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## Information and Notices

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<sup>(1)</sup> Text with EEA relevance

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<sup>(1)</sup> Text with EEA relevance

## I

*(Resolutions, recommendations and opinions)*

## RECOMMENDATIONS

## EUROPEAN CENTRAL BANK

## RECOMMENDATION OF THE EUROPEAN CENTRAL BANK

of 9 December 2011

**on the statistical reporting requirements of the European Central Bank in the field of external statistics****(ECB/2011/24)**

(2012/C 64/01)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular to Article 5.1 and the third indent of Article 34.1 thereof,

Having regard to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank <sup>(1)</sup>, and in particular Article 4 thereof,

Whereas:

- (1) To fulfil its tasks, the European System of Central Banks (ESCB) requires comprehensive and reliable external statistics consisting of balance of payments and international investment position statistics, and the international reserves template, showing the main items affecting monetary conditions and exchange markets in the euro area, and statistics on cross-border shipments of euro banknotes. The statistical requirements of the European Central Bank (ECB) in this area are laid down in Guideline ECB/2011/23 of 9 December 2011 on the statistical reporting requirements of the European Central Bank in the field of external statistics <sup>(2)</sup>.
- (2) The first sentence of Article 5.1 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB') requires the ECB, assisted by the national central banks

(NCBs), to collect either from the competent authorities other than NCBs, or directly from economic agents, the statistical information necessary for it to undertake the tasks of the ESCB. The second sentence of Article 5.1 provides that for these purposes it will cooperate with the Union institutions or bodies and with the competent authorities of the Member States or third countries and with international organisations. Article 5.2 stipulates that the NCBs will carry out, to the extent possible, the tasks described in Article 5.1.

- (3) Information necessary to meet the ECB's requirements in the field of external statistics may be collected and/or compiled by competent authorities other than NCBs. Therefore, some of the tasks to be undertaken to meet these requirements require cooperation between the ECB or the NCBs and such competent authorities, in line with Article 5.1 of the Statute of the ESCB. Article 4 of Council Regulation (EC) No 2533/98 requires the Member States to organise themselves in the field of statistics and to cooperate fully with the ESCB in order to ensure the fulfilment of the obligations arising out of Article 5 of the Statute of the ESCB.
- (4) In cases where, in accordance with national rules and established practices, the reporting agents report to competent authorities other than NCBs, such authorities and their respective NCBs have to cooperate with each other to ensure that the statistical requirements of the ECB are met. In Ireland the Central Statistics Office, and in Malta the National Statistics Office, collect and compile necessary information in the field of external statistics. In order to meet the abovementioned statistical requirements, the Central Bank of Ireland and the Central Statistics Office, and the Central Bank of Malta and the National Statistics Office, should cooperate with each

<sup>(1)</sup> OJ L 318, 27.11.1998, p. 8.

<sup>(2)</sup> OJ L 65, 3.3.2012, p. 1.

other. Such cooperation should include the establishment of a permanent structure for transmission of data, unless the same result is already achieved by national legislation.

- (5) The quality assessment for the euro area balance of payments and international investment position statistics and the international reserves template should be performed in accordance with the ECB Statistics Quality Framework. The NCBs, in cooperation with other competent authorities, where appropriate, should assess the quality of the data contributed by the competent authorities.
- (6) According to Article 3a of Regulation (EC) No 2533/98 and the Public Commitment on European Statistics by the European System of Central Banks, the development, production and dissemination of European statistics by the ESCB are governed by the principles of impartiality, objectivity, professional independence, cost-effectiveness, statistical confidentiality, minimisation of the reporting burden and high output quality.
- (7) In view of Guideline ECB/2011/23 repealing Guideline ECB/2004/15, it is therefore necessary to replace Recommendation ECB/2004/16 of 16 July 2004 on the statistical reporting requirements of the European Central Bank in the field of balance of payments and international investment position statistics, and the international reserves template <sup>(1)</sup>,

HAS ADOPTED THIS RECOMMENDATION:

#### SECTION I

##### Definitions

For the purposes of this Recommendation the terms 'external statistics', 'balance of payments', 'international investment position' and 'international reserves template' shall have the same meaning as specified in Article 1 of Guideline ECB/2011/23.

#### SECTION II

##### Provision of statistical information to the NCBs

1. In so far as the collection of external statistics is entrusted to the addressees of this Recommendation, the addressees

should ensure that the relevant external statistics are made available to the respective NCB in a timely manner in order to enable the latter to comply with their reporting obligations under Articles 2, 3, 5 and 6 of Guideline ECB/2011/23.

2. The information should be made available in accordance with the statistical standards and requirements of the ECB concerning external statistics as laid down in Annexes I, II, III, IV and VI to Guideline ECB/2011/23. Without prejudice to the ECB's monitoring task as laid down in Annex V to Guideline ECB/2011/23, the addressees of this Recommendation should monitor the quality and reliability of statistical information made available to the respective NCB.

#### SECTION III

##### Permanent cooperation with respective NCBs

The addressees of this Recommendation should establish with their respective NCB, in writing, the appropriate modalities of cooperation to ensure a permanent structure for transmission of data that fulfils the statistical standards and requirements of the ECB, unless the same result is already achieved by national legislation.

#### SECTION IV

##### Final provisions

1. This Recommendation replaces Recommendation ECB/2004/16 from 1 June 2014.
2. References to Recommendation ECB/2004/16 should be construed as references to this Recommendation.
3. This Recommendation is addressed to the Central Statistics Office in Ireland and the National Statistics Office in Malta.
4. This Recommendation shall apply from 1 June 2014.

Done at Frankfurt am Main, 9 December 2011.

*The President of the ECB*  
Mario DRAGHI

<sup>(1)</sup> OJ C 292, 30.11.2004, p. 21.

## II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

## EUROPEAN COMMISSION

**Non-opposition to a notified concentration****(Case COMP/M.6413 — OJSC Power Machines/Toshiba/JV)****(Text with EEA relevance)**

(2012/C 64/02)

On 24 February 2012, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32012M6413. EUR-Lex is the on-line access to the European law.

