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## Information and Notices

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

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## II

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

**Non-opposition to a notified concentration****(Case M.11005 – RENAULT / MINTH / JV)****(Text with EEA relevance)**

(2023/C 129/01)

On 6 March 2023, 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 <sup>(1)</sup>. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the ‘Competition policy’ 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 32023M11005. EUR-Lex is the online point of access to European Union law.

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

## IV

(Notices)

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

## EUROPEAN COMMISSION

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

12 April 2023

(2023/C 129/02)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,0922	CAD	Canadian dollar	1,4728
JPY	Japanese yen	146,09	HKD	Hong Kong dollar	8,5737
DKK	Danish krone	7,4506	NZD	New Zealand dollar	1,7649
GBP	Pound sterling	0,88038	SGD	Singapore dollar	1,4538
SEK	Swedish krona	11,3480	KRW	South Korean won	1 448,10
CHF	Swiss franc	0,9853	ZAR	South African rand	20,1330
ISK	Iceland króna	149,10	CNY	Chinese yuan renminbi	7,5183
NOK	Norwegian krone	11,4745	IDR	Indonesian rupiah	16 253,32
BGN	Bulgarian lev	1,9558	MYR	Malaysian ringgit	4,8193
CZK	Czech koruna	23,421	PHP	Philippine peso	60,291
HUF	Hungarian forint	376,23	RUB	Russian rouble	
PLN	Polish zloty	4,6631	THB	Thai baht	37,391
RON	Romanian leu	4,9385	BRL	Brazilian real	5,4635
TRY	Turkish lira	21,0976	MXN	Mexican peso	19,7972
AUD	Australian dollar	1,6377	INR	Indian rupee	89,6875

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



**Information from the European Commission, published in accordance with Article 22 (2) of Council Regulation (EC) No 1005/2008, concerning flag State notifications (List of States and their competent authorities), according to Article 20(1), (2), (3), and Annex III of Regulation (EC) No 1005/2008**

(2023/C 129/03)

In accordance with Article 20(1), (2), (3) and Annex III of Council Regulation (EC) No 1005/2008 <sup>(1)</sup>, the following third countries have notified to the European Commission the public authorities which, in relation with the catch certification scheme established by Article 12 of the Regulation, are empowered to:

- a) register fishing vessels under their flag;
- b) grant, suspend and withdraw fishing licences to their fishing vessels;
- c) attest the veracity of information provided in the catch certificates referred to in Article 12 and validate such certificates;
- d) implement, control and enforce laws, regulations and conservation and management measures which must be complied with by their fishing vessels;
- e) carry out verifications of such catch certificates to assist the competent authorities of the Member States through the administrative cooperation referred to in Article 20(4);
- f) communicate sample forms of their catch certificates in accordance with the specimen in Annex II; and
- g) update such notifications.

Third country	Competent authorities
ALBANIA	(a) — Albanian General Harbour Masters (Ministry Transport and Infrastructure) (b): — Commission for Examination of Applications for Fishing Permission (Ministry of Agriculture, Rural Development & Water Administration), through National Licensing Center (Ministry of Economical Development, Tourism, Trade and Interpreneurship) (c), (d), (e): — Sector of Fishery Monitoring and Control (Ministry of Agriculture, Rural Development & Water Administration) (f) and (g): — The Directorate of Agriculture Production and Trade Policies (Ministry of Agriculture, Rural Development & Water Administration)
ALGERIA	(a) to (d): — Directions de la Pêche et des Ressources Halieutiques des Wilayas de: — El Tarf, — Annaba, — Skikda, — Jijel, — Bejaian, — Tizi Ouzou, — Boumerdes, — Alger, — Tipaza, — Chlef, — Mostaganem, — Oran, — Ain Temouchent, — Tlemcen. (e) to (g): — Ministère de la Pêche et des Ressources Halieutiques

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

Third country	Competent authorities
ANGOLA	(a): — Conservatória do registo de propriedade (subordinada ao Ministério da Justiça) / Instituto Marítimo Portuário de Angola – IMPA (subordinada ao Ministério dos Transportes) (b): — Ministra das Pescas e do Mar (c): — Direcção Nacional de Pescas (DNP) (d): — Serviço Nacional de Fiscalização Pesqueira e da Aquicultura (SNFPA) (e), (f), (g): — Direcção Nacional de Pescas (Ministério das Pescas e do Mar)
ANTIGUA AND BARBUDA	(a) to (g): — Chief Fisheries Officer, Fisheries Division, Ministry of Agriculture, Lands, Housing and Environment.
ARGENTINA	(a) to (g): — Dirección Nacional de Coordinación y Fiscalización Pesquera (Ministerio de Agricultura, Ganadería y Pesca)
AUSTRALIA	(a) to (e): — Australian Fisheries Management Authority; Department of Primary Industries and Regional Development, Western Australia; Department of Primary Industries, New South Wales; Department of Agriculture and Fisheries, Queensland; Department of Natural Resources and Environment, Tasmania; Victoria Fishing Authority; Department of Primary Industries and Regions, South Australia (f) to (g): — The Australian Government Department of Agriculture, Water and the Environment
THE BAHAMAS	(a) and (b): — Port Department, within the Ministry of The Environment / Department of Marine Resources (c) to (g): — Department of Marine Resources
BANGLADESH	(a): — Mercantile Marine Department (b) to (f): — Marine Fisheries Office (g): — Ministry of Fisheries and Livestock
BELIZE	(a): — The International Merchant Marine Registry of Belize (INMARBE) (c) to (g): — Belize High Seas Fisheries Unit, Ministry of Finance, Government of Belize
BENIN	(a): — Direction de la Marine Marchande / Ministère en charge de l'Economie Maritime; Service Contrôle et Suivi des Produits et des Filières Halieutiques de la Direction des Pêches (b): — Direction des Pêches / Ministère en charge de la Pêche; Service Contrôle et Suivi des Produits et des Filières Halieutiques de la Direction des Pêches (c),(e),(f),(g): — Service Contrôle et Suivi des Produits et des Filières Halieutiques de la Direction des Pêches (d): — Direction des Pêches / Ministère en charge de la Pêche

Third country	Competent authorities
BRAZIL	(a) to (g): — Ministry of Agriculture, Livestock and Food Supply
CAMEROON (1)	(a): — Ministère des Transports (b) to (g): — Ministère de l'Élevage, des Pêches et Industries Animales
CANADA	(a) to (g): — Assistant Deputy Minister of Fisheries and Harbour Management
CABO VERDE	(a): — Institut Maritime et Portuaire (IMP) / Instituto Marítimo e Portuário (IMP) (b): — Direction Générale des Ressources Marines (DGRM) / Direção Geral dos Recursos Marinhos (DGRM) (c),(d),(e),(f),(g): — Unité d'inspection et garantie de qualité (UIGQ) / Unidade de Inspeção e Garantia de Qualidade (UIGQ)
CHILE	(a): Dirección General del Territorio Marítimo y Marina Mercante, de la Armada de Chile (b): — Subsecretaría de Pesca (c) to (f): — Servicio Nacional de Pesca (g): — Subsecretaria de Pesca
CHINA	(a) to (g): — Bureau of Fisheries, Ministry of Agriculture and Rural Affairs (MARA), P.R. China
COLOMBIA	(a): — Dirección General Marítima (b) to (f): — Autoridad Nacional de Acuicultura y Pesca (AUNAP) (g): — Director de Pesca y Acuicultura
COSTA RICA	(a): — Oficina de Bienes Muebles, Dirección Nacional de Registro Público, Ministerio de Justicia y Gracia (b): — Presidente Ejecutivo, Instituto Costarricense de Pesca y Acuicultura (c): — Dirección General Técnica, Instituto Costarricense de Pesca y Acuicultura (d): — Unidad de Control Pesquero / Instituto Costarricense de Pesca y Acuicultura / Director General del Servicio Nacional de Guardacostas, Ministerio de Seguridad Pública, Gobernación y Policía (e): — Departamento de Cooperación Internacional / Instituto Costarricense de Pesca y Acuicultura (f): — Dirección General Técnica o instancia competente del Instituto Costarricense de Pesca y Acuicultura (g): — Ministro de Agricultura y Ganadería, Ministerio de Agricultura y Ganadería

Third country	Competent authorities
CUBA	(a): — Registro Marítimo Nacional (b),(c),(e): — Oficina Nacional de Inspección Pesquera (ONIP) (d): — Dirección de Ciencias y Regulaciones Pesqueras and Oficina Nacional de Inspección Pesquera (f): — Dirección de Planificación del Ministerio de la Industria Pesquera (g): — Dirección de Relaciones Internacionales del Ministerio de la Industria Pesquera
CURACAO	(a): — The Ministry of Traffic, Transport and Urban Planning (b) and (f): — The Ministry of Economic Development (c): — The Ministry of Economic Development in consultation with the Ministry of Public Health, Environment and Nature (d): — The Ministry of Economic Development, the Ministry of Traffic, Transport and Urban Planning The Attorney General of Curacao is in charge of the law enforcement (e): — The Ministry of Economic Development in collaboration with the Ministry of Traffic, Transport and Urban Planning (g): — The Government of Curacao
ECUADOR	(a),(c),(e): — Director de Pesca Industrial (Ministerio de Acuicultura y Pesca) (b),(f),(g): — Subsecretario de Recursos Pesqueros (Ministerio de Acuicultura y Pesca) (d): — Director de Control Pesquero (Ministerio de Acuicultura y Pesca)
EGYPT	(a): — Ministry of Agriculture and Land Reclamation: I) General Organization For Veterinary Services (GOVs) II) General Authority For Fish Resources Development (b) and (d): — General Authority for Fish Resources Development (cooperation with GOVs in case of fishing vessels of exporting establishments) (c): — Ministry of Agriculture and Land Reclamation:General Organization for Veterinary Services (both Central and Local VET. Quarantine Department) (e): — General Authority for Fish Resources Development (cooperation with local inspectors Veterinary Quarantine for fishing vessels of exporting establishments) (f): — General Organization for Veterinary Services (g): I) Ministry of Agriculture and Land Reclamation II) General Organization For Veterinary Services

Third country	Competent authorities
EL SALVADOR	(a): — Autoridad Marítima Portuária (b) to (g): — Centro de Desarrollo de la Pesca y la Acuicultura (CENDEPESCA)
ERITREA	(a): — Ministry of Fisheries (b): — Fisheries Resource Regulatory Department (c): — Fish Quality Inspection Division (d): — Monitoring Controlling and Surveillance, Ministry of Fisheries (e): — Liaison Division, Ministry of Fisheries (f): — Ministry of Fisheries Laboratory (g): — Government of the State of Eritrea
FALKLAND ISLANDS	(a): — Registrar of Shipping, Customs and Immigration Department, Falkland Islands Government (b) to (g): — Director of Fisheries, Fisheries Department, Falkland Islands Government
FAROE ISLANDS	(a): — FAS Faroe Islands National & International Ship Register (b): — Ministry of Fisheries and the Faroe Islands Fisheries Inspection (c): — Faroe Islands Fisheries Inspection (d): — Ministry of Fisheries, the Faroe Islands Fisheries Inspection and the Police and the Public Prosecution Authority (e): — The Faroe Islands Fisheries Inspection (f) and (g): — Ministry of Fisheries
FIJI	(a): — Maritime Safety Authority of Fiji (MSAF) (b): — Ministry of Fisheries and Forests; Fisheries Department (c) to (g): — Fisheries Department
FRENCH POLYNESIA	(a): — Direction Polynésienne des Affaires Maritimes (DPAM) (b),(c),(e),(f): — Direction des ressources marines (DRM) (d): — Direction des ressources marines (DRM) / Haut-Commissariat de la République française / Service des Affaires Maritimes de Polynésie française (SAM PF) (g): — Direction générale des affaires maritimes, de la pêche et de l'Aquaculture (DGAMPA)
GABON	(a) and (b): — Ministre de l'Agriculture, de l'Elevage, de la Pêche et du Développement Rural (c) to (g): — Directeur Général des Pêches et de l'Aquaculture

Third country	Competent authorities
GAMBIA	(a): — The Gambia Maritime Administration (b): — Director of Fisheries (c) to (g): — Fisheries Department (Director of Fisheries)
GHANA	(a) to (g): — Fisheries Commission
GREENLAND	(a): — The Danish Maritime Authority (b) to (g): — The Greenland Fisheries Licence Control Authority
GRENADA	(a) to (g): — Fisheries Division (Ministry of Agriculture, Forestry and Fisheries)
GUATEMALA	(a) to (g): — Ministerio de Agricultura, Ganadería y Alimentación (MAGA) through Dirección de Normatividad de la Pesca y Acuicultura.
GUINEA	(a): — Direction Générale de l'Agence de la Navigation Maritime (ANAM) (b): — Direction Nationale des Pêches Maritimes (c): — Le Certificateur des certificats de capture (d) to (f): — Direction Générale du Centre National de Surveillance de Police des Pêcheries (g): — Ministère des Pêches, de l'Aquaculture et le l'Economie Maritime
GUYANA	(a) to (g): — Fisheries Department, Ministry of Agriculture, Guyana, South America
ICELAND	(a) and (b): — Directorate of Fisheries (c),(e),(f),(g): — Directorate of Fisheries / The Icelandic Food and Veterinary Authority (d): — Directorate of Fisheries / The Icelandic Coast Guards
INDIA	(a) and (b): — Marine Products Exports Development Authority (MPEDA) under the Ministry of Commerce & Industry, Govt. of India Registrars under the Merchant Shipping Act (Director General of Shipping), Ministry of Shipping, Govt. of India Department of Fisheries of State (Provincial) Governments of West Bengal, Gujarat, Kerala, Orissa, Andhra Pradesh, Karnataka, Maharastra, and Tamil Nadu (c): — Marine Products Exports Development Authority (MPEDA) under the Ministry of Commerce & Industry, Govt. of India Authorized officers as notified by State Governments and Union Territories: — Kochi (Regional Division) — Chennai (Regional Division) — Kolkata (Regional Division) — Mumbai (Regional Division) — Visakhapatnam (Regional Division)

Third country	Competent authorities
	<ul style="list-style-type: none"> <li>— Veraval (Regional Division)</li> <li>— Mangalore (Sub Regional Division)</li> <li>— Kollam (Sub Regional Division)</li> <li>— Goa (Sub Regional Division)</li> <li>— Tuticorin (Sub Regional Division)</li> <li>— Bhubaneswar (Regional Division)</li> <li>— Bhimavaram (Sub Regional Division)</li> <li>— Porbandar (Sub Regional Division)</li> <li>— Ratnagiri (Sub Regional Division)</li> <li>— Kavaratti (Sub Regional Division)</li> <li>— Nellore (Satellite Centre)</li> </ul> <p>(d):</p> <ul style="list-style-type: none"> <li>— Director General of Shipping Marine Products Exports Development Authority, Ministry of Commerce &amp; Industry, Govt. of India Coast Guard Department of Fisheries of the State Governments</li> </ul> <p>(e):</p> <ul style="list-style-type: none"> <li>— Marine Products Export Development Authority (MPEDA) under the Ministry of Commerce &amp; Industry, Govt. of India and its 21 field offices Authorized officers of notified State Governments and Union Territories</li> </ul> <p>(f):</p> <ul style="list-style-type: none"> <li>— Joint Secretary, (EP-MP) Department of Commerce, Ministry of Commerce and Industry</li> </ul> <p>(g):</p> <ul style="list-style-type: none"> <li>— Joint Secretary, (EP-MP) Department of Commerce, Ministry of Commerce and Industry Joint Secretary, Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture</li> </ul>
INDONESIA	<p>(a) and (b):</p> <ul style="list-style-type: none"> <li>— Head of Marine and Fisheries Services Province Director General Maritime of Capture Fisheries</li> </ul> <p>(c):</p> <ul style="list-style-type: none"> <li>— Head of Fishing Port, Directorate General of Capture Fisheries Fisheries Inspector, Directorate General of Marine Fisheries Resources Surveillance and Control</li> </ul> <p>(d):</p> <ul style="list-style-type: none"> <li>— Director General of Marine and Fisheries Resources Surveillance</li> </ul> <p>(e):</p> <ul style="list-style-type: none"> <li>— Director General of Capture Fisheries</li> </ul> <p>(f) and (g):</p> <ul style="list-style-type: none"> <li>— Director General of Fisheries Product Processing and Marketing</li> </ul>
IVORY COAST	<p>(a):</p> <ul style="list-style-type: none"> <li>— Directeur Général des Affaires Maritimes et Portuaires (DGAMP, Secrétariat d'État auprès du Ministre des Transports chargé des Affaires Maritimes et Portuaires)</li> </ul> <p>(b) :</p> <ul style="list-style-type: none"> <li>— Ministre des Ressources Animales et Halieutiques</li> </ul> <p>(c) and (e) :</p> <ul style="list-style-type: none"> <li>— Ministre des Ressources Animales et Halieutiques — Directeur des Pêches, Direction des pêches</li> </ul> <p>And</p> <ul style="list-style-type: none"> <li>— Chef du Service d'Inspection et de Contrôle en Frontière (Service d'Inspection et de Contrôle Sanitaires Vétérinaires en Frontières, SICOSAV)</li> </ul> <p>(d) :</p> <ul style="list-style-type: none"> <li>— Ministre des Ressources Animales et Halieutiques Directeur des Pêches, Direction des pêches</li> </ul> <p>(f) and (g) :</p> <ul style="list-style-type: none"> <li>— Ministre des Ressources Animales et Halieutiques</li> </ul>

Third country	Competent authorities
JAMAICA	(a): — Maritime Authority of Jamaica (MAJ) (b) to (g): — Fisheries Division
JAPAN	(a): — Fisheries Management Division, Bureau of Fisheries, Department of Fisheries and Forestry, Hokkaido Government — Aomori Prefectural Government — Hachinohe Fisheries Office, Sanpachi District Administration Office, Aomori Prefectural Government — Mutsu Fisheries Office, Department of Agriculture, Forestry and Fisheries, Seihoku District Administration Office, Aomori Prefectural Government — Ajigasawa Fisheries Office, Department of Agriculture, Forestry and Fisheries, Seihoku District Administration Office, Aomori Prefectural Government — Fisheries Industry Promotion Division, Department of Agriculture, Forestry and Fisheries, Iwate Prefectural Department — Fisheries Department, Kuji Regional Promotion Bureau, Iwate Prefectural Government — Fisheries Department, Miyako Regional Promotion Bureau, Iwate Prefectural Government — Fisheries Department, Kamaishi Regional Promotion Bureau, Iwate Prefectural Government — Fisheries Department, Ofunato Regional Promotion Bureau, Iwate Prefectural Government — Fisheries Industry Promotion Division, Agriculture Forestry and Fisheries Department, Miyagi Prefectural Government — Fisheries and Fishing Ports Division, Department of Agriculture, Forestry and Fisheries, Akita Prefectural Government — Fisheries Division, Industrial and Economic Affairs Department, Shonai Area General Branch Administration Office, Yamagata Prefectural Government — Fishery Division, Fukushima Prefectural Government — Fishery Office, Fukushima Prefectural Government — Fisheries Administration Division, Ibaraki Prefectural Government — Marine Industries Promotion Division, Chiba Prefectural Government — Fishery section, Agriculture, Forestry and Fishery Division, Bureau of Industrial and Labor Affairs, Tokyo Metropolitan Government — Fisheries Division, Environment and Agriculture Department, Kanagawa Prefectural Government — Fisheries Division, Department of Agriculture, Forestry and Fisheries, Niigata Prefectural Government — Promotion Division, Agriculture, Forestry and Fisheries Promotion Department, Sado Regional Promotion Bureau, Niigata Prefectural Government — Fisheries and Fishing Port Division, Toyama Prefectural Government — Fishery Division, Agriculture, Forestry and Fisheries Department, Ishikawa Prefectural Government — Fisheries Division, Department of Agriculture, Forestry and Fisheries, Fukui Prefectural Government — Reinan Regional Promotion Bureau, Fukui Prefectural Government — Office of Fishery Management, Division of Fishery, Department of Industry, Shizuoka Prefectural Government — Fisheries Administration Division, Department of Agriculture, Forestry and Fisheries, Aichi Prefectural Government — Fisheries Resource Office, Department of Agriculture, Fisheries, Commerce and Industry, Mie Prefectural Government — Fisheries Division, Department of Agriculture, Forestry and Fisheries, Kyoto Prefectural Government — Fisheries Office, Kyoto Prefectural Government



Third country	Competent authorities
	<ul style="list-style-type: none"> <li>— Fisheries Division, Department of Environment, Agriculture, Forestry and Fisheries, Osaka Prefectural Government</li> <li>— Fisheries Division, Agriculture, Forestry and Fisheries Bureau, Agriculture and Environmental Department, Hyogo Prefectural Government</li> <li>— Kobe Agriculture, Forestry and Fisheries Office, Kobe District Administration Office, Hyogo prefectural Government</li> <li>— Kakogawa Agriculture, Forestry and Fisheries Office, Higashi-Harima District Administration Office, Hyogo Prefectural Government</li> <li>— Himeji Agriculture, Forestry and Fisheries Office, Naka-Harima District Administration Office, Hyogo Prefectural Government</li> <li>— Koto Agriculture, Forestry and Fisheries Office, Nishi-Harima District Administration Office, Hyogo Prefectural Government</li> <li>— Tajima Fisheries Office, Tajima District Administration Office, Hyogo Prefectural Government</li> <li>— Sumoto Agriculture, Forestry and Fisheries Office, Awaji District Administration Office, Hyogo Prefectural Government</li> <li>— Wakayama Prefectural Government</li> <li>— Kaisou Promotions Bureau, Wakayama Prefectural Government</li> <li>— Arida Promotions Bureau, Wakayama Prefectural Government</li> <li>— Hidaka Promotions Bureau, Wakayama Prefectural Government</li> <li>— Nishimuro Promotion Bureau, Wakayama Prefectural Government</li> <li>— Higashimuro Promotion Bureau, Wakayama Prefectural Government</li> <li>— Fishery Division, Fishery Development Bureau, Department of Agriculture, Forestry and Fishery, Tottori Prefectural Government</li> <li>— Fisheries Division, Department of Agriculture, Forestry and Fisheries, Shimane Prefectural Government</li> <li>— Fisheries Office, Oki Branch Office, Shimane Prefectural Government</li> <li>— Matsue Fisheries Office, Shimane Prefectural Government</li> <li>— Hamada Fisheries office, Shimane Prefectural Government</li> <li>— Okayama Prefectural Government</li> <li>— Hiroshima Prefectural Government</li> <li>— Fisheries Promotion Division, Yamaguchi Prefectural Government</li> <li>— Fisheries Division, Agriculture, Forestry and Fisheries Department, Tokushima Prefectural Government</li> <li>— Fisheries Division, Agricultural Administration and Fisheries Department, Kagawa Prefectural Government</li> <li>— Fisheries Promotion Division, Fisheries Bureau, Agriculture, Forestry and Fisheries Department, Ehime prefectural Government</li> <li>— Fisheries Management Division, Kochi Prefectural Government</li> <li>— Fishery Administration Division, Fishery Bureau, Department of Agriculture, Forestry and Fisheries, Fukuoka Prefectural Government</li> <li>— Fisheries Division, Saga Prefectural Government</li> <li>— Resource Management Division, Fisheries Department, Nagasaki Prefectural Government</li> <li>— Department of Agriculture, Forestry and Fisheries, Kumamoto Prefectural Government</li> <li>— Tamana Regional Promotion Bureau, Kumamoto Prefectural Government</li> <li>— Yatsushiro Regional Promotion Bureau, Kumamoto Prefectural Government</li> <li>— Amakusa Regional Promotion Bureau, Kumamoto Prefectural Government</li> <li>— Oita Prefectural Government</li> <li>— Fisheries Administration Division, Agriculture and Fisheries Department, Miyazaki Prefectural Government</li> <li>— Fisheries Promotion Division, Kagoshima Prefectural Government</li> <li>— Fisheries Division, Department of Agriculture, Forestry and Fisheries, Okinawa Prefectural Government</li> <li>— Agriculture, Forestry and Fisheries Management Division, Miyako Regional Agriculture, Forestry and Fisheries promotions Center, Okinawa Prefectural Government</li> </ul>

