Official Journal of the European Union

C 257

Volume 59

English edition

Information and Notices

15 July 2016

Contents

EN

[1] Text with EEA relevance

[1] Text with EEA relevance

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Non-opposition to a notified concentration

(Case M.8085 — AEA/Scan Global Logistics)

(Text with EEA relevance)

(2016/C 257/01)

On 8 July 2016, 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 32016M8085. EUR-Lex is the on-line 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

EUROPEAN COMMISSION

Euro exchange rates [1]

14 July 2016

(2016/C 257/02)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,1157	CAD	Canadian dollar	1,4422
JPY	Japanese yen	117,88	HKD	Hong Kong dollar	8,6538
DKK	Danish krone	7,4378	NZD	New Zealand dollar	1,5474
GBP	Pound sterling	0,83311	SGD	Singapore dollar	1,4978
SEK	Swedish krona	9,4413	KRW	South Korean won	1 262,25
CHF	Swiss franc	1,0900	ZAR	South African rand	15,8563
ISK	Iceland króna		CNY	Chinese yuan renminbi	7,4577
NOK	Norwegian krone	9,3247	HRK	Croatian kuna	7,5116
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	14 562,12
CZK	Czech koruna	27,049	MYR	Malaysian ringgit	4,3816
HUF	Hungarian forint	313,64	PHP	Philippine peso	52,436
PLN	Polish zloty	4,4115	RUB	Russian rouble	70,4687
RON	Romanian leu	4,4903	THB	Thai baht	39,115
TRY	Turkish lira	3,2223	BRL	Brazilian real	3,6041
AUD	Australian dollar	1,4588	MXN	Mexican peso	20,3522
			INR	Indian rupee	74,5940

[1] *Source*: reference exchange rate published by the ECB.

COMMISSION DECISION

of 17 June 2016

setting up the High Level Expert Group on Information Systems and Interoperability

(2016/C 257/03)

THE EUROPEAN COMMISSION,

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

Whereas:

(1) With a view to structurally improve the Union's data management architecture for border control and security in particular by addressing the current shortcomings and knowledge gaps of information systems at Union level, in accordance with the Communication from the Commission to the European Parliament and the Council entitled 'Stronger and Smarter Information Systems for Borders and security' ([1]), the Commission needs to call upon the expertise of high level experts in an advisory body.

(2) It is therefore necessary to set up a group of high level experts in the field of Information Systems and Interoperability and to define its tasks and its structure.

(3) The group should help to develop a joint strategy to make data management in the Union more effective and efficient, in full respect of data protection requirements, to better protect its external borders and enhance its internal security. The group should take a broad and comprehensive perspective on border management and law enforcement, taking into account the relevant customs authorities' roles, responsibilities and systems.

(4) The group should be composed of the Member States' competent authorities, the competent authorities from the associated members of the Schengen Area which are not members of the European Union, the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), the European Union Agency for Fundamental Rights (FRA), the European Asylum Support Office (EASO), the European Police Office (Europol) and the Counter-Terrorism Coordinator (CTC).

(5) Rules on disclosure of information by members of the group should be laid down.

(6) Personal data should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council ([2]).

(7) This Decision should apply until 31 December 2017. The Commission will in due time consider the advisability of an extension,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

The High Level Expert Group on Information Systems and Interoperability ('the group') is hereby set up.

Article 2

Tasks

The tasks of the group shall be:

(a) to give advice and assist the Commission in order to achieve the interoperability and interconnection of information systems and data management for border management and security;

([1]) Commission Communication of 6 April 2016 on Stronger and Smarter Information Systems for Borders and Security — COM(2016) 205.

([2]) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

(b) to develop an overall strategic vision on the interoperability and interconnection of information systems and on a more effective and efficient data management for border management and security in the Union, including suggestions of concrete follow up actions for the Commission for the short, medium and long term to better protect its external borders and enhance its internal security through enhanced information sharing;

(c) to establish cooperation and coordination between the Commission and Member States on questions relating to the implementation of Union legislation on the interoperability and interconnection of information systems and data management for border management and security in the Union.

Article 3

Membership

1. The group shall be composed of Member States' competent authorities, the competent authorities from the associated members of the Schengen Area which are not members of the European Union, the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), the European Union Agency for Fundamental Rights (FRA), the European Asylum Support Office (EASO), the European Police Office (Europol) and the Counter-Terrorism Coordinator (CTC).

2. The members of the group shall nominate high level representatives. Each of the high level representatives may be accompanied by one expert in information exchange in order to ensure a high level of technical expertise.

