

Official Journal of the European Union

C 324



English edition

Information and Notices

Volume 58

2 October 2015

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II

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

Initiation of proceedings**(Case M.7555 — Staples/Office Depot)****(Text with EEA relevance)**

(2015/C 324/01)

On 25 September 2015, the Commission decided to initiate proceedings in the above-mentioned case after finding that the notified concentration raises serious doubts as to its compatibility with the internal market. The initiation of proceedings opens a second phase investigation with regard to the notified concentration, and is without prejudice to the final decision on the case. The decision is based on Article 6(1)(c) of Council Regulation (EC) No 139/2004 ⁽¹⁾.

The Commission invites interested third parties to submit their observations on the proposed concentration to the Commission.

In order to be fully taken into account in the procedure, observations should reach the Commission not later than 15 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.7555 — Staples/Office Depot, to the following address:

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

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

Non-opposition to a notified concentration**(Case M.7753 — Sacyr/Fluor Corporation/Fluor Spain)****(Text with EEA relevance)**

(2015/C 324/02)

On 24 September 2015, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. The full text of the decision is available only in English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32015M7753. EUR-Lex is the on-line access to the European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration**(Case M.7559 — Pfizer/Hospira)****(Text with EEA relevance)**

(2015/C 324/03)

On 4 August 2015, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) in conjunction with Article 6(2) of Council Regulation (EC) No 139/2004⁽¹⁾. The full text of the decision is available only in English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32015M7559. EUR-Lex is the online access to the European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

IV

*(Notices)*NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND
AGENCIES

COUNCIL

Notice for the attention of the persons subject to the restrictive measures provided for in Council Decision (CFSP) 2015/1763 and Council Regulation (EU) 2015/1755 concerning restrictive measures in view of the situation in Burundi

(2015/C 324/04)

The following information is brought to the attention of the persons that appear in the Annex to Council Decision (CFSP) 2015/1763 ⁽¹⁾ and in Annex I to Council Regulation (EU) 2015/1755 ⁽²⁾ concerning restrictive measures in view of the situation in Burundi.

The Council of the European Union has decided that the persons that appear in the abovementioned Annexes should be included in the list of persons and entities subject to restrictive measures provided for in Decision (CFSP) 2015/1763 and in Regulation (EU) 2015/1755 concerning restrictive measures in view of the situation in Burundi. The grounds for designations of those persons appear in the relevant entries in those Annexes.

The attention of the persons concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as indicated in the web-sites in Annex II to Regulation (EU) 2015/1755, in order to obtain an authorisation to use frozen funds for basic needs or specific payments (cf. Article 3 of the Regulation).

The persons concerned may submit a request to the Council before 1 July 2016, together with supporting documentation that the decision to include them on the abovementioned list should be reconsidered 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

Any observations received will be taken into account for the purpose of the Council's next review, pursuant to Article 6 of Decision (CFSP) 2015/1763 and Article 13(4) of Regulation (EU) 2015/1755 of the list of designated persons.

The attention of the persons concerned is also drawn to the possibility of challenging the Council's decision before the General Court of the European Union, in accordance with the conditions laid down in Article 275, 2nd paragraph, and Article 263, 4th and 6th paragraphs, of the Treaty on the Functioning of the European Union.

⁽¹⁾ OJ L 257, 2.10.2015, p. 37.

⁽²⁾ OJ L 257, 2.10.2015, p. 1.

Notice for the attention of the data subjects to whom the restrictive measures provided for in Council Regulation (EU) 2015/1755 concerning restrictive measures in view of the situation in Burundi apply

(2015/C 324/05)

The attention of data subjects is drawn to the following information in accordance with Article 12 of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁾:

The legal basis for this processing operation is Council Regulation (EU) 2015/1755 ⁽²⁾.

The controller of this processing operation is the Council of the European Union represented by the Director-General of DG C (Foreign Affairs, Enlargement, Civil Protection) of the General Secretariat of the Council and the department entrusted with the processing operation is the Unit 1C of DG C that can be contacted at:

Council of the European Union
General Secretariat
DG C 1C
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

Email: sanctions@consilium.europa.eu

The purpose of the processing operation is the establishment and updating of the list of persons subject to restrictive measures in accordance with Regulation (EU) 2015/1755.

The data subjects are the natural persons who fulfil listing criteria as laid down in that Regulation.

The personal data collected includes data necessary for the correct identification of the person concerned, the Statement of Reasons and any other data related thereto.

The personal data collected may be shared as necessary with the European External Action Service and the Commission.

Without prejudice to restrictions provided for in Article 20(1)(a) and (d) of Regulation (EC) No 45/2001, requests for access, as well as requests for rectification or objection, will be answered in accordance with Section 5 of Council Decision 2004/644/EC ⁽³⁾.

Personal data will be retained for five years from the moment the data subject has been removed from the list of persons subject to the asset freeze or the validity of the measure has expired, or for the duration of court proceedings in the event they had been started.

Data subjects may have recourse to the European Data Protection Supervisor in accordance with Regulation (EC) No 45/2001.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

⁽²⁾ OJ L 257, 2.10.2015, p. 1.

⁽³⁾ OJ L 296, 21.9.2004, p. 16.

EUROPEAN COMMISSION

Interest rate applied by the European Central Bank to its main refinancing operations ⁽¹⁾:

0,05 % on 1 October 2015

Euro exchange rates ⁽²⁾

1 October 2015

(2015/C 324/06)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,1153	CAD	Canadian dollar	1,4799
JPY	Japanese yen	133,56	HKD	Hong Kong dollar	8,6436
DKK	Danish krone	7,4605	NZD	New Zealand dollar	1,7332
GBP	Pound sterling	0,73670	SGD	Singapore dollar	1,5916
SEK	Swedish krona	9,3754	KRW	South Korean won	1 314,36
CHF	Swiss franc	1,0903	ZAR	South African rand	15,4495
ISK	Iceland króna		CNY	Chinese yuan renminbi	7,0901
NOK	Norwegian krone	9,4565	HRK	Croatian kuna	7,6400
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	16 360,31
CZK	Czech koruna	27,173	MYR	Malaysian ringgit	4,9148
HUF	Hungarian forint	312,80	PHP	Philippine peso	52,147
PLN	Polish zloty	4,2459	RUB	Russian rouble	73,0745
RON	Romanian leu	4,4159	THB	Thai baht	40,630
TRY	Turkish lira	3,3796	BRL	Brazilian real	4,4023
AUD	Australian dollar	1,5777	MXN	Mexican peso	18,8045
			INR	Indian rupee	73,0661

⁽¹⁾ Rate applied to the most recent operation carried out before the indicated day. In the case of a variable rate tender, the interest rate is the marginal rate.

⁽²⁾ Source: reference exchange rate published by the ECB.

COMMISSION DECISION**of 1 October 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 324/07)

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 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⁽¹⁾, 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) The concept of flag state responsibility and coastal state responsibility has been steadily strengthened in international fisheries law and is today envisaged as an obligation of 'due diligence', which is an obligation to exercise best possible efforts and to do the utmost to prevent IUU fishing, including the obligation to adopt the necessary administrative and enforcement measures to ensure that fishing vessels flying its flag, its nationals, or fishing vessels engaged in its waters are not involved in activities which infringe the applicable conservation and management measures of marine biological resources, and in case of infringement to cooperate and consult with other states in order to investigate and, if necessary, impose sanctions which are sufficient to deter violations and deprive offenders of the benefits from their illegal activities.

⁽¹⁾ OJ L 286, 29.10.2008, p. 1.

- (8) Pursuant to Article 20(1) of the IUU Regulation, the acceptance of validated catch certificates from third 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.
- (9) 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 THE UNION OF COMOROS

- (10) The Union of the Comoros (hereinafter 'the Comoros') has not submitted to the Commission its notification as a flag State pursuant to Article 20 of the IUU Regulation.
- (11) From 4 to 8 May 2014, the Commission, with the support of the Delegation of the European Union to the Republic of Mauritius, to the Union of the Comoros and to the Republic of Seychelles, carried out a visit to the Comoros in the context of administrative cooperation provided for in Article 20(4) of the IUU Regulation.
- (12) The visit sought to verify information concerning the Comoros' 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 the Comoros in order to implement its obligations in the fight against IUU fishing.
- (13) The final report of the visit was sent to the Comoros on 3 June 2015. The Commission established during the visit that little or no progress had been achieved on the critical weaknesses the Comorian authorities committed to address in October 2011 ⁽²⁾.
- (14) The Comoros did not submit comments to the final report.
- (15) The Comoros is member of the Indian Ocean Tuna Commission (IOTC) and of the Southwest Indian Ocean Fisheries Commission (SWIOFC). The Comoros has ratified the 1982 United Nations Convention on the Law of the Sea (UNCLOS).
- (16) The European Union and the Union of the Comoros have signed a Fisheries Partnership Agreement which is currently in force ⁽³⁾.
- (17) In order to evaluate the compliance of the Comoros with its international obligations as flag, port, coastal or market State as set out in the international agreements referred to in recital 15 and established by the relevant Regional Fisheries Management Organisations (RFMOs) mentioned in that recital, the Commission sought collected and analysed all the information it deemed necessary for the purpose of that exercise. The current internal legal framework for the Comoros fisheries management is the Fisheries and Aquaculture Code established by Act No 07-011/AU of 29 August 2007 and a body of Ministerial agreements.
- (18) The Commission also used information derived from available data published by the relevant RFMOs as well as publicly available information.

3. POSSIBILITY OF THE UNION OF COMOROS BEING IDENTIFIED AS A NON-COOPERATING THIRD COUNTRY

- (19) Pursuant to Article 31(3) of the IUU Regulation, the Commission analysed the duties of the Union of Comoros 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 and measures taken in respect thereof (Article 31(4) of the IUU Regulation)

- (20) On the basis of publically available information as well as information gathered by the Commission and from the Comorian authorities, the Commission has established that there is evidence of around 20 Comorian vessels have been involved in IUU fishing activities during the period 2010 to 2015.

⁽²⁾ Information retrieved from: http://ec.europa.eu/fisheries/news_and_events/press_releases/2011/20111031/index_en.htm

⁽³⁾ Council Regulation (EC) No 1563/2006 of 5 October 2006 concerning the conclusion of the Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros (OJ L 290, 20.10.2006, p. 6).

