

# Official Journal of the European Union

L 352



English edition

Legislation

Volume 59

23 December 2016

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## I

*(Legislative acts)*

## DIRECTIVES

**DIRECTIVE (EU) 2016/2370 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 14 December 2016****amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure****(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 91 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 <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) Directive 2012/34/EU of the European Parliament and of the Council <sup>(4)</sup> establishes a single European railway area with common rules on the governance of railway undertakings and infrastructure managers, on infrastructure financing and charging, on conditions of access to railway infrastructure and services and on regulatory oversight of the rail market. The completion of the single European railway area should be achieved by extending the principle of open access to domestic rail markets and reforming the governance of infrastructure managers with the objective of ensuring equal access to the infrastructure.
- (2) The growth of passenger traffic by rail has not kept pace with the evolution of other modes of transport. The completion of the single European railway area should contribute to the further development of rail transport as a credible alternative to other modes of transport. In this context, it is vital that the legislation establishing the single European railway area is effectively applied within the prescribed time limits.

<sup>(1)</sup> OJ C 327, 12.11.2013, p. 122.

<sup>(2)</sup> OJ C 356, 5.12.2013, p. 92.

<sup>(3)</sup> Position of the European Parliament of 26 February 2014 (not yet published in the Official Journal) and position of the Council at first reading of 17 October 2016 (OJ C 431, 22.11.2016, p. 1). Position of the European Parliament of 14 December 2016 (not yet published in the Official Journal).

<sup>(4)</sup> Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

- (3) The Union markets for rail freight services and international passenger transport services by rail have been opened to competition since 2007 and 2010 respectively, in accordance with Directive 2004/51/EC of the European Parliament and of the Council <sup>(1)</sup> and Directive 2007/58/EC of the European Parliament and of the Council <sup>(2)</sup>. Furthermore, some Member States have also opened their domestic passenger services to competition, by introducing open access rights, tendering for public service contracts, or both. Such opening of the market should have a positive impact on the functioning of the single European railway area, leading to better services for users.
- (4) Specific exemptions from the scope of Directive 2012/34/EU should allow Member States to take into account specific characteristics of the structure and organisation of rail systems on their territory, while ensuring the integrity of the single European railway area.
- (5) The operation of railway infrastructure on a network includes control-command and signalling. So long as a line is in operation, the infrastructure manager should ensure in particular that the infrastructure is suitable for its designated use.
- (6) In order to establish whether an undertaking should be considered to be vertically integrated, the notion of control within the meaning of Council Regulation (EC) No 139/2004 <sup>(3)</sup> should be applied. Where an infrastructure manager and a railway undertaking are fully independent of one another, but both are controlled directly by the State without an intermediary entity, they should be considered to be separate. A government ministry exercising control over both a railway undertaking and an infrastructure manager should not be considered to be an intermediary entity.
- (7) This Directive introduces further requirements to ensure the independence of the infrastructure manager. Member States should be free to choose between different organisational models, ranging from full structural separation to vertical integration, subject to appropriate safeguards to ensure the impartiality of the infrastructure manager as regards the essential functions, traffic management and maintenance planning. Member States should ensure that, within the limits of the established charging and allocation frameworks, the infrastructure manager enjoys organisational and decision-making independence as regards the essential functions.
- (8) Safeguards should apply in vertically integrated undertakings to ensure that other legal entities within those undertakings do not have a decisive influence on appointments and dismissals of persons in charge of taking decisions on the essential functions. In this context, Member States should ensure that there are complaints procedures in place.
- (9) Member States should put in place a national framework for the assessment of conflict of interests. Within this framework, the regulatory body should take into account any personal financial, economic or professional interests which could improperly influence the impartiality of the infrastructure manager. Where an infrastructure manager and a railway undertaking are independent of one another the fact that they are directly controlled by the same Member State authority should not be considered to give rise to a conflict of interest within the meaning of this Directive.
- (10) Decision-making by infrastructure managers with respect to train path allocation and decision-making with respect to infrastructure charging are essential functions that are vital for ensuring equitable and non-discriminatory access to rail infrastructure. Stringent safeguards should be put in place to avoid any undue influence being brought to bear on decisions taken by the infrastructure manager relating to such functions. Those safeguards should be adapted to take into account the different governance structures of railway entities.
- (11) Appropriate measures should also be taken to ensure that the functions of traffic management and maintenance planning are exercised in an impartial manner to avoid any distortion of competition. Within this framework, infrastructure managers should ensure that railway undertakings have access to relevant information. In this context, where railway undertakings have been granted further access to the traffic management process by the infrastructure managers, such access should be granted on equal terms to all railway undertakings concerned.

<sup>(1)</sup> Directive 2004/51/EC of the European Parliament and of the Council of 29 April 2004 amending Council Directive 91/440/EEC on the development of the Community's railways (OJ L 164, 30.4.2004, p. 164).

<sup>(2)</sup> Directive 2007/58/EC of the European Parliament and of the Council of 23 October 2007 amending Council Directive 91/440/EEC on the development of the Community's railways and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure (OJ L 315, 3.12.2007, p. 44).

<sup>(3)</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

- (12) Where the essential functions are performed by an independent charging and/or allocation body, the impartiality of the infrastructure manager as regards the functions of traffic management and maintenance should be ensured without the need for transferring these functions to an independent entity.
- (13) Regulatory bodies should have the power to monitor traffic management, renewal planning, as well as scheduled and unscheduled maintenance works, in order to ensure that they do not lead to discrimination.
- (14) Member States should, as a general rule, ensure that the infrastructure manager is responsible for the operation, maintenance and renewal on a network and is entrusted with the development of the railway infrastructure on that network. Where those functions are outsourced to different entities, the infrastructure manager should nevertheless retain supervisory power and bear ultimate responsibility for their exercise.
- (15) Infrastructure managers that are part of a vertically integrated undertaking may outsource within that undertaking functions other than the essential functions subject to the conditions set out in this Directive, provided that this does not give rise to a conflict of interest and that the confidentiality of commercially sensitive information is guaranteed. Essential functions should not be outsourced to any other entity of the vertically integrated undertaking, unless such entity exclusively performs essential functions.
- (16) Where appropriate, in particular for reasons of efficiency, including in cases of public-private partnerships, the functions of infrastructure management may be shared between different infrastructure managers. Infrastructure managers should each bear full responsibility for the functions they exercise.
- (17) Financial transfers between the infrastructure manager and railway undertakings, and in vertically integrated undertakings between the infrastructure manager and any other legal entity of the integrated undertaking, should be prevented, where they could lead to a distortion of competition on the market, in particular as a result of cross-subsidisation.
- (18) Infrastructure managers may use income from infrastructure network management activities that involve the use of public funds to finance their own business or to pay dividends to their investors, as a return on their investments in railway infrastructure. Such investors may include the State and any private shareholders, but may not include undertakings which are part of a vertically integrated undertaking and which exercise control over both a railway undertaking and that infrastructure manager. Dividends generated by activities that do not involve the use of public funds or revenues from charges for the use of railway infrastructure may also be used by undertakings which are part of a vertically integrated undertaking and which exercise control over both a railway undertaking and that infrastructure manager.
- (19) The principles of charging should not preclude the possibility that revenues from infrastructure charges transit through State accounts.
- (20) Where in a vertically integrated undertaking the infrastructure manager does not have distinct legal personality and the essential functions are externalised by assigning them to an independent charging and/or allocation body, the relevant provisions regarding financial transparency and the independence of the infrastructure manager should apply *mutatis mutandis* at the level of certain divisions within the undertaking.
- (21) In order to achieve efficient network management and an efficient use of infrastructure, better coordination between infrastructure managers and railway undertakings should be ensured through the use of appropriate coordination mechanisms.
- (22) With a view to facilitating the provision of efficient and effective rail services within the Union, a European Network of Infrastructure Managers should be established, building on existing platforms. For the purpose of participating in this network, Member States should be free to determine which body or bodies should be considered to be their main infrastructure managers.
- (23) Given the heterogeneity of networks in terms of their size and density and the variety in the organisational structures of national, local and regional authorities and their respective experiences with the process of market opening, Member States should be allowed sufficient flexibility to organise their rail networks in such a way that open access services and services under public service contracts can be performed, in order to ensure a high quality of services readily available to all passengers.

- (24) Granting Union railway undertakings the right of access to railway infrastructure in all Member States for the purpose of operating domestic passenger services might have implications for the organisation and financing of rail passenger services provided under a public service contract. Member States should have the option of limiting such right of access where it would compromise the economic equilibrium of those public service contracts based on a decision by the relevant regulatory body.
- (25) The right of railway undertakings to be granted access to the infrastructure does not affect the possibility for a competent authority to grant exclusive rights in accordance with Article 3 of Regulation (EC) No 1370/2007 of the European Parliament and of the Council<sup>(1)</sup> or to award a public service contract directly under the conditions established in Article 5 of that Regulation. The existence of such a public service contract should not entitle a Member State to limit the right of access of other railway undertakings to the railway infrastructure concerned for the provision of rail passenger services, unless such services would compromise the economic equilibrium of the public service contract.
- (26) Regulatory bodies should assess, on the basis of an objective economic analysis, whether the economic equilibrium of existing public service contracts would be compromised, following a request made by the interested parties.
- (27) The assessment process should take into account the need to provide all market players with sufficient legal certainty to develop their activities. The procedure should be as simple, as efficient and as transparent as possible as well as being coherent with the process for the allocation of infrastructure capacity.
- (28) Provided that non-discriminatory access is ensured, Member States may attach specific conditions to the right of access to the infrastructure in order to allow for the implementation of an integrated timetable scheme for domestic passenger services by rail.
- (29) The development of railway infrastructure and the improvement of the quality of rail passenger services are key priorities in the promotion of a sustainable transport and mobility system in Europe. In particular, the development of a high-speed rail network has the potential to create better and faster connections between Europe's economic and cultural centres. High-speed rail services link people and markets in a fast, reliable, environmentally friendly and cost-effective way and encourage a shift of passengers to rail. It is therefore of particular importance to encourage both public and private investment in high speed rail infrastructure, to create favourable conditions for a positive return on investment, and to maximise the economic and social benefits from such investments. It should remain possible for Member States to opt for different ways of promoting investment in high speed rail infrastructure and the use of high speed lines.
- (30) With a view to developing the market for high-speed passenger services, promoting optimal use of available infrastructure, and in order to encourage the competitiveness of high-speed passenger services resulting in beneficial effects for passengers, open access for high-speed passenger services should be limited only in specific circumstances and following an objective economic analysis by the regulatory body.
- (31) In order to enable passengers to access the data needed to plan journeys and to book tickets within the Union, common information and through-ticketing systems that have been developed by the market should be promoted. Given the importance of promoting seamless public transport systems, railway undertakings should be encouraged to work on the development of such systems, making multimodal, cross-border and door-to-door mobility options possible.
- (32) Through-ticketing systems should be interoperable and non-discriminatory. Railway undertakings should contribute to the development of such systems by making available in a non-discriminatory manner and in an interoperable format all relevant data necessary to plan journeys and book tickets. Member States should ensure that such systems do not discriminate between railway undertakings and that they respect the need to ensure the confidentiality of commercial information, the protection of personal data and compliance with competition rules. The Commission should monitor and report on the development of such systems and, where appropriate, submit legislative proposals.

<sup>(1)</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).

- (33) Member States should ensure that the provision of railway services reflects requirements linked to the guarantee of adequate social protection, whilst ensuring smooth progress towards the completion of the single European railway area. In this context, obligations arising in accordance with national law from binding collective agreements or agreements concluded between social partners and relevant social standards should be respected. Those obligations should be without prejudice to Union legislation in the field of social and labour law. The Commission should actively support the work undertaken by the sectoral social dialogue on railways.
- (34) In the framework of the ongoing review of Directive 2007/59/EC of the European Parliament and of the Council <sup>(1)</sup>, the Commission should assess whether new legislative acts on the certification of on-board railway staff are necessary.
- (35) Member States should be free to decide on the appropriate financing strategies to accelerate the deployment of the European Train Control System (ETCS), and in particular whether to apply differentiation of track access charges.
- (36) Infrastructure managers should cooperate concerning incidents or accidents with an impact on cross-border traffic with a view to sharing any relevant information enabling swift restoration of normal traffic.
- (37) With a view to achieving the objectives of the single European railway area, regulatory bodies should cooperate to ensure non-discriminatory access to rail infrastructure.
- (38) In particular, it is essential that regulatory bodies cooperate where matters concerning international rail services or bi-national rail infrastructure require decisions of two or more regulatory bodies, for the purpose of coordinating their decision-making, with a view to avoiding legal uncertainty and ensuring the efficiency of international rail services.
- (39) In the process of opening national rail markets to competition by granting access to the networks to every railway undertaking, Member States should have a sufficient transitional period to adapt their national law and organisational structures. As a consequence, Member States should be able to maintain their existing national rules on market access until the end of the transitional period.
- (40) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents <sup>(2)</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a Directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

#### *Article 1*

Directive 2012/34/EU is amended as follows:

(1) Article 2 is amended as follows:

(a) in paragraph 3, the introductory wording is replaced by the following:

‘3. Member States may exclude the following from the application of Articles 7, 7a, 7b, 7c, 7d, 8 and 13 and Chapter IV:’;

(b) the following paragraphs are inserted:

‘3a. Member States may exclude the following from the application of Articles 7, 7a, 7b, 7c, 7d and 8:

Local, low-traffic lines of a length not exceeding 100 km that are used for freight traffic between a mainline and points of origin and destination of shipments along those lines, provided that those lines are managed by entities other than the main infrastructure manager and that either (a) those lines are used by a single freight

<sup>(1)</sup> Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community (OJ L 315, 3.12.2007, p. 51).

<sup>(2)</sup> OJ C 369, 17.12.2011, p. 14.

operator or (b) the essential functions in relation to those lines are performed by a body which is not controlled by any railway undertaking. Where there is only a single freight operator, Member States may also exempt it from the application of Chapter IV until capacity is requested by another applicant. This paragraph can equally be applied where the line is used also, to a limited extent, for passenger services. Member States shall inform the Commission of their intention to exclude such lines from the application of Articles 7, 7a, 7b, 7c, 7d and 8.

3b. Member States may exclude the following from the application of Article 7, 7a, 7b, 7c and 7d:

Regional low-traffic networks managed by an entity other than the main infrastructure manager and used for the operation of regional passenger services provided by a single railway undertaking other than the incumbent railway undertaking of the Member State, until capacity for passenger services on that network is requested, and provided that the undertaking is independent of any railway undertaking operating freight services. This paragraph can equally be applied where the line is used also, to a limited extent, for freight services. Member States shall inform the Commission of their intention to exclude such lines from the application of Articles 7, 7a, 7b, 7c and 7d.;

(c) paragraph 4 is replaced by the following:

‘4. Without prejudice to paragraph 3, Member States may exclude local and regional railway infrastructures which do not have any strategic importance for the functioning of the railway market from the application of Article 8(3) and local railway infrastructures which do not have any strategic importance for the functioning of the railway market from the application of Articles 7, 7a, 7c and Chapter IV. Member States shall notify the Commission of their intention to exclude such railway infrastructures. The Commission shall adopt implementing acts setting out its decision whether such railway infrastructure may be considered to be without strategic importance. In doing so, the Commission shall take into account the length of railway lines concerned, their level of use and the traffic volume potentially impacted. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 62(2).’;

(d) the following paragraph is inserted:

‘8a. For a period of 10 years after 24 December 2016, Member States may exclude from the application of Chapters II and IV of this Directive, with the exception of Articles 10, 13 and 56, isolated railway lines of less than 500 km, with a different track gauge to that of the main domestic network, that connect with a third country to which Union rail legislation does not apply and that are managed by a different infrastructure manager than the main domestic network. Railway undertakings operating exclusively on such lines may be exempted from the application of Chapter II.

Such exemptions may be renewed for periods not exceeding 5 years. No later than 12 months before the expiry date of the exemption, a Member State that intends to renew an exemption shall notify the Commission of its intention to do so. The Commission shall examine whether the conditions for an exemption set out in the first subparagraph are still met. If that is not the case, the Commission shall adopt implementing acts setting out its decision on the termination of the exemption. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 62(2).’;

(e) the following paragraphs are added:

‘12. Where there is an existing public-private partnership concluded before 16 June 2015 and the private party to that partnership is also a railway undertaking responsible for providing passenger railway services on the infrastructure, Member States may continue to exempt such a private party from the application of Articles 7, 7a and 7d and to limit the right to pick up and set down passengers for services operated by railway undertakings on the same infrastructure as the passenger services provided by the private party under the public-private partnership.

13. Private infrastructure managers that are party to a public-private partnership concluded before 24 December 2016 and that do not receive public funds shall be excluded from the application of Article 7d provided that loans and financial guarantees operated by the infrastructure manager do not benefit directly or indirectly specific railway undertakings.’;

(2) Article 3 is amended as follows:

(a) point 2 is replaced by the following:

‘(2) “infrastructure manager” means any body or firm responsible for the operation, maintenance and renewal of railway infrastructure on a network, as well as responsible for participating in its development as determined by the Member State within the framework of its general policy on development and financing of infrastructure’;



(b) the following points are inserted:

- (2a) “development of the railway infrastructure” means network planning, financial and investment planning as well as the building and upgrading of the infrastructure;
- (2b) “operation of the railway infrastructure” means train path allocation, traffic management and infrastructure charging;
- (2c) “maintenance of the railway infrastructure” means works intended to maintain the condition and capability of existing infrastructure;
- (2d) “renewal of the railway infrastructure” means major substitution works on the existing infrastructure which do not change its overall performance;
- (2e) “upgrade of the railway infrastructure” means major modification works to the infrastructure which improve its overall performance;
- (2f) “essential functions” of infrastructure management means decision-making concerning train path allocation, including both the definition and the assessment of availability and the allocation of individual train paths, and decision-making concerning infrastructure charging, including determination and collection of charges, in accordance with the charging framework and the capacity allocation framework established by the Member States pursuant to Articles 29 and 39;

(c) the following points are added:

‘(31) “vertically integrated undertaking” means an undertaking where, within the meaning of Council Regulation (EC) No 139/2004 (\*):

- (a) an infrastructure manager is controlled by an undertaking which at the same time controls one or several railway undertakings that operate rail services on the infrastructure manager’s network;
- (b) an infrastructure manager is controlled by one or several railway undertakings that operate rail services on the infrastructure manager’s network; or
- (c) one or several railway undertakings that operate rail services on the infrastructure manager’s network are controlled by an infrastructure manager.

It also means an undertaking consisting of distinct divisions, including an infrastructure manager and one or several divisions providing transport services that do not have a distinct legal personality.

Where an infrastructure manager and a railway undertaking are fully independent of each other, but both are controlled directly by a Member State without an intermediary entity, they are not considered to constitute a vertically integrated undertaking for the purposes of this Directive;

- (32) “public private partnership” means a binding arrangement between public bodies and one or more undertakings other than the main infrastructure manager of a Member State, under which the undertakings partially or totally construct and/or fund railway infrastructure, and/or acquire the right to exercise any of the functions listed in point (2) for a predefined period of time. The arrangement may take any appropriate legally binding form foreseen in national legislation;
- (33) “management board” means the senior body of an undertaking performing executive and administrative functions, which is responsible and accountable for day-to-day management of the undertaking;
- (34) “supervisory board” means the most senior body of an undertaking that fulfils supervisory tasks, including the exercise of control over the management board and general strategic decisions regarding the undertaking;
- (35) “through ticket” means a ticket or tickets representing a transport contract for successive railway services operated by one or more railway undertakings;
- (36) “high speed passenger services” means passenger rail services operated without intermediate stops between two places separated at least by a distance of more than 200 km on specially-built high-speed lines equipped for speeds generally equal or greater than 250 km/h and running on average at those speeds.

(\*) Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).;

(3) in Article 6, paragraph 2 is replaced by the following:

‘2. For the purpose of this Article, Member States which apply Article 7a(3) shall require the undertaking to be organised in distinct divisions that do not have a distinct legal personality within a single undertaking.’;

(4) Article 7 is replaced by the following:

‘Article 7

#### **Independence of the infrastructure manager**

1. Member States shall ensure that the infrastructure manager is responsible for operation, maintenance and renewal on a network and is entrusted with the development of the railway infrastructure of that network in accordance with national law.

Member States shall ensure that none of the other legal entities within the vertically integrated undertaking has a decisive influence on the decisions taken by the infrastructure manager in relation to the essential functions.

Member States shall ensure that the members of the supervisory board and of the management board of the infrastructure manager and the managers directly reporting to them act in a non-discriminatory manner and that their impartiality is not affected by any conflict of interest.

2. Member States shall ensure that the infrastructure manager is organised as an entity that is legally distinct from any railway undertaking and, in vertically integrated undertakings, from any other legal entities within the undertaking.

3. Member States shall ensure that the same individuals cannot be concurrently appointed or employed:

- (a) as members of the management board of an infrastructure manager and as members of the management board of a railway undertaking;
- (b) as persons in charge of taking decisions on the essential functions and as members of the management board of a railway undertaking;
- (c) where a supervisory board exists, as members of the supervisory board of an infrastructure manager and as members of the supervisory board of a railway undertaking;
- (d) as members of the supervisory board of an undertaking which is part of a vertically integrated undertaking and which exercises control over both a railway undertaking and an infrastructure manager and as members of the management board of that infrastructure manager.

