SANTE web:

http://ec.europa.eu/dgs/health_food-safety/funding/cff/animal_health/vet_progs_en.htm

Annex I.a: in respect of rabies

Annex I.b: in respect of bovine tuberculosis, bovine brucellosis and ovine and caprine brucellosis (*B. melitensis*)

Annex I.c: in respect of classical swine fever, african swine fever and swine vesicular disease

Annex I.d: in respect of bluetongue.

ANNEX II

The specific pdf template to be used to submit the *Salmonella* control programmes, is available on DG SANTE web:

http://ec.europa.eu/dgs/health_food-safety/funding/cff/animal_health/vet_progs_en.htm

ANNEX III

The specific pdf template to be used to submit Transmissible Spongiform Encephalopathies (BSE and scrapie) control programmes, is available on DG SANTE web:

http://ec.europa.eu/dgs/health_food-safety/funding/cff/animal_health/vet_progs_en.htm

ANNEX IV

The specific pdf template to be used to submit Avian Influenza surveillance programmes, is available on DG SANTE web:

http://ec.europa.eu/dgs/health_food-safety/funding/cff/animal_health/vet_progs_en.htm

ANNEX V

Standard requirements for the submission of national programmes for the eradication, control or surveillance of the animal diseases listed below:

- Anthrax
- Contagious bovine pleuropneumonia
- Echinococcosis
- Campylobacteriosis
- Listeriosis
- Trichinellosis
- Verotoxigenic E. coli

1. Identification of the programme

Member State:

Disease(s) ⁽¹⁾:

Duration of the programme: annual/multiannual

Request for Union co-financing for ⁽²⁾:

Reference of this document:

Contact (name, phone, fax, e-mail):

Date of submission to the Commission:

2. Description of the epidemiological situation of the disease/zoonoses before the date of the beginning of the implementation of the programme and data on the epidemiological evolution of the disease(s) ⁽³⁾:**3. Description of the submitted programme ⁽⁴⁾:****4. Measures of the submitted programme to be implemented**

4.1. *Summary of measures under the programme:*

4.2. *Organisation, supervision and role of all stakeholders ⁽⁵⁾ involved in the programme:*

⁽¹⁾ One document per disease is used unless all measures of the programme on the target population are used for the monitoring, control and eradication of different diseases.

⁽²⁾ Indicate the year(s) for which co-financing is requested.

⁽³⁾ A concise description is given including target population (species, number of herds and animals present and under the programme), the main measures (sampling and testing regimes, eradication measures used, qualification of herds and animals, vaccination schemes) and the main results (incidence, prevalence, qualification of herds and animals). The information is given for distinct periods if the measures were substantially modified. The information is documented by relevant summary epidemiological tables (set out in Section 6) complemented by graphs or maps (to be attached).

⁽⁴⁾ A concise description of the programme is given with the main objective(s) (monitoring, control, eradication, qualification of herds and/or regions, reducing prevalence and incidence), the main measures (sampling and testing regimes, eradication measures to be applied, qualification of herds and animals, vaccination schemes), the target animal population and the area(s) of implementation and the definition of a positive case.

⁽⁵⁾ Describe the authorities in charge of supervising and coordinating the departments responsible for implementing the programme and the different operators involved. Describe the responsibilities of all stakeholders involved.

- 4.3. *Description and demarcation of the geographical and administrative areas in which the programme is to be implemented* ⁽¹⁾:
- 4.4. *The targets to be attained by the completion date of the programme and the anticipated benefits thereof:*
- 4.5. *Appropriate indicators to measure the achievement of the targets of the programme:*
- 4.6. *Description of the measures of the programme* ⁽²⁾:
 - 4.6.1. Notification of the disease
 - 4.6.2. Target animals and animal population
 - 4.6.3. Identification of animals and registration of holdings
 - 4.6.4. Qualifications of animals and herds ⁽³⁾
 - 4.6.5. Rules on the movement of animals
 - 4.6.6. Tests used and sampling schemes
 - 4.6.7. Vaccines used and vaccination schemes
 - 4.6.8. Information and assessment on bio-security measures management and infrastructure in place in the holdings involved
 - 4.6.9. Measures in case of a positive result ⁽⁴⁾
 - 4.6.10. Compensation scheme for owners of slaughtered and killed animals ⁽⁵⁾
 - 4.6.11. Control on the implementation of the programme and reporting ⁽⁶⁾
5. **Financial resources for the implementation of the programme:**

Estimated budget and the source: public/private or both.