Article 4

Chair

The group shall be chaired by the Director-General of Directorate-General for Migration and Home Affairs of the Commission.

Article 5

Operation

1. The group shall act at the request of its chairman in compliance with the Commission's horizontal rules for expert groups ('the horizontal rules') [1].

2. The meetings of the group shall, in principle, be held in Brussels.

3. The Directorate-General for Migration and Home Affairs of the Commission ('DG HOME') shall provide secretarial services. Commission officials from other directorates with an interest in the proceedings may attend meetings of the group and its sub-groups.

4. In agreement with DG HOME, the group may, by simple majority of its members, decide that deliberations shall be public.

5. Minutes on the discussion on each point on the agenda and on the opinions delivered by the group shall be meaningful and complete. Minutes shall be drafted by the secretariat under the responsibility of the Chair.

6. The group shall adopt its opinions, recommendations or reports by consensus. In the event of a vote, the outcome of the vote shall be decided by simple majority of the members. Members who have voted against shall have the right to have a document summarising the reasons for their position annexed to the opinions, recommendations or reports.

Article 6

Sub-groups

1. DG HOME may set up sub-groups for the purpose of examining specific questions on the basis of terms of reference defined by the Commission. Sub-groups shall operate in compliance with the horizontal rules and shall report to the group. They shall be dissolved as soon as their mandate is fulfilled.

2. The members of the group shall nominate representatives for each subgroup.

[1] C(2016) 3301.

Article 7

Invited experts

The chairman of the group may invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the group or sub-groups on an ad hoc basis.

Article 8

Observers

1. Individuals, organisations and public bodies may be granted an observer status, in compliance with the horizontal rules, by direct invitation from the Chair.

2. Organisations/public entities appointed as observers shall nominate their representatives.

3. Observers and their representatives may be permitted by the Chair to take part in the discussions of the group and provide expertise. However, they shall not have voting rights and shall not participate in the formulation of recommendations or advice of the group.

Article 9

Rules of procedure

On a proposal by and in agreement with DG HOME the group shall adopt its rules of procedure by simple majority of its members, on the basis of the standard rules of procedure for expert groups, in compliance with the horizontal rules.

Article 10

Professional secrecy and handling of classified information

Members of the group and their representatives, as well as invited experts and observers, shall comply with the obligations of professional secrecy laid down by the Treaties and their implementing rules, as well as with the Commission's rules on security regarding the protection of Union classified information laid down in Commission Decisions (EU, Euratom) 2015/443 ([1]) and 2015/444 ([2]). Should they fail to respect these obligations, the Commission may take all appropriate measures.

Article 11

Transparency

1. The group and its sub-groups shall be registered in the Register of Commission expert groups and other similar entities ('the Register of expert groups').

2. As concerns composition, the name of the members, including the Member States' authorities, as well as of the observers shall be published on the Register of expert groups.

3. All relevant documents, including the agendas, the minutes and the participants' submissions, shall be made available either on the Register of expert groups or via a link from that Register to a dedicated website, where this information can be found. Access to dedicated websites shall not be submitted to user registration or any other restriction. In particular, the agenda and other relevant background documents shall be published in due time ahead of the meeting, followed by timely publication of minutes. Exceptions to publication shall only be foreseen where it is deemed that disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council ([3]).

Article 12

Meeting expenses

1. Participants in the activities of the group and sub-groups shall not be remunerated for the services they offer.

([1]) Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).
([2]) Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).
([3]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

2. Travel and subsistence expenses incurred by participants in the activities of the group and sub-groups shall be reimbursed by the Commission. Reimbursement shall be made in accordance with the rules applied by the Commission and within the limits of the available appropriations allocated to the Commission departments under the annual procedure for the allocation of resources.

Article 13

Applicability

This Decision shall apply until 31 December 2017.

Done at Brussels, 17 June 2016.

For the Commission

Dimitris AVRAMOPOULOS

Member of the Commission

COURT OF AUDITORS

Special Report No 17/2016

'The EU Institutions can do more to facilitate access to their public procurement'

(2016/C 257/04)

The European Court of Auditors hereby informs you that Special Report No 17/2016 'The EU Institutions can do more to facilitate access to their public procurement' has just been published.