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**Non-opposition to a notified concentration****(Case COMP/M.6411 — Advent/Maxam)****(Text with EEA relevance)**

(2012/C 64/03)

On 6 February 2012, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
  - in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32012M6411. EUR-Lex is the on-line access to the European law.
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**Non-opposition to a notified concentration****(Case COMP/M.6491 — Kubota/Kverneland)****(Text with EEA relevance)**

(2012/C 64/04)

On 29 February 2012, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
  - in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32012M6491. EUR-Lex is the on-line access to the European law.
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## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## EUROPEAN COMMISSION

**Euro exchange rates <sup>(1)</sup>****2 March 2012**

(2012/C 64/05)

**1 euro =**

| Currency             | Exchange rate | Currency                  | Exchange rate |
|----------------------|---------------|---------------------------|---------------|
| USD US dollar        | 1,3217        | AUD Australian dollar     | 1,2264        |
| JPY Japanese yen     | 107,74        | CAD Canadian dollar       | 1,3044        |
| DKK Danish krone     | 7,4346        | HKD Hong Kong dollar      | 10,2548       |
| GBP Pound sterling   | 0,83270       | NZD New Zealand dollar    | 1,5851        |
| SEK Swedish krona    | 8,8316        | SGD Singapore dollar      | 1,6527        |
| CHF Swiss franc      | 1,2062        | KRW South Korean won      | 1 474,72      |
| ISK Iceland króna    |               | ZAR South African rand    | 9,9265        |
| NOK Norwegian krone  | 7,4205        | CNY Chinese yuan renminbi | 8,3237        |
| BGN Bulgarian lev    | 1,9558        | HRK Croatian kuna         | 7,5673        |
| CZK Czech koruna     | 24,715        | IDR Indonesian rupiah     | 12 020,00     |
| HUF Hungarian forint | 289,30        | MYR Malaysian ringgit     | 3,9701        |
| LTL Lithuanian litas | 3,4528        | PHP Philippine peso       | 56,482        |
| LVL Latvian lats     | 0,6983        | RUB Russian rouble        | 38,7275       |
| PLN Polish zloty     | 4,1074        | THB Thai baht             | 40,404        |
| RON Romanian leu     | 4,3508        | BRL Brazilian real        | 2,2712        |
| TRY Turkish lira     | 2,3277        | MXN Mexican peso          | 16,8678       |
|                      |               | INR Indian rupee          | 65,3710       |

<sup>(1)</sup> Source: reference exchange rate published by the ECB.

**Opinion of the Advisory Committee on restrictive agreements and dominant position given at its meeting of 3 October 2011 regarding a draft decision relating to Case COMP/39.482 (1) — Exotic fruits (bananas)**

**Rapporteur: Poland**

(2012/C 64/06)

1. The Advisory Committee agrees with the European Commission's assessment of the facts as agreements and/or concerted practices within the meaning of Article 101 of the TFEU.
2. The Advisory Committee agrees that the complex of agreements and/or concerted practices constitutes a single and continuous cartel infringement in the sector of bananas for the time frame in which it existed.
3. The Advisory Committee agrees with the European Commission that the complex of agreements and/or concerted practices had the object and effect of restricting competition.
4. The Advisory Committee agrees with the European Commission's assessment on the duration of the infringement for each addressee.
5. The Advisory Committee agrees with the European Commission's draft decision as regards the conclusion that the agreements and/or concerted practices between the addressees were capable of having an appreciable effect upon trade between EU Member States.
6. The Advisory Committee agrees with the European Commission's draft decision as regards the addressees of the decision, specifically with reference to imputation of liability to parent companies of the groups concerned.
7. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union*.

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**Opinion of the Advisory Committee on restrictive agreements and dominant position given at its meeting of 10 October 2011 regarding a draft decision relating to Case COMP/39.482 (2) — Exotic fruits (bananas)**

**Rapporteur: Poland**

(2012/C 64/07)

1. The Advisory Committee agrees with the Commission on the basic amount of the fines.
  2. The Advisory Committee agrees with the Commission on the application of a mitigating factor.
  3. The Advisory Committee agrees with the Commission on the reductions of the fines based on the 2002 Leniency Notice.
  4. The Advisory Committee agrees with the Commission on the final amounts of the fines.
  5. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union*.
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**Final Report of the Hearing Officer <sup>(1)</sup>****COMP/39.482 — Exotic Fruit**

(2012/C 64/08)

This case concerns a cartel between the undertakings Chiquita <sup>(2)</sup> and Pacific <sup>(3)</sup> ('the Parties') in the import, marketing and sales of bananas in Greece, Italy and Portugal.

**BACKGROUND**

The case is an off-spring to the *Bananas* case (COMP/39.188) in which the Commission found that the undertakings concerned had participated in a cartel covering Northern Europe between 2000 and 2002 <sup>(4)</sup>.

On 26 November 2007, Chiquita was informed that Commission officials would carry out an inspection at its premises and since Chiquita had already received conditional immunity from fines for the whole Community it was, therefore, under a duty to co-operate pursuant to the Leniency Notice. The Commission also carried out surprise inspections according to Article 20(4) of Regulation (EC) No 1/2003 at the premises of other fruit importing companies including Pacific Fruit Company Italy in Rome.

**WRITTEN PROCEDURE****Statement of Objections**

The Commission issued, on 10 December 2009, a Statement of Objections (SO) to seven legal entities belonging to the Parties. In the SO the Commission alleged that the Parties have infringed Article 101 TFEU by coordinating their price and volume strategies, including future prices, price levels, price movements and/or trends while exchanging information on future market conduct, supply, prices and volumes during a period of around 18 months. The Commission also announced its intention to impose fines.

**Access to file**

The Parties received access to the file on 21 December 2009 through a DVD containing the index of all documents in the file and all documents accessible for both of them. Each of the Parties received furthermore a CD-ROM with documents used only against them in the liability part of the SO and confidential for the other Party. They were, finally, granted access to the submissions under the Leniency Notice at the Commission's premises <sup>(5)</sup>.

In furtherance, both Parties submitted several requests to DG Competition for further access to the file which amounted to around 2 000 pieces of non-disclosed information. Following the refusal of access for most of the requested information, the Parties submitted their requests to me. Each Party claimed that the non-accessible information of the other Party had been unduly heavily redacted and was only accompanied by a short and uninformative summary, which made it difficult to ascertain the content and/or to provide a reasoned and justified request for further disclosure.

When examining a disclosure request the confidential nature of each piece of requested information must be assessed and weighed against the requesting party's legitimate interest of having that piece of information disclosed in order to effectively exercise its right to be heard. Due to the significant amount of requested information, the exercise proved to be very cumbersome and time-consuming, inevitably leading to a delay in the proceedings. The Parties thus proposed to conclude a Non-Disclosure Agreement ('NDA'), as a time-effective and viable alternative to the traditional access to file exercise. In view of the significant amount of information to which access had been requested and the fact that most of the requested information originated from the two parties involved, I fully endorsed the proposal and the Parties subsequently

<sup>(1)</sup> Pursuant to Article 15 of Commission Decision (2001/462/EC, ECSC) of 23 May 2001 on the terms of reference of Hearing Officers in certain competition proceedings (OJ L 162, 19.6.2001, p. 21) ('Mandate').

<sup>(2)</sup> Chiquita Brands International Inc, Chiquita Banana Company BV and Chiquita Italia SpA.

<sup>(3)</sup> FSL Holding NV, Firma Leon Van Parys NV and Pacific Fruit Company Italy SpA.

<sup>(4)</sup> Austria, Belgium, Denmark, Finland, Germany, Luxembourg, the Netherlands and Sweden; see the Summary Decision (OJ C 189, 12.8.2009, p. 12).