4. In vertically integrated undertakings, the members of the management board of the infrastructure manager and the persons in charge of taking decisions on the essential functions shall not receive any performance-based remuneration from any other legal entities within the vertically integrated undertaking, nor shall they receive any bonuses principally related to the financial performance of particular railway undertakings. They may however be offered incentives related to the overall performance of the railway system.

5. Where information systems are common to different entities within a vertically integrated undertaking, access to sensitive information relating to essential functions shall be restricted to authorised staff of the infrastructure manager. Sensitive information shall not be passed on to other entities within a vertically integrated undertaking.

6. The provisions of paragraph 1 of this Article shall be without prejudice to the decision-making rights of Member States as regards the development and funding of railway infrastructure and the competences of Member States as regards infrastructure financing and charging, as well as capacity allocation, as defined in Article 4(2), and Articles 8, 29 and 39.’;

(5) the following Articles are inserted:

‘Article 7a

#### **Independence of the essential functions**

1. Member States shall ensure that the infrastructure manager has organisational and decision-making independence within the limits set out in Article 4(2), and Articles 29 and 39, as regards the essential functions.

2. For the application of paragraph 1, Member States shall ensure in particular that:
- (a) a railway undertaking or any other legal entity does not exercise a decisive influence on the infrastructure manager in relation to the essential functions, without prejudice to the role of the Member States as regards the determination of the charging framework and the capacity allocation framework and specific charging rules in accordance with Articles 29 and 39;
  - (b) a railway undertaking or any other legal entity within the vertically integrated undertaking has no decisive influence on appointments and dismissals of persons in charge of taking decisions on the essential functions;
  - (c) the mobility of persons in charge of the essential functions does not create conflicts of interest.
3. Member States may decide that infrastructure charging and path allocation shall be performed by a charging body and/or by an allocation body that are independent in their legal form, organisation and decision-making from any railway undertaking. In such a case, Member States may decide not to apply the provisions of Article 7(2) and points (c) and (d) of Article 7(3).
- Point (a) of Article 7(3) and Article 7(4) shall apply *mutatis mutandis* to the heads of divisions in charge of management of the infrastructure and provision of railway services.
4. The provisions of this Directive referring to the essential functions of an infrastructure manager shall apply to the independent charging and/or allocation body.

#### Article 7b

### **Impartiality of the infrastructure manager in respect of traffic management and maintenance planning**

1. Member States shall ensure that the functions of traffic management and maintenance planning are exercised in a transparent and non-discriminatory manner and that the persons in charge of taking decisions in respect of those functions are not affected by any conflict of interest.
2. As regards traffic management, Member States shall ensure that railway undertakings, in cases of disruption concerning them, have full and timely access to relevant information. Where the infrastructure manager grants further access to the traffic management process, it shall do so for the railway undertakings concerned in a transparent and non-discriminatory way.
3. As regards the long-term planning of major maintenance and/or renewal of the railway infrastructure, the infrastructure manager shall consult applicants and, to the best possible extent, take into account the concerns expressed.

The scheduling of maintenance works shall be carried out by the infrastructure manager in a non-discriminatory way.

#### Article 7c

### **Outsourcing and sharing the infrastructure manager's functions**

1. Provided that no conflicts of interest arise and that the confidentiality of commercially sensitive information is guaranteed, the infrastructure manager may:
- (a) outsource functions to a different entity, provided the latter is not a railway undertaking, does not control a railway undertaking, or is not controlled by a railway undertaking. Within a vertically integrated undertaking, essential functions shall not be outsourced to any other entity of the vertically integrated undertaking, unless such entity exclusively performs essential functions;
  - (b) outsource the execution of works and related tasks on development, maintenance and renewal of the railway infrastructure to railway undertakings or companies which control the railway undertaking, or are controlled by the railway undertaking.

The infrastructure manager shall retain the supervisory power over, and bear ultimate responsibility for, the exercise of the functions described in Article 3(2). Any entity carrying out essential functions shall comply with Articles 7, 7a, 7b and 7d.

2. By way of derogation from Article 7(1), infrastructure management functions may be performed by different infrastructure managers, including parties to public-private partnership arrangements provided that they all fulfil the requirements of Article 7(2) to (6) and Articles 7a, 7b and 7d and assume full responsibility for the exercise of the functions concerned.

3. Where essential functions are not assigned to a power supply operator, it shall be exempted from the rules applicable to infrastructure managers, provided that compliance with the relevant provisions concerning development of the network, in particular Article 8, is ensured.

4. Subject to supervision by the regulatory body or any other independent competent body determined by the Member States, an infrastructure manager may conclude cooperation agreements with one or more railway undertakings in a non-discriminatory way and with a view to delivering benefits to customers such as reduced costs or improved performance on the part of the network covered by the agreement.

That body shall monitor the execution of such agreements and may, where justified, advise that they should be terminated.

#### *Article 7d*

#### **Financial transparency**

1. While respecting national procedures applicable in each Member State, income from infrastructure network management activities, including public funds, may be used by the infrastructure manager only to finance its own business, including the servicing of its loans. The infrastructure manager may also use such income to pay dividends to owners of the company, which may include any private shareholders, but excludes undertakings which are part of a vertically integrated undertaking and which exercise control over both a railway undertaking and that infrastructure manager.

2. Infrastructure managers shall not grant loans to railway undertakings, either directly or indirectly.

3. Railway undertakings shall not grant loans to infrastructure managers, either directly or indirectly.

4. Loans between legal entities of a vertically integrated undertaking, shall only be granted, disbursed and serviced at market rates and conditions which reflect the individual risk profile of the entity concerned.

5. Loans between legal entities of a vertically integrated undertaking granted before 24 December 2016 shall continue until their maturity, provided that they were contracted at market rates and that they are actually disbursed and serviced.

6. Any services offered by other legal entities of a vertically integrated undertaking to the infrastructure manager shall be provided on the basis of contracts and be paid either at market prices or at prices which reflect the cost of production, plus a reasonable margin of profit.

7. Debts attributed to the infrastructure manager shall be clearly separated from debts attributed to other legal entities within vertically integrated undertakings. Such debts shall be serviced separately. This does not prevent the final payment of debts being made via an undertaking which is part of a vertically integrated undertaking and which exercises control over both a railway undertaking and an infrastructure manager, or via another entity within the undertaking.

8. The accounts of the infrastructure manager and of the other legal entities within a vertically integrated undertaking shall be kept in a way that ensures the fulfilment of this Article and allows for separate accounting and transparent financial circuits within the undertaking.

9. Within vertically integrated undertakings, the infrastructure manager shall keep detailed records of any commercial and financial relations with the other legal entities within that undertaking.

10. Where essential functions are performed by an independent charging and/or allocation body in accordance with Article 7a(3) and Member States are not applying Article 7(2), the provisions of this Article shall apply *mutatis mutandis*. References to infrastructure manager, railway undertaking and other legal entities of a vertically integrated undertaking in this Article shall be understood as referring to the respective divisions of the undertaking. Compliance with the requirements set out in this Article shall be demonstrated in the separate accounts of the respective divisions of the undertaking.

#### Article 7e

##### **Coordination mechanisms**

Member States shall ensure that appropriate coordination mechanisms are put in place to ensure coordination between their main infrastructure managers and all interested railway undertakings as well as applicants referred to in Article 8(3). Where relevant, representatives of users of the rail freight and passenger transport services, and national, local or regional authorities, shall be invited to participate. The regulatory body concerned may participate as an observer. The coordination shall concern inter alia:

- (a) the needs of applicants related to the maintenance and development of the infrastructure capacity;
- (b) the content of the user-oriented performance targets contained in the contractual agreements referred to in Article 30 and of the incentives referred to in Article 30(1) and their implementation;
- (c) the content and implementation of the network statement referred to in Article 27;
- (d) issues of intermodality and interoperability;
- (e) any other issue related to the conditions for access, the use of the infrastructure and the quality of the services of the infrastructure manager.

The infrastructure manager shall draw up and publish guidelines for coordination, in consultation with interested parties. Coordination shall take place at least annually and the infrastructure manager shall publish on its website an overview of the activities undertaken pursuant to this article.

Coordination under this Article shall be without prejudice to the right of applicants to appeal to the regulatory body and the powers of the regulatory body as set out in Article 56.

#### Article 7f

##### **European Network of Infrastructure Managers**

1. With the view to facilitating the provision of efficient and effective rail services within the Union, Member States shall ensure that their main infrastructure managers participate and cooperate in a network, that meets at regular intervals to:

- (a) develop Union rail infrastructure;
- (b) support the timely and efficient implementation of the single European railway area;
- (c) exchange best practices;
- (d) monitor and benchmark performance;
- (e) contribute to the market monitoring activities referred to in Article 15;
- (f) tackle cross-border bottlenecks; and
- (g) discuss the application of Articles 37 and 40.

For the purpose of point (d), the network shall identify common principles and practices for the monitoring and benchmarking of performance in a consistent manner.

Coordination under this paragraph shall be without prejudice to the right of applicants to appeal to the regulatory body and the powers of the regulatory body as set out in Article 56.

2. The Commission shall be a member of the network. It shall support the work of the network and facilitate coordination.;

(6) Article 10 is amended as follows:

(a) the following paragraph is inserted:

‘1a. Without prejudice to the international obligations of the Union and the Member States, Member States having a border to a third country may limit the right of access provided for in this Article for services operated from and to that third country running on a network the track gauge of which is different from the main railway network within the Union if distortions of competition arise in cross-border railway transport between Member States and that third country. Such distortions may result, inter alia, from lack of non-discriminatory access to rail infrastructure and related services in the third country concerned.

If a Member State, in accordance with this paragraph, intends to adopt a decision to limit the right of access, it shall submit the draft decision to the Commission and consult the other Member States.

If, within a period of 3 months after submitting that draft decision, neither the Commission nor another Member State objects to it, the Member State may adopt the decision.

The Commission may adopt implementing acts setting out the details of the procedure to be followed for the application of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 62(3).’;

(b) paragraph 2 is replaced by the following:

‘2. Without prejudice to Regulation (EC) No 1370/2007, railway undertakings shall be granted, under equitable, non-discriminatory and transparent conditions, the right of access to railway infrastructure in all Member States for the purpose of operating rail passenger services. Railway undertakings shall have the right to pick up passengers at any station and set them down at another. That right shall include access to infrastructure connecting service facilities referred to in point 2 of Annex II to this Directive.’;

(c) paragraphs 3 and 4 are deleted;

(7) Article 11 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.’;

(b) in paragraph 2, the first subparagraph is replaced by the following:

‘2. In order to determine whether the economic equilibrium of a public service contract would be compromised, the relevant regulatory body or bodies referred to in Article 55 shall make an objective economic analysis and base their decision on pre-determined criteria. They shall determine this after a request from any of the following, submitted within 1 month from the receipt of the information on the intended passenger service referred to in Article 38(4):

(a) the competent authority or competent authorities that awarded the public service contract;

(b) any other interested competent authority with the right to limit access under this Article;

(c) the infrastructure manager;

(d) the railway undertaking performing the public service contract.’;

(c) paragraph 3 is replaced by the following:

‘3. The regulatory body shall give the grounds for its decision and the conditions under which a reconsideration of the decision may be requested, within 1 month of its notification, by one of the following:

(a) the relevant competent authority or competent authorities;

(b) the infrastructure manager;

- (c) the railway undertaking performing the public service contract;
- (d) the railway undertaking seeking access.

Where the regulatory body decides that the economic equilibrium of a public contract would be compromised by the intended passenger service referred to in Article 38(4), it shall indicate possible changes to that service which would ensure that the conditions to grant the right of access provided for in Article 10(2) are met.;

- (d) in paragraph 4, the following subparagraph is added:

‘Based on the experience of regulatory bodies, competent authorities and railway undertakings, and based on the activities of the network referred to in Article 57(1), the Commission shall by 16 December 2018 adopt implementing acts setting out the details of the procedure and criteria to be followed for the application of paragraphs 1, 2 and 3 of this Article as regards domestic passenger services. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 62(3).’;

- (e) paragraph 5 is replaced by the following:

‘5. Member States may also limit the right of access to railway infrastructure for the purpose of operating domestic passenger services between a given place of departure and a given destination within the same Member State where:

- (a) exclusive rights to convey passengers between these stations have been granted under a public service contract awarded before 16 June 2015; or
- (b) an additional right/authorisation to operate commercial passenger services in competition with another operator between these stations has been awarded by 25 December 2018 on the basis of a fair competitive tendering procedure;

and where these operators receive no compensation to operate these services.

Such a limitation may continue for the original duration of the contract or authorisation, or until 25 December 2026, whichever is shorter.;

- (8) the following Articles are inserted:

‘Article 11a

### **High-speed passenger services**

1. With a view to developing the market for high-speed passenger services, promoting optimal use of available infrastructure, and in order to encourage the competitiveness of high-speed passenger services resulting in beneficial effects for passengers, without prejudice to Article 11(5), the exercise of the right of access provided for in Article 10 as regards high speed passenger services may only be subject to the requirements established by the regulatory body in accordance with this Article.

2. Where the regulatory body, following the analysis foreseen in Article 11(2), (3) and (4), determines that the intended high speed passenger service between a given place of departure and a given destination compromises the economic equilibrium of a public service contract that covers the same route or an alternative route, the regulatory body shall indicate possible changes to the service which would ensure that the conditions to grant the right of access provided for in Article 10(2) are met. Such changes may include a modification of the intended service.;

‘Article 13a

### **Common information and through-ticketing schemes**

1. Without prejudice to Regulation (EC) No 1371/2007 of the European Parliament and of the Council (\*) and Directive 2010/40/EU of the European Parliament and of the Council (\*\*), Member States may require railway undertakings operating domestic passenger services to participate in a common information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations or give the power to competent authorities to establish such a scheme. If such a scheme is established, Member States shall ensure that it does not create market distortion or discriminate between railway undertakings and that it is managed by a public or private legal entity or an association of all railway undertakings operating passenger services.

2. The Commission shall monitor rail market developments concerning the introduction and use of common information and through-ticketing systems and shall assess the need for action at Union level, taking into account market initiatives. It shall in particular consider non-discriminatory access for rail passengers to data necessary to plan journeys and book tickets. By 31 December 2022, it shall present a report to the European Parliament and the Council on the availability of such common information and through-ticketing systems, to be accompanied, if appropriate, by legislative proposals.

3. Member States shall require railway undertakings operating passenger services to put in place contingency plans and shall ensure that these contingency plans are properly coordinated to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, in the event of a major disruption to services.

(\*) Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14).

(\*\*) Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport (OJ L 207, 6.8.2010, p. 1).;

(9) in Article 19, the following point is added:

'(e) have not been convicted of serious offences resulting from obligations arising in accordance with national law from binding collective agreements, where applicable.');

(10) in Article 32, paragraph 4 is replaced by the following:

'4. The infrastructure charges for the use of railway corridors which are specified in Commission Regulation (EU) 2016/919 (\*) may be differentiated to give incentives to equip trains with the ETCS that is compliant with the version adopted by the Commission Decision 2008/386/EC (\*\*) and with successive versions. Such differentiation shall not result in any overall increase in revenue for the infrastructure manager.

Member States may decide that this differentiation of infrastructure charges does not apply to railway lines specified in Regulation (EU) 2016/919 on which only ETCS equipped trains run.

Member States may decide to extend this differentiation to railway lines not specified in Regulation (EU) 2016/919.

(\*) Commission Regulation (EU) 2016/919 of 27 May 2016 on the technical specification for interoperability relating to the "control-command and signalling" subsystems of the rail system in the European Union (OJ L 158, 15.6.2016, p. 1).

(\*\*) Commission Decision 2008/386/EC of 23 April 2008 modifying Annex A to Decision 2006/679/EC concerning the technical specification for interoperability relating to the control-command and signalling subsystem of the trans-European conventional rail system and Annex A to Decision 2006/860/EC concerning the technical specification for interoperability relating to the control-command and signalling subsystem of the trans-European high-speed rail system (OJ L 136, 24.5.2008, p. 11).;

(11) in Article 38, paragraph 4 is replaced by the following:

'4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, in a Member State where the right of access to railway infrastructure is limited in accordance with Article 11, it shall inform the infrastructure managers and the regulatory bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable the regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within 10 days.;

(12) in Article 53, in paragraph 3, the following subparagraph is added:

'The regulatory body may require the infrastructure manager to make such information available to it, if it deems that this is necessary.;



(13) in Article 54, paragraph 1 is replaced by the following:

‘1. In the event of disturbance to train movements caused by technical failure or accident, the infrastructure manager shall take all necessary steps to restore the situation to normal. To that end, it shall draw up a contingency plan listing the various bodies to be informed in the event of serious incidents or serious disturbances to train movements. In the event of a disturbance which has a potential impact on cross-border traffic, the infrastructure manager shall share any relevant information with other infrastructure managers the network and traffic of which may be affected by that disturbance. The infrastructure managers concerned shall cooperate to restore the cross-border traffic to normal.’;

(14) Article 56 is amended as follows:

(a) in paragraph 1 the following points are added:

‘(h) traffic management;

(i) renewal planning and scheduled or unscheduled maintenance;

(j) compliance with the requirements, including those regarding conflicts of interest, set out in Article 2(13) and Articles 7, 7a, 7b, 7c, and 7d.’;

(b) paragraph 2 is replaced by the following:

‘2. Without prejudice to the powers of the national competition authorities to secure competition in the rail services markets, the regulatory body shall have the power to monitor the competitive situation in the rail services markets, including in particular the market for high-speed passenger services, and the activities of infrastructure managers in relation to points (a) to (j) of paragraph 1. In particular, the regulatory body shall verify compliance with points (a) to (j) of paragraph 1 on its own initiative and with a view to preventing discrimination against applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate against applicants.’;

(c) in paragraph 9, the first subparagraph is replaced by the following:

‘9. The regulatory body shall consider any complaints and, as appropriate, shall ask for relevant information and initiate consultations with all relevant parties, within 1 month from the receipt of the complaint. It shall decide on any complaints, take action to remedy the situation and inform the relevant parties of its reasoned decision within a pre-determined, reasonable time, and, in any case, within 6 weeks from receipt of all relevant information. Without prejudice to the powers of the national competition authorities for securing competition in the rail service markets, the regulatory body shall, where appropriate, decide on its own initiative on appropriate measures to correct discrimination against applicants, market distortion and any other undesirable developments in these markets, in particular with reference to points (a) to (j) of paragraph 1.’;

(d) paragraph 12 is replaced by the following:

‘12. In order to verify compliance with accounting separation provisions laid down in Article 6 and provisions on financial transparency laid down in Article 7d, the regulatory body shall have the power to carry out audits or initiate external audits with infrastructure managers, operators of service facilities and, where relevant, railway undertakings. In the case of vertically integrated undertakings, those powers shall extend to all legal entities. The regulatory body shall be entitled to request any relevant information. In particular the regulatory body shall have the power to request infrastructure manager, operators of service facilities and all undertakings or other entities performing or integrating different types of rail transport or infrastructure management as referred to in Article 6(1) and (2) and Article 13 to provide all or part of the accounting information listed in Annex VIII with a sufficient level of detail as deemed necessary and proportionate.

Without prejudice to the powers of the national authorities responsible for State aid issues, the regulatory body may also draw conclusions from the accounts concerning State aid issues which it shall report to those authorities.

Financial flows referred to in Article 7d(1), loans referred to in Article 7d(4) and (5), and debts referred to in Article 7d(7) shall be subject to monitoring by the regulatory body.

Where a Member State has designated the regulatory body as the independent competent body referred to in Article 7c(4), the regulatory body shall assess the cooperation agreements referred to in that Article.;

(15) Article 57 is amended as follows:

(a) the following paragraph is inserted:

‘3a. Where matters concerning an international service require decisions of two or more regulatory bodies, the regulatory bodies concerned shall cooperate in preparing their respective decisions in order to bring about a resolution of the matter. For that purpose, the regulatory bodies concerned shall carry out their functions in accordance with Article 56.;

(b) paragraph 8 is replaced by the following:

‘8. Regulatory bodies shall develop common principles and practices for making the decisions for which they are empowered under this Directive. Such common principles and practices shall include arrangements for the resolution of disputes that arise within the framework of paragraph 3a. Based on the experience of regulatory bodies and on the activities of the network referred to in paragraph 1, and, if needed, to ensure efficient cooperation of regulatory bodies, the Commission may adopt implementing acts setting out such common principles and practices. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 62(3).;

(c) the following paragraph is added:

‘10. For decisions concerning a bi-national infrastructure, both Member States concerned may at any time after 24 December 2016 agree to require coordination between the regulatory bodies concerned in order to align the impact of their decisions.;

(16) in Article 63, paragraph 1 is replaced by the following:

‘1. By 31 December 2024, the Commission shall evaluate the impact of this Directive on the rail sector and shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on its implementation.

In particular, the report shall evaluate the development of high-speed rail services and assess the existence of discriminatory practices regarding access to high-speed lines. The Commission shall consider whether it is necessary to submit legislative proposals.

By the same date, the Commission shall assess whether discriminatory practices or other types of distortion of competition persist in relation to infrastructure managers which are part of a vertically integrated undertaking. The Commission shall, if appropriate, submit legislative proposals.’.

## Article 2

1. Notwithstanding Article 3(2), Member States shall adopt and publish, by 25 December 2018, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall communicate to the Commission the text of those provisions immediately.

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. The methods of making such reference shall be laid down by Member States.