The report can be accessed for consultation or downloading on the European Court of Auditors' website: http://eca.europa.eu or on EU Bookshop: https://bookshop.europa.eu

EUROPEAN DATA PROTECTION SUPERVISOR

Executive summary of the opinion of the European Data Protection Supervisor on the EU-US Privacy Shield draft adequacy decision

(The full text of this opinion can be found in English, French and German on the EDPS website www.edps.europa.eu)

(2016/C 257/05)

Data flows are global. The EU is bound by the Treaties and the Charter of Fundamental Rights of the European Union which protect all individuals in the EU. The EU is obliged to take all necessary steps to ensure the rights to privacy and to the protection of personal data are respected throughout all processing operations, including transfers.

Since the revelations in 2013 of surveillance activities, the EU and its strategic partner the United States have been seeking to define a new set of standards, based on a system of self-certification, for the transfer for commercial purposes to the US of personal data sent from the EU. Like national data protection authorities in the EU, the EDPS recognises the value, in an era of global, instantaneous and unpredictable data flows, of a sustainable legal framework for commercial transfers of data between the EU and the US, which represent the biggest trading partnership in the world. However, this framework needs to fully reflect the shared democratic and individual-rights-based values, which are expressed on the EU side in the Lisbon Treaty and the Charter of Fundamental Rights and on the US side by the US Constitution.

The draft Privacy Shield may be a step in the right direction but as currently formulated it does not adequately include, in our view, all appropriate safeguards to protect the EU rights of the individual to privacy and data protection also with regard to judicial redress. Significant improvements are needed should the European Commission wish to adopt an adequacy decision. In particular, the EU should get additional reassurances in terms of necessity and proportionality, instead of legitimising routine access to transferred data by US authorities on the basis of criteria having a legal basis in the recipient country, but not as such in the EU, as affirmed by the Treaties, EU rulings and constitutional traditions common to the Member States.

Moreover, in an era of high hyperconnectivity and distributed networks, self-regulation by private organisations, as well as representation and commitments by public officials, may play a role in the short term whilst in the longer term they would not be sufficient to safeguard the rights and interests of individuals and fully satisfy the needs of a globalised digital world where many countries are now equipped with data protection rules.

Therefore, a longer-term solution would be welcome in the transatlantic dialogue, to also enact in binding federal law at least the main principles of the rights to be clearly and concisely identified, as is the case with other non-EU countries which have been 'strictly assessed' as ensuring an adequate level of protection; what the CJEU in its *Schrems* judgment expressed as meaning 'essentially equivalent' to the standards applicable under EU law, and which according to the Article 29 Working Party, means containing 'the substance of the fundamental principles' of data protection.

We take positive note of the increased transparency demonstrated by the US authorities as to the use of the exception to the Privacy Shield principles for the purposes of law enforcement, national security and public interest.

However, whereas the 2000 Safe Harbour Decision formally treated access for national security as an exception, the attention devoted in the Privacy Shield draft decision to access, filtering and analysis by law enforcement and intelligence of personal data transferred for commercial purposes indicates that the exception may have become the rule. In particular, the EDPS notes from the draft decision and its annexes that, notwithstanding recent trends to move from indiscriminate surveillance on a general basis to more targeted and selected approaches, the scale of signals intelligence and the volume of data transferred from the EU, subject to potential collection and use once transferred and notably when in transit, may still be high and thus open to question.

Although these practices may also relate to intelligence in other countries, and while we welcome the transparency of the US authorities on this new reality, the current draft decision may legitimise this routine. We therefore encourage the European Commission to give a stronger signal: given the obligations incumbent on the EU under the Lisbon Treaty,

access and use by public authorities of data transferred for commercial purposes, including when in transit, should only take place in exceptional circumstances and where indispensable for specified public interest purposes.

On the provisions for transfers for commercial purposes, controllers should not be expected constantly to change compliance models. And yet the draft decision has been predicated on the existing EU legal framework, which will be superseded by Regulation (EU) 2016/679 (General Data Protection Regulation) in May 2018, less than one year after the full implementation by controllers of the Privacy Shield. The GDPR creates and reinforces obligations on controllers which extend beyond the nine principles developed in the Privacy Shield. Regardless of any final changes to the draft, we recommend the European Commission to comprehensively assess the future perspectives since its first report, to timely identify relevant steps for longer-term solutions to replace the Privacy Shield, if any, with more robust and stable legal frameworks to boost transatlantic relations.

The EDPS therefore issues specific recommendations on the Privacy Shield.