⁽¹⁾ Describe the name and denomination, the administrative boundaries, and the surface of the administrative and geographical areas in which the programme is to be applied. Illustrate with maps.

⁽²⁾ A comprehensive description needs to be provided of all measures unless reference can be made to Union legislation. The national legislation in which the measures are laid down is also mentioned.

⁽³⁾ To mention only if applicable.

⁽⁴⁾ A description is provided of the measures as regards positive animals (description of the slaughter policy, destination of carcasses, use or treatment of animal products, the destruction of all products which could transmit the disease or the treatment of such products to avoid any possible contamination, a procedure for the disinfection of infected holdings, the therapeutic or preventive treatment chosen, a procedure for the restocking with healthy animals of holdings which have been depopulated by slaughter and the creation of a surveillance zone around the infected holding.).

⁽⁵⁾ Not for BT.

⁽⁶⁾ Describe the process and control that will be carried out in order to ensure the proper monitoring of the implementation of the programme.

6. **Data on the epidemiological evolution during the last five years** ⁽¹⁾

6.1. *Evolution of the disease*

6.1.1. Data on herds ^(a) (one table per year)

Year:

Regio ^(b)	Animal species	Total number of herds ^(c)	Total number of herds under the programme	Number of herds checked ^(d)	Number of positive herds ^(e)	Number of new positive herds ^(f)	Number of herds depopulated	% positive herds depopulated	INDICATORS		
									% herd coverage	% positive herds Period herd prevalence	% new positive herds Herd incidence
1	2	3	4	5	6	7	8	9 = (f) × 100	10 = (5/4) × 100	11 = (6/5) × 100	12 = (7/5) × 100
Total											

^(a) Herds or flocks or holdings as appropriate.

^(b) Region as defined in the programme of the Member State.

^(c) Total number of herds existing in the region including eligible herds and non-eligible herds for the programme.

^(d) Check means to perform a herd level test under the programme for the respective disease with the purpose of maintaining or upgrading, the health status of the herd. In this column a herd must not be counted twice even if has been checked more than once.

^(e) Herds with at least one positive animal during the period independent of the number of times the herd has been checked.

^(f) Herds which status in the previous period was *Unknown, Not free-negative, Free, Officially Free* or *Suspended* and have at least one animal tested positive in this period.

⁽¹⁾ The data on the evolution of the disease are provided according to the tables below where appropriate.

6.1.2. Data on animals (one table per year)

Year:

Region ^(a)	Animal species	Total number of animals ^(b)	Number of animals ^(d) to be tested under the programme	Number of animals ^(c) tested	Number of animals tested individually ^(d)	Number of positive animals	Slaughtering		INDICATORS	
							Number of animals with positive result slaughtered or culled	Total number of animals slaughtered ^(e)	% coverage at animal level	% positive animals Animal prevalence
1	2	3	4	5	6	7	8	9	$10 = (5/4) \times 100$	$11 = (7/5) \times 100$
Total										

^(a) Region as defined in the programme of the Member State.
^(b) Total number of animals existing in the region including eligible herds and non-eligible herds for the programme.
^(c) Includes animals tested individually or under bulk level scheme.
^(d) Include only animals tested individually, do not include animals tested by bulk level samples.
^(e) Include all positive animal slaughtered and also the negative animals slaughtered under the programme.

6.2. Stratified data on surveillance and laboratory tests

6.2.1. Stratified data on surveillance and laboratory tests

Year:

Region ^(a)	Animal species/category	Test type ^(b)	Test description	Number of samples tested	Number of positive samples
Total					

^(a) Region as defined in the programme of the Member State.