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 3*

1. This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.
2. Points 6 to 8 and 11 of Article 1 shall apply from 1 January 2019 in time for the working timetable starting on 14 December 2020.

*Article 4*

This Directive is addressed to the Member States.

Done at Strasbourg, 14 December 2016.

*For the European Parliament*  
*The President*  
M. SCHULZ

*For the Council*  
*The President*  
I. KORČOK

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# DECISIONS

## **DECISION (EU) 2016/2371 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 December 2016 providing further macro-financial assistance to the Hashemite Kingdom of Jordan**

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 212(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure <sup>(1)</sup>,

Whereas:

- (1) Relations between the European Union (the 'Union') and the Hashemite Kingdom of Jordan ('Jordan') are developing within the framework of the European Neighbourhood Policy (ENP). Jordan signed an Association Agreement <sup>(2)</sup> with the Union on 24 November 1997, which came into force on 1 May 2002. Under that agreement, the Union and Jordan gradually established a free trade area over a transitional period of 12 years. In addition, an agreement on further liberalisation of agricultural products <sup>(3)</sup> entered into force in 2007. In 2010, an Advanced Status partnership was agreed between the EU and Jordan that entails expanded areas of cooperation. A protocol on Dispute Settlement Mechanisms for trade between the EU and Jordan initialled in December 2009 entered into force on 1 July 2011. Bilateral political dialogue and economic cooperation have been further developed within the framework of the Association Agreement and the Single Support Framework adopted for 2014-2017.
- (2) Since 2011, Jordan has embarked on a number of political reforms to strengthen parliamentary democracy and the rule of law. A Constitutional Court and an Independent Election Commission have been set up and a number of major laws, including the Election Law and the Law on Political Parties as well as laws on decentralisation and municipalities, have been passed by the Jordanian Parliament.
- (3) The Jordanian economy has suffered significantly from the ongoing regional unrest, notably in neighbouring Iraq and Syria. Together with a weaker global environment, this regional unrest has taken a heavy toll on external receipts and has strained public finances. Tourism and foreign direct investment inflows have been negatively affected, trading routes blocked and the flow of natural gas from Egypt disrupted. In addition, the Jordanian economy has also been impacted by a large inflow of Syrian refugees, which has increased pressure on its fiscal position, public services and infrastructure.
- (4) Since the outbreak of the conflicts in Syria in 2011, the Union has expressed its unequivocal commitment to supporting Jordan as it addresses the economic and social consequences of the Syrian crisis, and in particular of the presence of a large number of Syrian refugees in its territory. It has increased its financial support to Jordan, strengthening its cooperation in many fields, including the civil society, the electoral system, security, regional development and social and economic reforms. In addition, the Union has offered the possibility to Jordan of concluding a Deep and Comprehensive Free Trade Area agreement.

<sup>(1)</sup> Position of the European Parliament of 24 November 2016 (not yet published in the Official Journal) and Decision of the Council of 8 December 2016.

<sup>(2)</sup> Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part (OJ L 129, 15.5.2002, p. 3).

<sup>(3)</sup> Agreement in the form of an Exchange of Letters between the European Community and the Hashemite Kingdom of Jordan concerning reciprocal liberalisation measures and amending the EC-Jordan Association Agreement as well as replacing Annexes I, II, III and IV and Protocols 1 and 2 to that Agreement (OJ L 41, 13.2.2006, p. 3).

- (5) In this difficult economic and financial context, the Jordanian authorities and the International Monetary Fund (IMF) agreed in August 2012 on a first economic adjustment programme, which was supported by a 3-year Stand-By Arrangement (SBA) in the amount of USD 2 000 million. That programme was successfully completed in August 2015. Under that programme, Jordan made considerable progress with fiscal consolidation, also helped by the decline in oil prices, and with a number of structural reforms.
- (6) In December 2012, Jordan requested complementary macro-financial assistance from the Union. In response, a decision providing macro-financial assistance of EUR 180 million in the form of loans was adopted in December 2013 <sup>(1)</sup> (MFA-I). The Memorandum of Understanding defining the policy conditions related to this first macro-financial assistance entered into force on 18 March 2014. Following the implementation of the agreed policy measures, the first tranche of MFA-I was disbursed on 10 February 2015 and the second tranche was disbursed on 15 October 2015.
- (7) Since the outbreak of the Syrian crisis, the Union has allocated almost EUR 1 130 million to Jordan. This includes, in addition to the EUR 180 million from the first macro-financial assistance operation, EUR 500 million in regular programmed bilateral cooperation for Jordan financed under the European Neighbourhood Instrument, about EUR 250 million from the humanitarian budget and more than EUR 30 million from the Instrument contributing to Stability and Peace. Moreover, the European Investment Bank has made loans in the amount of EUR 264 million available since 2011.
- (8) The intensification of the Syrian crisis in 2015 severely affected Jordan through its effects on trade, tourism and investor confidence. Jordan was also affected by a decline in financial support from the Gulf Cooperation Council countries, affected by the decline in oil prices. As a result, economic growth has slowed down again, unemployment has increased and new fiscal and external financing needs have emerged.
- (9) In this challenging context, the Union has reaffirmed its commitment to supporting Jordan in its economic and social challenges and reform process. In particular, this commitment was expressed at the conference 'Supporting Syria and the Region', held in London on 4 February 2016, where the Union pledged EUR 2 390 million in 2016-2017 in financial support for the countries most affected by the refugee crisis, including Jordan. Political and economic support from the Union to Jordan's reform process is consistent with the Union's policy towards the Southern Mediterranean region, as set out in the context of the ENP.
- (10) Following the deterioration in Jordan's economic and financial situation, the IMF and Jordan have also started discussions on a successor arrangement, which could take the form of an Extended Fund Facility (IMF programme) and would likely cover a period of 3 years, starting in the second semester of 2016. The new IMF programme would aim to alleviate Jordan's short-term balance of payment difficulties while encouraging the implementation of strong adjustment measures.
- (11) In March 2016, in view of the worsening economic situation and outlook, Jordan requested additional macro-financial assistance from the Union.
- (12) Given that Jordan is a country covered by the ENP, it should be considered to be eligible to receive macro-financial assistance from the Union.
- (13) The Union's macro-financial assistance should be an exceptional financial instrument of untied and undesignated balance-of-payments support, which aims to address the beneficiary's immediate external financing needs and should underpin the implementation of a policy programme containing strong immediate adjustment and structural reform measures designed to improve the balance-of-payments position in the short term.
- (14) Given that there is still a significant residual external financing gap in Jordan's balance of payments over and above the resources provided by the IMF and other multilateral institutions, the Union's macro-financial assistance to be provided to Jordan is, under the current exceptional circumstances, considered to be an appropriate response to Jordan's request to support economic stabilisation, in conjunction with the IMF programme. The Union's macro-financial assistance would support the economic stabilisation and the structural reform agenda of Jordan, supplementing resources made available under the IMF's financial arrangement.

<sup>(1)</sup> Decision No 1351/2013/EU of the European Parliament and of the Council of 11 December 2013 providing macro-financial assistance to the Hashemite Kingdom of Jordan (OJ L 341, 18.12.2013, p. 4).

- (15) The Union's macro-financial assistance should aim to support the restoration of a sustainable external financing situation for Jordan, thereby supporting its economic and social development.
- (16) The determination of the amount of the Union's macro-financial assistance is based on a complete quantitative assessment of Jordan's residual external financing needs, and takes into account its capacity to finance itself with its own resources, in particular the international reserves at its disposal. The Union's macro-financial assistance should complement the programmes and resources provided by the IMF and the World Bank. The determination of the amount of the assistance also takes into account expected financial contributions from multilateral donors and the need to ensure fair burden sharing between the Union and other donors, as well as the pre-existing deployment of the Union's other external financing instruments in Jordan and the added value of the overall Union involvement.
- (17) The Commission should ensure that the Union's macro-financial assistance is legally and substantially in line with the key principles and objectives of the different areas of external action, with the measures taken in respect of those areas, and with other relevant Union policies.
- (18) The Union's macro-financial assistance should support the Union's external policy towards Jordan. Commission services and the European External Action Service should work closely together throughout the macro-financial assistance operation in order to coordinate, and to ensure the consistency of, Union external policy.
- (19) The Union's macro-financial assistance should support Jordan's commitment to values shared with the Union, including democracy, the rule of law, good governance, respect for human rights, sustainable development and poverty reduction, as well as its commitment to the principles of open, rule-based and fair trade.
- (20) A pre-condition for granting the Union's macro-financial assistance should be that Jordan respects effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and guarantees respect for human rights. In addition, the specific objectives of the Union's macro-financial assistance should strengthen the efficiency, transparency and accountability of the public finance management systems in Jordan and should promote structural reforms aimed at supporting sustainable and inclusive growth, employment creation and fiscal consolidation. Both the fulfilment of the preconditions and the achievement of those objectives should be regularly monitored by the Commission and the European External Action Service.
- (21) In order to ensure that the Union's financial interests linked to the Union's macro-financial assistance are protected efficiently, Jordan should take appropriate measures relating to the prevention of, and fight against, fraud, corruption and any other irregularities linked to the assistance. In addition, provision should be made for the Commission to carry out checks and for the Court of Auditors to carry out audits.
- (22) Release of the Union's macro-financial assistance is without prejudice to the powers of the European Parliament and of the Council, as budgetary authority.
- (23) The amounts of provisioning required for macro-financial assistance should be consistent with the budgetary appropriations provided for in the multi-annual financial framework.
- (24) The Union's macro-financial assistance should be managed by the Commission. In order to ensure that the European Parliament and the Council are able to follow the implementation of this Decision, the Commission should regularly inform them of developments relating to the assistance and provide them with relevant documents.
- (25) In order to ensure uniform conditions for the implementation of this Decision, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(1)</sup>.

<sup>(1)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (26) The Union's macro-financial assistance should be subject to economic policy conditions, to be laid down in a Memorandum of Understanding. In order to ensure uniform conditions of implementation and for reasons of efficiency, the Commission should be empowered to negotiate such conditions with the Jordanian authorities under the supervision of the committee of representatives of the Member States in accordance with Regulation (EU) No 182/2011. Under that Regulation, the advisory procedure should, as a general rule, apply in all cases other than as provided for in that Regulation. Considering the potentially important impact of assistance of more than EUR 90 million, it is appropriate that the examination procedure be used for operations above that threshold. Considering the amount of the Union's macro-financial assistance to Jordan, the examination procedure should apply to the adoption of the Memorandum of Understanding, and to any reduction, suspension or cancellation of the assistance,

HAVE ADOPTED THIS DECISION:

#### *Article 1*

1. The Union shall make macro-financial assistance of a maximum amount of EUR 200 million available to Jordan (the 'Union's macro-financial assistance'), with a view to supporting Jordan's economic stabilisation and a substantive reform agenda. The assistance shall contribute to covering Jordan's balance of payments needs as identified in the IMF programme.
2. The full amount of the Union's macro-financial assistance shall be provided to Jordan in the form of loans. The Commission shall be empowered, on behalf of the Union, to borrow the necessary funds on the capital markets or from financial institutions and to on-lend them to Jordan. The loans shall have a maximum average maturity of 15 years.
3. The release of the Union's macro-financial assistance shall be managed by the Commission in a manner consistent with the agreements or understandings reached between the IMF and Jordan, and with the key principles and objectives of economic reforms set out in the EU-Jordan Association Agreement, the Single Support Framework for 2014-2017 and the future Partnership Priorities. The Commission shall regularly inform the European Parliament and the Council of developments regarding the Union's macro-financial assistance, including disbursements thereof, and shall provide those institutions with the relevant documents in due time.
4. The Union's macro-financial assistance shall be made available for a period of 2 ½ years, starting from the first day after the entry into force of the Memorandum of Understanding referred to in Article 3(1).
5. If the financing needs of Jordan decrease fundamentally during the period of the disbursement of the Union's macro-financial assistance compared to the initial projections, the Commission, acting in accordance with the examination procedure referred to in Article 7(2), shall reduce the amount of the assistance or suspend or cancel it.

#### *Article 2*

1. A pre-condition for granting the Union's macro-financial assistance shall be that Jordan respects effective democratic mechanisms, including a multi-party parliamentary system, and the rule of law, and guarantees respect for human rights.
2. The Commission and the European External Action Service shall monitor the fulfilment of the pre-condition set out in paragraph 1 throughout the life cycle of the Union's macro-financial assistance.
3. Paragraphs 1 and 2 of this Article shall be applied in accordance with Council Decision 2010/427/EU <sup>(1)</sup>.

#### *Article 3*

1. The Commission, in accordance with the examination procedure referred to in Article 7(2), shall agree with the Jordanian authorities on clearly defined economic policy and financial conditions, focusing on structural reforms and sound public finances, to which the Union's macro-financial assistance is to be subject, to be laid down in a Memorandum of Understanding ('the Memorandum of Understanding'), which shall include a timeframe for the fulfilment of those conditions. The economic policy and financial conditions set out in the Memorandum of Understanding shall be consistent with the agreements or understandings referred to in Article 1(3), including the macroeconomic adjustment and structural reform programmes implemented by Jordan with the support of the IMF.

<sup>(1)</sup> Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

2. The conditions referred to in paragraph 1 shall aim, in particular, to enhance the efficiency, transparency and accountability of the public finance management systems in Jordan, including for the use of the Union's macro-financial assistance. Progress in mutual market opening, the development of rules-based and fair trade and other priorities in the context of the Union's external policy shall also be duly taken into account when designing the policy measures. Progress in attaining those objectives shall be regularly monitored by the Commission.

3. The detailed financial terms of the Union's macro-financial assistance shall be laid down in a Loan Agreement to be concluded between the Commission and the Jordanian authorities.

4. The Commission shall verify at regular intervals that the conditions referred to in Article 4(3) continue to be met, including whether the economic policies of Jordan are in accordance with the objectives of the Union's macro-financial assistance. In so doing, the Commission shall coordinate closely with the IMF and the World Bank, and, where necessary, with the European Parliament and the Council.

#### *Article 4*

1. Subject to the conditions referred to in paragraph 3, the Union's macro-financial assistance shall be made available by the Commission in two loan instalments. The size of each instalment shall be laid down in the Memorandum of Understanding.

2. The amounts of the Union's macro-financial assistance shall give rise to provisioning of the Guarantee Fund for external actions, where required, in accordance with Council Regulation (EC, Euratom) No 480/2009 <sup>(1)</sup>.

3. The Commission shall decide on the release of the instalments subject to the fulfilment of all of the following conditions:

- (a) the pre-condition set out in Article 2;
- (b) a continuous satisfactory track record of implementing a policy programme that contains strong adjustment and structural reform measures supported by a non-precautionary IMF credit arrangement; and
- (c) the satisfactory implementation of the economic policy and financial conditions agreed in the Memorandum of Understanding.

The release of the second instalment shall not, in principle, take place earlier than 3 months after the release of the first instalment.

4. Where the conditions referred to in the first subparagraph of paragraph 3 are not met, the Commission shall temporarily suspend or cancel the disbursement of the Union's macro-financial assistance. In such cases, it shall inform the European Parliament and the Council of the reasons for that suspension or cancellation.

5. The Union's macro-financial assistance shall be disbursed to the Central Bank of Jordan. Subject to the provisions to be agreed in the Memorandum of Understanding, including a confirmation of residual budgetary financing needs, the Union funds may be transferred to the Jordanian Ministry of Finance as the final beneficiary.

#### *Article 5*

1. The borrowing and lending operations related to the Union's macro-financial assistance shall be carried out in euro using the same value date and shall not involve the Union in the transformation of maturities, or expose it to any exchange or interest rate risk, or to any other commercial risk.

2. Where the circumstances permit, and if Jordan so requests, the Commission may take the steps necessary to ensure that an early repayment clause is included in the loan terms and conditions and that it is matched by a corresponding clause in the terms and conditions of the borrowing operations.

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<sup>(1)</sup> Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10).



3. Where circumstances permit an improvement of the interest rate of the loan and if Jordan so requests, the Commission may decide to refinance all or part of its initial borrowings or may restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with paragraphs 1 and 4 and shall not have the effect of extending the maturity of the borrowings concerned or of increasing the amount of capital outstanding at the date of the refinancing or restructuring.
4. All costs incurred by the Union which relate to the borrowing and lending operations under this Decision shall be borne by Jordan.
5. The Commission shall inform the European Parliament and the Council of developments in the operations referred to in paragraphs 2 and 3.

#### Article 6

1. The Union's macro-financial assistance shall be implemented in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(1)</sup> and Commission Delegated Regulation (EU) No 1268/2012 <sup>(2)</sup>.
2. The implementation of the Union's macro-financial assistance shall be under direct management.
3. The Loan Agreement referred to in Article 3(3) shall contain provisions:
  - (a) ensuring that Jordan regularly checks that financing provided from the budget of the Union has been properly used, takes appropriate measures to prevent irregularities and fraud, and, if necessary, takes legal action to recover any funds provided under this Decision that have been misappropriated;
  - (b) ensuring the protection of the Union's financial interests, in particular providing for specific measures in relation to the prevention of, and fight against, fraud, corruption and any other irregularities affecting the Union's macro-financial assistance, in accordance with Council Regulation (EC, Euratom) No 2988/95 <sup>(3)</sup>, Council Regulation (Euratom, EC) No 2185/96 <sup>(4)</sup> and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(5)</sup>;
  - (c) expressly authorising the Commission, including the European Anti-Fraud Office, or its representatives to carry out checks, including on-the-spot checks and inspections;
  - (d) expressly authorising the Commission and the Court of Auditors to perform audits during and after the availability period of the Union's macro-financial assistance, including document audits and on-the-spot audits, such as operational assessments; and
  - (e) ensuring that the Union is entitled to early repayment of the loan where it has been established that, in relation to the management of the Union's macro-financial assistance, Jordan has engaged in any act of fraud or corruption or any other illegal activity detrimental to the financial interests of the Union.
4. Before the implementation of the Union's macro-financial assistance, the Commission shall assess, by means of an operational assessment, the soundness of Jordan's financial arrangements, the administrative procedures, and the internal and external control mechanisms which are relevant to the assistance.

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<sup>(2)</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

<sup>(3)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>(4)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>(5)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

*Article 7*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 8*

1. By 30 June of each year, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Decision in the preceding year, including an evaluation of that implementation. The report shall:
  - (a) examine the progress made in implementing the Union's macro-financial assistance;
  - (b) assess the economic situation and prospects of Jordan, as well as progress made in implementing the policy measures referred to in Article 3(1);
  - (c) indicate the connection between the economic policy conditions laid down in the Memorandum of Understanding, Jordan's ongoing economic and fiscal performance and the Commission's decisions to release the instalments of the Union's macro-financial assistance.
2. Not later than 2 years after the expiry of the availability period referred to in Article 1(4), the Commission shall submit to the European Parliament and to the Council an *ex post* evaluation report, assessing the results and efficiency of the completed Union's macro-financial assistance and the extent to which it has contributed to the aims of the assistance.

*Article 9*

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

Done at Strasbourg, 14 December 2016.

*For the European Parliament*  
*The President*  
M. SCHULZ

*For the Council*  
*The President*  
I. KORČOK

**Joint Statement by the European Parliament, the Council and the Commission**

In light of the fiscal challenges and extraordinary circumstances Jordan faces as a result of hosting more than 1,3 million Syrians, the Commission will in 2017, if appropriate, submit a new proposal for extending and increasing MFA to Jordan, upon the successful conclusion of the second MFA and provided that the usual preconditions for this type of assistance, including an updated assessment by the Commission of Jordan's external financing needs, are met. This critical assistance for Jordan would help the country maintain macroeconomic stability while also preserving development gains and continuing with the country's reform agenda.

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## II

*(Non-legislative acts)*

## REGULATIONS

## COUNCIL REGULATION (EU) 2016/2372

of 19 December 2016

**fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks in the Black Sea**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.
- (2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council <sup>(1)</sup> requires that conservation measures be adopted taking into account available scientific, technical and economic advice, including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries in the Black Sea including, as appropriate, certain conditions functionally linked thereto. In accordance with Article 16(1) and (4) of Regulation (EU) No 1380/2013, fishing opportunities are to be distributed among Member States in such a way as to ensure relative stability of fishing activities of each Member State for each fish stock or fishery and in accordance with the objectives of the Common Fisheries Policy established in Article 2(2) of that Regulation.
- (4) The fishing opportunities should be established on the basis of the available scientific advice, taking into account biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders.
- (5) For sprat fisheries, the landing obligation referred to in Article 15(1) of Regulation (EU) No 1380/2013 applies from 1 January 2015. Article 16(2) of that Regulation provides that, when the landing obligation is introduced in respect of a fish stock, fishing opportunities are to be fixed taking into account the change from fixing fishing opportunities that reflect landings to fixing fishing opportunities that reflect catches.

<sup>(1)</sup> 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 (OJ L 354, 28.12.2013, p. 22).

- (6) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009 <sup>(1)</sup> and in particular to Articles 33 and 34 thereof concerning the recording of catches and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify the codes to be used by the Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.
- (7) In accordance with Article 2 of Council Regulation (EC) No 847/96 <sup>(2)</sup>, the stocks that are subject to the various measures referred to therein must be identified.
- (8) Fishing opportunities should be used in full compliance with the applicable law of the Union.
- (9) In order to avoid interruption of fishing activities and to ensure the livelihood of Union fishermen, it is important to open the fisheries concerned in the Black Sea on 1 January 2017. For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

### SUBJECT MATTER, SCOPE AND DEFINITIONS

#### Article 1

##### Subject matter

This Regulation fixes the fishing opportunities by Union fishing vessels flying the flag of Bulgaria and of Romania for 2017 for certain fish stocks in the Black Sea:

- (a) Turbot (*Psetta maxima*);
- (b) Sprat (*Sprattus sprattus*).