I. **Introduction**

On 6 October 2015, the Court of Justice of the European Union (hereafter: CJEU) invalidated ([1]) the Decision on the adequacy of the Safe Harbour ([2]). The European Commission reached a political agreement with the US on 2 February 2016 on a new framework for transfers of personal data called 'the EU-US Privacy Shield' (hereafter: the Privacy Shield). On 29 February, the European Commission made public a draft decision on the adequacy of this new framework (hereafter: the draft decision) ([3]) and its seven annexes, including the Privacy Shield principles and written representations and commitments by US officials and authorities. The EDPS received the draft decision for consultation on 18 March this year.

The EDPS has expressed his position on transfers of personal data between the EU and the US on a number of occasions ([4]) and has contributed to the Article 29 Working Party (hereafter: WP29) opinion on the draft decision as a member of this group ([5]). The WP29 has raised serious concerns and asked the European Commission to identify solutions to address them. The members of the WP29 expect that all the clarifications required in the opinion will be provided ([6]). On March 16, 27 non-profit organisations addressed their criticisms to the draft decision in a letter addressed to EU and US authorities ([7]). On 26 May, the European Parliament adopted a resolution on transatlantic data flows ([8]), which calls on the Commission to negotiate further improvements to the Privacy Shield arrangement with the US Administration in the light of its current deficiencies ([9]).

As the independent advisor to the EU legislators under Regulation (EC) No. 45/2001, the EDPS is now issuing recommendations to the parties involved in the process, in particular the Commission. This advice is intended to be both principled and pragmatic, in view of proactively helping the EU to achieve its objectives with adequate measures. It complements and underlines some, but not all, of the recommendations in the WP29 opinion.

([1]) Case C-362/14, *Maximillian Schrems* v *Data Protection Commissioner*, 6 October 2015 (hereafter: '*Schrems*').
([2]) Commission Decision 2000/520/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce (notified under document number C(2000) 2441) (OJ L 215, 25.8.2000, p. 7).
([3]) Commission Implementing Decision of XXX pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the EU-US Privacy Shield, available on: http://ec.europa.eu/justice/data-protection/files/privacy-shield-adequacy-decision_en.pdf
([4]) See the opinion of the European Data Protection Supervisor on the communication from the Commission to the European Parliament and the Council on 'Rebuilding Trust in EU-US Data Flows' and on the communication from the Commission to the European Parliament and the Council on 'the Functioning of the Safe Harbour from the Perspective of EU Citizens and Companies Established in the EU', 20 February 2014, and the EDPS pleading at the hearing of the CJEU in the *Schrems* case, available on: https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Court/2015/15-03-24_EDPS_Pleading_Schrems_vs_Data_Commissioner_EN.pdf
([5]) Article 29 Working Party in the Opinion 1/2016 on the EU-US Privacy Shield adequacy decision (WP 238), available on: http://ec.europa.eu/jus.tice/data-protection/article-29/documentation/opinion-recommendation/files/2016/wp238_en.pdf
([6]) See also the keynote speech by UK Information Commissioner Christopher Graham at the IAPP Europe Data Protection Intensive 2016 Conference in London. Speech available (video) on: https://iapp.org/news/video/iapp-europe-data-protection-intensive-2016-christopher-graham-keynote/
([7]) Letter to Article 29 Working Party and other institutions, signed by Access Now and 26 other NGOs.
([8]) European Parliament resolution of 26 May 2016 on transatlantic data flows (2016/2727(RSP)).
([9]) *Idem*, para. 14.

The draft decision shows a number of improvements compared to the Safe Harbour Decision, in particular with respect to the principles for processing of data for commercial purposes. As regards access by public authorities to the data transferred under the Privacy Shield, we also welcome the involvement for the first time of the Department of Justice, the Department of State and the Office of the Director of National Intelligence in the negotiations. However, progress compared to the earlier Safe Harbour Decision is not in itself sufficient. The correct benchmark is not a previously invalidated decision, since the adequacy decision is to be based on the current EU legal framework (in particular, the Directive itself, Article 16 of the Treaty on the Functioning of the European Union as well as Articles 7 and 8 of the EU Charter of Fundamental Rights of the European Union, as interpreted by the CJEU). Article 45 of the EU General Data Protection Regulation (hereafter: the GDPR) ([1]) will provide new requirements for transfers of data based on an adequacy decision.

Last year, the CJEU affirmed that the threshold for the adequacy assessment is 'essential equivalence' and demanded a strict assessment against this high standard ([2]). Adequacy does not require adopting a framework which is identical to the one existing in the EU, but, taken as whole, the Privacy Shield and the US legal order should cover all the key elements of the EU data protection framework. This requires both an overall assessment of the legal order and the examination of the most important elements of the EU data protection framework ([3]). We assume that the assessment should be performed in global terms though respecting the essence of these elements. Moreover, because of the Treaty and the Charter, specific elements such as independent oversight and redress will need to be considered.