Third country	Competent authorities
	<ul style="list-style-type: none"> <li>— Agriculture, Forestry and Fisheries Management Division, Yaeyama Regional Agriculture, Forestry and Fisheries Promotions Center, Okinawa Prefectural Government</li> <li>(b):</li> <li>Same as point (a) and:</li> <li>— Fishery Agency, Ministry of Agriculture, Forestry and Fisheries Iwate Regional Marine Fisheries Management Commission</li> <li>— Fisheries Division, Tsu Agriculture, Forestry, Fisheries, Commerce, Industry and Environment Office, Mie Prefectural Government</li> <li>— Fisheries Division, Ise Agriculture, Forestry, Fisheries, Commerce, Industry and Environment Office, Mie Prefectural Government</li> <li>— Fisheries Division, Owase Agriculture, Forestry, Fisheries, Commerce, Industry and Environment Office, Mie Prefectural Government</li> <li>— Fisheries Division, Department of Agriculture, Forestry and Fisheries, Kyoto Prefectural Government</li> <li>(c):</li> <li>— Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries</li> <li>(d):</li> <li>— Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries</li> <li>— Fisheries Management Division, Bureau of Fisheries, Department of Fisheries and Forestry, Hokkaido Government</li> <li>— Aomori Prefectural Government</li> <li>— Fisheries Industry Promotion Division, Department of Agriculture, Forestry and Fisheries, Iwate Prefectural Department</li> <li>— Iwate Regional Marine Fisheries Management Commission</li> <li>— Fisheries Department, Kuji Regional Promotion Bureau, Iwate Prefectural Government</li> <li>— Fisheries Department, Miyako Regional Promotion Bureau, Iwate Prefectural Government</li> <li>— Fisheries Department, Kamaishi Regional Promotion Bureau, Iwate Prefectural Government</li> <li>— Fisheries Department, Ofunato Regional Promotion Bureau, Iwate Prefectural Government</li> <li>— Fisheries Industry Promotion Division, Agriculture Forestry and Fisheries Department, Miyagi Prefectural Government</li> <li>— Fisheries and Fishing Ports Division, Department of Agriculture, Forestry and Fisheries, Akita Prefectural Government</li> <li>— Fisheries Division, Industrial and Economic Affairs Department, Shonai Area General Branch Administration Office, Yamagata Prefectural Government</li> <li>— Fishery Division, Fukushima Prefectural Government</li> <li>— Fisheries Administration Division, Ibaraki Prefectural Government</li> <li>— Marine Industries Promotion Division, Chiba Prefectural Government</li> <li>— Fishery section, Agriculture, Forestry and Fishery Division, Bureau of Industrial and Labor Affairs, Tokyo Metropolitan Government</li> <li>— Fisheries Division, Environment and Agriculture Department, Kanagawa Prefectural Government</li> <li>— Fisheries Division, Department of Agriculture, Forestry and Fisheries, Niigata Prefectural Government</li> <li>— Fisheries and Fishing Port Division, Toyama Prefectural Government</li> <li>— Fishery Division, Agriculture, Forestry and Fisheries Department, Ishikawa Prefectural Government</li> <li>— Fisheries Division, Department of Agriculture, Forestry and Fisheries, Fukui Prefectural Government</li> <li>— Reinan Regional Promotion Bureau, Fukui Prefectural Government</li> <li>— Office of Fishery Management, Division of Fishery, Department of Industry, Shizuoka Prefectural Government</li> <li>— Fisheries Administration Division, Department of Agriculture, Forestry and Fisheries, Aichi Prefectural Government</li> <li>— Fisheries Resource Office, Department of Agriculture, Fisheries, Commerce and Industry, Mie Prefectural Government</li> </ul>

Third country	Competent authorities
	<ul style="list-style-type: none"> <li>— Fisheries Division, Department of Agriculture, Forestry and Fisheries, Kyoto Prefectural Government</li> <li>— Fisheries Division, Department of Environment, Agriculture, Forestry and Fisheries, Osaka Prefectural Government</li> <li>— Fisheries Division, Agriculture, Forestry and Fisheries Bureau, Agriculture and Environmental Department, Hyogo Prefectural Government</li> <li>— Wakayama Prefectural Government</li> <li>— Fishery Division, Fishery Development Bureau, Department of Agriculture, Forestry and Fishery, Tottori Prefectural Government</li> <li>— Fisheries Division, Department of Agriculture, Forestry and Fisheries, Shimane Prefectural Government</li> <li>— Okayama Prefectural Government</li> <li>— Hiroshima Prefectural Government</li> <li>— Fisheries Promotion Division, Yamaguchi Prefectural Government</li> <li>— Fisheries Division, Agriculture, Forestry and Fisheries Department, Tokushima Prefectural Government</li> <li>— Fisheries Division, Agricultural Administration and Fisheries Department, Kagawa Prefectural Government</li> <li>— Fisheries Promotion Division, Fisheries Bureau, Agriculture, Forestry and Fisheries Department, Ehime prefectural Government</li> <li>— Fisheries Management Division, Kochi Prefectural Government</li> <li>— Fishery Administration Division, Fishery Bureau, Department of Agriculture, Forestry and Fisheries, Fukuoka Prefectural Government</li> <li>— Fisheries Division, Saga Prefectural Government</li> <li>— Resource Management Division, Fisheries Department, Nagasaki Prefectural Government</li> <li>— Department of Agriculture, Forestry and Fisheries, Kumamoto Prefectural Government</li> <li>— Oita Prefectural Government</li> <li>— Fisheries Administration Division, Agriculture and Fisheries Department, Miyazaki Prefectural Government</li> <li>— Fisheries Promotion Division, Kagoshima Prefectural Government</li> <li>— Fisheries Division, Department of Agriculture, Forestry and Fisheries, Okinawa Prefectural Government</li> </ul> <p>(c),(f),(g):</p> <ul style="list-style-type: none"> <li>— Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries</li> </ul>
KENYA	<p>(a):</p> <ul style="list-style-type: none"> <li>— Kenya Maritime Authority</li> </ul> <p>(b) to (g):</p> <ul style="list-style-type: none"> <li>— Ministry of Agriculture, Livestock and Fisheries</li> </ul>
KIRIBATI	<p>(a):</p> <ul style="list-style-type: none"> <li>— Ministry of Information, Communications, Transport and Tourism Development (MICTTF)</li> </ul> <p>(b) to (g):</p> <ul style="list-style-type: none"> <li>— Ministry of Fisheries and Marine Resources Development (MFMRD)</li> </ul>
KOREA	<p>(a),(b),(d),(f),(g):</p> <ul style="list-style-type: none"> <li>— Ministry of Oceans and Fisheries</li> </ul> <p>(c),(e):</p> <ul style="list-style-type: none"> <li>— National Fisheries Products Quality Management Service and 13 regional offices: <ul style="list-style-type: none"> <li>— Busan Regional Office</li> <li>— Incheon Regional Office</li> <li>— Incheon International Airport Regional Office</li> <li>— Seoul Regional Office</li> <li>— Pyeongtaek Regional Office</li> <li>— Janghang Regional Office</li> <li>— Mokpo Regional Office</li> </ul> </li> </ul>

Third country	Competent authorities
	<ul style="list-style-type: none"> <li>— Wando Regional Office</li> <li>— Yeosu Regional Office</li> <li>— Jeju Regional Office</li> <li>— Tongyeong Regional Office</li> <li>— Pohang Regional Office</li> <li>— Gangneung Regional Office</li> </ul>
MADAGASCAR	<p>(a):</p> <ul style="list-style-type: none"> <li>— Agence Portuaire Maritime et Fluviale Service Régional de Pêche et des Ressources halieutiques de Diana, Sava, Sofia, Boeny Melaky, Analanjirifo, Atsinanana, Atsimo Atsinanana, Vatovavy Fitovinany, Menabe, Atsimo Andrefana, Anosy, and Androy</li> </ul> <p>(b):</p> <ul style="list-style-type: none"> <li>— Ministère chargé de la Pêche</li> </ul> <p>(c) and (d) :</p> <ul style="list-style-type: none"> <li>— Centre de Surveillance des Pêches</li> </ul> <p>(e),(f),(g) :</p> <ul style="list-style-type: none"> <li>— Direction Générale de la Pêche et des Ressources Halieutiques</li> </ul>
MALAYSIA	<p>(a) and (b):</p> <ul style="list-style-type: none"> <li>— Department of Fisheries Malaysia and Department of Fisheries Sabah</li> </ul> <p>(c),(e),(f):</p> <ul style="list-style-type: none"> <li>— Department of Fisheries, Malaysia</li> </ul> <p>(d):</p> <ul style="list-style-type: none"> <li>— Department of Fisheries,</li> </ul> <p>(g):</p> <ul style="list-style-type: none"> <li>— Department of Fisheries, Malaysia Ministry of Agriculture and Agro- based</li> </ul>
MALDIVES	<p>(a):</p> <ul style="list-style-type: none"> <li>— Transport Authority</li> </ul> <p>(b),(c),(e),(f),(g):</p> <ul style="list-style-type: none"> <li>— Ministry of Fisheries, Marine Resources and Agriculture</li> </ul> <p>(d):</p> <ul style="list-style-type: none"> <li>— Coast Guard, Maldives National Defense Force Maldives Police Service</li> </ul>
MAURITANIA	<p>(a):</p> <ul style="list-style-type: none"> <li>— Direction de la Marine Marchande</li> </ul> <p>(b) :</p> <ul style="list-style-type: none"> <li>— Direction de la Pêche industrielle / Direction de la Pêche Artisanale et Côtière</li> </ul> <p>(c),(d),(e),(f) :</p> <ul style="list-style-type: none"> <li>— Garde Côtes Mauritanienne (GCM)</li> </ul> <p>(g) :</p> <ul style="list-style-type: none"> <li>— Ministère des Pêches et de l'Economie Maritime</li> </ul>
MAURITIUS	<p>(a) to (g):</p> <ul style="list-style-type: none"> <li>— Ministry of Blue Economy, Marine Resources, Fisheries and Shipping (Fisheries Division)</li> </ul>
MEXICO	<p>(a),(c),(g):</p> <ul style="list-style-type: none"> <li>— CONAPESCA a través de la Dirección General de Planeación, Programación y Evaluación</li> </ul> <p>(b):</p> <ul style="list-style-type: none"> <li>— CONAPESCA a través de la Dirección General de Ordenamiento Pesquero y Acuícola</li> </ul> <p>(d),(e) :</p> <ul style="list-style-type: none"> <li>— CONAPESCA a través de la Dirección General de Inspección y Vigilancia</li> </ul> <p>(f)</p> <ul style="list-style-type: none"> <li>— Comisión Nacional de Acuicultura y Pesca</li> </ul>

Third country	Competent authorities
MONTENEGRO	(a): — Ministry of Transport, Maritime Affairs and Telecommunications (Harbour Master Office Bar, Harbour Master Office Kotor) (b) to (g): — Ministry of Agriculture, Forestry and Watermanagement
MOROCCO	(a),(b),(e),(f): — Direction des Pêches Maritimes et de l'Aquaculture (c): — Délégations des Pêches Maritimes de: — Jebha — Nador — Al Hoceima — M'diq — Tanger — Larache — Kenitra-Mehdia — Mohammedia — Casablanca — El Jadida — Safi — Essaouira — Agadir — Sidi Ifni — Tan-Tan — Laâyoune — Boujdour — Dakhla (d): — Same as point (c) — Direction des Pêches Maritimes (g): — Secrétariat Général du Département de la Pêche Maritime
MOZAMBIQUE	(a): — National Marine Institute (INAMAR) (b) to (g): — National Directorate of Fisheries Administration (c): — National Direction of Operations
MYANMAR	(a): — Department of Marine Administration (b) to (g): — Department of Fisheries / Ministry of Livestock, Fisheries and Irrigation
NAMIBIA	(a): — Ministry of Works, Transport and Communication (b),(d),(f),(g): — Ministry of Fisheries and Marine Resources (c) and (e): — Ministry of Fisheries and Marine Resources (Walvis Bay) and Ministry of Fisheries and Marine Resources (Lüderitz)
NEW CALEDONIA	(a),(b),(c),(e),(f) and (g): — Service des Affaires Maritimes (SAM) de Nouvelle-Calédonie (d): — Etat-Major Inter-Armées
NEW ZEALAND	(a) to (g): — Ministry for Primary Industries

Third country	Competent authorities
NICARAGUA	(a): — Dirección General de Transporte Acuático del Ministerio de Transporte e Infraestructura (b),(d),(f),(g): — Instituto Nicaragüense de la Pesca y Acuicultura (INPESCA) through Presidente Ejecutivo (c): — Instituto Nicaragüense de la Pesca y Acuicultura (INPESCA) through the Delegaciones Departamentales: — Delegación de INPESCA Puerto Cabezas — Delegación de INPESCA Chinandega — Delegación de INPESCA Bluefields — Delegación de INPESCA Rivas (e): — Dirección de Monitoreo, Vigilancia y Control, INPESCA
NIGERIA	(a): — Nigerian Maritime Administration and Safety Agency (NIMASA) (b): — Federal Ministry of Agriculture & Rural Development (c),(d),(f): — Federal Department of Fisheries & Aquaculture (Fisheries Resources Monitoring, control & Surveillance (MCS)) (e),(g): — Federal Ministry of Agriculture & Rural Development, Director of Fisheries
NORWAY	(a),(b),(e),(f),(g): — Directorate of Fisheries (c): — On behalf of the Directorate of Fisheries: — Norges Sildesalgslag — Norges Råfisklag — Sunnmøre og Romsdal Fiskesalgslag — Vest-Norges Fiskesalgslag — Rogaland Fiskesalgslag S/L — Skagerakfisk S/L (d): — Directorate of Fisheries — The Norwegian Coastguard — The Police and the Public Prosecuting Authority
OMAN	(a): — Ministry of Transport, Communications and Information Technology Directorate General of Maritime Affairs (b),(c),(d),(f): — Muscat Governorate: Ministry of Agriculture, Fisheries Wealth and Water Resources Directorate General of Fisheries Resources Development Department of Surveillance & Fisheries Licensing — Salalah Governorate: Ministry of Agriculture, Fisheries Wealth and Water Resources Directorate General of Agriculture, Fisheries Wealth and Water Resources, DOFAR Governate Department of Fisheries Resources (e),(g): — Muscat Governorate: Ministry of Agriculture, Fisheries Wealth and Water Resources Directorate General of Fisheries Resources Development Department of Surveillance & Fisheries Licensing

Third country	Competent authorities
PAKISTAN	(a),(c),(e),(f): — Mercantile Marine Department (b) and (d): — Marine Fisheries Department / Directorate of Fisheries (g): — Ministry of Livestock & Dairy Development
PANAMÁ	(a): — Autoridad de los Recursos Acuáticos de Panamá (Dirección General de Ordenación y Manejo Costero Integral) Autoridad Marítima de Panamá (Dirección General de Marina Mercante) (b) : — Dirección General de Ordenación y Manejo Costero Integral (c) to (g): — Administración General Secretaría General Dirección General de Inspección, Vigilancia y Control
PAPUA NEW GUINEA	(a),(b),(f),(g): — PNG National Fisheries Authority (c),(d),(e): — PNG National Fisheries Authority (Head Office) Monitoring Control and Surveillance Division, Audit & Certification Unit — National Fisheries Authority, Audit & Certification Unit, Lae Port Office — National Fisheries Authority, Audit & Certification Unit, Madang Port Office — National Fisheries Authority, Audit & Certification Unit, Wewak Port Office
PERU	(a) and (b): — Director General de Extracción y Procesamiento pesquero del Ministerio and Direcciones Regionales de la Producción de los Gobiernos Regionales de Tumbes, Piura, Lambayeque, La Libertad, Ancash, Lima, Callao, Ica, Arquipa, Moquegua y Tacna (c),(d),(e): — Dirección General de Seguimiento, Control y Vigilancia del Ministerio de Producción and Direcciones Regionales de la Producción de los Gobiernos Regionales de Tumbes, Piura, Lambayeque, La Libertad, Ancash, Lima, Callao, Ica, Arquipa, Moquegua y Tacna (f): — Director General de Seguimiento, Control y Vigilancia del Ministerio de la Producción (g): — Viceministro de Pesquería del Ministerio de la Producción
THE PHILIPPINES	(a): — Maritime Industry Authority (b) to (g): — Bureau for Fisheries and Aquatic Resources, Department of Agriculture
RUSSIA	(a) to (g): — Federal Agency for Fisheries, Territorial department of Barentsevo-Belomorskoye, Primorskoye, Zapadno-Baltiyskoye, Azovo-Chernomorskoye, Amur, Okhotsk, Sakhalin-Kuril, North-Eastern.
SAINT PIERRE ET MIQUELON	(a),(c) to (g): — DTAM – Service des affaires maritime et portuaires (b) : — Préfecture de Saint-Pierre et Miquelon

Third country	Competent authorities
SENEGAL	(a): — Agence nationale des Affaires maritimes (b): — Ministre en charge de la Pêche (c): — Direction de la Protection et de la Surveillance des Pêches (DPSP) (d) to (g): — Direction de la Protection et de la Surveillance des Pêches (DPSP)
SEYCHELLES	(a): — Seychelles Maritime Safety Administration (b): — Seychelles Licensing Authority (c) to (g): — Seychelles Fishing Authority
SOLOMON ISLANDS	(a): — Marine Division, Ministry of Infrastructure and Development (MID) (b) to (g): — Ministry of Fisheries and Marine Resources (MFMR)
SOUTH AFRICA	(a) to (g): — Branch: Fisheries Management, Department of Agriculture, Forestry and Fisheries
SRI LANKA	(a) to (g): — Department of Fisheries and Aquatic Resources
ST HELENA	(a): — Registrar of Shipping, St. Helena Government (b),(d) to (g): — Senior Fisheries Officer, Directorate of Fisheries, St Helena Government (c): — H.M. Customs, Government of St Helena
SURINAME	(a): — Maritime Authority Suriname (b) to (g): — Ministry of Agriculture, Animal Husbandry and Fisheries
TAIWAN	(a): — Council of Agriculture, Executive Yuan — Maritime and Port Bureau, Ministry of Transportation and Communication (b): — Council of Agriculture, Executive Yuan (c): — Fisheries Agency, Council of Agriculture, Executive Yuan (d): — Fisheries Agency, Council of Agriculture, Executive Yuan — Coast Guard Administration, Executive Yuan (e): — Fisheries Agency, Council of Agriculture, Executive Yuan (f): — Fisheries Agency, Council of Agriculture, Executive Yuan (g): — Fisheries Agency, Council of Agriculture, Executive Yuan
TERRES AUSTRALES ET ANTARCTIQUES FRANCAISES (TAAF)	(a) to (g): — Monsieur le Préfet Administrateur supérieur des Terres Australes et Antarctiques Françaises



Third country	Competent authorities
THAILAND	(a) and (b): — The Department of Fisheries — The Marine Department (c) to (g): — The Department of Fisheries
TRISTAN DA CUNHA	(a): — Administration Department (b),(d): — Administration Department / Fisheries Department (c),(e),(f),(g): — Fisheries Department
TUNISIA	(a): — Office de la Marine Marchande et des Ports/ Ministère du Transport (b) to (d): — Arrondissement de la Pêche et de l'Aquaculture de Jendouba, Bizerte, Ariana, Tunis, Nabeul, Sousse, Monastir, Mahdia, and Gabes and Division de la Pêche et de l'Aquaculture de Sfax and Médenine (e) to (g): — La Direction Générale de la Pêche et de l'Aquaculture / Ministère de l'Agriculture et des Ressources hydrauliques
TURKEY	(a) and (b): — 81 Provincial Directorates of the Ministry of Agriculture and Rural Affairs (c): — General Directorate for Protection and Conservation, 81 Provincial Directorates of the Ministry of Agriculture and Rural Affairs, and 24 Districts Directorate of the Ministry of Agriculture and Rural Affairs. (d): — General Directorate for Protection and Conservation, 81 Provincial Directorates of the Ministry of Agriculture and Rural Affairs and Turkish Coast Guard Command (e) to (g): — General Directorate for Protection and Conservation, Ministry of Agriculture and Rural Affairs
UKRAINE	(a): — State Enterprise Maritime Administration of Illichivsk Sea Fishing Port State Enterprise Maritime Administration of Kerch Sea Fishing Port State Enterprise Office of Captain of Mariupol Sea Fishing Port State Enterprise Office of Captain of Sevastopol Sea Fishing Port (c): — State Agency of Melioration and Fisheries of Ukraine Department of the State Agency of Melioration and Fisheries of Ukraine in: — Black Sea Basin — Azov Basin — Chernihiv region — Chernivtsi region — Cherkasy region — Khmelnytskyi region — Kherson region — Kharkiv region — Ternopil region — Sumy region — Rivne region — Poltava region — Odesa region — Mykolaiv region — Lviv region

Third country	Competent authorities
	<ul style="list-style-type: none"> <li>— Luhansk region</li> <li>— Department of protection, use and reproduction of water</li> <li>— bioresources and regulation of fisheries in Kirvohrad region</li> <li>— Kyiv and Kyiv region</li> <li>— Ivano-Krankivsk region</li> <li>— Zaporizhia region</li> <li>— Zakarpattia region</li> <li>— Zhytomyr region</li> <li>— Donetsk region</li> <li>— Dnipropetrovsk region</li> <li>— Volyn region</li> <li>— Vinnytsia region</li> </ul> (b), (d) to (g): — State Agency of Melioration and Fisheries of Ukraine (Derzhrybagentstvo of Ukraine)
UNITED ARAB EMIRATES	(a) to (g): — Fisheries Department, Ministry of Environment & Water (MOEW)
UNITED KINGDOM (?)	(a): — England: Fishing Vessel Registry, Maritime and Coastguard Agency — Scotland: Fishing Vessel Registry, Maritime and Coastguard Agency — Wales: Fishing Vessel Registry, Maritime and Coastguard Agency — Northern Ireland: DAERA Marine and Fisheries Division, Fisheries Inspectorate Team, Department of Agriculture, Environment and Rural Affairs — Isle of Man: Department Environment Food and Agriculture, Fisheries Directorate — Guernsey: Registrar of British Ships — Jersey: Marine Resources, Growth Housing and Environment (b): — England: Marine Management Organisation — Scotland: Marine Scotland — Wales: Welsh Government, Marine, Fisheries Division — Northern Ireland: DAERA Marine and Fisheries Division, Fisheries Inspectorate Team, Department of Agriculture, Environment and Rural Affairs — Isle of Man: Department Environment Food and Agriculture, Fisheries Directorate — Guernsey: Seafisheries, Committee for Economic Development, States of Guernsey — Jersey: Marine Resources, Growth Housing and Environment (c),(d),(e): — England: Marine Management Organisation — Scotland: Marine Scotland — Wales: Welsh Government, Marine, Fisheries Division — Northern Ireland: Fisheries Inspectorate Team, Department of Agriculture, Environment and Rural Affairs — Isle of Man: Department Environment Food and Agriculture, Fisheries Directorate — Guernsey: Seafisheries, Committee for Economic Development, State of Guernsey — Jersey: Marine Resources, Growth Housing and Environment (f),(g): England, Scotland, Wales, Northern Ireland, Isle of Man, Guernsey, Jersey: Marine Management Organisation
UNITED REPUBLIC OF TANZANIA	(a) to (g): — Director of Fisheries Development

Third country	Competent authorities
URUGUAY	(a) to (g): — Dirección Nacional de Recursos Acuáticos (DINARA)
USA	(a): — United States Coast Guard, U.S. Department of Homeland Security (b) to (g): — National Marine Fisheries Service
VENEZUELA	(a) to (b): — Instituto Socialista de la Pesca y Acuicultura
VIETNAM	(a) to (b): — Directorate of Fisheries (D-FISH) at national level Sub-Departments of Capture Fisheries and Resources Protection at provincial level (c) and (f): — Sub-Departments of Capture Fisheries (d): — Fisheries Surveillance Department belonging to D-FISH — Inspections of Agriculture and Rural Development belonging to the provinces — Sub-Departments of Capture Fisheries and Resources Protection. (e) and (g): — Directorate of Fisheries (D-FISH)
WALLIS AND FUTUNA	(a): — Le Chef du Service des Douanes et des Affaires Maritimes (b) and (g) : — Le Préfet, Administrateur supérieur (c) to (f) : — Le Directeur du Service d'Etat de l'Agriculture, de la Forêt et de la Pêche
YEMEN	(a): — Maritime Affairs Authority - Ministry of Transport (b) to (g): — Production & Marketing Services Sector - Ministry of Fish Wealth and its branches from Aden, Alhodeidah, Hadramout, Almahara

(<sup>1</sup>) Pursuant to Article 31 of the Council Regulation (EC) No 1005/2008, on 5 January 2023 the European Commission has identified Cameroun as a non-cooperating country in fighting IUU fishing (OJ L 8, 11.1.2023, p. 4–15). In accordance with Article 33 of the said Regulation, the Council of the European Union has listed Cameroon as non-cooperating third country in fighting IUU fishing (OJ L 56, 23.2.2023, p. 26–28). Importation into the Union of fishery products caught by fishing vessels flying the flag of Cameroun is prohibited in accordance with Article 38 of the said Regulation.