<sup>(5)</sup> Chiquita received access at the Commission's premises on 16 December 2009 while Pacific exercised its right of access on 18 and 21 December 2009.

negotiated an agreement that was signed by them in March 2010. According to the NDA, the Parties provided, on a counsel-to-counsel basis, mutual access to the redacted information for which the other party had requested access. Subsequently, after reviewing the information, the Parties retained their access requests solely for information which they deemed necessary for their rights of defence. The NDA exercise was completed four weeks after the execution of the NDA agreement to be completed and no confidentiality issues arose as a consequence thereof. As regards pending requests for further access that had not been covered by the NDA, these were decided by me pursuant to Article 8 of the Mandate.

Following this exercise, all requests for further access to the file lodged by the Parties have been satisfactorily resolved.

In addition, following the Oral Hearing, the Parties obtained from DG Competition additional access to other documents in the file.

### **Extension to deadline for reply to SO**

In light of the requests for additional access and the time required to examine those requests, including the conclusion and implementation of the subsequent NDA, the Parties were granted an additional time period to respond to the SO.

Both Chiquita and Pacific responded within the given deadlines.

## **ORAL PROCEDURE**

### **Oral Hearing**

Both Chiquita and Pacific exercised their right to be heard in an Oral Hearing, which took place on 18 June 2010.

## **OTHER PROCEDURAL ISSUES**

### **Legal Professional Privilege**

Throughout the proceedings, one Party requested the exclusion of certain documents from the file claiming Legal Professional Privilege (LPP). Whilst some documents were excluded from the file, DG Competition retained one particular document, although it accepted provisionally the Party's confidentiality claims in relation thereto.

The Party concerned requested the Hearing Officer to instruct the exclusion also of this document from the file. Karen Williams, the Hearing Officer responsible at the time, considered that the request did not relate to any provision of the Mandate, hence ruling out any formal decision, and provided only informal observations on 18 December 2009 endorsing the position of DG Competition.

As I received no further comments in this regard, I consider this issue to have been resolved.

### **Access to buyers' replies**

As part of its requests for further access to file, one Party requested access to non-confidential versions of individual buyers' replies to requests for information, rather than the common non-confidential summaries of their replies that had been made accessible.

In principle, parties should be granted access to all documents making up the Commission file with the exception of internal documents, business secrets of other undertakings, or other confidential information. In the latter case the Commission may, for example, provide summaries of responses it has obtained to requests for information in order to protect the confidential information contained therein. If justified, it may even do so on its own volition<sup>(1)</sup>. However, while undertakings have a legitimate interest in the protection of confidential information, that interest must be balanced against the rights of the defence<sup>(2)</sup>.

<sup>(1)</sup> Case T-5/02 *Tetra Laval BV v Commission* (2002) ECR II-4381, paragraph 101 seq.

<sup>(2)</sup> Case T-410/03 *Hoechst v Commission* (2008) ECR II-881, paragraph 153; Case T-36/91 *ICI v Commission* (1995) ECR II-1847, paragraph 98.

In this case, I had some doubts that all non-confidential summaries faithfully reflected the responses obtained. Hence, the Party was provided with an improved version of some of the summaries and I instructed DG Competition to give the Party access to the two non-confidential versions available on the file. However, the Party was not given the non-confidential versions in their original form as further redactions were made by DG Competition of its own volition without provision of a justification <sup>(1)</sup>.

While this omission may be incompatible with due process, it does not constitute a violation of the parties' rights of defence. The Commission does not rely in its draft decision on these buyers' replies. It is furthermore not apparent that the redacted information might have been useful for the Party's defence <sup>(2)</sup>.

#### THE DRAFT DECISION

After having reviewed the draft Decision, I come to the conclusion that it deals only with objections in respect of which the Parties have been afforded the opportunity of making known their views <sup>(3)</sup>.

I observe that after having heard the Parties the duration of the infringement has been reduced from 18 months to around nine months in the draft Decision. Furthermore, DG Competition has recommended not to withdraw the immunity status granted to Chiquita.

In view of the above, I consider that the right to be heard of all participants to the proceedings has been respected in this case.

Brussels, 10 October 2011.

Michael ALBERS

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<sup>(1)</sup> See *Tetra Laval BV v Commission*, paragraph 101.

<sup>(2)</sup> See *Tetra Laval BV v Commission*, paragraphs 109 and 115.

<sup>(3)</sup> Article 15 of the Mandate.

**Summary of Commission Decision**  
**of 12 October 2011**  
**relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union**  
**(Case COMP/39.482 — Exotic Fruit (Bananas))**  
*(notified under document C(2011) 7273 final)*  
**(Only the English text is authentic)**  
(2012/C 64/09)

## 1. INTRODUCTION

- (1) On 12 October 2011, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 <sup>(1)</sup>, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

## 2. CASE DESCRIPTION

### 2.1. Addressees

- (2) The Decision is addressed to two undertakings, Chiquita Brands International, Inc. (USA), Chiquita Banana Company BV (The Netherlands), Chiquita Italia SpA (Italy) (collectively referred to as 'Chiquita') and FSL Holdings NV (Belgium), Firma Leon Van Parys NV (Belgium), Pacific Fruit Company Italy SpA (Italy) (collectively referred to as 'Pacific').

### 2.2. Procedure

- (3) On 8 April 2005 Chiquita applied for immunity from fines under the 2002 Leniency Notice <sup>(2)</sup> which was registered as case 39.188 — Bananas. On 3 May 2005 the Commission granted Chiquita conditional immunity from fines in relation to cartel activities in the sale of bananas and pineapples in the whole EEA. By decision of 15 October 2008 in Case 39.188 — Bananas, Chiquita was granted final immunity from any fines for a bananas cartel relating to the fixing of quotation prices in Northern Europe.
- (4) On 26 July 2007 the Commission received copies of documents from the Italian tax police which had been collected in the course of an inspection in the home and the office of an employee of Pacific in the framework of a national investigation. Following this, between 28 and 30 November 2007, the Commission carried out inspections in the offices of major banana importers in Italy and Spain under Article 20 of Regulation (EC) No 1/2003 concerning Southern Europe in case 39.482 — Exotic Fruit.

- (5) On 10 December 2009, the Commission adopted a Statement of Objections in this case. Following the access to the file, all addressees of this decision made known to the Commission in writing their views on the objections raised against them and took part in the Oral Hearing held on 18 June 2010. The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 3 and 10 October 2011.

