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## Information and Notices

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

## IV

(Notices)

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

## COUNCIL

## COUNCIL DECISION

of 20 April 2015

**appointing a member of the Management Board of the European Food Safety Authority**

(2015/C 142/01)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(1)</sup>, and in particular Article 25(1) thereof,

Having regard to the list of candidates submitted to the Council by the European Commission,

Having regard to the views expressed by the European Parliament,

Whereas:

- (1) It is vital to ensure the independence, high scientific quality, transparency and efficiency of the European Food Safety Authority (EFSA). Cooperation with Member States is also indispensable.
- (2) One member of the Management Board of the EFSA, Ms Valérie BADUEL, has resigned. A new member should therefore be appointed for the remainder of her term of office.
- (3) With a view to appointing one new member of the Management Board of the EFSA, the Council has examined the list submitted by the Commission on the basis of the documentation provided by the Commission and in the light of the views expressed by the European Parliament. The aim is to secure the highest standard of competence, a broad range of relevant expertise, for instance in management and public administration, and the broadest possible geographical distribution within the Union.
- (4) Article 25 of Regulation (EC) No 178/2002 requires that four of the members of the Management Board of the EFSA must have a background in organisations representing consumers and other interests in the food chain. Currently, four members have already such a background,

HAS ADOPTED THIS DECISION:

*Article 1*

The following person is appointed as a member of the Management Board of the European Food Safety Authority for the period from 1 May 2015 to 30 June 2016:

Mr Michael WINTER.

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1.

*Article 2*

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

Done at Luxembourg, 20 April 2015.

*For the Council*

*The President*

J. DŪKLAVS

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**Notice for the attention of persons subject to the restrictive measures provided for in Council Decision 2013/255/CFSP and in Council Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria**

(2015/C 142/02)

The following information is brought to the attention of the persons who are presently designated in Annex I to Council Decision 2013/255/CFSP <sup>(1)</sup> and in Annex II to Council Regulation (EU) No 36/2012 <sup>(2)</sup> concerning restrictive measures in view of the situation in Syria.

The Council intends to amend the statements of reasons for the following persons: Mr Ali Mamlouk, Mr Rustum Ghazali, Mr Faruq Al Shara' and Brigadier-General Rafiq Shahadah (listed as Nos 3, 11, 16 and 37 respectively in Annex I to Decision 2013/255/CFSP and in Annex II to Regulation (EU) No 36/2012).

The persons concerned are hereby informed that they may submit a request to the Council to obtain the intended statements of reasons, before **11 May 2015**, to the following address:

Council of the European Union  
General Secretariat  
DG C 1C  
Rue de la Loi/Wetstraat 175  
1048 Bruxelles/Brussel  
BELGIQUE/BELGIË  
E-mail: sanctions@consilium.europa.eu

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<sup>(1)</sup> OJ L 147, 1.6.2013, p. 14.

<sup>(2)</sup> OJ L 16, 19.1.2012, p. 1.

## EUROPEAN COMMISSION

Euro exchange rates <sup>(1)</sup>

28 April 2015

(2015/C 142/03)

## 1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,0927	CAD	Canadian dollar	1,3188
JPY	Japanese yen	130,09	HKD	Hong Kong dollar	8,4696
DKK	Danish krone	7,4607	NZD	New Zealand dollar	1,4226
GBP	Pound sterling	0,71500	SGD	Singapore dollar	1,4433
SEK	Swedish krona	9,3808	KRW	South Korean won	1 167,18
CHF	Swiss franc	1,0464	ZAR	South African rand	13,0108
ISK	Iceland króna		CNY	Chinese yuan renminbi	6,7806
NOK	Norwegian krone	8,3920	HRK	Croatian kuna	7,5860
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	14 149,02
CZK	Czech koruna	27,471	MYR	Malaysian ringgit	3,8755
HUF	Hungarian forint	301,35	PHP	Philippine peso	48,320
PLN	Polish zloty	4,0015	RUB	Russian rouble	57,0315
RON	Romanian leu	4,4026	THB	Thai baht	35,611
TRY	Turkish lira	2,9161	BRL	Brazilian real	3,1786
AUD	Australian dollar	1,3752	MXN	Mexican peso	16,7325
			INR	Indian rupee	68,9985

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

**Notice of information of the termination of the demarches with third countries notified on 26 November 2013 of the possibility of being identified as non-cooperating third countries pursuant to Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing**

(2015/C 142/04)

The European Commission (the Commission) has terminated the demarches with the Republic of Korea in the fight against IUU fishing initiated on 26 November 2013 with the Commission Decision 2013/C 346/03 <sup>(1)</sup> on notifying the third countries that the Commission considers as possible of being identified as non-cooperating third countries pursuant to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 <sup>(2)</sup> (IUU Regulation).

### 1. Legal framework

Pursuant to Article 32 of the IUU Regulation the Commission should notify third countries of the possibility of their being identified as non-cooperating countries. Such notification is of a preliminary nature. The notification of third countries of the possibility of their being identified as non-cooperating countries is based on the criteria laid down in Article 31 of the IUU Regulation.

The Commission should take all the demarches set out in Article 32 with respect to those countries. In particular, the Commission should include in the notification information concerning the essential facts and considerations underlying such identification, the opportunity of those countries to respond and provide evidence refuting the identification or, where appropriate, a plan of action to improve and measures taken to rectify the situation.

The Commission should give to the third countries concerned adequate time to answer the notification and reasonable time to remedy the situation.

### 2. Procedure

On 26 November 2013, the European Commission notified the Republic of Korea of the possibility of being identified as non-cooperating third countries in fighting illegal, unreported and unregulated (IUU) fishing.

The Commission highlighted that in order to avoid being identified as non-cooperating country, Korea was invited to cooperate with the Commission on the basis of a proposed action plan to rectify the shortcomings identified.

The Commission opened a process of dialogue with the Republic of Korea. This country submitted oral and written comments that were considered and taken into account by the Commission. The Commission continued to seek and verify all information in deemed necessary.

The Republic of Korea has introduced the necessary measures for the cessation of IUU fishing activities in question and the prevention of any future such activities, rectifying any act or omission leading to the notification of the possibility of being identified as non-cooperating countries in fighting IUU fishing.

### 3. Conclusion

In the given circumstances and after examining the abovementioned considerations, the Commission therefore concludes that the demarches vis-à-vis the Republic of Korea pursuant to the provisions of Article 32 of the IUU Regulation with respect to the discharge of their duties incumbent upon them under international law as flag, port, coastal or market State and their actions to prevent, deter and eliminate IUU fishing are hereby terminated. The relevant competent authorities have been officially informed by the Commission.

The abovementioned termination of demarches does not preclude any subsequent step taken by the Commission or the Council in the future, in case factual elements reveal that a country fails to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing.

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<sup>(1)</sup> OJ C 346, 27.11.2013, p. 26.

<sup>(2)</sup> OJ L 286, 29.10.2008, p. 1.

**Notice of information of the termination of the demarches with a third country notified on 10 June 2014 of the possibility of being identified as non-cooperating third country pursuant to Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing**

(2015/C 142/05)

The European Commission (the Commission) has terminated the demarches with the Republic of the Philippines in the fight against IUU fishing initiated on 10 June 2014 with the Commission Decision 2014/C 185/03 <sup>(1)</sup> on notifying the Republic of the Philippines that the Commission considers as possible of being identified as non-cooperating third country pursuant to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 <sup>(2)</sup> (IUU Regulation).

### 1. Legal framework

Pursuant to Article 32 of the IUU Regulation the Commission should notify third countries of the possibility of their being identified as non-cooperating countries. Such notification is of a preliminary nature. The notification of third countries of the possibility of their being identified as non-cooperating countries is based on the criteria laid down in Article 31 of the IUU Regulation.

The Commission should take all the demarches set out in Article 32 with respect to those countries. In particular, the Commission should include in the notification information concerning the essential facts and considerations underlying such identification, the opportunity of those countries to respond and provide evidence refuting the identification or, where appropriate, a plan of action to improve and measures taken to rectify the situation.

The Commission should give to the third countries concerned adequate time to answer the notification and reasonable time to remedy the situation.

### 2. Procedure

On 10 June 2014, the European Commission notified the Republic of the Philippines of the possibility of being identified as non-cooperating third country in fighting illegal, unreported and unregulated (IUU) fishing.

The Commission highlighted that in order to avoid being identified as non-cooperating country, the Republic of the Philippines was invited to cooperate with the Commission on the basis of a proposed action plan to rectify the shortcomings identified.

The Commission opened a process of dialogue with the Republic of the Philippines. This country submitted oral and written comments that were considered and taken into account by the Commission. The Commission continued to seek and verify all information it deemed necessary.

The Republic of the Philippines has introduced the necessary measures for the cessation of IUU fishing activities in question and the prevention of any such future activities, rectifying any act or omission leading to the notification of the possibility of being identified as non-cooperating country in fighting IUU fishing.

### 3. Conclusion

In the given circumstances and after examining the abovementioned considerations, the Commission therefore concludes that the demarches vis-à-vis the Republic of the Philippines pursuant to the provisions of Article 32 of the IUU Regulation with respect to the discharge of their duties incumbent upon them under international law as flag, port, coastal or market State and their actions to prevent, deter and eliminate IUU fishing are hereby terminated. The relevant competent authorities have been officially informed by the Commission.

The abovementioned termination of demarches does not preclude any subsequent step taken by the Commission or the Council in the future, in case factual elements reveal that a country fails to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing.

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<sup>(1)</sup> OJ C 185, 17.6.2014, p. 17.

<sup>(2)</sup> OJ L 286, 29.10.2008, p. 1.