^(b) Indicate whether the test is serological, virological, etc.

6.3. Data on infection (one table per year)

Year:

Region ^(a)	Animal species	Number of herds infected ^(b)	Number of animals infected
Total			

^(a) Region as defined in the programme of the Member State.
^(b) Herds or flocks or holdings as appropriate.

6.6. *Data on wildlife* ⁽¹⁾

6.6.1. Estimation of wildlife population

Year:

Regions ^(a)	Animal species	Method of estimation	Estimated population
Total			

^(a) Region as defined in the programme of the Member State.

6.6.2. Disease surveillance and other tests in wildlife (one table per year)

Year:

Region ^(a)	Animal Species	Test type ^(b)	Test description	Number of samples tested	Number of positive samples
Total					

^(a) Region as defined in the programme of the Member State.^(b) Indicate whether the test is serological, virological, biomarker detection etc.⁽¹⁾ Data only to be provided in case the programme comprises measures as regards wildlife or if the data are epidemiologically relevant for the disease.

6.6.3. Data on vaccination or treatment of wildlife

Year:

Region ⁽⁴⁾	Square km	Vaccination or treatment programme		
		Number of doses of vaccine or treatment to be administered	Number of campaigns	Total number of doses of vaccine or treatment administered
Total				

⁽⁴⁾ Region as defined in the programme of the Member State.

7.1.2.2. Targets on the testing of animals

Region ^(a)	Animal species	Total number of animals ^(b)	Number of animals ^(c) under the programme	Number of animals ^(c) expected to be tested	Number of animals to be tested individually ^(d)	Number of expected positive animals	Slaughtering		TARGET INDICATORS	
							Number of animals tested positive expected to be slaughtered or culled	Total number of animals expected to be slaughtered ^(e)	Expected % coverage at animal level	% positive animals (Expected animal prevalence)
1	2	3	4	5	6	7	8	9	$10 = (5/4) \times 100$	$11 = (7/5) \times 100$

^(a) Region as defined in the programme of the Member State.
^(b) Total number of animals existing in the region including eligible herds and non-eligible herds for the programme.
^(c) Includes animals tested individually or under bulk level scheme.
^(d) Include only animals tested individually, do not include animals tested by bulk level samples.
^(e) Include all positive animals slaughtered and also the negative animals slaughtered under the programme.

7.2. Targets on qualification of herds and animals (one table for each year of implementation) if applicable.

Region ^(a)	Animal species	Total number of herds and animals under the programme		Targets on the status of herds and animals under the programme ^(b)											
				Expected unknown ^(c)		Expected not free or not officially free from disease				Expected free or officially free from disease status suspended ^(f)		Expected free from disease ^(g)		Expected officially free from disease ^(h)	
						Last check positive ^(d)		Last check negative ^(e)							
		Herds	Animals ⁽ⁱ⁾	Herds	Animals ⁽ⁱ⁾	Herds	Animals ⁽ⁱ⁾	Herds	Animals ⁽ⁱ⁾	Herds	Animals ⁽ⁱ⁾	Herds	Animals ⁽ⁱ⁾	Herds	Animals ⁽ⁱ⁾
Total															

^(a) Region as defined in the programme of the Member State.

^(b) At the end of the year.

^(c) Unknown: No previous checking results available.

^(d) Not free and last check positive: Herd checked with at least one positive result in the latest check.

^(e) Not free and last check negative: Herd checked with negative results in the latest check but not being *Free* or *Officially Free*.

^(f) Suspended as defined for the respective disease in Union or national legislation where appropriate or according national legislation.

^(g) Free herd as defined for the respective disease where appropriate in Union or national legislation where appropriate or according to national legislation.

^(h) Officially free herd as defined for the respective disease where appropriate in Union or national legislation or according to national legislation.

⁽ⁱ⁾ Include animals under the programme in the herds with the referred status (left column).

