



Brussels, 24.11.2014
C(2014) 8611 final

COMMISSION DELEGATED REGULATION (EU) No .../..

of 24.11.2014

supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council by identifying the costs eligible for support from the European Maritime and Fisheries Fund in order to improve hygiene, health, safety and working conditions of fishermen, protect and restore marine biodiversity and ecosystems, mitigate climate change and increase the energy efficiency of fishing vessels

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund foresees in its Articles 32, 40 and 41, three delegated acts defining, respectively, operations on health and safety which are eligible to improve working conditions on board for fishermen; the costs eligible for support for the protection and restoration of marine biodiversity and ecosystems, and eligible investments in equipment or on board fishing vessels aimed at reducing the emission of pollutants or greenhouse gases and increasing the energy efficiency of fishing vessels. A special emphasis should be placed on the precise definition of eligible costs in relation with investments on board in order to fulfil the principle of legal certainty.

Eligible investments under these articles should be seen alongside Article 11 of the EMFF which stipulates that operations increasing the fishing capacity of the vessel or equipment increasing the ability of a vessel to find fish are ineligible for EMFF support. Article 5 of the EMFF states as well that the pursuit of EMFF objectives shall not result in an increase in fishing capacity. This confirms the need to define even further eligible costs and investments relating to investments on board fishing vessels.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations have been carried out in line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission.

All parts of the act have been discussed at expert group meetings involving experts from all Member States. The European Parliament was duly notified of the dates of the meetings, agendas and relevant documents to enable requests to attend the meetings. The proposed content of the delegated act was discussed in the expert group meetings on 16 September 2013 and 6 May 2014.

The meetings allowed for a full presentation of the Commission's draft provisions and a thorough exchange of views on all aspects of the draft. The procedure consisted of clarifying the Commission's approach, hearing experts' views and further refining the draft text accordingly. This allowed rules to be clarified and specified in response to experts' comments. In all cases, the experts were also able to submit written comments following the meeting. The questions and comments informed the drafting of the rules concerned.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

As regards the rules on eligibility of costs relating to operations for the protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities, Article 40(4) of Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund empowers the Commission to adopt delegated acts specifying the costs which are eligible for support under Article 40(1).

Concerning the rules on eligibility of costs for operations aimed at mitigating climate change and at improving energy efficiency of fishing vessels, Article 41(10) of Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund empowers the Commission to adopt delegated acts specifying the costs which are eligible for support under point (a) of paragraph 1 of Article 41.

Finally, as regards the rules on eligibility of operations aimed at improving the hygiene, health, safety and working conditions for fishermen, Article 32(4) of Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund empowers the Commission to adopt delegated acts identifying the types of operations eligible under Article 32(1).

COMMISSION DELEGATED REGULATION (EU) No .../..

of 24.11.2014

supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council by identifying the costs eligible for support from the European Maritime and Fisheries Fund in order to improve hygiene, health, safety and working conditions of fishermen, protect and restore marine biodiversity and ecosystems, mitigate climate change and increase the energy efficiency of fishing vessels

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 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 Council¹, and in particular Article 32(4), Article 40(4) and Article 41(10) thereof,

Whereas:

- (1) In accordance with Regulation (EU) No 508/2014 of the European Parliament and of the Council, the Commission is empowered to lay down specific rules on eligibility of costs relating to operations for the protection and restoration of marine biodiversity and ecosystems in the framework of sustainable fishing activities; on eligibility of costs for operations aimed at mitigating climate change and at improving energy efficiency of fishing vessels, and on eligibility of operations aimed at improving the hygiene, health, safety and working conditions for fishermen.
- (2) All the provisions of this Regulation deal with aspects related to the eligibility of costs or operations, and two of them relate to operations involving investments on board vessels. Furthermore, all these measures have an impact on the form in which the fishing activity is carried out. Therefore, these provisions are closely linked. In order to ensure consistency between those provisions, and to facilitate a comprehensive view and a compact access to them by all Union residents, those provisions should be adopted within the same act.
- (3) The fishing activity is still one of the most dangerous occupations in the Union, with a significant number of accidents occurring on small scale fishing vessels. Accordingly, Council Directives 93/103/EC² and 92/29/EEC³ set out minimum requirements for health and safety applicable to work on board fishing vessels, which should be implemented into national legislation. Regulation (EU) No 508/2014 provides for financing of certain investments in order to improve hygiene, health, safety and working conditions for fishermen, provided that they go beyond the requirements set

¹ OJ L 149, 20.05.2014, p. 1.

² Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 307, 13.12.1993, p.1)

³ Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels (OJ L 113, 30.4.1992, p. 19–36)

out in Union and national legislation. It is therefore necessary to specify which costs related to such specific investments including training on health and information campaigns, can be funded under Regulation (EU) No 508/2014.

- (4) The purchase and installation on board vessels of equipment aimed at reducing the emission of pollutants or green-house gases and increasing energy efficiency of fishing vessels can make a contribution to climate change objectives. The efficient operation of vessels can also result in a significant reduction of energy consumption. Article 41(1)(a) of Regulation (EU) No 508/2014 provides for the financing of investments in equipment or on board aimed at reducing the emission of pollutants or greenhouse gases and increasing the energy efficiency of fishing vessels, as well as investments in fishing gear provided that they do not undermine the selectivity of that fishing gear and energy efficiency audits and schemes. It is therefore necessary to further specify the costs that can be funded under the EMFF to promote those objectives.
- (5) Costs relating to operations contributing to the protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities should also be specified. These operations should encompass the basic principles underlying Green Infrastructure, as defined in the Commission Communication⁴ on Green Infrastructure⁵, which can make a significant contribution to the effective implementation of policies that seek to achieve their objectives in whole or in part through nature-based solutions.
- (6) Eligible costs relating to operations referred to in Articles 32, 40(1) and 41(1)(a) of Regulation (EU) No 508/2014 have to comply with the conditions defined in its Article 11 which provides that operations increasing the fishing capacity of the vessel or equipment increasing the ability of a vessel to find the fish are ineligible for support under the EMFF. In order to preserve the incentive effect of the investments eligible under this regulation, costs relating to scheduled or preventive maintenance of any part of equipment which keep a device in working order should be excluded from funding under the EMFF.
- (7) As the period of eligibility for operations to be funded under the EMFF started on 1 January 2014, in order to allow for the prompt application of the measures provided for in this Regulation, in particular with regard to eligibility of costs, and to allow Member States to prepare and implement their operational programme under the EMFF, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

⁴ Commission Communication, Green Infrastructure (GI) — Enhancing Europe’s Natural Capital, Brussels, COM(2013) 249 final, 6.5.2013

⁵ Green Infrastructure is a strategically planned network of natural and semi-natural areas with other environmental features designed and managed to deliver a wide range of ecosystem services. It incorporates green spaces (or blue if aquatic ecosystems are concerned) and other physical features in terrestrial (including coastal) and marine areas.

HAS ADOPTED THIS REGULATION:

Chapter I General provisions

Article 1 Subject matter

This Regulation identifies:

- (a) the types of operations eligible for support from the EMFF in order to improve hygiene, health, safety and working conditions for fishermen;
- (b) the costs eligible for support from the EMFF in order to protect and restore marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities;
- (c) the costs eligible for support from the EMFF in order to improve the energy efficiency of fishing vessels and the mitigate the effects of climate change.

Chapter II Common provisions

Article 2 Excluded costs

1. Scheduled or preventive maintenance costs of any part of equipment which keep a device in working order shall not be eligible for support under the EMFF on the basis of this Regulation.
2. Only those costs necessary for and directly related to the installation of items as provided for under this Regulation shall be eligible for support under the EMFF.

Chapter III Costs relating to the improvement of hygiene, health, safety and working conditions for fishermen

Article 3 Eligible operations on safety

For operations that are aimed at improving safety for fishermen on board fishing vessels in accordance with Article 32 of Regulation (EU) No 508/2014, the purchase and, if applicable, the installation, of the following items are eligible for support under the EMFF:

- (a) life-rafts;
- (b) hydrostatic release units for life-rafts;
- (c) personal locator beacons such as Emergency Position Indicating Radio Beacon ('EPIRB') devices, which may be integrated into lifejackets and working clothes of fishermen;
- (d) Personal Flotation Devices ('PFD'), in particular immersion or survival suits, life buoys and jackets;