**COMMISSION DECISION****of 21 April 2015****on notifying a third country of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing**

(2015/C 142/06)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999<sup>(1)</sup>, and in particular Article 32 thereof,

Whereas:

**1. INTRODUCTION**

- (1) Regulation (EC) No 1005/2008 ('the IUU Regulation') establishes a Union system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.
- (2) Chapter VI of the IUU Regulation lays down the procedure to identify non-cooperating third countries, the *démarches* in respect of such countries, the establishment of a list of such countries, the removal from that list, the publicity of that list and any emergency measures.
- (3) In accordance with Article 32 of the IUU Regulation, the Commission is to notify third countries of the possibility of their being identified as non-cooperating countries. Such notification is of a preliminary nature. The notification is to be based on the criteria laid down in Article 31 of the IUU Regulation. The Commission is also to take all the *démarches* set out in Article 32 of that Regulation with respect to the notified third countries. In particular, the Commission is to include in the notification information concerning the essential facts and considerations underlying such identification, provide those countries with the opportunity to respond and provide evidence refuting the identification or, where appropriate, a plan of action to improve and measures taken to rectify the situation. The Commission is to give to the notified third countries adequate time to answer the notification and reasonable time to remedy the situation.
- (4) Pursuant to Article 31 of the IUU Regulation, the Commission is to identify third countries that it considers as non-cooperating countries in fighting IUU fishing. A third country is to be identified as non-cooperating if it fails to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing.
- (5) The identification of non-cooperating third countries is to be based on the review of all information as set out under Article 31(2) of the IUU Regulation.
- (6) In accordance with Article 33 of the IUU Regulation, the Council is to establish a list of non-cooperating third countries. The measures set out, inter alia, in Article 38 of the IUU Regulation apply to those countries.
- (7) Pursuant to Article 20(1) of the IUU Regulation, the acceptance of validated catch certificates from third country flag States is subject to a notification to the Commission of the arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by the fishing vessels of the concerned third countries.
- (8) In accordance with Article 20(4) of the IUU Regulation, the Commission is to cooperate administratively with third countries in areas pertaining to the implementation of that Regulation.

**2. PROCEDURE WITH RESPECT TO KINGDOM OF THAILAND**

- (9) The notification of the Kingdom of Thailand as flag State was received by the Commission in accordance with Article 20 of the IUU Regulation on 6 October 2009.

<sup>(1)</sup> OJ L 286, 29.10.2008, p. 1.

- (10) From 18 to 22 April 2011, the Commission, with the support of the European Fisheries Control Agency (EFCA), carried out a visit to Thailand in the context of administrative cooperation provided for in Article 20(4) of the IUU Regulation.
- (11) The visit sought to verify information concerning Thailand's arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by its fishing vessels, measures taken by Thailand in order to implement its obligations in the fight against IUU fishing and to fulfil its requirements and points pertaining to the implementation of the catch certification scheme of the Union.
- (12) The final report of the visit was sent to Thailand on 30 June 2011.
- (13) A technical meeting took place between Thailand and Commission services on 27 April 2012. Thailand provided an update on developments since April 2011 regarding the implementation the IUU regulation. Thailand presented a revised Fisheries Act accepted by Cabinet and ready for adoption by the Senate and Parliament, a Vessel Monitoring System program that had been launched with further rollout planned for 2013 and a final draft National Plan of Action on IUU that was ready for translation.
- (14) A subsequent visit of the Commission to Thailand to follow up the actions taken in the first visit was conducted from 9 to 12 October 2012.
- (15) The final report of the visit was delivered to Thailand on 9 November 2012.
- (16) Thailand submitted additional information 29 November 2012 and its comments to the visit report of November 2012 on 23 January 2013.
- (17) On 15 February the Commission responded to the comments in the report from Thailand dated 23 January 2013.
- (18) Thailand provided additional information in the form of an action plan to improve traceability systems for imported fishery products on 11 April 2013.
- (19) A subsequent visit of the Commission to Thailand to follow up the actions taken in the October 2012 mission was conducted from 8 to 9 October 2014.
- (20) The final report of the visit was sent to Thailand on 29 October 2014. The Commission established during the visit that little or no progress had been achieved on the critical weaknesses detected from 2011.
- (21) A meeting took place between Thailand and Commission services on 19 November 2014 in which additional comments were stated by Thailand. Thailand provided, subsequent to the meeting, a number of written representations. On 28 January 2015 Thailand submitted an unofficial version of the revised Fisheries Act which was published on 9 January 2015 (reference Fisheries Act B.E. 2558 (2015)).
- (22) Thailand is a member of the Indian Ocean Tuna Commission (IOTC). Thailand has ratified the 1982 United Nations Convention on the Law of the Sea (UNCLOS).
- (23) In order to evaluate the compliance of Thailand with its international obligations as flag, port, coastal or market State as set out in the international agreements referred to in recital 22 and established by the relevant Regional Fisheries Management Organisation (RFMO) mentioned in that recital, the Commission sought and analysed all the information it deemed necessary for the purpose of that exercise. The current main legal text for Thai fisheries management is the Fisheries Act of 1947. The revised publication of January 2015 is expected to come into force in 2015. This is complemented by a number of ministerial regulations and notifications covering technical aspects of fisheries management. Most of these texts are more than 10 years old and have not been updated. The authorities of Thailand have accepted the need for revision of the fisheries act and work for years to develop the new instrument.
- (24) The Commission also used information derived from available data published by IOTC as well as publicly available information.

### 3. POSSIBILITY OF THAILAND BEING IDENTIFIED AS A NON-COOPERATING THIRD COUNTRY

- (25) Pursuant to Article 31(3) of the IUU Regulation, the Commission analysed the duties of Thailand as flag, port, coastal or market State. For the purpose of that review the Commission took into account the criteria listed in Article 31(4) to (7) of the IUU Regulation.

### 3.1. Recurrence of IUU Vessels and IUU trade flows (Article 31(4) of the IUU Regulation)

- (26) The Commission established on the basis of information retrieved from its on-the-spot visits and of publically available information that at least 11 vessels have been involved in IUU activities during the 2010 to 2014 <sup>(2)</sup> <sup>(3)</sup> <sup>(4)</sup> period.
- (27) Based on the evidence retrieved, Thai flagged vessels are reported to have committed the following serious infringements contrary to the conservation and management measures of the fishing areas concerned, as they have: fished without a valid licence, authorisation or permit issued by the flag State or the coastal States concerned; fished without Vessel Monitoring System (VMS) equipment on-board in the high seas and in coastal States where VMS is a requirement for all foreign flagged vessels; presented erroneous information regarding fishing areas to obtain validation of catch certificates from the Thai authorities and importation of the products into the EU; falsified or concealed their markings, identity or registration; obstructed the work of coastal State officials in the exercise of their duties in inspecting for compliance with the applicable conservation and management measures. Furthermore, some of these vessels did not fulfil their obligations to record and report entry, exit and catch data to the coastal states authorities. The Thai Department of Fisheries (DOF) has investigated one of the cases as explained in this Decision (recital 79) but no evidence of other actions were provided to the Commission.
- (28) In October 2014, 5 Thai vessels were arrested for fishing illegally in Papua New Guinea' (PNG) Exclusive Economic Zone (EEZ). The absence of VMS on-board most Thai vessels (as described in recitals 37) combined with weak collaboration with neighbouring states (Section 3.2 of this Decision) suggests that the risk of IUU activity occurring in the Thai fleet is high. This is supported by the extensive distribution of Thai vessels involved in IUU activities in the Indian and Western Pacific oceans in 2011 to 2014 (as stated in recital 26). The location and spread of these incidences tie in with that of the distribution of the Thai distant water fleet prior to 2012.
- (29) Historically the Thai fleet contributed to 40 % of overall marine capture fisheries production. This has considerably declined in recent years due to overfishing of demersal and pelagic stocks in Thai waters <sup>(5)</sup>. In 2007, the Thai fleet was reported to be fishing in Indonesia, Cambodia, Malaysia, Bangladesh, Somalia, Madagascar and Myanmar with more than 460 known vessels. Today the distant water fleet is reduced to 10 longliners authorised to fish in the IOTC area and 52 trawlers licenced to fish in Papua New Guinea. The decline of fish stocks in Thai territorial waters combined with reduced fishing area through the loss of rights of access to third country waters suggests that high number of fishing vessels continue to operate illegally without regulation or reporting of catches both on the high seas and in coastal States waters.
- (30) The fleet has expanded by more than 15 000 vessels since 2011, now reaching *circa* 40 000 vessels of which 7 000 are classified as commercial vessels (each having a gross tonnage of more than 20 tonnes). Of the total, less than a fifth use logbooks, which suggests that the majority of catches go unreported. In this respect, Thailand has failed to uphold its responsibilities as coastal State to ensure optimum utilization of fishery resources in its EEZ according to scientific, environmental and economic factors as prescribed for in Articles 61 and 62 of UNCLOS. This also contravenes point 24 of the International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing (IPOA IUU <sup>(6)</sup>) that provides for the obligation to submit regularly logbook information on catches.
- (31) Recitals 28 to 30 demonstrate that Thailand's fisheries and industry are characterised by declining fish stocks, reduced fishing area (EEZ area closures and loss of access to third country coastal states waters) and an increasing fishing capacity (*circa* 4 000 commercial vessels in 2011 to 7 000 in 2014). The facts described in these recitals all support the preliminary conclusion that the Thai fleet operates illegally outside Thai territorial waters with catches are either unreported or mis-declared.

<sup>(2)</sup> Information (2010 infringements) retrieved from country report 'Accompanying developing countries in complying with the Implementation of Regulation (EC) No 1005/2008 on Illegal, Unreported and Unregulated (IUU) Fishing', EuropeAid/129609/C/SER/Multi.

<sup>(3)</sup> Information (2011 infringements) retrieved from IOTC data available on: <http://www.iotc.org/sites/default/files/documents/proceedings/2012/coc/IOTC-2012-CoC09-R%5BE%5D.pdf> and pages 5-6 of <http://iotc.org/sites/default/files/documents/proceedings/2012/coc/IOTC-2012-CoC09-08a%5BE%5D.pdf> as of 27.11.2014.

<sup>(4)</sup> Information (2014 infringements) retrieved from PNG Loop Online news <http://www.pngloop.com/2014/10/27/record-12-fishing-vessels-investigation-ffas-operation-kurukuru/> and <http://www.emtv.com.pg/article.aspx?slug=Illegal-Fishing-Vessels-Apprehended&asof20.11.2014>.

<sup>(5)</sup> Information retrieved from country report 'Accompanying developing countries in complying with the Implementation of Regulation (EC) No 1005/2008 on Illegal, Unreported and Unregulated (IUU) Fishing', EuropeAid/129609/C/SER/Multi.

<sup>(6)</sup> International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing, Food and Agriculture Organization of the United Nations, 2001.