(<sup>2</sup>) Applicable as from 1 January 2021

## NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

## EFTA SURVEILLANCE AUTHORITY

**Decision No 44/23/COL of 8 March 2023 to open a formal investigation into alleged state aid to Farice****Invitation to submit comments on state aid issues pursuant to Article 1(2) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice**

(2023/C 129/04)

By means of the above referenced Decision, reproduced in the authentic language on the pages following this summary, the EFTA Surveillance Authority notified the Icelandic authorities of its decision to initiate proceedings pursuant to Article 1(2) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

Interested parties may submit comments within one month of the date of publication to:

EFTA Surveillance Authority  
Registry  
Avenue des Arts 19H  
1000 Bruxelles/Brussel  
BELGIQUE/BELGIË  
registry@eftasurv.int

The comments will be communicated to the Iceland authorities. The identity of the interested party submitting the comments may be withheld following a request in writing stating the reasons for the request.

**Summary****Procedure**

On 23 February 2021, ESA received a complaint ('the complaint') from *Sýn hf.* ('*Sýn*') regarding Farice. *Sýn* alleged, *inter alia*: 1) that Farice received compensation for costs related to surveys conducted in preparation for a third submarine cable ('Measure 1'); and 2) a violation of the standstill obligation as regards Farice's investment in a third submarine cable between Iceland and Europe ('the IRIS cable' or 'Measure 2').

On 23 March 2021, ESA received a formal notification from the Icelandic authorities regarding investment in the IRIS cable ('Measure 2'). On 26 March 2021, ESA adopted Decision 023/21/COL on *Aid to Farice ehf. for investment in a third submarine cable*, concluding that ESA had no doubts that the aid was compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c), and therefore had no objections to the implementation of the measure.

On 9 July 2021, *Sýn* lodged an application with the EFTA Court under Article 36 of the Surveillance and Court Agreement ('SCA'), seeking the annulment of Decision No 023/21/COL of 26 March 2021.

By Judgment of 1 June 2022, the EFTA Court annulled ESA's Decision 023/21/COL <sup>(1)</sup>.

<sup>(1)</sup> Judgment of the EFTA Court in Case E-4/21 *Sýn hf. v EFTA Surveillance Authority* [not yet reported].

### Description of the aid concerned

The alleged beneficiary is Farice ehf. ('Farice'). Farice is a private limited liability company wholly owned by the Icelandic State. The purpose of Farice is the wholesale of international data transfer between countries through a fibre optic cable, the operations of fibre optic cable systems, and the sale of services in relation to such activities. Farice operates two submarine cables running from Iceland to parts of Europe: FARICE-1 and DANICE.

On 3 June 2019, the Icelandic Parliament approved a resolution on an electronic communications policy 2019 to 2033 ('the Telecommunication Policy'). The objectives of the policy are, *inter alia*, to promote accessible and effective communications and to guarantee the security of infrastructure. To achieve those objectives, the policy emphasises that three active submarine cables are needed to connect Iceland with the rest of Europe from different landing sites.

The Decision concerns two measures.

Measure 1 concerns compensation to Farice for seabed research in preparations for the possible construction of a new submarine cable between Iceland and Europe. The basis for the work and compensation is a contract, signed in 2018, between the Telecommunications Fund ('the Fund') and Farice. The estimated cost, when the contract was signed, was EUR 1.9 million.

Measure 2 concerns an investment by Farice in the IRIS cable. The Icelandic authorities selected Farice to build and operate a third submarine cable connecting Iceland and Europe, i.e. the IRIS cable. Measure 2 was financed by the Icelandic State through an estimated EUR 50 million capital increase in Farice, which is wholly owned by the Icelandic State

### Assessment

#### Presence of State aid

In its Decision, ESA comes to the preliminary view that it cannot exclude that Measure 1 entailed State aid in favour of Farice.

Specifically, ESA cannot exclude that payments made by the Fund to Farice for the performance of a subsea survey conferred on Farice a selective advantage, as it has doubts that those payments were made on market terms.

Further, in its Decision, ESA comes to the preliminary view that Measure 2 entails State aid.

#### Compatibility of the aid

As regards the potential compatibility of Measure 1, ESA has not received any arguments to that effect, and has invited the Icelandic authorities to provide such argumentation.

As regards the potential compatibility of Measure 2, ESA notes that the compatibility of aid for the roll-out of broadband networks, for the purposes of securing coverage, access or connectivity, is normally assessed under the Broadband Guidelines.

In general, the Broadband Guidelines' primary objective is to ensure widespread availability of broadband services to end users or access to higher speed internet. Therefore, they apply to aid measures that target situations where the market does not provide sufficient broadband coverage or where access conditions are not adequate. Conversely, the Broadband Guidelines do not mention international connectivity, security, international data transfer, or subsea cables, and do not specifically lay down compatibility conditions for measures targeting security issues raised by the lack of geographical diversity and robustness of international connectivity services.

Therefore, Measure 2, where the objective is increased redundancy, security, and robustness of international connectivity services already available to end customers at high speeds, seems to differ from the general type of measure covered by the Broadband Guidelines, namely measures concerning the expansion or introduction of broadband networks and services.

However, it is unclear to ESA at this stage to what extent the Broadband Guidelines apply to the compatibility assessment of Measure 2. Therefore, ESA invited the Icelandic authorities to provide further arguments.

In the event that the Broadband Guidelines do not apply to the measure at hand, Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest'. Therefore, in order to declare the aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest.

In this regard, ESA has preliminarily concluded that it has doubts as to the necessity of Measure 2. Prior to its investment in the IRIS cable, the Icelandic authorities were approached by a private operator with a proposal to build a third submarine cable. Therefore, while it is unclear to ESA at this stage whether that offer was comparable to the IRIS cable project, or if it indicates an attempt to enter the market for international data connectivity services, ESA cannot exclude the possibility that the market could have delivered the outcome sought by Measure 2, which puts into doubt the Icelandic authorities' assertion that there was need to remedy a well-defined market failure.

Furthermore, ESA has doubts as to the proportionality of Measure 2. While the Icelandic authorities have designed Measure 2 to limit the amount of aid, ESA preliminarily finds that the existence of an allegedly more cost-effective alternative puts into doubt the overall proportionality of the measure, in the absence of justification for the difference in price.

Finally, ESA has preliminarily concluded that it has doubts as to whether the measures' negative impact on competition and trade is sufficiently limited.

Consequently, ESA has preliminarily concluded that it has doubts as to whether the positive effects of Measure 2 outweigh its possible distortion of competition and adverse impact on trade.

### **Decision No 44/23/COL of 8 March 2023 to open a formal investigation into alleged state aid to Farice**

#### **1. Summary**

The EFTA Surveillance Authority ('ESA') wishes to inform Iceland that, having preliminarily assessed the alleged aid to Farice ehf. ('Farice') for performing a seabed survey ('Measure 1') and for investment in a third submarine cable ('Measure 2'), it has doubts as to whether Measure 1 constitutes State aid within the meaning of Article 61(1) of the EEA Agreement and as to whether Measures 1 and 2 are compatible with the functioning of the EEA Agreement. ESA has therefore decided to open a formal investigation procedure pursuant to Articles 4(4), 6 and 13 of Part II of Protocol 3 to the Surveillance and Court Agreement ('Protocol 3'). ESA has based its decision on the following considerations.

#### **2. Procedure**

- (1) By letter dated 27 January 2021, the Icelandic authorities initiated pre-notification discussions with ESA concerning their plans to increase capital in Farice, in order to invest in a third submarine cable between Iceland and Europe ('the IRIS cable'), i.e. Measure 2 <sup>(2)</sup>.
- (2) On 23 February 2021, ESA received a complaint ('the complaint') from Sýn hf. ('Sýn') regarding Farice <sup>(3)</sup>. Sýn alleged that Farice received public service compensation from the Icelandic authorities in violation of the SGEI rules <sup>(4)</sup>, including compensation for costs related to surveys conducted in preparation for a possible third submarine cable. Sýn also alleged a violation of the standstill obligation as regards Farice's investment in the IRIS cable.
- (3) On 23 February 2021, ESA forwarded the complaint to the Icelandic authorities and invited them to provide comments by 25 March 2021 <sup>(5)</sup>.

<sup>(2)</sup> Document No 1176447.

<sup>(3)</sup> Document No 1182556.

<sup>(4)</sup> 'SGEI' stands for 'Services of General Economic Interest'.

<sup>(5)</sup> Document No 1182715.

- (4) On 23 March 2021, ESA received a formal notification from the Icelandic authorities regarding Measure 2 <sup>(6)</sup>. On 26 March 2021, ESA adopted Decision 023/21/COL on *Aid to Farice ehf. for investment in a third submarine cable*.
- (5) By email dated 25 March 2021, the Icelandic authorities requested an extension of the deadline to provide comments on the complaint. ESA extended the deadline to 31 March 2021. On 31 March 2021, the Icelandic authorities provided ESA with their initial comments on the complaint <sup>(7)</sup>.
- (6) On 9 July 2021, Sýn lodged an application with the EFTA Court under Article 36 of the Surveillance and Court Agreement ('SCA'), seeking the annulment of Decision No 023/21/COL of 26 March 2021.
- (7) On 20 January 2022, ESA sent a request for information to the Icelandic authorities concerning the complaint <sup>(8)</sup>. On 16 March 2022, the Icelandic authorities provided their response to the request for information <sup>(9)</sup>.
- (8) On 1 June 2022, the EFTA Court annulled Decision No 023/21/COL <sup>(10)</sup>.
- (9) On 21 June 2022, ESA sent the Icelandic authorities a second request for information concerning the complaint <sup>(11)</sup>. The Icelandic authorities responded on 20 September 2022 <sup>(12)</sup>.
- (10) On 8 November 2022, ESA had a meeting with a representative of Sýn <sup>(13)</sup>.

### 3. Description of the measures

#### 3.1. Background

- (11) Farice is a private limited liability company established in Iceland. It was founded in 2002 by Icelandic and Faroese parties. According to its articles of association, the purpose of Farice is the wholesale of international data transfer between countries through a fibre optic cable, the operations of fibre optic cable systems, and the sale of services in relation to such activities. The Icelandic State acquired Farice in full in March 2019 following the classification of international submarine cables as infrastructure. All of Farice's long-term borrowing comes from the Icelandic Treasury
- (12) Farice operates two submarine cables running from Iceland to parts of Europe: FARICE-1 and DANICE. FARICE-1 connects Iceland with Scotland, with a branch unit to the Faroe Islands. DANICE connects Iceland with Denmark. FARICE-1 and DANICE are the only submarine cables running from Iceland to Europe and they intersect in the Atlantic Ocean. A third submarine cable, Greenland Connect, runs from Iceland to Canada via Greenland. Greenland Connect is owned and operated by Tele Greenland. It terminates in Iceland and its traffic is directed through FARICE-1 and DANICE on the way to Europe. It is possible to buy services from Tele Greenland to mainland Canada and from there to New York.
- (13) Between 2010 and 2012, the Icelandic authorities engaged in a series of measures for the restructuring of Farice, due to its financial difficulties. During the same period, the Icelandic authorities submitted various State aid notifications to ESA. These were later withdrawn because the Icelandic authorities concluded that the SGEI Decision applied to these measures <sup>(14)</sup>. On 19 July 2013, ESA sent a comfort letter to the Icelandic authorities noting that Article 3 of the SGEI Decision exempted the Icelandic authorities from the prior notification obligation under Article 1(3) of Part I of Protocol 3 SCA <sup>(15)</sup>.

<sup>(6)</sup> Document No 1189996.

<sup>(7)</sup> Document No 1192410.

<sup>(8)</sup> Document No 1256678.

<sup>(9)</sup> Document No 1276074.

<sup>(10)</sup> Judgment of the EFTA Court in Case E-4/21 *Sýn hf. v EFTA Surveillance Authority* (not yet reported).

<sup>(11)</sup> Document No 1285878.

<sup>(12)</sup> Document No 1313840 and attachments.

<sup>(13)</sup> Document No 1326167.

<sup>(14)</sup> Commission Decision 2012/21/EU on the application of Article 106(2) of the Treaty on the functioning of the European Union to State aid in the form of public service compensation to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3, and EEA Supplement No 43, 2.8.2012, p. 56).

<sup>(15)</sup> Document No 664512.

- (14) The first public service contract between Farice and the Telecommunications Fund ('the Fund'), representing the Icelandic authorities, was entered into on 12 April 2012.
- (15) In November 2018, the Minister for Transport and Local Government submitted a proposal to the Icelandic Parliament for a resolution on an electronic communications policy 2019 to 2033 ('the Telecommunication Policy'). The objectives of the policy are, *inter alia*, to promote accessible and effective communications and to guarantee the security of infrastructure. To achieve those objectives, the policy emphasises that three active submarine cables are needed to connect Iceland with the rest of Europe from different landing sites. As a geographically remote country, effective international connections are a prerequisite for the development of Iceland as a modern technology-based society. A serious disruption in international connectivity would cause major damage to the Icelandic economy, and society as a whole.
- (16) Between 2017 and 2020, the Ministry of Transport and Local Government, and the Ministry of Finance and Economic Affairs received several proposals from Sýn regarding the construction of a third submarine cable. The proposals included both an independent project and a collaboration with Celtic Norse AS. These proposals did not entail financing in full by private investors but required cooperation with the Icelandic State and/or Farice.
- (17) On 21 December 2018, Farice signed a new public service contract with the Fund regarding the Icelandic authorities' work on the Telecommunications Policy ('the 2018 PSO Contract'). Farice was engaged to start preparations for the possible construction of a new submarine cable between Iceland and Europe. Farice was compensated for the costs of the preparation work that it undertook on behalf of the Fund, which also included compensation for seabed research to be carried out by Farice in 2019, i.e. Measure 1. The Icelandic State's participation in further investment or costs for a third cable was neither secured nor structured at that time.
- (18) In January 2019, Sýn submitted a formal request for funding of seabed research in preparation for the introduction of the submarine cable project. In February 2019, the Fund refused to engage in any discussions with Sýn, referring to the public service contract concluded with Farice in December 2018, according to which Farice was entrusted with seabed research as an intermediary.
- (19) On 3 June 2019, the Icelandic Parliament approved the Telecommunications Policy.
- (20) In December 2019, Sýn and the Board of the Fund had a meeting during which Sýn presented its case for a third submarine cable between Iceland and Ireland. Sýn offered to build a submarine cable for remuneration and required a guarantee that Farice would change its operating model to a so-called 'carrier's carrier' model.
- (21) In March 2020, the Fund engaged an independent expert to evaluate the feasibility of Sýn's and Farice's third cable projects. The expert's report was delivered in April 2020. According to Sýn, the report concluded that the project proposed by Sýn was more cost effective. According to the Icelandic authorities, the expert was instructed not to make recommendations. However, the report included recommendations and relied on available, but allegedly unverified, data from Farice and Sýn.
- (22) By letter of 29 April 2020, the Ministry of Transport and Local Government shared the results of the report with Farice and stated that Farice would be responsible for the project and the envisaged owner and operator of the new submarine cable. The Ministry urged Farice to take account of the fact that Sýn's proposal had been considered more cost effective by the expert. The Ministry stated that it found Sýn's proposal to change the operational model of Farice unacceptable.
- (23) In May 2020, Sýn and Farice held a meeting to explore the details and validity of Sýn's proposal and to confirm pricing and quality from key suppliers. According to the Icelandic authorities, Sýn was not able to confirm the prices because the key suppliers had not been willing to confirm their prices. As the foundation for the discussions between Farice and Sýn was the project's cost effectiveness, which was based on the prices submitted, the discussions were terminated.



- (24) Later in May 2020, the Fund communicated to Sýn that it considered the expiry of the offers to be unacceptable. It further stated that it would therefore not engage in any further discussions with Sýn. It was further stressed that the Fund was not responsible for the project since its role was limited to the provision of funds.
- (25) On 23 February 2021, Sýn lodged a complaint with ESA. Sýn submitted that payments to Farice from the Icelandic State since 2013 had erroneously been classified as a public service compensation as the conditions to be considered as services of a general economic interest had never been met. It further submitted that there was an ongoing breach of State aid rules related to the introduction of a new submarine cable.
- (26) On 23 March 2021, the Icelandic authorities formally notified ESA of their intention to provide aid to Farice for investment in the third cable, i.e. Measure 2. On 26 March 2021, ESA adopted Decision No 023/21/COL approving the measure. That decision was later annulled by the EFTA Court.

### 3.2. *Measure 1*

- (27) According to Article 1A of the 2018 PSO Contract between Farice and the Fund, the 'parties [to the agreement] agree that the Fund will compensate Farice for seabed research to be carried out in 2019 for a possible optic fibre cable between Iceland and Europe (Ireland) according to article 12 of this contract'.
- (28) In Article 12 of the same contract, it is further stated that '[t]he Fund intends to do a seabed survey on a route between Europe (Ireland) and Iceland for an optic fibre cable to be possibly laid in the near future. Farice undertakes the execution of the projects as an intermediary. Preliminary time and cost schedule is described in annex 1. Farice shall aim to deliver a final marine route survey report to the Fund before December 31, 2019'. The temporal scope of the survey was later extended to 2021.
- (29) According to annex 1, the compensated costs related to the survey were: 1) a desk top study; 2) survey; 3) inshore survey; 4) main survey (excluding inshore survey); 5) reporting and maps; and 6) overhead costs. The costs were estimated at EUR 1,9 million.
- (30) In accordance with the contract, Farice undertook the survey in the years 2019, 2020 and 2021. Payments for third party works, for example the work performed by EGS<sup>(16)</sup> (the main survey contractor) were invoiced to the Fund based on costs incurred. Work performed by Farice employees was invoiced on the basis of an hourly rate. Additionally, Farice invoiced an administration fee for general administration costs in 2019.

### 3.3. *Measure 2*

- (31) In relation to the Icelandic authorities' work on the Telecommunications Policy, the Icelandic authorities selected Farice to build and operate a third submarine cable connecting Iceland and Europe, i.e. the IRIS cable. Measure 2 relates to the financing by the Icelandic State of the IRIS cable through an estimated EUR 50 million capital increase in Farice, which is wholly owned by the Icelandic State<sup>(17)</sup>.
- (32) According to the Icelandic authorities, Farice was chosen because it is the only entity that: (i) currently operates submarine cables from Iceland to Europe, (ii) has extensive experience in such operations, and (iii) was able to work fast in seeing the project through within the desired timeframe.

<sup>(16)</sup> EGS is an international group of companies with offices in Europe, the Americas, Asia and Australia. EGS provides global specialist multi-disciplinary marine survey support, and delivers solutions to the Telecommunications, Renewables, Oil and Gas, Charting and Marine Infrastructure market sectors. See also <http://www.egssurvey.com/>.

<sup>(17)</sup> For a more detailed description of Measure 2, see Section 3 of ESA's Decision No 023/21/COL.