#### Article 2

##### Scope

This Regulation shall apply to Union fishing vessels operating in the Black Sea.

#### Article 3

##### Definitions

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

- (a) 'GFCM' means General Fisheries Commission for the Mediterranean;
- (b) 'Black Sea' means the geographical sub-area 29 as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and the Council <sup>(3)</sup>;

<sup>(1)</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

<sup>(2)</sup> Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

<sup>(3)</sup> Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).

- (c) 'fishing vessel' means any vessel equipped for commercial exploitation of marine biological resources;
- (d) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (e) 'stock' means a marine biological resource that occurs in a given management area;
- (f) 'Union autonomous quota' means a limit of the catches autonomously allocated to the Union fishing vessels in the absence of an agreed TAC;
- (g) 'analytical assessments' means a quantitative evaluation of trends in a given stock, based on data about the stock's biology and exploitation, which scientific review has indicated to be of sufficient quality to provide scientific advice on options for future catches.

## CHAPTER II

### FISHING OPPORTUNITIES

#### *Article 4*

#### **Allocation of fishing opportunities**

The EU autonomous quotas for Union fishing vessels, the allocation of such quotas among Member States, and the conditions functionally linked thereto, where appropriate, are set out in the Annex.

#### *Article 5*

#### **Special provisions on allocations**

The allocation of fishing opportunities among Member States as set out in this Regulation shall be without prejudice to:

- (a) exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;
- (b) deductions and reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;
- (c) deductions made pursuant to Articles 105 and 107 of Regulation (EC) No 1224/2009.

#### *Article 6*

#### **Conditions for landing catches and by-catches not subject to the landing obligation**

Catches and by-catches taken in the turbot fishery shall be retained on board or landed only if they have been taken by Union fishing vessels flying the flag of a Member State having a quota and that quota is not exhausted.

## CHAPTER III

### FINAL PROVISIONS

#### *Article 7*

#### **Data transmission**

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States send the Commission data relating to landings of quantities of stocks caught, they shall use the stock codes set out in the Annex to this Regulation.

*Article 8***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 2017.

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

Done at Brussels, 19 December 2016.

*For the Council*  
*The President*  
L. SÓLYMOS

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## ANNEX

**Fishing opportunities applicable to Union fishing vessels**

The following tables set out the quotas (in tonnes live weight) by stock and conditions functionally linked thereto.

Fish stocks are referred to following the alphabetical order of the Latin names of the species. For the purposes of this Regulation, the following comparative table of Latin names and common names is provided:

Scientific name	Alpha-3 code	Common name
<i>Psetta maxima</i>	TUR	Turbot
<i>Sprattus sprattus</i>	SPR	Sprat

<b>Species:</b>	Turbot <i>Psetta maxima</i>	<b>Zone:</b>	Union waters in the Black Sea TUR/F37.4.2.C
Bulgaria	43,2		
Romania	43,2		
	(*)		
Union	86,4		
TAC	Not relevant/Not agreed		

Analytical stock advice  
Article 3 of Regulation (EC) No 847/96 shall not apply.  
Article 4 of Regulation (EC) No 847/96 shall not apply.

(\*) No fishing activity, including transshipment, taking on board, landing and first sale shall be permitted from 15 April to 15 June 2017.

<b>Species:</b>	Sprat <i>Sprattus sprattus</i>	<b>Zone:</b>	Union waters in the Black Sea SPR/F37.4.2.C
Bulgaria	8 032,5		
Romania	3 442,5		
Union	11 475		
TAC	Not relevant/Not agreed		

Analytical stock advice  
Article 3 of Regulation (EC) No 847/96 shall not apply.  
Article 4 of Regulation (EC) No 847/96 shall not apply.



**COUNCIL IMPLEMENTING REGULATION (EU) 2016/2373****of 22 December 2016****implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and amending Implementing Regulation (EU) 2016/1127**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism <sup>(1)</sup>, and in particular Article 2(3) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 12 July 2016, the Council adopted Implementing Regulation (EU) 2016/1127 <sup>(2)</sup>, implementing Article 2(3) of Regulation (EC) No 2580/2001 by establishing an updated list of persons, groups and entities to which Regulation (EC) No 2580/2001 applies.
- (2) The Council has determined that an additional three persons have been involved in terrorist acts within the meaning of Article 1(2) and (3) of Council Common Position 2001/931/CFSP <sup>(3)</sup>, that a decision has been taken with respect to them by a competent authority within the meaning of Article 1(4) of that Common Position, and that they should be subject to the specific restrictive measures provided for in Regulation (EC) No 2580/2001.
- (3) The list of persons, groups and entities to which Regulation (EC) No 2580/2001 applies should be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Implementing Regulation (EU) 2016/1127 is amended as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the date 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 2016.

*For the Council*

*The President*

M. LAJČÁK

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<sup>(1)</sup> OJ L 344, 28.12.2001, p. 70.

<sup>(2)</sup> Council Implementing Regulation (EU) 2016/1127 of 12 July 2016 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulation (EU) 2015/2425 (OJ L 188, 13.7.2016, p. 1).

<sup>(3)</sup> Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism (OJ L 344, 28.12.2001, p. 93).

## ANNEX

The persons listed below are added to the list of persons set out in Section I (Persons) of the Annex to Implementing Regulation (EU) 2016/1127:

- EL HAJJ, Hassan Hassan, born 22 March 1988 in Zaghdraiya, Sidon (Lebanon), Canadian citizen. Passport number: JX446643 (Canada),
  - MELIAD, Farah (a.k.a. HUSSEIN HUSSEIN, a.k.a. JAY DEE), born 5 November 1980 in Sydney (Australia), Australian citizen. Passport number: M2719127 (Australia),
  - ŞANLI, Dalokay (a.k.a. Sinan), born 13 October 1976 in Pülümür (Turkey).
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**COMMISSION DELEGATED REGULATION (EU) 2016/2374**  
**of 12 October 2016**  
**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 <sup>(1)</sup>, 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 3 years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) By Delegated Regulation (EU) 2015/2439 <sup>(2)</sup>, the Commission established a discard plan for certain demersal fisheries in South-Western waters for the period 2016-2018 following a joint recommendation submitted by Member States in 2015.
- (4) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the South-Western waters. On 31 May 2016 those Member States submitted a joint recommendation to the Commission after consultation of the South Western Waters Advisory Council. Scientific contributions were 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, they may be included in this Regulation.
- (5) 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.
- (6) Delegated Regulation (EU) 2015/2439 established provisions for introduction of the landing obligation for certain demersal fisheries in South-Western waters for the period 2016-2018.
- (7) In accordance with the new joint recommendation submitted by Member States in 2016, the discard plan from 2017 should cover the fisheries of common sole, hake, anglerfish and Norway lobster (only inside the stocks' distribution areas referred to as 'functional units') in ICES divisions VIIa, b, d, e, Norway lobster in ICES divisions VIIc and IXa (only inside functional units), common sole and plaice in ICES division IXa, hake in ICES divisions VIIc and IXa, anglerfish in ICES divisions VIIa, b, c, d, e and IXa.
- (8) 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 concluded that the latest experiments show survival rates in the range of the survival rate observed in the previous work. Further studies are planned and should provide further information on likely survival rates in this fishery. Therefore, this exemption should be included in this Regulation for the year 2017, with a provision asking the Member States concerned to submit further data from ongoing trials to the Commission to allow the STECF to fully assess the justification for the exemption.

<sup>(1)</sup> OJ L 354, 28.12.2013, p. 22.

<sup>(2)</sup> Commission Delegated Regulation (EU) 2015/2439 of 12 October 2015 establishing a discard plan for certain demersal fisheries in south-western waters (OJ L 336, 23.12.2015, p. 36).

- (9) 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.
- (10) 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 VIIa and VIIb 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 this exemption. Therefore, this exemption should be included in this Regulation.
- (11) 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 VIIa and VIIb 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, this exemption should be included in this Regulation.
- (12) The *de minimis* exemption for hake, up to a maximum of 7 % in 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 STECF concluded that additional selectivity information provided did not contain additional evidence to demonstrate that selectivity is very difficult to achieve for the métiers involved. Therefore, additional work should be carried out in order to improve the justification for this exemption. This exemption should therefore be included in this Regulation for 2017, i.e. for 1 year only, and under the condition that Member States provide improved information to support this exemption that would be assessed by the STECF.
- (13) Delegated Regulation (EU) 2015/2439 should therefore be repealed and replaced by a new 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 2017,

HAS ADOPTED THIS REGULATION:

#### Article 1

### Implementation of the landing obligation

The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in ICES subareas VIII, IX, X and CECAF zones 34.1.1, 34.1.2, 34.2.0 to 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 Norway lobster (*Nephrops norvegicus*) caught in ICES subareas VIII and IX with trawls (gear codes <sup>(1)</sup>: OTB, OTT, PTB, TBN, TBS, TB, OT, PT and TX).

2. Member States having a direct management interest in south-western waters shall submit, before 1 May 2017, 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 before 1 September 2017.

<sup>(1)</sup> 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 hake (*Merluccius merluccius*), up to a maximum of 7 % in 2017 and up to 6 % in 2018 of the total annual catches of this species by vessels using trawls and seines (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX and SV) targeting that species in ICES subareas VIII and IX;
  - (b) 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, TBB, OT, PT and TX) targeting that species in ICES divisions VIIIA and VIIIB;
  - (c) 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 that species in ICES divisions VIIIA and VIIIB.
2. Before 1 May 2017, 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(a). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information before 1 September 2017.

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

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.

Vessels that were subject to the landing obligation in certain fisheries in 2016 shall remain subject to the landing obligation in those fisheries.

Before 31 December 2016, 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 the paragraph 1 for each particular fishery set out in Annex. They shall keep those lists updated.

*Article 5***Repeal**

Delegated Regulation (EU) 2015/2439 is repealed.

*Article 6***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 2017 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 2016.

*For the Commission*

*The President*

Jean-Claude JUNKER

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## 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	Species to be landed
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 com- mon sole
	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
	LL, LLS	All Long lines	All	
	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size larger or equal to 100 mm wide	
Anglerfish ( <i>Lophiidae</i> )	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size larger of equal to 200 mm wide	All catches of angler- fish
Norway lobster ( <i>Nephrops norvegicus</i> ) only inside functional 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 lobster

## (b) Fisheries in ICES divisions VIIIc and IXa

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Anglerfish ( <i>Lophiidae</i> )	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size larger of equal to 200 mm wide	All catches of angler- fish
Norway lobster ( <i>Nephrops norvegicus</i> ) only inside functional 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 lobster

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 fulfils the following cumulative criteria:  1. Use mesh size larger or equal to 70 mm  2. Total hake landings in the period 2014/2015 <sup>(1)</sup> con- sist of: more than 5 % of all landed species and more than 5 metric tons.	All catches of hake
	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size between 80 and 99 mm wide	
	LL, LLS	All Long lines	Hook size bigger than 3,85 cm +/-1,15 cm length and 1,6 cm +/-0,4 cm width	

<sup>(1)</sup> Reference period will be updated in the following years, i.e. in 2018 the reference period will be 2015 and 2016.

(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 com- mon sole and plaice



**COMMISSION DELEGATED REGULATION (EU) 2016/2375**  
**of 12 October 2016**  
**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 <sup>(1)</sup>, and in particular Article 15(6) and Article 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) By Delegated Regulation (EU) 2015/2438 <sup>(2)</sup>, the Commission established a discard plan for certain demersal fisheries in North-Western waters for the period 2016-2018 following a joint recommendation submitted by the Member States in 2015.
- (4) Belgium, Ireland, Spain, France, the Netherlands and the United Kingdom have a direct fisheries management interest in the North-Western waters. On 3 June 2016, those Member States submitted a new joint recommendation to the Commission after consultation of the North Western Waters Advisory Council. Scientific contributions were 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 and may be included in this Regulation.
- (5) As regards the North-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 which are subject to catch limits at the latest from 1 January 2016. The joint recommendation established the fleets that would be subject to the landing obligation 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 hake and pollack fisheries.
- (6) Delegated Regulation (EU) 2015/2438 established provisions for introduction of the landing obligation for certain demersal fisheries in North-Western waters for the period 2016-2018.
- (7) In accordance with the new joint recommendation submitted by Member States in 2016, the discard plan should cover from 2017 further species which define the highly mixed cod, haddock, whiting and saithe fishery, Norway lobster fishery, mixed common sole and plaice fishery, hake and pollack fisheries. By-catch species should also be covered in certain fisheries.
- (8) The joint recommendation suggested that an exemption from the landing obligation be applied to Norway lobster caught by pots, traps or creels in ICES division VI and subarea VII, for which scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem. The STECF concluded that the exemption is grounded. Therefore, this exemption should continue to be included in this Regulation.

<sup>(1)</sup> OJ L 354, 28.12.2013, p. 22.

<sup>(2)</sup> Commission Delegated Regulation (EU) 2015/2438 of 12 October 2015 establishing a discard plan for certain demersal fisheries in north-western waters (OJ L 336, 23.12.2015, p. 29).

- (9) The joint recommendation suggested that an exemption from the landing obligation be applied to catches of sole below the minimum conservation reference size caught by 80-99 mm otter trawl gears in ICES division VIId within six nautical miles from the coast and outside identified nurseries areas in the fishing operations meeting certain specific conditions. The scientific evidence demonstrates high survival rates, taking into account the characteristics of gear and of the ecosystem. The STECF noted that survival is dependent on a number of factors and recommended caution in extending the trial results to other fisheries and that further relevant trials should be undertaken to support this request. Therefore, this exemption should be included in this Regulation for 2017 under the condition that the fleet using this exemption operates under comparable conditions to those of the trial, and that Member States concerned undertake additional trials. The results of these additional trials should be assessed by the STECF in 2017.
- (10) 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 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 include these *de minimis* exemptions in this Regulation 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.
- (11) The *de minimis* exemption for common sole, up to a maximum of 3 % in 2017-2018 of the total annual catches of this species by vessels using trammel and gill nets to catch common sole in ICES divisions VIId, VIle, VIIf and VIlg, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that the exemption is well defined and therefore, this exemption should be included in this Regulation.
- (12) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land whiting and using bottom trawls and seines of less than 100 mm and pelagic trawls to catch whiting in ICES divisions VIId and VIle, is based on the fact that increases in selectivity are very difficult to achieve.
- (13) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land whiting and using bottom trawls and seines of not less than 100 mm to catch whiting in ICES divisions VIIf-VIIj, is based on the fact that increases in selectivity are very difficult to achieve.
- (14) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land whiting and using bottom trawls and seines of less than 100 mm to catch whiting in ICES subarea VII (excluding VIIa, VIId and VIle), is based on the fact that increases in selectivity are very difficult to achieve.
- (15) As regards the three *de minimis* exemptions for whiting, Delegated Regulation (EU) 2015/2438 required Member States concerned to submit to the Commission additional scientific information supporting the exemption. The STECF commented that, while complete evidence is still required, the additional information addresses some concerns of the STECF. The STECF highlighted the need for a more coherent approach to this stock. Based on the scientific evidence reviewed by STECF and considering that the further evidence supporting the exemption has improved, this exemption can be continued and should be included in this Regulation.
- (16) The *de minimis* exemption for Norway lobster, up to a maximum of 7 % in 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, this exemption should be included in this Regulation.
- (17) The *de minimis* exemption for Norway lobster, up to a maximum of 7 % in 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 VI, 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, this exemption should be included in this Regulation.

- (18) The *de minimis* exemption for common sole, up to a maximum of 3 % in 2017 and 2018 of the total annual catches of this species by vessels using TBB gear with mesh size of 80-119 mm with increased selectivity in ICES divisions VIId, VIle, VIIf, VIIg and VIIh, 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, this exemption should be included in this Regulation.
- (19) Delegated Regulation (EU) 2015/2438 should therefore be repealed and replaced by a new Regulation.
- (20) 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 2017,

HAS ADOPTED THIS REGULATION:

#### Article 1

### Implementation of the landing obligation

The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in ICES zones V (excluding Va and only Union waters of Vb), VI and VII to 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:
  - (a) to Norway lobster (*Nephrops norvegicus*) caught in pots, traps or creels (Gear codes <sup>(1)</sup> FPO and FIX) in ICES subareas VI and VII;
  - (b) in 2017 to catches of common sole (*Solea solea*) below the minimum conservation reference size caught with otter trawl gears (Gear codes OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with cod end mesh size of 80-99 mm in ICES division VIId within six nautical miles of the coast and outside identified nursery areas in the fishing operations meeting the following conditions: vessels with the maximum length of 10 meters, maximum engine power of 180 kW, when fishing in waters with the depth of 15 meters or less and with limited tow durations of no more than 1:30 hours. Such catches of common sole shall be released immediately.
2. Before 1 May 2017, Member States having a direct management interest in the North-western waters shall submit to the Commission any additional scientific information supporting the exemption laid down in paragraph 1(b). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess that information before 1 September 2017.

#### Article 3

### De minimis exemptions

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

- (a) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land whiting and using bottom trawls and seines of less than 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV OT, PT and TX) and pelagic trawls (OTM, PTM) to catch whiting in ICES divisions VIId and VIle.

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

- (b) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land whiting and using bottom trawls and seines of not less than 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV OT, PT and TX) and pelagic trawls (OTM, PTM) to catch whiting in ICES divisions VIIb-VIIj.
- (c) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land whiting and using bottom trawls and seines of less than 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV OT, PT and TX) and pelagic trawls (OTM, PTM) to catch whiting in ICES subarea VII, except divisions VIIa, VIId and VIIe.
- (d) for Norway lobster (*Nephrops norvegicus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land Norway lobster in ICES subarea VII;
- (e) for Norway lobster (*Nephrops norvegicus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land Norway lobster in ICES subarea VI;
- (f) for common sole (*Solea solea*), up to a maximum of 3 % in 2017 and 2018 of the total annual catches of that species by vessels using trammel and gill nets to catch common sole in ICES divisions VIId, VIIe, VIIf and VIIg;
- (g) for common sole (*Solea solea*), up to a maximum of 3 % in 2017 and 2018 of the total annual catches of that species by vessels obliged to land common sole and using TBB gear with mesh size of 80-119 mm with increased selectivity, such as a large mesh extension, in ICES divisions VIId, VIIe, VIIf, VIIg and VIIh.

#### 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 in each particular fishery.

Vessels that were subject to the landing obligation in certain fisheries in 2016 shall remain subject to the landing obligation in those fisheries.

2. Before 31 December 2016, 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 the Annex. They shall keep those lists updated.

#### Article 5

##### **Repeal**

Delegated Regulation (EU) 2015/2438 is repealed.

#### Article 6

##### **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 2017 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 2016.