In this regard, the EDPS is aware that many organisations on both sides of the Atlantic are waiting for the outcome on this adequacy decision. However, the consequences of a new invalidation by the CJEU in terms of legal uncertainty for data subjects and the burden, in particular for SMEs, may be high. Furthermore, if the draft decision is adopted and subsequently invalidated by the CJEU, any new adequacy arrangement would have to be negotiated under the GDPR. We therefore recommend a future-oriented approach, in view of the imminent date of full application of the GDPR two years from now.

The draft decision is key for EU-US relations, in a moment where they are also subject to trade and investment negotiations. Furthermore, many of the elements considered in our Opinion are indirectly relevant for both the Privacy Shield and other transfer tools, such as the binding corporate rules (hereafter: BCRs) and standard contractual clauses (hereafter: SCCs). It also has a global relevance, as many third countries will be closely following it against the background of the adoption of the new EU data protection framework.

Therefore, we would welcome a general solution for EU-US transfers provided that it is comprehensive and solid enough. This requires robust improvements in order to ensure sustainable long-term respect for our fundamental rights and freedoms. Where adopted, upon the first assessment by the European Commission, the decision has to be timely reviewed to identify relevant steps for longer-term solutions to replace a Privacy Shield with a more robust and stable legal framework to boost transatlantic relations.

The EDPS also notes from the draft decision and its annexes that, notwithstanding recent trends to move from indiscriminate surveillance on a general basis to more targeted and selected approaches, the scale of signals intelligence and the volume of data transferred from the EU subject to potential collection once transferred and notably when in transit, is likely to be still high and thus open to question.

Although these practices may also relate to intelligence in other countries, and while we welcome the transparency of the US authorities on this new reality, the current draft decision may be interpreted as legitimising this routine. The issue requires serious public democratic scrutiny. We therefore encourage the European Commission to give a stronger signal: given the obligations incumbent on the EU under the Lisbon Treaty, access and use by public authorities of data transferred for commercial purposes, including when in transit, should only take place as an exception and where indispensable for specified public interest purposes.

Moreover, we note that essential representations relevant for the private lives of individuals in the EU appear to be only elaborated in important details in letters internal to US authorities (for instance, statements concerning signals intelligence

([1]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

([2]) *Schrems*, para. 71, 73, 74 and 96.

([3]) This approach was already considered in one of the earliest WP29 papers on the subject of data transfers (WP12: 'Working document on transfers of personal data to third countries: Applying Articles 25 and 26 of the EU data protection directive', 24 July 1998).

activities over transatlantic cables, if any) [1]. Although we do not question the authority of their distinguished authors, and understand that once published in the Official Journal and the Federal Register these representations will be considered as 'written assurances' on the basis of which the EU assessment is made, we note on a general basis that the importance of some of them would deserve a higher legal value.

Besides legislative change and international agreements [2], additional practical solutions may be explored. Our opinion aims at providing pragmatic advice in this regard.

IV. **Conclusion**

The EDPS welcomes the efforts shown by the parties to find a solution for transfers of personal data from the EU to the US for commercial purposes under a system of self-certification. However, robust improvements are needed in order to achieve a solid framework, stable in the long term.

Done in Brussels, 30 May 2016.

Giovanni BUTTARELLI

European Data Protection Supervisor

[1] See for example, clarifications in Annex VI.1(a) that PPD28 would apply to data collected from transatlantic cables by the US intelligence community.

[2] At the hearing of the EUCJ in the *Schrems* case, the EDPS stated that 'The only effective solution is the negotiation of an international agreement providing adequate protection against indiscriminate surveillance, including obligations on oversight, transparency, redress and data protection rights', EDPS pleading at the hearing of the Court of Justice of 24 March 2015 in Case C-362/14 (*Schrems* v *Data Protection Commissioner*).

NOTICES FROM MEMBER STATES

Information communicated by Member States regarding closure of fisheries

(2016/C 257/06)

In accordance with Article 35(3) of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy [1], a decision has been taken to close the fishery as set down in the following table:

Date and time of closure	9.6.2016
Duration	9.6.2016 till 31.12.2016
Member State	Latvia
Stock or Group of stocks	RED/N1G14P and RED/*5-14P
Species	Redfish (*Sebastes* spp.)
Zone	Greenland waters of NAFO 1F and Greenland waters of V and XIV + international waters of the Redfish Conservation Area
Type(s) of fishing vessels	—
Reference number	13/TQ72

[1] OJ L 343, 22.12.2009, p 1.