- (21) The Commission has established that there are around 20 Comorian vessels operating outside the Comorian Exclusive Economic Zone (EEZ) without an authorisation from the Comorian authorities. This goes against the recommendations as set out in point 45 of the International Plan of Action to prevent, deter and eliminate Illegal, Unreported and Unregulated fishing (IPOA IUU ⁽⁴⁾) and paragraph 8(2)(2) of the FAO Code of Conduct that provide that flag States should ensure that each of the vessels entitled to fly their flag operating outside their waters holds a valid authorisation. It also constitutes a failure to follow the recommendations of points 29 and 30 of the FAO Voluntary Guidelines for Flag State Performance ⁽⁵⁾.
- (22) From publically available information, two Comorian vessels are also reported to have conducted an at-sea transshipment off the West African coast in 2014 ⁽⁶⁾. These operations took place without authorisation from the Comorian authorities. The lack of control by the Comoros contravenes point 49 of IPOA IUU which provides that flag States should ensure that all of their vessels involved in transshipment have a prior authorisation issued by the flag State, and report to the national authorities.
- (23) Moreover, the Comorian authorities acknowledged that the Comorian vessels operating outside the Comorian EEZ are not subject to any measure of monitoring, control and surveillance. They do not report their geographic position to the Comorian fisheries monitoring centre or any other information to the Comorian authorities such as catch data or information on landings or transshipments. By these failures the Comoros contravene Article 94(1) and (2) of UNCLOS which provide that every State shall effectively ensure its jurisdiction and control over ships flying its flag. This also contravenes the recommendation of point 24 of IPOA IUU, that provides for the obligation to undertake comprehensive and effective control of fishing activities, and point 35 of IPOA IUU that provides that a flag State should ensure that, before it registers a vessel, it can exercise its responsibility to ensure that the vessel does not engage in IUU fishing. This also contravenes points 31, 32 and 33 of the FAO Voluntary Guidelines for Flag State Performance that provide that flag States must implement control regimes over their vessels and must have in place enforcement regimes that include, inter alia, capacity to detect and take enforcement actions against violation of applicable laws, regulations and international conservation and management measures. Finally, because of these failures it is probable that these vessels may be operating illegally and that their catches remain unreported.
- (24) In view of the statements made by the Comorian authorities, the Commission established that the list of vessels flying the flag of the Comoros is not consolidated. While the authority in charge of fisheries does not have specific information on Comorian vessels operating outside the Comorian EEZ, the authority in charge of registration of vessels only has partial information on the status of the Comorian register. Contrary to the recommendations in point 40 of IPOA IUU and point 19 of the FAO Voluntary Guidelines for Flag State Performance, there is a lack of cooperation and information sharing between the authorities in charge of registration of vessels and those in charge of fisheries. Also by this failure the Comoros contravene Article 94(2)(b) of UNCLOS. They also fail to follow the recommendation of point 42 of IPOA IUU which provides that every State shall maintain a register of ships containing the names and particulars of ships flying its flag.
- (25) The lack of internal cooperation described in recital 24 contravenes the commitment made by the Comorian authorities to the European Union in October 2011, to establish closer cooperation between the authorities in charge of the registration of vessels and those in charge of fisheries ⁽⁷⁾.
- (26) The absence of cooperation between the authorities in charge of the registration of vessels and those in charge of fisheries diminishes the Comoros' ability to monitor the size and capacity of its fleet and allows illegal operators to operate under the Comoros flag without detection.
- (27) The Commission has established that the lack of cooperation between the authorities in charge of the registration of vessels and those in charge of fisheries is aggravated by the involvement of offshore private companies in the process of registration that are responsible for recruiting vessels to the registry and that can attribute temporary registration certificates.
- (28) Furthermore, the authority in charge of registration does not consult the IUU vessel lists established by RFMOs before registering a vessel which intends to operate outside the Comorian EEZ. This contravenes point 36 of

⁽⁴⁾ International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Food and Agriculture Organization of the United Nations, 2001.

⁽⁵⁾ Voluntary Guidelines for Flag State Performance, March 2014, retrieved from: <http://www.fao.org/3/a-mk052e.pdf>

⁽⁶⁾ Information retrieved from Greenpeace, Esperanza West Africa Expedition 2014, May 2015, retrieved from: <http://www.greenpeace.org/eastasia/publications/reports/oceans/2015/Africas-fisheries-paradise-at-a-crossroads/>

⁽⁷⁾ See footnote 2.

IPOA IUU, that provides that flag States should avoid flagging vessels with a history of non-compliance. This also suggests that robust registration procedures remain to be developed and that the risk of IUU fishing activities occurring in the Comorian fleet is high.

- (29) Based on the information gathered during the visit to the Comoros conducted in May 2015, the Commission also established that three Comorian vessels were authorised to operate in the Comorian waters without being equipped with a Vessel Monitoring System (VMS) device or having an observer on-board. This situation is in contravention of Article 94(1) and (2) of UNCLOS. It also fails to follow point 24 of IPOA IUU. In addition, these vessels did not transmit the quantities of fish on board to the Comorian authorities within the prescribed time limit prior to landing in the Comoros. This contravenes point 55 of IPOA IUU which provides that, prior to allowing a vessel port access, States should require vessels to provide, inter alia, reasonable advance notice of their entry into port, details of their fishing trip and quantities of fish on board; in order to ascertain whether the vessel may have engaged in, or supported, IUU fishing. This situation implies that products stemming from these vessels cannot be guaranteed as not being sourced from IUU fishing activities.
- (30) Pursuant to Article 31(4)(b) of the IUU Regulation, the Commission also examined the measures taken by the Comoros in respect of access of fisheries products stemming from IUU fishing to its market.
- (31) In view of the situation described in recitals 22, 23 and 25, traceability of fish or fish products is hindered by the lack of monitoring, control and surveillance; the status of the Comorian register; and the lack of cooperation between the authorities in charge of the registration of vessels and those in charge of fisheries.
- (32) Based on the information gathered from the Comorian authorities, Comorian vessels authorised to operate in the EEZ of the Comoros have been using logbooks produced by economic operators in Sri Lankan languages. These languages are not understood by the Comorian fisheries inspectors. According to the information gathered during the visit to the Comoros in May 2015, the Comorian authorities had not finalised the development of their logbook model. Traceability cannot be guaranteed with the use of logbooks produced in a language not understood by the Comorian fisheries inspectors. This situation also hinders transparency and contravenes point 24 of IPOA IUU and point 33 of the FAO Voluntary Guidelines for Flag State Performance that provide for the obligation to undertake comprehensive and effective control of fishing activities from their commencement, through the point of landing, to final destination. This also contravenes point 71 of IPOA IUU that provides that States should take steps to improve the transparency of their markets to allow traceability of fish or fish products.
- (33) It is recalled that recital 23 demonstrates that the Comorian vessels operating outside the Comorian EEZ are not subject to any form of control by the Comorian authorities. These vessels do not have logbooks intended for the Comorian authorities and are not transmitting any information regarding their fishing activities, landings and transshipments to the Comorian authorities. This contravenes Article 94 of UNCLOS and fails to follow the recommendations of points 24 and 35 of IPOA IUU as well as point 33 of the FAO Voluntary Guidelines for Flag State Performance, as it implies that traceability of fish or fish products stemming from these vessels cannot be guaranteed.
- (34) 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. In addition paragraph 11(1)(11) of the FAO Code of Conduct provides that States should ensure that international and domestic trade in fish and fishery products complies with sound conservation and management practices by improving the identification of the origin of fish and fishery products traded. 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.
- (35) Based on the information gathered by the Commission as well as statements made by the Comorian authorities, while processing facilities are being developed in the Comoros, robust traceability and certification schemes remain to be defined. This situation also increases the risk that products sourced from IUU fishing activities could be processed and traded through the Comoros.

- (36) 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 statements made by the country, it could be established, pursuant to Article 31(3), (4)(a) and (4)(b) of the IUU Regulation, that the Comoros have failed to discharge their duties under international law as a flag, port, coastal and market State in respect of IUU vessels and IUU fishing carried out or supported by vessels flying its flag or by its nationals and 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)

- (37) Under Article 31(5)(a), the Commission analysed its collaboration with the Comoros to see if they had effectively cooperated in responding to questions, providing feedback or investigating matters related to IUU fishing and associated activities.
- (38) While the Comorian fisheries authorities were generally cooperative during the mission, the Comorian fisheries authorities did not reply to follow-up requests for information. The Commission has established that this failure to cooperate is aggravated by the status of the Comorian register and the lack of cooperation between the authorities in charge of the registration of vessels and those in charge of fisheries, as established in Section 3.1.
- (39) In addition, as recital 25 recalls, the lack of cooperation between the authorities in charge of the registration of vessels and those in charge of fisheries should have been addressed in line with a commitment made by the Comoros in October 2011 to establish closer cooperation between these authorities⁽⁸⁾. As established in Section 3.1, little or no progress has been achieved on this critical weakness and the Comoros has not met its commitment.
- (40) During the Commission visit in May 2015, the Comorian authorities informed the Commission that they were not in a position to share the Maritime Code which was awaiting enactment. Since then, the Commission has neither been informed of the enactment of the text nor have they been provided with a copy.
- (41) Moreover, the Comorian authorities were invited to provide the Commission with the list of Comorian fishing and fishing-related vessels. The Commission has not been provided with a copy of this list.
- (42) In the context of the overall assessment of the fulfilment of the Comorian duties to discharge their obligations as flag State, the Commission also analysed whether the Comoros cooperates with other States in the fight against IUU fishing.
- (43) The Commission has established that, while the Comoros is cooperating with the countries of the Indian Ocean region, it does not cooperate with third countries outside the region where Comorian vessels operate. As explained in recital 24, this absence of cooperation may result from the fact the Comorian authorities have little or no information about the vessels concerned. This situation, which highlights the findings of Section 3.1, fails to follow the recommendation of point 28 of IPOA IUU that provides that States should coordinate their activities and cooperate in fighting IUU fishing. This also fails to follow point 31 of IPOA IUU that provides that flag States should consider entering into agreements or arrangements with other States and otherwise cooperate for the enforcement of applicable laws and conservation and management measures or provisions adopted at a national, regional or global level.
- (44) In accordance with Article 31(5)(b), the Commission analysed existing enforcement measures to prevent, deter and eliminate IUU fishing in the Comoros.
- (45) The Commission established that the Comorian authorities had not reported taking any actions with respect to the vessels stated in recital 23 that have conducted operations that include an at-sea transshipment off the West African coast in 2014.