*For the Commission*

*The President*

Jean-Claude JUNKER

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## ANNEX

**Fisheries subject to the landing obligation**

## a) Fisheries in Union and International waters of ICES subarea VI and division Vb

Fishery	Gear Code	Fishing gear description	Mesh Size	Species to be landed
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, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	All catches of haddock and by-catches of sole, plaice and megrims where total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 5 % of the following gadoids: cod, haddock, whiting and saithe combined
Norway lobster ( <i>Nephrops norvegicus</i> )	OTB, SSC, OTT, PTB, SDN, SPR, FPO, TBN, TB, TBS, OTM, PTM, SX, SV, FIX, OT, PT, TX	Trawls, Seines, Pots, Traps & Creels	All	All catches of Norway lobster and by-catches of haddock where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of Norway lobster

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

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

Fishery	Gear Code	Fishing gear description	Mesh Size	Species to be landed
Hake ( <i>Merluccius merluccius</i> )	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, OTM, PTM TB, SX, SV, OT, PT, TX	Trawls & Seines	All	All catches of hake where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of hake
Hake ( <i>Merluccius merluccius</i> )	GNS, GN, GND, GNC, GTN, GTR, GEN	All Gill Nets	All	All catches of hake
Hake ( <i>Merluccius merluccius</i> )	LL, LLS, LLD, LX, LTL, LHP, LHM	All Long lines	All	All catches of hake

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

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

Fishery	Gear Code	Fishing gear description	Mesh Size	Species to be landed
Norway lobster ( <i>Nephrops norvegicus</i> )	OTB SSC, OTT, PTB, SDN, SPR, FPO, TBN, TB, TBS, OTM, PTM, SX, SV, FIX, OT, PT, TX	Trawls, Seines, Pots, Traps & Creels	All	All catches of Norway lobster where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of Norway lobster

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

## d) Fisheries in ICES division VIIa

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
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, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	All catches of haddock where total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 10 % of the following gadoids: cod, haddock, whiting and saithe combined

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

## e) Fisheries in ICES division VIIId

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Common Sole ( <i>Solea solea</i> )	TBB	All Beam trawls	All	All catches of common sole
Common Sole ( <i>Solea solea</i> )	OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX	Trawls	< 100 mm	All catches of common sole where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 5 % of 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

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
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, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls and Seines	All	All catches of whiting, where total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of the following gadoids: cod, haddock, whiting and saithe combined

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

f) Fisheries in ICES division VIIe for common sole

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Common Sole ( <i>Solea solea</i> )	TBB	All Beam trawls	All	All catches of common sole where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 5 % of 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

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

g) Fisheries in ICES divisions VIId and VIIe for Pollack

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Pollack ( <i>Pollachius pollachius</i> )	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets and Gill nets	All	All catches of pollack

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

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Common Sole ( <i>Solea solea</i> )	TBB	All Beam trawls	All	All catches of common sole where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 5 % of common sole



Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Common Sole ( <i>Solea solea</i> )	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

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

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
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, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	All catches of whiting where total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of the following gadoids: cod, haddock, whiting and saithe combined

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

**COMMISSION DELEGATED REGULATION (EU) 2016/2376**  
**of 13 October 2016**  
**establishing a discard plan for mollusc bivalve *Venus* spp. in the Italian territorial 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 <sup>(1)</sup>, and in particular Article 15(6) thereof,

Having regard to Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 <sup>(2)</sup>, and in particular Articles 15a 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 3 years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils. Discard plans may also include technical measures regarding fisheries.
- (3) Italy, as the single Member State with a direct management interest in the mollusc bivalve *Venus* spp. fisheries, in the Italian territorial waters, submitted a recommendation to the Commission in line with the procedure of Article 18 of Regulation (EU) No 1380/2013. This recommendation was submitted in the form of a national management plan for discard of the *Venus* spp. stock, after consultation of the Mediterranean Advisory Council (MEDAC). Upon submission of this recommendation, the Scientific, Technical and Economic Committee for Fisheries (STECF) reviewed the scientific contributions presented by Italy. The measures included in the joint recommendation comply with the provisions of Article 18(3) of Regulation (EU) No 1380/2013.
- (4) Article 15a of Regulation (EC) No 1967/2006 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 with the aim of ensuring the protection of juveniles of marine organisms. Minimum conservation reference sizes may derogate, where appropriate, from the sizes established in Annex III to that Regulation.
- (5) According to the conclusions of the STECF on the national management plan for discard of the *Venus* spp. stock, *Venus* spp. is among the species with a high survival rate, which justifies for a request for derogation from the landing obligation for the discarded fraction of the catch. A reduction of a minimum conservation reference size from 25 mm to 22 mm is not incompatible with the length at maturity, so it should not have a significant impact on the protection of the juvenile organisms. It is predicted to lead to only a small reduction of the reproductive potential of the stock, which is not considered to have any important impact on the stock. Finally, it was concluded that the proposed scientific monitoring program is likely to provide sufficient data to evaluate the effects of the discard plan.
- (6) In order to ensure appropriate control over the implementation of the landing obligation, the Member State should establish a list of vessels covered by the present Regulation.

<sup>(1)</sup> OJ L 354, 28.12.2013, p. 22.

<sup>(2)</sup> OJ L 409, 30.12.2006, p. 11.

- (7) As the measures provided for in this Regulation have a direct impact on the economic activities linked to fisheries and the planning of the fishing season for Union vessels, it should enter into force on the third day following its publication in the *Official Journal of the European Union*. In accordance with Article 15(6) of Regulation (EU) No 1380/2013, this Regulation should apply for a period of no more than 3 years,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Subject matter**

This Regulation specifies the details for implementing the landing obligation that shall apply to *Venus* spp. fisheries in the Italian territorial waters, pursuant to Article 15(1)(d) of Regulation (EU) No 1380/2013.

*Article 2*

**Minimum conservation reference size**

1. By way of derogation from the minimum conservation reference size established in Annex III to Regulation (EC) No 1967/2006, and for the purposes of Article 15(11) of Regulation (EU) No 1380/2013, the minimum conservation reference size of *Venus* spp. in the Italian territorial waters shall be of a total length of 22 mm.
2. The measurement of the size of the *Venus* spp. shall take place in accordance with Annex IV to Regulation (EC) No 1967/2006.

*Article 3*

**List of vessels**

1. Member State authorities shall determine the vessels subject to the landing obligation.
2. By 31 December 2016, Member State authorities shall submit to the Commission, using the secure Union control website, the list of all vessels authorised to fish *Venus* spp. using hydraulic dredges in the Italian territorial waters. Member State authorities shall maintain this list updated at all times.

*Article 4*

**Entry into force**

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

It shall apply from 1 January 2017 until 31 December 2019.

However, Article 3 shall apply from the entry into force.

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

Done at Brussels, 13 October 2016.

*For the Commission*

*The President*

Jean-Claude JUNCKER

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**COMMISSION DELEGATED REGULATION (EU) 2016/2377****of 14 October 2016****amending Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic 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 <sup>(1)</sup>, and in particular Article 15(6) and Article 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) Commission Delegated Regulation (EU) No 1394/2014 <sup>(2)</sup> establishes a discard plan for certain pelagic fisheries in South-Western waters in order to facilitate the implementation of the landing obligation by means of certain flexibility mechanisms.
- (4) In accordance with Article 15(5)(e) of Regulation (EU) No 1380/2013, discard plans may contain the fixing of minimum conservation reference sizes.
- (5) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the South-Western waters. After having consulted the South Western Waters Advisory Council and the Pelagic Advisory Council, those Member States submitted on 30 May 2016 a joint recommendation to the Commission suggesting that, by way of derogation from Annex XII to Council Regulation (EC) No 850/98 <sup>(3)</sup>, the minimum conservation reference size for horse mackerel (*Trachurus* spp.) in ICES division VIIIc and subarea IX be fixed at 12 cm for 5 % of the respective quotas of Spain and Portugal. In addition, the joint recommendation suggested that within that limit of 5 % of the quota of horse mackerel, in the xávega artisanal beach sein fishery in ICES division IXa, 1 % of the quota of Portugal may be caught with the size below 12 cm.
- (6) Scientific contribution was obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). The STECF concluded that reducing the minimum conservation reference size as suggested by the joint recommendation is associated with a low risk of changing the long-established exploitation pattern the fisheries concerned. That exploitation pattern combined with moderate exploitation rates does not seem to be detrimental to the dynamics of the relevant stocks. At the same time the STECF pointed out that the control of catches with different size limits may be challenging and, if not properly controlled, mortality may increase. In addition, it is important that the percentage limits established for the lower sizes are respected. Therefore, it is important that the Member States concerned put in place appropriate control measures regarding the fisheries concerned.
- (7) The measures included in the joint recommendation comply with Article 18(3) of Regulation (EU) No 1380/2013 and may therefore be included in the discard plan for certain pelagic fisheries in the South-Western Waters.

<sup>(1)</sup> OJ L 354, 28.12.2013, p. 22.

<sup>(2)</sup> Commission Delegated Regulation (EU) No 1394/2014 of 20 October 2014 establishing a discard plan for certain pelagic fisheries in south-western waters (OJ L 370, 30.12.2014, p. 31).

<sup>(3)</sup> 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 (OJ L 125, 27.4.1998, p. 1).

- (8) Delegated Regulation (EU) No 1394/2014 should therefore be amended accordingly.
- (9) 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 2017,

HAS ADOPTED THIS REGULATION:

*Article 1*

In Article 4 of Delegated Regulation (EU) No 1394/2014, the following paragraph is added:

‘By way of derogation from Annex XII to Regulation (EC) No 850/98, the minimum conservation reference size for horse mackerel (*Trachurus* spp.) caught in ICES division VIIIc and ICES subarea IX shall be 12 cm for 5 % of the respective quotas of Spain and Portugal in those areas. Within that limit of 5 %, in the xávega artisanal beach sein fishery in ICES division IXa 1 % of the quota of Portugal may be caught with the size below 12 cm.’

*Article 2*

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

It shall apply from 1 January 2017.

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

Done at Brussels, 14 October 2016.

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

**COMMISSION IMPLEMENTING REGULATION (EU) 2016/2378****of 21 December 2016****amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 183(b) thereof,

Having regard to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 <sup>(2)</sup>, and in particular Article 5(6)(a) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 <sup>(3)</sup> lays down detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.
- (2) Regular monitoring of the data used to determine representative prices for poultrymeat and egg products and for egg albumin shows that the representative import prices for certain products should be amended to take account of variations in price according to origin.
- (3) Regulation (EC) No 1484/95 should be amended accordingly.
- (4) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EC) No 1484/95 is replaced by the text set out 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*.

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

<sup>(2)</sup> OJ L 150, 20.5.2014, p. 1.

<sup>(3)</sup> Commission Regulation (EC) No 1484/95 of 28 June 1995 laying down detailed rules for implementing the system of additional import duties and fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and repealing Regulation No 163/67/EEC (OJ L 145, 29.6.1995, p. 47).

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

Done at Brussels, 21 December 2016.

*For the Commission,  
On behalf of the President,  
Jerzy PLEWA  
Director-General  
Directorate-General for Agriculture and Rural Development*

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## ANNEX

## ‘ANNEX I

CN Code	Description	Representative price (EUR/100 kg)	Security under Article 3 (EUR/100 kg)	Origin <sup>(1)</sup>
0207 12 10	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “70 % chickens”, frozen	121,8	0	AR
0207 12 90	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “65 % chickens”, frozen	142,0	0	AR
		158,9	0	BR
0207 14 10	Fowls of the species <i>Gallus domesticus</i> , boneless cuts, frozen	281,0	6	AR
		177,5	41	BR
		284,9	5	CL
		211,5	27	TH
0207 27 10	Turkeys, boneless cuts, frozen	331,0	0	BR
		344,5	0	CL
	Eggs, not in shell, dried	350,2	0	AR
1602 32 11	Preparations of fowls of the species <i>Gallus domesticus</i> , uncooked	171,3	39	BR

<sup>(1)</sup> 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). The code “ZZ” represents “other origins”.



**COMMISSION IMPLEMENTING REGULATION (EU) 2016/2379****of 22 December 2016****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 <sup>(1)</sup>,

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 <sup>(2)</sup>, 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 2016.

*For the Commission,  
On behalf of the President,  
Jerzy PLEWA  
Director-General  
Directorate-General for Agriculture and Rural Development*

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

<sup>(2)</sup> 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 <sup>(1)</sup>	Standard import value
0702 00 00	MA	99,1
	TN	262,8
	TR	115,2
	ZZ	159,0
0707 00 05	MA	79,2
	TR	156,6
	ZZ	117,9
0709 93 10	MA	230,7
	TR	176,6
	ZZ	203,7
0805 10 20	TR	81,7
	ZA	70,9
	ZZ	76,3
0805 20 10	MA	67,6
	ZZ	67,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	163,3
	JM	129,1
	TR	77,1
	ZZ	123,2
0805 50 10	AR	76,7
	TR	79,2
	ZZ	78,0
0808 10 80	US	132,4
	ZZ	132,4
0808 30 90	CN	87,8
	ZZ	87,8

<sup>(1)</sup> 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

## POLITICAL AND SECURITY COMMITTEE DECISION (CFSP) 2016/2380

of 13 December 2016

### **extending the mandate of the Head of Mission of the European Union Monitoring Mission in Georgia (EUMM Georgia) (EUMM GEORGIA/1/2016)**

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Decision 2010/452/CFSP of 12 August 2010 on the European Union Monitoring Mission in Georgia, EUMM Georgia <sup>(1)</sup>, and in particular Article 10(1) thereof,

Whereas:

- (1) Pursuant to Decision 2010/452/CFSP, the Political and Security Committee (PSC) is authorised, in accordance with the third paragraph of Article 38 of the Treaty, to take the relevant decisions concerning the political control and strategic direction of the European Union Monitoring Mission in Georgia (EUMM Georgia), including the decision to appoint a Head of Mission.
- (2) On 19 December 2014, the PSC adopted Decision EUMM GEORGIA/1/2014 <sup>(2)</sup>, appointing Mr Kęstutis JANKAUSKAS as Head of Mission of EUMM Georgia from 15 December 2014 to 14 December 2015.
- (3) On 13 November 2015, the PSC adopted Decision (CFSP) 2015/2200 (EUMM GEORGIA/1/2015) <sup>(3)</sup>, extending the mandate of Mr Kęstutis JANKAUSKAS as Head of Mission of EUMM Georgia from 15 December 2015 to 14 December 2016.
- (4) On 12 December 2016, the Council adopted Decision (CFSP) 2016/2238 <sup>(4)</sup>, extending the mandate of EUMM Georgia from 15 December 2016 to 14 December 2018.
- (5) The High Representative of the Union for Foreign Affairs and Security Policy has proposed to extend the mandate of Mr Kęstutis JANKAUSKAS as Head of Mission of EUMM Georgia from 15 December 2016 to 14 December 2017,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The mandate of Mr Kęstutis JANKAUSKAS as Head of Mission of EUMM Georgia is hereby extended until 14 December 2017.

<sup>(1)</sup> OJ L 213, 13.8.2010, p. 43.

<sup>(2)</sup> Political and Security Committee Decision EUMM GEORGIA/1/2014 of 19 December 2014 on the appointment of the Head of the European Union Monitoring Mission in Georgia (EUMM Georgia) (OJ L 369, 24.12.2014, p. 78).

<sup>(3)</sup> Political and Security Committee Decision (CFSP) 2015/2200 of 13 November 2015 extending the mandate of the Head of Mission of the European Union Monitoring Mission in Georgia (EUMM Georgia) (EUMM GEORGIA/1/2015) (OJ L 313, 28.11.2015, p. 40).

<sup>(4)</sup> Council Decision (CFSP) 2016/2238 of 12 December 2016 amending Decision 2010/452/CFSP on the European Union Monitoring Mission in Georgia, EUMM Georgia (OJ L 337, 13.12.2016, p. 15).

*Article 2*

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

Done at Brussels, 13 December 2016.

*For the Political and Security Committee*

*The Chairperson*

W. STEVENS

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**POLITICAL AND SECURITY COMMITTEE DECISION (CFSP) 2016/2381****of 14 December 2016****extending the mandate of the Head of Mission of the European Union CSDP mission in Mali  
(EUCAP Sahel Mali) (EUCAP Sahel Mali/2/2016)**

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Decision 2014/219/CFSP of 15 April 2014 on the European Union CSDP mission in Mali (EUCAP Sahel Mali) <sup>(1)</sup>, and in particular Article 7(1) thereof,

Having regard to Council Decision (CFSP) 2015/76 of 19 January 2015 launching the European Union CSDP mission in Mali (EUCAP Sahel Mali) and amending Decision 2014/219/CFSP <sup>(2)</sup>,

Whereas:

- (1) Pursuant to Decision 2014/219/CFSP, the Political and Security Committee (PSC) is authorised, in accordance with Article 38 of the Treaty, to take the relevant decisions for the purpose of exercising the political control and strategic direction of the EUCAP Sahel Mali mission, including the decision to appoint a Head of Mission.
- (2) On 26 May 2014, the PSC adopted Decision EUCAP Sahel Mali/1/2014 <sup>(3)</sup>, appointing Mr Albrecht CONZE as Head of Mission of EUCAP Sahel Mali from 26 May 2014 to 14 January 2015.
- (3) The mandate of Mr Albrecht CONZE as Head of Mission of EUCAP Sahel Mali has been extended several times, most recently by PSC Decision (CFSP) 2016/938 <sup>(4)</sup>, which extended his mandate as Head of Mission of EUCAP Sahel Mali until 14 January 2017.
- (4) The High Representative of the Union for Foreign Affairs and Security Policy has proposed to extend the mandate of Mr Albrecht CONZE as Head of Mission of EUCAP Sahel Mali from 15 January 2017 to 14 July 2017,

HAS ADOPTED THIS DECISION:

*Article 1*

The mandate of Mr Albrecht CONZE as Head of Mission of EUCAP Sahel Mali is hereby extended until 14 July 2017.

*Article 2*

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

Done at Brussels, 14 December 2016.

*For the Political and Security Committee*

*The Chairperson*

W. STEVENS

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<sup>(1)</sup> OJ L 113, 16.4.2014, p. 21.

<sup>(2)</sup> OJ L 13, 20.1.2015, p. 5.

<sup>(3)</sup> Political and Security Committee Decision EUCAP Sahel Mali/1/2014 of 26 May 2014 on the appointment of the Head of Mission of the European Union CSDP mission in Mali (EUCAP Sahel Mali) (OJ L 164, 3.6.2014, p. 43).

<sup>(4)</sup> Political and Security Committee Decision (CFSP) 2016/938 of 31 May 2016 extending the mandate of the Head of Mission of the European Union CSDP mission in Mali (EUCAP Sahel Mali) (EUCAP Sahel Mali/1/2016) (OJ L 155, 14.6.2016, p. 23).

**COUNCIL DECISION (CFSP) 2016/2382****of 21 December 2016****establishing a European Security and Defence College (ESDC) and repealing Decision 2013/189/CFSP**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28(1) and 42(4) and 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 18 July 2005, the Council adopted Joint Action 2005/575/CFSP establishing the European Security and Defence College ('ESDC') <sup>(1)</sup>. That Joint Action was replaced by Joint Action 2008/550/CFSP <sup>(2)</sup>. In turn, that Joint Action was repealed by Council Decision 2013/189/CFSP <sup>(3)</sup>.
- (2) In November 2008, the Council adopted the European Young Officers Exchange Scheme, modelled on Erasmus <sup>(4)</sup> and agreed that an implementing working party would meet within the framework of the Executive Academic Board of the ESDC.
- (3) On 15 July 2016, the ESDC Steering Committee agreed on recommendations on the future perspectives of the ESDC.
- (4) The training and education activities within the ESDC framework are to be carried out in the field of CSDP/CFSP including in the areas of conflict stabilisation, conflict resolution and the conditions necessary for sustainable development.
- (5) Whilst the staff of the ESDC should consist mainly of secondees it may be necessary to fill the post of administrative and financial assistant by a contracted staff member.
- (6) Pursuant to Council Decision 2010/427/EU <sup>(5)</sup>, the EEAS should provide the ESDC with the support previously provided by the General Secretariat of the Council,

HAS ADOPTED THIS DECISION:

**CHAPTER I****ESTABLISHMENT, MISSION, OBJECTIVES AND TASKS***Article 1***Establishment**

A European Security and Defence College ('ESDC') is hereby established.

<sup>(1)</sup> Council Joint Action 2005/575/CFSP of 18 July 2005 establishing a European Security and Defence College (ESDC) (OJ L 194, 26.7.2005, p. 15).

<sup>(2)</sup> Council of 23 June 2008 establishing a European Security and Defence College (ESDC) and repealing 2005/575/CFSP (OJ L 176, 4.7.2008, p. 20).

<sup>(3)</sup> Council Decision 2013/189/CFSP of 22 April 2013 establishing a European Security and Defence College (ESDC) and repealing Joint Action 2008/550/CFSP (OJ L 112, 24.4.2013, p. 22).

<sup>(4)</sup> Council Conclusions on the ESDP, 2903rd External Relations Council meeting.

<sup>(5)</sup> Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

*Article 2***Mission**

The ESDC shall provide training and education in the field of the Union's Common Security and Defence Policy (CSDP) in the wider context of the Common Foreign and Security Policy (CFSP) at European level in order to develop and promote a common understanding of CSDP and CFSP among civilian and military personnel, and to identify and disseminate best practice in relation to various CSDP and CFSP issues through its training and education activities ('ESDC training and education activities').

*Article 3***Objectives**

The ESDC shall have the following objectives:

- (a) to further enhance the common European security and defence culture within the Union and to promote the principles laid down in Article 21(1) TEU outside the Union;
- (b) to promote a better understanding of CSDP as an essential part of CFSP;
- (c) to provide Union instances with knowledgeable personnel able to work efficiently on all CSDP and CFSP matters;
- (d) to provide Member States' administrations and staff with knowledgeable personnel familiar with Union policies, institutions and procedures in the field of CSDP and CFSP;
- (e) to provide CSDP Missions' and Operations' personnel with a common understanding of CSDP Missions' and Operations' functioning principles and a sense of common European identity;
- (f) to provide training and education responding to training and educational needs of CSDP Missions and Operations;
- (g) to support Union partnerships in the field of CSDP and CFSP in particular partnerships with those countries participating in CSDP missions;
- (h) to support civilian crisis management including in the field of conflict prevention, and establishing or preserving the conditions necessary for sustainable development;
- (i) to promote the European Initiative for the Exchange of Young Officers;
- (j) to help promote professional relations and contacts among the participants in the training and education activities.

Where appropriate, attention shall be paid to ensuring consistency with other activities of the Union.

*Article 4***Tasks of the ESDC**

1. The main tasks of the ESDC shall be, in accordance with its mission and objectives, to organise and conduct ESDC training and education activities in the field of the CSDP and CFSP.
2. The ESDC training and education activities shall include:
  - (a) basic and advanced level courses promoting generic understanding of CSDP and CFSP;
  - (b) courses developing leadership;
  - (c) courses directly supporting CSDP Missions and Operations, including pre-deployment and in-mission or in-operation training and education;
  - (d) courses supporting EU partnerships and countries participating in CSDP Missions and Operations;

- (e) modules supporting civilian and military training and education in the field of CSDP and CFSP;
- (f) CSDP and CFSP courses, seminars, programmes and conferences for specialised audiences or with specific focus;
- (g) common modules run under the European Initiative for the Exchange of Young Officers, inspired by the Erasmus Programme.

Although formally not ESDC training and education activities, the ESDC shall also support and promote European semesters and joint masters degrees making use of the common modules referred to in the first subparagraph.

Other training and education activities shall be undertaken, as decided by the Steering Committee referred to in Article 9 ('the Steering Committee').