Information communicated by Member States regarding closure of fisheries

(2016/C 257/07)

In accordance with Article 35(3) of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy [1], a decision has been taken to close the fishery as set down in the following table:

Date and time of closure	11.6.2016
Duration	11.6.2016 till 31.12.2016
Member State	Germany
Stock or Group of stocks	RED/N1G14P and RED/*5-14P
Species	Redfish (*Sebastes* spp.)
Zone	Greenland waters of NAFO 1F and Greenland waters of V and XIV + international waters of the Redfish Conservation Area
Type(s) of fishing vessels	—
Reference number	14/TQ72

[1] OJ L 343, 22.12.2009, p. 1.

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case M.7973 — Gerdau/Sumitomo/JV)

Candidate case for simplified procedure

(Text with EEA relevance)

(2016/C 257/08)

1. On 7 July 2016, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ([1]) by which Gerdau SA ('Gerdau', Brazil) and Sumitomo Corporation ('Sumitomo', Japan) acquire within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control of a newly created company constituting a joint venture (the 'JV', Brazil) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for Gerdau: the production and commercialisation of steel products, through its mills located in 14 different countries in the Americas, Asia and Europe,

— for Sumitomo: trading of metal products, transportation and construction of systems, environment and infrastructure, chemicals and electronics, media, networks and lifestyle related goods, mineral resources and energy,

— for the JV: manufacture and sale of forged and cast rolling mill rolls and forged steel products such as main shaft and rings for bearings mainly for wind turbines, sugar cane production, mining, cement, electric or steam generators, oil and gas businesses.

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 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.7973 — Gerdau/Sumitomo/JV, 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.

Prior notification of a concentration

(Case M.8081 — Triton/Voith Industrial Services)

Candidate case for simplified procedure

(Text with EEA relevance)

(2016/C 257/09)

1. On 7 July 2016, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 [1] by which Triton Fund IV ('Triton', United Kingdom) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the Voith Industrial Services business ('VISer', Germany) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— Triton: private equity investment firm dedicated to investing in European-based businesses in a variety of business sectors.

— VISer: active in the market for the provision of technical services in the Automotive, Engineering Services and Energy-Petro-Chemicals sectors. The services include technical facility management, maintenance and factory automation, manufacturing engineering, component design and fabrication.

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 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 M.8081 — Triton/Voith Industrial Services, 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.

Prior notification of a concentration

(Case M.8095 — Ferrari Financial Services/FCA Bank/FFS JV)

Candidate case for simplified procedure

(Text with EEA relevance)

(2016/C 257/10)

1. On 8 July 2016, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 [1] by which FCA Bank, ultimately controlled by Fiat Chrysler Automobiles Italy ('FCA', Italy) and Crédit Agricole Consumer Finance ('CA', France), acquires within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control over Ferrari Financial Services AG ('FFS JV', Germany) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— FCA Bank: active in automotive financing in 17 EU Member States,

— FFS JV: active in the financing of Ferrari automobiles for private and corporate customers in Germany, the UK, and Switzerland.

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 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.

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European Commission
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[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

(2016/C 257/11)

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

'VALE OF EVESHAM ASPARAGUS'

EC No: PGI-GB-02108 — 21.1.2016

PDO ( ) PGI (X)

1. **Name**

'Vale of Evesham Asparagus'

2. **Member State or Third Country**

United Kingdom

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

3.1. *Type of product*

Class 1.6. Fruit, vegetables and cereals, fresh or processed

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

Vale of Evesham asparagus is the name given to green asparagus which has been grown in the defined geographical area. Vale of Evesham asparagus is produced only between the months of April and July.

Vale of Evesham asparagus can vary from light green to dark green in colour, with purple tips depending on the speed of growth and night-time temperatures.

The shape can vary according to variety in very subtle ways. Typical shapes are long thin spears from 8 mm diameter mid-spear to 24 mm. The maximum length for harvest is 22 cm. The flavour of raw asparagus resembles that of fresh peas and is brittle and crunchy to the taste. Cooked asparagus takes on the full flavour of mellow nutty artichokes, and has the aroma of faint grass and fresh peas which can vary according to the temperature during which it is harvested.