- (33) Farice is currently operated on commercial terms without financial support from the State <sup>(18)</sup> and offers services on two distinct markets: the market for international connectivity ('international data transfer market') and the data centre market ('DC market').
- (34) The primary objective of the measure and the IRIS cable project is to enhance security and reduce the vulnerability of international connectivity to and from Iceland. The secondary objective is to shorten the digital distance between Iceland and Europe, by reducing data latency.
- (35) The new submarine cable is in principle expected to complement the existing submarine cable infrastructure. According to the Icelandic authorities, the interconnection to the new cable will be technologically neutral, provided that instructions and recommendations are followed <sup>(19)</sup>.
- (36) Moreover, according to the Icelandic authorities, Farice grants effective wholesale access to the system on an open and non-discriminatory basis and those access obligations will be enforced irrespective of any change in ownership, management or operation of the infrastructure.
- (37) The eligible costs of Measure 2 are the investment costs related to the new cable, costs relating to survey of the seabed and the optimal path of the cable <sup>(20)</sup>, construction of landing sites and project management. The costs are considered investment costs, including project management costs which are directly related to the investment project. The maximum aid intensity is 100 % of the eligible costs. The board of directors of Farice authorised the capital increase for established costs in intervals during the construction period of the new cable. According to the Icelandic authorities, any overcompensation is controlled retroactively through a capital decrease, dividend payments or by other available means.
- (38) Farice signed a contract with SubCom LLC, a global undersea fibre optic cable system supply company, to lay the IRIS cable, after having elicited offers from three different suppliers. On 11 November 2022, SubCom formally handed over the IRIS cable, which is expected to be ready for service in the first quarter of 2023 <sup>(21)</sup>.

### 3.4. **The Complaint**

- (39) As previously mentioned, on 23 February 2021, Sýn submitted a complaint to ESA regarding alleged unlawful State aid measures in favour of Farice. In summary, the complaint concerns three measures:
1. The payment of compensation for services of general economic interest ('SGEI') from the Icelandic authorities to Farice for the public service obligation ('PSO') of providing international connectivity for electronic communication ('the SGEI measure');
  2. compensation paid to Farice for carrying out a seabed survey as an intermediary, i.e. Measure 1; and
  3. non-compliance with the stand-still obligation in relation to the roll-out of the third submarine cable between Iceland and Europe, i.e. Measure 2.

<sup>(18)</sup> In 2013–2018, Farice received public service compensation from the Fund for offering electronic communications connectivity between Iceland and Europe through FARICE-1 and DANICE. The last payment on this basis was made on 4 October 2018.

<sup>(19)</sup> The new IRIS cable will be based on an open cable architecture which means that customers can be given an access to the infrastructure by using their own terminal equipment. Access to infrastructure can be granted by own fibre pair or fractional fibre pair (spectrum). Furthermore, the technology to use the submarine cable is standardised and based on Ethernet, which is the technology commonly used. A more advanced interface in the form of OTU2, OTU3 and OTU4 is also offered.

<sup>(20)</sup> This refers to different surveys than those covered by Measure 1.

<sup>(21)</sup> See Farice press release dated 11 November 2022.

- (40) The SGEI measure, covered by Sýn's complaint, was not the subject of the annulled Decision No 023/21/COL, nor the judgment of the EFTA Court in Case E-4/21. Therefore, this measure is not the subject of this Decision, and is currently being processed separately in an open complaint case <sup>(22)</sup>. Conversely, Measures 1 and 2 are the subject of this Decision.
- (41) As regards Measure 1, Sýn submitted that Iceland had under the 2018 PSO Contract agreed to compensate Farice for seabed research to be carried out in 2019. The agreement was later extended (see section 3.2).
- (42) Sýn argued in its complaint that the compensation for the seabed research did not fulfil any of the SGEI criteria, whether under the Altmark conditions <sup>(23)</sup>, the SGEI Decision <sup>(24)</sup>, or the SGEI Framework <sup>(25)</sup>. In particular, Sýn argued that seabed research could not be qualified as a service of general economic interest, and even if it could be, no parameters for the calculation of compensation for such a service had been established.
- (43) As regards Measure 2, Sýn asserted in its complaint that the Icelandic authorities seemed to have entrusted Farice with the roll-out of a new submarine cable funded by the State. In Sýn's view this constituted a breach of the EEA State aid rules. Sýn was unaware that at the time they submitted the complaint, ESA and the Icelandic authorities were engaged in pre-notification discussion regarding the roll-out to the new submarine cable <sup>(26)</sup>.
- (44) Therefore, Sýn submitted that the actions of the Icelandic authorities related to the roll-out of a new submarine cable, including the payment for seabed research under the auspices of a public service obligation, constituted a breach of the EEA State aid rules, which called for action by ESA.

### 3.5. *Comments of the Icelandic authorities*

- (45) The Icelandic authorities have provided their views as regards Measures 1 and 2. These views were expressed during the notification procedure leading up to Decision 023/21/COL <sup>(27)</sup>, as well as in replies to questions sent to them by ESA in connection to the complaint <sup>(28)</sup>.

#### 3.5.1. *Regarding Measure 1*

- (46) The Icelandic authorities have maintained that the payments to Farice related to the seabed survey did not constitute compensation for a public service, even though contractual provisions related to the survey were included in the 2018 PSO contract <sup>(29)</sup>.
- (47) Instead, the Icelandic authorities have stated that the work related to the survey was allocated to Farice on market terms, in line with the market economy operator principle. Specifically, the Icelandic authorities contend that the award of the seabed survey did not grant Farice an economic advantage that an undertaking could not have obtained in the absence of State intervention, and that it was, in essence, a service assignment, for which Farice was paid the incurred costs. In the view of the Icelandic authorities, this is demonstrated by the fact that the Fund, and not Farice, retains all ownership of survey results and that Farice did not *de facto* make a profit for administering the survey.

<sup>(22)</sup> Case No 86451.

<sup>(23)</sup> Judgment of 24 July 2003, *Altmark*, C-280/00, ECLI:EU:C:2003:415, paragraphs 87-93.

<sup>(24)</sup> Commission Decision 2012/21/EU on the application of Article 106(2) of the Treaty on the functioning of the European Union to State aid in the form of public service compensation to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3, and EEA Supplement No 43, 2.8.2012, p. 56).

<sup>(25)</sup> Framework for State aid in the form of public service compensation (OJ L 161, 13.6.2013, p. 12 and EEA Supplement No 34, 13.6.2013, p. 1).

<sup>(26)</sup> See the Judgment of the EFTA Court in Case E-4/21 *Sýn hf. v EFTA Surveillance Authority*, paragraph 67.

<sup>(27)</sup> Cases 86220 and 86598.

<sup>(28)</sup> Case 86451.

<sup>(29)</sup> Document No 1276074, Section 6.1.

- (48) Moreover, the Icelandic authorities have submitted that Measure 1 did not distort or threaten to distort competition and did not have any effect on trade between the Contracting Parties.
- (49) Specifically, the Icelandic authorities stated that the measure did not grant Farice a stronger competitive position than it would have had if the survey had not been undertaken, and that Farice was not relieved of expenses it would otherwise have had to bear in the course of its day-to-day business operations. The Icelandic authorities had full discretion to utilise the seabed survey in any way they saw fit and no utilization guarantees were granted to Farice. Therefore, the Icelandic authorities contend that the award of the seabed survey did not strengthen the position of Farice as compared with other undertakings.
- (50) Finally, the Icelandic authorities are of the view that the Fund was exempt from the procurement rules when awarding a contract of carrying out the seabed survey, as it was an essential part of preparing the IRIS cable project and therefore a factor in providing a public communications network.
- (51) Consequently, the Icelandic authorities argue that Measure 1 does not constitute State aid.

### 3.5.2. *Regarding Measure 2*

- (52) The Icelandic authorities consider Measure 2 to constitute State aid, which is compatible with Article 61(3)(c) of the EEA Agreement, and that the measure falls outside the scope of the Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks ('the 2014 Broadband Guidelines')<sup>(30)</sup>.
- (53) In this regard, the Icelandic authorities note that the measure contributes to a well-defined objective of common interest, i.e. to enhance the security of international connectivity to and from Iceland. The aid measure serves to significantly reduce the vulnerability of Iceland's international telecommunications network in case of major failures of the current systems.
- (54) Further, as regards the need for State intervention, the Icelandic authorities contend that market failure necessitates State participation in the IRIS cable project. Specifically, the Icelandic authorities note that Farice is the only operator of submarine cables connecting Iceland to Europe, and that despite some interest from private parties to lay similar cables in the past, none of those plans have materialised<sup>(31)</sup>. The Icelandic authorities argue that three main causes have adversely affected the feasibility of other submarine projects to the point where none of them materialized: First, laying a single cable to Iceland without having secured redundancy in connections without material cost through another cable has proven problematic. Second, the small size of the Icelandic market is a natural hindrance. Third, the uncertainty of income from international data centre operators disincentivises investment.
- (55) Moreover, the Icelandic authorities point to the fact that Farice required public service compensation from 2012 to 2018 to operate the two existing cables, i.e. FARICE-1 and DANICE, and that Farice's current revenues do not support investment in the IRIS cable.
- (56) Consequently, in the absence of a realistic chance of private actors building the submarine infrastructure needed to secure international connectivity to Iceland, and since Farice's current revenues do not support investment in a third cable, the Icelandic authorities found it necessary to provide Farice with State aid to lay the IRIS cable.

<sup>(30)</sup> ESA's Guidelines on the application of the State aid rules in relation to rapid deployment of broadband networks (OJ L 135, 8.5.2014, p. 49 and EEA Supplement No 27, 8.5.2014, p. 1).

<sup>(31)</sup> The Icelandic authorities mention specifically earlier interest shown by Emerald and Nordic Networks in 2010-2016, and proposals from Sýn, both independently and in collaboration with Celtic Norse AS, in 2018-2020. These proposals were all dependant on some kind of financial participation by the Icelandic State. For further information see Section 3.2.4 in ESA's Decision No 023/21/COL.

- (57) Moreover, the Icelandic authorities contend that Measure 2 was proportional. In this regard, they note that only established costs were financed through the capital increase. Moreover, the *ex post* control, including a review of any expenses, will keep costs to the minimum necessary.
- (58) Furthermore, the Icelandic authorities have consistently argued that the IRIS project is not subject to public procurement rules, as it is exempt from the Procurement Act <sup>(32)</sup>, with reference to Article 10 of the Act, cf. Article 8 of the Procurement Directive <sup>(33)</sup>, as the Act and the Directive do not apply to contracts for the principal purpose of permitting the contracting authorities to provide or exploit public communications networks or to provide to the public one or more electronic communications services.
- (59) However, when choosing a subcontractor to lay the cable, Farice engaged in discussions with three suppliers, and selected the most economically efficient offer, having taken account of all relevant considerations.
- (60) As regards the expert report that concluded that the proposal of Sýn was more cost effective than the one from Farice, the Icelandic authorities argue that the cost estimate used by the expert was not verified. Further, that Sýn specifically notified the Icelandic authorities that the supposed offer from Vodafone International was no longer valid. Moreover, the conditions on the operational function of the new cable set by the Sýn, as well as concerns regarding national security and critical infrastructure contributed to the decision to entrust Farice with the building of the new submarine cable. Finally, the proposition of Sýn was based on a different business model, not only for the purposes of the new cable but also Farice's operation through the FARICE-1 and DANICE cables. Therefore, the business proposition of Sýn was not relevant for the purposes of the determination of proportionality of the aid measure. Consequently, the Icelandic authorities consider Measure 2 to be proportional.
- (61) Finally, as regards limited negative effects on competition, the Icelandic authorities note that the new infrastructure is principally expected to complement the other connections by providing enhanced security for international connectivity favouring the general public and general economic activities in Iceland. Therefore, the Icelandic authorities consider the IRIS cable to not have a material impact on competitiveness of other European markets compared to Iceland. As regards any negative effects the measure might have on the market for international data transfer or the related DC market, the Icelandic authorities consider those effects vastly outweighed by the positive effects of the measure.

### 3.6. **ESA Decision No 023/21/COL**

- (62) On 26 March 2021, ESA adopted Decision No 023/21/COL, concluding that Measure 2, i.e. the capital increase to finance the investment in the IRIS cable, constituted State aid within the meaning of Article 61(1) of the EEA Agreement. However, as ESA found that no doubts were raised as to the compatibility of the measure with the functioning of the EEA Agreement, it decided not to raise objections to the implementation of the measure.
- (63) ESA noted that the compatibility of State aid for the introduction of broadband networks was normally assessed under the 2014 Broadband Guidelines. However, since the measure specifically targeted the security issues raised by the lack of geographical diversity, it fell outside the scope of the 2014 Broadband Guidelines. ESA stated that it would nevertheless apply the principles of the 2014 Broadband Guidelines by analogy to the extent that they were relevant, because those guidelines were the most detailed guidance available for assessing the compatibility of State aid to broadband infrastructure projects with the EEA Agreement.

<sup>(32)</sup> The Act on Public Procurement No 120/2016.

<sup>(33)</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65, and EEA Supplement No 73, 16.11.2017, p. 53).

- (64) Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest'. Therefore, in order to declare aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest <sup>(34)</sup>.
- (65) Under the first condition, ESA examines how the aid facilitates the development of certain economic activities or areas. Under the second condition, ESA weighs up the positive effects of the aid for the development of said activities or areas and the negative effects of the aid in terms of distortions of competition and adverse effects on trade (i.e. conducts a balancing test).
- (66) Concerning the first condition, ESA concluded that Measure 2 facilitated the development in the market for international data transfer services specifically and the markets for electronic communications services in general. Furthermore, ESA found that the selection of Farice, as owner and operator of the third cable, and the selection of a cable manufacturer and installer was exempted from the Icelandic Procurement Act. Further, ESA did not have reasons to believe that the measure was in breach of other relevant EEA provisions.
- (67) Concerning the second condition, ESA concluded that the amount of aid granted through Measure 2 was limited to what was necessary to achieve its objective and therefore proportional. ESA reached this conclusion, *inter alia*, on the basis that the aid amount was limited to the actual costs of the measure and subject to *ex post* control.
- (68) Furthermore, ESA concluded that Measure 2 would not have a material impact on the competitiveness of other EEA markets compared to Iceland, as investment in the IRIS cable was, in and of itself, unlikely to materially alter the dynamics of intra-EEA trade on the relevant market.
- (69) As regards the potential effect on the DC market, ESA noted that the data centre market was not a single market of universal services, since the digital needs of businesses were highly dependent on the applications hosted and operated in the data centres. ESA also noted that, while data centres might be more inclined to invest in projects in Iceland, due to extended capacity and security of the international connection network following the construction of a third cable, that was only one of multiple factors that would influence such a decision. Other factors, such as electricity prices, start-up costs and regulatory environment also influenced such decisions. ESA found that those factors were not altered by the measure.
- (70) Consequently, ESA found that the Icelandic authorities had demonstrated that the socio-economic benefits of Measure 2 outweighed any potential adverse effects on competition or trade between the Contracting Parties, given the safeguards in place to minimise such adverse effects.

### 3.7. EFTA Court Judgment in Case E-4/21

- (71) On 1 June 2022, the EFTA Court annulled ESA's Decision No 023/21/COL. The Court concluded that ESA should have opened a formal investigation procedure, as ESA had at its disposal information and evidence at the time, which should, objectively, have raised doubts or serious difficulties regarding whether the capital increase to finance the laying of the IRIS cable was compatible with the functioning of the EEA Agreement.

<sup>(34)</sup> Judgment of 22 September 2020 in *Austria v Commission (Hinkley Point C)*, C-594/18 P, ECLI:EU:C:2020:742, paragraphs 18–20.

- (72) In particular, the EFTA Court found that ESA was aware of documents that called into question the information at its disposal and on which it relied in the contested decision, without going beyond a mere examination of the information submitted by the Icelandic authorities. These documents related, *inter alia*, to Sýn's complaint of 23 February 2022 and annexes thereto. Specifically, the Court noted a document comparing the proposals of Sýn and Farice, and an email dated 29 May 2020, regarding Sýn's inability to confirm the prices of its proposal. By not obtaining further information on whether Sýn was actually able to confirm its prices, or whether it had been given that opportunity, the Court concluded that ESA failed to satisfy its obligation to conduct a diligent and impartial examination of the notified measure so that it had at its disposal the most complete and reliable information.
- (73) Furthermore, the Court found that Sýn tried to enter the market for international connectivity services, according to the information available to ESA. Yet, in the contested decision, ESA did not consider factors such as potential competitors on the wholesale market for international connectivity, public consultation of stakeholders and entry barriers to that market.
- (74) Finally, the Court found that ESA did not adequately state its reasons for concluding that the notified measure fell outside the scope of the 2014 Broadband Guidelines, and that even though ESA stated in the contested decision that it would apply the guidelines by analogy, where relevant, the Court found little, if any, trace of the principles in the guidelines actually being applied.
- (75) On the basis of, *inter alia*, the above, the Court concluded that there was consistent and objective evidence that demonstrated that ESA adopted the contested decision despite the existence of doubts. Consequently, the Court annulled the Decision.

#### 4. Presence of State aid

##### 4.1. Introduction

- (76) Article 61(1) of the EEA Agreement reads as follows: 'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement'.
- (77) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.

##### 4.2. Measure 1

- (78) In the following chapters, ESA will assess whether the payments from the Fund to Farice for carrying out a seabed survey involve State aid within the meaning of Article 61(1) of the EEA Agreement.

###### 4.2.1. State resources

- (79) According to Article 61(1) of the EEA Agreement, a measure must be granted by the State or through State resources to constitute State aid.
- (80) The Fund has the task of promoting the development of telecommunications in Iceland. The Fund was formed in 2006 on the basis of Act No 132/2005 on the Telecommunication Fund. The main role of the Fund is to allocate funds to: projects aimed at the development of telecommunication infrastructure; projects that contribute to the safety and competitiveness of society in the field of electronic communications; and other telecommunication projects <sup>(35)</sup>.

<sup>(35)</sup> <https://www.stjornarradid.is/verkefni/samgongur-og-fjarskipti/fjarskiptasjodur/>.

- (81) According to Article 1 of Act No 132/2005, the Fund is under the ownership of the Icelandic State and its administration falls under the authority of the Ministry of Higher Education, Science and Innovation.
- (82) ESA therefore preliminarily concludes that the payments from the Fund to Farice for carrying out a seabed survey constitute State resources.

#### 4.2.2. Advantage

- (83) According to Article 61(1) of the EEA Agreement, a measure must confer an advantage upon an undertaking. An advantage, within the meaning of Article 61(1) of the EEA Agreement, is any economic benefit which an undertaking could not have obtained under normal market conditions <sup>(36)</sup>, thus placing it in a more favourable position than its competitors <sup>(37)</sup>.
- (84) The Icelandic authorities have argued that Measure 1 was concluded on market terms, in line with the market economy operator principle. In order to establish whether or not a transaction carried out by a public body is in line with normal market conditions, ESA will apply the market economy operator test ('MEO test'), comparing the behaviour of the public body to that of similar private economic operators under normal market conditions <sup>(38)</sup>.
- (85) In that respect, it is not relevant whether the intervention constitutes a rational means for the public bodies to pursue public policy considerations. Similarly, the profitability or unprofitability of the beneficiary is not in itself a decisive indicator for establishing whether or not the economic transaction in question is in line with market conditions. The decisive element is whether the public bodies acted as a market economy operator would have done in a similar situation <sup>(39)</sup>.
- (86) Moreover, whether a State intervention is in line with market conditions must be examined on an *ex ante* basis, having regard to the information available at the time the intervention was decided upon. If a State argues that it acted as a market economy operator it must, where there is doubt, provide evidence showing that the decision to carry out the transaction was taken on the basis of economic evaluations comparable to those which, in similar circumstances, a rational market economy operator (with characteristics similar to those of the public body concerned) would have had carried out to determine the profitability or economic advantages of the transaction <sup>(40)</sup>.
- (87) Concerning Measure 1, it is undisputed that the contractual provisions concerning the seabed survey and the payments for that survey were placed in the 2018 PSO Contract between the Fund and Farice, namely Article 1A, 12 and Annex 1. According to the Icelandic authorities, no other provisions of the 2018 PSO Contract applied to the seabed survey <sup>(41)</sup>.
- (88) ESA notes that the Icelandic authorities essentially argue that Articles 1A, 12, and annex 1 of the 2018 PSO Contract do not, in fact, form part of that contract, but are instead a separate service contract made on market terms. This fact raises doubts as to whether the Fund was operating as a market economy operator, when it charged Farice with performing the seabed survey, since such operators would in general conclude clear and concise contracts when purchasing a similar service.

<sup>(36)</sup> ESA's Guidelines on the notion of State aid as referred to in Article 61(1) of the EEA Agreement ('NoA') (OJ L 342, 21.12.2017, p. 35 and EEA Supplement No 82, 21.12.2017, p. 1), paragraph 66.

<sup>(37)</sup> See for instance Judgment of 5 June 2012, *Commission v EDF*, C-124/10 P, ECLI:EU:C:2012:318, paragraph 90; Judgment of 15 March 1994, *Banco Exterior de España*, C-387/92, ECLI:EU:C:1994:100, paragraph 14; and Judgment of 19 May 1999, *Italy v Commission*, C-6/97, ECLI:EU:C:1999:251, paragraph 16.

<sup>(38)</sup> NoA, Section 4.2.1.

<sup>(39)</sup> NoA, paragraph 76.

<sup>(40)</sup> NoA, paragraph 79.

<sup>(41)</sup> Document No 1313844.



- (89) Indeed, it appears that the Fund contracted Farice to perform a service, without including in the contract any provisions concerning cost overruns, specifics regarding the scope of the survey, contingencies for failure to perform the obligations of the contract, or specifics regarding what costs could be covered by the service contract. According to documentation from and statements made by the Icelandic authorities, the temporal scope of the survey was later extended, and final costs ran over the cost estimate in annex 1.
- (90) Moreover, ESA has asked the Icelandic authorities to provide all documentation of expert evaluations or independent studies of the cost of carrying out the seabed survey, if any such evaluations or studies were carried out prior to the start of the 2018 PSO Contract. However, according to the Icelandic authorities, no such evaluation exists. Additionally, the Fund does not seem to have considered alternative providers. Therefore, ESA has doubts as to whether the Fund's decision to carry out the transaction was taken on the basis of economic evaluations comparable to those which, in similar circumstances, a rational market economy operator would have taken, as it appears that the Fund committed to paying Farice for a service, without making an evaluation of eventual costs and alternative providers.
- (91) Furthermore, the Icelandic authorities have stated that Farice did not *de facto* make a profit from performing the survey for the Fund. Moreover, it is unclear to ESA whether the Fund derived any economic value from its ownership of the survey results. In fact, since the survey forms part of the preparatory works for a submarine cable, which the Icelandic authorities themselves consider a security measure, it would appear that the purpose of the survey was not economic in nature. Therefore, ESA doubts that the Fund acted as an economic operator, since it rather seems to have been pursuing public policy aims when commissioning the survey.
- (92) Finally, as the Icelandic authorities have already stated that the payments to Farice for the performance of the subsea survey did not entail compensation for a public service obligation, ESA does not see the need at this time to specifically examine whether Measure 1 fulfils the Altmark criteria, or the provisions of the SGEI Decision or Framework.
- (93) Consequently, ESA has doubts whether Measure 1 was concluded on market terms and cannot exclude that an advantage may have been granted in favour of Farice. Accordingly, the Icelandic authorities are invited to comment on this and submit relevant evidence.