3. In addition to the activities referred to in paragraph 2, the ESDC shall, in particular:

- (a) support the relations to be established between the institutes referred to in Article 5(1) engaged in the network referred to in that paragraph ('the network');
- (b) run and further develop an e-Learning system to support CSDP and CFSP training and education activities or, in exceptional circumstances, to be used as stand-alone training and education activities;
- (c) develop and produce training and educational material in the field of CSDP and CFSP also drawing on already existing relevant material;
- (d) support an Alumni Association between former training participants;
- (e) support exchange programmes in the field of CSDP and CFSP between the Member States' training and educational institutes;
- (f) act as compartment administrator of the Schoolmaster module of the Goalkeeper project and provide contributions to the annual Union Training Programme in CSDP through this module;
- (g) provide support to the management of training and education in the field of conflict prevention, civilian crisis management, establishing or preserving the conditions necessary for sustainable development and Security Sector Reform initiatives, as well as promotion of cyber security and hybrid threats' awareness;
- (h) organise and run an annual network conference bringing together civilian and military training and education experts in CSDP from Member States' training and educational institutes and ministries, and relevant external training and education actors as appropriate and;
- (i) maintain relationships with relevant actors in the field of Freedom Security and Justice, in the field of Development and Cooperation, and with relevant International Organisations.

## CHAPTER II

### ORGANISATION

#### *Article 5*

#### **Network**

1. The ESDC shall be organised as a network bringing together civilian and military institutes, colleges, academies, universities, institutions and other actors dealing with security and defence policy issues within the Union as identified by Member States, as well as the European Union Institute for Security Studies ('EUISS').

The ESDC shall establish close links with the Union institutions and relevant Union agencies, in particular:

- (a) with the EU Agency for law enforcement training ('CEPOL');
- (b) with the European Border and Coast Guard Agency ('Frontex');



- (c) with the European Defence Agency ('EDA');
- (d) with the European Satellite Centre ('EU SatCen'); and
- (e) with the European Police Office (Europol).

2. Where appropriate, international, intergovernmental, governmental and non-governmental organisations may obtain the status of 'associate network partner' ('ANP'), the detailed arrangements for which will be agreed by the Steering Committee.

3. The ESDC shall work under the overall responsibility of the High Representative of the Union for Foreign Affairs and Security Policy ('HR').

#### *Article 6*

### **The role of European Union Institute for Security Studies**

1. As part of the ESDC network, the EUISS cooperates with the ESDC by making its expertise and knowledge-gathering capabilities available for ESDC training activities, including through EUISS publications, within the limits of its own capabilities.

2. In particular, the EUISS provides lectures given by EUISS analysts and contributes to the further development of the ESDC e-Learning content.

3. The EUISS also supports the ESDC Alumni Association.

#### *Article 7*

### **Legal Capacity**

1. The ESDC shall have the necessary legal capacity in order to:

- (a) fulfil its tasks and meet its objectives;
- (b) enter into contracts and administrative arrangements necessary for its functioning including to implement staff secondments and recruit contract staff; acquire equipment, notably teaching equipment;
- (c) hold bank accounts; and
- (d) be a party to legal proceedings.

2. Any liability which may arise from contracts concluded by the ESDC shall be covered by the funds available to it pursuant to Articles 16 and 17.

#### *Article 8*

### **Structure**

The following structure shall be set up under the ESDC:

- (a) the Steering Committee with responsibility for the overall coordination and direction of the ESDC training and education activities;
- (b) the Executive Academic Board ('the Board') with responsibility for ensuring the quality and coherence of the ESDC training and education activities;

- (c) the Head of the ESDC ('the Head'), sole legal representative of the ESDC, with responsibility for the financial and administrative management of the ESDC, as well as advising the Committee and the Board on the organisation and management of ESDC activities;
- (d) the ESDC Secretariat ('the Secretariat') which is to assist the Head in fulfilling his tasks and in particular in assisting the Board to ensure the overall quality and coherence of the ESDC training and education activities.

#### Article 9

### Steering Committee

1. The Steering Committee, composed of one representative appointed by each Member State, shall be the decision-making body of the ESDC. Each member of the Committee may be represented or accompanied by an alternate member.
2. Members of the Steering Committee may be accompanied by experts to meetings of the Committee.
3. The Steering Committee shall be chaired by a representative of the HR who has appropriate experience. It shall meet at least four times a year.
4. Representatives from countries acceding to the Union may attend the Steering Committee's meetings as active observers.
5. The Head, other ESDC staff, the Chairperson of the Board and when appropriate the Chairpersons of its different configurations as well as a representative of the Commission and other EU Institutions, including the EEAS shall participate in the meetings of the Steering Committee without the right to vote.
6. The tasks of the Steering Committee shall be to:
  - (a) approve and keep under regular review the ESDC training and education activities reflecting the agreed ESDC training and education requirements;
  - (b) approve the annual academic programme of the ESDC;
  - (c) select and prioritise the training and education activities to be run under the ESDC, taking into account the resources available to the ESDC and the training and education requirements identified;
  - (d) select the Member State(s) hosting the ESDC training and education activities and the institutes conducting them;
  - (e) decide on opening specific ESDC training activities and education to third-country participation within the general political framework set by the Political and Security Committee;
  - (f) adopt the curricula for all ESDC training and education activities;
  - (g) take note of the course evaluation reports;
  - (h) take note of the general annual report on ESDC training and education activities and adopt the recommendations therein, to be forwarded to the relevant Council bodies;
  - (i) provide overall guidance to the work of the Board;
  - (j) appoint the Chairpersons of the Executive Academic Board and its different configurations;
  - (k) take the necessary decisions with regard to the functioning of the ESDC in so far as these are not attributed to other bodies;
  - (l) approve the annual budget and any amending budget, acting on proposals from the Head;
  - (m) approve the annual accounts and give a discharge to the Head;

- (n) approve additional rules applicable to expenditure managed by the ESDC;
  - (o) approve any financing agreement and technical arrangements with the Commission, the EEAS, a Union Agency or a Member State regarding the financing or the implementation of the ESDC's expenditure;
  - (p) contribute to the selection process of the Head as defined in Article 11(3).
7. The Steering Committee shall approve its Rules of Procedure.
8. Except of the case provided for in Article 2(6) of the financial rules applicable to expenditure funded by the ESDC and its financing, the Steering Committee shall act by qualified majority, as defined in Article 16(4) of the Treaty on European Union.

#### *Article 10*

#### **The Executive Academic Board**

1. The Board shall be composed of senior representatives from those civilian and military institutes and other actors identified by Member States to support the conduct of ESDC training and education activities and of the Director of EUISS or the Director's representative.
2. The Chairperson of the Board shall be appointed by the Steering Committee among the members of the Board.
3. Representatives of the Commission and of EEAS shall be invited to attend the meetings of the Board.
4. Senior representatives of the associate network partners shall be invited to attend the meetings of the Board as active observers.
5. Academic experts and senior officials from Union and national institutions may be invited to attend the meetings of the Board as observers. When appropriate and on a case-by-case basis, academic experts and senior officials who are representatives of institutes that are not members of the network may be invited to participate in the meetings of the Board.
6. The tasks of the Board shall be to:
  - (a) provide academic advice and recommendations to the Steering Committee;
  - (b) implement, through the network, the agreed annual academic programme;
  - (c) oversee the e-Learning system;
  - (d) develop curricula for all ESDC training and education activities;
  - (e) ensure general coordination of ESDC training and education activities among all institutes;
  - (f) review standards of the training and education activities undertaken in the previous academic year;
  - (g) submit proposals to the Steering Committee for training and education activities in the next academic year;
  - (h) ensure a systematic evaluation of all ESDC training and education activities and approve the course evaluation reports;
  - (i) contribute to the draft general annual report on ESDC activities;
  - (j) support the implementation of the European Initiative for the Exchange of Young Officers, inspired by the Erasmus Programme.
7. To fulfil its tasks, the Board may meet in different project-focused configurations. The Steering Committee shall agree on those configurations and the Board shall draw up the rules and arrangements governing the creation and functioning of those configurations. Each configuration will report its activities back to the overall Board at least once every year, after which its mandate may be extended.

8. A member of the ESDC Secretariat will support and assist the Board and each of its configurations. He or she will attend the meetings without the right to vote. If no other candidate can be identified, he or she may, at the same time, chair the meetings.

9. The Rules of Procedure of the Board and each of its configurations shall be adopted by the Steering Committee.

#### *Article 11*

#### **The Head**

1. The Head shall:

- (a) be responsible for the ESDC activities;
- (b) be the sole legal representative of the ESDC;
- (c) be responsible for the financial and administrative management of the ESDC;
- (d) advise the Steering Committee and the Board and support their work; and
- (e) act as the representative of the ESDC for training and education activities within and outside the network.

2. Candidates for the position of Head shall be persons with recognised long-standing expertise and experience in training and education. The Member States may put forward candidates for the position of Head. Staff of the Union institutions and the EEAS may apply for this position, in accordance with the applicable rules.

3. The pre-selection process shall be organised under the responsibility of the HR. The pre-selection panel shall be composed of three representatives of the EEAS. It shall be chaired by the Chair of the Steering Committee. On the basis of the pre-selection results, the HR shall provide to the Steering Committee a recommendation with a shortlist of at least three candidates, drawn-up in the order of the pre-selection panel's preference. At least half of the candidates on the shortlist should come from the Member States. The candidates will present their vision for the ESDC to the Steering Committee, after which the Member States will be invited to rank the candidates in a written, secret vote. The Head shall be appointed by the HR as a member of the EEAS staff.

4. The tasks of the Head shall in particular be to:

- (a) take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the effective functioning of ESDC activities;
- (b) draw up the preliminary draft annual report of the ESDC and its preliminary draft work programme to be submitted to the Steering Committee on the basis of the proposals submitted by the Board;
- (c) coordinate the implementation of the ESDC work programme;
- (d) maintain contacts with the relevant authorities in the Member States;
- (e) maintain contacts with relevant external training and education actors in the field of CFSP and CSDP;
- (f) conclude where necessary technical arrangements on ESDC training and education activities with the relevant authorities and training and education actors in the field of CFSP and CSDP;
- (g) perform any other task attributed to him or her by the Steering Committee.

5. The Head shall be responsible for the financial and administrative management of the ESDC, and in particular shall:

- (a) draw up and submit to the Steering Committee any draft budget;
- (b) adopt the budgets after their approval by the Steering Committee;
- (c) be the authorising officer for the ESDC's budget;
- (d) open one or more bank accounts on behalf of the ESDC;

- (e) negotiate, submit to the Steering Committee and conclude any financing agreement and/or technical arrangement with the Commission, the EEAS or a Member State regarding the financing and/or the implementation of the ESDC's expenditure;
  - (f) select the staff of the Secretariat, assisted by a selection panel;
  - (g) negotiate and sign on behalf of the ESDC any Exchange of Letters for the secondment to the ESDC of Secretariat staff;
  - (h) negotiate and sign on behalf of the ESDC any contract of employment for staff paid from the ESDC budget;
  - (i) generally, represent the ESDC for the purpose of all legal acts with financial implications;
  - (j) submit to the Steering Committee the ESDC's annual accounts.
6. The Head shall be accountable to the Steering Committee for his or her activities.

#### *Article 12*

### **The ESDC Secretariat**

1. The Secretariat shall assist the Head in fulfilling the tasks of the Head.
2. The Secretariat shall provide support to the Steering Committee, to the Board including its configurations and to institutes for the management, coordination and organisation of the ESDC training and education activities.
3. The Secretariat shall support and assist the Board in ensuring the overall quality and coherence of ESDC training and education activities and in ensuring that they remain in line with the Union's policy developments. In particular, they shall help to ensure that all steps in the delivery of a training and education activity, from curriculum development and the content to the methodologic approach, shall reflect the highest possible standards.
4. Each institute forming the ESDC network shall designate a point of contact with the Secretariat to deal with the organisational and administrative issues connected with the organisation of the ESDC training and education activities.
5. The Secretariat shall closely cooperate with the Commission and the EEAS.

#### *Article 13*

### **ESDC Staff**

1. The ESDC staff shall consist of:
  - (a) staff seconded to the ESDC by Union institutions, the EEAS and Union agencies;
  - (b) national experts seconded to the ESDC by Member States;
  - (c) contracted staff when no national expert has been identified for the position of administrative and financial assistant and following approval by the Steering Committee.
2. The ESDC may receive interns and visiting fellows.
3. The number of ESDC staff shall be decided by the Steering Committee together with the budget for the next year and have a clear link to the number of ESDC training and education activities and other tasks as defined in Article 4.

4. The Decision of the HR <sup>(1)</sup> establishing the rules applicable to national experts seconded to the EEAS shall be applicable mutatis mutandis to national experts seconded to the ESDC by Member States. The Union Staff Regulations remain applicable for personnel seconded to the ESDC by European Union Institutions, including for contracted staff paid from the ESDC budget.
5. The Steering Committee, acting on a proposal from the HR, shall define in so far as necessary the conditions applicable to interns and visiting fellows.
6. ESDC staff cannot conclude contracts or engage in any kind of financial obligations on behalf of the ESDC without prior written authorisation by the Head.

### CHAPTER III

### FINANCING

#### *Article 14*

#### **Contributions in kind to training and education activities**

1. Each Member State, Union institution, Union agency and institute, and EEAS shall bear all costs related to its participation in the ESDC, including salaries, allowances, travel and subsistence expenses and costs related to organisational and administrative support of the ESDC training and education activities.
2. Each participant in ESDC training and education activities shall bear all costs related to his or her participation.

#### *Article 15*

#### **Support by the EEAS**

1. The EEAS shall bear the costs arising from the hosting of the Head and the ESDC Secretariat within its premises, including information technology costs, the secondment of the Head and the secondment of one assistant staff member to the ESDC Secretariat.
2. The EEAS shall provide the ESDC with the administrative support necessary to recruit and manage its staff and to implement its budget.

#### *Article 16*

#### **Contribution from the Union Budget**

1. The ESDC shall receive an annual or multi-annual contribution from the general budget of the European Union. That contribution may cover, in particular, costs of supporting training and education activities and the costs of national experts seconded by Member States to the ESDC and up to one contracted staff member.
2. The financial reference amount intended to cover the expenditure related to the ESDC for the period from 1 January 2017 to 31 December 2017 shall be EUR 700 000. The financial reference amount for the subsequent periods shall be decided by the Council, following a recommendation by the Steering Committee.
3. Following the decision by the Council as referred to in paragraph 2, a financing agreement with the Commission shall be negotiated by the Head.

#### *Article 17*

#### **Voluntary contributions**

1. For the purpose of financing specific activities, the ESDC may receive and manage voluntary contributions from Member States and institutes or other donors. Such contributions shall be specifically designated by the ESDC.

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<sup>(1)</sup> Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 23 March 2011 establishing the rules applicable to National Experts Seconded to the European External Action Service (OJ C 12, 14.1.2012, p. 8).

2. Technical arrangements for the contributions referred to in paragraph 1 shall be negotiated by the Head.

#### *Article 18*

### **Implementation of projects**

1. The ESDC can apply for research and other projects in the field of CFSP. The ESDC can act as a project coordinator or a member. The Head can be attached to the 'advisory board' of such a project. He or she may delegate this task to one of the Chairpersons of the EAB configurations or to a member of the ESDC Secretariat.
2. Contribution coming from those projects has to be made visible in the (amended) budget of the ESDC, designated and used according to the tasks and objectives of the ESDC.

#### *Article 19*

### **Financial rules**

The Financial Rules set out in the Annex shall apply to expenditure funded by the ESDC and to financing such expenditure.

## **CHAPTER IV**

### **MISCELLANEOUS PROVISIONS**

#### *Article 20*

### **Participation in ESDC training and education activities**

1. All ESDC training and education activities shall be open to participation by nationals of all Member States and acceding States. The organising and conducting institutes shall ensure that this principle applies without any exception.
2. The ESDC training and education activities shall also be open in principle to participation by nationals of countries that are candidates for accession to the Union and, as appropriate, of other third States and Organisations, in particular for those training and education activities referred to in Article 4(2)(d).
3. Participants shall be civilian/diplomatic/police/military personnel dealing with aspects in the fields of CSDP and CFSP and experts to be deployed in CSDP missions or operations.

Representatives of, inter alia, international organisations, non-governmental organisations, academic institutions and the media, as well as members of the business community, may be invited to participate in ESDC training and education activities.

4. A certificate signed by the HR shall be awarded to a participant who has completed an ESDC course. The modalities of the certificate shall be kept under review by the Steering Committee. The certificate shall be recognised by the Member States and by the Union institutions.

#### *Article 21*

### **Cooperation**

The ESDC shall cooperate with and draw on the expertise of international organisations and other relevant actors, such as national training and education institutes of third States, in particular but not limited to those referred to in Article 5(2).

*Article 22***Security regulations**

The provisions set out in Decision 2013/488/EU <sup>(1)</sup> shall apply to the ESDC.

## CHAPTER V

**FINAL PROVISIONS***Article 23***Continuity**

The rules and regulations adopted for the implementation of Decision 2013/189/CFSP shall remain in force for the purpose of implementing this Decision in so far as they are compatible with the provisions of this Decision and until they are amended or repealed.

*Article 24***Repeal**

Decision 2013/189/CFSP is hereby repealed.

*Article 25***Entry into force and expiry**

1. This Decision shall enter into force on 1 January 2017. It shall be reviewed as appropriate, and, in any case, no later than six months before its expiry.
2. This Decision shall expire on 2 January 2021.

Done at Brussels, 21 December 2016.

*For the Council*  
*The President*  
M. LAJČÁK

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<sup>(1)</sup> Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).



## ANNEX

**Financial rules applicable to expenditure funded by the ESDC and to the financing of the expenditure of the ESDC***Article 1***Budgetary principles**

1. The ESDC's budget, drawn up in euro, is the act which for each financial year lays down and authorises all the ESDC's revenue and all expenditure funded by the ESDC.
2. Budget revenue and expenditure shall be in balance.
3. No revenue or expenditure funded by the ESDC may be implemented other than by allocation to a heading in the budget.

*Article 2***Adoption of budgets**

1. Each year the Head shall draw up a draft budget for the following financial year, which begins on 1 January and ends on 31 December of the same year. The draft budget shall include the appropriations deemed necessary to cover the expenditure to be funded by the ESDC during that period and a forecast of the revenue expected to cover such expenditure.
2. Appropriations shall be classified as necessary by type or purpose in chapters and articles. Detailed comments by article shall be included in the draft.
3. Revenue shall consist of Member States' or other donors' voluntary contributions as well as the annual contribution from the budget of the European Union.
4. The Head shall submit a detailed budget report on the previous financial year by 31 March. He or she shall propose the draft budget for the following financial year to the Steering Committee by 31 July.
5. The Steering Committee shall approve the draft budget by 31 October.
6. In case the ESDC shall receive a multi-annual contribution from the general budget of the Union, the Steering Committee shall approve the annual budget by consensus.

*Article 3***Transfers of appropriations**

In the case of unforeseen circumstances, transfers of appropriations between budget lines or budget headings of the contribution referred to in Article 16, not exceeding 25 % of those budget lines or headings, may be decided by the Head, who will keep the Steering Committee informed of such transfers. Transfers of appropriations between budget lines or headings exceeding 25 % of the budget lines or headings shall be submitted to the Steering Committee in an amended budget for approval.

*Article 4***Carryovers of appropriations**

1. Appropriations necessary to pay for legal obligations entered into by 31 December of a financial year shall be carried over to the next financial year.

2. Appropriations coming from voluntary contributions shall be carried over to the next financial year.
3. Appropriations coming from projects shall be carried over to the next financial year.
4. The Head may carry over other appropriations in the budget to the next financial year with the approval of the Steering Committee.
5. Other appropriations shall be cancelled at the end of the financial year.

#### *Article 5*

### **Implementation of the budget and staff management**

For the purpose of implementing its budget and managing its staff, the ESDC shall use existing administrative structures of the Union, notably the EEAS, to the greatest possible extent.

#### *Article 6*

### **Bank accounts**

1. Any ESDC bank account shall be opened at a first-rate financial institution with its head office in a Member State and shall be a current or short-term account in euro.
2. No bank account shall be overdrawn.

#### *Article 7*

### **Payments**

Any payment from an ESDC's bank account shall require the joint signature of the Head of the ESDC and another member of the ESDC staff.

#### *Article 8*

### **Accounting**

1. The Head shall ensure that accounts showing the ESDC's revenue, expenditure and inventory of assets are kept in accordance with the internationally accepted accounting standards for the public sector.
2. The Head shall submit to the Steering Committee the annual accounts for a given financial year no later than the following 31 March, together with the detailed report mentioned in Article 2(4).
3. The necessary accounting services shall be outsourced.

#### *Article 9*

### **Auditing**

1. An audit of the ESDC's accounts shall be conducted annually.
2. The necessary auditing services may be outsourced.
3. The audit reports shall be made available to the Steering Committee together with the detailed report mentioned in Article 2(4).