- (32) With regard to information laid down in recitals 26, 27, 28 and 31, the Commission considers that Thailand has failed to uphold its responsibilities as flag State to prevent its fleet from engaging in IUU activities. In this respect it is recalled that, pursuant to Article 94(2)(b) of the UNCLOS, the flag State must assume jurisdiction under internal law over ships flying its flag, including the actions of master, officers and crew on-board. It is noted that the flag State has the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of living resources of the high seas.
- (33) Under Article 31(4)(b), the Commission also examined the measures taken by Thailand in respect of access of fisheries products stemming from IUU fishing to its market.
- (34) The Commission analysed documentation and other information relating to Thailand's monitoring and control of its marine capture fisheries and that of imported products. Following this assessment, the Commission considers that Thailand cannot ensure fishery products entering its ports and processing plants do not stem from IUU fishing. The Thai authorities were not able to demonstrate they have all the necessary information required to certify the legality of imports and processed products destined for the EU market. The main elements at the basis of the Commission's assessment are summarised hereinafter.
- (35) Registration and licensing of Thai vessels is done by the Marine Department (MD) and Department of Fisheries (DOF) respectively, the latter involved in both activities since 2010. The number of registered vessels almost doubled in 2011 following an exercise in which the authorities encouraged non-registered and non-licensed vessels to register.
- (36) The 2012 visit revealed that the two departments involved in registration do not cooperate and that difference in number of registered vessels varies by a few thousand. The absence of cooperation between MD and DOF weakens the ability of Thailand to monitor the size and capacity of the fleet and allows would be illegal operators to operate from Thailand without detection. The risk that Thai vessels operate without registration or licence and land undeclared catches for processing is still high.
- (37) Furthermore, the lack of VMS as a tool to monitor fishing activity location undermines the validation process of Thai catch certificates as the authorities cannot systematically and independently verify and cross check area of capture with those declared by operators. In this respect, Thailand fails to comply with requirements to ensure comprehensive and effective monitoring, control and surveillance of fishing under Article 94 of UNCLOS and Paragraph 24 of the IPOA-IUU.
- (38) Third country vessels are not authorised to fish in Thai waters. Thailand processes large quantities of third country fishery products from both notified and non-notified third countries.
- (39) Some third country fish originates from vessels flying the flag of countries that were notified by the Commission as potentially being identified as non-cooperating third country pursuant to Article 32 of Regulation (EC) No 1005/2008. These include: Korea, Papua New Guinea and Philippines.
- (40) Thailand also processes fish from third countries not notified to the Commission under Article 20 of the IUU Regulation including Vanuatu, the Federated States of Micronesia and Marshall Islands. This increases the risk that fish products destined to the EU market cannot be guaranteed as not being sourced from IUU fishing (as described in recitals 48 to 51).
- (41) The Thai authorities have developed a number of traceability schemes to monitor and control third country fishery products entering its ports for processing and onward export.
- (42) According to information provided from the authorities, 10 % of landings in Thai ports are verified. However the authorities have no legal basis to inspect, sanction or refuse access of third country vessels into Thai ports. All imports are issued with an import permit upon presentation of a set of documents (vessel registration, licence, etc.) and a catch certificate in case of products destined for the EU market. The 2012 and 2014 visits revealed that catch certificates often arrive weeks or even months after import into Thailand. The linkage between import permit and catch certificate number is very difficult if not impossible to establish, rendering traceability even more difficult.

- (43) Paragraphs 11(2) and 11(3) of the FAO Code of Conduct state that international trade in fish and fishery products should not compromise sustainable development of fisheries and should be based on transparent measures as well as on simple and comprehensive laws, regulations and administrative procedures. The IPOA-IUU further provides guidance on internationally agreed market-related measures (points 65 to 76) which support reduction or elimination of trade in fish and fish products derived from IUU fishing. The traceability systems observed by the Commission (as described in recitals (44) to (48)) clearly demonstrate how Thailand has failed to take measures to improve the transparency of their markets which would prevent the risk of IUU products being traded through Thailand.
- (44) In 2012 the Commission visited several operators, brokers and tuna processing plants to evaluate transparency and traceability in the Thai fishery market. A number of deficiencies were identified (as described in recitals (45) to (47)).
- (45) The Thai authorities have implemented a traceability system developed to ensure that all products destined to the EU market could be traced back to their origin and all products were accounted for. The Commission evaluated this traceability system both at the level of authorities and at the level of processing companies during its visit in October 2012. The Commission established that the traceability systems developed by the Thai public authorities are not incorporated into the accounting systems of companies and therefore do not ensure that data is exhaustive and reliable since there is no link between what is recorded in the authorities' systems with what is recorded in the companies' accounting and production systems. This situation undermines the reliability of the traceability chain at company level. Furthermore, the electronic databases supporting the authorities' systems are incomplete and crucial documents in the supply chain such as the Import Movement Document do not record critical data (e.g. name of supplying vessels and actual total quantity purchased by the processing company). This highlights the failures of the traceability system as a whole.
- (46) National documentation schemes developed by the authorities for the purpose of traceability are used incorrectly by operators, who were found to inaccurately record incoming quantities of fish. This exposes the system to potential abuse by allowing operators to over declare incoming quantities from erroneous catch certificates and to launder fish through these overestimations.
- (47) Companies complete a Raw Material Balance Stock sheet for the purpose of this scheme. They fill out the sheet referring to the full quantities declared on the catch certificate as opposed to those actually purchased. The sheet is completed by companies without linkage to internal accounting systems and done so after processing in order to obtain the Annex IV processing statement from the authorities. This demonstrates that data recording systems observed were inadequate in that they didn't account for production yield differences and conversion rates. Furthermore, the inability to link quantities of raw material with those of processed products using internal accounting systems exposes and opens the system to mis-declarations and laundering of IUU products. The relative low number of audits by Department of Fisheries and the lack of demonstrable action against these failing traceability systems shows an unwillingness to ensure transparency in the supply chain and a failure to take measures against operators connected directly or indirectly with IUU fishing activities in line with those outlined in point 72 to 74 of the IPOA-IUU.
- (48) The 2012 visit also revealed that 40 000 tonnes of imported tuna had not been controlled by the Customs authorities. Collaboration between DOF and Customs to ensure accuracy of imports for raw materials is weak.
- (49) In preparation for the 2014 visit, the European Fisheries Control Agency (EFCA) analysed a few hundred catch certificates presented at EU borders for consignments originating from Thailand. These catch certificates were validated from the Thai fishing authorities on the basis of information provided from the Thai operators. The impact of problems with data recording systems as outlined above can be seen in the irregularities listed below (as described in recitals 50 and 51).
- (50) The analysis of domestically caught product revealed the following inconsistencies: different quantities of same raw material presenting equal weights of final processed products; two catch certificates issued for the same trip; dried products increasing in weight as opposed to expected decrease observed after dehydration process; yield production varied from exporter to exporter with final products found to be up to twice the amount of raw material; exportation date 3 to 4 years after catch and production dates; catch area not indicated; International, regional and national conservation and management measures not indicated.

- (51) The analysis of third country catch certificates processed in Thailand revealed the following irregularities: catch certificate linked with known IUU activity; incorrect or inconsistent data on catch certificates such as: incorrect IMO number, inconsistencies between caught, landed and processed weights, vessel not listed in RFMO approved registers, carrier vessel not on the list of RFMO established carrier vessels, landing dates prior to transshipment dates, quantities and dates amended on catch certificates. This processing of products issued from catches directly linked to IUU activities as well as catches stemming from catch certificates with clearly identifiable errors demonstrates that Thailand has failed to cooperate with other States and regional fisheries management organizations to adopt appropriate market related measures to prevent, deter or eliminate IUU fishing as is specified in point 68 and 72 of the NPOA-IUU.
- (52) The information described in recital (50) and (51) demonstrate that products processed through Thailand undermine sustainable post-harvest rules as described in Article 11 of the FAO Code of Conduct and further highlight how Thailand has failed to impose rules to ensure adequate cooperation with Third country catching states and to implement measures that ensure transparency and traceability of products through the market in accordance with points 67 to 69 and 71 to 72 of the NPOA-IUU in order to allow the traceability of fish or fish products.
- (53) In view of the situation explained in this Section of the Decision and on the basis of all factual elements gathered by the Commission as well as the statements made by the country, it could be established that, pursuant to Article 31(3) and 31(4)(b) of the IUU Regulation, that Thailand has failed to discharge the duties incumbent upon it under international law as a coastal and market State to prevent access of fisheries products stemming from IUU fishing to its market.

### 3.2. Failure to cooperate and to enforce (Article 31(5) of the IUU Regulation)

- (54) Under Article 31(5)(a) the Commission analysed its collaboration with Thailand to see if they had effectively cooperated in responding to questions, providing feedback or investigating matters related to IUU fishing and associated activities.
- (55) Collaboration was assessed against progress achieved by Thailand year on year.
- (56) Following the 2011 visit, the Commission invited Thailand to cooperate on a number of fisheries management issues that needed urgent attention. These are listed hereinafter. The legal and administrative framework for fisheries management needed updating with the adoption of a revised Fisheries Bill and National Plan of Action on IUU to ensure transposition of international and regional fisheries management legislation into national law. The Commission invited Thailand to develop a coherent and deterrent sanctioning scheme supported by a register of infractions and sanctions. The Commission suggested an improvement of the monitoring, control and surveillance framework to ensure control of the Thai fleet and third country vessels' access to Thai ports. Development of the Vessel Monitoring System as well as that of an inspection plan. The effectiveness and transparency of the catch certification and traceability scheme for exports destined to the EU market should have been improved.
- (57) The 2012 visit to Thailand revealed little or no progress in the areas of concern highlighted by the Commission in 2011 (as described in the recital above). The fisheries bill and NPOA-IUU were still in draft with vague timelines for adoption. No developments in the Monitoring Control and Surveillance (MCS) framework were observed and except for an additional cross linkage between import documents and third country catch certificates no significant achievements were noted in the implementation of their traceability system. The Commission report of November 2012 details the various issues mentioned in this recital, these are the same as those found in the recent visit of November 2014.
- (58) The Commission re-iterated the need for cooperation and corrective actions in its report of 9 November 2012. Thailand commented on the report on 23 January 2013. The Commission responded to these comments on 15 February 2013 emphasising that Thai actions refer to future initiatives without providing detailed objectives or timelines for completion. No concrete actions or solutions were provided to problems highlighted in the 2011 and 2012 visits and questions as to the adoption of the Fisheries Bill and improvements of the traceability system remained unanswered.
- (59) Thailand responded with an *Action Plan of the Improvement of Traceability System for Imported Fishery Product* on 11 April 2013. This was complemented with a technical meeting on 27 April 2013 during which Thailand committed on timelines for adoption of the new legal framework (set for 2013) with detailed objectives of ongoing fisheries and traceability projects.