7.3. Targets on vaccination or treatment (one table for each year of implementation)

7.3.1. Targets on vaccination or treatment ⁽¹⁾

Region ^(a)	Animal species	Total number of herds ^(b) in vaccination or treatment programme	Total number of animals in vaccination or treatment programme	Targets on vaccination or treatment programme					
				Number of herds ^(b) in vaccination or treatment programme	Number of herds ^(b) expected to be vaccinated or treated	Number of animals expected to be vaccinated or treated	Number of doses of vaccine or treatment expected to be administered	Number of adults expected to be vaccinated	Number of young animals expected to be vaccinated
Total									

^(a) Region as defined in the programme of the Member State.

^(b) Herds or flocks or holdings as appropriate.

⁽¹⁾ Data only to be provided if appropriate.

7.3.2. Targets on vaccination or treatment (!) of wildlife

Region ^(a)	Animal species	Square km	Targets on the vaccination or treatment programme		
			Number of doses of vaccine or treatments expected to be administered in the campaign	Expected number of campaigns	Total number of doses of vaccine or treatment expected to be administered
Total					

^(a) Region as defined in the programme of the Member State.

8. Detailed analysis of the cost of the programme (one table per year of implementation)

Costs related to	Specification	Number of units	Unitary cost in EUR	Total amount in EUR	Union funding requested (yes/no)
1. Testing					
1.1. Cost of the sampling					
	Domestic animals				
1.2. Cost of the analysis	Bacteriological tests (cultivation) in the framework of official sampling				
	Serotyping of relevant isolates				

(!) Data only to be provided if appropriate.

Costs related to	Specification	Number of units	Unitary cost in EUR	Total amount in EUR	Union funding requested (yes/no)
	Bacteriological test to verify the efficiency of disinfection of premises after depopulation of a salmonella-positive flock				
	Test for the detection of antimicrobials or bacterial growth inhibitory effect in tissues from animals from flocks/herds tested for salmonella				
	Other (please specify)				
2. Vaccination	(If co-financing for the purchase of vaccines is requested, Sections 6.4 and 7.2 must also be completed if vaccination policy is part of your programme)				
2.1. Purchase of vaccine doses	Number of vaccine doses				
3. Slaughter and destruction					
3.1. Compensation of animals	Compensation of animals				
3.2. Transport costs					

Costs related to	Specification	Number of units	Unitary cost in EUR	Total amount in EUR	Union funding requested (yes/no)
3.3. Destruction costs					
3.4. Loss in case of slaughtering					
3.5. Costs from treatment of animal products (eggs, hatching eggs, etc.)	Costs from treatment of animal products (eggs, hatching eggs, etc.)				
4. Cleaning and disinfection					
5. Salaries (staff contracted for the programme only)	Salaries				
	Other (please specify)				
6. Consumables and specific equipment					

Costs related to	Specification	Number of units	Unitary cost in EUR	Total amount in EUR	Union funding requested (yes/no)
7. Other costs					
			Total		

ANNEX VI

Standard requirements for the submission of national programmes for the eradication of the aquacultures animal diseases listed below:

- Viral haemorrhagic septicaemia (VHS)
- Infectious haematopoietic necrosis (IHN)
- Koi herpes virus disease (KHV)
- Infectious salmon anaemia (ISA)
- Infection with *Marteilia refringens*
- Infection with *Bonamia ostreae*
- White spot disease in crustaceans

Requirements/information needed		Information/further explanation and justification
1.	Identification of the programme	
1.1.	Declaring Member State	
1.2.	Competent authority (address, fax, e-mail)	
1.3.	Reference of this document	
1.4.	Date of the submission to the Commission	
2.	Type of communication	
2.1.	<input type="checkbox"/> Application for eradication programme	
3.	National legislation ⁽¹⁾	
4.	Request for co-financing	
4.1.	Indicate the year(s) for which co-financing is requested	
4.2.	Agreement of the managing authority of the operational programme (signature and stamp)	
5.	Diseases	
5.1.	Fish	<input type="checkbox"/> VHS <input type="checkbox"/> IHN <input type="checkbox"/> ISAV <input type="checkbox"/> KHV
5.2.	Molluscs	<input type="checkbox"/> <i>Marteilia refringens</i> <input type="checkbox"/> <i>Bonamia ostreae</i>