### 2.3. Summary of the infringement

- (6) In the period between 28 July 2004 and 8 April 2005 Chiquita and Pacific participated in a single and continuous infringement of Article 101 of the Treaty by which the two undertakings coordinated their price strategy regarding future prices, price levels, price movements and/or price trends and exchanged information on future market conduct regarding prices. The conduct concerned the sale of fresh bananas in Greece, Portugal and Italy.
- (7) The body of evidence of the infringement consists both of contemporaneous documentary evidence originating from Pacific and Chiquita's submissions which show continuous collusive arrangements between the parties for the period of the infringement.
- (8) Both Chiquita and Pacific are among the largest suppliers of bananas in Europe and form part of large multinational groups. The banana business in Southern Europe is very concentrated and operates in two layers — green (un-ripened) bananas and (yellow) ripened bananas. The size of the banana business in Italy, Portugal and Greece is estimated to have been around EUR 525 million in 2004 and 2005. The cartel has covered around 50 % of the market in Italy, above 30 % in 2004 and around 40 % in 2005 in Portugal, and around 65 % in 2004 and around 60 % in 2005 in Greece. Chiquita and Pacific were almost exclusively selling green bananas to independent ripeners, who in turn sold these bananas yellow about one week later to customers such as supermarkets. Other large banana suppliers in Southern Europe were mostly selling yellow bananas.

<sup>(1)</sup> OJ L 1, 4.1.2003, p. 1.

<sup>(2)</sup> OJ C 45, 19.2.2002, p. 3.

## 2.4. Remedies

### 2.4.1. Basic amount of the fine

- (9) Following the 2006 guidelines on fines<sup>(1)</sup>, the basic amount of the fine to be imposed on the undertakings concerned is to be set by reference to the value of sales in the relevant geographic area in the Union.
- (10) In view of the short duration of the infringement and the fact that it covered parts of two calendar years, the Commission calculated a proxy for annual value of sales (based on the actual value of sales made by the undertakings during the eight months of their participation in the infringement from August 2004 to March 2005) to be used as the basis for the calculation of the basic amount of the fines to be imposed.
- (11) The goods to which the infringement relates in this case are bananas (fresh fruit) both un-ripened (green) and ripened (yellow) bananas. The relevant geographic area covers Greece, Italy and Portugal.
- (12) Considering the nature of the infringement and the geographic scope of the cartel, the percentage for the variable amount and the additional amount ('entry fee') was set at 15 %.
- (13) The cartel could be proven for eight months and 12 days. The variable amount was multiplied with 2/3.

### 2.4.2. Adjustments to the basic amount

- (14) No aggravating circumstances have been found.
- (15) The regulatory regime which applied at the time of the infringement in the Commission Decision in Case 39.188 — Bananas and the one in this case operated according to rules which were to a large extent identical. In view of the circumstances of this case, and in the light of the position taken by the Commission in Case 39.188 — Bananas, a reduction of 20 % was applied to the basic amount of the fines to be imposed on all the undertakings concerned.

### 2.4.3. Application of the 10 % turnover limit

- (16) The final amounts of the fines prior to the application of the Leniency Notice are below 10 % of the worldwide turnovers of both Chiquita and Pacific.

### 2.4.4. Application of the 2002 Leniency Notice: immunity

- (17) As the conduct under investigation in this case was distinct from that in Case 39.188 — Bananas, the original investigation was divided into two cases, namely Case 39.482 — Exotic Fruit and Case 39.188 — Bananas. In this type of situation an immunity applicant has the duty to cooperate in both separate investigations which may originate from the same immunity application, and continue doing so even after obtaining final immunity with regard to the infringement(s) covered by one of the investigations. Since Chiquita has fulfilled the conditions set out in the Leniency Notice, it is granted immunity from any fines that would otherwise have been imposed on it.

## 3. DECISION

- (18) The following undertakings infringed Article 101 of the Treaty from 28 July 2004 until 8 April 2005 by participating in a single and continuous agreement and/or concerted practice regarding the supply of bananas in Italy, Greece and Portugal, which consisted of price fixing:

— Chiquita Brands International, Inc., Chiquita Banana Company BV, Chiquita Italia SpA,

— FSL Holdings NV, Firma Leon Van Parys NV, Pacific Fruit Company Italy SpA.

- (19) The following fines are imposed:

— Chiquita Brands International, Inc., Chiquita Banana Company BV, Chiquita Italia SpA, jointly and severally: EUR 0

— FSL Holdings NV, Firma Leon Van Parys NV, Pacific Fruit Company Italy SpA, jointly and severally: EUR 8 919 000

- (20) The undertakings concerned shall immediately bring to an end the infringement insofar as they have not already done so.

<sup>(1)</sup> OJ C 210, 1.9.2006, p. 2.

## V

*(Announcements)*

## ADMINISTRATIVE PROCEDURES

## EUROPEAN COMMISSION

**Call for proposals under the work programme of the ENIAC Joint Undertaking**

(2012/C 64/10)

Notice is hereby given of the launch of a call for proposals under the work programme of the ENIAC Joint Undertaking.

Proposals are invited for the following call: **ENIAC-2012-1**

Call documentation including deadline and budget is given in the call text, which is published on the following website:

[http://www.eniac.eu/web/calls/ENIACJU\\_Call6\\_2012-1.php](http://www.eniac.eu/web/calls/ENIACJU_Call6_2012-1.php)

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## PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

### EUROPEAN COMMISSION

#### **Prior notification of a concentration**

**(Case COMP/M.6459 — Sony Corporation of America/Mubadala Development Company/EMI Music  
Publishing)**

**(Text with EEA relevance)**

(2012/C 64/11)

1. On 27 February 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(1)</sup> by which an investor group comprising Sony Corporation of America ('Sony'), the Mubadala Development Company PJSC ('Mubadala') and other investors (Jynwel Capital, GSO Capital Partners, EMI West and the Michael Jackson Estate) acquire EMI Music Publishing ('EMI MP') from Citigroup, Inc. by way of purchase of shares ('The Transaction'). Under the terms of a related Administration Deed, Sony/ATV, a joint venture of Sony and the Michael Jackson Estate, will be appointed to administer the EMI MP catalogue.

2. The business activities of the undertakings concerned are:

- for Sony: recorded music, music publishing and a number of other activities, such as electronics products, entertainment services (e.g., motion pictures, television programming, video/computer game publishing) and online retail and music video services,
- for Mubadala: investments in a wide variety of strategic sectors,
- for EMI MP: music publishing.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope the EC Merger Regulation. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by e-mail to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6459 — Sony Corporation of America/Mubadala Development Company/EMI Music Publishing, to the following address:

European Commission  
Directorate-General for Competition  
Merger Registry  
J-70  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

**Prior notification of a concentration**  
**(Case COMP/M.6504 — Linde/Air Products Homecare)**  
**(Text with EEA relevance)**  
(2012/C 64/12)

1. On 24 February 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(1)</sup> by which Linde AG (Linde, Germany) acquires sole control within the meaning of Article 3(1)(b) of the Merger Regulation over the whole of the homecare business of Air Products and Chemicals, Inc (USA) in Belgium, France, Germany, Spain and Portugal (Air Products Homecare) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- Linde is a gases and engineering company with approximately 50 000 employees working in more than 100 countries worldwide. It is active in the industrial gases, medical gases, equipment, engineering and services sectors,
- Air Products Homecare provides patients with respiratory treatments and related services at patients' homes in Belgium, France, Germany, Spain and Portugal. Air Products Homecare is currently owned by Air Products and Chemicals, Inc. (USA).