- (60) The next communication was initiated by the Commission on 30 June 2014 to request a follow up to the 2012 visit. The subsequent October 2014 visit revealed no progress had been achieved since 2012. The critical adoption of the fisheries bill that would enable implementation and enforcement of key fisheries management and traceability tools was still in draft with adoption scheduled for some time in 2015. VMS coverage was reduced to fewer boats than in 2012 and analysis of catch certificates processed in Thailand highlighted risks that IUU products were reaching the EU market. For these reasons, the Commission considers that Thailand failed to address all the issues identified in 2012 and failed to exercise its jurisdiction over the administrative, technical and social matters of its fleet in line with Article 94 of UNCLOS. Furthermore, it has failed to implement provisions of paragraph 24 of the IPOA IUU in respect of monitoring, control and surveillance over its fleet, particularly in respect of VMS implementation and logbook requirements (as described in recitals (36) to (38) and (69) to (74)).
- (61) Overall the Thai authorities were cooperative and generally quick to respond to requests for information or verifications from both Member States and the Commission under Article 17(6) of Regulation (EC) No 1005/2008. However the accuracy of their responses was undermined by the inadequacies of their traceability systems as outlined in Section 3(1) of this Decision. These weaknesses are exacerbated by the lack of cooperation between the Thai authorities and third country flag States from which it imports raw materials.
- (62) Under Article 63 and 64 of UNCLOS coastal and flag States should cooperate with regards to the management of straddling and highly migratory fish species. Points 28 and 51 of IPOA IUU outline practices and areas of work in which States should seek to cooperate. These include development of common policies, mechanisms for data sharing and joint working on monitoring, control and surveillance.
- (63) Thailand is the world's largest tuna importer, importing between 800 000 to 850 000 metric tonnes of tuna per year (2008 data) to supply over 50 processing plants all specialising in tuna processing. 90 % of these imports originate from the Western and Central Pacific Ocean and the remainder from the West Indian Ocean<sup>(7)</sup>. These figures highlight the important role that Thailand plays in the supply chain of processed fishery product to Europe and therefore the importance of cooperating with third country from which it imports raw fishery products.
- (64) Since 2010 Thailand has carried out only 26 verifications out of thousands of imports from third country flag States and only 14 of these verifications have been replied to by the third country flag States. Considering the issues highlighted in recitals 51 and 52 regarding problems with third country catch certificates, the Commission considers that Thailand has failed to cooperate with other States to facilitate communication by firstly not publicising formal contact points for inter-State communication and secondly by not entering into agreements or arrangements with States from which it imports fishery products for processing.
- (65) In 2011 Thailand had bilateral fishing arrangements in place with Myanmar, Yemen, Oman, Iran Papua New Guinea and Bangladesh. Of these, only one bilateral arrangement remains in force today with individual fishing associations in Papua New Guinea.
- (66) In October 2014, 5 Thai vessels were arrested for fishing illegally in the PNG EEZ. This point was raised by the Commission in the meeting with Thailand on 19 November 2014 but the DOF stated it knew nothing of the event. This highlights the poor cooperation between Thailand and other third countries, even those with which it holds bilateral agreements.
- (67) In accordance with Article 31(5)(b), the Commission analysed existing enforcement measures to prevent, deter and eliminate IUU fishing in Thailand.
- (68) The rules governing registration of vessels and licencing are unclear and failure to comply with the obligation to register provided for in Thai law has not been adequately sanctioned by the Thai authorities<sup>(8)</sup>. This situation is aggravated by the lack of cooperation between administrations to compare data on registration and leaves the system open to fraud (recitals 35 and 36). Article 94 of UNCLOS and points 42 and 43 of NPOA-IUU clearly specify the obligations that flag States hold in respect of their record of fishing vessels. In this respect the Commission considers that Thailand has failed to ensure vessels flying its flag are recorded and licenced and failed to take effective enforcement measures to remedy the situation.

<sup>(7)</sup> Information retrieved from country report under Accompanying developing countries in complying with the Implementation of Regulation (EC) No 1005/2008 on illegal, Unreported and Unregulated (IUU) Fishing, EuropeAid/129609/C/SER/Multi.

<sup>(8)</sup> See footnote 7.

- (69) During the November 2014 meeting, the Commission highlighted the low levels of penalties provided for in the revised draft Fisheries Bill. The current level of fines is not sufficient to deprive large commercial vessels of the benefits accrued from potential illegal activities. Penalties in their current form are not comprehensive and severe enough to achieve a deterrent function. Furthermore, the DOF does not hold a register of infringements or sanctions and consequently cannot readily link infringements to detect repeated offences. This is aggravated by the lack of clarity and transparency of laws and procedures, in particular in relation to vessel registration and licensing and traceability and reliability of information on data relating to landings and catch. Thailand fails to uphold its obligations to impose effective enforcement measures under Article 94 of UNCLOS and has failed to demonstrate it has in place an adequate sanction regime to combat IUU as outlined in point 21 of the IPOA IUU.
- (70) Vessel Monitoring System (VMS) requirements are not specified in Thai legislation and vessels are not legally obliged to operate a VMS system in Thai territorial waters.
- (71) In 2011, the Department of Fisheries presented the launch of a VMS pilot project involving more than 300 vessels. The system was operated by private providers and reporting frequency did not meet international standards on VMS reporting such as those established by RFMOs. Furthermore, irregularities in reporting frequency and in VMS reporting were not adequately followed up on by DOF.
- (72) In 2012 the VMS pilot project covered 110 vessels, these vessels operated in coastal states or high seas area where VMS is required by law. The project was to be extended to the entire commercial fleet by 2014-15. By October 2014 however, VMS coverage had reduced to 50 vessels and no legal framework was yet in place to lay down VMS requirements for the Thai fleet.
- (73) The absence of VMS coverage in the majority of the fleet demonstrates the inability to monitor fishing operations at sea and undermines the ability of DOF to effectively enforce rules applicable to the different sea areas concerned. This, combined with the lack of cooperation with third countries has resulted in Thai vessels fishing without VMS in PNG waters where PNG law requires VMS on-board for all third country vessels. Thailand has outlined a draft programme for installation of VMS transponders to its fleet (all vessels above 30 Gross Tonnage). Thailand's failure to implement an effective VMS system affects its compliance with Article 94 UNCLOS and the recommendations of point 24 of the IPOA-IUU. The Commission therefore believes that Thailand does not ensure comprehensive and effective monitoring, control and surveillance of fishing vessels flying its flag.
- (74) The relative few verifications carried out by the competent authorities on third country imports into Thailand (recital 64) demonstrates that Thailand has not proactively collaborated with third countries to ensure the legality of processed products. This weakens transparency of the traceability chain and DOF's ability to detect infringements and take appropriate enforcement action.
- (75) The Commission notes that, on the basis of information derived from the Commission missions in 2011 and 2012, it cannot be considered that the Thai authorities are lacking financial resources but rather the necessary legal and administrative environment to ensure efficient and effective performance of their duties as flag, coastal and market state.
- (76) Thailand is considered as an advanced developing country<sup>(9)</sup> receiving aid through joint partnerships with a variety of international organisations (e.g. FAO) and the EU. Thailand has a high human development index and was ranked 89 out of 187 countries in 2014<sup>(10)</sup> according to the United Nations Human Development Index. Considering these elements and information derived from the 2011 to 2014 visits, the Commission considers that Thailand does not lack financial resources to fulfil its duties as flag, coastal, port and market states but rather the necessary legal and administrative instruments to ensure efficient and effective performance of its duties.
- (77) In view of the situation explained in this Section and on the basis of all the factual elements gathered by the Commission as well as all the statements made by the Kingdom of Thailand, it could be established, pursuant to Article 31(3) and (5) of the IUU Regulation, that Thailand failed to discharge its duties under international law with respect to cooperation and enforcement efforts.

<sup>(9)</sup> Information retrieved from <http://www.fao.org/fi/oldsite/FCP/en/THA/profile.htm>

<sup>(10)</sup> Information retrieved from [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/THA.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/THA.pdf)



### 3.3. Failure to implement international rules (Article 31(6) of the IUU Regulation)

- (78) Thailand has ratified UNCLOS in 2011 and is Contracting Party to the IOTC.
- (79) Under Article 31(6)(b) the Commission analysed all information regarding the status of Thailand as contracting party to the IOTC. The main issues were the arrest of a Thai flagged fishing vessel fishing without authorisation or licence in the Mauritian EEZ <sup>(11)</sup> in 2011 and the possible infractions of tuna longliners during transshipments at sea in 2013 <sup>(12)</sup>. Thailand investigated and provided a satisfactory response <sup>(13)</sup> to the 2013 case but did not respond to the 2011 case and no report was provided regarding an investigation of the matter <sup>(14)</sup>. This is not entirely consistent with the requirements for flag States to investigate matters relating to infringements of its vessel under Article 94 of UNCLOS and with the duty to cooperate with States on issues relating to conservation and management of living resources in accordance with Article 118 of UNCLOS. Other minor issues regarding late submission of observer and catch data were reported but all were responded to within the appropriate deadlines <sup>(15)</sup>.
- (80) The revised Fisheries Act 2015 was first drafted back in 1999 with minor additions inserted in December 2014 that provide for additional measures relating to fisheries control, aquaculture, food hygiene and a penalty system. The current draft provided however does not sufficiently address the complexities of fisheries activities and trade of products through Thailand as exist today. Firstly, definitions appear insufficient as they do not include definitions of activities that are considered IUU or make up a serious infringement. Secondly, the scope is too narrow in that it mainly provides for management of fishing activities in territorial waters and 3 areas outside the Thai EEZ for which it currently has no arrangements or authorisations to fish in. To be effective, the scope should apply to all vessels operating in its waters and Thai vessels operating outside the EEZ. Thirdly, drafting preceded Thailand's ratification of UNCLOS in 2011 and the proposed text does not transpose key international conservation and management principles such as those under article from 61 to 64 of UNCLOS. Furthermore, the text was drafted prior to the development of a number of key international fisheries management instruments such as the IPOA-IUU in 2001 and thus does not incorporate the principles and definition of this widely accepted, although non-binding text. Finally, a deterrent sanctioning scheme is not included which undermines Thailand's capacity to fulfil the requirements of Article 73 of UNCLOS regarding enforcement of laws and regulations, and point 21 of the IPOA IUU.
- (81) Article 62(1) of the UNCLOS states that coastal States must adopt measures compatible to those applying in the region and in the high seas to ensure the long term sustainability of straddling and highly migratory fish stocks and to promote the optimum utilisation of fisheries resources. The Thai legal framework only provides for limited conservation and management measures in territorial waters.
- (82) With the exception of UNCLOS 1982, Thailand has not ratified other international legal instruments related to fisheries management. Considering the importance of Thailand's as a market State particularly for migratory tuna and tuna like species, these findings undermine efforts to fulfil its obligations of cooperation under UNCLOS (Articles 62 and 63 and 116 and 117).
- (83) The deficiencies in respect of VMS implementation are not in line with paragraph 24(3) of the IPOA IUU which stipulates that States should undertake comprehensive and effective monitoring, control and surveillance of fishing from its commencement, through the point of landing, to final destination, including by implementing a VMS, in accordance with the relevant national, regional or international standards. Ratification and transposition of conservation and management measures from international instruments above would prevent the Thai fleet from being identified as potentially engaging in IUU activities.
- (84) The Food and Agriculture Organization (FAO) Code of Conduct for Responsible Fisheries (FAO Code of Conduct) also not adopted by Thailand recommends transparency in fisheries laws and their preparation as well as for respective policy- and decision- making and management processes (paragraphs 6(13) and 7(1)(9) respectively). It provides principles and standards applicable to the conservation, management and development of all fisheries