⁽⁸⁾ See footnote 2.

- (46) With regard to information laid down in recitals 21 and 23, and in view of the statements made by the Comoros, the Commission established that the Comorian authorities were aware that vessels flying the flag of the Comoros were, in breach of the Comorian law and requirements, operating outside the Comorian EEZ and landing in West Africa and Asia. However, the Commission established that the Comorian authorities had not taken enforcement measures in respect of these vessels.
- (47) Furthermore, the Commission established during its visit in May 2015 that most of the Comorian fleet is not transmitting VMS information to the Comorian authorities. This situation highlights the authorities' inability to monitor the operations of Comorian vessels and undermines the authorities' ability to effectively enforce rules applicable to the different areas concerned. This, combined with the lack of internal cooperation and cooperation with third countries, creates an ideal environment for the development of IUU fishing activities.
- (48) The situation referred to in recitals 45 to 47 contravenes Article 94 of UNCLOS. It also contravenes the recommendations to take enforcement measures in respect of IUU fishing activities and to sanction such activities with sufficient severity to effectively prevent, deter and eliminate IUU fishing and to deprive offenders of the benefits accruing from such fishing, as set out in paragraph 8(2)(7) of the FAO Code of Conduct; point 21 of IPOA IUU and points 31 to 33, 35 and 38 of the FAO Voluntary Guidelines for Flag State Performance.
- (49) With regards to the Comorian fisheries legal framework, the Comorian authorities acknowledged during the Commission's visit in May 2015, that further implementing texts of the Fisheries and Aquaculture Code need to be elaborated to ensure consistency between national law and international and regional applicable rules.
- (50) In addition, the Comorian Fisheries and Aquaculture Code does not include vessels conducting fishing related activities in the definition of fishing vessels. Furthermore, while the Comorian legal framework covers serious violations as defined under international law, the Comorian legal framework does not explicitly define IUU fishing and does not expressly foresee enforcement measures and sanctions for nationals supporting or engaged in IUU fishing as outlined in point 18 of IPOA IUU. As regards the sanctioning scheme, it should be noted that the fines foreseen in the context of industrial fishing activities are based on the value of the licences fees. Nevertheless, the categories of fishing licences defined in the Comorian law are limited only to tuna species. Consequently, in cases of infringements of industrial fleet targeting demersal or pelagic species there are no corresponding fines, account taken of the lack of corresponding licencing fees. This situation reduces the level of deterrence of the Comorian sanctioning scheme.
- (51) Furthermore, the Comoros does not have a national inspection plan to ensure a coherent policy on control of the Comorian fleet operations. Considering the size of the Comorian fleet and its development prospects⁽⁹⁾, the Comoros does not have enough observers.
- (52) The Comoros has a low human development index and was ranked 159 out of 187 countries in 2013⁽¹⁰⁾ according to the United Nations Human Development Index (UNHDI). In the Annex II to Regulation (EC) No 1905/2006 of the European Parliament and of the Council⁽¹¹⁾ the Comoros is listed in the category of least developed countries, in line with the Organisation for Economic Cooperation and Development (OECD) Development Assistance Committee (DAC) list of official development assistance (ODA) recipients of 1 January 2015⁽¹²⁾.
- (53) Despite the analysis in recital 52 it is also noted that on the basis of information derived from the Commission's visit in May 2015, it cannot be considered that the Comoros lacks financial resources. Rather it lacks the necessary administrative environment to ensure the efficient and effective performance of its duties as flag, coastal, port and market State.
- (54) 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 Comoros, it could be established, pursuant to Article 31(3) and (5) of the IUU Regulation, that the Comoros failed to discharge its duties under international law with respect to cooperation and enforcement efforts.

⁽⁹⁾ Information retrieved from: http://www.iotc.org/sites/default/files/documents/2015/03/IOTC-2015-CoC12-05_Add_1E_Collection_of_fleet_development_plans.pdf

⁽¹⁰⁾ Information retrieved from: <http://hdr.undp.org/en/content/table-1-human-development-index-and-its-components>

⁽¹¹⁾ Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, p. 41).

⁽¹²⁾ Information retrieved from: <http://www.oecd.org/dac/stats/documentupload/DAC%20List%20of%20ODA%20Recipients%202014%20final.pdf>

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

- (55) The Comoros has ratified UNCLOS in 1994 and is a contracting party to IOTC and SWIOFC.
- (56) Under Article 31(6)(b) the Commission analysed all information regarding the status of the Comoros as contracting party to IOTC and SWIOFC.
- (57) According to information derived from the IOTC Compliance Report for the Comoros produced on 23 March 2015 ⁽¹³⁾, several repeated compliance issues were identified in 2014. In particular, the Comoros have not reported nominal catch on sharks, as required by IOTC Resolution 05/05, have not reported catch and effort on sharks, as required by IOTC Resolution 05/05, have not reported size frequency on sharks, as required by IOTC Resolution 05/05, have not reported catch and effort on purse seine foreign vessels operating in its EEZ, as required by IOTC Resolution 10/02 and have not implemented the observer scheme for artisanal sampling, as required by IOTC Resolution 11/04.
- (58) Non-repeated compliance issues were also identified. The Comoros have not reported nominal catch for coastal fisheries, as required by IOTC Resolution 10/02, have not reported catch and effort for coastal fisheries, as required by IOTC Resolution 10/02 and have not reported size frequency for coastal fisheries, as required by IOTC Resolution 10/02.
- (59) The compliance issues of the Comoros with IOTC demonstrates the failure of the Comoros to fulfil its obligations as flag State laid down in Article 94 of UNCLOS. They also show that the Comoros are not following the recommendations of points 31 to 33, 35 and 38 of FAO Voluntary Guidelines for Flag States Performance and of point 24 of IPOA IUU.
- (60) With the exception of IOTC and SWIOFC, the Comoros is not a contracting party to other RFMOs. Considering the structure of the Comorian fleet, which operates not only in the Indian Ocean region, this finding undermines the Comorian efforts to fulfil obligations under UNCLOS, in particular Articles 117 and 118.
- (61) Moreover, with the exception of UNCLOS, the Comoros has not ratified other international legal instruments related to fisheries management. Considering the importance of straddling and highly migratory fish stocks for the Comoros, this finding undermines the Comorian efforts to fulfil its duties as flag, coastal, port and market State under UNCLOS, in particular Articles 63 and 64.
- (62) In addition, while port infrastructures dedicated to fishing activities are being built in the Comoros, the country has not ratified the 2009 FAO Port State Measures Agreement.
- (63) The performance of the Comoros in implementing international instruments is not in accordance with the recommendations of point 11 of IPOA IUU which encourages States, as a matter of priority, to ratify, accept or accede to the United Nations Agreement for the Implementation of the Provisions of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) and the FAO Compliance Agreement. It also fails to follow point 14 that provides that States should fully and effectively implement the Code of Conduct and its associated International Plans of Action.
- (64) Contrary to the recommendations in points 25 to 27 of IPOA IUU, the Comoros has not developed a national plan of action against IUU fishing.
- (65) Furthermore, as it is mentioned in recital 27, it was established during the visit conducted by the Commission that the management of the Comorian register is partly delegated to a private company located outside the Comoros. Based on the information gathered by the Commission as well as statements made by the Comoros, it could be established that the Comoros failed to ensure that the vessels flying its flag have a genuine link with the country. This contravenes Article 91 of UNCLOS which provides that a genuine link must exist between the flag State and its ships.
- (66) 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 the Comoros has failed to discharge the duties incumbent upon it under international law with respect to international rules, regulations and conservation and management measures.

⁽¹³⁾ Information retrieved from: <http://www.iotc.org/sites/default/files/documents/2015/04/IOTC-2015-CoC12-CR04E-Comoros.pdf>

3.4. Specific constraints of developing countries (Article 31(7) of the IUU Regulation)

- (67) It is recalled that according to the UNHDI, the Comoros has a low human development index and was ranked 159 out of 187 countries in 2013 ⁽¹⁴⁾. It is also recalled that, according to Regulation (EC) No 1905/2006 the Comoros is listed in the category of least developed countries, in line with the OECD DAC list of ODA recipients of 1 January 2015 ⁽¹⁵⁾.
- (68) Although specific capacity constraints may exist in general with respect to monitoring, control and surveillance, the specific constraints of the Comoros derived from its level of development cannot justify the deficiencies identified in the previous sections. This concerns especially the status of the Comorian register and the absence of control, in particular through VMS of a part of the Comorian fleet while the Comoros has an operational fisheries monitoring centre and is able to monitor the activities undertaken in its EEZ.
- (69) It appears that the shortcomings identified result primarily from the inadequate administrative environment to ensure the efficient and effective performance of the Comorian duties as flag, coastal, port and market State. This situation is aggravated by the imbalanced size of the Comorian fleet and its area of operation.
- (70) It is also pertinent to note that the European Union and the Union of the Comoros have signed a Fisheries Partnership Agreement ⁽¹⁶⁾. The current protocol ⁽¹⁷⁾ of this agreement includes sectoral financial support in the financial contribution paid to the Comoros. The sectoral financial support aims to promote sustainable fisheries development by strengthening administrative and scientific capacity through a focus on sustainable fisheries management, monitoring, control and surveillance. This should contribute to helping the Comoros to meet its duties under international law as flag, port, coastal and market State and to fight IUU fishing.
- (71) In addition, the Comoros also gets support from regional initiatives such as the project SmartFish which is funded by the European Union and which is implemented by the Indian Ocean Commission (IOC) and aims, inter alia, to fight IUU fishing through shared resources; information exchange; training and the development of operational schemes for monitoring, control and surveillance.
- (72) 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 the Comoros with respect to fisheries management may be impaired by its level of development. However, account taken of the nature of the established shortcomings of the Comoros, the Comorian development level cannot fully excuse or otherwise justify its overall performance as flag, port, coastal or market State with respect to fisheries and the insufficiency of its actions to prevent, deter and eliminate IUU fishing.

