Commission Delegated Regulation (EU) No 1046/2014 of 28 July 2014 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regards to the criteria for the calculation of the additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions

COMMISSION DELEGATED REGULATION (EU) No 1046/2014

of 28 July 2014

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council[(1)], and in particular Article 72(4) thereof,

Whereas:

(1) Under Chapter V of Regulation (EU) No 508/2014, the European Maritime and Fisheries Fund (EMFF) may support the compensation of additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the Union's outermost regions referred to in Article 349 of the Treaty,

(2) In order to maintain the competitiveness of certain fishery and aquaculture products from the Union's outermost regions compared with that of similar products from other Union's regions, the Union introduced measures in 1992 to compensate for the related additional costs in the fisheries and aquaculture sectors. The compensation measures for the period 2007-2013 were laid down in Council Regulation (EC) No 791/2007[(2)]. Due to the Union's outermost regions' structural, social and economic situation, compounded by their remoteness, insularity, small size, difficult topography, economic dependence on a few products, and special climatic conditions, it is necessary to continue to providing support to offset additional costs for the fishing, farming, processing and marketing of certain fishery and aquaculture products as of 1 January 2014. Indeed, the compensation for additional costs incurred helps operators from those regions to remain economically viable.

Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 1046/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) Those additional costs should be laid out in a compensation plan as referred to in Article 72 of Regulation (EU) No 508/2014.

(4) In order to provide for a harmonised and equal treatment of all regions concerned, through a better comparability between regions and from one year to the next, and in particular in order to avoid overcompensation of additional costs, it is necessary to lay down the criteria for the calculation of the additional costs resulting from the specific handicaps of the Union's outermost regions. The common criteria to be used will ensure that a homogeneous method of calculation of the additional costs is applied to all regions concerned.

(5) Reference costs for products or categories of products incurred by operators in the continental part of the Member State or of the Union territory on the basis of which additional costs are determined should be estimated with particular care to avoid overcompensation.

(6) There are products or categories of products for which there are no comparison criteria or measuring units in the continental part of the Member State territory concerned. In such cases, the reference for calculating the additional cost shall be fixed in comparison with the costs for equivalent product or categories of products incurred by operators from the continental part of the territory of the Union.

(7) In view of the different marketing conditions in the outermost regions, the fluctuations in captures and stocks and in market demands, it should be left to the Member States concerned to determine the fishery and aquaculture products or categories of products eligible for compensation, their respective maximum quantities and the levels of the compensation amounts within the overall allocation per Member State.

(8) Member States should set the compensation amounts at a level which allows appropriate off-setting of additional costs arising from the specific handicaps of the outermost regions and avoids overcompensation. To that end, the compensation amount should also take into account other types of public intervention, including any State aid notified under Article 108(3) of the Treaty and Article 73 of Regulation (EU) No 508/2014, having an impact on the level of additional costs.

(9) In order to provide for a harmonised presentation of additional costs, it is necessary to express additional costs on the basis of tons of live weight, defined by Council Regulation (EC) No 1224/2009[(3)] and Commission Regulation (EC) No 409/2009[(4)] which establishes fresh and fresh salted European Union conversion factors and presentation codes for processed fish, to convert stored or processed fish weight into fish live weight for the purpose of monitoring catches.

(10) In order to demonstrate that there is no overcompensation, Member States should include relevant information on the implementation of the compensation mechanism in the annual implementation report, as set out in Article 114(2) of Regulation (EU) No 508/2014.

(11) In order to allow for the prompt application of the measures provided for in this Regulation, given that expenditure is already eligible for the European Maritime and

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Fisheries Fund since 1 January 2014 in line with Article 65(2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council[(5)], this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the criteria for the calculation of the additional costs incurred during the eligibility period defined in Article 65(2) of Regulation (EU) No 1303/2013 by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the Union's outermost regions referred to in Article 349 of the Treaty due to the specific handicaps of those outermost regions.

Article 2

1 Additional costs referred to in Article 1 shall be calculated separately for each of the following activities:

a fishing;

b farming;

c processing;

d marketing.

2 Within each activity referred to in paragraph 1, additional costs shall be calculated by items of expenditure, as listed in the compensation plans referred to in Article 72 of Regulation (EU) No 508/2014 for each product or category of products identified by the Member State as eligible for compensation.

3 Additional costs shall be determined for any given item of expenditure as the difference between the costs incurred by operators in the outermost regions concerned, reduced by any type of public intervention affecting the level of additional costs, and the comparable costs incurred by continental operators of the Member State concerned.

4 By derogation to paragraph 3, for items of expenditure specific to products or categories of products for which there are no comparison criteria or measuring units in the continental part of the Member State territory, the additional cost shall be determined in comparison with the comparable costs for equivalent products or categories of products incurred by operators from the continental part of the territory of the Union.

5 The calculation of additional costs shall take into account any public intervention, including any State aid notified under Article 108(3) of the Treaty and Article 73 of Regulation (EU) No 508/2014.

Article 3

1 The calculation of additional costs shall be based only on costs resulting from the specific handicaps of the outermost regions.

2 The calculation of additional costs shall be based on an annual average of recorded prices.

3 Additional costs shall be expressed in euros per ton of live weight and where necessary, all cost components of the total additional cost shall be converted into euros per ton of live weight.