<sup>(11)</sup> Information retrieved from <http://www.iotc.org/sites/default/files/documents/proceedings/2012/coc/IOTC-2012-CoC09-R%5BE%5D.pdf>

<sup>(12)</sup> Information retrieved from <http://www.iotc.org/documents/report-eleventh-session-compliance-committee-0>

<sup>(13)</sup> Information retrieved from <http://www.iotc.org/documents/response-possible-infractions-thailand-under-rop>

<sup>(14)</sup> Information retrieved from <http://www.iotc.org/documents/report-eighth-session-iotc-working-party-ecosystems-and-bycatch>

<sup>(15)</sup> See footnote 12.

and covers, amongst others, capture, processing and trade of fish and fishery products, fishing operations and fisheries research. The lack of acknowledgement as to the importance of these principles expressed by DOF in the November 2014 meeting strengthens the conclusions preliminarily reached by the Commission about Thailand's failure to ensure clear, comprehensive and transparent rules and procedures (as described in recitals 80). Furthermore the traceability failures as described in Section 3.1 of this Decision go against the principle of Article 11(1)(11) of the FAO Code of Conduct which requests States to ensure that fish and fishery products are traded internationally and domestically in accordance with sound conservation and management practices through improving the identification of the origin of fish and fishery products. Considering the importance of Thailand as one of the biggest fish processing nations, the application of such principles would seem of vital importance to ensuring sustainable conservation of living resources both in coastal and high seas area as provided for in Article 61, 117 and 119 of UNCLOS.

- (85) The performance of Thailand in implementing international instruments is not in accordance with the recommendations of point 10 of the IPOA IUU which advises States, as a matter of priority, to ratify, accept or accede to the UNFSA. The Commission considers that, for Thailand which has a significant fleet of fishing vessels engaged in fishing operations concerning highly migratory species (mainly tuna in the IOTC and possibly in the WCPFC area), this recommendation is of particular relevance.
- (86) In view of the situation explained in this Section of the Decision and on the basis of all the factual elements gathered by the Commission as well as all the statements made by the country, it could be established, pursuant to Article 31(3) and (6) of the IUU Regulation, that Thailand has failed to discharge the duties incumbent upon it under international law with respect to international rules, regulations and conservation and management measures.

#### 3.4. Specific constraints of developing countries

- (87) It is recalled that according to the United Nations Human Development Index (UNHDI), Thailand is considered to be a high human development country (ranked 89 out of 187 countries). It is also recalled that, according to Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006, establishing a financing instrument for development cooperation<sup>(16)</sup>, Thailand is listed in the category of Upper Middle Income Countries and Territories<sup>(17)</sup>.
- (88) It should be noted that the notification of Thailand as flag State was accepted by the Commission in accordance with Article 20 of the IUU Regulation as of 6 October 2009. Thailand confirmed, as required by Article 20(1) of the IUU Regulation, that it has national arrangements in place for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by its fishing vessels.
- (89) It is also pertinent to note that the Union has already funded a specific technical assistance action in Thailand with respect to the fight against IUU fishing in 2011<sup>(18)</sup>.
- (90) Account taken of the above UNHDI ranking and observations during the 2011 to 2014 visits, no evidence suggests that the failure of Thailand to discharge its duties under international law is the result of low levels of development. No tangible evidence exists to correlate shortcomings in fisheries monitoring, control and surveillance with poor capacity and infrastructure. Thailand has never argued that development constraints affect their ability to deliver strong MCS and only recently (November 2014) requested support from the EU to improve traceability and catch certification schemes. The Commission has responded positively on this general request.
- (91) In view of the situation explained in this Section and on the basis of all the factual elements gathered by the Commission as well as all the statements made by the country, it could be established, pursuant to Article 31(7) of the IUU Regulation, that the development status and overall performance of Thailand with respect to fisheries management are not impaired by its level of development.

<sup>(16)</sup> OJ L 378, 27.12.2006, p. 41.

<sup>(17)</sup> DAC list of ODA recipients:

<http://www.oecd.org/dac/stats/documentupload/DAC%20List%20of%20ODA%20Recipients%202014%20final.pdf>

<sup>(18)</sup> See footnote 7.

**4. CONCLUSION ON THE POSSIBILITY OF IDENTIFICATION AS A NON-COOPERATING THIRD COUNTRY**

- (92) In view of the conclusions reached with regard to the failure of Thailand to discharge its duties under international law as flag, port, coastal or market State and to take action to prevent, deter and eliminate IUU fishing, that country should be notified, in accordance with Article 32 of the IUU Regulation, of the possibility of being identified by the Commission as a non-cooperating third country in fighting IUU fishing.
- (93) In accordance with Article 32(1) of the IUU Regulation, the Commission should notify Thailand of the possibility of being identified as a non-cooperating third country. The Commission should also take all the *démarches* set out in Article 32 of the IUU Regulation with respect to Thailand. In the interest of sound administration, a period should be fixed within which that country may respond in writing to the notification and rectify the situation.
- (94) Furthermore, the notification to Thailand of the possibility of being identified as a country which the Commission considers to be non-cooperating for the purposes of this Decision does neither preclude nor automatically entail any subsequent step taken by the Commission or the Council for the purpose of the identification and the establishment of a list of non-cooperating countries,

HAS DECIDED AS FOLLOWS:

*Sole Article*

Thailand shall be notified of the possibility of being identified by the Commission as a non-cooperating third country in fighting illegal, unreported and unregulated fishing.

Done at Brussels, 21 April 2015.

*For the Commission*

Karmenu VELLA

*Member of the Commission*

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**Opinion of the Advisory Committee on restrictive practices and dominant positions given at its meeting of 2 December 2013 regarding a draft decision relating to Case AT.39685(1) Fentanyl**

**Rapporteur: Latvia**

(2015/C 142/07)

1. The Advisory Committee agrees with the European Commission that the 'co-promotion agreement' and its addendum (the 'agreement') concluded by the parties had the object of restricting competition within the meaning of Article 101 TFEU.
  2. The Advisory Committee agrees with the European Commission's draft decision as regards the conclusion that the agreement between the parties was capable of having an appreciable effect upon trade between Member States.
  3. The Advisory Committee agrees with the European Commission that the conditions of Article 101 paragraph 3 TFEU are not met.
  4. The Advisory Committee agrees with the European Commission's draft decision as regards all addressees of the draft decision, specifically regarding parental liability.
  5. The Advisory Committee agrees with the Commission's assessment as regards the duration of the infringement.
  6. 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 practices and dominant positions given at its meeting of 6 December 2013 regarding a draft decision relating to Case AT.39685(2) Fentanyl**

**Rapporteur: Latvia/UK**

(2015/C 142/08)

1. The Advisory Committee agrees with the Commission that fines should be imposed on the addressees of the draft decision.
  2. The Advisory Committee agrees with the Commission on the basic amount of the fine for Johnson & Johnson/Janssen-Cilag B.V.
  3. The Advisory Committee agrees with the Commission on the increase for Johnson & Johnson/Janssen-Cilag B.V. to ensure a sufficient deterrent effect.
  4. The Advisory Committee agrees with the Commission on the final amount of the fine for Johnson & Johnson/Janssen-Cilag B.V.
  5. The Advisory Committee agrees with the Commission's approach to base the calculation of fine for Novartis AG/Sandoz B.V. on the value transferred.
  6. The Advisory Committee agrees with the Commission on the increase for Novartis AG/Sandoz B.V. to ensure a sufficient deterrent effect.
  7. The Advisory Committee agrees with the Commission on the final amount of the fine for Novartis AG/Sandoz B.V.
  8. 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>****Fentanyl****(AT.39685)**

(2015/C 142/09)

- (1) This case concerns a so-called 'co-promotion' agreement between the Dutch originator pharmaceutical company Janssen-Cilag BV, a subsidiary of Johnson & Johnson (hereinafter 'J&J') and the Dutch generic pharmaceutical companies Hexal BV and Sandoz BV, both of them subsidiaries of Novartis AG at the time of the alleged infringement (hereinafter 'Novartis/Sandoz'). Pursuant to the agreement, the generic challenger would abstain from entering the Dutch market for the painkiller fentanyl.
- (2) On 30 January 2013, the European Commission adopted a Statement of Objections ('SO'). The parties received access to the file on 15 February 2013 and replied to the SO on 22 and 30 April 2013 respectively, after the Directorate-General for Competition granted a one- and two-week extension to the original deadline. The parties did not request an oral hearing.
- (3) In view of new arguments and facts received when the parties submitted their replies to the SO, the Commission issued a Letter of Facts on 17 October 2013, to which J&J replied on 30 October 2013 and Novartis/Sandoz, after the Directorate-General for Competition granted a short deadline extension, on 6 November 2013.
- (4) The draft decision concludes that the agreement between J&J and Novartis/Sandoz constitutes a violation of Article 101 TFEU.
- (5) Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the parties have been afforded the opportunity of making known their views, and I have come to a positive conclusion.
- (6) In view of the above, and taking into account that the parties have not addressed any requests or complaints to me, I consider that the effective exercise of the procedural rights of all participants to the proceedings in this case has been respected.