#### 4.2.3. *Selectivity*

- (94) In order for a measure to involve State aid it must be selective in that it favours 'certain undertakings or the production of certain goods'. Measure 1 concerns a contract between the Fund and Farice. Therefore, Farice is the only potential beneficiary. Other undertakings have not concluded similar contracts with the Fund or the Icelandic State. Accordingly, the alleged advantage of Measure 1 would be a selective advantage, as it only concerns one particular undertaking.
- (95) It is therefore ESA's preliminary view that it cannot be excluded that a selective economic advantage was granted to Farice.

#### 4.2.4. *Distortion of competition and effect on trade between Contracting Parties*

- (96) To qualify as State aid within the meaning of Article 61(1) of the EEA Agreement, a measure must be liable to distort competition and affect trade between the Contracting Parties to the EEA Agreement. According to settled case-law, the mere fact that a measure strengthens the position of an undertaking compared with other undertakings competing in intra-EEA trade is considered to be sufficient, in order to conclude that the measure is likely to distort competition and affect trade between the Contracting Parties <sup>(42)</sup>.

<sup>(42)</sup> Judgment of the EFTA Court in Case E-6/98 *Norway v EFTA Surveillance Authority* [1999] Ct. Rep. 76, paragraph 59, where it is stated that '[w]hen State financial aid strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade the latter must be regarded as affected by that aid'.

- (97) The Icelandic authorities have argued that the measure in question did not distort or threaten to distort competition and did not have any effect on trade between the Contracting Parties, as the measure did not grant Farice a stronger competitive position than it would have had if the survey had not been undertaken. Moreover, they argue that Farice was not relieved of expenses it would otherwise have had to bear in the course of its day-to-day business operations. Therefore, the Icelandic authorities contend that the award of the seabed survey did not strengthen the position of Farice as compared with other undertakings, neither financially nor in other aspects.
- (98) On this point ESA notes that it is not obliged to establish the real effect of the aid on the market, but is only required to show that the aid is liable to distort competition and affect trade. Therefore, for all practical purposes, a distortion of competition within the meaning of Article 61(1) of the EEA Agreement is generally found to exist when the State grants a financial advantage to an undertaking in a liberalised sector where there is, or could be, competition <sup>(43)</sup>.
- (99) Measure 1 concerns payments made to Farice for a seabed survey. The costs covered by those payments included subcontracting costs, as well as Farice's overhead costs, including hourly rates for Farice staff and a general administration fee. Therefore, Measure 1 seems to have placed Farice in a better financial position than it would have been in the absence of Measure 1.
- (100) Moreover, there are multiple undertakings active in the EEA that provide seabed survey services. This is also demonstrated by the fact that Farice itself subcontracted a large portion of the survey.
- (101) Consequently, ESA has doubts as to whether it can be excluded that Measure 1 was liable to distort competition and affect trade within the EEA. The Icelandic authorities are invited to comment and submit relevant evidence on this.

#### 4.2.5. Conclusion

- (102) In light of the above, ESA cannot exclude that Measure 1 entailed State aid.

#### 4.3. Measure 2

- (103) It is uncontested between Sýn and the Icelandic authorities that Measure 2, i.e. the capital increase in Farice to facilitate the investment in the IRIS cable, constitutes State aid within the meaning of Article 61(1) of the EEA Agreement <sup>(44)</sup>.
- (104) ESA therefore preliminary concludes that Measure 2 constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.

#### 5. Aid scheme or individual aid

- (105) ESA notes that Measures 1 and 2 were not granted on the basis of a scheme <sup>(45)</sup>. Measure 1, if found to be aid, would therefore be individual aid. Measure 2 constitutes individual aid.

#### 6. Lawfulness of the aid

- (106) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('Protocol 3'): 'The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. ... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision'.

<sup>(43)</sup> NoA, paragraph 187.

<sup>(44)</sup> The EFTA Court, in its judgment in Case E-4/21, did not suggest anything to the contrary.

<sup>(45)</sup> See Article 1(e) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('Protocol 3').

(107) The Icelandic authorities did not notify Measure 1 to ESA. ESA therefore concludes that, in the event that Measure 1 is deemed to involve aid, the Icelandic authorities have not respected their obligations under Article 1(3) of Part I of Protocol 3. In this event, Measure 1 would be unlawful aid.

(108) The Icelandic authorities implemented Measure 2 after ESA approved it by Decision 023/21/COL. However, with the annulment of ESA's approval decision by the EFTA Court, Measure 2 became unlawful.

## 7. **Compatibility of the aid**

### 7.1. **Introduction**

(109) In derogation from the general prohibition of State aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the Agreement.

(110) Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest'. Therefore, in order to declare the aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest <sup>(46)</sup>.

(111) Under the first condition, ESA examines how the aid facilitates the development of certain economic activities or areas. Under the second condition, ESA weighs up the positive effects of the aid for the development of said activities or areas and the negative effects of the aid in terms of distortions of competition and adverse effects on trade.

### 7.2. **Compatibility of Measure 1**

(112) The Icelandic authorities have maintained that Measure 1 does not constitute State aid (see Section 3.5.1). Further, they have also stated that despite the fact that the contractual obligations concerning Measure 1 were included in the 2018 PSO Contract between the Fund and Farice, the measure does not constitute compensation for a public service obligation.

(113) Therefore, it would appear that the compatibility of Measure 1, should it be found to constitute aid, could not be examined under Article 59(2) of the EEA Agreement and even if it were, ESA has doubts that the Measure 1 is in line with the provisions of the SGEI Decision or Framework. The Icelandic authorities have not, at this stage, brought forward any other arguments as regards the potential compatibility of the measure.

(114) Therefore, following a preliminary assessment, ESA has doubts at this stage as to whether Measure 1 is compatible with the EEA Agreement. Consequently, ESA invites the Icelandic authorities to provide arguments and evidence to demonstrate that Measure 1 could be considered compatible under the EEA Agreement.

### 7.3. **Compatibility of Measure 2**

#### 7.3.1. **Introduction**

(115) The Icelandic authorities have invoked Article 61(3)(c) of the EEA Agreement as the basis for the assessment of the compatibility of Measure 2.

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<sup>(46)</sup> Judgment of 22 September 2020, *Austria v Commission (Hinkley Point C)*, C-594/18 P, ECLI:EU:C:2020:742, paragraphs 18–20.

- (116) On this point, ESA notes that the compatibility of aid for the roll-out of broadband networks, for the purposes of securing coverage, access or connectivity, is normally assessed under the 2014 Broadband Guidelines. On 8 February 2023, ESA adopted new Broadband Guidelines ('the 2023 Broadband Guidelines')<sup>(47)</sup>.
- (117) ESA will follow the principles and guidelines set out in the 2023 Broadband Guidelines for the compatibility assessment of all notified aid to broadband networks in respect of which it is called upon to take a decision after 8 February 2023 when the 2023 Broadband Guidelines entered into force. Unlawful aid to broadband networks will be assessed in accordance with the rules applicable on the date on which the aid was awarded<sup>(48)</sup>.
- (118) The 2023 Broadband Guidelines were not in effect at the time when Measure 2 was enacted, and therefore cannot serve as a basis for the compatibility assessment of the measure. Therefore, ESA will apply the 2014 Broadband Guidelines, should Measure 2 be considered to fall within their scope. However, the 2023 Broadband Guidelines are based on existing case-law and decision-making practice of the European Commission. Therefore, the 2023 Broadband Guidelines could still be relevant, should Measure 2 fall under the scope of the 2014 Broadband Guidelines, provided they do not place stricter conditions on the beneficiary.
- (119) In general, the 2014 Broadband Guidelines' primary objective is to ensure widespread availability of broadband services to end users or access to higher speed internet. The 2014 Broadband Guidelines state that '[t]hese guidelines summarise the principles of [ESA's] policy in applying the State aid rules [...] to measures that support the deployment of broadband networks in general (Section 2). They explain the application of these principles in the assessment of aid measures for the rapid roll-out of basic broadband and very high speed, next generation access (NGA) networks (in Section 3). [ESA] will apply the guidelines in the assessment of State aid for broadband'<sup>(49)</sup>. This objective has not changed with the adoption of the 2023 Broadband Guidelines, which state that '[t]hese Guidelines provide guidance on how ESA will assess [...] the compatibility of State aid for the deployment and take-up of fixed and mobile broadband networks and services'<sup>(50)</sup>.
- (120) Therefore, the 2014 Broadband Guidelines apply to aid measures that target situations where the market does not provide sufficient broadband coverage or where access conditions are not adequate<sup>(51)</sup>. Conversely, the 2014 Broadband Guidelines do not mention international connectivity, security, international data transfer, or subsea cables, and do not specifically lay down compatibility conditions for measures targeting security issues raised by the lack of geographical diversity and robustness of international connectivity services. Therefore, a measure like the one under assessment, where the objective is increased redundancy, security, and robustness of international connectivity services already available to end customers at high speeds, seems to differ from the general type of measure covered by the 2014 Broadband Guidelines, namely measures concerning the expansion or introduction of broadband networks and services.
- (121) ESA notes that the European Commission, in its Baltic Cable Decision<sup>(52)</sup>, applied the 2014 Broadband Guidelines in its assessment. However, ESA also notes that the measure under assessment in that decision differed significantly from Measure 2. Specifically, it concerned capacity concerns caused by the expected dramatic increase in traffic that could not be supported by the existing infrastructure. Therefore, in addition to security benefits comparable to the ones present in the case at hand, the Baltic Sea Cable targeted (longterm) broadband availability specifically<sup>(53)</sup>. Conversely, Measure 2 does not specifically concern broadband networks or availability.

<sup>(47)</sup> See ESA Decision No 004/23/COL amending the substantive rules in the field of State aid by introducing new Guidelines on State aid for broadband networks (not yet reported).

<sup>(48)</sup> *Ibid*, Article 1(2).

<sup>(49)</sup> See the 2014 Broadband Guidelines, paragraph 4.

<sup>(50)</sup> See the 2023 Broadband Guidelines, paragraph 14.

<sup>(51)</sup> See the 2014 Broadband Guidelines, paragraphs 34–35. See also the pre-requisites for defining a service as an SGEI in paragraph 16.

<sup>(52)</sup> Commission Decision SA.36918 (Finland), Baltic Sea Backbone Cable (OJ C 422, 8.12.2017, p.1).

<sup>(53)</sup> *Ibid*, paragraph 91: 'Thus, the measure facilitates the development of certain economic activities, i.e the provision of **electronic communications services and networks, including the provision of international connectivity**, and indirectly the provision of **broadband services**'. (emphasis added).

- (122) However, in its judgment in Case E-4/21, when assessing ESA's conclusion that Measure 2 fell outside the scope of the 2014 Broadband Guidelines, the EFTA Court stated that the conclusion: '[...] is not supported by a sufficient analysis of the scope of application of the Broadband Guidelines. [...] Although the contested decision states that "[t]he Broadband Guidelines' primary objective is ensuring widespread availability of broadband services to end users or access to higher speed Internet: " and "[t]he particularities of the measure and investment at hand demonstrate that the Guidelines target different types of measures than the one under assessment", it fails to set out what impact these statements should have on the scope of application of the Broadband Guidelines. Accordingly, [...] ESA encountered serious difficulties in its preliminary examination' <sup>(54)</sup>. The Court then further noted 'that irrespective of whether the notified measure in the present case was outside of the scope of the Broadband Guidelines, those guidelines still may provide useful guidance on considerations that are relevant to the assessment of compatibility in general' <sup>(55)</sup>.
- (123) Consequently, ESA cannot conclude at this stage to what extent the 2014 Broadband Guidelines apply to the compatibility assessment of Measure 2, and therefore invites the Icelandic authorities to provide further arguments in this regard.
- (124) In the event that the Broadband Guidelines do not apply to the measure at hand, Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest'. Therefore, in order to declare the aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest.
- (125) Under the first condition, ESA examines how the aid facilitates the development of certain economic activities or areas. Under the second condition, ESA weighs up the positive effects of the aid for the development of said activities or areas and the negative effects of the aid in terms of distortions of competition and adverse effects on trade.

### 7.3.2. *Facilitation of development of certain economic activities or areas*

#### 7.3.2.1. *Economic activities or areas supported*

- (126) Under Article 61(3)(c) of the EEA Agreement, in order to be considered compatible, a measure must contribute to the development of certain economic activities or areas.
- (127) The primary objective of the measure is to enhance security and reduce the vulnerability of international connectivity to and from Iceland by building a third submarine cable from Iceland to Europe. The secondary objective is to shorten the digital distance between Iceland and Europe allowing Icelandic people and businesses to make better use of international digital services available in Europe.
- (128) ESA generally considers the construction of a telecommunication infrastructure with a view to its future commercial exploitation to constitute an economic activity <sup>(56)</sup>. Furthermore, the telecommunications market in general constitutes an economic activity. The measure facilitates development in the market for international data transfer services specifically and the markets for electronic communications services in general.
- (129) In view of the above, ESA preliminarily concludes that the measure constitutes aid to facilitate the development of certain economic activities, as required by Article 61(3)(c) of the EEA Agreement.

<sup>(54)</sup> Judgment of the EFTA Court in Case E-4/21 *Sýn hf. v EFTA Surveillance Authority*, paragraph 72.

<sup>(55)</sup> *Ibid.*, paragraph 73.

<sup>(56)</sup> NoA, paragraphs 202 and 216, and the 2014 Broadband Guidelines, paragraph 7.

### 7.3.2.2. Incentive effect

- (130) State aid is only compatible with the functioning of the EEA Agreement if it has an incentive effect and so effectively facilitates the development of certain economic activities. To establish whether the measure has an incentive effect, it must be demonstrated that it changes the behaviour of the undertaking concerned in such a way that it engages in an activity which it would not carry out without the aid or which it would carry out in a restricted or different manner.
- (131) In Section 6.2.2 of ESA's Decision No 023/21/COL, ESA stated that Measure 2 had an incentive effect. ESA stated that: 1) Farice had historically proven to be unprofitable; 2) the operation of submarine cables in the region was generally unprofitable; 3) the investment in the IRIS cable was unlikely to achieve a profit; 4) the main objective of the cable was to provide enhanced security, which was an externality that did not heavily factor into investment decisions; and 5) few stakeholders had signalled interest in operating submarine cables without State support in the past.
- (132) In light of this, ESA is generally inclined to conclude that Measure 2 had an incentive effect, as it incentivised Farice to make an investment it would not have entered into otherwise. However, the Icelandic authorities are invited to provide further information and reasoning on the incentive effect of the measure.

### 7.3.2.3. Compliance with relevant EEA law

- (133) The Icelandic authorities consider that the selection of Farice, as owner and operator of the IRIS cable, as well as the selection of cable manufacturer and installer, is exempt from the procurement rules, with reference to Article 10 of the Procurement Act (see also Article 8 of the Procurement Directive).
- (134) Specifically, Article 8 of the Procurement Directive states: 'This Directive shall not apply to public contracts and design contests for the principal purpose of permitting the contracting authorities to provide or exploit public communications networks or to provide to the public one or more electronic communications services. For the purposes of this Article, "public communications network" and "electronic communications service" shall have the same meaning as in Directive 2002/21/EC of the European Parliament and of the Council'. Furthermore, ESA notes that in accordance with Article 2(m) of Directive 2002/12/EC, 'provision of an electronic communications network' means the establishment, operation, control or making available such network.
- (135) The primary objective of the measure in question is to increase security of international connectivity in Iceland by building a third submarine cable, which in turn will provide the public with more electronic communication services. Therefore, the investment in the submarine cable seems to permit Farice to 'provide or exploit public communications networks', as defined in Article 2(a) of Directive 2002/21/EC. However, ESA cannot conclusively conclude at this stage whether all conditions for the application of the exemption are fulfilled.
- (136) Moreover, according to paragraph 74(c) of the 2014 Broadband Guidelines, '[w]henver the granting authorities select a third party operator to deploy and operate the subsidised infrastructure, the selection process shall be conducted in line with the spirit and the principles of the Public Procurement Directives. It ensures that there is transparency for all investors wishing to bid for the implementation and/or management of the subsidised project. Equal and non-discriminatory treatment of all bidders and objective evaluation criteria are indispensable conditions'.
- (137) However, despite this provision, footnote 91 to paragraph 74(c) states: '[t]he situation is different when the public authority decides to deploy and manage the network directly (or through a fully owned entity) [...] In such cases, [...] (i) the publicly owned network operators shall limit their activity on the pre-defined target areas and shall not expand to other commercially attractive regions; (ii) the public authority shall limit its activity to maintain the passive infrastructure and to grant access to it, but shall not engage in competition on the retail levels with commercial operators and (iii) to have an accounting separation between the funds used for the operation of the networks and the other funds at the disposal of the public authority'.

(138) Therefore, the applicability of procurement rules in the context of an assessment under the 2014 Broadband Guidelines seems to depend on whether or not the conditions, listed in footnote 91, are fulfilled. The Icelandic authorities have not provided sufficient information in this regard.

(139) Consequently, ESA has doubts as to whether or not Measure 2 falls under the exemption from procurement rules described above, and as to whether the provisions of the 2014 Broadband Guidelines have effect in this regard. Therefore, ESA invites the Icelandic authorities to provide further information and rationale in this regard.

7.3.3. *Whether the aid adversely affects trading conditions to an extent contrary to the common interest*

7.3.3.1. Introduction

(140) ESA has not only identified positive effects of the planned aid for the development of the abovementioned economic activities and economic areas, but also possible negative effects that it may have in terms of distortions of competition and adverse effects on trade. These positive and negative effects must then be weighed up.

7.3.3.2. Markets affected by the aid

(141) The measure mainly has an effect on the wholesale market for international connectivity and the telecommunication market, both national and international. Additionally, the measure may have an effect on the DC market.

7.3.4. *Positive effects of the aid*

(142) Measure 2 contributes to the development of a submarine cable between Iceland and Europe, thereby enhancing both redundancy and the security of the submarine cable network that Iceland relies on to participate in the global economy. This is in line with the Icelandic Government's Telecommunications Policy, whose objective is, *inter alia*, to promote accessible and effective communications and to guarantee the security of telecommunications infrastructures.

(143) To achieve those objectives, the Icelandic authorities have emphasised that three active submarine telecommunications cables will connect Iceland with Europe from different landing sites. As a geographically remote country, effective international connections are a prerequisite for the development of Iceland as a modern technologically based society. A serious disruption in international connectivity would cause major damage to the Icelandic economy and society as a whole.

(144) According to the Icelandic authorities, the main vulnerabilities of the current international connections relate to human error, malfunctions, accidents, natural disasters and other unforeseen events. The Icelandic authorities have provided ESA with a detailed description of the various and multiple disruptions that have happened in the past and disrupted the functionality of the two existing submarine cables<sup>(57)</sup>. ESA considers these vulnerabilities both realistic and probable.

(145) Furthermore, the absolute lengths of the submarine cables from Iceland to Europe increase the probability of incidents compared to shorter cables going from Scandinavia and the UK to mainland Europe. Moreover, other countries in the EEA are connected to major international network connection points via diversified networks of multiple land and/or submarine cables while Iceland is wholly dependent on only two submarine cables.

(146) By implementing the measure and adding a third submarine cable to the network, the Icelandic authorities expect the security of international connectivity increases *circa* tenfold. In particular, a third submarine cable will: (i) increase the projected uptime to 99,9993 %, (ii) reduce the probability of a total outage in a 10-year period to 0,2–1,5 %, and (iii) diversify the land routes in Iceland, decreasing risks associated with a single route failure<sup>(58)</sup>.

<sup>(57)</sup> See Section 3.2.3 of ESA's Decision No 023/21/COL for details.

<sup>(58)</sup> See ESA's Decision No 023/21/COL, paragraph 22.

- (147) In addition to enhanced security, the Icelandic authorities contend that the addition of a third submarine cable will also improve the competitiveness of Iceland as a whole, as the Icelandic digital market will become 'closer' to major network hubs in Europe. Data latency in communications between Iceland and Europe will be reduced as a result of shortened cable length and simpler network structure than is available through the current system connecting Reykjavík with Europe. ESA considers this factor positive, as it contributes to the development of the Icelandic economy as a whole.

#### 7.3.4.1. Limited negative effects of the aid

##### 7.3.4.1.1. Introduction

- (148) Article 61(3)(c) of the EEA Agreement requires an assessment of any negative effects on competition and on trade. The aid must not adversely affect trading conditions to an extent contrary to the common interest.

##### 7.3.4.1.2. Necessity of the aid

- (149) To assess whether State aid is effective to achieve its objective, it is necessary to first identify the problem that needs to be addressed. A State aid measure is necessary if it is targeted towards situations where aid can bring about a material improvement that the market cannot deliver itself, for example by remedying a well-defined market failure.

- (150) A market failure exists if markets, left to their own devices, without intervention fail to deliver an efficient outcome for society. This may arise, for instance, when certain investments are not being undertaken even though the economic benefit for society exceeds the cost <sup>(59)</sup>.

- (151) The Icelandic authorities have explained that Farice would not have undertaken the investment in the IRIS cable in the absence of aid, as it cannot support such an investment with its own funds. This, *inter alia*, is an indication of the market failure associated with providing international connectivity services in Iceland.

- (152) However, the fact that a specific company may not be capable of undertaking a project without aid does not mean that there is a market failure. For instance, the decision of a company not to invest in a project with low profitability or in a region with limited market demand and/or poor cost competitiveness may not be an indication of a market failure, but rather of a market that functions well <sup>(60)</sup>.

- (153) Concerning the ability of the market to deliver an efficient outcome for society, the Icelandic authorities have pointed to the fact that Iceland was, prior to the IRIS cable project, only connected to Europe through two submarine cables. Furthermore, over the past decade, few stakeholders signalled interest in investing in international data connectivity services between Iceland and Europe or America. These projects did not materialise primarily due to problems with constructing a sound business case for such an investment. Furthermore, these planned and aborted projects by market actors would have been dependent on financial participation by the State (see paragraph (54)).

- (154) However, while it is a fact that no privately funded subsea cables from Iceland have been built in the last 10 years, it is also clear that Sýn approached the Icelandic State with plans to build a subsea cable. Negotiations and discussions between the State and Sýn continued over two years, but were then terminated. Therefore, while it is unclear to ESA whether Sýn's offer was comparable to the IRIS cable project, or if it indicates an attempt to enter the market for international data connectivity services, ESA cannot exclude the possibility that the market could have delivered the outcome sought by Measure 2.

<sup>(59)</sup> See 2014 Broadband Guidelines, paragraph 33.

<sup>(60)</sup> See 2014 Broadband Guidelines, footnote 45.



- (155) Consequently, ESA must preliminarily conclude that it has doubts as to the necessity of Measure 2. The Icelandic authorities are invited to provide further arguments and information relating to this point.