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

- (73) In view of the conclusions reached with regard to the failure of the Comoros 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.
- (74) In accordance with Article 32(1) of the IUU Regulation, the Commission should notify the Comoros 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 the Comoros. 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.

⁽¹⁴⁾ See footnote 10.

⁽¹⁵⁾ See footnote 12.

⁽¹⁶⁾ See footnote 3.

⁽¹⁷⁾ Council Decision 2013/786/EU of 16 December 2013 on the signing, on behalf of the European Union, and the provisional application of the Protocol between the European Union and the Union of the Comoros setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement currently in force between the two parties (O) L 349, 21.12.2013, p. 4) and Protocol between the European Union and the Union of the Comoros setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force (O) L 349, 21.12.2013, p. 5).

- (75) Furthermore, the notification to the Comoros of the possibility of being identified as a non-cooperating country 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

The Union of Comoros 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, 1 October 2015.

For the Commission

Karmenu VELLA

Member of the Commission

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 324/08)

The European Commission (the Commission) has terminated the demarches with the Republic of Ghana in the fight against IUU fishing initiated on 26 November 2013 with the Commission Decision 2013/C 346/03 ⁽¹⁾ 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 ⁽²⁾ establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (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 for 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 Ghana of the possibility of being identified as a 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 Ghana could 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 Ghana. 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 Ghana introduced the necessary measures for the cessation of identified IUU fishing activities and for the prevention of any such activities in the future, rectifying any act or omission that lead to their notification of the possibility of being identified as a non-cooperating country in fighting IUU fishing.

3. Conclusion

In the given circumstances and after examining the above mentioned considerations, the Commission therefore concludes that the demarches vis-à-vis the Republic of Ghana 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 the 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.

⁽¹⁾ OJ C 346, 27.11.2013, p. 26.

⁽²⁾ 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 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 324/09)

The European Commission (the Commission) has terminated the demarches with the Independent State of Papua New Guinea (Papua New Guinea) in the fight against IUU fishing initiated on 10 June 2014 with the Commission Decision 2014/C 185/02 ⁽¹⁾ on notifying the Independent State of Papua New Guinea that the Commission considers as possible of identifying Papua New Guinea as non-cooperating third country pursuant to Council Regulation (EC) No 1005/2008 ⁽²⁾ establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (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 Papua New Guinea 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, Papua New Guinea 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 Papua New Guinea. 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.

Papua New Guinea 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 above mentioned considerations, the Commission therefore concludes that the demarches vis-à-vis Papua New Guinea 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 the Commission or the Council from taking any subsequent step in the future, if factual elements reveal that the 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.

⁽¹⁾ OJ C 185, 17.6.2014, p. 2.

⁽²⁾ OJ L 286, 29.10.2008, p. 1.

COMMISSION DECISION**of 1 October 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 324/10)

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⁽¹⁾, 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) The concept of flag state responsibility and coastal state responsibility has been steadily strengthened in international fisheries law and is today envisaged as an obligation of 'due diligence', which is an obligation to exercise best possible efforts and to do the utmost to prevent IUU fishing, including the obligation to adopt the necessary administrative and enforcement measures to ensure that fishing vessels flying its flag, its nationals, or fishing vessels engaged in its waters are not involved in activities which infringe the applicable conservation and management measures of marine biological resources, and in case of infringement to cooperate and consult with other states in order to investigate and, if necessary, impose sanctions which are sufficient to deter violations and deprive offenders of the benefits from their illegal activities.

⁽¹⁾ OJ L 286, 29.10.2008, p. 1.

- (8) Pursuant to Article 20(1) of the IUU Regulation, the acceptance of validated catch certificates from third 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.
- (9) 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 THE FISHING ENTITY TAIWAN

- (10) The notification of the fishing entity Taiwan ⁽¹⁾ (hereinafter 'Taiwan') as a flag State ⁽²⁾ pursuant to Article 20 of the IUU Regulation was accepted by the Commission as of 28 January 2010.
- (11) From 20 to 24 February 2012, the Commission, with the support of the European Fisheries Control Agency (EFCA), carried out an evaluation mission to Taiwan in the context of administrative cooperation provided for in Article 20(4) of the IUU Regulation and an on-spot report was conducted.
- (12) The visit sought to verify information concerning Taiwan'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 Taiwan in order to implement its obligations in the fight against IUU fishing and to fulfil its duties for the implementation of the catch certification scheme of the Union.
- (13) Taiwan submitted additional information on 8 March 2012 and comments on the report on 19 March 2012.
- (14) Taiwan submitted additional information (statistics on imports/exports of fisheries products to/from Taiwan broken down by fishery products and country of origin/country of destination from 2010 to the first quarter of 2012) on 2 July 2012.
- (15) A subsequent mission of the Commission to Taiwan to follow up any actions taken by Taiwan subsequent to the first mission was conducted from 17 to 19 July 2012.
- (16) A technical meeting between Taiwan and the Commission took place on 14 December 2012 in which a preliminary outline of a 'National Plan of Action of Taiwan to prevent, deter and eliminate IUU fishing' (NPOA-IUU) was presented.
- (17) Subsequent to that meeting, on 21 December 2012, the Commission provided a detailed and elaborated overview of the Union rules on control, traceability, fisheries management policies and IUU policies implemented by the Union.
- (18) Taiwan submitted a draft version of the National Plan of Action on 27 February 2013.
- (19) Taiwan submitted the final version of the NPOA-IUU and a copy of the Taiwan's plan of Work against IUU fishing in response to Taiwan-EU cooperation against IUU fisheries on 29 March 2013.
- (20) A technical meeting between the Commission and Taiwan to follow up any actions taken by Taiwan took place on 27 February 2014 and conclusions were sent to Taiwan on 12 March 2014.
- (21) The Commission sent a detailed overview of its observations and comments on Taiwan's concluded or planned actions under the NPOA-IUU on 20 August 2014.
- (22) Taiwan submitted an updated version of Taiwan's Progress on Cooperation of Combating IUU Fisheries Activities on 23 October 2014.
- (23) A videoconference between the Commission and Taiwan to follow up any actions taken by Taiwan took place on 24 October 2014 and the Commission sent its conclusions on 31 October 2014.

⁽¹⁾ The separate customs territory of Taiwan, Penchu, Kinmen and Matscu (Chinese Taipei).

⁽²⁾ The terms 'state' and 'country' with respect to the fishing entity Taiwan are used in the context of the IUU Regulation only.

- (24) Taiwan submitted the National Plan of Action for the Management of the Fishing Capacity (NPOA-Fishing Capacity) on 28 October 2014.
- (25) Taiwan submitted detailed plan of e-logbook coverage and the outline of the landing declarations scheme on 17 December 2014.
- (26) A videoconference between the Commission and Taiwan to follow up any actions taken by Taiwan took place on 18 December 2014.
- (27) The Commission sent samples of published Union inspection programmes and an analysis of the deficiencies detected on catch certificates validated by the Taiwanese authorities on 19 January 2015.
- (28) Taiwan submitted written comments on the analysis of the detected deficiencies of the validated catch certificates on 11 February 2015.
- (29) The Commission sent a request for a mission to Taiwan and subsequent information related to the mission, catch certification issues and fisheries management policies to address IUU fishing on 27 February 2015, 13 March 2015 and 18 March 2015.
- (30) Taiwan submitted written comments concerning catch certification, serious infringements, landing declarations and audits of fishing trading companies on 17 and 19 March 2015.
- (31) A subsequent mission of the Commission to Taiwan to follow up any actions taken by Taiwan was conducted on 24 March 2015.
- (32) Taiwan submitted written comments concerning compliance records to rules of Regional Fisheries Management Organisations, Taiwan flagged fishing vessels and catch certification on 7 April 2015, on 14 May 2015 and 4 August 2015. The Commission provided written explanations on implementation of catch certification on 10 August 2015.
- (33) Taiwan submitted written comments on its plan to work in the fight against IUU fishing on 16 April 2015.
- (34) The report of the visit was sent to Taiwan on 27 May 2015. The Commission established during the visit that little or no progress had been achieved on the critical weaknesses detected from 2012. In addition the plan to work in the fight against IUU fishing was elusive with planned work running up to 2017.
- (35) Taiwan submitted written comments on the report on 29 June 2015. These comments did not provide any commitment for addressing the established shortcomings within a reasonable period of time.
- (36) It is noted that Taiwan, due to its political status, is not a member of the United Nations (UN). In this respect Taiwan did not sign or ratify any of the international agreements governing fisheries, inter alia, the United Nations Convention on the Law of the Sea (UNCLOS), the United Nations Fish Stocks Agreement (UNFSA), the Food and Agriculture Organisation (FAO) Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement). Nevertheless, it has signed the 1958 Geneva Convention on the High Seas⁽¹⁾ and the 1958 Convention on the Territorial Sea and the Contiguous Zone during the period that the authorities formed part of the UN⁽²⁾. In order to evaluate the compliance of Taiwan with its international obligations as flag, port, coastal or market State, the Commission considered appropriate to use, besides the agreements to which Taiwan is party, UNLCOS as the primary applicable international legal framework. These provisions codify pre-existing rules of customary law and take over, almost literally, some of the wording of the Convention on the High Seas and the Convention on the Territorial Sea and the Contiguous Zone. It is also noted that the obligation of flag States to comply with their due diligence responsibilities concerning, inter alia, IUU fishing activities of their vessels forms part of international customary law.

⁽¹⁾ Information retrieved from:

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-2&chapter=21&lang=en#1

<https://treaties.un.org/pages/HistoricalInfo.aspx#China>

⁽²⁾ Information retrieved from:

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-1&chapter=21&lang=en

<https://treaties.un.org/pages/HistoricalInfo.aspx#China>

- (37) Taiwan is a contracting member of the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the South Pacific Regional Fisheries Management Organisation (SPRFMO) and the North Pacific Fisheries Commission (NPFC) and a cooperating non-contracting Party to the Western and Central Pacific Fisheries Commission (WCPFC), the Inter-American Tropical Tuna Commission (IATTC) and the International Commission for the Conservation of Atlantic Tuna (ICCAT). Furthermore, Taiwan is invited expert to the Indian Ocean Tuna Commission (IOTC).
- (38) In order to evaluate the compliance of Taiwan with its international obligations as flag, port, coastal or market State as set out in the international agreements referred to in recital 36 and established by the relevant Regional Fisheries Management Organisations (RFMOs) mentioned in that recital, the Commission sought and analysed all the information it deemed necessary for the purpose of that exercise. The main current internal legal framework for Taiwan fisheries management is the Fisheries Act (promulgated in November 1929 and last amended in November 2012) and a body of Ministerial agreements. The authorities of Taiwan have accepted the need for revision of the legal framework for fisheries and development of the new instrument.
- (39) The Commission also used information derived from available data published by the relevant RFMOs as well as publicly available information.