	Requirements/information needed	Information/further explanation and justification
5.3.	Crustaceans	<input type="checkbox"/> White spot disease
6.	General information on the programmes	
6.1.	Competent authority ⁽²⁾	
6.2.	Organisation, supervision of all stakeholders involved in the programme ⁽³⁾	
6.3.	An overview of the structure of the aquaculture industry in the area in question including types of production, species kept etc.	
6.4.	Notification to the competent authority of suspicion and confirmation of the disease(s) in question has been compulsory since when?	
6.5.	Early detection system in place throughout the Member States, enabling the competent authority to undertake effective disease investigation and reporting since when? ⁽⁴⁾	
6.6.	Source of aquaculture animals of susceptible species to the disease in question entering in the Member State, zone or compartments for farming	
6.7.	Guidelines on good hygiene practice ⁽⁵⁾	
6.8.	Epidemiological situation of the disease in at least the previous four years before the commencement of the programme ⁽⁶⁾	
6.9.	Estimated costs and the anticipated benefits of the programme ⁽⁷⁾	
6.10.	Description of the submitted programme ⁽⁸⁾	
6.11.	Duration of the programme	

Requirements/information needed		Information/further explanation and justification
7.	Area covered ⁽⁹⁾	
7.1.	<input type="checkbox"/> Member State	
7.2.	<input type="checkbox"/> Zone (entire water catchment area) ⁽¹⁰⁾	
7.3.	<input type="checkbox"/> Zone (part of water catchment area) ⁽¹¹⁾ Identify and describe the artificial or natural barrier that delimits the zone and justify its capability to prevent the upward migration of aquatic animals from the lower stretches of the water catchment area.	
7.4.	<input type="checkbox"/> Zone (more than one water catchment area) ⁽¹²⁾	
7.5.	<input type="checkbox"/> Compartment independent on the surrounding health status ⁽¹³⁾	
	Identify and describe for each farm the water supply ⁽¹⁴⁾	<input type="checkbox"/> Well, borehole or spring <input type="checkbox"/> Water treatment plant inactivating the relevant pathogen ⁽¹⁵⁾
	Identify and describe for each farm natural or artificial barriers and justify its capability to prevent that aquatic animals enter each farm in a compartment from the surrounding watercourses.	
	Identify and describe for each farm the protection against flooding and infiltration of water from the surrounding area	
7.6.	<input type="checkbox"/> Compartment dependent on the surrounding health status ⁽¹⁶⁾	
	<input type="checkbox"/> One epidemiological unit due to geographical localisation and distance from other farms/farming areas ⁽¹⁷⁾	
	<input type="checkbox"/> All farms comprising the compartment fall within a common biosecurity system ⁽¹⁸⁾	
	<input type="checkbox"/> Any additional requirements ⁽¹⁹⁾	

	Requirements/information needed	Information/further explanation and justification
7.7.	Farms or mollusc farming areas covered by the programme (registration numbers and geographical situation)	
8.	Measures of the submitted programme	
8.1.	Summary of the measures under the programme	
	First year <input type="checkbox"/> Testing <input type="checkbox"/> Harvesting for human consumption or further processing <input type="checkbox"/> Immediate <input type="checkbox"/> Delayed <input type="checkbox"/> Removal and disposal <input type="checkbox"/> Immediate <input type="checkbox"/> Delayed <input type="checkbox"/> Vaccination <input type="checkbox"/> Other measures (specify)	Last year <input type="checkbox"/> Testing <input type="checkbox"/> Harvesting for human consumption or further processing <input type="checkbox"/> Immediate <input type="checkbox"/> Delayed <input type="checkbox"/> Removal and disposal <input type="checkbox"/> Immediate <input type="checkbox"/> Delayed <input type="checkbox"/> Other measures (specify)
8.2.	Description of the measures of the programme ⁽²⁰⁾	
	Target population/species	
	Used tests and sampling schemes. Laboratories involved in the programme ⁽²¹⁾	
	Rules on movements of animals	
	Used vaccines and vaccination schemes	
	Measures in case of a positive result ⁽²²⁾	

Requirements/information needed	Information/further explanation and justification
Compensation scheme for owners	
Control and supervision on the implementation of the programme and reporting	

⁽¹⁾ National legislation in force applicable to the application for eradication programme.