#### 7.3.4.1.3. Appropriateness of the aid

- (156) EFTA States can make different choices with regard to policy instruments, and State aid control does not impose a single way to intervene in the economy. However, State aid under Article 61(1) of the EEA Agreement can only be justified by the appropriateness of a particular instrument to contribute to the development of the targeted economic activities or areas.
- (157) ESA normally considers a measure appropriate where the EFTA State can demonstrate that alternative policy options would not be equally suitable, and that alternative, less distortive, aid instruments would not deliver equally efficient outcomes.
- (158) Due to the general unprofitability of submarine cable infrastructure investments and projects from Iceland to Europe, ESA is inclined to conclude that an alternative policy instrument, such as regulations, would neither trigger investment in the IRIS cable project, nor other similar investment projects. Further, ESA is equally inclined to conclude that a loan or guarantee would not be a more appropriate aid instrument <sup>(61)</sup>.
- (159) Therefore, ESA preliminarily concludes that State aid in the form of a capital increase is the appropriate instrument to facilitate the development of the economic activities that the measure concerns. However, the Icelandic authorities are invited to elaborate on this point.

#### 7.3.4.1.4. Proportionality of the aid

- (160) State aid is proportionate if the aid amount per beneficiary is limited to the minimum needed to incentivise the additional investment or activity in the area concerned.
- (161) Measure 2 constitutes a capital increase in Farice. The board of directors of Farice were authorised to increase the capital in intervals during the construction period of the new cable. The financing needs of the recipient were assessed at each interval and only established costs were granted through the capital increase. The granting authority reviews any expenses and controls overcompensation retroactively. This aid granting method and claw-back mechanism contributes to the proportionality of the aid. Moreover, when seeking subcontracting offers, Farice engaged in a competitive selection procedure whereby it selected a contractor who will manufacture and lay the IRIS cable. The selection procedure resulted in Farice opting to contract with the lowest bidder.
- (162) However, according to paragraph 74 of the 2014 Broadband Guidelines, multiple conditions must be fulfilled in order to demonstrate the proportionality of a measure. Failure to meet any of those conditions would in most cases require a detailed assessment <sup>(62)</sup>. These conditions include mapping an analysis of coverage, public consultation, and a competitive selection process.
- (163) ESA is not aware of any mapping analysis or public consultation performed by the Icelandic authorities prior to the implementation of Measure 2. Moreover, as Iceland selected an 'in house entity', namely Farice, to own and operate the infrastructure, it is clear that no competitive selection process was followed in relation to Measure 2. However, ESA notes that there is no need for a competitive selection process if the State chooses to manage a network directly (or through a wholly owned entity).

<sup>(61)</sup> See ESA Decision No 023/21/COL, Section 6.3.4.3.

<sup>(62)</sup> Similar conditions can also be found in the 2023 Broadband Guidelines, Section 5.2.4.

- (164) Nevertheless, where the aid is granted without a competitive selection procedure, to a public authority that deploys and manages a broadband network at wholesale level directly, or through an in-house entity, the State must justify its choice of network and technological solution.
- (165) Moreover, according to paragraph 74(d) of the 2014 Broadband Guidelines, granting authorities should generally select the most economically advantageous offer. However, this only applies within the context of a competitive tender, and not when the State selects a wholly owned entity to own and operate the network.
- (166) As described in Section 3.1, the Icelandic authorities were approached by Sýn with an offer to build the third submarine cable, which following an examination by an independent expert, was considered to be cost effective than Farice's offer. The Icelandic authorities have argued that the independent report was based on unconfirmed prices, and when asked to confirm prices, Sýn was unable to do so. Discussions between the Icelandic State and Sýn were terminated as a result. Sýn has argued that it was not given any time or opportunity to renew offers and provide confirmation on prices <sup>(63)</sup>.
- (167) On this point, the EFTA Court stated that: 'ESA has not touched upon this issue at all or disputed that it was aware of this information, as alleged by Sýn. ESA has merely reiterated that Sýn's proposal relied on "unverified figures" without explaining why, if it considered that the figures were unverified, it did not seek to verify them by obtaining further information from Sýn, which had already submitted a complaint to ESA' <sup>(64)</sup>. The EFTA Court then concluded that 'it must be held that Sýn has established that ESA was aware of documents that called into question the information at its disposal and on which it relied in the contested decision, without going beyond a mere examination of the information submitted by the Icelandic authorities. By not obtaining further information on whether Sýn was actually able to confirm its prices, or whether it had been given that opportunity, ESA failed to satisfy its obligation to conduct a diligent and impartial examination of the notified measure so that it had at its disposal the most complete and reliable information' <sup>(65)</sup>.
- (168) Therefore, while the Icelandic authorities might not have been required to conduct a competitive tender, nor select the most economically advantageous offer, ESA must preliminarily conclude that the existence of an allegedly more economically viable offer from Sýn puts into doubt the proportionality of Measure 2, as the Icelandic authorities have not sufficiently explained the price differences between Sýn's offer, and the eventual cost of the IRIS cable project.
- (169) Consequently, as ESA has doubts as regards the proportionality of Measure 2 and invites the Icelandic authorities to further elaborate on the proportionality of the measure, and, in particular, to provide arguments and information explaining the aid amount in comparison to Sýn's allegedly more economical offer.

#### 7.3.4.1.5. Limited negative effect on intra-EEA trade

- (170) As ESA preliminarily considers Measure 2 to constitute State aid, the measure has an effect on intra-EEA trade. However, in order to be compatible, a measure should limit those effects.
- (171) As stated previously, the primary objective of the measure is to enhance the security of international connections in Iceland, and while a third submarine cable will increase capacity, ESA notes that the capacity of the current network is not fully utilised; the new infrastructure is principally expected to complement the other connections currently in operation. Therefore, the addition of a third cable does not materially alter the structure of the market for international connectivity, but rather enhances the security of the infrastructure already present.

<sup>(63)</sup> Judgment of the EFTA Court in Case E-4/21 *Sýn hf. v EFTA Surveillance Authority*, paragraph 64.

<sup>(64)</sup> *Ibid*, paragraph 66.

<sup>(65)</sup> *Ibid*, paragraph 68.

- (172) Moreover, even though a third cable will allow Iceland to be better connected to Europe, it will not change the fact that Iceland remains an island approximately 1 200 km from the nearest European country and 2 000 km from the European continent. The improved communication to Iceland will not bridge the natural data latency gap that exists between communication on the European continent compared with communication from the continent to Iceland. Therefore, ESA finds it hard to see how the IRIS cable will have a material impact on the competitiveness of other EEA markets compared to Iceland. Therefore, the third cable, in and of itself, should not materially alter the dynamics of intra EEA-trade on the relevant market.
- (173) ESA notes that there are no other companies, established in the EEA, that currently operate, or have shown concrete plans to operate without State support, a submarine cable similar to the IRIS cable. Therefore, market participants have not to date demonstrated any concrete plans to invest in a submarine cable between Iceland and Europe prior to the implementation of the measure.
- (174) However, as mentioned in paragraph (54), one of the factors that lead to reduced investment in subsea cables from Iceland to Europe is the need to secure redundancy. An undertaking wishing to establish its own subsea cable network needs to build two cables, or secure redundancy using an existing cable. Since Farice is the only operator of subsea cables from Iceland to Europe, it is most likely that any possible new entrant would opt to secure redundancy through one of Farice's existing cables, in lieu of building two cables at once. ESA does not have information regarding whether Farice offers redundancy services. However, if Farice does not provide such services, it could call into question the limited negative effects of the measure on competition in general due to potential entry barriers.
- (175) Moreover, paragraph 74 of the 2014 Broadband Guidelines lists a number of conditions aimed at limiting distortion of competition and trade, including the need for detailed mapping and public consultation. Failure to comply with any of the conditions is likely to trigger the need for a detailed analysis by ESA. Therefore, regardless of the eventual scope of the 2014 Broadband Guidelines, the apparent omission of the Icelandic authorities to comply with at least some of the conditions listed in paragraph 74 of the 2014 Broadband Guidelines when implementing Measure 2 leads ESA to doubt the overall limitation of negative effects on competition and trade.

#### 7.3.4.1.6. Conclusion on limited negative effects

- (176) With reference to the foregoing, ESA has doubts that the effects of the measure on intra EEA-trade are sufficiently limited to a minimum. Therefore, ESA invites the Icelandic authorities to provide further arguments and information in this regard.

#### 7.3.4.2. Balancing positive and negative effects of the aid

- (177) For the aid to be compatible with the functioning of the EEA Agreement, the limited negative effects of the aid measure in terms of distortion of competition and adverse impact on trade between Contracting Parties must be outweighed by positive effects, in terms of contribution to the facilitation of the development of economic activities or areas. It must be verified that the aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (178) As follows from the above, ESA is preliminarily inclined to conclude that Measure 2 has directly facilitated the economic activities of Farice and that it has had many positive effects.
- (179) However, in respect of the negative effects, ESA doubts whether the negative effects of Measure 2 on competition and trade are sufficiently limited. Specifically, ESA doubts whether the market failure addressed by the measure is clearly present, and whether the aid was on the whole proportional. Moreover, the effects of the measure on the markets it affects needs to be further examined.

(180) At this stage, ESA therefore doubts that the positive effects of the measure outweigh its possible distortion of competition and adverse impact on trade.

8. **Conclusion**

(181) As set out above, ESA has doubts as to whether Measure 1 constitutes State aid within the meaning of Article 61(1) of the EEA Agreement. Further, if the measure is found to involve aid, ESA also has doubts as to whether the measure would be compatible with the functioning of the EEA Agreement.

(182) Furthermore, ESA has doubts as to whether the Measure 2 is compatible with the functioning of the EEA Agreement.

(183) Consequently, and in accordance Article 4(4) of Part II of Protocol 3, ESA hereby opens the formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3. The decision to open a formal investigation procedure is without prejudice to the final decision of ESA, which may conclude that Measures 1 and 2 do not constitute State aid or are compatible with the functioning of the EEA Agreement.

(184) ESA, acting under the procedure laid down in Article 1(2) of Part I of Protocol 3, invites the Icelandic authorities to submit their comments by 14 April 2023, and to provide all documents, information and data needed for the assessment of the measures in light of the State aid rules.

(185) The Icelandic authorities are requested to immediately forward a copy of this decision to the aid recipient.

(186) The Icelandic authorities have confirmed that this opening decision does not contain any business secrets or other confidential information that should not be published.

(187) Finally, ESA will inform interested parties by publishing a meaningful summary in the *Official Journal of the European Union* and the EEA Supplement thereto. All interested parties will be invited to submit their comments within one month of the date of such publication. The comments will be communicated to the Icelandic authorities.

*For the EFTA Surveillance Authority,*

Arne RØKSUND  
*President*  
*Responsible College Member*

Stefan BARRIGA  
*College Member*

Árni Páll ÁRNASON  
*College Member*

Melpo-Menie JOSÉPHIDÈS  
*Countersigning as Director,*  
*Legal and Executive Affairs*

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## V

*(Announcements)*

## OTHER ACTS

## EUROPEAN COMMISSION

**Publication of an application for approval of an amendment, which is not minor, to a product specification 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**

(2023/C 129/05)

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

APPLICATION FOR APPROVAL OF AN AMENDMENT TO THE PRODUCT SPECIFICATION OF PROTECTED DESIGNATIONS OF ORIGIN/PROTECTED GEOGRAPHICAL INDICATIONS WHICH IS NOT MINOR

**Application for approval of an amendment in accordance with the first subparagraph of Article 53(2), of Regulation (EU) No 1151/2012****'ALCACHOFA DE TUDELA'****EU No: PGI-ES-0139-AM01 — 9.9.2021****PDO ( ) PGI (X)****1. Applicant group and legitimate interest**

Consejo Regulador de la Indicación Geográfica Protegida 'Alcachofa de Tudela' ['Alcachofa de Tudela' Protected Geographical Indication Regulatory Board]  
Avda. Serapio Huici, 22 Edificio Peritos  
31610 Villava (Navarre)  
ESPAÑA

Tel. +34 948013045

Email: [ajuanena@intiasa.es](mailto:ajuanena@intiasa.es)

The applicant group represents the collective interests of the producers of 'Alcachofa de Tudela' and has a legitimate interest in this application to amend the product specification for the Protected Geographical Indication 'Alcachofa de Tudela'. It is also the group that originally applied for protected status for this product.

The 'Alcachofa de Tudela' PGI Regulatory Board is an association comprising producers who work with 'Alcachofa de Tudela'. The Board's aims include enhancing the product's value and improving the performance of the PGI scheme, in accordance with Article 45 of Regulation (EU) No 1151/2012.

Under the applicable national legislation, the Board is entrusted with the task of promoting the quality of 'Alcachofa de Tudela' and overseeing and defending the product's reputation. This is reflected in its rules of procedure, which were ratified by the Order of 30 May 2001 of the Ministry of Agriculture, Fisheries and Food.

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

## 2. Member State or Third Country

Spain

## 3. Heading in the product specification affected by the amendment(s)

- Name of product
- Description of product
- Geographical area
- Proof of origin
- Method of production
- Link
- Labelling
- Other: I. Applicable national legislation; G. Control body

## 4. Type of amendment(s)

- Amendment to product specification of a registered PDO or PGI not to be qualified as minor in accordance with the third subparagraph of Article 53(2) of Regulation (EU) No 1151/2012.
- Amendment to product specification of registered PDO or PGI for which a Single Document (or equivalent) has not been published not to be qualified as minor in accordance with the third subparagraph of Article 53(2) of Regulation (EU) No 1151/2012

## 5. Amendment(s)

### 5.1. Amendments that impact key elements

5.1.A.1. The following text has been added to paragraph 11 of the 'Description of product' section of the product specification, after the description of the marketing of artichokes without stalks: '*c) Kitchen-ready artichokes: The artichokes must be peeled and packaged in such a way as to maintain their appearance and freshness until they are consumed.*'

Grounds for this amendment: The option to market artichokes without stalks in peeled format has been added. Marketing this format enables consumers to buy a fresh, ready-to-cook artichoke and could prove an effective means of reaching groups of consumers who lack the time or ability to peel artichokes.

It is stated that the artichokes must be packaged in such a way as to maintain their appearance and freshness until they are consumed. At present, they are usually vacuum-packed in plastic packaging. However, there is no wish to rule out the potential use of other types of non-plastic packaging that are being developed.

These artichokes meet the same requirements as unpeeled artichokes marketed as fresh produce; they are halfway between these and the preserved artichokes also covered by the PGI 'Alcachofa de Tudela'.

The text '*may be presented in two formats*' has been changed to '*may be presented in three formats*' to include this third format.

### 5.2. Amendments that do not impact key elements

5.2.A Amendments that do not impact key elements of section B, 'Description of product', of the product specification

5.2.A.1 The word '*have*' has been changed to '*usually have*' in the fourth paragraph of the product description in the product specification.

Grounds for this amendment: This amendment has been made to make it clear that the paragraph provides a general description of the Blanca de Tudela variety and does not lay down any restrictions on the size of the heads that may be picked. The size of the heads varies throughout the harvest season, with larger or smaller heads being picked depending on market demand and the weather conditions. Some markets prefer larger artichokes, while smaller artichokes are preferred in others and are used in preserving.

In any event, they are never very large. It is a characteristic of the variety that it does not yield large artichokes, as the plant begins to flower – making it unsuitable for marketing – once the artichoke reaches average size.

5.2.A.2 The tenth paragraph of the product description in the product specification, which addresses the presentation of artichokes marketed as fresh produce, has been amended to make it clearer, but no new restrictions have been introduced.

The description of artichokes with stalks now reads '*a) Artichokes with stalks.- The heads may have a stalk approximately 18 cm long, with at least one or two whole leaves. They must be sold by the dozen.*' The words '*approximately*' and '*at least*' have been added, and the final phrase (*'in the traditional way, namely in bunches'*) has been deleted.

Grounds for this amendment: This amendment does not introduce any new restrictions. Rather, it has been made to clarify that the product is usually sold with a stalk and leaves. Although these are not consumed, the product is traditionally marketed with them. '*Alcachofa de Tudela*' is traditionally sold by the dozen, each artichoke having a stalk measuring approximately 18 centimetres. However, since the length of the stalk is not decisive for the quality of the product, the word '*approximately*' has been added to give more freedom. The length of the stalk will depend on the point in the season at which the product is harvested. Stalks are longer earlier in the season and get shorter as it progresses, reflecting the natural development of the plant.

By contrast, the presence of leaves is important when artichokes are sold by the dozen. While the leaves are not usually consumed, fresh artichokes keep better when they are present. It is therefore important to point out that fresh artichokes must have at least one or two whole leaves and that artichokes without leaves are not permitted. The words '*at least*' have been added to reflect this.

The phrase '*in the traditional way, namely in bunches*' has been deleted because it is not necessary to market artichokes in bunches. Artichokes generally leave the premises of registered marketing companies in packaging that allows them to be transported safely without compromising their quality. Artichokes were formerly placed on markets in bunches, but are now usually sent to markets in boxes as they travel better this way. Once they reach the point of sale, they are sold by the dozen, but not necessarily in bunches.

5.2.A.3 The eleventh paragraph of the product description in the product specification, which addresses the presentation of artichokes marketed as fresh produce, has been amended to make it clearer, but no new restrictions have been introduced. The phrase '*and has no leaves*' has been changed to '*and has no developed leaves*'. The phrase '*They are sold by the kilogram*' has been deleted.

Grounds for this amendment: The wording has been changed from '*is limited to*' to '*is shorter than*' to make it clear that the stalk must be less than 10 cm long.

It should be clarified that unlike artichokes with stalks, artichokes sold in this format do not have developed leaves. This product is generally sold by weight. It does not have developed leaves. That said, the artichokes often have small, immature leaves that are part of the stalk (which is less than 10 cm long). As the artichokes are sold with their stalks, these leaves cannot be removed without affecting the preservation of the artichokes. It should be made clear that while artichokes marketed without stalks cannot have fully developed leaves, there is no need to cut off the small, immature leaves that are part of the stalk. A picture has been included of an artichoke that has some developed leaves and some small, undeveloped leaves. This is to show that it is not possible to harvest the artichoke and leave the minimum stalk length required for its preservation without including the undeveloped leaves.

The phrase '*They are sold by the kilogram*' has been deleted because it does not lay down a requirement. It appeared in the original product specification because of the similarity to artichokes with stalks and leaves, which are marketed by the dozen. However, there is no need to retain it because artichokes are normally marketed in this way.

#### 5.2.B Drafting amendments to section B, 'Description of product', of the product specification

5.2.B.1 The sentence '*Its flavour is excellent, including when it is green* [i.e. fresh]' has been deleted from the end of the fourth paragraph of the product description in the product specification.

Grounds for this amendment: The sentence '*Its flavour is excellent, including when it is green*' has been deleted. It was clearly supposed to indicate that the flavour of the uncooked product is excellent, given that artichokes of the Blanca de Tudela variety are always green. It would be better to delete it because it is misleading and does not lay down a requirement or describe a distinctive characteristic.

5.2.B.2 In the product specification, the fifth paragraph, which refers to Regulation (EC) No 1466/2003, has been deleted and the phrase '*in Class I*' has been deleted from the seventh paragraph.

Grounds for this deletion: The paragraph was deleted because the regulation to which it refers has been repealed and the regulation currently in force, Commission Delegated Regulation (EU) 2019/428 of 12 July 2018, does not establish commercial classes for artichokes marketed as fresh produce and so does not serve as a reference for establishing commercial classes for artichokes.

The phrase '*in Class I*' has been deleted because, as mentioned above, the classification was based on legislation that is no longer in force.

5.2.B.3 The phrase '*Artichokes marketed as fresh produce*' has been inserted at the start of the sixth paragraph of the 'Description of product' section of the product specification to make the text clearer.

Grounds for this amendment: The text has been amended for clarity's sake as the previous paragraph, which referred to a repealed European regulation, has been deleted. The phrase '*Artichokes marketed as fresh produce*' has been inserted to make it clear that the characteristics described in the paragraph relate to artichokes marketed as fresh produce.

#### 5.2.C Drafting amendments to section C, 'Geographical area', of the product specification

5.2.C.1 All of the extraneous information has been deleted from this section of the product specification. It now simply lists the municipalities making up the defined geographical area. The end of the text has been amended too: '*same agricultural district, namely V or Ribera*' has been changed to '*production area*'.

Grounds for this amendment: The first paragraph, which describes the location of Navarre and the districts that form it, has been deleted. The text now simply lists the municipalities making up the area covered by the PGI 'Alcachofa de Tudela'; the rest of the information did not define this geographical area in any way.

Conversely, while the geographical area has not changed, the administrative division of Navarre into agricultural districts is no longer the same as that described in the product specification. All references to agricultural districts have therefore been removed from the text, which now simply lists the municipalities that fully make up the defined geographical area.

The paragraph describing crop distribution in the defined area has also been deleted, because crop distribution varies from one year to the next and the information does not add anything to the product specification.



The end of the last paragraph has been deleted to remove the reference to agricultural districts. It now refers to the production area instead. As mentioned previously, the division into districts has changed between the publication of the product specification and the present day.

#### 5.2.D Amendments that do not impact key elements of section D, 'Proof that the product originated in the area', of the product specification

5.2.D.1 Section D, 'Proof that the product originated in the area', of the product specification has been completely overhauled: all the extraneous text has been deleted and the wording now focuses on the elements guaranteeing the product's traceability, origin and characteristics. The deletions do not impact key elements.

Grounds for this amendment: This change is merely intended to provide a better and more precise explanation of how it is demonstrated that the product originates in the defined geographical area and complies with the other requirements laid down in the product specification.

The previous wording of this section of the product specification was rather vague and did not give a clear picture of the checks and tests carried out by the control body to ensure compliance with the product specification.

The proposed new wording provides a more detailed explanation of the actual checks and tests that are carried out by the inspection control as part of the certification procedure, which is compliant with standard UNE-EN ISO/IEC 17065:2012 and has been accredited by the National Accreditation Body.

Details have also been provided regarding the inspection system, which is based on: on-site inspections of artichoke fields; inspections carried out at the processing plants; and sampling and analysis during the processing season. This system is complemented by the processing plants' own internal inspection systems. The text also now specifies the registers where the operators involved in producing the PGI artichokes have to be listed so that the inspection system can be implemented.

#### 5.2.E Amendments that do not impact key elements of section E, 'Method of production', of the product specification

5.2.E.1 Only the first part of the second paragraph of section E, 'Method of production', of the product specification, which describes the requirement to grow the product as an annual crop, has been left intact. The rest of the paragraph has been deleted because it is redundant.

Grounds for this amendment: The text has been deleted because it does not lay down any requirements regarding the method of production: it states that crop rotation is traditionally recommended and notes that no problems attributable to repeated production of the same crop have been observed when crop rotation is not performed.

5.2.E.2 The 'Soils' section of section E, 'Method of production', of the original product specification has been deleted because it does not lay down any requirements for the protected product.

Grounds for this amendment: The text has been deleted because it does not lay down any requirements regarding the method of production. It is not the Regulatory Board that determines which soils are suitable for cultivation; the producer is responsible for selecting parcels with soil characteristics that will enable the crop to develop in such a way that it can produce heads of artichoke meeting the quality characteristics required by the PGI.

5.2.E.3 The 'Fertilisation' section of section E, 'Method of production', of the original product specification has been deleted because it does not lay down any requirements for the protected product.