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

- (40) Pursuant to Article 31(3) of the IUU Regulation, the Commission analysed the duties of Taiwan 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 and measures taken in respect thereof (Article 31(4) of the IUU Regulation)

- (41) The Commission established on the basis of information retrieved from its on-the-spot visits and of publicly available information that at least 22 vessels have been involved in IUU activities during the 2010 to 2015 period.
- (42) One Taiwanese flagged fishing vessel (Yu Fong 168) is still listed in WCPFC IUU vessel list for fishing in 2009 in the EEZ of Marshall Islands without permission and in breach of Conservation and Management Measures⁽¹⁾. Taiwan has explained that the vessel is not under its control since 2009 and the only action authorities could take is to impose sanction for breaching the rule of returning to port. Taiwan explained that it has imposed such sanctions repeatedly without providing any additional information. In this respect it is noted that the Fisheries Act foresees for such infringement imposition of fine between 3 400 and 8 500 euros.
- (43) Based on the evidence retrieved, one Taiwanese flagged fishing vessel was arrested in 2015 in the Marshall Islands for fishing illegally and interfering with fisheries observers⁽²⁾. The Taiwanese authorities have not up till now imposed any sanction to the fishing vessel and Taiwanese nationals involved or engaged with this vessel's fishing activities. The only action that they have taken was to continue investigation on the case and inform the Commission that the case has been referred to the Marshall Islands courts.
- (44) Twenty Taiwanese flagged vessels are reported by the Indian Ocean Tuna Commission to have committed infringements contrary to the conservation and management measures of coastal States in the Indian Ocean in 2013 and 2014. These vessels have conducted operations: with fishing gears non-marked, with no original documents on board of the vessel or with missing fishing related documentations, with outdated fishing licences, with no clearance from the last fishing port called, with no fishing licence from the flag State, with no Vessel Monitoring System (VMS) on-board working or with VMS on-board disrupted, conducted shark finning operations, conducted illegal at-sea transshipments and without reporting transshipments.

⁽¹⁾ See Commission Implementing Regulation (EU) No 137/20014 of 12 February 2014 amending Regulation (EU) No 468/2010 establishing the Union list of vessels engaged in IUU fishing (OJ L 43, 13.2.2014, p. 47).

⁽²⁾ Information retrieved from: <http://www.radionz.co.nz/international/pacific-news/266070/arrests-in-marshalls-over-illegal-fishing>

- (45) The Commission provided this information to Taiwan and requested Taiwanese authorities to investigate incidents. The Taiwan Fisheries Agency argued that according to their preliminary investigation all vessels have been duly authorized to operate in coastal States waters and there were no issues with VMS reporting or active fishing licences. Nevertheless, the Taiwanese Authorities have not explained if they were aware of the issues from the coastal States and if they were going to cooperate with the relevant coastal States for the activities of these vessels, its masters, officers and crew.
- (46) With regard to information laid down in recitals 42, 43 and 44, the Commission considers that Taiwan has failed to uphold its responsibilities as a 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 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 (see Article 5 of the 1958 Geneva Convention on the High Seas ⁽¹⁾). 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. Furthermore, pursuant to points 31, 32, 33, 35 and 38 of FAO Voluntary Guidelines for Flag State Performance ⁽²⁾, flag States must implement control regimes over its vessels and must have in place an enforcement regime that, inter alia, detects and takes enforcement actions and effective sanctions against violations of applicable laws, regulations and international conservation and management measures.
- (47) Under Article 31(4)(b), the Commission also examined the measures taken by Taiwan in respect of access of fisheries products stemming from IUU fishing to its market.
- (48) The Commission analysed documentation and other information relating to Taiwan's monitoring and control of its marine capture fisheries and that of imported, exported or traded internationally products. Following this assessment, the Commission considers that Taiwan cannot ensure fishery products entering its ports and processing plants do not stem from IUU fishing. The Taiwanese 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 Union market. The main elements at the basis of the Commission's assessment are summarised hereinafter.
- (49) The 2012 and 2015 visits revealed that Taiwan was lacking a traceability system that is able to ensure full transparency in all stages of fishing transactions i.e. catch, transshipment, landing, transport, factory processing, export and trading. In 2012 the Commission visited operators and brokers to evaluate transparency and traceability in the Taiwan fishery market. A number of deficiencies were identified which were communicated to the authorities without any subsequent follow up.
- (50) The Commission established that the trading companies are not incorporating in their accounting systems information concerning traceability of fishing transactions and there is no certainty that what is recorded in the authorities' systems corresponds with what is recorded in the companies' accounting and production systems. This situation undermines the reliability of the traceability chain at company level. It also exposes the system to potential abuse by allowing trading operators to over declare incoming quantities from erroneous catch certificates and to launder fish through these overestimations. Furthermore, the Taiwanese electronic databases supporting the authorities' systems are incomplete and crucial documents in the supply chain such as landing declarations, e-logbooks and information from designated ports are still either not fully recorded or missing. This highlights the failures of the traceability system as a whole.
- (51) The risk of deficient traceability is amplified by the specific conditions of the Taiwanese fleet. Taiwan has a significant number of long distance fleet fishing vessels i.e. 468 vessels of more than 100 gross tonnage (GT) and between 1 200 and 1 400 vessels with less than 100 GT. In addition Taiwan nationals have invested and are operating 238 foreign flagged fishing vessels. Taiwanese flagged long distance fleet fishing vessels are operating in high seas and coastal States waters, using as fishing and landing bases ports in third countries and rarely calling back to home ports. Fisheries products are either sent from fishing grounds in high seas or coastal States waters to Taiwan for further processing or dispatched from Taiwanese trading companies to third countries for further processing. There is an absence of cooperation between Taiwan and third country authorities and significant problems in the ability of Taiwan to monitor the size and capacity of the fleet. This situation allows operators and traders intending to commit illegal acts, to operate from Taiwan without risk of detection.

⁽¹⁾ Information retrieved from: http://legal.un.org/ilc/texts/instruments/english/conventions/8_1_1958_high_seas.pdf

⁽²⁾ Voluntary Guidelines on Flag State Performance, 2014, retrieved from: <http://www.fao.org/3/a-mk052e.pdf>

The risk that Taiwanese vessels operate in breach of applicable conservation and management rules and Taiwanese trading companies trade undeclared catches for processing is still high. This situation increases the risk that fish products destined to the Union market, stemming from Taiwanese origin fish, cannot be guaranteed as not being sourced from IUU fishing.

- (52) Taiwan fails to comply with requirements to ensure comprehensive and effective monitoring, control and surveillance of fishing under Article 94 of UNCLOS, point 33 of FAO Voluntary Guidelines for Flag State Performance and point 24 of the International Plan Of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing (IPOA-IUU⁽¹⁾).
- (53) The Taiwanese authorities are developing traceability schemes to effectively monitor and control fish stemming from their vessels and subsequent fishery products entering its ports for processing and onward export. The authorities have also introduced this year a Strategy Plan for Auditing Trading Companies. Nevertheless, up to this moment this plan has not been implemented and audits of fishing trading companies have never been conducted. The lack of audits by the Fisheries Agency 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 IPOA-IUU.
- (54) 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. In addition paragraph 11(1)(11) of the FAO Code of Conduct provides that States should ensure that international and domestic trade in fish and fishery products complies with sound conservation and management practices by improving the identification of the origin of fish and fishery products traded. 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 48 to 53) clearly demonstrate how Taiwan has failed to take measures to improve the transparency of their markets which would prevent the risk of IUU products being traded through Taiwan or Taiwan based trading companies.
- (55) In preparation for the 2015 visit, the European Fisheries Control Agency (EFCA) analysed a few hundred catch certificates presented at Union borders for consignments originating from Taiwan. These catch certificates were validated from the Taiwanese fishing authorities on the basis of information provided from the Taiwanese operators. The impact of problems with data recording systems as outlined above can be seen in the irregularities listed below (as described in recitals 56 and 57).
- (56) The analysis of products caught by Taiwanese flagged vessels revealed the following inconsistencies: catch certificates with data amended or without all required data, inconsistent information concerning catch, master declarations, logbook, ICCAT statistic documents, dolphin safety declarations, transshipment, landing and processing data and dates, lack of access to Vessel Day Scheme actual fishing effort data for vessels operating in the Pacific, no records of licences from coastal States, inconsistencies on fishing and carrier vessels with vessels changing names and vessels not listed in the Union sanitary approved establishments lists, incomprehensible trade patterns (i.e. fish caught in Atlantic/Indian ocean, transported in Asia, processed and export to the Union) and incomplete information on processing statements and relevant production yields.
- (57) The Commission provided detailed information on results of the EFCA analysis to the Taiwanese authorities. The authorities investigated the matter and submitted satisfactory replies for production yields in processing statements. They have taken full note of issues and admitted the need to update their internal rules to resolve the problems. They have also reported that they would like to cooperate with the Commission in correcting their operating procedures.
- (58) The situation described in recital 56 underlines the risk of having Taiwanese processed fishing products or Taiwanese stemming fish raw materials derived from catches directly linked to IUU activities. In addition, the existence of clearly identifiable errors, as referred to in recital 56, demonstrates that Taiwan 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 IPOA-IUU.

(¹) International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing, Food and Agriculture Organization of the United Nations, 2001.