⁽²⁾ A description shall be provided of the structure, competencies, duties and powers of the competent authority or competent authorities involved.

⁽³⁾ A description shall be provided of the authorities in charge of the supervision and coordination of the programme and the different operators involved.

⁽⁴⁾ The early detection systems shall in particular ensure the rapid recognition of any clinical signs consistent with the suspicion of a disease, emerging disease, or unexplained mortality in farms or molluscs farming areas, and in the wild, and the rapid communication of the event to the competent authority with the aim to activating diagnostic investigation with minimum delay. The early detection system shall include at least the following:

(a) broad awareness, among the personnel employed in aquaculture businesses or involved in the processing of aquaculture animals, of any signs consistent with the presence of a disease, and training of veterinarians of aquatic animals health specialists in detecting and reporting unusual disease occurrence;

(b) veterinarians or aquatic animal health specialists trained in recognising and reporting suspicious disease occurrence;

(c) access by the competent authority to laboratories with the facilities for diagnosing and differentiating listed and emerging diseases.

⁽⁵⁾ A description shall be provided in accordance with Article 9 of Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals (OJ L 328, 24.11.2006, p. 14).

⁽⁶⁾ Information shall be given using the table laid down in Part 9 of Annex VI to this Decision.

⁽⁷⁾ A description shall be provided of the benefits for farmers and society in general.

⁽⁸⁾ A concise description of the programme shall be given with the main objectives, the main measures, the target population, the areas of implementation and the definition of a positive case.

⁽⁹⁾ The area covered shall be clearly identified and described in a map, which should be attached as an Annex to the application.

⁽¹⁰⁾ An entire water catchment area from its sources to its estuary.

⁽¹¹⁾ Part of a water catchment area from the source(s) to a natural or artificial barrier that prevents the upward migration of aquatic animals from the lower stretches of the water catchment area.

⁽¹²⁾ More than one water catchment area, including their estuaries, due to the epidemiological link between the catchment areas through the estuary.

⁽¹³⁾ Compartments comprising one or more farms or mollusc farming areas where the health status regarding a specific disease is independent on the health status regarding that disease of surrounding natural waters.

⁽¹⁴⁾ A compartment which is independent of the health status of surrounding waters, shall be supplied with water:

(a) through a water treatment plant inactivating the relevant pathogen in order to reduce the risk of the introduction of the disease to an acceptable level; or

(b) directly from a well, a borehole or a spring. Where such water supply is situated outside the premises of the farm, the water shall be supplied directly to the farm, and be channelled through a pipe.

⁽¹⁵⁾ Technical information shall be provided to demonstrate that the relevant pathogen is inactivated in order to reduce the risk of the introduction of the disease to an acceptable level.

⁽¹⁶⁾ Compartments comprising one or more farms or mollusc farming areas where the health status regarding a specific disease is dependent on the health status regarding that disease of surrounding natural waters.

⁽¹⁷⁾ A description shall be provided of the geographical localisation and the distance from other farms/farming areas that make possible to consider the compartment as one epidemiological unit.

⁽¹⁸⁾ A description shall be provided of the common biosecurity system.

⁽¹⁹⁾ Each farm or mollusc farming area in a compartment which is dependent on the health status of surrounding waters shall be subject to additional measures imposed by the competent authority, when considered necessary to prevent the introduction of diseases. Such measures may include the establishment of a buffer zone around the compartment in which a monitoring programme is carried out, and the establishment of additional protection against the intrusion of possible pathogen carriers or vectors.

⁽²⁰⁾ A comprehensive description needs to be provided unless reference can be made to Union legislation. The national legislation in which the measures are laid down shall be mentioned.