Grounds for this amendment: The text has been deleted because it does not lay down any requirements regarding the method of production. The old text describes how fertilisers were applied when the product specification was drawn up and refers to standards that have since been repealed. Both crop rotation and fertiliser use must follow agricultural best practices and comply with the legislation in force at the time. Since they are not specific characteristics of the production of 'Alcachofa de Tudela' and are instead general requirements, they do not need to be mentioned in the product specification.

5.2.E.4 The 'Planting' section of section E, 'Method of production', of the product specification has been amended: the text describing artichoke cultivation techniques has been deleted, leaving only the decisive characteristics of the protected product.

Grounds for this amendment: The paragraphs describing techniques for fertilisation and the preparation of rows for planting have been deleted because they refer to cultivation techniques – some of which are obsolete – that are not specific to the PGI 'Alcachofa de Tudela'.

The planting density and the distance between the plants and rows do not substantially affect the quality of the crop, but instead depend on the machinery available to the producer. The description has therefore been deleted.

The reference to Navarre's Agricultural Technology and Management Institute as the body responsible for overseeing plant selection has been deleted; this was a public company reporting to the Government of Navarre and no longer exists. Now, the farmers who produce the root crowns are responsible for selecting the plant that will be left in place to produce the root crowns. These farmers often bring in independent third parties to certify that the plant was selected properly.

There is still a description of the planting season. However, no restriction has been placed on the dates because they depend on when the artichoke plant has dried, the root crowns have been extracted and the ground conditions are suitable for planting.

5.2.E.5 The 'Care' section of section E, 'Method of production', of the product specification has been deleted because it does not lay down any requirements, instead describing how artichokes are cultivated, and is obsolete in places.

Grounds for this amendment: The text has been deleted because it does not set out requirements that are specific to the PGI 'Alcachofa de Tudela'; it merely describes the technique used at the time the product specification was drafted. Nowadays, weeds are not removed from many parcels. Instead, controlled weed growth is allowed so as to provide ground cover and prevent water evaporation. Alternatively, cover materials may be used to suppress weeds and eliminate the need for herbicide use.

5.2.E.6 The 'Irrigation' section of section E, 'Method of production', of the product specification has been amended: the paragraphs that do not lay down requirements and simply describe the defined area have been deleted, and the wording has been improved to make it clearer.

Grounds for this amendment: The text now emphasises that irrigation is required for cultivating the artichokes because there is little rainfall in the production area.

The text describing irrigation techniques has been deleted because it is general, given that the most appropriate irrigation techniques will depend on the weather conditions at each stage of cultivation.

The text about irrigation in second-year fields has been deleted, because this also depends on the weather conditions at each stage of cultivation.

5.2.E.7 The 'Treatment' section has been deleted from section E, 'Method of production', of the product specification.

Grounds for this deletion: This text has been deleted because it refers to the plant protection treatments that were used when the original product specification was drafted, some of which are now prohibited. European legislation is placing restrictions on plant protection treatments and many producers of 'Alcachofa de Tudela' are turning to organic treatments. It therefore makes little sense to mention plant protection treatments, as these can change over time and there are no specific requirements relating to them for the PGI 'Alcachofa de Tudela'.

5.2.E.8 Parts of the 'Harvesting' section of section E, 'Method of production', of the product specification have been deleted because they are general descriptions of artichoke cultivation. Only the requirements specifically relating to the protected product remain.

Grounds for this amendment: The paragraph referring to the optimum development of the artichoke heads has been deleted because it is a general description applying to all artichokes and does not lay down any specific requirements that should be included in the product specification.

The paragraphs referring to harvest periods and the intended uses of the harvested artichokes have been deleted. Harvesting begins when there are fully developed artichokes on the plant; the time at which this happens varies greatly depending on the weather in autumn and on winter frosts, since the harvesting of artichokes for certification can begin only when the frosts are over.

The use to which the harvested artichokes are put will depend on market demand. The fresh produce market usually takes precedence. When it cannot absorb all of the artichokes that have been produced, they go to the preserving market, where prices tend to be slightly lower.

Two words in the paragraph have been changed to improve its wording: '*removed*' has been changed to '*cut*' because artichokes are harvested with a knife, and '*daily*' has been changed to '*constant*' because the fields are not harvested every day; the weather conditions may cause the artichokes to develop more quickly or more slowly, making it necessary to increase or decrease the frequency of harvesting.

5.2.E.9 The wording of the 'Pulling up of the plants' section of section E, 'Method of production', of the product specification has been amended to remove superfluous text and highlight the specific requirements applying to 'Alcachofa de Tudela'.

Grounds for this amendment: This section was amended to stress that the root crowns planted under the PGI 'Alcachofa de Tudela' must come from parcels where the artichokes are grown as an annual crop and not a biennial crop.

A reference to July has been added because planting takes place in July and August.

The description of root crown production has been deleted because this process is not covered by the product specification.

5.2.E.10 The heading and wording of the 'Presentation of the product for sale as fresh produce' section of section E, 'Method of production', of the product specification have been amended to place greater emphasis on the characteristics of the protected product and remove paragraphs that do not lay down decisive requirements relating to the characteristics of 'Alcachofa de Tudela'.

Grounds for this amendment: The text now stresses that the artichokes must come from registered parcels and the cultivar must be Blanca de Tudela: these are distinctive characteristics of the protected product.

The definitions of the types of packaging permitted have been deleted, leaving operators free to decide which type of packaging they will use to market the artichokes. They must now notify the control body of the packaging they use. Now that artichokes are being sold as fresh produce in supermarkets, there is demand for smaller sales units than those used to market artichokes when the product specification was drafted. The packaging is not deemed a distinctive characteristic of fresh 'Alcachofa de Tudela'.

The text now contains the requirement that, as with preserved 'Alcachofa de Tudela', acidulants may not be added to artichokes marketed as fresh produce.

The requirement relating to sizing has not been changed.

5.2.E.11 The first paragraph of the 'Preserved artichokes' section of section E, 'Method of production', of the product specification has been amended: numbering has been added to make the text more coherent and the reference to 'section B' has been deleted because it does not lay down any requirements.

Grounds for this amendment: Numbering has been added to the heading and the reference to 'section B' has been deleted because it does not lay down any requirements.

The text now specifies that only 'Extra Class' and 'Class I' produce may be used. Traditionally, it has not been permitted to use 'Class II' produce to make the protected preserved product. A requirement to this effect has therefore been added to the product specification.

5.2.E.12 The second paragraph of the 'Preserved artichokes' section of section E, 'Method of production', of the product specification has been amended: numbering has been added, the text has been restructured to make it more coherent, and any text not laying down requirements has been deleted.

Grounds for this amendment: This section has been restructured to separate the different stages in the production of the preserved product. The text now stresses that the raw material must come from registered parcels and be of the protected cultivar. The reference to the commercial class of the fresh artichokes, which has been removed from the relevant section, has been deleted here too. This change has been made because the legislation defining 'Class I' for artichokes marketed as fresh produce has been repealed.

5.2.E.13 The third paragraph of the 'Preserved artichokes' section of section E, 'Method of production', of the product specification has been deleted.

Grounds for this deletion: Now that the section has been restructured, this paragraph no longer makes sense. The sterilisation requirements are explained later in the text.

5.2.E.14 The fourth paragraph of the 'Preserved artichokes' section of section E, 'Method of production', of the product specification has been restructured: it has been divided into two parts.

Grounds for this amendment: Only the structure of the paragraphs has been changed; no new information has been added. The original paragraph has been split in two because it describes two stages in the processing of preserved 'Alcachofa de Tudela': washing and blanching.

5.2.E.15 The fifth paragraph of the 'Preserved artichokes' section of section E, 'Method of production', of the product specification has been restructured: it has been divided into two parts.

Grounds for this amendment: This paragraph has been restructured, but still contains the original information. It now also clarifies that artichokes are sized based on the diameter of their hearts. The original paragraph has been split in two because it describes two stages in the processing of preserved 'Alcachofa de Tudela': sizing and cutting.

5.2.E.16 The sixth paragraph of the 'Preserved artichokes' section of section E, 'Method of production', of the product specification has been restructured: it has been divided into two parts. Part of the text has been amended to highlight the requirements for 'Alcachofa de Tudela'.

Grounds for these amendments: The structure has been amended. The section dealing with packing and the addition of preserving liquid has been separated from the section on pre-heating because these are two different stages in the process of producing preserved 'Alcachofa de Tudela'. The section on packing emphasises that the product must not contain acidulants or acidity regulators, as their absence is a characteristic of the protected product. The text now stresses that the container must be made of glass and notes that the pre-heating process is optional.

Pre-heating more effectively removes the air trapped in the containers, but if a long time passes between the product being packed and the containers being closed and sterilised, it is better not to increase the product's temperature because of the associated microbiological risk. Pre-heating would keep the containers warm for long enough for thermophilic microorganisms to grow, which could subsequently cause the product to spoil.

5.2.E.17 The seventh paragraph of the 'Preserved artichokes' section of section E, 'Method of production', of the product specification has been restructured: it has been divided into two parts. The definition of the term 'sterilisation' has been expanded to make it clearer.

Grounds for this amendment: The same structure has been used as in the previous paragraphs. The text now includes the requirement that heat treatment must be sufficient to ensure that the preserved product is sterile for marketing; this is already required under current certification procedures. It would be better to allow the processors to decide which form of heat treatment to use for the preserved product, rather than specifying temperatures as the original product specification did. It stipulated that the temperature for sterilisation was between 115 °C and 121 °C: although this is the usual temperature range for sterilising preserved artichokes, in future there may be new autoclaves offering more suitable, less energy-intensive treatment methods that conserve the preserved product's texture, as is required for protected status.

5.2.E.18 In section E, 'Method of production', of the product specification, the column defining 'Class II' has been removed from the table about preserved 'Alcachofa de Tudela'.

Grounds for this amendment: The requirements for the commercial class 'Class II' have been removed from the table because the PGI does not cover this class and mentioning it may cause confusion.

5.2.E.19 In section E, 'Method of production', of the product specification, point (2) of the description of uniformity of size has been expanded to make it clearer.

Grounds for this amendment: The heart is the most highly regarded part of the artichoke, and artichokes with very large bracts are deemed to be of worse quality than artichokes with smaller bracts because less of the bract was cut away when the hearts were processed. This is why the text now stresses that uniformity is measured by looking at the uniformity of bract length. The measurement is carried out as before, namely by taking 20 % of the artichokes with longer bracts and 20 % of those with shorter bracts and showing the result as a ratio between the two.

5.2.F Amendments that do not impact key elements of section F, 'Link', of the product specification

The amendments below mainly concern the deletion of paragraphs that, while part of the 'Link' section, do not impact key elements or affect the nature of the link.

5.2.F.1 The first three paragraphs of the section '1. Historical' of section F, 'Link', of the product specification have been deleted.

Grounds for this amendment: These paragraphs have been deleted because they do not provide any specific information about 'Alcachofa de Tudela', but rather discuss irrigation in Navarre.

5.2.F.2 The reference to Maps 2 and 5 has been deleted from the section '2. Natural' of section F, 'Link', of the product specification as these are no longer included as annexes, and the wording of the section has been amended to refer to the defined area only.

Grounds for this amendment: The reference to the two maps has been deleted and the text now simply describes the defined area. The maps in the original product specification are old and their resolution is poor, and they do not add any information to the product specification.

5.2.F.3 The reference to Map 5 has been deleted from the section '2. Natural b) Soils 1. Geology and lithology' of section F, 'Link', of the product specification, as it is no longer included as an annex.

Grounds for this amendment: The reference to the maps has been deleted. The maps in the original product specification are old and their resolution is poor, and they do not add any information to the product specification.

5.2.F.4 The first five paragraphs of the section '2. Natural b) Soils 2. Soil characteristics' of section F, 'Link', of the product specification have been deleted.

Grounds for this amendment: These paragraphs have been deleted because they do not describe the soil characteristics of the soils in the defined area and instead describe general soil classification. Once again, the references to the maps have been deleted as explained above; they are no longer included as annexes.

5.2.F.5 The reference to Map 8 and the last four paragraphs have been deleted from the section '2. Natural c) Climate' of section F, 'Link', of the product specification.

Grounds for this deletion: The reference to the maps has been deleted because they are no longer part of the product specification. The paragraphs describing the climate based on the crops that could be grown have also been deleted because they are general: they discuss the potential to grow crops other than 'Alcachofa de Tudela', i.e. the crop covered by the product specification.

5.2.F.6 Some paragraphs and the reference to Map 11 have been deleted from the section '2. Natural d) Hydrography' of section F, 'Link', of the product specification.

Grounds for this amendment: The paragraphs dealing with the management of water resources have been removed from the section describing the hydrography, as they are not relevant to the characteristics of 'Alcachofa de Tudela'.

The reference to Map 11 has been deleted because it is no longer included as an annex, since it is an old map that did not provide any information.

5.2.F.7 The section '2. Natural e) Flora and natural meadows' of section F, 'Link', of the product specification has been deleted.

Grounds for this deletion: The section on flora and natural meadows has been deleted. While it provides a detailed description of the flora and natural meadows present in the defined area, it does not relate to any specific characteristics of 'Alcachofa de Tudela'.

5.2.G Drafting amendments to section G, 'Control body', of the product specification

The old text of the 'Control body' section has been overhauled: all the extraneous information has been deleted and the details of the control body have been updated.

Grounds for this amendment: The 'Control body' section in the previous version of the product specification contained information that is not relevant in this context, namely a description of the structure, powers and duties of the PGI management body as set out in national legislation. This information has been deleted and replaced with details of the control body that checks compliance with the product specification in accordance with Article 37(1)(b) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs.

5.2.H Amendments that do not impact key elements of section H, 'Labelling', of the product specification

5.2.H.1 The first two points of the 'Labelling' section of the product specification have been deleted.

Grounds for this deletion: These two points have been deleted because they do not provide any additional information and could cause misinterpretations. Two different elements may be used to certify the artichokes, namely the certification label and the band, both of which are numbered and are issued by the Regulatory Board. They are described further down.

5.2.H.2 The third point in the 'Labelling' section of the product specification has been amended: the last sentence has been deleted and the phrase 'or bands' has been added to the first sentence.

Grounds for this amendment: As mentioned in the previous paragraph, all 'Alcachofa de Tudela' packaging, be it for fresh or preserved artichokes, must feature either the band or the certification label, which is why the phrase '*or bands*' has been added. The last sentence has been deleted because it does not add anything. It is obvious that artichokes bearing neither a certification label nor a certification band are not certified products.

5.2.H.3 The fourth and fifth points of the 'Labelling' section of the product specification have been amended. The last phrase has been deleted from the fourth point and the wording of the fifth point has been amended, as they do not reflect the current certification system.

Grounds for this amendment: The last part of the fourth point has been deleted because it refers to concepts not featured in the current certification system, such as the authorisation of facilities and the disqualification of products by the Regulatory Board. The Regulatory Board is not responsible for authorising registered facilities, nor for qualifying or disqualifying the product; decisions on (dis)qualification are made by the registered operator. The text still states that labelling must take place in registered facilities. To be registered, a facility must pass all the inspections and be certified as an 'Alcachofa de Tudela' processing plant or marketing facility, as described in the 'Inspections' section.

This is also the reason for the removal of the requirement regarding authorisation of commercial labels by the Regulatory Board. Instead, the text now states that labels must be submitted to the Regulatory Board for registration. While the Regulatory Board does not authorise commercial labels, it must register all labels using the markings. The paragraph has therefore been amended to specify that labels must be submitted to the Regulatory Board. During the registration process, authorisation to use the PGI logo may be denied if the labels may confuse consumers.

Finally, the paragraph mentioning refusal by the Regulatory Board to approve labels has been deleted because under current legislation, the Regulatory Board is not responsible for approving or refusing to approve labels.

5.2.H.5 The final point of the 'Labelling' section of the product specification has been amended: the phrase '*and bands*' has been added here too, and the graphics have been included in the text instead of appearing as an annex (as was the case in the original product specification).

Grounds for this amendment: Once again, the phrase '*and band*' has been added because the certification elements are the certification label mentioned in the original text and the band.

The graphics for the logo, certification label and band have been inserted in the main document rather than being included as an annex.

5.2.I Amendments that do not impact key elements of section I, 'Applicable national legislation', of the product specification

The references to repealed national legislation have been removed. A reference has been added to the legislation on quality standards for preserved vegetables, which is relevant as it lays down the commercial classes for preserved fresh produce.

Grounds for this amendment: All of the legislation referred to in the previous list has been repealed.

Although product specifications are no longer required to include this section on applicable national legislation under Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, it has been retained in order to keep the reference to the Order of the Prime Minister's Office of 21 November 1984 approving the quality standards on preserving fresh produce, as this is legislation that is specifically applicable to preserved 'Alcachofa de Tudela'.

## SINGLE DOCUMENT

## 'ALCACHOFA DE TUDELA'

EU No: PGI-ES-0139-AM01 — 9.9.2021

PDO ( ) PGI (X)

## 1. Name(s) [of PDO or PGI]

'Alcachofa de Tudela'

## 2. Member State or Third Country

Spain

## 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 the product to which the name in (1) applies

'Alcachofa de Tudela' is obtained from artichokes of the cultivar Blanca de Tudela, grown on registered plantations.

The artichokes are the flower heads of the species *Cynara scolymus* L. 'Blanca de Tudela'. They are well-formed and have the green colour and round, slightly ellipsoidal shape that is typical of the cultivar.

'Alcachofa de Tudela' may be presented as follows:

- as fresh produce, either with a stalk (when marketed with a stalk approximately 18 cm long) or without a stalk (when the stalk is shorter than 10 cm);
- in kitchen-ready format, when peeled and packaged in such a way that the product stays fresh;
- in preserved format, as either artichoke hearts or artichoke halves, with no acidification. The final pH of the preserved product must be greater than 5,0.

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

The raw material for 'Alcachofa de Tudela' is artichokes of the Blanca de Tudela variety, originating exclusively from the defined geographical area. Only artichokes grown as an annual crop may be marketed as fresh produce, while artichokes grown as an annual or biennial crop may be used for the preserved product.

Artichokes to be sold as fresh produce must be whole, sound, free from damage caused by disease or pests, clean, and free of foreign smell and taste.

Kitchen-ready artichokes must be peeled and packaged in such a way that they remain fresh. Their characteristics must be similar to those of artichokes intended for consumption as fresh produce.

Preserved artichokes must be 'Extra Class' or 'Class I' produce, packed in glass containers with no added acidulants, and heat-sterilised. They may be sold whole or in halves.

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

The plantations in which 'Alcachofa de Tudela' is grown must be located in the 33 defined municipalities.

The warehouses and industrial facilities in which the preserved product is prepared and the fresh or kitchen-ready product packaged must be located in Navarre.

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



The contents of each pack of fresh, kitchen-ready or preserved artichokes placed on the market must be uniform and consist only of artichokes grown in the production area, of the Blanca de Tudela variety, and meeting the quality requirements applicable to the indicated commercial class.

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

All packaging used for fresh and preserved produce, whatever its format, must bear the numbered certification labels or bands issued by the Regulatory Board, which constitute the guarantee certificate for the protected product.

The labels and certification labels for the protected artichokes must be affixed in registered facilities. This applies both to artichokes sold as fresh produce and to preserved artichokes.

Registered processing and/or preparation companies must submit labels to the Regulatory Board for registration before putting them into circulation.

The PGI logo and the numbered certification label and band issued by the Regulatory Board as a guarantee of the protected product's certification are shown below:

	
<p>Logo of the PGI 'Alcachofa de Tudela'</p>	<p>Certification label</p>
	
<p>Band</p>	

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

The geographical area in which the plantations must be located is more restricted than the geographical area in which the warehouses and industrial facilities that prepare the preserved product and package the fresh or kitchen-ready product must be located.

The growing area in which 'Alcachofa de Tudela' plantations must be located consists of 33 municipalities, all of which are located in Navarre: Ablitas, Andosilla, Arguedas, Azagra, Barillas, Buñuel, Cabanillas, Cadreita, Cárcar, Cascante, Castejón, Cintruénigo, Corella, Cortes, Falces, Fitero, Fontellas, Funes, Fustiñana, Lodosa, Marcilla, Mendavia, Milagro, Monteagudo, Murchante, Peralta, Ribaforada, San Adrián, Sartaguda, Tudela, Tulebras, Valtierra and Villafranca.

The warehouses and industrial facilities in which the preserved product is prepared and the fresh or kitchen-ready product is packaged must be located in Navarre.

## 5. Link with the geographical area

The link between the geographical area and 'Alcachofa de Tudela' is based on the product's quality, which is shaped by the characteristics of the geographical area and how the artichokes are grown.

### 5.1. Specificity of the product

The only permitted variety is Blanca de Tudela, which originates in the geographical growing area and was developed through selection, over many years, by farmers in the defined area.

Only artichokes grown as an annual crop may be marketed as fresh produce, while artichokes grown as an annual or biennial crop may be used for the preserved product. The pulling-up of the plants and the elimination of 'off-type' plants makes it possible to obtain high-quality artichokes displaying the distinctive characteristics of the variety: a green colour and a round, slightly ellipsoidal shape.

The preserved product is packed in glass containers and is not acidified. This is the traditional method of producing preserved artichokes in the defined area. It makes it possible to maintain the product's natural flavour, which is more similar to that of fresh artichokes because neither acidulants nor acidity regulators are used.

### 5.2. Specificity of the geographical area

In the defined geographical area, the water system formed by the river Ebro and its tributaries the Ega, Aragón and Arga has allowed the emergence of a cultivation method fed by its waters. The combination of limy soils, a sunny climate and pronounced temperature differences between winter and summer provides the ideal conditions for artichokes.

The sole protected variety, Blanca de Tudela, was developed through selection by local producers, who have created a variety that is perfectly suited to the defined area.

### 5.3. How the specific features of the geographical area influences the product

The geographical area in which 'Alcachofa de Tudela' is grown gives it a number of distinctive characteristics. Winter dormancy, which is induced naturally by the growing area's low winter temperatures, gives the artichoke, when it buds at the end of winter, a quality that sets it apart from crops grown in more temperate and, undoubtedly, more productive areas. The artichoke that is obtained has tighter bracts and a better flavour.

The method used to produce the preserved product – i.e. not acidifying the product, and packing it in glass containers – is characteristic of the defined area and makes it possible to obtain a product with similar sensory characteristics to fresh artichokes.

'Alcachofa de Tudela', and especially the Blanca de Tudela variety, is perfectly suited to the soil and climate conditions in the defined area when irrigated. It has been grown in this area since at least the Middle Ages.

There are numerous bibliographic references to 'Alcachofa de Tudela'. The critic Caius Apicius (Cristiano Alvarez) refers to 'Alcachofa de Tudela' as 'the queen of all artichoke varieties'. Many traditional recipes in the defined area are based on 'Alcachofa de Tudela' and, as Victor Manuel Sarobe notes in the book 'La cocina popular navarra' [The traditional cooking of Navarre], 'Alcachofa de Tudela' is an ingredient in authentic Tudela *menestra* [vegetable and pulse stew].