- (59) The information described in recital 56 demonstrate that products processed or traded through Taiwan undermine sustainable post-harvest rules as described in Article 11 of the FAO Code of Conduct and further highlight how Taiwan has failed to impose rules to ensure adequate cooperation with third countries to which its vessels fish and land 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 IPOA-IUU of the markets in order to allow the traceability of fish or fish products.
- (60) 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) (a) and (b) of the IUU Regulation, that Taiwan has failed to discharge the duties incumbent upon it under international law as a flag, port, coastal or market State in respect of IUU vessels and IUU fishing carried out or supported by fishing vessels flying its flag or by its nationals and 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)

- (61) Under Article 31(5)(a) the Commission analysed its collaboration with Taiwan to see if they had effectively cooperated in responding to questions, providing feedback or investigating matters related to IUU fishing and associated activities.
- (62) Following the 2012 visit, the Commission invited Taiwan 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 Law and IUU Code of Conduct (National Plan of Action on IUU) to ensure transposition of international and regional fisheries management legislation and non-binding recommendations into national law. The Commission invited Taiwan 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 (MCS) framework to ensure control of the Taiwan fleet operating in high seas and third country waters, and the development of logbook, catch reporting and landing declaration systems, designated ports as well as that of an inspection plan to control fishing operations, transshipments and landings. The effectiveness and transparency of the catch certification and traceability scheme for exports destined to the Union market should have been improved.
- (63) Taiwan responded in 2013 with its NPOA-IUU and in 2014 with its NPOA-Fishing Capacity. The Commission and the Taiwanese authorities had a number of written exchanges, video conferences and meetings on these documents.
- (64) With respect to NPOA-IUU the Commission analysis revealed that although the ideas contained in the plan are in principle correct, the time plan for implementation is unreasonably lengthy covering actions up to 2020. Account taken of the size of the Taiwan fleet which is operating in more than 30 third countries and the fact that the Taiwanese fishing vessels are important suppliers of raw material for processing plants and canneries, it is important for Taiwan to implement swiftly its actions on MCS, observers, landings and transshipments and to address effectively in its Fisheries Law the matters related with serious infringements and control of nationals.
- (65) With respect to NPOA-Fishing Capacity the Commission analysis revealed that this plan is not ensuring the link between the control capabilities of Taiwan with the number of Taiwanese long distant fishing vessels. The measures introduced by Taiwan (i.e. logbooks, E-logbooks, landing declaration and catch reporting systems, designated ports, inspection and control of landings, transshipments, boarding and inspection of vessels, national inspection/observer plans and traceability) to monitor its fleet are not comprehensive since measures are partially covering the long distance fleet, they are partially implemented or are still plans that have not been developed yet. Furthermore, this policy has no quantifiable management targets, no indications on fishing effort levels, quotas, licences, authorizations for fishing to third countries, number of vessels in RFMOs, stock assessments and targets or scientific advice. There is no analysis on link between the number of vessels, the number of licences, the volume of catches and the available financial and human resources needed to control and monitor industry. There is lack of any benchmarks to achieve policy targets or a methodology for having such benchmarks. Finally, future actions provided are vague and offer no indication on how and when the authorities will implement this policy.

- (66) During the period 2012 to 2015 the Commission provided detailed comments on the various plans of Taiwan to address IUU fishing and re-iterated the need for cooperation and corrective actions. Taiwan without disputing the findings of the Commission repeatedly argued for need for reflecting on actions and additional time to implement.
- (67) The 2015 visit to Taiwan revealed little or no progress in the areas of concern highlighted by the Commission in period 2012 - 2015 (as described in the recital above). The Fisheries Act was still in draft, the NPOA-IUU was reported being in implementation process but in reality without actual introduction of the measures described in this Section of the Decision and unclear timelines, the NPOA-Fishing Capacity was still a document missing actual targets and with non-existing timelines for any implementation. Developments in the MCS framework were minimal with e-logbooks covering only a part of the fleet, designated ports being non-existent, landing declarations covering only domestic fishing and with plans to expand in the future to long distance fleet and measures to control transshipments in a developing phase. The Commission report of July 2012 details the various issues mentioned in this recital, these are the same as those found in the recent visit of March 2015. The Commission report of the March 2015 mission provided again all the critical issues and highlighted the possible consequences of lack of progresses.
- (68) For these reasons, the Commission considers that Taiwan failed to address all the issues identified in the period 2012-2015.
- (69) It has also failed to adopt a legal framework foreseeing definitions of IUU fishing and serious infringements in line with the IOTC Resolution 11/03 ⁽¹⁾ and Article 25(4) of WCPFC Convention ⁽²⁾. It has also failed to exercise its jurisdiction over the administrative and technical matters of its fleet in line with Article 94 of UNCLOS (see also Article 5 of the 1958 Geneva Convention on the High Seas). It has also failed to implement provisions of points 31-33 of FAO Voluntary Guidelines for Flag State Performance. Furthermore, it has failed to implement provisions of point 24 of IPOA IUU in respect of monitoring, control and surveillance over its fleet.
- (70) Overall the Taiwanese 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 EC 1005/2008. Some issues concerning access of Member States to information related to VMS data of Taiwanese flagged vessels were resolved with the intervention of the Commission. However the accuracy of the responses of the Taiwanese authorities was undermined by the inadequacies of their traceability systems as outlined in Section 3.1 of this Decision.
- (71) In accordance with Article 31(5)(b), the Commission also analysed existing enforcement measures to prevent, deter and eliminate IUU fishing in Taiwan.
- (72) During the period 2012-2015, the Commission highlighted the need for Taiwan to promulgate a new Fisheries Act. The existing law lacks clear definitions on scope and serious infringements while there is no provision for an aggravated infringement in case of repeated offences. The current level of fines in the law is not sufficient to deprive large commercial vessels of the benefits accrued from potential illegal activities (maximum fines set to approximately 9 000 euros). Penalties in their current form are not comprehensive in scope and not severe enough in level to achieve deterrence. There is also lack of specific provisions in the law concerning nationals supporting or engaged in IUU fishing activities. Some facultative sanctioning provisions are contained in the Ordinance for Taiwanese investments in the operation of foreign flagged fishing vessels with sanctions for fish origin laundering and operating foreign flagged fishing vessels in contravention of the flag State established rules. Nevertheless, the monetary sanctions foreseen are not mandatory and it is not clear whether they are applied in case other countries have imposed fines of insufficient severity to Taiwanese nationals on the same infringement.
- (73) Finally, there is no clear legal framework concerning transposition of RFMOs conservation and management measures. Taiwanese authorities confirmed that the legal framework has to be revised in order to address the aforesaid issues. Taiwan has also indicated that it is fully committed in ensuring that its fishing vessels that have been sanctioned by coastal States for infringements with sanctions of insufficient severity will be further punished in Taiwan. The Taiwanese authorities announced that a new Fisheries Law would be ready by end 2014. Nevertheless, up till now this has not happened. Taiwan fails to uphold its obligations to impose effective

⁽¹⁾ IOTC Resolution 11/03, retrieved from: http://www.iotc.org/sites/default/files/documents/compliance/cmm/iotc_cmm_11-03_en.pdf

⁽²⁾ WCPFC Convention, retrieved from: <https://www.wcpfc.int/system/files/text.pdf>

enforcement measures under Article 94 of UNCLOS (see also Article 5 of the 1958 Geneva Convention on the High Seas). It also fails to follow points 31-33, 35 and 38 of FAO Voluntary Guidelines for Flag State Performance and to demonstrate that it has in place an adequate sanction regime to combat IUU as recommended in point 21 of IPOA IUU and that it has adopted measures concerning nationals subject to its jurisdiction supporting or engaged in IUU fishing as recommended in point 18 of IPOA IUU.

- (74) The MCS capabilities of Taiwan are not sufficiently developed. There is no national inspection plan to ensure a coherent policy on surveillance and monitoring of its fleet operations. Specific MCS measures and tools are still deficient as explained in recitals 65 and 67 thus undermining the ability of Taiwanese enforcement measures to prevent, deter and eliminate IUU fishing. According to available information Taiwan is covering only 60 % of its long distance fleet of over 100 GT which is operating outside Taiwan waters, including all the existing purse seiners. Taiwan is working with more than 30 countries on the establishment of designated ports but currently has no operational arrangements in place. It has put in place since September 2014 a new landing declaration scheme and is in the process of upgrading this with new legal provisions but the new landing declaration scheme still does not cover all types of long distance fleet vessels. Finally, it is still working on developing an effective system of control of transshipments of its long distance fleet vessels.
- (75) The absence of an effective MCS system demonstrates the inability to monitor fishing operations at sea and undermines the ability of the Fisheries Agency to effectively enforce rules applicable to the different sea areas concerned. This, combined with the lack of effective cooperation with third countries with respect to designated ports and transshipments exacerbates the risk of IUU fishing activities conducted by Taiwanese vessels. The Commission therefore believes that Taiwan does not ensure comprehensive and effective MCS system for fishing vessels flying its flag. Taiwan's failure to implement an effective MCS system adversely affects its compliance with Article 94 UNCLOS (see also Article 5 of the 1958 Geneva Convention on the High Seas). It also constitutes a failure to follow the recommendations of point 33 of FAO Voluntary Guidelines for Flag State Performance and point 24 of IPOA-IUU.
- (76) The Commission notes that, on the basis of information derived from the Commission missions in 2012 and 2015 and the discussions with the Taiwanese authorities during the period 2012 to 2015, it cannot be considered that the Taiwanese authorities are lacking financial resources but rather the necessary legal and administrative environment to ensure efficient and effective performance of their duties as flag, port and market state.
- (77) It is recalled that Taiwan, due to its political status, is not a member of the United Nations (UN). Based on the United Nations Human Development Index (HDI) statistics that Taiwan has collected using the methodology of the UN, Taiwan is considered to be a high human development country (ranked 21st out of 188 countries) ⁽¹⁾.
- (78) Considering these elements, the Commission considers that Taiwan does not lack financial resources to fulfil its duties as flag, port and market states but rather the necessary legal and administrative instruments to ensure efficient and effective performance of its duties.
- (79) 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 Taiwan, it could be established, pursuant to Article 31(3) and (5) of the IUU Regulation, that Taiwan failed to discharge its duties under international law with respect to cooperation and enforcement efforts.

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

- (80) Taiwan did not sign or ratify any of the international agreements specifically governing fisheries. As explained in recital 36 Taiwan is considered covered by pre-existing rules of customary law as well as by due diligence obligation with respect to its fishing vessels conducting IUU fishing. Taiwan is a Contracting Member to CCSBT, SPRFMO and NPFC and a cooperating non-contracting Party to WCPFC, IATTC and ICCAT. Furthermore, Taiwan is invited expert to the IOTC.
- (81) Under Article 31(6)(b) the Commission analysed all information regarding the status of Taiwan as Contracting Party of CCSBT, SPRFMO and NPFC, as a cooperating non-contracting Party to WCPFC, IATTC, ICCAT and as invited expert to IOTC.