⁽²¹⁾ Describe diagnostic methods and sampling schemes. When OIE or Union standards are applied, refer to them. If not, describe them. Name the laboratories involved in the programme (National Reference Laboratory or designated laboratories).

⁽²²⁾ A description is provided of the measures as regards positive animals (immediate or delayed harvesting for human consumption, immediate or delayed removal and disposal, measures to avoid the spread of the pathogen when harvesting, further processing or removal and disposal takes place, a procedure for the disinfection of the infected farms or mollusc farming areas, a procedure for restocking with healthy animals in farms or farming areas which have been depopulated and creation of surveillance zone around the infected farm or farming area, etc.).

9. **Data on the epidemiological situation/evolution of the disease in the last four years (one table for each year of implementation)**

9.1. *Data on testing animals*

Member State, zone or compartment (*)

Disease		Year							
Farm or mollusc farming area	Number of samplings	Number of clinical inspections	Water temperature at sampling/inspection	Species at sampling	Species sampled	Number of animals sampled (total and by species)	Number of tests	Positive results of laboratorial examination	Positive results of clinical inspections
Total									

(*) Member State, zone or compartment as defined in Point 7 of Annex VI.

9.2. Data on testing farms or farming areas

Disease		Year									
Member State, zone or compartment ⁽¹⁾	Total number of farms or mollusc farming areas ⁽²⁾	Total number farms or mollusc farming areas under the programme	Number of farms or mollusc farming areas checked ⁽³⁾	Number of positive farms or mollusc farming areas ⁽⁴⁾	Number of new positive farms or mollusc farming areas ⁽⁵⁾	Number of farms or mollusc farming areas depopulated	% positive farms or mollusc farming areas depopulated	Animals removed and disposed of ⁽⁶⁾	Target indicators		
									% farms or mollusc farming areas coverage	% positive farms or mollusc farming areas period farms or mollusc farming areas prevalence	% new positive farms or mollusc farming areas farms or mollusc farming areas incidence
1	2	3	4	5	6	7	8 =	9	10 =	11 = (5/4) × 100	12 = (6/4) × 100
Total											

(1) Member State, zone or compartment as defined in Point 7 of Annex VI.
(2) Total number of farms or mollusc farming areas existing in the Member State, zone or compartment as defined in Point 7 of Annex VI.
(3) Check means to perform a farm/mollusc farming area level test under the programme for the respective disease with the purpose of upgrading the health status of the farm/mollusc farming area. In this column a farm/mollusc farming area should not be counted twice even if has been checked more than once.
(4) Farms or mollusc farming areas with at least one positive animal during the period independent of the number of times the farms or mollusc farming areas has been checked.
(5) Farms or mollusc farming areas which health status in the previous period was, in accordance with Part A of Annex III to Directive 2006/88/EC, category I, category II, category III or category IV and have at least one positive animal in this period.
(6) Animals × 1 000 or total weight of animals removed and disposed of.

10. **Targets (one table for each year of implementation)**

10.1. *Targets related to testing animals*

Member State, zone or compartment (*)

Disease		Year					
Farm or mollusc farming area	Number of samplings	Number of clinical inspections	Water temperature at sampling/Inspection	Species at sampling	Species sampled	Number of animals sampled (total and by species)	Number of tests
Total							

(*) Member State, zone or compartment as defined in Point 7 of Annex VI.

10.2. Targets on testing farms or farming areas

Disease		Year								
Member State, zone or compartment ⁽¹⁾	Total number of farms or mollusc farming areas ⁽²⁾	Total number of farms or mollusc farming areas under the programme	Number of farms or mollusc farming areas expected to be checked ⁽³⁾	Number of expected positive farms or mollusc farming areas ⁽⁴⁾	Number of expected new positive farms or mollusc farming areas ⁽⁵⁾	Number of farms or mollusc farming areas expected to be depopulated	% positive farms or mollusc farming areas expected to be depopulated	Target indicators		
								Expected % farms or mollusc farming areas coverage	% positive farms or mollusc farming areas Expected period farms or mollusc farming areas prevalence	% new positive farms or mollusc farming areas Expected farms or mollusc farming areas incidence
1	2	3	4	5	6	7	$8 = (7/5) \times 100$	$9 = (4/3) \times 100$	$10 = (5/4) \times 100$	$11 = (6/4) \times 100$
Total										