*Article 10***Discharge**

1. The Steering Committee shall decide on the basis of the detailed report, the annual accounts and the annual audit report whether to grant the Head a discharge in respect of the implementation of the ESDC's budget.
  2. The Head shall take all appropriate steps to satisfy the Steering Committee that a discharge may be granted and to act on the observations in the decisions giving discharge, if any.
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**COUNCIL DECISION (CFSP) 2016/2383****of 21 December 2016**

**on the Union support for the International Atomic Energy Agency activities in the areas of nuclear security and in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28 and Article 31(1) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 12 December 2003, the European Council adopted the European Union Strategy against the Proliferation of Weapons of Mass Destruction ('the Strategy'), Chapter III of which contains a list of measures that need to be taken both within the Union and in third countries to combat such proliferation.
- (2) The Union is actively implementing the Strategy and is giving effect to the measures listed in Chapter III thereof, in particular through releasing financial resources to support specific projects conducted by multilateral institutions, such as the International Atomic Energy Agency (IAEA).
- (3) On 17 November 2003, the Council adopted Common Position 2003/805/CFSP <sup>(1)</sup> on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery. That Common Position calls, inter alia, for the promotion of the conclusion of IAEA comprehensive safeguards agreements and Additional Protocols and commits the Union to work towards making the comprehensive safeguards agreements and Additional Protocols the standard for the IAEA verification system.
- (4) On 17 May 2004, the Council adopted Joint Action 2004/495/CFSP <sup>(2)</sup> on support for IAEA activities under its Nuclear Security Programme and in the framework of the implementation of the Strategy.
- (5) On 18 July 2005, the Council adopted Joint Action 2005/574/CFSP <sup>(3)</sup> on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the Strategy.
- (6) On 12 June 2006, the Council adopted Joint Action 2006/418/CFSP <sup>(4)</sup> on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the Strategy.
- (7) On 14 April 2008, the Council adopted Joint Action 2008/314/CFSP <sup>(5)</sup> on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the Strategy.

<sup>(1)</sup> Council Common Position 2003/805/CFSP of 17 November 2003 on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery (OJ L 302, 20.11.2003, p. 34).

<sup>(2)</sup> Council Joint Action 2004/495/CFSP of 17 May 2004 on support for IAEA activities under its Nuclear Security Programme and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 182, 19.5.2004, p. 46).

<sup>(3)</sup> Council Joint Action 2005/574/CFSP of 18 July 2005 on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 193, 23.7.2005, p. 44).

<sup>(4)</sup> Council Joint Action 2006/418/CFSP of 12 June 2006 on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction (OJ L 165, 17.6.2006, p. 20).

<sup>(5)</sup> Council Joint Action 2008/314/CFSP of 14 April 2008 on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 107, 17.4.2008, p. 62).

- (8) On 27 September 2010, the Council adopted Decision 2010/585/CFSP <sup>(1)</sup> on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the Strategy.
- (9) On 21 October 2013, the Council adopted Decision 2013/517/CFSP <sup>(2)</sup> on Union support for the activities of the IAEA in the areas of nuclear security and verification and in the framework of the implementation of the Strategy.
- (10) On 8 May 2016, the Amendment to the Convention on the Physical Protection of Nuclear Material (ACPPNM) entered into force. The Union and its Member States promoted the Amendment through diplomatic outreach and financing of the IAEA activities in that regard. Following its entry into force, sustained efforts will be required to ensure national enforcement and universalization of the ACPPNM.
- (11) The IAEA pursues the same objectives set out in Recitals (3) to (10) through the implementation of its Nuclear Security Plan which is financed entirely through voluntary contributions to the IAEA Nuclear Security Fund.
- (12) The Union is committed to strengthening nuclear security worldwide and is ready to continue assisting third countries in that regard. The Union welcomes recent steps to strengthen the IAEA Nuclear Security Programme as well as the International Conference on Nuclear Security: Commitments and Actions, hosted by the IAEA from 5 to 9 December 2016. The Union aims at maintaining the sustainability and effectiveness of the implementation of Joint Actions 2004/495/CFSP, 2005/574/CFSP, 2006/418/CFSP, 2008/314/CFSP and Decision 2010/585/CFSP in support of the IAEA Nuclear Security Plans ('previous Joint Actions and Decisions') and is committed to providing further support in view of the adoption of the IAEA Nuclear Security Plan 2018-2021. Close coordination with the EU Chemical, Biological, Radiological and Nuclear (CBRN) Centres of Excellence Initiative, as well as other initiatives and programs will be undertaken to avoid duplication and to maximise cost effectiveness and continued risk reduction.
- (13) The technical implementation of this Decision should be entrusted to the IAEA which, on the basis of its longstanding and broadly recognised expertise in the area of nuclear security, could significantly strengthen relevant capabilities in the target countries. The projects as supported by the Union can only be financed through voluntary contributions to the IAEA Nuclear Security Fund. Such contributions to be provided by the Union will be instrumental in enabling the IAEA to play a key role in the area of nuclear security by supporting the efforts of countries to fulfil their nuclear security responsibilities.
- (14) The responsibility for nuclear security within a State rests entirely with the State,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. For the purpose of giving immediate and practical implementation to certain elements of the Strategy, the Union shall support the IAEA's activities in the areas of nuclear security in order to further the following objectives:

- (a) achieving progress towards the universalisation of international non-proliferation and nuclear security instruments;
- (b) assisting States in the establishment of indigenous technical, scientific and human capacity necessary for effective, sustainable nuclear security;
- (c) strengthening capacities to prevent, detect, respond and protect people, property, environment and society from criminal or intentional unauthorised acts involving nuclear or other radioactive material out of regulatory control;
- (d) strengthening the detection of, and response to, illicit trafficking of nuclear and other radioactive material;
- (e) contributing to computer security in the nuclear field;

<sup>(1)</sup> Council Decision 2010/585/CFSP of 27 September 2010 on support for IAEA activities in the areas of nuclear security and verification and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 259, 1.10.2010, p. 10).

<sup>(2)</sup> Council Decision 2013/517/CFSP of 21 October 2013 on the Union support for the activities of the International Atomic Energy Agency in the areas of nuclear security and verification and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 281, 23.10.2013, p. 6).

- (f) strengthening the security of radioactive sources, to bring them to a safe and secure storage in the countries in need of support, including repatriation to the country of origin or supplier;
  - (g) strengthening physical protection of nuclear and other radioactive material.
2. The projects shall aim at:
- (a) ensuring the sustainability and effectiveness of support provided through previous Joint Actions and Decisions;
  - (b) strengthening States' Indigenous Nuclear Security Support Infrastructure;
  - (c) strengthening States' Legislative and Regulatory Framework;
  - (d) strengthening Nuclear Security Systems and Measures for Nuclear and other Radioactive Materials;
  - (e) strengthening States' Institutional Infrastructure and Capabilities to Deal with Nuclear and Radioactive Materials out of Regulatory Control;
  - (f) strengthening States' Response and Resilience to Cyber Crime and Mitigating its Impact on Nuclear Security;
  - (g) enhancing education and training capacities in the field of Nuclear Security;
  - (h) ensuring focused and continuing support for the implementation and the universalization of the Amendment to the Convention on the Physical Protection of Nuclear Material.
3. Preparations for this Decision shall be based on the information already available to the IAEA and the results of the tasks conducted under previous Joint Actions and Decisions.
4. A detailed description of the projects is set out in the Annex. The lists of target countries shall be based on the definition of needs following an analysis of missing gaps as reflected in existing Integrated Nuclear Security Support Plans (INSSP), or on an accepted proposal by the IAEA Secretariat. The lists of beneficiary countries and of subregions should be defined by the Member States of the Union in consultation with the IAEA.

#### *Article 2*

1. The High Representative of the Union for Foreign Affairs and Security Policy (the 'HR') shall be responsible for the implementation of this Decision.
2. The projects referred to in Article 1(2) shall be carried out by the IAEA as the Implementing Entity. It shall perform this task under the responsibility of the HR. For that purpose, the HR shall enter into the necessary arrangements with the IAEA.

#### *Article 3*

1. The financial reference amount for the implementation of the projects referred to in Article 1(2) shall be EUR 9 361 204,23.
2. The expenditure financed by the amount set out in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the Union budget.
3. The Commission shall supervise the proper management of the expenditure referred to in paragraph 1. For that purpose, it shall conclude a financing agreement with the IAEA. The financing agreement shall stipulate that the IAEA is to ensure visibility of the Union's contribution, appropriate to its size.

4. The Commission shall endeavour to conclude the financing agreement referred to in paragraph 3 as soon as possible after the entry into force of this Decision. It shall inform the Council of any difficulties in that process and of the date of conclusion of the financing agreement.

#### *Article 4*

1. The HR shall report to the Council on the implementation of this Decision on the basis of regular reports prepared by the IAEA. These reports shall form the basis for the evaluation by the Council.

2. The Commission shall provide information on the financial aspects of the implementation of the projects referred to in Article 1(2).

#### *Article 5*

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

2. It shall expire 36 months after the date of the conclusion of the financing agreement between the Commission and the IAEA or 12 months after the date of its adoption if no financing agreement has been concluded before that date.

Done at Brussels, 21 December 2016.

*For the Council*

*The President*

M. LAJČÁK

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## ANNEX

## Union support for IAEA activities in the areas of nuclear security in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction

## Eligibility and selection of recipient States

States eligible to receive support under this Decision comprise all IAEA Member States in need of support in the field of nuclear security, subject to a decision by the Union, based on an IAEA proposal. Modifications to the proposals may be made by the IAEA, in writing, to the Union setting out a justification for the proposed changes. The changes will be implemented after agreement by the Union. The selection of recipient States ('beneficiary countries') as indicated in this Decision should be based on the assessments and data already available to the IAEA acquired also under previous Council Decisions and in consultation with the relevant Council bodies, with the aim of ensuring maximum impact of the action. Close coordination with the Centres of Excellence Initiative, projects financed by the European Commission as well as other initiatives and programs will be undertaken to avoid duplication and maximise cost effectiveness and continued risk reduction through meetings of the EU CBRN Centres of Excellence Initiative management during the annual meetings between the Joint Research Centre and the IAEA Secretariat and in the margins of the annual Nuclear Security Support Centres (NSSC) plenary meeting. The use of funds for specific activities will be in line with Union priorities and subject to regular prior consultation. Some activities such as Regional Training Courses (RTC) and International Training Courses (ITC) will be hosted by States other than beneficiary countries. This represents a contribution to IAEA activities by the host State.

Each project includes a list of potential beneficiary countries agreed between the Union and the IAEA. Projects will be implemented in the selected States of those regions and can encompass activities in the following areas:

1. sustainability and Effectiveness of Support provided through previous Joint Actions and Decisions;
2. strengthening of States' Indigenous Nuclear Security Support Infrastructure;
3. strengthening of States' Legislative and Regulatory Framework;
4. strengthening of Nuclear Security Systems and Measures for Nuclear and other Radioactive Materials;
5. strengthening of States' Institutional Infrastructure and Capabilities to Deal with Nuclear and Radioactive Materials out of Regulatory Control;
6. strengthening of States' Response and Resilience to Cyber Crime and Mitigating its Impact on National and Nuclear Security;
7. addressing the Security of Radioactive Sources by Source Repatriation;
8. Preventive and Protective Measures against Insider Threats and Nuclear Material Accounting and Control.

## I. PROJECTS

## Project 1:

## Support for the implementation of the ACPPNM

The ACPPNM entered into force on 8 May 2016. It makes it legally binding for States to establish, implement and maintain an appropriate physical protection regime based on 12 fundamental principles, applicable to nuclear material and nuclear facilities under their jurisdiction in peaceful domestic use, storage and transport. The project will focus on implementation, capacity building and universalisation of the ACPPNM. It also makes it legally binding for States Parties to protect nuclear facilities and material in peaceful domestic use, storage as well as transport, and provides for expanded cooperation between and among States regarding rapid measures to locate and recover stolen or missing nuclear material, mitigates any radiological consequences of sabotage, and prevents and combats related offences.



Project purposes:

- supporting the implementation of the ACPPNM;
- strengthening the national legislative and regulatory framework, as well as the capacity of States to develop regional best practice exchanges, as they apply to any authority involved in security of nuclear materials either under regulatory control or out of regulatory control;
- providing States with cost-effective means to assist them in fulfilling national, regional and international obligations, and in enacting binding and international legal instruments;
- strengthening further international cooperation to establish, in conformity with the national law of each State and within the ACPPNM, effective measures for the physical protection of nuclear material and nuclear facilities.

Project description:

- activities identified in INSSP in ten States relating to the implementation of obligations under the ACPPNM will be translated into concrete actions. Milestones to address the relevant issues leading to sustainable solutions for States to strengthen its national nuclear security regime will be defined. Agreed timelines and commitments will assure comprehensive implementation of the Plans;
- revision of course material: new training exercises to be developed for a better audience understanding.

Expected results of the project:

- increased capacity in States to meet their obligations under the ACPPNM;
- start further development and enhancement of regulatory framework for physical protection;
- develop a guidance document for use by States to develop national capacities on regulation, review and assessment and for inspecting nuclear facilities to ensure nuclear security during the life cycle of a nuclear facility.

Project 2:

Sustainable Project

The proposed Sustainable Project builds on the intensive work on Detection Architecture Framework funded by Decision 2013/517/CFSP. It results from the four Impact Assessment Missions on previous Joint Actions and Decisions performed in Cuba, Indonesia, Jordan, Lebanon, Malaysia and Vietnam. Those six States requested IAEA support in their INSSP on this project.

The project seeks to provide tools for supporting the nuclear security detection architecture, i.e. the integrated set of nuclear security systems and measures, based on an appropriate legal and regulatory framework needed to implement the national strategy for detection of nuclear and other radioactive material out of regulatory control. The proposed project is in line with the support already extended by the Union in delivering detection equipment such as Radiation Portal Monitors (RPMs) and Hand Held equipment.

## 2.1. Maintenance Training Tools

Project purposes:

- assisting States in ensuring the availability of indigenous technical and scientific support, and human resource development necessary for effective, sustainable nuclear security;
- ensuring the optimal use and proper maintenance of the equipment donated by the Union during its full life cycle.

Project description:

- proper maintenance is a key factor for detection and response to theft, sabotage, unauthorised access, illegal transfer or other malicious acts involving nuclear material, other radioactive substances or their associated facilities. Maintenance training tools for detection equipment (radiation portal monitors and hand held units) will be established. Tool mock-ups will be developed with a view to specific training on their maintenance, in addition to their correct use;
- maintenance training for the detection equipment.

Expected results of the project:

- sustaining the support provided by the IAEA for the implementation of the Detection Architecture Framework;
- ensuring that training material is available and in use to sustain the training for all new concerned staff; prototype training material will be provided to Member States of the Union through the Working Party on Non-Proliferation (CONOP);
- ensuring that detection equipment can be maintained in operation by authorities in the beneficiary countries for a maximum duration.

## 2.2. Software Tools used for Regulatory Bodies

Information is vital for the effective operation of RPMs. The development of common data formats and testing protocols enables the effective communication between multiple operators. Integrating data from detection instruments such as RPMs coming from different providers into information networks is an important element of developing an effective overall detection system. This project could help States significantly improve their operational effectiveness by integrating detection system into national data sharing networks. Sharing information between location and operators can reduce duplicate inspections and rapidly clear innocent and false alarms associated with many passive detection systems.

This project would implement an Integrated System through software tools to improve the analysis process and to offer recommendations for appropriate equipment. A feedback way from Regulatory Body to local RPM Station will increase the efficiency of the system and will support the work of front line officers (FLOs).

Project purposes:

- assisting States in ensuring the availability of indigenous technical and scientific support, and human resource development necessary for effective, sustainable nuclear security;
- harmonising alarm data, making it comparable between different equipment providers.

Project description

- assisting Regulatory Bodies in integrating data and harmonising the alarm software so that they compare data from different providers and ensure that regulatory decision making is based on correct information.;
- the Pilot tool will be delivered and tested by the stakeholders of each State. They will perform a real test exercise with the IAEA support by the way of Expert Missions. A test report of the training tool will be produced and included in the final report. Feedback from the regulatory authority to local RPM Stations will increase the efficiency of the system and will enhance the work of FLOs.

Expected results of the project:

- including a training Module for the developed system as well as an interactive expert system for false alarms. The Prototype tool will be delivered and tested by the stakeholders of each State. A training Module for the developed system will be included in the system as well as an interactive expert system for false alarms. A specific test report of the training built tool will be produced and sent to the Commission. Prototype material will be provided to Member States of the Union through CONOP;

- conducting a ‘mock-up test’ in one State, running analysis and formulating change requirements, if any, based on the report of the test’s results;
- harmonisation at the Regulator level, and in consequence among regulators in their regional and international cooperation, the detection of and response to nuclear and other radioactive material;
- running one functioning prototype per country;
- including a Protocol in future procurement of RPMs to include the specific requirements relevant for the software.

#### Project 3:

##### Strengthening nuclear security with a regional focus on the EU Neighbourhood and Latin America

The objective of this project is to enhance national capabilities for developing and drafting a legislative and regulatory framework and building up capacities within IAEA Member States for the establishment of a comprehensive National Nuclear Security regime. The European Union has initiated a regional project in sub-Saharan Africa dealing with safety, security and safeguards of uranium production, transport and safe management of radioactive sources. That project develops similar nuclear security-related activities as the ones proposed under this project. Therefore, the IAEA will benefit from the feedback and results of the Union project to implement activities in total or partially in the concerned regions. The programme meets the direction set out in OP 13 of GC/RES/10 in which the Secretariat was encouraged to facilitate a coordination process relating to the interface between safety and security. Two Divisions of the IAEA will be involved: NRSW (Safety) and NSNS (Security) in a subregional capacity approach.

#### 3.1. Strengthening Nuclear Security

##### Project purpose:

- strengthening the States’ capacities to prevent, detect, and respond and to protect people, property, environment and society from criminal or intentional unauthorised acts involving nuclear or other radioactive material out of regulatory control, including through regional capacity-building efforts, where available.

##### Project description:

- activities identified in an INSSP in ten States relating to the implementation of national nuclear security regimes will be translated into concrete actions. Milestones to address the relevant issues leading to sustainable solutions for the State in nuclear security will be defined. Agreed timelines and commitments will ensure comprehensive implementation of the plans which will be implemented after cross checking with existing projects of the EU CBRN Centres of Excellence.

##### Expected result of the project:

- increased national capacities in the beneficiary countries.

#### 3.2. Strengthening of the national Nuclear Security Legal and Regulatory Framework

##### Project purpose:

- strengthening the national legislative and regulatory framework, as well as the capacity of States to develop regional best practice exchanges, as they apply to any authority involved in security of nuclear and other radioactive materials either under regulatory control or out of regulatory control;
- providing States with cost-effective means to assist them in fulfilling national, regional and international obligations, the enactment of binding and international legal instruments and a commitment to non-binding legal instruments.

Project description:

- arrangement of Expert Missions in order to identify gaps in existing laws and regulations, assisting states in adapting where necessary by making best use of European legislation existing in the relevant areas.
- using synergies with other international organisations, such as the World Customs Organisation, where appropriate;
- carrying on discussions in the involved States on their strategies and ensure support to build their national infrastructure;
- awareness building for political decision makers on the importance of appropriate nuclear security legislation and regulation;
- integration in the involved States' INSSP.

Expected results of the project:

- assisting in drafting laws and regulations for countries;
- updating of laws and regulations where necessary;
- reporting identifying current status and recommendations for the legal and regulatory framework of the respective State;
- commitment by the States to implement recommendations and to host a follow up after two years;
- elaborating and assessing the outcome;
- integrating achievements in the final report.

### 3.3. Security of Radioactive Sources

Project purposes:

- strengthening a State's regulatory infrastructure for the security of radioactive sources, associated facilities and associated activities, including transport;
- establishing, where applicable, national registries of radioactive sources in the selected States;
- working with States to establish and implement national strategies for managing disused sources, including repatriation to the country of origin or supplier; national secure storage pending disposal, or export for recycling or re-use or secure storage as referred to under Project 7.

Project description:

Ensure source security through:

- the establishment of national inventory of radioactive sources and assessment of Physical Protection Systems at facilities;
- the arrangement of five expert missions issuing a synthesised report including current status and recommendations.

Expected results of the project:

- assessment reports following missions summarizing findings with respect to national inventory and/or physical protection status at facilities;
- establishment of physical protection measures at facilities where high activity sources are used or stored;
- equipment to support regulatory bodies in the conduct of national safety and security inspections of facilities.

### 3.4. Human Resources Development

#### Project purpose:

Strengthening the States' capacities to prevent, detect, and respond to, and to protect people, property, environment and society from criminal or intentional unauthorised acts involving nuclear or other radioactive material out of regulatory control, including through regional human resource development and capacity-building efforts, where available.

#### Project description:

- implementing, with due consideration to similar efforts that have been implemented so far and to ensure their continuity, Professional Development Courses (PDC) for faculty members from universities planning to implement postgraduate curricula in nuclear security to enable the faculty to teach nuclear security culture in their institutions;
- encouraging offering nuclear security culture training to various professional audiences via the NSSC or the EU CBRN Centres of Excellence located in the region;
- procuring special equipment for education and training purposes, such as real detection tools used by FLOs, to be handled and mastered by the students or trainees.

#### Expected results of the project:

- at least 15 faculty members trained in each PDC on a topic to be determined later (list of trained faculty to be provided);
- at least two training courses to be conducted via NSSCs in the region (lists of courses and trained officers to be provided);
- teaching and training material made available at the PDCs and training events (materials to be also reviewed by representatives of the Union).

### 3.5. Focus on Latin America

Focus on support for Spanish-speaking Latin American States. The aim is to translate as many documents concerned as possible into Spanish, for a greater appropriation of the outcomes of activities by those States.