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope the EC Merger Regulation. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by e-mail to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6504 — Linde/Air Products Homecare, to the following address:

European Commission  
Directorate-General for Competition  
Merger Registry  
J-70  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').



**Prior notification of a concentration****(Case COMP/M.6489 — Saint-Gobain/Trakya/Sisecam/JV)****Candidate case for simplified procedure****(Text with EEA relevance)**

(2012/C 64/13)

1. On 16 February 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(1)</sup> by which the undertaking Saint-Gobain Glass France, a subsidiary of Compagnie de Saint-Gobain SA ('Saint-Gobain'), through Saint-Gobain Sekurit France, and Trakya Cam Sanayii A.Ş. ('Trakya'), a subsidiary of Türkiye Sise ve Cam Fabrikalari A.Ş. ('Sisecam'), acquire joint control, within the meaning of Article 3(1)(b) of the Merger Regulation, of TRSG Autoglass Holding BV, which will then acquire 100 % of Automotive Glass Alliance Rus ZAO ('AGAR') and create Automotive Glass Alliance Rus Trading ZAO ('AGART').
2. The business activities of the undertakings concerned are:
  - for Saint-Gobain: production and sale of glass, ceramics, plastics and building materials. It is also active in the distribution of building materials in several EEA-countries,
  - for Trakya: production and sale of glass, glassware, glass packaging and chemicals,
  - for Sisecam: manufacture and sale of glass, glassware, glass packaging and chemicals,
  - for AGAR: manufacture and sale of automotive glass in Russia,
  - for AGART: importation and sale of specific automotive glass products that cannot be produced by AGAR.
3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation <sup>(2)</sup> it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6489 — Saint-Gobain/Trakya/Sisecam/JV, to the following address:

European Commission  
Directorate-General for Competition  
Merger Registry  
J-70  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

<sup>(2)</sup> OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

## OTHER ACTS

## EUROPEAN COMMISSION

**Publication of an application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs**

(2012/C 64/14)

This publication confers the right to object to the application pursuant to Article 7 of Council Regulation (EC) No 510/2006 <sup>(1)</sup>. Statements of objection must reach the Commission within six months of the date of this publication.

## SINGLE DOCUMENT

**COUNCIL REGULATION (EC) No 510/2006****‘AISCHGRÜNDER KARPfen’****EC No: DE-PGI-0005-0689-19.03.2008****PGI ( X ) PDO ( )****1. Name:**

‘Aischgründer Karpfen’

**2. Member State or third country:**

Germany

**3. Description of the agricultural product or foodstuff:****3.1. Type of product:**

Class 1.7. Fresh fish, molluscs and crustaceans and products derived therefrom

**3.2. Description of product to which the name in (1) applies:**‘Aischgründer Karpfen’, a mirror carp (*Cyprinus carpio*), is a table fish which is sold live or slaughtered.

‘Aischgründer Karpfen’ has a dark green, grey or greyish blue back, yellow-green to gold sides and a yellowy white belly. Its dorsal and caudal fins are grey, the caudal and anal fins have a reddish tone and the pectoral and pelvic fins are yellowish or reddish in colour. A distinguishing feature of ‘Aischgründer Karpfen’ is its high back, which develops in particular as a result of the warm weather and the high level of fertility in the ponds. Its typical height-to-length ratio is between 1:2 and 1:2,5.

The live weight of a three-year-old fish is between 1 000 g and 1 700 g. ‘Aischgründer Karpfen’ is a mirror carp characterised by its white meat, which is firm but tender and flavourful, and its low fat content of a maximum of 10 %. The fat content is kept low by limiting the stocking density (a maximum of 800 carp per hectare at the K2 stage) and adapting the feed accordingly.

**3.3. Raw materials:**

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<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

3.4. *Feed (for products of animal origin only):*

The carp feed predominantly on what is naturally available (bottom nutrients, zooplankton, etc.). In the production of table fish (K2-K3) from May to September this is supplemented by legumes and grain (excluding maize). The feed quotient (added feed quantity (kg) per kilogram of growth) is approximately 2:1.

In addition, mixed feed authorised under the Bavarian countryside programme is permitted. The mixed feed must consist of arable crops only and may not contain any ingredients of animal origin. It may not contain more than 16 % of raw proteins and the total phosphorus content must not be more than 0,6 %. The greenmeal content must be at least 10 %.

3.5. *Specific steps in production that must take place in the identified geographical area:*

As the carp grow during the warm summer months, their age is counted in summers. Table carp in the Aischgrund generally grow to maturity over the course of three summers. In the first year, the eggs are grown to so-called K1 fish. After the subsequent winter, the fish grow to K2, are kept for another winter and then reach the desired weight in the third summer (i.e. as K3 fish).

‘Aischgründer Karpfen’ must be kept in the geographical area for at least one production period (starting in April of the year in question) from fry (K2) to table fish (K3). The third year (K2 to K3) is decisive for the increase in weight and the development of the taste. During this period the weight of the fish increases by more than 1 kg per fish.

The stocking density at the K2 stage may not be more than 800 carp per hectare.

3.6. *Specific rules concerning slicing, grating, packaging, etc.:*

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3.7. *Specific rules concerning labelling:*

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4. **Concise definition of the geographical area:**

The geographical area includes all carp ponds in the rural districts of Erlangen-Höchstadt, Neustadt a.d. Aisch, Bad Windsheim and Fürth, Kitzingen, Bamberg, Forchheim Nürnberger Land and the urban municipalities of Erlangen, Forchheim, Bamberg, Nürnberg and Fürth.

5. **Link with the geographical area:**

5.1. *Specificity of the geographical area:*

The development of pond farming in the Aischgrund region can be traced back to the appearance of its many monasteries in the Middle Ages and the resulting demand for fish during periods of fasting, which lasted for months at a time. For the monks the main thing was to have fish to put on the refectory table — the profitability of fish farming as a business was less of an issue.

In the centre of the Aischgrund the ground beneath the numerous ponds consists of impervious Late Triassic clay. The emergence and survival of this pond-rich region owed a lot, therefore, to a number of basic physical/geographical factors: the complex alternation of sandstone deposits and layers of clayey, impermeable ‘Burgsandstein’, the gentle gradients of the valleys, the myriad swamp-prone springs and soil that was not particularly suitable for farming.

While in other areas carp yields are restricted by the temperature profile, the same does not apply to the Aischgrund, which is the warmest aquaculture area in Germany. Annual temperatures average around 8 °C or 9 °C, depending on altitude. The limiting factor in the Aischgrund, on the other hand, is the supply of water to the ponds. Average precipitation is 600-650 mm a year, but this figure falls to about 530 mm as one moves from the north-west to the south-east. The ponds extend over an area of rain shadow to the east of the Frankenhöhe hills and the Steigerwald forest where precipitation levels vary from year to year. Water supply to the majority of the ponds consists only of rainfall and snowmelt. The climate is warmer than in the Oberpfalz and the ponds are more fertile and give better yields as a result.