Vale of Evesham Asparagus is sold either in a banded bundle, a flow-wrapped pack or a plastic sleeve for supermarkets, and naked in bundles for farm shops. The product has to meet the Evesham Asparagus quality specification which follows below:

Dimensions

Product will be graded into evenly hand-trimmed bundles with a length between 15 and 22 cm. Spear diameters within the bundle will be within 4 mm range as follows, 4-8, 8-12, 12-16, 16-20, 20-24 mm measured from mid-spear.

Quality Attributes

Spears are to be clean fresh and whole, with no signs of breakdown, live pests or progressive disease.

[1] OJ L 343, 14.12.2012, p. 1.

Curvature should be minimal and products oriented within the finished product to present a uniform appearance. Spears where there is extreme tip curvature of more than 70 degrees should not be used, curvature from mid-spear should also be avoided. Spear tips should be closed with only minimal seeding.

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

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

The crop must be grown within the area of the Vale of Evesham as defined in the product specification.

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

Vale of Evesham asparagus is sold as a diameter- and length-graded product.

The product is then to be packed into either a banded bundle, a flow-wrapped pack or a plastic sleeve for supermarkets, and naked in bundles for farm shops.

The product is to be banded into 4 mm diameter groupings and has to meet the Evesham asparagus quality specification.

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

The 'PGI' logo must appear on all labelling in the same field of vision as the protected name.

The PGI logo must be in the correct 'format' and no less than 15 mm in diameter

The packaging and all point-of-sale material must be marked with the certification number of the producer as issued by the inspection body.

4. Concise definition of the geographical area

The area is defined by the district areas of Malvern Hills, Wychavon and Stratford upon Avon district council boundaries.

5. Link with the geographical area

The flavour and texture of Vale of Evesham asparagus is primarily driven by the growing conditions and soil environment of the Vale of Evesham, as well as knowledge and experience of how best to grow the product. The Vale of Evesham has a long history of asparagus-growing, and much tradition surrounds the product. The Vale of Evesham enjoys a reputation for producing asparagus of the highest quality.

The microclimate of the Vale of Evesham and the prevailing soil types are critical factors in assuring the quality of the product. Asparagus grown in the geographical area is defined by the unique fields of deep sandy soil that are derived from the underlying Devonian sandstone in the river basins of the Severn (Worcestershire) and Avon (Worcestershire and Warwickshire). The sandy soil is well drained and warms up quickly in the spring temperatures.

The flavour of Vale of Evesham asparagus is composed of primary metabolites produced directly from photosynthesis, for example sugars; and secondary metabolites, produced by the plant in response to environmental conditions and often as a reaction to plant stress. The microclimate and soil environment in which the crown is grown is therefore of critical importance in the development of the products flavour.

The Vale of Evesham provides a temperate climate with warm dry summers which favour photosynthesis during the fern period and allow the fern to remain green into the early autumn, this late fern allows a long time for bud formation and leads to the range of spear sizes characteristic of vale of Evesham asparagus as well as giving a good carbohydrate fill to the root system which leads to a sweet pea-like flavour to the crop of the following year. The average rainfall for the region is 700 mm which is well distributed through the year and removes the need for irrigation during the fern period (July-Oct). Summer temperatures range from 15-30 °C. Springs see a gradual build up of soil temperature which gently breaks crown dormancy and produces an early April season start. Temperatures during the season vary over a wide range and this variance in temperature combines with the soil characteristics to provide a degree of mild stress that promotes the classic flavour of Vale of Evesham asparagus.

The sandy soils of the Vale of Evesham asparagus fields provide ample depth of soil for crowns to establish deep root systems with which to store the sugars produced during the summer. This promotes the health of the crown and gives an additional sweetness to the crop. They warm well in the spring, allowing for an early season. The sand fraction warms with a sharply defined thermal profile through the soil and which changes the growth rate of the spear as it emerges through the profile. This all contributes to the production of secondary metabolites (including the balance of anthocyanins) which give the asparagus from the Vale of Evesham its distinctive flavour.

The reactive nature of the soil means soil temperatures react quickly to changing day and night temperatures and provide another gentle stress to the crown in the spring which aids development of flavour and promotes the distinctive Vale of Evesham character. The absence of a significant clay fraction means the soil provides less mechanical resistance to the spears and allows relatively free movement of the emerging spear through the soil. This gives the spears a relatively even diameter and firm delicate texture.