- (e) distress flares;
- (f) line throwing appliances;
- (g) man-overboard ('MOB') recovery systems;
- (h) fire-fighting apparatus, such as fire extinguishers, fire blankets, fire and smoke detectors, breathing apparatus;
- (i) fire protection doors;
- (j) fuel tank shut-off valves;
- (k) gas detectors and gas alarm systems;
- (l) bilge pumps and alarms;
- (m) equipment for radio and satellite communications;
- (n) watertight hatches and doors;
- (o) guards on machinery, such as winches or net drums;
- (p) gangways and access ladders;
- (q) search, deck or emergency lighting;
- (r) safety release mechanisms for cases where fishing gear catches an underwater obstruction;
- (s) safety cameras and monitors;
- (t) equipment and elements necessary to improve deck safety.

Article 4

Eligible operations on health

For operations or the provision of equipment that are aimed at the improvement of the health conditions for fishermen on board fishing vessels in accordance with Article 32 of Regulation (EU) No 508/2014, the following actions are eligible for funding:

- (a) the purchase and installation of first aid kits;
- (b) the purchase of medicines and devices for urgent treatment on board;
- (c) the provision of telemedicine including e-technologies, equipment and medical imagery applied to distance consultation from the vessels;
- (d) the provision of guides and manuals to improve health on-board;
- (e) information campaigns to improve health on-board.

Article 5

Eligible operations on hygiene

For operations or the provision of equipment that are aimed at the improvement of hygiene conditions for fishermen on board fishing vessels in accordance with Article 32 of Regulation (EU) No 508/2014, the purchase and, if applicable, the installation of the following items are eligible for support:

- (a) sanitary facilities, such as toilet and washing facilities;
- (b) kitchen facilities and equipment for food supplies storage;

- (c) water purification devices for potable water;
- (d) cleaning equipment to keep sanitary conditions on board;
- (e) guides and manuals on the improvement of hygiene on board, including software tools.

Article 6

Eligible operations on working conditions

For operations or the provision of equipment that are aimed at the improvement of working conditions on board fishing vessels in accordance with Article 32 of Regulation (EU) No 508/2014, the purchase and, if applicable, the installation of the following items are eligible for support:

- (a) deck railings;
- (b) shelter deck structures and the modernisation of cabins with a view of providing protection from adverse weather conditions;
- (c) items relating to the improvement of cabin safety and to the provision of common areas for the crew;
- (d) equipment to reduce heavy manual lifting, excluding machines directly related to the fishing operations such as winches;
- (e) anti-slipping paint and rubber mats;
- (f) insulation equipment against noise, heat or cold-and equipment to improve ventilation;
- (g) working clothes and safety equipment such as waterproof safety boots, eyes and breathing protection, protective gloves and helmets, or protective equipment against falls;
- (h) emergency and safety warning signs;
- (i) risk analysis and assessments to identify the risks for fishermen both in port or in navigation in order to take measures to prevent or reduce risks;
- (j) guides and manuals on the improvement of working conditions on board.

Chapter IV

Costs relating to the protection and restoration of marine biodiversity and ecosystems in the framework of sustainable fishing activities

Article 7

Eligible costs for the collection of waste by fishermen

For operations relating to the collection of waste by fishermen from the sea, as referred to in Article 40(1)(a) of Regulation (EU) No 508/2014, costs relating to the following actions are eligible for support:

- (a) the removal of lost fishing gear from the sea, in particular in order to combat ghost fishing;

- (b) the purchase and, if applicable, the installation of equipment on board for the collection and storage of litter;
- (c) the creation of schemes of waste collection for participating fishermen, including financial incentives;
- (d) the purchase and, if applicable, the installation of equipment based in fishing port facilities for the storage and recycling of litter;
- (e) communication, information, awareness raising campaigns, to encourage fishermen and other stakeholders to participate in projects to remove lost fishing gear;
- (f) training for fishermen and port agents.