Brussels, 6 December 2013.

Wouter WILS

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<sup>(1)</sup> Pursuant to Article 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29) ('Decision 2011/695/EU').

**Summary of Commission Decision****of 10 December 2013****relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union****(Case AT.39685 — Fentanyl)***(notified under document C(2013) 8870)***(Only the English text is authentic)**

(2015/C 142/10)

**1. INTRODUCTION**

- (1) On 10 December 2013, 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) The decision concerns a so-called 'co-promotion' agreement (hereafter 'the agreement') entered into by Dutch subsidiaries of pharmaceutical undertakings Johnson & Johnson and Novartis AG. The agreement provided for monthly payments from Johnson & Johnson for as long as the (at least) potential competitor Novartis abstained from entering the market in the Netherlands with its generic version of Johnson & Johnson's product fentanyl, a strong painkiller.

**2. ADDRESSEES**

- (3) The decision is addressed to Johnson & Johnson, its Dutch subsidiary Janssen-Cilag BV (hereafter 'Janssen-Cilag'), Novartis AG (hereafter 'Novartis'), and its Dutch subsidiary Sandoz BV (hereafter 'Sandoz').

**3. PROCEDURE**

- (4) Proceedings were opened on 18 October 2011.
- (5) On 30 January 2013 the Statement of Objection was adopted and notified to the parties.
- (6) The parties submitted their replies to the Statement of Objections in April 2013 and no oral hearing was requested.
- (7) The Advisory Committee on Restrictive Practices and Dominant Positions issued favourable opinions on 2 and 6 December 2013.
- (8) The Commission adopted the decision on 10 December 2013.

**4. INFRINGEMENT OF ARTICLE 101 TFEU**

- (9) Johnson & Johnson developed fentanyl and has commercialised it in different forms since the 1960s. In 2005, Johnson & Johnson's product, a fentanyl depot patch, was not any longer protected in the Netherlands and Novartis' Dutch subsidiary, Sandoz, was on the verge of launching its generic version of the fentanyl depot patch. It had, for example, already produced the necessary packaging material.
- (10) However, in July 2005, instead of actually starting to sell the generic version, Sandoz concluded a so-called 'co-promotion' agreement with Janssen-Cilag, Johnson & Johnson's Dutch subsidiary. The agreed monthly payments from Janssen-Cilag exceeded the profits that Sandoz expected to obtain from selling its generic product, for as long as there was no generic entry in the Netherlands. According to internal documents, Sandoz would abstain from entering the market in exchange for 'a part of [the] cake'. Instead of competing, Johnson & Johnson and Novartis agreed on cooperation so as 'not to have a depot generic on the market and in that way to keep the high current price'.
- (11) Consequently, Sandoz did not launch its product in the Netherlands for as long as the agreement was in force. The agreement was terminated in December 2006 when a third party was about to launch a generic fentanyl patch.

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

- (12) The Commission concluded the following. Based on the analysis of the economic and legal context, Sandoz was, at the time it concluded the agreement with Janssen-Cilag, a close and (at least) potential competitor of Janssen-Cilag. The agreement included a non-entry mechanism whereby Janssen-Cilag's monthly payments would have ceased if Sandoz or any third party entered the market. Accordingly, Sandoz did stay out of the Dutch market with its own fentanyl depot patch for the entire duration of the agreement (from 11 July 2005 to 15 December 2006). As a consequence of the agreement, Janssen-Cilag's close (at least) potential generic competitor was excluded from the market at a time when the threat of its market entry was imminent.
- (13) Moreover, for the period concerned, Janssen-Cilag paid in total approximately EUR 5 million to Sandoz in monthly instalments. The amount paid to Sandoz considerably exceeded what Sandoz itself expected, at the time it concluded the agreement, to earn if it had launched its own fentanyl depot patch in the Netherlands. Those monthly payments were provided for undefined co-promotion services. During the period covered by the initial co-promotion agreement (from 11 July 2005 to 11 July 2006), Sandoz carried out only limited promotion activities, and for the period covered by the addendum (from 11 July 2006 to 15 December 2006), there is no evidence that any promotion activities were carried out by Sandoz whatsoever.
- (14) The above objective elements of the analysis were confirmed by the intentions of the parties. Both parties designed the co-promotion agreement in a way that ensured that Sandoz's generic product was kept out of the market and Janssen-Cilag could maximise its profits for sales of the originator product as long as the agreement was in force. Janssen-Cilag shared those supra-competitive profits with Sandoz.
- (15) The Commission therefore concluded that the agreement constituted a restriction of Article 101 TFEU by object.

#### 5. DURATION OF THE INFRINGEMENT

- (16) The infringement lasted at least from the date of entry into force of the initial co-promotion agreement on 11 July 2005 until the termination of the co-promotion agreement (including the addendum) on 15 December 2006.

#### 6. FINES

- (17) The following fines were imposed for the infringement in this case:

- Johnson & Johnson and Janssen-Cilag BV, jointly and severally: EUR 10 798 000;
  - Novartis AG and Sandoz BV, jointly and severally: EUR 5 493 000.
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## COURT OF AUDITORS

### **Special Report No 4/2015 ‘Technical assistance: what contribution has it made to agriculture and rural development?’**

(2015/C 142/11)

The European Court of Auditors hereby informs you that Special Report No 4/2015 ‘Technical assistance: what contribution has it made to agriculture and rural development?’ has just been published.

The report can be accessed for consultation or downloading on the European Court of Auditors’ website:  
<http://eca.europa.eu>

A hard copy version of the report may be obtained free of charge on request to the Court of Auditors:

European Court of Auditors  
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12, rue Alcide De Gasperi  
1615 Luxembourg  
LUXEMBOURG

Tel. +352 4398-1  
E-mail: [eca-info@eca.europa.eu](mailto:eca-info@eca.europa.eu)

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### **Special Report No 5/2015 ‘Are financial instruments a successful and promising tool in the rural development area?’**

(2015/C 142/12)

The European Court of Auditors hereby informs you that Special Report No 5/2015 ‘Are financial instruments a successful and promising tool in the rural development area?’ has just been published.

The report can be accessed for consultation or downloading on the European Court of Auditors’ website:  
<http://eca.europa.eu>

A hard copy version of the report may be obtained free of charge on request to the Court of Auditors:

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## V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION  
POLICY

EUROPEAN COMMISSION

**Prior notification of a concentration**

**(Case M.7624 — KKR/Comcast/Pentech/Piton/Scottish Enterprise/Shamrock/FanDuel/JV)**

**Candidate case for simplified procedure**

**(Text with EEA relevance)**

(2015/C 142/13)

1. On 22 April 2015, 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 KKR & Co. L. P. ('KKR', United States), Comcast Ventures LP and NBC Sports Venture, LLC, belonging to the Comcast group ('Comcast', United States), Pentech Fund II L. P. ('Pentech', United Kingdom), Piton Capital Venture Fund L. P. ('Piton', United Kingdom), Scottish Enterprise (United Kingdom) and Shamrock Capital Growth Fund III, L. P. ('Shamrock', United States) acquire within the meaning of Article 3(1)(b) and Article 3(4) of the Merger Regulation joint control of FanDuel Limited ('FanDuel', United Kingdom) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for KKR: global alternative asset manager and provider of capital market solutions,
- for Comcast: global media and technology services,
- for Pentech: venture capital firm,
- for Piton: venture capital and growth equity firm,
- for Scottish Enterprise: Scotland's economic development agency,
- for Shamrock: investment firm,
- for FanDuel: online fantasy sports services to North America.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the 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 Council Regulation (EC) No 139/2004<sup>(2)</sup> it should be noted that this case is a candidate for treatment under the procedure set out in this 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 e-mail to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference M.7624 — KKR/Comcast/Pentech/Piton/Scottish Enterprise/Shamrock/FanDuel/JV, to the following address:

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

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

<sup>(2)</sup> OJ C 366, 14.12.2013, p. 5.

## OTHER ACTS

## EUROPEAN COMMISSION

**Publication of an application pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs**

(2015/C 142/14)

This publication confers the right to oppose the application pursuant to Article 51 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council <sup>(1)</sup>.

## SINGLE DOCUMENT

**‘SAUCISSON DE LACAUNE’/‘SAUCISSE DE LACAUNE’****EU No: FR-PGI-0005-01201-27.3.2014****PGI (X) PDO ( )****1. Name**

‘Saucisson de Lacaune’/‘Saucisse de Lacaune’

**2. Member State or Third Country**

France

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

Class 1.2 Meat products (cooked, salted, smoked, etc.)

**3.2. Description of the product to which the name in (1) applies**

‘Saucisson de Lacaune’ is a dried salami, more or less cylindrical in shape, packed in natural gut casing. Its weight ranges from 200 g to over 2 kg. It may be presented plain, in netting or trussed.

‘Saucisse de Lacaune’ is a dried sausage, evenly cylindrical in shape, packed in natural gut casing. It may be presented in various forms:

— curved sausage: curved into a u-shape, weighing between 200 g and 500 g,

— straight sausage, not curved, weighing between 200 g and 500 g,

— ‘stick’ sausage, wrapped around a stick for drying, it is presented in a series of loops of no specific number or weight.

‘Saucisson de Lacaune’/‘Saucisse de Lacaune’ is supple to firm and cohesive in texture. When the sausage is sliced, pieces of lean meat and fat are visible, characteristic of coarse mincing (minimum 8 mm), without tendons or cartilage. The crumbs of fat are clearly intact, firm and white in colour. The lean meat is red to dark red in colour. There is little greasiness in the appearance of ‘Saucisson de Lacaune’/‘Saucisse de Lacaune’.

‘Saucisson de Lacaune’/‘Saucisse de Lacaune’ has an aroma and taste typical of dried and matured meats, with a fairly distinct peppery note. The aromatic intensity is mild. The smell and taste of fat is unobtrusive.