⁽¹⁾ Member State, zone or compartment as defined in Point 7 of Annex VI.
⁽²⁾ Total number of farms or mollusc farming areas existing in the Member State, zone or compartment as defined in Point 7 of Annex VI.
⁽³⁾ Check means to perform a farm/mollusc farming area level test under the programme for the respective disease with the purpose of upgrading, the health status of the farm/mollusc farming area. In this column a farm/mollusc farming area should not be counted twice even if has been checked more than once.
⁽⁴⁾ Farms or mollusc farming areas with at least one positive animal during the period independent of the number of times the farms or mollusc farming areas has been checked.
⁽⁵⁾ Farms or mollusc farming areas which health status in the previous period was, in accordance with Part A of Annex III to Directive 2006/88/EC, category I, category II, category III or category IV and have at least one positive animal in this period.

11. Detailed analysis of the cost of the programme (one table per year of implementation)

	Costs related to	Specification	Number of units	Unitary cost in EUR	Total amount in EUR	Union funding requested (yes/no)
1.	Testing					
1.1.	Cost of the analysis	Test:				
		Test:				
		Test:				
1.2.	Cost of sampling					
1.3.	Other costs					
2.	Vaccination or treatment					
2.1.	Purchase of vaccine/treatment					
2.2.	Distribution costs					
2.3.	Administering costs					
2.4.	Control costs					
3.	Removal and disposal of the aquaculture animals					
3.1.	Compensation of animals					
3.2.	Transport costs					
3.3.	Disposal costs					
3.4.	Loss in case of removal					
3.5.	Costs from treatment of products					

	Costs related to	Specification	Number of units	Unitary cost in EUR	Total amount in EUR	Union funding requested (yes/no)
4.	Cleansing and disinfection					
5.	Salaries (staff contracted for the programme only)					
6.	Consumables and specific equipment					
7.	Other costs					
				Total		

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2015 OF THE EU-REPUBLIC OF MOLDOVA ASSOCIATION COUNCIL

of 18 December 2015

on the application of Title V of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, to the entire territory of the Republic of Moldova [2015/2445]

THE ASSOCIATION COUNCIL,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ⁽¹⁾, and in particular Article 462 thereof,

Whereas:

- (1) In accordance with Article 464 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ('the Agreement'), parts of the Agreement have been applied on a provisional basis since 1 September 2014.
- (2) The Republic of Moldova has informed the European Commission that it will be able to ensure the full implementation and enforcement of Title V (Trade and trade-related matters) of the Agreement on its entire territory from 1 January 2016.
- (3) It is appropriate that the Association Council regularly review the application of Title V (Trade and trade-related matters) of the Agreement to the entire territory of the Republic of Moldova.
- (4) It is appropriate that the Association Committee in Trade configuration monitor the application of Title V (Trade and trade-related matters) of the Agreement to the entire territory of the Republic of Moldova and report regularly to the Association Council,

HAS ADOPTED THIS DECISION:

Article 1

1. Title V (Trade and trade-related matters) of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, shall apply to the entire territory of the Republic of Moldova from 1 January 2016.
2. The Association Council shall review the application of Title V (Trade and trade-related matters) of the Agreement to the entire territory of the Republic of Moldova within 10 months of the adoption of this Decision and once a year thereafter.
3. The Association Committee in Trade configuration shall monitor the application of Title V (Trade and trade-related matters) of the Agreement as referred to in paragraph 1. It shall report to the Association Council once a year and as circumstances require.
4. Title VII (Institutional, general and final provisions) of the Agreement shall apply to the extent that it is applied in connection with Title V (Trade and trade-related matters) of the Agreement.

⁽¹⁾ OJ L 260, 30.8.2014, p. 4.

Article 2

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

Done at Chişinău, 18 December 2015.

For the Association Council

The Chair

G. BREGA

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