Article 8

Eligible costs for facilities intended to protect and enhance marine fauna and flora

1. For operations relating to the construction, installation or modernisation of static or movable facilities in accordance with Article 40(1)(b) of Regulation (EU) No 508/2014, costs relating to the following actions are eligible for support:
 - (a) the purchase and, if applicable, the installation of facilities to protect marine areas from trawling;
 - (b) the purchase and, if applicable, the installation of facilities to restore degraded marine ecosystems;
 - (c) costs relating to preliminary work such as prospecting, scientific studies or evaluations;
 - (d) costs, in the outermost regions, relating to the purchase and, if applicable, the installation of anchored fish aggregating devices which contribute to sustainable and selective fishing, in accordance with Article 38(2) of Regulation (EU) No 508/2014.
2. For operations referred to in paragraph 1, the following costs shall not be eligible:
 - (a) acquisition of a vessel to be submerged and used as an artificial reef;
 - (b) costs relating to the construction and maintenance of fish aggregating devices, except for costs provided for in paragraph 1(d).

Article 9

Eligible costs for the contribution to better management or conservation of marine biological resources

1. For operations that are aimed at a better management or conservation of marine biological resources as referred to in Article 40(1)(c) of Regulation (EU) No 508/2014 and that comply with Article 38 of that Regulation costs relating to the purchase or, if applicable, the installation of the following items, are eligible for support:
 - (a) circular hooks;
 - (b) acoustic deterrent devices on nets;
 - (c) turtle excluder devices ('TEDs');
 - (d) streamer lines;

- (e) other tools or devices proven efficient in preventing accidental catches of protected species;
2. In addition, costs relating to the following actions and projects are eligible for support:
- (a) training for fishermen on better management or conservation of marine biological resources;
 - (b) projects focussing on coastal habitats of importance for fish, birds and other organisms;
 - (c) projects focusing on areas of importance for fish reproduction, such as coastal wetlands, may also be eligible.
3. For the replacement of existing fishing gear with low impact fishing gear, costs related to fish pots and traps, jigging and hand-lining may be eligible for support.

Article 10

Eligible costs for the preparation of protection and management plans for fishery-related activities

For operations consisting in the preparation of protection and management plans for fishery-related activities, as referred to in Article 40(1)(d) of Regulation (EU) No 508/2014, costs relating to the following actions are eligible for support:

- (a) carrying out studies, in particular for the monitoring and surveillance of species and habitats including mapping, and risk management;
- (b) mapping fishing activity and intensity and interactions with protected species and habitats;
- (c) consulting stakeholders during the preparation of management plans;
- (d) developing and applying indicators for pressures and for impacts and performing conservation status assessments;
- (e) training for fishermen and other persons working for or on behalf of the bodies responsible for the management of marine protected areas ('MPAs') relevant for the preparation of protection and management plans for fishery-related activities;
- (f) demarcation of MPAs;
- (g) surveillance including salaries of personnel involved in surveillance activities;
- (h) carrying out publicity and awareness raising measures in relation to MPAs;
- (i) assessing the impacts of the management plans on Natura 2000 areas and on the fisheries areas affected by the management plans.

Article 11

Eligible costs for the management, restoration and monitoring of Natura 2000 sites and Marine Protected Areas

For operations relating to the management, restoration and monitoring of Natura 2000 sites and Marine Protected Areas and to increasing environmental awareness, as referred to in

Article 40(1)(e), (f) and (g) of Regulation (EU) No 508/2014, costs related to the following actions are eligible for support:

- (a) consultation of stakeholders during the preparation of management plans;
- (b) development and application of indicators for pressures/impacts and conservation status assessments;
- (c) surveillance of Natura 2000 sites and MPAs;
- (d) training for persons working for or on behalf of the bodies responsible for the management of Natura 2000 sites and MPAs;
- (e) training of fishermen on conservation and restoration of marine ecosystems and related alternative activities such as eco-tourism in Natura 2000 sites and MPAs;
- (f) mapping fishing activity and monitoring its intensity and recording fishery interactions with protected species such as seals, sea turtles, dolphins, seabirds;
- (g) supporting the development of fisheries management measures in Natura 2000 sites and MPAs, such as IA studies and risk assessment, including actions fostering the improvement of their coherence;
- (h) support to measures increasing environmental awareness, involving fishermen, with regard to the protection and restoration of marine biodiversity;
- (i) cooperation and networking of managers of Natura 2000 sites and MPAs.