Carp farming has shaped not only the character of the countryside in the geographical area (which is the biggest continuous pond region in Germany), but also its culture. There are books of fish-farming anecdotes, songs about carp and even (art) exhibitions dedicated to the carp. The world's biggest carp statue has been erected in Höchststadt an der Aisch as a symbol of the region. Confectioners sell chocolate carp and it is also possible to buy 'Aischgründer Kärpfla', or carp-shaped fruit gums. Carp also adorn doorbell plates, carnival paraphernalia, club T-shirts, etc.

'Aischgründer Karpfen' is a traditional meal served in hostelrys all over Franconia, many of which — like the delicacy itself — have been there for hundreds of years. Most of the innkeepers, who follow in a long family tradition of serving carp, keep them in tanks or basins so that they always have a ready supply of fresh fish.

5.2. *Specificity of the product:*

'Aischgründer Karpfen' is known throughout the region and beyond and is highly regarded among consumers. The fish has a number of other special characteristics: it has a height-to-length ratio of between 1:2 and 1:2,5 and is therefore higher-backed than carp from elsewhere. This is due to the warm weather and the level of fertility in the ponds.

Another distinctive feature of 'Aischgründer Karpfen' is its firm white flesh, which has its own typical flavour (not earthy or musty, pleasantly palatable and reminiscent of freshly boiled potatoes).

As a result of the prescribed stocking density, 'Aischgründer Karpfen' has a low fat content of practically no more than 10 % when filleted.

5.3. *Causal link between the geographical area and a specific quality, the reputation or other characteristic of the product:*

The fish's high back, which is a characteristic feature of 'Aischgründer Karpfen', is also due to the good breeding conditions in the Aischgrund, the warmest carp-farming area in Germany.

The high regard in which 'Aischgründer Karpfen' is held stems from the importance of pond farming in the region and from centuries of tradition.

Opinion polls conducted by Weihenstephan Technical College and the Technical University of Munich show that 'Aischgründer Karpfen' is highly regarded as a foodstuff throughout the region. The traditional carp season in Aischgrund runs from 1 September to 30 April and its opening is marked by numerous festivities. The carp is an integral part of cultural life in the geographical area; it is a highly-prized foodstuff and a key component of the traditional cuisine — these factors too make 'Aischgründer Karpfen' a speciality of the region and give it a reputation that extends far beyond it.

Surveys conducted by Weihenstephan Technical College in 2002 show that 79 % of those asked in Aischgrund and 49 % of those asked in Nürnberg prefer 'Aischgründer Karpfen' to carp from other areas.

**Reference to publication of the specification:**

Trade Mark Journal No 32 of 10 August 2007, Part 7a-aa, p. 14623

([http://publikationen.dpma.de/DPMApublikationen/dld\\_gd\\_file.do?id=81](http://publikationen.dpma.de/DPMApublikationen/dld_gd_file.do?id=81))

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**Publication of an amendment application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs**

(2012/C 64/15)

This publication confers the right to object to the amendment application pursuant to Article 7 of Council Regulation (EC) No 510/2006 <sup>(1)</sup>. Statements of objection must reach the Commission within six months of the date of this publication.

AMENDMENT APPLICATION

**COUNCIL REGULATION (EC) No 510/2006**

**AMENDMENT APPLICATION ACCORDING TO ARTICLE 9**

**‘PROVOLONE VALPADANA’**

**EC No: IT-PDO-0217-0021-27.01.2010**

**PDO ( X ) PGI ( )**

**1. Heading in the product specification affected by the amendment:**

- ☐ Name of product
- ☒ Description of product
- ☒ Geographical area
- ☐ Proof of origin
- ☒ Method of production
- ☐ Link
- ☒ Labelling
- ☒ National requirements
- ☐ Other (to be specified)

**2. Type of amendment(s):**

- ☐ Amendment to single document or summary sheet
- ☒ Amendment to specification of registered PDO or PGI for which neither the single document nor the Summary has been published
- ☐ Amendment to specification that requires no amendment to the published single document (Article 9(3) of Regulation (EC) No 510/2006)
- ☐ Temporary amendment to specification resulting from imposition of obligatory sanitary or phytosanitary measures by public authorities (Article 9(4) of Regulation (EC) No 510/2006)

**3. Amendment(s):**

Article 3 of the Prime Ministerial Decree of 9 April 1993 which established the designation of origin of ‘Provolone Valpadana’, together with the files contained in the Commission documents, provides the full text of the specification on the basis of which Community recognition of the product name was obtained in accordance with Regulation (EC) No 1107/96.

As with all the specifications set out, the drawing up of the measure was found to be very inconsistent and some of the production phases were not detailed enough, thus the documentation sent in 1993 was a series of answers to the various points in Article 4 of Regulation (EEC) No 2081/92 and it was felt necessary to provide a wording that was non-descriptive but clearer and more useful for the producers, consumers and supervising bodies.

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

Therefore, some phases have been made clearer and some parameters drawn up in order for points to be numbered and a more detailed description of how cattle are fed has also been included.

This stipulates, for example, the need to emphasise that milk must not be collected when more than 60 hours have elapsed after milking, just as clarifying the importance of milk ferment cultures ('Provolone Valpadana' is among the few PDO cheeses produced using whey starter from earlier processing).

### 3.1. *Description of product:*

1. Weight classes have been specified with the relative maturation periods, doing away with minimum and maximum weights. The restrictions posed by the initial weight classes do not adequately reflect the changed market situation. The removal of the weight classes is also strictly linked to a more specific description of the maturation period and the more precise clarification of the mild and piquant varieties.
2. It is specified that the mild variety will be divided and packaged in portions and will have no rind. Having no rind means that the cheese can be prepared in advance and facilitates cutting and packaging.
3. A maximum water content has been introduced — indicating the maximum water content is an important production restriction since it obliges companies to respect certain parameters and failure to do so would mean that the cheese production could be confused with generic pasta filata cheeses or even, scamorza.
4. It was clarified that the fat in dry matter cannot be less than 44 % or more than 54 %. This clarification was deemed necessary as the 1993 production specification indicated a single percentage value of fat content in dry matter without taking into account the effect of some variables linked to the production process. The period proposed, in keeping with the production of milk products, takes technical reasons into account such as the seasonal variability of the chemical composition of the milk in terms of fat and protein as well as the variability of the cheese composition during ripening.

### 3.2. *Area of production:*

Two municipalities have been included: Nogaredo and Nomi from the Autonomous Province of Trento. These two municipalities have always been part of a single, continuous production area, as is evident from map files. Mistakenly missing out Nogaredo and Nomi (see the Prime Ministerial Decree of 21 August 1993) would in fact unjustifiably interrupt the geographical area's continuity with regard to the content of the original 1994 documentation for the registration of the name, as contained in the Commission documents.