<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

'Saucisson de Lacaune' and 'Saucisse de Lacaune' are made with 80 % and 70 % lean meat respectively. The proportion of the lean meat that is matured is at least 30 %.

Seasoning is a blend of salt, pepper and nutmeg. The addition of saltpetre, lactic fermenting agents, sugar and a surface coating of flour is permitted.

The physico-chemical properties of 'Saucisson de Lacaune'/'Saucisse de Lacaune' are as follows:

- moisture content with fat removed:  $\leq 52\%$  or  $\leq 56\%$  for salamis with a diameter greater than 70 mm,
- fat content (for a moisture content of 77 % with fat removed):  $\leq 20\%$ ,
- collagen/protein ratio:  $\leq 13\%$ ,
- total soluble sugar content (for a moisture content of 77 % with fat removed):  $\leq 2\%$ ,
- pH:  $\geq 5,2$  for products weighing under 1 kg and  $\geq 5,0$  for products weighing over 1 kg.

'Saucisson de Lacaune'/'Saucisse de Lacaune' is sold

- in one piece, labelled: loose or packaged in bags with large perforations; bagged in a protective atmosphere; or vacuum packed,
- sliced: vacuum packed or packed in a protective atmosphere, except when sliced on demand.

### 3.3. *Feed (for products of animal origin only) and raw materials (for processed products only)*

Boars weighing over 25 kg and sows are fattened on a diet containing at least 60 % cereals, cereal-based products and legume seeds.

The maximum linoleic acid content is set at 1,9 % of dry matter.

The matured meat used to make 'Saucisson de Lacaune'/'Saucisse de Lacaune' comes from heavy pork sows and boars with carcasses weighing in excess of 120 kg. The rest of the meat comes from male pork pigs with carcasses weighing 80 kg or more.

The fat used is back fat. It is white and hard. Belly fat may also be used in 'Saucisse de Lacaune'.

In the case of the meat and fat used fresh, they are minced, at the latest, on the sixth day after slaughter. If used frozen, freezing takes place 72 hours after slaughter at the latest. The meat and fat are stored at a temperature of  $-18\text{ }^{\circ}\text{C}$  or lower, for no more than four months.

### 3.4. *Specific steps in production that must take place in the defined geographical area*

The following steps take place in the defined geographical area: selection of the cuts; preparation of the 'Saucisson de Lacaune'/'Saucisse de Lacaune', including mincing, stuffing and heat curing; and completion of the drying process.

### 3.5. *Specific rules concerning slicing, grating, packaging, etc. of the product the registered name refers to*

Not applicable.

### 3.6. *Specific rules concerning labelling of the product to which the registered name refers*

The product labelling must contain the following information:

- the 'Saucisson de Lacaune' or 'Saucisse de Lacaune' PGI,
- the 'Lacaune' logo bearing an identifier consisting of an underlined handwritten capital 'M' resembling mountains, beneath which the name 'LACAUNE' is inscribed in capital letters.

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

The geographical area consists of the following 11 municipalities in the department of Tarn: Barre, Berlats, Escroux, Espérousses, Gijounet, Lacaune, Moulin Mage, Murat-sur-Vèbre, Nages, Senaux and Viane.

## 5. Link with the geographical area

### 5.1. Specificity of the geographical area

#### Natural factors

The geographical area in which 'Saucisson de Lacaune' and 'Saucisse de Lacaune' are produced constitutes a homogeneous unit among the mountains of Lacaune. It forms an east-west facing basin that makes up the catchment area of the Gijou River. The area is bounded in the south by the main watershed, from the Montgrand to Montalet, which reaches a height of over 1 200 m, and in the north by a secondary watershed from Roquecézière to the peak of Le Merdélou, which lies at an altitude of roughly 1 000 m and passes through Sié Pass. These two physical barriers create a topographical basin within which the contrasting climatic influences of the Atlantic Ocean and the Mediterranean Sea alternate. In addition, the geographical area is also subject to an alpine climate as a result of its altitude.

Under this threefold influence, the area's climate is characterised by:

- abundant precipitation spread evenly throughout the year,
- a relatively low average temperature with small fluctuations,
- a regular alternation in the nature of the wind, its direction and humidity, accompanied by significant variability in temperature and humidity, even in the space of a single day.

#### Human factors

Historically, production of 'Saucisson de Lacaune'/'Saucisse de Lacaune' has its origins in the trade of '*mazelier*', which was well-established in Lacaune in the Middle Ages. In the Occitan language, the term described a person who slaughtered cattle, sheep and pigs. Around the 15th century, with the advent of professional specialisation, this term came to designate a person who transformed pig meat, i.e. the equivalent of the pork butcher of today.

The know-how of meat curers is fundamental for working with this 'living' product. This is apparent at several levels.

Meat curers select, prepare and mince the meats and fat according to their own methods, equipment and the quality of the ingredients used. Their mincing skills are especially relevant. Matured meats are preferred in combination with a high percentage of lean meat in the mixture.

Expertise in the use of slicing and/or chopping blades results in a homogeneous mixture. The latter comprises large, even-sized crumbs produced by a mincer of 8 mm minimum, or by any other grinding technique giving the equivalent minced appearance.

Seasoning is simple: salt, pepper and, possibly, nutmeg. There are no additives other than saltpetre.

The mixture is packed in natural gut casings only. It undergoes heat curing and drying in a stage that lasts at least 10 days for dried sausages and 18 days for other products. In order to check that oven fermentation is proceeding correctly, meat curers carry out a touch test or 'handling'. The consistency must be firm when pressed by hand.

At each stage of manufacture, meat curers optimise the duration of the stages, and the temperature and humidity conditions, depending on the condition of the salamis and sausages. In drying rooms, there is daily monitoring in order to oversee the appearance and aroma of the products, as well as to manage the maturation conditions, i.e. air temperature and humidity, and thereby avoid irregularities in drying. Regardless of the technique used, and whether the drying rooms are natural or ventilated, operators must adapt to variations in air temperature and humidity outside. These are measured daily.

### 5.2. Specificity of the product

'Saucisson de Lacaune'/'Saucisse de Lacaune' is characterised by lean meat that is red to dark red in colour, in coarse, evenly-sized crumbs, with a lean appearance when sliced.

Its distinguishing organoleptic features include mild and balanced aromatic intensity which does not overwhelm the natural flavour of the dried and matured meat. The texture, both to touch and in the mouth, is supple to firm and cohesive.

Finally, 'Saucisson de Lacaune'/'Saucisse de Lacaune' is distinguished by being presented solely in natural gut casings.

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)*

The causal link of 'Saucisson de Lacaune'/'Saucisse de Lacaune' is based on the existence of ancestral, traditional and shared know-how that influences the quality of the product and gives it a solid reputation.

The geographical area of 'Saucisson de Lacaune'/'Saucisse de Lacaune' is characterised by geographical and climatic conditions that traditionally favoured drying. The area has seen the development of an extensive network of meat curing businesses that possess the know-how of numerous generations. Today, traditional production methods still use matured meats. The minimum proportion of lean meat is 80 % in the manufacture of the salami and 70 % for the sausage. This gives the lean meat of 'Saucisson de Lacaune'/'Saucisse de Lacaune' its characteristic red to dark red colour and lean appearance when sliced.

The know-how is also apparent in the selection of cuts of meat, and in the mastery of mincing techniques to obtain a coarse crumb.

Packing in natural gut casings results in a specific form of presentation for 'Saucisson de Lacaune'/'Saucisse de Lacaune'.

The aromatic intensity of 'Saucisson de Lacaune'/'Saucisse de Lacaune' is mild owing to the absence of spices other than pepper and nutmeg. There is know-how involved in the amount of seasoning, as well as in daily management of drying rooms. This allows the fully matured 'Saucisson de Lacaune'/'Saucisse de Lacaune' to retain a natural flavour of dried and matured meat after the maturation process has finished.

Skilful management of heat curing and drying help to produce a texture that is supple to firm and cohesive to the touch and in the mouth.

The reputation of 'Saucisson de Lacaune'/'Saucisse de Lacaune' was already established at the beginning of the 20th century, when M. Cousin, in his '*Voyages gastronomiques au pays de France*', praised the cured meats of the Hôtel Central de Lacaune: 'an excellent collection of cured meat of the region, consisting of ham and sausage that are very deserving of attention'.

'Saucisson de Lacaune'/'Saucisse de Lacaune' is described in the 1980 and 1986 codes governing cured meats, the curing process and preserved meats. The products also appear in the inventory of culinary heritage of France, under the title '*Midi-Pyrénées – produits du terroir et recettes traditionnelles*' of 1996.

A reputation and awareness study carried out in 2011 showed that 77 % of people surveyed in the Midi-Pyrénées and Languedoc-Roussillon regions are familiar with the dry-cured ham, salami and sausage of the Lacaune geographical area. This confirmed the solid reputation of 'Saucisson de Lacaune'/'Saucisse de Lacaune' and the perception that these are 'local products' and 'traditional products'.

Furthermore, it is not unusual to read articles in the press that mention 'Saucisson de Lacaune'/'Saucisse de Lacaune' as, for example, in the publication *Midi Libre* on 8 August 2009 entitled 'A basketful of aromas'.

Meat curers in the geographical area have also regularly won awards at the *Concours général agricole de Paris*. Since 2012, 'Saucisson de Lacaune'/'Saucisse de Lacaune' has received 13 awards: five bronze medals, two silver medals and six gold medals.

**Reference to publication of the specification**

(the second subparagraph of Article 6(1) of this Regulation)

<https://www.inao.gouv.fr/fichier/CDCSaucissonSaucisseLacauneV1.pdf>

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**Publication of an application pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs**

(2015/C 142/15)

This publication confers the right to oppose the application pursuant to Article 51 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council <sup>(1)</sup>.

SINGLE DOCUMENT

**‘SILTER’**

**EU No: IT-PDO-0005-01252 — 6.8.2014**

**PDO ( X ) PGI ( )**

**1. Name**

‘Silter’

**2. Member State or Third Country**

Italy

**3. Description of the agricultural product or foodstuff**

**3.1. Type of product**

Class 1.3: Cheese

**3.2. Description of product to which the name in (1) applies**

‘Silter’ cheese is cylindrical in shape, with a diameter of 34-40 cm, and has a straight or slightly convex heel of 8-10 cm. After maturing, the cheese weighs 10-16 kg, while the rind is hard and straw yellow in colour tending to brown following oiling and maturing.