⁽¹⁾ <http://eng.stat.gov.tw/ct.asp?xItem=25280&ctNode=6032&mp=5>

- (82) The Commission also analysed any information deemed relevant with respect to the agreement of Taiwan to apply conservation and management measures adopted by WCPFC, IATTC, ICCAT, CCSBT, SPRFMO and IOTC.
- (83) According to information derived from the IOTC Compliance Report for Taiwan produced on 23 March 2015 ⁽¹⁾, several repeated compliance issues were identified in 2014. In particular, according to available information Taiwan has not provided all the mandatory information to IOTC standard on the List of vessels for tropical tuna during 2006 as required by IOTC Resolution 12/11. It has not provided all the mandatory information to IOTC standard on the List of vessels for swordfish and albacore during 2007, as required by IOTC Resolution 12/11. It has not provided all the mandatory information to IOTC standard on the List of Authorized vessels 24 metres in length overall or more, as required by IOTC Resolution 14/04. It has not reported Size frequency for the longline fisheries to IOTC standard, as required by Resolution 10/02. It has not reported Size frequency on sharks to IOTC Standard, as required by Resolution 05/05. It has not provided observer report, as required by Resolution 11/04. In addition Taiwan has not provided the report on VMS summary, as required by Resolution 12/13, it has not implemented the marking of passive fishing gears, as required by Resolution 13/02, it has not provided a detailed report on transshipments in port, as required by Resolution 12/05. It was also established that Taiwan failed to comply with the IOTC Resolution 14/06.
- (84) On these grounds, Taiwan has been identified by IOTC as repeated offender in 2014 because forty eight large scale tuna longline fishing vessels (LSTLVs) of its fleet have records of repeated infringements in 2014 and thirty eight of those have a record of possible infractions in 2013 as well ⁽²⁾.
- (85) It was also established that Taiwan still needs to address issues the cases involving vessel and a national from Taiwan which have been identified as IUU fishing activity in 2013 (see recital 86).
- (86) According to information derived from the IOTC Compliance Report for Taiwan produced on 26 April 2014 ⁽³⁾, it is recalled that IOTC has identified Taiwan for its failure to comply with the IOTC Resolution 12/05. More specifically, Taiwan has been identified by IOTC as repeated offender in 2013 because one hundred and two LSTLVs of its fleet have records of repeated infringements in 2013 and thirty four of those have a record of possible infractions in 2012 as well. Furthermore Taiwan has failed to provide proof that adequate investigations have been conducted and that sanctions of adequate severity have been imposed with respect to one vessel (under the name 'MAN YIH FENG') on the Provisional IOTC IUU list ⁽⁴⁾.
- (87) Following the 2015 visit, Taiwan has submitted to the Commission that it recognises the importance of the issues with respect to transshipments of large scale fishing vessels and explained that it has taken measures to prohibit transshipments, ensure valid fishing licences and distribute to vessels new logbooks. Taiwan also acknowledged need for actions on issue related to size data on sharks, observer report, marking of passive fishing gears and detailed report on transshipment in port.
- (88) The problems of Taiwan with IOTC are exacerbated by the fact that Taiwan has a large long distance fishing fleet and according to estimations 73 % of transshipments at sea in IOTC area are conducted by Taiwanese vessels ⁽⁵⁾.
- (89) The compliance issues of Taiwan with IOTC demonstrate the failure of Taiwan to fulfil its obligations as flag State laid down in Article 94 of UNCLOS (see also Article 5 of the 1958 Geneva Convention on the High Seas). In addition Taiwan thereby fails to follow the recommendations of points 31-33, 35 and 38 of FAO Voluntary Guidelines for Flag States Performance and of point 24 of IPOA-IUU.
- (90) The Commission also analysed information available from ICCAT on the compliance of Taiwan with ICCAT rules and MCS obligations. For this the Commission used the ICCAT tables for the issues of potential non-compliance arising from ICCAT Regional Observer Programmes detected during the observations made by ICCAT Regional observers ⁽⁶⁾.

⁽¹⁾ IOTC Compliance Report for Taiwan, Doc. No IOTC-2015-CoC12-CR36, 23 March 2015.

⁽²⁾ IOTC Doc. No IOTC-2015-CoC12-08c Add_1, 27 March 2015.

⁽³⁾ IOTC Doc. No IOTC-2014-CoC11-08c Add_1, 26 April 2014.

⁽⁴⁾ Report of the Eleventh Session of the Compliance Committee, Colombo, Sri Lanka, May 26-28, 2014, pp. 14-15.

⁽⁵⁾ Information retrieved from:

http://www.iotc.org/sites/default/files/documents/2015/03/IOTC-2015-CoC12-04bE_-_IOTC_ROP_-_Contractors_Report.pdf

⁽⁶⁾ ICCAT Regional Observer Programmes and Responses, 5 November 2014, COC-305/2014, pp. 33-49.

- (91) Information available for 2014 from ICCAT revealed that Taiwanese vessels have failed to present to the ICCAT observers valid authorisations to tranship and up to date versions of the Transhipment Declaration (previous versions were used, which did not include the last changes such as the inclusion of a reference to the stock and the area). In addition, Taiwanese vessels have failed to present valid authorisations to fish for the ICCAT area and numerous cases of non-compliance in connection with the logbooks were identified such as logbooks which were not bound in contravention of Recommendation 03-13 and the logbook sheets which were not numbered as required in ICCAT Recommendation 11-01, Annex 1. Furthermore, non-compliance with marking and VMS requirements and inconsistencies in the reporting of information to the ICCAT observers were detected as well.
- (92) It is also recalled that ICCAT issued in 2014 a Letter of Concern⁽¹⁾ to Taiwan concerning the possible at-sea transhipments and the possible IUU activities by Taiwanese nationals in particular with respect to control over catches and irregularities between catch declarations and total reported catches.
- (93) Following the 2015 visit, Taiwan argued that it was fully compliant to ICCAT rules from 2007 to 2012, and in 2014. For the admitted compliance issues concerning the year 2013 Taiwan alleged that it has taken all the appropriate measures to address ICCAT issues and consequently no actions were taken by ICCAT.
- (94) With respect to WCPFC, it is noted that the Commission and the Taiwanese authorities discussed during the 2015 mission the compliance of Taiwan to the conservation and management measures (CMMs) adopted by that regional organisation.
- (95) Taiwan has submitted to the Commission that it has incorporated WCPFC Convention and CMMs in its national legal system and has been working in solving a number of established non-compliance issues with respect to WCPFC CMMs.
- (96) It is also noted that the WCPFC 10th Scientific Committee raised the issue of data gaps in Taiwan's purse-seine fleet and requested that Taiwan provide a paper to the 11th Scientific Committee describing the methodology used to estimate the tuna species catches in their aggregate purse-seine data provided to WCPFC⁽²⁾.
- (97) Information available from the SPRFMO⁽³⁾, demonstrates that with respect to 2014 Taiwan has failed to reach the standards for Collection, Reporting, Verification and Exchange of Data (CMM 2.02 (1e)) and has failed to fully comply with the requirements for Landings and Transhipment Data (CMM 2.02 (1d)).
- (98) Following the 2015 visit, Taiwan has submitted to the Commission that it was obliged to provide summary data under CMM 2.02 (1e) because of national data protection issues. It also explained that was only partial non-compliant with CMM 2.02 (1d).
- (99) The compliance issues of Taiwan with WCPFC and SPRFMO demonstrates the failure of Taiwan to fulfil its obligations as flag State laid down in Article 94 of UNCLOS (see also Article 5 of the 1958 Geneva Convention on the High Seas). In addition Taiwan did not follow the recommendations as in points 31-33, 35 and 38 of FAO Voluntary Guidelines for Flag States Performance and point 24 of IPOA-IUU.
- (100) 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 Taiwan 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 (Article 31(7) of the IUU Regulation)

- (101) It is recalled that Taiwan, due to its political status, is not a member of the United Nations. Based on the HDI statistics that Taiwan has collected using the methodology of the UN, Taiwan is considered to be a high human development country (ranked 21st out of 188 countries)⁽⁴⁾.

⁽¹⁾ Letter of Concern on the 13 February 2014.

⁽²⁾ Summary Report of the WCPFC Scientific Committee 10th Regular Session, point 82.

⁽³⁾ Assessment of Compliance of Members and CNCPs, 2nd Meeting of the Compliance and Technical Committee, Auckland, New Zealand, 30-31 January 2015.

⁽⁴⁾ <http://eng.stat.gov.tw/ct.asp?xItem=25280&ctNode=6032&mp=5>

- (102) It should be noted that the notification of Taiwan as flag State was accepted by the Commission in accordance with Article 20 of the IUU Regulation as of 28 January 2010. Taiwan 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.
- (103) Account taken of the above HDI ranking and observations during the 2012 to 2015 visits, no evidence suggests that the failure of Taiwan 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. Taiwan has never argued that development constraints affect their ability to deliver strong MCS and has never requested support from the Union.
- (104) 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 Taiwan with respect to fisheries management are not impaired by its level of development.

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

- (105) In view of the conclusions reached with regard to the failure of Taiwan 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, Taiwan 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.
- (106) In accordance with Article 32(1) of the IUU Regulation, the Commission should notify Taiwan 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 Taiwan. 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.
- (107) Furthermore, the notification to Taiwan of the possibility of being identified as a non-cooperating country 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

Taiwan 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, 1 October 2015.

For the Commission

Karmenu VELLA

Member of the Commission

New national side of euro coins intended for circulation

(2015/C 324/11)



National side of the new commemorative 2-euro coin intended for circulation and issued by San Marino

Euro coins intended for circulation have legal tender status throughout the euro area. For the purpose of informing the public and all parties who handle the coins, the Commission publishes a description of the designs of all new coins ⁽¹⁾. In accordance with the Council conclusions of 10 February 2009 ⁽²⁾, euro-area Member States and countries that have concluded a monetary agreement with the European Union providing for the issuing of euro coins are allowed to issue commemorative euro coins intended for circulation, provided that certain conditions are met, particularly that only the 2-euro denomination is used. These coins have the same technical characteristics as other 2-euro coins, but their national face features a commemorative design that is highly symbolic in national or European terms.