Article 12

Eligible costs for the participation in other actions aimed at maintaining and enhancing biodiversity and ecosystem services

1. For operations relating to the participation in other actions aimed at maintaining and enhancing biodiversity and ecosystem services as referred to in Article 40(1)(i) of Regulation (EU) No 508/2014, costs related to the following actions are eligible for support:
 - (a) costs relating to schemes to test novel monitoring techniques, and in particular:
 - (i) remote electronic monitoring systems, such as CCTV, for the monitoring and recording of incidental catches of protected species;
 - (ii) the recording of oceanographic data such as temperature, salinity, plankton, algae blooms or turbidity;
 - (iii) the mapping of invasive alien species (IAS);
 - (iv) actions, including studies, to prevent and control the expansion of IAS;
 - (b) financial incentives for the installation on board of automatic recording devices for monitoring and recording oceanographic data such as temperature, salinity, plankton, algae blooms or turbidity;
 - (c) costs for chartering of commercial fishing vessels for environmental observation at a rate proportional to the activity;
 - (d) costs for other scientific actions related to the mapping and assessment of marine and coastal ecosystems and their services.

2. For operations aiming at restoring specific marine and coastal habitats in support of sustainable fish stocks, as referred to in Article 40(1)(i) of Regulation (EU) No 508/2014, the following actions are eligible for support:
 - (a) actions reducing physical and chemical pollution;
 - (b) actions reducing other physical pressures, including anthropogenic underwater noise that negatively affect biodiversity;
 - (c) positive conservation measures to protect and conserve flora and fauna, including the re-introduction of or stocking with native species, and applying Green Infrastructure principles referred to in the Commission Communication on Green Infrastructure⁶;
 - (d) actions to prevent, control or eliminate IAS.

Chapter V

Costs relating to the promotion of energy efficiency and the mitigation of climate change.

Article 13

Eligible costs related to the hydrodynamic of the hull of the vessel

1. For operations that are aimed at improving the hydrodynamics of the hull of the vessel in accordance with Article 41(1)(a) of Regulation (EU) No 508/2014, costs related to the following actions are eligible for support:
 - (a) investments on stability mechanisms such as bilge keels and bulbous bows that contribute to improving sea-keeping and stability;
 - (b) costs related to the use of non-toxic antifouling such as copper coating in order to reduce friction;
 - (c) costs relative to the steering gear, such as steering gear control systems and multiple rudders to reduce rudder activity depending on weather and sea-state conditions;
 - (d) tank testing in order to provide a basis for improving hydrodynamics.
2. Costs relating to basic hull maintenance shall not be eligible for funding under this Article.

Article 14

Eligible costs related to the improvement of the propulsion system of the vessel

For operations that are aimed at improving the propulsion system of the vessel in accordance with Article 41(1)(a) of Regulation (EU) No 508/2014, costs related to the purchase and, if necessary, the installation of the following items, are eligible for support:

- (a) energy efficient propellers including drive shafts;
- (b) catalysers;
- (c) energy efficient generators such as those using hydrogen, or natural gas;

⁶ Commission Communication, Green Infrastructure (GI) — Enhancing Europe’s Natural Capital, Brussels, COM(2013) 249 final, 6.5.2013

- (d) renewable energy propulsion elements such as sails, kites, windmills, turbines, or solar panels;
- (e) bow thrusters;
- (f) conversion of engines to run on biofuels;
- (g) econometers, fuel management systems and monitoring systems;
- (h) investments in nozzles that improve the propulsion system.

Article 15

Eligible costs related to investments in fishing gear and equipment

For investments in fishing gear and fishing equipment as referred to in Article 41(1)(a) of Regulation (EU) No 508/2014, costs relating to the following actions are eligible for support:

- (a) change from towed gear to alternative gear;
- (b) towed gear modifications;
- (c) investments in towed gear monitoring equipment.

Article 16

Eligible costs related to investments aimed at the reduction of electricity or thermal energy consumption

For investments that are aimed at the reduction of electricity or thermal energy consumption in accordance with Article 41(1)(a) of Regulation (EU) No 508/2014, the following costs are eligible for support:

- (a) investments to improve the refrigeration, freezing, or insulation systems for vessels under 18 m;
- (b) investments to encourage the re-cycling of heat within the vessel involving the heat being recovered and re-used for other auxiliary operations within the vessel.

Chapter VI

Final provisions

Article 17

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*.

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

Done at Brussels, 24.11.2014

For the Commission
The President
Jean-Claude JUNCKER