#### 3.5.1. Education Program

##### International/Regional School on Nuclear Security

A two-week course will be addressed to professionals from developing countries, ideally with one to three years of experience, working at a relevant institution in their home country with responsibility covering some aspects of nuclear security. Candidates should have a specific career interest in the knowledge of nuclear security, although their academic background may vary. Candidates with scientific or technical discipline of relevance to nuclear security, such as nuclear physics, nuclear engineering or political science, and/or in related fields, are specifically encouraged to apply.

This activity is intended to be hosted in Spain and delivered in Spanish and English. It will be oriented to Latin and Central American States. The curriculum will be based on the curriculum used at the schools held in the International Centre for Theoretical Physics, with support from the Italian Government.

##### Regional School on Nuclear Security in Cuba

The content and material described under point 3.5.1 will form the basis for a Regional School on Nuclear Security in Cuba. This will be implemented in conjunction with the Nuclear Security Support Centre being created in Cuba. This School is intended to be used at Regional level and to develop Education in Latin America in the nuclear security field.

#### Expected results of the project:

- improving the understanding in the region of the principles of nuclear security.

### 3.5.2. Follow-up Activities on Nuclear Security of Material out of Regulatory Control for previous Joint Actions and Decisions

#### Project purpose:

- ensuring the sustainability of work initiated under previous Joint Actions and Decisions and continuing the enhancement of nuclear security in Latin and Central American States.

#### Project description:

The IAEA has received a number of requests for assistance in Latin and Central America, the implementation of which would ensure the sustainability of activities initiated under previous Joint Actions and Decisions. The requests are identified in INSSP and cover expert missions in particular in hospitals, field exercises, National Training Courses (NTC)/RTCs/ITCs and the procurement of some detection equipment in Argentina and Cuba.

#### Expected results of the project:

- conducting the activities in the identified States.

### 3.6. Nuclear Security of Material out of Regulatory Control in the EU Neighbourhood States

#### Project purpose:

- to conduct expert missions, field exercises, NTCs/RTCs/ITCs and some procurement of detection equipment in Azerbaijan, Jordan, Lebanon, Morocco and Ukraine and other EU Neighbourhood States.

#### Project 4:

##### Strengthening computer security awareness

The IAEA Division of Nuclear Security offers an integrated set of activities to assist States in establishing and enhancing computer security within national nuclear security regimes. This project will support the IAEA's programme of activities to assist States with improving computer security within the framework of their nuclear security regimes.

#### Project purpose:

- the IAEA seeks to help build awareness and provide guidance to States to enhance their ability to prevent and respond to a range of nuclear security events. Support is focused on prevention and detection of, and response to, information security incidents that have the potential to either directly or indirectly adversely affect nuclear safety and security.

#### Project description:

- provide international and regional training and education support for enhancing computer security awareness and capacity development;
- provide support for national capacity development in information and computer security for nuclear security regimes;
- conduct and facilitate expert meetings and forums to support information exchange and discussion on topical areas in computer security.
- provide support for the IAEA International Conference/Symposium on Computer Security in a Nuclear World in 2019 (IAEA Headquarters).

#### Expected results of the project:

- increased awareness of computer security needs relevant to nuclear security and development of supporting materials/activities to facilitate computer security programme development and enhancement;
- increased national capacity to implement and sustain computer security as a component of the nuclear security regime;

- awareness and use of NSNS guidance and supporting activities for assistance in enhancing their State computer security as a component of their nuclear security regimes;
- global/regional information exchange on lessons learned and good practices related to the implementation of computer security within a nuclear security regime;
- improved cooperation with and between industry partners in developing technologies and services that provide a greater level of resilience against, and response to cyber-attacks;
- national training structures for building capacity in computer security within the nuclear security regime, for example assisting Nuclear Security Support Centres in developing computer security curriculums;
- facilitation of centralised information sharing to support the exchange of computer security information relevant to nuclear security stakeholders;
- conduct of the IAEA International Conference/Symposium on Computer Security in a Nuclear World.

#### Project 5:

##### Security of Nuclear Material and Nuclear Facilities

The IAEA will continue to contribute to the improvement of global and national nuclear security through activities that would support, upon request, States in their efforts to reduce the risk that nuclear or other radioactive material in use, storage and/or transport could be used in malicious acts. National nuclear security systems need to be supported through provision of security upgrades at nuclear facilities or radioactive sources and national training in a systematic manner and provide specific technical support required for effective use and maintenance of physical protection systems and other nuclear security technical systems.

#### Project purpose:

- strengthening a State's first line of defence in the form of security for nuclear material and nuclear facilities.

#### Project description:

- upgrading the Physical Protection of one facility in order to ensure that they meet the recommendations set out in INFCIRC/225/Rev.5;
- assessing the physical protection systems at nuclear facilities based on requests from Member States.

#### Expected results of the project:

- secured nuclear material and facilities; helping the State to sustainably maintain the provided equipment after its installation;
- providing impact assessment of the added value and benefit of Union funds.

#### Project 6:

##### International Physical Protection Advisory Service (IPPAS) Missions

The IPPAS program, initiated in 1995, is a fundamental part of IAEA efforts to assist Member States to establish and maintain an effective physical protection regime to protect against the unauthorised removal of nuclear material and the sabotage of nuclear facilities and material. IPPAS provides peer advice on implementing relevant international instruments, in particular the ACPNM and on implementing the IAEA Nuclear Security Series of guidance documents, particularly the Fundamentals and Recommendations.

#### Project purpose:

- helping States translate provisions of international instruments on nuclear security and of IAEA guidance into regulatory requirements for the design and operation of physical protection systems;
- providing State bodies and facilities with new concepts as well as identifying and discussing good practices on physical protection which could be beneficial for enhancement of nuclear security.

Project description:

- performing and completing IPPAS missions in six States;
- conducting, on the basis of the requests already received by the IAEA, missions to Belarus, Democratic Republic of Congo, Jamaica, Lebanon, Madagascar and Vietnam.

Expected results of the project:

- improving and sustaining nuclear security in the target countries;
- producing Final Mission Reports for the countries with a description of follow-up activities as part of the final report.

#### Project 7:

##### Source Repatriation

The security of radioactive sources should be addressed at all lifecycle stages, including when, sources become disused. States will be encouraged to develop national strategies for the management of disused sources, which include one or more of the following management options: repatriation to the country of origin or supplier, national secure storage pending disposal, or export for recycling or re-use or secure storage

Project purposes:

- continuing the support provided by the IAEA to States in enhancing national nuclear security capacities for protecting people, property and the environment from nuclear security events involving nuclear or other radioactive material out of regulatory control. This will include the development of national capacities for managing disused sources, searching for orphan sources and, if needed, repatriating or exporting them for recycling. Depending on the urgency of the sources detected through the activities related to establishment of national inventories performed in Project 3, several high activity sources will be repatriated through this funding;
- to locating and identifying radioactive sources in circumstances which indicate a need to condition the sources and bring them to a safe and secure storage in the selected countries or repatriation to the country of origin or supplier.

Project description:

- depending on the urgency of the detected sources to be repatriated through the inventory performed in Project 3, several identified sources will be repatriated.
- recipient States to be defined by the Union on the basis of a proposal by the IAEA.

Expected results of the project:

- consolidation and conditioning of the sources;
- repatriation of two identified sources to the country of origin or export for recycling or re-use.

For the selection of the sources to be repatriated, the following criteria will be used: high activity source (Category 1 or 2); European origin; no funding for repatriation available at this point; single source-repatriation, meaning that they are not part of a larger inventory, so the single-source repatriation would result in a significant risk-reduction effect.

#### Project 8:

##### Follow-up to Cycle IV to Cycle VI Projects

##### 8.1. Insider Threat, Nuclear Material Accountancy and Control (NMAC)

Project purpose:

- it is proposed to continue the actions performed in previous Joint Actions and Decisions and the last Contribution Agreement pursuant to Decision 2013/517/CFSP on the following two items: Preventive and Protective Measures against Insider Threats and Nuclear Material Accounting and Control.



Project description:

- providing basic knowledge on concepts, methodologies, and technology that conform to the binding and non-binding instruments related to nuclear security; demonstrating elements of an effective domestic NMAC system at nuclear facilities to increase the capability of Member States to detect unauthorised use or removal of nuclear material; familiarising Member States with insider threats and identifying preventive and protective measures against insider threats.

Expected results of the project:

- the courses benefit Member States by providing good practices derived from guidance documents and lessons learned from experts that help Member States meet the nuclear security needs and objectives at facilities;
- NMAC: the objective of the course is to establish awareness of the need for having a domestic NMAC system in place at nuclear facilities that is effective in detecting unauthorised removal of nuclear material, especially against the non-State actor. The course will compare and contrast the elements of a domestic NMAC program with IAEA Safeguards.
- Insider: the objective of the course is to familiarise participants with nuclear security measures that address insider threats, including unauthorised removal of nuclear materials (theft), sabotage and cyber security at facilities containing nuclear material.
- Nuclear Security Series guidance documents benefit Member States by providing broad instruction on meeting the objectives of effective nuclear security regimes.
- NMAC: both NSS 25-G and NST-33 benefit Member States by providing direction on aspects of NMAC implementation including managing the NMAC system, use of records, physical inventory taking, measurements and measurement quality control, nuclear material control, nuclear material movements, detection investigation and resolution of NMAC irregularities, and assessment and performance testing of the NMAC system.
- Insider: NSS 8 benefits Member States by providing direction on preventive and protective measures against insider threats in relation to unauthorised removal of nuclear material and sabotage of nuclear material and facilities, and references the recommendations in NSS 13. NSS 8 provides general guidance regarding insider threats based on an understanding of the graded approach, defining insider threats and ways to categorise insiders, identification of targets and facility systems that need protection from malicious acts, and application and evaluation of preventive and protective measures at the facility level to address insider threats.

## 8.2. Development of Security and Safety for Transport

Project purpose:

The IAEA develops comprehensive guidance in the Nuclear Security Series to assist States to meet their obligations under the international legal framework for nuclear security. Additional guidance is required to address the security of nuclear and other radioactive materials in transport.

Project description:

- activities to assist States to improve transport security engage regulators and other competent authorities with responsibility and roles in securing radioactive material in transport. Currently, training and guidance on security and safety is largely provided to Member States separately, even though in many Member States the audience is the same. The IAEA believes that by leveraging the existing safety regional networks, joint training courses could be delivered focusing on the security of materials, addressing interfaces with security and safe transport.

Expected results of the project:

- production of a handbook on the safety and security of radioactive sources during transport. Such a handbook could also serve as a tool for those in the security and safety fields to have a better understanding of what the other is doing, ultimately resulting in a stronger, more efficient safety and security culture.
- conducting one ITC, one RTC and two NTCs through regional networks to create awareness of the need for security during transport of radioactive material and to provide the participants with the necessary knowledge to develop and implement national transport security requirements.

### 8.3. Nuclear Forensics

#### Project purpose:

- the International Conferences on Advances in Nuclear Forensics emphasised the need to pursue regional approaches in nuclear forensics to reflect Member States' common requirements and existing capabilities as they develop a nuclear forensic capability to meet their needs as part of a nuclear security infrastructure. There has been considerable interest from African Member States as part of the development and review of INSSP to include nuclear forensics as part of the response to a nuclear security event. This interest is driven by the rapid growth in Africa that depends upon the ready access to nuclear and other radioactive materials in industry, medicine and research but is tempered by serious security threats, including terrorists who have struck in Northern and Sub-Saharan Africa.

#### Project description:

- the IAEA will make concerted efforts to address Member States' needs by innovation, including orientation to laboratory methods. The IAEA piloted a new practical introduction to nuclear forensics training taught in nuclear forensics laboratories. The project will include an ITC for practitioners and a long residential assignment for a scientist in a leading nuclear forensics laboratory under the mentoring of the host and the IAEA.

#### Expected results of the project:

- a significant component of nuclear forensics assistance to Northern Africa is the development of human resources, for example subject matter experts. Topics and opportunities for future nuclear forensics engagement and development (i.e. research, law enforcement, analytical capabilities, uranium mining, and radioactive source security) throughout the region will be identified. These will define implementation activities on nuclear forensics in Northern Africa. Meetings will be held in both English and French, and all documentation will be translated in French for a better appropriation by the beneficiary countries.

Possible beneficiary countries: all Northern African Member States and EU Neighbourhood States.

### 8.4. Establishment of Effective National Response Framework

The threat of nuclear terrorism has been recognised as a matter of concern for all States, and the risk that nuclear material or other radioactive material may be used in a criminal act or an intentional unauthorised act represents a serious threat to national and regional security, with potentially serious consequences for people, property and the environment.

The potential consequences of a criminal act or an intentional unauthorised act involving nuclear and other radioactive material out of regulatory control depend on the material's amount, form, composition and activity. Such acts could lead to severe health, social, psychological and economic impacts, damage to property, and political and environmental consequences. For example, major public events with international status regularly occur. Because of their visibility, the result of around the clock media coverage, it is widely acknowledged that there is a substantial threat of a terrorist attack on a high-profile political or economic summit meeting or a major sporting event.

Nuclear and other radioactive material is on the move every day, whether authorised and subject to national and international regulations for transport, or unauthorised, or being handled by those who wish to avoid detection. Effective nuclear security control measures help to ensure that only legitimate movements occur and that realistic and effective procedures are applied to prevent, detect, and respond to events promptly.

Each State bears a responsibility to be prepared to prevent, detect and respond to nuclear security events, including those that may trigger a radiological emergency.

#### Project purpose:

- in order to sustain and enhance Member States' capabilities to respond to criminal or intentional unauthorised acts involving nuclear or other radioactive material, the IAEA provides assistance focusing on the establishment of an effective national response framework. In this context, the IAEA seeks to assist Member States to detect nuclear or other radioactive material out of regulatory control and to respond to nuclear security events by conducting advisory and evaluation missions, implementing human resource training and providing assistance in adhering to international legal instruments and/or enhance relevant national legislation, and by developing and making internationally accepted guidance available to States.

Project description:

- to assist States to establish and sustain an effective national response infrastructure by planning, coordinating, implementing and monitoring results of the following activities:
  - implementation of advisory/service missions to States for identifying and recommending enhancement of nuclear security response framework;
  - provision of technical support to States for establishing an effective nuclear security response measures capabilities, including radiological crime scene management and major public events;
  - assistance in capacity building, including conducting training, workshops, exercises and seminars on nuclear security response measures.

Expected results of the project:

- it is expected that States participating in this programme will have enhanced their national capability in responding to criminal or intentional unauthorised acts involving nuclear or other radioactive material by ensuring their ability to rapidly assess and categorise the event based on factors such as the threat, potential human and environmental consequences, economic impact and the nature of the nuclear or other radioactive material involved.

#### 8.5. Detection

Project purpose:

- those activities are the follow-up of those performed in Detection Field through previous Joint Actions and Decisions and the last Contribution Agreement. One of the necessary elements supporting the establishment of an effective nuclear security regime is the development of a national detection strategy. An effective nuclear security detection architecture is based on the national detection strategy and the national legal and regulatory framework for nuclear security, and is supported by a well-functioning system of law enforcement.

Project description:

- focusing on the design and development of Detection Architecture, the IAEA plans to hold six expert missions and to provide detection instruments.

Expected results of the project:

- donation of detection equipment in accordance with detection strategy.

## II. REPORTING AND ASSESSMENT

The IAEA will submit to the HR and to the Commission two annual reports and a final financial and narrative report on the implementation of the projects, and in addition, three informal semestrial progress reports. Dedicated informal reports will be processed by the IAEA on relevant topics, when needed on request of the Commission.

The final financial and narrative report will review the detailed implementation of all projects and will also contain:

- a comprehensive test report of the training built tool under point 2.2 of Chapter I to be incorporated in the final report;
- a report on current status and recommendations for the legal and regulatory framework of the respective state in Project 3, in accordance with the confidentiality requested by the beneficiary State;
- achievements under point 3.2 of Chapter I;

A copy of the reports will be sent to the Union Delegation in Vienna.

### III. PARTICIPATION OF NO COST EXPERTS COMING FROM EU MEMBER STATES

The active involvement of experts coming from Member States of the Union is necessary for the successful implementation of this Decision. The IAEA will make use of those experts for the projects. The IAEA will develop proposals for costs relating to staff to be funded from the Union contribution, based on a needs analysis once the list of beneficiaries is agreed. Those staff will be engaged under the IAEA's rules.

### IV. DURATION

The total estimated duration of the projects' implementation is 36 months.

### V. BENEFICIARIES

The beneficiary countries of the various projects will be taken from the following respective lists.

If States decide they are unable to take up the assistance, the IAEA will propose new recipients to CONOP based on needs identified through INSSP.

The beneficiaries of Project 1 will be in Africa: Algeria, Egypt, Mauritania, Niger, Morocco, Tunisia; in Asia and the Pacific: Malaysia, Pakistan and other States — to be determined, requesting IAEA support; in Latin America and the Caribbean: Argentina, Chile, Colombia, Cuba, Peru, Uruguay, and EU Neighbourhood States.

The beneficiaries of Project 2 will be Cuba, Indonesia, Jordan, Lebanon, Malaysia and Viet Nam.

The beneficiaries of Project 3 will be EU Neighbourhood States: Albania, Algeria, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Egypt, Georgia, Jordan, Lebanon, Libya, the former Yugoslav Republic of Macedonia, Mauritania, Republic of Moldova, Montenegro, Morocco, Tunisia, Turkey and Ukraine and countries in Latin and Central America: Bolivia, Chile, Colombia, Cuba, Ecuador, Honduras, Panama, Paraguay.

The beneficiaries of Project 4 will be Northern Africa, South — East Asia, Latin America, Nations/Regions in the beginning stages of developing nuclear power programmes and research reactor capabilities and — Viet Nam, Egypt, Turkey, Thailand, and others to be decided at a later stage.

The beneficiary of Project 5 will be Egypt.

The beneficiaries of Project 6 will be Belarus, Democratic Republic of Congo, Jamaica, Lebanon, Madagascar and Vietnam.

The beneficiaries of Project 7 will be selected from the following: Albania, Bahrain, Burkina Faso, the former Yugoslav Republic of Macedonia, Lebanon and Madagascar.

The beneficiaries of Project 8 will be Algeria, Albania, Bangladesh, Cuba, Georgia, Kazakhstan, Malaysia, Morocco, Ukraine, Vietnam, or other States to be decided at a later stage, requesting IAEA support in INSSP from Africa, Asia, Central and Latin America; Specific Hosting States: Germany, Austria.

### VI. EU VISIBILITY

IAEA shall take all appropriate measures to publicise the fact that the Action has been funded by the Union. Such measures will be carried out in accordance with the Commission Communication and Visibility Manual for EU External Actions laid down and published by the European Commission. The IAEA will thus ensure the visibility of the Union contribution with appropriate branding and publicity, highlighting the role of the Union, ensuring the transparency of its actions, and raising awareness of the reasons for the Decision as well as Union support for the Decision and the results of this support. Material produced by the project will prominently display the Union flag in accordance with Union guidelines for the accurate use and reproduction of the flag. Where appropriate, the IAEA will invite representatives of the Union and of the Member States of the Union to missions or events related to the implementation of this Decision.

## VII. IMPLEMENTING AGENCY

The IAEA will be entrusted with the technical implementation of the projects. The projects will be implemented directly by staff of the IAEA, experts from the Members States and contractors. The implementation of the projects will be in accordance with the Financial and Administrative Framework Agreement and the financing agreement to be concluded between the European Commission and the IAEA.

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**COUNCIL DECISION (CFSP) 2016/2384****of 22 December 2016****updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and amending Decision (CFSP) 2016/1136**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 27 December 2001, the Council adopted Common Position 2001/931/CFSP <sup>(1)</sup>.
- (2) On 12 July 2016, the Council adopted Decision (CFSP) 2016/1136 <sup>(2)</sup>, updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP.
- (3) The Council has determined that an additional three persons have been involved in terrorist acts within the meaning of Article 1(2) and (3) of Common Position 2001/931/CFSP, that a decision has been taken with respect to them by a competent authority within the meaning of Article 1(4) of that Common Position, and that those persons should be added to the list of persons, groups and entities to which Articles 2, 3 and 4 of Common Position 2001/931/CFSP apply.
- (4) The list of persons, groups and entities to which Common Position 2001/931/CFSP applies should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

The Annex to Decision (CFSP) 2016/1136 is amended as set out in the Annex to this Decision.

*Article 2*

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

Done at Brussels, 22 December 2016.

*For the Council*

*The President*

M. LAJČÁK

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<sup>(1)</sup> Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism (OJ L 344, 28.12.2001, p. 93).

<sup>(2)</sup> Council Decision (CFSP) 2016/1136 of 12 July 2016 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2015/2430 (OJ L 188, 13.7.2016, p. 21).

## ANNEX

The persons listed below are added to the list of persons set out in Section I (Persons) of the Annex to Decision (CFSP) 2016/1136:

- EL HAJJ, Hassan Hassan, born 22 March 1988 in Zaghdraiya, Sidon (Lebanon), Canadian citizen. Passport number: JX446643 (Canada),
  - MELIAD, Farah (a.k.a. HUSSEIN HUSSEIN, a.k.a. JAY DEE), born 5 November 1980 in Sydney (Australia), Australian citizen. Passport number: M2719127 (Australia),
  - ŞANLI, Dalokay (a.k.a. Sinan), born 13 October 1976 in Pülümür (Turkey).
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