Issuing country: San Marino

Subject of commemoration: 25th anniversary of the German reunification

Description of the design: The design shows the Brandenburg Gate which during the Cold War was located in East Berlin, in two representations which are intertwined like two hands, symbolizing the reunification of the two parts of Berlin. At the left the mint mark 'R' and the initials of the artist 'ES' (Erik Spiekermann). In circle around the design are the inscription '25° ANNIVERSARIO DELLA RIUNIFICAZIONE DELLA GERMANIA 1990-2015' (25th anniversary of the German reunification) and the country and year of issuance 'San Marino MMXV'.

The coin's outer ring depicts the 12 stars of the European flag.

Number of coins to be issued: 100 000

Date of issue: September 2015

⁽¹⁾ See OJ C 373, 28.12.2001, p. 1 for the national faces of all the coins issued in 2002.

⁽²⁾ See the conclusions of the Economic and Financial Affairs Council of 10 February 2009 and the Commission Recommendation of 19 December 2008 on common guidelines for the national sides and the issuance of euro coins intended for circulation (OJ L 9, 14.1.2009, p. 52).

New national side of euro coins intended for circulation

(2015/C 324/12)



National side of the new commemorative 2-euro coin intended for circulation and issued by Greece

Euro coins intended for circulation have legal tender status throughout the euro area. For the purpose of informing the public and all parties who handle the coins, the Commission publishes a description of the designs of all new coins ⁽¹⁾. In accordance with the Council conclusions of 10 February 2009 ⁽²⁾, euro-area Member States and countries that have concluded a monetary agreement with the European Union providing for the issuing of euro coins are allowed to issue commemorative euro coins intended for circulation, provided that certain conditions are met, particularly that only the 2-euro denomination is used. These coins have the same technical characteristics as other 2-euro coins, but their national face features a commemorative design that is highly symbolic in national or European terms.

Issuing country: Greece

Subject of commemoration: 75 years in memoriam of Spyros Louis

Description of the design: The design shows Spyros Louis and the cup that he was awarded, against the background with the Panathenaic Stadium. Inscribed along the inner edge is the country of issuance 'HELLENIC REPUBLIC' and '75 YEARS IN MEMORIAM OF SPYROS LOUIS' (in Greek). Above the cup appears the year of issuance '2015' and to the right a palmette (the mint mark of the Greek Mint). Visible at the bottom of the design is the monogram of the artist (George Stamatopoulos).

The coin's outer ring depicts the 12 stars of the European flag.

Number of coins to be issued: 750 000

Date of issue: third quarter of 2015

⁽¹⁾ See OJ C 373, 28.12.2001, p. 1 for the national faces of all the coins issued in 2002.

⁽²⁾ See the conclusions of the Economic and Financial Affairs Council of 10 February 2009 and the Commission Recommendation of 19 December 2008 on common guidelines for the national sides and the issuance of euro coins intended for circulation (OJ L 9, 14.1.2009, p. 52).

V

*(Announcements)*PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration**(Case M.7678 — Equinix/Telecity)****(Text with EEA relevance)**

(2015/C 324/13)

1. On 24 September 2015, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which Equinix Inc. ('Equinix', USA) would acquire within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Telecity Group plc ('Telecity', UK) by way of purchase of shares.
2. The business activities of the undertakings concerned are:
 - for Equinix: provision of data centre and related services such as interconnection services with operations at worldwide level across 15 countries,
 - for Telecity: provision of data centre and related services such as interconnection services with operations in 10 EU countries and Turkey.
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.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number M.7678 — Equinix/Telecity, to the following address:

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

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

Prior notification of a concentration**(Case M.7809 — Grosvenor/PSPIB/Real estate asset in Milan)****Candidate case for simplified procedure****(Text with EEA relevance)**

(2015/C 324/14)

1. On 23 September 2015, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings Grosvenor International Investments Limited, belonging to Grosvenor Group Limited ('Grosvenor', United Kingdom) and PSPLUX S.à.r.l., belonging to Public Sector Pension Investment Board ('PSPIB', Canada) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of a real estate asset located in Milan (Italy).
2. The business activities of the undertakings concerned are:
 - for Grosvenor: privately owned property group active in the ownership, development and management of real estate and other property related businesses.
 - for PSPIB: investment of the pension plans of the Canadian Federal Public Service, the Canadian Forces and the Royal Canadian Mounted Police. It manages a diversified global portfolio including stocks, bonds and other fixed-income securities as well as investments in private equity, real estate, infrastructure and natural resources.
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 ⁽²⁾ 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 email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number M.7809 — Grosvenor/PSPIB/Real estate asset in Milan, to the following address:

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

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

⁽²⁾ 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 324/15)

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 ⁽¹⁾.

SINGLE DOCUMENT

'COCHINILLA DE CANARIAS'

EU No: ES-PDO-0005-01302 – 22.01.2015

PDO (X) PGI ()

1. Name

'Cochinilla de Canarias'

2. Member State or Third Country

Spain

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

Class 2.12. Cochineal

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

'Cochinilla de Canarias' is the raw product of animal origin obtained on the Canary Islands from the natural desiccation of adult females of the species *Dactylopius coccus* (traditionally known as the cochineal insect), a hemipterous insect of the family *Coccidae*, harvested from the pads of the prickly pear (*Opuntia ficus indica*).

It has the following specific characteristics:

Physico-chemical:

It is a solid made up of grains, each one of which corresponds to a female insect. The grains have an irregular, oval and segmented shape.

The grains vary in size but are always less than 1 cm long.

Moisture content: no more than 13 %.

Carminic acid content: at least 19 % in dry matter.

Organoleptic characteristics:

The texture of the product is grainy and dry to the touch.

The colour ranges from dark grey to black, with reddish and whitish hues from the remains of the cotton-like wax that protects the grain.

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

The cochineal insect feeds on the host plant (*Opuntia ficus indica*, also classified as *Opuntia maxima* and *Opuntia tomentosa*), which was introduced to the Canary Islands before the 19th century and is now a naturalised species on all of the islands on account of its agricultural value for cochineal farming.

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

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

The following stages of production must take place in the geographical area:

- Cultivation of the host plant
- Inoculation, development and harvesting of the insect
- Drying of the sifted product and preparation prior to packaging

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

The product is packaged in bags made of jute or similar material, preferably natural fibre, which allows ventilation.

Given the characteristics of cochineal, which is a raw product of animal origin that is obtained through the natural desiccation of the insect and has pronounced physico-chemical and organoleptic properties, packaging must take place as soon as possible after drying and sifting, which is why the final product must be packaged on the Canary Islands, specifically in the place in which it is produced. This prevents any alteration of the physico-chemical and organoleptic characteristics of the product, with a view to preserving its quality.

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

The Community 'Protected Designation of Origin' logo and the Protected Designation of Origin 'Cochinilla de Canarias' must be prominently displayed on the label.

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

The cochineal is produced on all seven islands of the Canary archipelago.

On Tenerife, Gran Canaria, La Gomera, La Palma and El Hierro, cochineal is produced in coastal areas and medium-altitude areas of up to 1 200 m above sea level. On Fuerteventura and Lanzarote, the production area includes all agricultural land below 600 m above sea level.

5. **Link with the geographical area**

The causal links between the product's quality and characteristics and the geographical environment are as follows:

- The geographical location of the Canary Islands:

The Canary Islands lie at a latitude of between 27° 37' and 29° 25' N and a longitude of between 13° 20' and 18° 10' W. It is a geographical location that provides optimal conditions for the production of 'Cochinilla de Canarias'.

- The Canary Islands lie within the area of influence of the trade winds generated by the Azores High, which produces a temperature inversion and a 'cloud sea' and gives rise to a greenhouse effect. The humid trade winds hydrate the cochineal insect's host plant to just the right degree, so that the humidity is not excessive but allows both the plant and the insect to develop.
- The clouds that generate the greenhouse effect contribute to the stability of the cool Canary Current, which makes the climate of the islands milder.
- The difference in temperature between the warmest and coolest months is less than 10 °C, with temperatures fluctuating between 17 °C and 25 °C, except on the mountain peaks. The stable temperatures are conducive to the development of the insect with very little variation in its physico-chemical and organoleptic characteristics, as already described in point 3.2 of this specification.
- The subtropical geographical location of the Canary Islands, which receive an average of 3 000 hours of sunshine per year, ensures that drying can take place naturally, without chemicals and using only natural sunshine.
- The volcanic soils of the Canary Islands are poor and are characterised by a lack of organic matter and an abundance of basalt minerals. They have very specific physical and chemical properties as a result of the amorphous or poorly crystallised components that they contain, such as aluminium silicates and iron and aluminium oxyhydroxides. These components, known as andic materials, give the soil high porosity, low density, high water retentivity and a high capacity to form stable micro-aggregates. The host plants which grow on these soils have a low water content and very low nutritional requirements, which is why the cochineal insects that they host have a low moisture content (less than 13 %) and therefore a high concentration of carminic acid (at least 19 % in dry matter).

There are also human factors that contribute to the characteristics of 'Cochinilla de Canarias'.

- In contrast to the cochineal obtained in other regions, only one type of host plant (*Opuntia ficus indica*) and one type of insect (*Dactylopius coccus*) are cultivated on the Canary Islands. Both the host plant and the insect are perfectly adapted to the geographical environment.
- All stages of production, from planting the cactus and cultivating the parasite to harvesting and drying, are carried out by hand using artisanal methods. This has led to the development of techniques and expertise that have been passed on from one generation to the next and also to the emergence of terms specific to the trade, such as 'rengues', 'cuchara', 'milana', 'grano', etc.

It can thus be concluded that a combination of natural and historical factors link 'Cochinilla de Canarias' to its geographical environment and the tradition and customs of its producers, thereby giving it its own specific characteristics.

Reference to publication of the product specification

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

http://www.gobiernodecanarias.org/agricultura/icca/Doc/Productos_calidad/PLIEGO_DE_CONDICIONES_DOP_COCHINILLA_DE_CANARIAS.pdf

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)



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