The unique combination of soil and microclimate produce the fast-growing spears and flavour and texture that are characteristic of the Vale of Evesham asparagus. Fields are rotated, but generally cannot be replanted with asparagus for around 30 years due to the disease pressure built up in the soil. The best asparagus fields are stone-free as this allows unhindered growth of asparagus spears through the soil to the surface. This is important as too many stones will impair spear quality. Site selection is very critical and not every field will suit production of asparagus for these reasons. It is also important that growers consider the environment and select only fields that have the correct aspect that does not encourage soil erosion into water courses. Fields must be generally slightly sloping for the best aspect. It is no accident then that the asparagus fields are located in these river basin areas that best suit the production of asparagus.

In order to achieve the best results, the grower, using his experience of each field, needs always to take care over deciding when to pulverise and desiccate the previous year's fern and when to make up the beds for the following harvest season. It is important that the soil is dry enough to take the weight of the tractor so that compaction of the roots is minimised. A wet soil that is made into asparagus beds will drain poorly and compact very quickly with subsequent rains and when walked on during harvesting. The grower needs also to understand the risk of wind exposure for certain varieties that lack the strength in fern to remain upright for the photosynthetic period post harvest. Varieties low in lignin must not be planted in windy sites as they will fall over in the fern period of growth and not produce enough carbohydrate in the root to maintain economic production in the following year.

At the start of each cropping season all the harvesters are trained in the skill of cutting asparagus. A short serrated knife is used, firstly to measure the correct height of the spear and secondly to allow a push pull action to swiftly cut the spear just below soil level without knocking the spear into the soil. The spears are then laid in field trays, tip facing tip, to avoid soil getting into the edible end of the vegetable.

During the season the grower must use his skill to determine when to harvest each field. During cool periods where the soil temperatures hover around the 10 degree centigrade mark, the production is slow and harvesters will need to be sent onto the field other every day in order to cut the correct length for spear production. However, if the soil temperatures increase to over 14 degrees centigrade then a 'flush' occurs and growers must look to harvest fields as fast as possible, sometimes twice in a day if necessary.

The Vale of Evesham is renowned for its production of this most luxurious vegetable — asparagus or 'gras' as it is locally known. Evesham is the only town centre in the United Kingdom with an asparagus field within its boundaries, and such is the crop's importance to the economic and cultural history of the Vale of Evesham, that a major event celebrating this majestic vegetable has developed attracting thousands of visitors from all corners of the world. The festival is held in the region to promote this crop and a community interest company, of which all applicants are members, with the sole aim of promoting asparagus within the area. St George's Day sees the launch of the Asparagus Festival with an Asparagus Run throughout the Vale.

In Bretforton, the 650-year-old Fleece Inn holds an annual Asparagus Auction that has been held for at least 35 years. The finest local spears or 'buds of gras' are carefully tied with willow strips into traditional bundles and auctioned or raffled in aid of the Bretforton Silver Band. The most ever paid for a bunch was GBP 750, by the Round of Gras pub in Badsey, which claims to be the world's only pub named after a bunch of asparagus.

Many other asparagus related events take place throughout the Vale between 23 April and 21 June each year, the harvest period, offering the opportunity to taste, buy, cook and learn about one of the nation's most sought-after delicacies.

Asparagus-growing in the Vale of Evesham is a tradition whose longstanding history can be traced back to 1768 when Arthur Young, the then Secretary of the Board of Agriculture, visited the town. In his book *A six months tour of the north of England*, published in 1771, he tells us that asparagus was carried from Evesham to Bath and Bristol to be sold. A letter from an Evesham writer to *The Morning Chronicle* newspaper, 30 August 1782, also mentions asparagus being sent from the town to Bath and Bristol.

W. Pitt in his *General view of the agriculture of the county of Worcester* (1813) saw several flats of asparagus in the fields. (A flat in this context refers to a large stretch of level ground.) In 1830 the Royal Horticultural Society awarded a medal to Anthony New for his fine specimens of asparagus exhibited at shows of the Vale of Evesham Society in this and the previous year. (See Gaut: *A history of Worcs agriculture*, page 294).

With the rapid growth of the market gardening industry during the last quarter of the 19th century, the acreage of asparagus being grown in the Vale of Evesham also increased. *The L.B.G. Story (Littleton & Badsey Growers Ltd)*, by C. A. Binyon tells of the historical association the Vale of Evesham has with the production of asparagus. From 1925 until 1981 the Vale of Evesham Asparagus Growers Association existed for the purpose of promoting asparagus production in the area.

There is anecdotal and photographic evidence available to support the history of asparagus production in the area available from the Badsey Society (www.badsey.org.uk).

Reference to publication of the product specification

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

https://www.gov.uk/government/publications/protected-food-name-vale-of-evesham-asparagus-pgi

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

Publications Office of the European Union
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