Please also note that the municipalities listed in Article 2 of the Prime Ministerial Decree of 21 August 1993, which previously fell under the Province of Milan, now belong to the Province of Lodi established by Legislative Decree No 251 of 6 March 1992, implementing Article 63 of Law No 142 of 8 June 1990. Consequently, the product specification has been updated.

### 3.3. *Method of production:*

As regards other aspects, it is made clear that:

1. 'Provolone Valpadana' is obtained from raw whole cows' milk, which for the mild variety undergoes heat treatment until it is fully pasteurised while for the piquant variety it undergoes thermisation.

Heat treatments were already in use before the Protected Designation of Origin was recognised and are designed to guarantee the wholesomeness of the product, to destroy pathogenic organisms and organisms inhibiting cheese production, to manage the ripening processes with the microorganisms typical of the product and to enhance the product from a taste, probiotic and nutritional standpoint.

The heat treatment for the mild variety (pasteurisation: heating the milk to 72 °C for 15 seconds — negative phosphatase) is possible if a strong preventative microbiological action is required on the raw material since it is a cheese sold with a short ripening period. The heat treatment for the piquant variety (thermisation: simple heating which must not exceed 55 °C for 5/10 seconds — positive phosphatase) leaves the organoleptic and qualitative characteristics of the milk almost unaltered because the maturation itself of piquant 'Provolone Valpadana' inhibits abnormal fermentation and destroys any other unwanted microorganisms.

2. The coagulation phase is made clearer. 'Provolone Valpadana' has two varieties (mild and piquant), therefore the different uses of rennet are indicated which differentiate the two.
3. The hardening phase is made clearer. Soaking the cheese in cold or chilled water has become an essential factor in ensuring a faster cooling of the cheese in order to avoid the unwelcome occurrence of 'late swelling'.
4. The drying phase is made clearer. The drying process also plays an important role in avoiding 'late swelling'.
5. Maturation times have been modified to reduce the minimum maturation period since, for important commercial reasons, the production now involves smaller cheeses which need less time to mature. In fact, reducing the minimum maturation period from 30 to 10 days is considered necessary because the organoleptic qualities of the smaller cheeses (maximum 6 kg) are already present by the time indicated. It is possible to compare the difference with other generic products (pasta filata cheeses) after this time limit and therefore to supply the market with a cheese with unmistakable qualities.
6. The possibility of treating the exterior of the 'Provolone Valpadana' during the course of maturation was introduced in order to protect it from mould and mites. The treatment of the cheese exterior involves covering materials containing antifungals or plastic or paraffin wraps. These materials cover the entire product while allowing the cheese to breathe, without interfering with the natural processes of maturation.

#### 3.4. Labelling:

1. More detail has been added to the part relating to the designation and presentation of the product when sold for consumption. This change was necessary to provide the consumer with more specific and accurate information.

#### SINGLE DOCUMENT

### COUNCIL REGULATION (EC) No 510/2006

#### 'PROVOLONE VALPADANA'

EC No: IT-PDO-0217-0021-27.01.2010

PGI ( ) PDO ( X )

#### 1. Name:

'Provolone Valpadana'

#### 2. Member State or third country:

Italy

#### 3. Description of the agricultural product or foodstuff:

##### 3.1. Type of product:

Class 1.3. Cheeses

##### 3.2. Description of the product to which the name in point 1 applies:

'Semi-hard pasta filata cheese produced with raw whole cows' milk with natural acidity from fermentation, collected in the area of origin within 60 hours which can undergo:

- for the mild variety — heat treatment until the cheese is pasteurised,
- for the piquant variety, thermisation'.

The maturation period can vary as follows:

- up to 6 kg: minimum maturation period 10 days,
- over 6 kg: minimum maturation period 30 days,
- over 15 kg and only for the piquant variety: minimum maturation period 90 days,



— over 30 kg with the product labelling P.V.S., piquant variety: maturation period over 8 months.

The cheese may also be smoked.

The weight may vary with regard to the shape.

The different shapes can be: sausage shape, melon ball shape, truncated-cone shape, pear shape with a sphere on top known as a 'fiaschetta'; the external surface may show small indents from the supporting cords.

The rind is smooth, thin, of a light yellow, golden colour and sometimes yellow-brown. The mild variety to be divided into portions may have no rind.

The cheese is generally compact with occasional small holes; some flaking of the cheese is common for those with a shorter maturation while a more marked flaking is typical of cheeses with a longer maturation period; it is generally of a pale yellow colour.

The cheese has a delicate taste at three months' maturation which becomes stronger in the piquant cheese with a longer maturation or when goat or lamb rennet are used either alone or together.

The maximum water content must not:

- exceed 46 % for all varieties of the mild cheese and for the piquant varieties weighing up to 6 kg,
- exceed 43 % for the piquant varieties weighing more than 6 kg.

The fat in dry matter should not be less than 44 % or more than 54 %.

### 3.3. *Raw materials (for processed products only):*

Milk, rennet, salt.

### 3.4. *Animal feed (for products of animal origin only):*

The basic feed for the dairy cattle, made up of fodder (fresh or dried), feed or feed-concentrates must come from no less than 50 % of the zone of origin and must be applied to lactating cows, dry cows and heifers over seven months old. At least 75 % of the dry matter of the fodder in the daily ration should come from feed produced in the milk production area. The fodder allowed is: fresh fodder from permanent or temporary meadows, fodder crops, hay obtained from drying the crops in the field, straw from cereals, grass silage, chopped grass and hay silage. The feed allowed is: cereals and cereal products, corn mash, oilseeds and oilseed products, tubers and roots, dry fodder, products of the sugar industry such as molasses and/or derivatives alone such as processing aids and flavours up to a limit of 2,5 % of dry matter in the daily ration. Also permitted are: legume seeds and dried locust beans and their derivatives, fats, mineral salts authorised by the legislation in force and additives such as vitamins, trace elements, amino acids, flavourings and antioxidants authorised by the legislation in force with the added requirement that any antioxidants and flavourings used must be natural or nature-identical. The use of inactive brewer's yeast as a carrier of 'premixtures' is permitted.

### 3.5. *Specific steps in production that must take place in the identified geographical area:*

All the steps in the production phase must take place in the identified geographical area.

### 3.6. *Specific rules concerning slicing, grating, packaging, etc.:*

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### 3.7. *Specific rules concerning labelling:*

All whole cheeses must bear the logo of the protected designation of origin 'Provolone Valpadana' which must be reproduced on a suitable tamper-proof holder (metal, plastic).

The labelling must take place when the cheeses are hung for maturation in the storage areas.

Before whole cheeses are placed on the market, the 'Provolone Valpadana' can be customised using card strips, stickers, packaging or similar material. For each of the previously mentioned modes of customisation, the logo and explicit mention of the Protected Designation of Origin 'Provolone Valpadana' must be shown on no less than a sixth of the surface area occupied by the commercial brand, with the exception of cheeses weighing less than 6 kg.



For labels using printed stamps, the name 'Provolone Valpadana' must be shown within the limits described excluding the requirement to show the product logo.