## Reference to publication of the specification

<https://bit.ly/3iY2g7O>

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**Publication of the single document referred to in Article 94(1)(d) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council and of the reference to the publication of the product specification for a name in the wine sector**

(2023/C 129/06)

This publication confers the right to oppose the application pursuant to Article 98 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council <sup>(1)</sup> within two months from the date of this publication.

SINGLE DOCUMENT

**'Schouwen-Duiveland'**

**PDO-NL-02775**

**Date of application: 10.6.2021**

**1. Name to be registered**

Schouwen-Duiveland

**2. Geographical indication type**

PDO - Protected Designation of Origin

**3. Categories of grapevine products**

1. Wine
5. Quality sparkling wine

**4. Description of the wine(s)**

*Category 1: Wine, Wine type: White wine, dry, fruity*

Grape varieties: the white varieties on the varieties list (the proportion varies according to year)

Organoleptic properties:

Colour: green/yellow

Aroma: green apple, grapefruit and honey

Taste: dry, fresh and briny, with balanced acids and notes of peach, pear and chalk

Analytical characteristics of the wines:

Sugar content: from 0 to 9 grams per litre

The characteristics below for which no values are specified are in line with the limits laid down in the EU Regulations.

General analytical characteristics

Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	11,5
Minimum total acidity	73,15 in milliequivalents per litre
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

*Category 1: Wine, Wine type: White wine, dry, aged in wooden barrels*

Grape varieties: the white varieties on the varieties list (the proportion varies according to year)

Organoleptic properties:

Colour: light yellow to yellow

Aroma: vanilla, citrus, with smoky notes

Taste: a full-bodied, dry wine with woody notes, soft acids and chalk

Analytical characteristics of the wines:

Sugar content from 0 to 9 grams per litre

The characteristics below for which no values are specified are in line with the limits laid down in the EU Regulations.

General analytical characteristics	
Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	12
Minimum total acidity	73,15 in milliequivalents per litre
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

*Category 1: Wine, Wine type: Semi-dry, semi-sweet white wine, fruity character*

Grape varieties: the white varieties on the varieties list (the proportion varies according to year)

Organoleptic properties:

Colour: pale, almost colourless to light yellow

Aroma: roses, yellow apple, lychee and passion fruit

Taste: full-bodied wine with a sweet finish, with peach/pear notes and soft acids

Analytical characteristics of the wines:

Sugar content from 10 to 45 grams per litre

The characteristics below for which no values are specified are in line with the limits laid down in the EU Regulations.

General analytical characteristics	
Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	12
Minimum total acidity	73,15 in milliequivalents per litre
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

*Category 1: Wine, Wine type: White wine, sweet, fruity character*

Grape varieties: the white varieties on the varieties list (the proportion varies according to year)

Organoleptic properties:

Colour: light yellow to yellow

Aroma: quince, apricot and apple

Taste: sweet wine with notes of quince, honey, pepper and candied fruit

Analytical characteristics of the wines:

Sugar content more than 45 grams per litre

The characteristics below for which no values are specified are in line with the limits laid down in the EU Regulations.

General analytical characteristics	
Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	12
Minimum total acidity	73,15 in milliequivalents per litre
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

*Category 5: Quality sparkling wine, Wine type: Sparkling white, fruity*

Grape varieties: the white varieties on the varieties list (the proportion varies according to year)

Organoleptic properties:

Colour: pale, almost colourless to light yellow

Aroma: fresh, green apple, pear and apricot

Taste: Lively and refreshing, briny, apple, almond, with a fine mousse

Analytical characteristics:

Sugar content from 0 to 12 grams per litre

The characteristics below for which no values are specified are in line with the limits laid down in the EU Regulations.

General analytical characteristics	
Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	11,5
Minimum total acidity	73,15 in milliequivalents per litre
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

## 5. Wine making practices

### a. Essential oenological practices

*Wine category 1: Wine, Wine type: Dry white wine, fruity character / semi-dry, semi-sweet white wine, fruity character / sweet white wine, fruity character*

Specific oenological practice

Cold fermentation at below 20 °C (exception: the temperature is increased at the beginning of fermentation for wines that are difficult to ferment)

*Wine category 1: Wine, Wine type: White wine, dry, full-bodied, stored in wood*

Specific oenological practice

Cold fermentation at below 20 °C (exception: the temperature is increased at the beginning of fermentation for wines that are difficult to ferment)

Ageing in wooden barrels of at least 50 % of the volume for a minimum of 6 months

*Wine category 5: Quality sparkling wine, Wine type: Quality sparkling wine, white, full fruity character*

Specific oenological practice

Cold fermentation at below 20 °C (exception: the temperature is increased at the beginning of fermentation for wines that are difficult to ferment)

Second fermentation in the bottle using the traditional method.

### b. Maximum yields

For all grape varieties listed

75 hectolitres per hectare

## 6. Demarcated geographical area

The demarcated geographical area is the entire island of Schouwen-Duiveland, constituting the municipality of 'Schouwen-Duiveland'.

The size of the area is 48 800 ha.

## 7. Main wine grapes variety(ies)

Auxerrois B

Cabernet Blanc B (VB-91-26-1)

Gewürztraminer Rs

Müller Thurgau B

Pinot Gris G

Pinot Blanc B

Souvignier Gris

## 8. Description of the link(s)

*Demarcated geographical area*

The terroir – all of the influences on the vine in the vineyard – has a major impact on the quality of wine. Within the defined geographical area of Schouwen-Duiveland, all aspects of the terroir – climate, location, soil, vineyard management, variety selection and vinification – contribute to the quality of the wines in both wine categories (1. Wine and 5. Quality sparkling wine).

#### Climate:

Data from the Royal Dutch Meteorological Institute (Koninklijk Nederlands Meteorologisch Instituut – KNMI) confirm that the mild sea climate, with longer hours and a higher intensity of sunlight, helps the grapes to ripen well. The location of the island means that the line of dunes causes a break in the clouds (resulting in more sunlight) and there is slightly less rainfall than in other parts of the Netherlands (which is beneficial to the health of the grapes).

The KNMI data give the 2018 and 2019 Huglin index as 1 746 and 1 572 (to the end of September), indicating the area's suitability for wine-growing (over 1 500). At the same time, there is an average of 0,5 hours more sun per day compared with other areas in the Netherlands (which is good for ripening through photosynthesis).

#### Soil and location:

The location, in the bed of what used to be the river (the Gouwe) between Schouwen and Duiveland, is characterised by calcareous sandy clay loam with extra shell lime up to 80 cm deep (mature soil). The combination of sandy clay loam (marine clay soil) with lime forms an ideal soil due to its ability to preserve moisture and richness in minerals/lime for growing and maturing the grapes.

The position close to the sea provides a saline environment (sea breeze) which helps to prevent disease and has a positive impact on the taste of the wine.

The frequent breezes ensure that the vineyard is well-ventilated and dries quickly after precipitation, which facilitates a longer ripening period (healthy grapes for optimal phenological ripeness).

The unique feature of this area is that it is an island surrounded by water on the edge of the North Sea, with salty winds (bringing sea salt), more hours of sunshine, and sandy clay loam soil rich in lime (from shellfish). Together these aspects produce a pronounced freshness and minerality in the wines. In addition, the tides and the location of the dunes bring reduced precipitation, infrequent hail and more sunshine, resulting in more extract in the wines. Depending on the variety, the wines have deeply fresh flavours but also profound hints of peach/pear with deeply spicy/mineral notes such as gooseberries, saltiness, lime, honey and aniseed.

#### *Human aspects (cultivation/vinification)*

The varieties were chosen because they are suited to the climate and soil, so the grapes achieve optimal ripeness.

This is accentuated by the planting method (enough sun, enough soil per plant) and, if necessary, the thinning of bunches.

Careful harvest management (checking of sugars, acids and aromas) and vinification (cold fermentation, ageing in wooden barrels) complete the production of quality wines from these grapes.

Details of the actions taken by humans are as follows:

- The use of green harvesting (removal of bunches) to ensure that the vine can feed each bunch enough to achieve the right ripeness, improving the ripeness of the grapes.
- The correct harvest time is determined by measuring the combination of sugar/acid and aroma, combined with a precise weather forecast and a good picture of the health of the grapes. These factors are all taken into account when deciding when to harvest (harvesting of optimally ripe grapes).
- Circular cultivation, use of prunings (chopped) and pomace (peelings) on the rows.
- Vine shoots are topped during growing weather to ensure that the nutrients get to the bunches.

Details for the other wine categories (not the category 'wine')

- Quality sparkling wine

For quality sparkling wine, the base wine has the same organoleptic characteristics as for the category 'wine'. It also has the characteristics resulting from the transformation of the base wine into sparkling wine using bottle fermentation (the traditional method), which gives the wine its beautiful mousse. The wine has an excess pressure of at least 3,5 bar. The cuvée used for quality sparkling wine has a minimum total alcoholic strength by volume of 11 %.

*Link/summary*

The combination of the soil (seabed), climate (marine climate) and human aspects results in recognisable varietal and cuvée wines, full-bodied and fruity, wines with a citrus aroma and sparkling wines with a characteristic mousse, which pair very well with seafood. This freshness is uniquely underpinned by the marine climate and the marine clay soil containing shell lime (salinity in air and soil).

**9. Essential further conditions**

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**Link to the product specification**

<https://www.rvo.nl/sites/default/files/2021/01/Productdossier%20BOB%20Schouwen%20Duiveland.pdf>

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**Publication of an application for registration of a name 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**

(2023/C 129/07)

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

SINGLE DOCUMENT

**’Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene’**

**EU No: PDO-BG-02656 — 4.2.2021**

**PDO (X) PGI ( )**

**1. Name(s) [of PDO or PGI]**

’Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene’

**2. Member State or Third Country**

Republic of Bulgaria

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

**3.1. Type of product**

Class 1.3 – Cheese

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

’Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene’ is a fermented milk product made from whole cow’s, sheep’s, goat’s, buffalo’s or mixed milk with the addition of starter cultures containing *Lactococcus lactis* subsp. *lactis* and *Lactobacillus casei*, as well as symbiotic starters from the bacteria *Lactoba-cillus delbrueckii* subsp. *bulgaricus* and *Streptococcus thermophilus*, obtained by curdling with yeast for cheese, that has undergone necessary treatment, matured in brine and is in-tended for consumption.

Organoleptic characteristics

- Appearance: White, porcelain-like clean cut, with or without isolated air pockets caused by bacteria, without obvious layering, with a colour specific to the type of milk. The pieces are well formed, separate easily, and do not crumble.
- Shape: Parallelepiped pieces with a square base and rectangular sides – length: 100 to 220 mm, width: 100 to 110 mm, height: 80 to 100 mm.
- Size: Between 0,2 and 2,0 kg.
- Colour: White, with a specific shade of colour specific to each type of milk.
- Texture: Moderately firm, pliant.
- Flavour: Specific to mature cheese in brine. Moderately salty with a pleasantly pronounced lactic acid flavour. It is the composition of the starter and the maturation in brine that determine the taste and aroma of the product, rather than the type of milk from various animals. The starter cultures, in which *Lactobacillus delbrueckii* subsp. *bulgaricus* and *Streptococcus thermophilus* have a symbiotic relationship, as well as the fermentation processes, influence the typical organoleptic properties of the product.

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

#### Physico-chemical parameters

- The dry matter of the finished product must be at least 46 % for 'Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene' made of cow's, goat's and mixed milk, and not less than 48 % for 'Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene' made of sheep's and buffalo's milk.
- The fat content in the dry matter must be not less than 44 % for cow's and goat's milk, 48 % for buffalo's and sheep's milk, and 45 % for mixed milk.
- The acidity of the finished product must be between pH 4,2 and 4,4 or between 200 and 300 °T.
- Preservatives, stabilisers and emulsifiers are not allowed in the finished product.
- The percentage of salt must be 3,5 % ± 0,5 % in the total mass of the cheese and 6 to 10 % in the brine.
- The degree of maturity (ratio of soluble to total protein, in %) is not less than 14 % for cheese made of cow's, buffalo's, goat's and mixed milk and 16 % for cheese made of sheep's milk.
- This degree of ripeness takes place with a minimum maturing period of 45 days for cheese made of cow's and goat's milk and 60 days for cheese made of sheep's, buffalo's and mixed milk.

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

Feed from outside the geographical area is up to 20 % annually. Supplementation is necessary in unfavourable climatic conditions, when the feed produced in the geographical area is insufficient. Since the animals are given only a small amount of feed from outside the geographical area, the characteristics of the product, which are mainly due to the geographical environment, are unaffected.

In addition to feed, the animals are pasture fed. The pastures are spread throughout the country. The grazing period lasts from March to November. The natural and climatic conditions in Bulgaria favour livestock farming and the year-round feeding of animals with a mixture of grasses, used both fresh and in the form of hay and silage. The longer grazing period is the reason for the diversity of minerals and vitamins in the composition of raw milk. It has a specific balanced content of the main ingredients such as mineral substances (potassium, magnesium, phosphorus and calcium), proteins and vitamins (A, B, E, D and folic acid) resulting from the grazing of dairy animals. These nutrients are present in the finished product.

The raw milk used in the production of 'Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene' originates in the Republic of Bulgaria. A distinguishing feature of the raw milk is the high level of *Lactobacillus delbrueckii subsp. bulgaricus*.

The starter cultures of the bacteria *Lactococcus lactis subsp. lactis* and *Lactobacillus casei*, as well as the symbiotic starter cultures of the bacteria *Lactobacillus delbrueckii subsp. bulgaricus* and *Streptococcus thermophilus*, which are not subject to genetic modification, must also be produced on the territory of the Republic of Bulgaria.

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

All stages in the production process take place on the territory of the Republic of Bulgaria.

Stage 1 – Acceptance, classification, standardisation and storage of raw materials

Stage 2 – Milk pasteurisation

Stage 3 – Milk curdling

Stage 4 – Cutting and processing of rennet coagulum

Stage 5 – Pressing of the curd

Stage 6 – Salting – wet or dry option

Stage 7 – Pre-maturation

Stage 8 – Additional salting and closing of packages

Stage 9 – Cheese maturation in brine

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

The product is cut, packaged and labelled in the dairy plant in the Republic of Bulgaria where it was produced. Packaging in consumer units after the maturation stage has been completed must take place in the dairy plant in the Republic of Bulgaria where the product was produced. Otherwise, there is a risk of changes in the physico-chemical, microbiological and taste qualities of the product. The product must be packaged immediately after removal from the brine in order to limit contact with air. The product is highly hygroscopic, meaning that it absorbs other odours very easily, possibly giving it a bad taste and affecting its quality. The cheese may be packaged in well-sealed vacuum packs of polyethylene film, metal tins, plastic boxes and wooden casks.

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

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

The geographical area in which 'Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene' is produced is the Republic of Bulgaria.

5. **Link with the geographical area**

'Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene' is known by this name in Bulgaria and worldwide. It has been the subject of numerous journals and publications.

The cheese is produced throughout Bulgaria according to a well-established technique. Favourable natural and climatic conditions in Bulgaria contribute to the development of lactic bacteria such as *Lactobacillus delbrueckii subsp. bulgaricus*, which is used in its production and affects its specific characteristics.

Dr Stamen Grigoroff, a medical student at the University of Geneva, was credited with the discovery of the bacterium in 1905. Soon thereafter, in 1907, the rod-shaped micro-organism he discovered was named *Bacillus bulgaricus* (Grigoroff), currently known according to Bergey's classification as *Lactobacillus delbrueckii subsp. bulgaricus* (the name emphasising the connection with the territory).

5.1. *Specificity of the geographical area*

A relatively mild climate with moderate amounts of heat and moisture is typical for Bulgaria, the geographical area where the cheese is produced. The average annual temperature for most of Bulgaria is between 10 °C and 14 °C, typical of temperate latitudes. Natural and climatic conditions are a prerequisite for the presence of pastures in both plains and mountain areas, which favours milk production. Natural and sown pastures and meadows provide a balanced and varied diet for the animals due to the presence of grasses, legumes and cereals. These cultures thrive in both lowland and high mountain areas. Over 2 000 types of herbs such as melilot, field wormwood, Shepherd's purse and others grow on natural pastures. The main biologically active substances responsible for their antioxidant properties are phenolic derivatives, and vitamins A, E and C. They benefit the aroma of the feed and the aroma and composition of raw milk. The grazing of dairy animals, as well as supplementary feeding with feed mainly from the geographical area, affects positively the mineral and vitamin content of the composition of the raw milk. The chemical composition, physico-chemical properties and biological maturity influence the taste and quality of the product.

The climatic conditions contribute to the development of lactic bacteria such as *Lactobacillus delbrueckii subsp. bulgaricus*, ubiquitous in Bulgaria. The bacterium is naturally available in Bulgaria, where it is found in large quantities, in its flora and fauna, and in the dew of the grass of the meadows and in spring waters. The specialist scientific journal *Scripta Scientifica Pharmaceutica* (vol. 1, 2014, p. 25) establishes that '*Lactobacillus delbrueckii subsp. bulgaricus* reproduces only on the territory of modern Bulgaria [...]. In other parts of the world, it mutates and stops reproducing after 1-2 fermentations.' It is the bacterium that affects the specific characteristics of the product.

## 5.2. Human factors

The cheese-making industry in Bulgaria boasts a long historical tradition. Historical references to cheese dairies date back to as early as 1558. Passed down the generations, the know-how and traditions held by Bulgarian local family farms are crucial for the production of this cheese. The cheesemakers apply their skills in the technological process, in curdling the milk, cutting the rennet coagulum, pressing the curd and salting it. When the milk is curdled, they monitor the temperature of the raw milk as well as the amount of yeast and starter, as these are crucial for the formation of quality rennet coagulum. The cheesemakers stir the curd by hand with smooth movements in order to avoid fragmentation of the rennet coagulum. Proper manual processing of the rennet coagulum is important to achieve a moderately firm and elastic consistency. Again, by hand, using special multi-cutter knives, the rennet coagulum is cut into cubes of a certain size. *Млекопръто* [Dairy farming] (prof. Nikola Dimov et al., Sofia, 1975) describes pressing as the most delicate stage, which 'must be adapted so as to allow the excess whey to be separated, the cheese mass to be compacted and the desired crust to form on the surface of the mould'. The knowledge and skills of the cheesemakers are also manifested in the salting process, as the correct and timely salting achieves a moderately salty specific taste. The degree of salting and the rate at which the product is salted are monitored, which affects considerably the microbiological and biochemical processes during maturation and storage. Machinery was introduced in the course of industrialisation but curdling and processing continue to be performed by hand. The craft of cheesemaking is passed down from artisan to artisan, so that the traditional method of making the product is preserved.

The knowledge and skills required for the cheese production have been described in a number of books. In 1872, *Читалище* magazine published an article entitled 'Производство на сирене' [Cheese production] and in 1903, the technique was described by Hristo G. Tahtunov in his book *Как се прави кашкавал и бяло саламурено сирене* [How to make yellow cheese and white brined cheese]. Two years later, Dr Stamen Grigoroff discovered the bacterium *Lactobacillus delbrueckii subsp. bulgaricus*, whose strains were isolated and selected in Bulgaria. Combined with *Streptococcus thermophilus* at a ratio of 1:1 and at a temperature of 39-40 °C, *Lactobacillus delbrueckii subsp. bulgaricus* adapts to the fermentation process as the cheese matures. The maturing of the cheese gives which 'Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene' its specific taste and aroma. In 1934, the Bulgarian Agricultural Company introduced the pasteurisation of raw milk and the use of pure cultures in the production. Subsequently, research by the Institute of Milk Industry in Vidin also revealed that the involvement of the Bulgarian bacterium *Lactobacillus delbrueckii subsp. bulgaricus* in the production of the product formed the basis of its specific taste and aroma.

## 5.3. Characteristics of the product

The specific flavour and texture of the product, as its main characteristics, are achieved by means of a traditional production technology, in which the lactic acid bacteria *Lactobacillus delbrueckii subsp. bulgaricus* plays a decisive role.

The main function of lactic bacteria in the starter cultures is to produce lactic acid during lactic fermentation. Their enzymes are involved in proteolysis and in the conversion of amino acids into aromatic compounds, and also contribute to the maturing of the cheese. Obtaining the specific flavour of the cheese is a complex process due to the unique mix of microbiological, biochemical and technological factors. The taste of the product is formed not only by the pleasant lactic-acid flavour of this starter and the brine, but also by the light, unobtrusive bitterness of the breakdown products of complex proteins and of certain amino acids, in particular glutamic acid. During maturation, about 130 types of volatile substances: amines, aldehydes, alcohols, carboxylic acids, methyl ketones, ethyl esters, sulphur compounds and aromatic hydrocarbons, are formed in the brine, giving the product its characteristic taste and aroma. The combination of the flavour and aroma forms the 'bouquet' of the cheese.

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

The natural and climatic conditions of the geographical area, characterised by moderate amounts of heat and moisture, favour the development of lactic bacteria typical of the regional microflora, such as *Lactobacillus delbrueckii subsp. bulgaricus*. Starter cultures of *Lactobacillus delbrueckii subsp. bulgaricus* and *Streptococcus thermophilus* affect the pleasant lactic acid flavour and aroma of which 'Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene'. They are formed during the maturation process in the brine. This cheese is produced by means of specific microbiological processes thanks to pure cultures with *Lactobacillus delbrueckii subsp. bulgaricus* and to specific parameters favourable to their development.

The traditions and skills of the cheesemakers assume a crucial role in the production. They are applied in the technological process, specifically in curdling the milk, cutting the rennet coagulum, pressing the curd and salting it. When the milk is curdled, they monitor the temperature of the raw milk as well as the amount of yeast and starter, as these are crucial for the formation of quality rennet coagulum. This is important for achieving its moderately firm and elastic consistency. Cutting the rennet coagulum by hand using special multi-cutter knives is also important. The knowledge and skills of the cheesemakers are also manifested in the salting process, which achieves a moderately salty specific taste.

The product also owes its specific characteristics to the raw milk, which has to come from the geographical area. The grazing of dairy animals in this area affects the aroma and the taste of raw milk and the high level of *Lactobacillus delbrueckii subsp. bulgaricus*. The longer grazing period is the reason for the diversity of minerals and vitamins in the composition of raw milk. It has a specific balanced content of mineral substances such as potassium, magnesium, phosphorus and calcium, proteins and vitamins (A, B, E, D and folic acid) The chemical composition, physico-chemical properties and biological maturity of the milk, as well as the maturation conditions, significantly affect the quality and taste of the cheese.

'Българско бяло саламурено сирене / Bulgarsko byalo salamureno sirene' has a wide range of uses in cooking, as its structure becomes elastic when heated. The product is an ingredient in traditional dishes in the region including shopska salad, 'banitsa' [a pastry dish], 'mish-mash' [a vegetable egg scramble] as described by Maria Baltadzhieva.

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

<https://www.mzh.government.bg/bg/politiki-i-programi/politiki-i-strategii/politiki-po-agrohranitelnata-veriga/zashiteni-naimenovaniya/blgarsko-byalo-salamureno-sirene/>

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