The texture of the cheese is firm but never particularly springy, and it has widespread small to medium-sized eyes. The fat content must be between 27 % and 45 % in the dry matter, while the moisture content may not exceed 40 %.

It is mild in flavour, without bitterness, while very mature cheeses have full-bodied, strong notes. The aroma and flavour linger in the nose and on the palate and are typical of the production area, with the most distinctive notes including dried fruit, the butter and milk of cattle at pasture, green or dried fodder, chestnut flour and *silter* (i.e. the typical maturing premises used locally).

**3.3. Feed (for products of animal origin only) and raw materials (for processed products only)**

‘Silter’ cheese is produced all year round using only raw milk that is partially skimmed solely by skimming off the cream that rises naturally to the surface. At least 80 % of the lactating cattle on individual holdings must belong to typical mountain breeds (Bruna, Grigio Alpina and Pezzeta Rossa). Cattle of the Bruna breed must represent at least 60 % of all the lactating cows on individual holdings.

Lactating cows must be fed on grass and/or hay, while silage or haylage may not be used. The entire production area of ‘Silter’ is a mountain area, subject to natural constraints such as altitude, gradient and climate, which have repercussions on the seasonal production of fodder. This has an impact on the diet of the dairy cattle.

The percentage of fodder (hay and/or grass) from the production area may not be less than 50 % of the total dry matter fed annually to the lactating cows. The feed may be supplemented by concentrates totalling less than 40 % of the dry matter of the ration.

These percentages are deliberately cautious, since ‘Silter’ is produced in a less-favoured, mountainous area where, in some rainy years, the production of dried fodder (silage may not be used) is sometimes difficult and the production of concentrated feedstuffs is not feasible. Normally, when the cattle graze on most of the days of the year, the amount of fodder from the area of origin in the ration far exceeds the amounts given above. While grazing is not compulsory, it is practised a great deal in spring and autumn in the valley meadows and in summer in mountain pastures, for a period that varies in line with the seasons. In particular, when the cattle are in mountain pasture, the fodder comes entirely from the production area only and concentrates must not exceed 30 % of the dry matter

<sup>(1)</sup> OJ L 343, 14.12.2012, p. 1.

ingested on average. Compliance with these dietary conditions makes it possible to maintain the organoleptic and aromatic characteristics of 'Silter' produced all year round. The specific characteristics of 'Silter' are also determined by the microbial diversity of the environment where the raw milk is produced and processed. Research projects (VALTEMAS 2012, FOOD FOR LIFE 2006) have identified the micro-organisms that play a role in the cheese-making process and examined the enzyme activities that are crucial for the development of the distinctive characteristics of 'Silter'. In order to combat potential influences from sources outside the production area, cheese-makers have access to a starter kit of enzymes selected from the native microflora. The development of these lactic acid bacteria leads to the formation of the aromatic compounds and tiny eyes typical of 'Silter'. These bacteria also prevent the development of other bacteria that could change the aroma and flavours of the cheese.

The specific characteristics of 'Silter' and its link to the environment are guaranteed by the animals' diet based mainly on grass and/or hay from the geographical area, the absence of silage feed, the presence of native microflora in the raw milk and the use of technology.

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

The animals must be farmed and the cheese produced and matured within the identified geographical area.

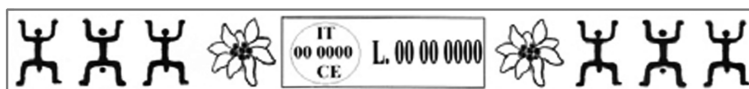
3.5. *Specific rules concerning slicing, grating, packaging, etc. of the product the registered name refers to*

'Silter' cheese is marketed in whole wheels or in portions. Pre-packaged portions of the cheese must include part of the heel and/or the side of the cheese wheel, testifying to the origin of the cheese.

3.6. *Specific rules concerning labelling of the product the registered name refers to*

Whole wheels must feature the ID code of the processing establishment, the production date, the origin mark, the hot brand and, where the conditions have been met, the name of the mountain pasture.

The origin marking on the heel comprises a series of 80 mm high images of human figures from the Valcamonica rock drawings and two edelweiss flowers.



A hundred days after production, at least one of the sides of the cheese is to be hot branded with the word 'SILTER' written in an arc, with two edelweiss flowers underneath and the acronym 'D.O.P.' [PDO] in the centre; between the two edelweiss flowers is another Valcamonica rock drawing depicting a ploughing scene.



Pre-packaged cheese must have a label with the identifying logo and the wording 'Silter D.O.P.', as well as the information required by law. The logo must be ochre yellow in colour and retain the proportions and shapes laid down.



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

The area comprises the entire Comunità Montana di Valle Camonica [Valle Camonica Mountain Community] and some of the Comunità Montana del Sebino Bresciano [Sebino Bresciano Mountain Community] in the Province of Brescia. A total of 47 municipalities are covered.



The geographical area extends from Lake Iseo (a hydrographic basin with an area of 65,3 km<sup>2</sup>) to the Gavia Pass and Tonale Pass.

#### 5. Link with the geographical area

The production area of 'Silter' is a mountain area located in the Alpine foothills and mountains of the Province of Brescia. Both Lake Iseo to the south and the Adamello massif to the north influence and characterise the area's environment.

The differing soil chemistry and variations in climate and temperature allow the development of rich vegetation, with species ranging from those typical of the submontane zone to those of the higher pastures of the subalpine zone. In the montane zone in particular, there are numerous meadow and pasture habitats with a large variety of species that are good for fodder, such as *Anthoxanthum* spp. and *Achillea* spp. Valley and mid-slope meadows are used to feed the lactating cows during the coldest months. In summer, meanwhile, the 120 mountain pastures in the higher montane zone provide summer grazing land.

'Silter' is produced on many holdings, including small ones, which process and thereby conserve their own milk using age-old methods that have been handed down from generation to generation by cheese-makers/farmers. The long maturation period of 'Silter' cheese allowed the rural population to keep the product for a long time, ensuring the availability of food all year round.

It is traditional for the skimmed milk to undergo processing in the vat. This goes on for a long time, at least two hours or more, with the curds resting in the whey.

This latter stage gives 'Silter' its typical particularly crumbly texture and lack of springiness.

'Silter' cheese has a relatively long maturation period of at least one hundred days after the date of production.

This maintains the tradition for the cheese to keep for a long time; indeed, it represented the valley dwellers' main food source since time immemorial.

Much, but not all, maturation takes place today in the typical premises known as *silter*, from which the cheese took its name, at a natural temperature of 7-20 °C with 70-90 % humidity. Producers tend to the cheeses as they mature, with the rind being oiled and scraped and the cheeses turned on the planks from time to time. These stages, handed down by tradition and carried out by expert hands, complete the process of 'Silter' production.

This production technology is strongly linked to the know-how of cheese-makers who adapt the timing of the cheese-making process to the climate, the flora present and the phenological stages of the cheese. For this very reason it cannot be replicated industrially and remains the preserve of artisan cheese-makers in the valley and the mountains.

The organoleptic and sensory characteristics of 'Silter' are influenced by factors linked by the land and environment.

The rind is hard and straw-yellow in colour tending to brown. Its characteristics result from the long maturation periods and all the cleaning it undergoes, including being oiled by hand.

The body of the cheese is hard, crumbly and not very springy, with evenly distributed small to medium-sized eyes produced by the local lactic microflora. It varies in colour from white in winter to bright yellow in spring and summer.

The flavour is primarily mild, with bitterness being absent or barely perceptible, while very mature cheeses have full-bodied and/or strong notes.

The endemic plant species that partially make up the fodder contain aromatic compounds such as coumarin and give the milk, and thus 'Silter', its specific flavours.

The varying intensity of the cheese's yellow colour results solely from the fact that the cows are fed on the fodder plants typical of the geographical area, the carotenoid content of which changes with the various phenological stages.

Indeed, carotenoids can cause variations in the intensity of the colour, as both the leguminous and composite plants in the pastures come into bloom at the start of summer, giving the cheese a more intense colour. In winter, the prevalent use of dried fodder means that the cheese is more weakly coloured and tends towards white.

The length and temperature of the various processing stages, from rising of the cream to cooking and the period spent by the curds in the whey, are well known and handed down the generations. Cheese-makers' know-how allows them to tailor these to seasonal and climatic factors, from the milder climate of Lake Iseo to the harsher climates of the valleys near the Adamello glacier. The distinctiveness of the production technology, which is handed down from generation to generation, is based on the use of raw milk which allows the characteristics of the milk produced in the area and the richness of the local lactic flora to be retained. By tradition and know-how, this technology belongs to local farmers and cheese-makers and allows production of 'Silter', a cheese with a mild flavour and a crumbly texture.

The low percentage of fat, which can even be less than 30 % in the dry matter, is linked to the fact that only partially skimmed milk is used. As the cream rises, a process that lasts at least eight hours and takes place in a cool, well aired environment, the milk enzymes typical of the production area multiply, giving 'Silter' its flavour and aroma. What is more, the multiplication of heterofermentative local flora allows the cheese to develop its characteristic small to medium-sized eyes.

The fact that the curds are cooked and undergo processing for at least two hours, remaining in the vat under the whey, is also vital for the development of the local lactic flora that give 'Silter' its flavour and crumbly, not particularly springy texture.

Pressing of the cheese allows the moisture to be drained and rind formation to begin. The hardness of the rind and its colour ranging from yellow to brown result from the long maturation of the cheeses on wooden planks at natural temperatures in premises known as *silter* and the fact that they are oiled and cleaned.

As the cheeses mature, the enzymes released by the local lactic flora help produce compounds that give the aroma and flavour of dried fruit, butter and *silter* (i.e. the maturing premises). The presence and variety of these lactic microflora, which are vital for the production of 'Silter', have been demonstrated by studies and research conducted at various cheese dairies in the area.

#### **Reference to publication of the specification**

(the second subparagraph of Article 6(1) of this Regulation)

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 alternatively:

by going directly to the home page of the Ministry of Agricultural, Food and Forestry Policy ([www.politicheagricole.it](http://www.politicheagricole.it)), clicking on 'Prodotti DOP IGP' (at the top right of the screen), then on 'Prodotti DOP IGP STG' (on the left-hand side of the screen) and lastly on 'Disciplinari di Produzione all'esame dell'UE'.

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