Exclusively for the piquant variety, from the eighth month of maturation, holders of 'Provolone Valpadana' can request a fire marking of the acronym 'P.V.S.', which stands for 'Provolone Valpadana Stagionato'. In order to display the abovementioned brand, the cheese must undergo a technical check by specialists that has been expressly requested by the holder and is at his own cost. The selective check concerns the external appearance of the cheese (which should not exhibit cracks and on tapping the cheese, the sound must be uniform), the cheese structure (with flaking, no holes and not elastic), the colour (white bordering on straw yellow), the flavour (the piquant variety should have a kick and not be salty) and the aroma (intense together with the odour).

The logo, including the name, must be reproduced on the packs intended for final consumers in proportion to the packaging used so as to take up no less than 10 % of the surface space available. The name 'Provolone Valpadana' should be shown in the same fashion. The indication 'Denominazione d'Origine Protetta' may be replaced by the Community symbol.

The logo can also be used in a monochrome version.

#### 4. Concise definition of the geographical area:

The entire territory of the provinces of Cremona, Brescia, Verona, Vicenza, Rovigo, Padova, Piacenza and adjoining municipalities of the provinces of Bergamo, Mantova and Lodi and the Autonomous Province of Trento make up a single geographical area.

#### 5. Link with the geographical area:

##### 5.1. Specificity of the geographical area:

The geographical production area includes part of the Po Valley and is known for its high production of fodder, its large quantities of milk available and climatic conditions that are particularly suitable for feeding and breeding dairy cattle breeds. Thanks to these environmental factors, the ideal conditions for producing 'Provolone Valpadana' cheese originated in the production area.

'Provolone Valpadana' is a pasta filata cheese and despite originating from the south of Italy, this type of cheese (thanks to the Padana cheese-making tradition, which was never lacking in technical expertise or abundance of raw materials to work with) has made a name for itself in northern Italy. The use of natural whey inoculum derived from whey residues from earlier processing, the dairy know-how of dairy producers from the area in skilfully using different lamb, goat and calf rennets, and the hand-made expertise in the kneading and working of the cheese are of particular importance in the production of 'Provolone Valpadana'.

##### 5.2. Specificity of the product:

'Provolone Valpadana' is known for its delicate flavour in cheeses which have matured for up to three months which becomes stronger in the piquant variety with the passing of time and according to the type of rennet used. 'Provolone Valpadana' also comes in different shapes such as a sausage shape, melon ball shape, truncated-cone shape, pear shape and in sizes which can exceed 30 kg. The cheese is compact but not dry unlike pasta filata cheeses from southern Italy which, because of their smaller size, can mature and become piquant just by drying and turning into grating cheeses.

##### 5.3. Causal link between the geographical area and the quality or characteristics of the product (for PDO) or a specific quality, the reputation or other characteristic of the product (for PGI):

'Provolone Valpadana' has been produced in the specified geographical area since the second half of the 19th century and although the pasta filata cheese originates from southern Italy, in the 20th century it made a name for itself in northern Italy as witnessed by the works of Besana (1916) and Fascetti (1923).

The expansion in the production of 'Provolone Valpadana' was aided by the Padana producers' technical cheese-making capabilities that developed over time thanks to the geographical area's particularly suitable conditions for breeding cows that produce a large quantity of milk for processing. Among the typical characteristics of the production method of 'Provolone Valpadana' is the use of whey from earlier processing as a whey-starter for further processing. This process forms a very characteristic part of the production of 'Provolone Valpadana' both in terms of the territory and the method used since it is rarely used in cheese production. Refining the production techniques has had an effect on the commercial characteristics of the cheese, such as the shape and size of

'Provolone Valpadana' without changing the essential characteristics. The different shapes and sizes of 'Provolone Valpadana' are the result of the ability of the local cheese-makers from the geographical area, through the kneading operation, to make the cheese malleable enough to be able to work it into different shapes and quite significant sizes. These commercial characteristics can be attributed to the geographical production area since this is where they have been developed and passed down. The coexistence of the two varieties of cheese, mild and piquant, is the result of the dairy producers' capabilities in using different rennets which allow the 'Provolone Valpadana' to have the delicate or piquant flavours that are typical of the product even with a similar process to produce, respectively, smaller cheeses with a shorter maturation period or heavier cheeses with a longer maturation period, with a compact cheese that is never so dry as to require grating as with more typical pasta filata cheeses from the south of Italy.

**Reference to publication of the specification:**

(Article 5(7) of Regulation (EC) No 510/2006)

This Ministry launched the national objection procedure referred to in Article 5(5) of Regulation (EC) No 510/2006 with the proposed amendments to PDO 'Provolone Valpadana' in the *Official Gazette of the Italian Republic* No 291 of 15 December 2009.

The full text of the product specification is available on the following website:

<http://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/3335>

or

by going directly to the home page of the Ministry of Agricultural, Food and Forestry Policy (<http://www.politicheagricole.it>) and clicking on 'Qualità e sicurezza' (in the top right hand corner of the screen) and then on 'Disciplinari di Produzione all'esame dell'UE'.

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**CORRIGENDA**

**Corrigendum to Notice concerning the anti-dumping measures in force in respect of imports into the Union of citric acid originating in the People's Republic of China: change of the address of a company subject to an individual anti-dumping duty rate**

*(Official Journal of the European Union C 3 of 6 January 2012)*

(2012/C 64/16)

On page 10:

*for:* 'Changshen Street No 1567'

*read:* 'Changsheng Street No 1567'.

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**Corrigendum to Notice concerning undertakings offered in connection with the anti-dumping proceeding concerning imports of citric acid originating in the People's Republic of China: change of the address of a company**

*(Official Journal of the European Union C 3 of 6 January 2012)*

(2012/C 64/17)

On page 11:

*for:* 'Changshen Street No 1567'

*read:* 'Changsheng Street No 1567'.

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## PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

**European Commission**

|              |   |    |
|--------------|---|----|
| 2012/C 64/11 | Prior notification of a concentration (Case COMP/M.6459 — Sony Corporation of America/Mubadala Development Company/EMI Music Publishing) <sup>(1)</sup> ..... | 13 |
| 2012/C 64/12 | Prior notification of a concentration (Case COMP/M.6504 — Linde/Air Products Homecare) <sup>(1)</sup> .....   | 14 |
| 2012/C 64/13 | Prior notification of a concentration (Case COMP/M.6489 — Saint-Gobain/Trakya/Sisecam/JV) — Candidate case for simplified procedure <sup>(1)</sup> .....      | 15 |

## OTHER ACTS

**European Commission**

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**Corrigenda**

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| 2012/C 64/16 | Corrigendum to Notice concerning the anti-dumping measures in force in respect of imports into the Union of citric acid originating in the People's Republic of China: change of the address of a company subject to an individual anti-dumping duty rate (OJ C 3, 6.1.2012) ..... | 25 |
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**Note to the reader** (see page 3 of the cover)



<sup>(1)</sup> Text with EEA relevance

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