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II

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

EUROPEAN COMMISSION

Communication from the Commission amending the Annex to the Communication to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance

(2016/C 244/01)

I. INTRODUCTION

- (1) The Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance ⁽¹⁾ (the 'Communication') stipulates in paragraph 13 that State insurers ⁽²⁾ cannot provide short-term export-credit insurance for marketable risks. Marketable risks are defined in paragraph 9 as commercial and political risks with a maximum risk period of less than two years, on public and non-public buyers in the countries listed in the Annex to that Communication.
- (2) As a consequence of the difficult situation in Greece, a lack of insurance or reinsurance capacity to cover exports to Greece was observed in the years from 2012 until 2014. This led the Commission to amend the Communication by temporarily removing Greece from the list of marketable risks countries in 2013 ⁽³⁾, in 2014 ⁽⁴⁾, during the first six months of 2015 ⁽⁵⁾, and in June 2015 ⁽⁶⁾. The most recent extension of this amendment expires on 30 June 2016. As a consequence, as from 1 July 2016, Greece would in principle be considered again as marketable, since all EU Member States are included in the list of marketable countries listed in the Annex to the Communication.
- (3) However, in accordance with paragraph 36 of the Communication, the Commission started to review the situation several months before the end of Greece's temporary removal in order to determine whether the current market conditions justify the expiry of Greece's removal from the list of marketable risk countries as of 1 July 2016, or whether the market capacity is still insufficient to cover all economically justifiable risks, so that a prolongation is needed.

II. ASSESSMENT

- (4) When determining whether the lack of sufficient private capacity to cover all economically justifiable risks justifies the prolongation of the temporary removal of Greece from the list of marketable risk countries, the Commission consulted and sought information from Member States, private credit insurers and other interested parties. On 27 April 2016, the Commission published an information request on the availability of short-term export-credit insurance for exports to Greece ⁽⁷⁾. The deadline for replies expired on 24 May 2016. Seventeen replies were received from Member States and private insurers.
- (5) The information submitted to the Commission in the context of the public information request indicates that private export-credit insurers have not become less restrictive to provide insurance coverage for exports to Greece in all trade sectors. At the same time, State insurers continued to register sizeable demand for credit insurance for exports to Greece, which corroborates the limited availability of private insurance.

⁽¹⁾ OJ C 392, 19.12.2012, p. 1.

⁽²⁾ A State insurer is defined by the Communication as a company or other organisation that provides export-credit insurance with the support of, or on behalf of, a Member State, or a Member State that provides export-credit insurance.

⁽³⁾ OJ C 398, 22.12.2012, p. 6.

⁽⁴⁾ OJ C 372, 19.12.2013, p. 1.

⁽⁵⁾ OJ C 28, 28.1.2015, p. 1.

⁽⁶⁾ OJ C 215, 1.7.2015, p. 1.

⁽⁷⁾ http://ec.europa.eu/competition/consultations/2016_export_greece/index_en.html

- (6) The economic outlook for Greece has worsened considerably over the past year. While in May 2015, real GDP growth for 2016 was expected to amount to + 2,9 %, the latest forecast, published in May 2016, expects the Greek economy to contract by - 0,3 % ⁽¹⁾. Growth is expected to pick up again in the second half of 2016, but uncertainties remain large. The projected recovery is contingent on positive financial market and trade developments. It will also depend on the ability to fully implement the reform programme.
- (7) These tensions also influence financial market sentiment negatively. In early June 2016, the Greek 10-year government bond was traded at a yield of 7,3 %. Yields have come down in anticipation of the deal between Greece and its creditors reached on 24 May 2016, but remain elevated compared to other EU Member States and historical values.
- (8) Greece's sovereign credit ratings currently are Caa3 (Moody's), B - (Standard & Poor's), and CCC (Fitch). All of these put Greece in the non-investment grade category and point towards substantial risks for creditors.
- (9) In these circumstances the Commission expects that private export-credit insurers will continue to be very cautious in providing insurance coverage for exports to Greece or even completely withdraw from the Greek market. Private insurers will likely resume increasing their exposure, only if there is more visibility and clarity regarding the political and economic policies in Greece and if a significant improvement of the economic situation is noticed.
- (10) For those reasons, the Commission established a lack of sufficient private capacity to cover all economically justifiable risks and decided to prolong the removal of Greece from the list of marketable risks until 30 June 2017. The conditions of coverage set out in section 4.3 of the Communication are applicable in this case.

III. AMENDMENT TO THE COMMUNICATION

- (11) The following amendment to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance will apply from 1 July 2016 until 30 June 2017:

— the Annex is replaced by the following:

'ANNEX

List of marketable risk countries

All Member States with the exception of Greece

Australia

Canada

Iceland

Japan

New Zealand

Norway

Switzerland

United States of America'

⁽¹⁾ DG ECFIN Spring 2016 forecast, http://ec.europa.eu/economy_finance/eu/forecasts/2016_spring/el_en.pdf

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

4 July 2016

(2016/C 244/02)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,1138	CAD	Canadian dollar	1,4328
JPY	Japanese yen	114,29	HKD	Hong Kong dollar	8,6418
DKK	Danish krone	7,4410	NZD	New Zealand dollar	1,5452
GBP	Pound sterling	0,83905	SGD	Singapore dollar	1,4989
SEK	Swedish krona	9,3910	KRW	South Korean won	1 278,83
CHF	Swiss franc	1,0839	ZAR	South African rand	16,1416
ISK	Iceland króna		CNY	Chinese yuan renminbi	7,4229
NOK	Norwegian krone	9,2538	HRK	Croatian kuna	7,5180
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	14 586,69
CZK	Czech koruna	27,095	MYR	Malaysian ringgit	4,4459
HUF	Hungarian forint	316,93	PHP	Philippine peso	52,176
PLN	Polish zloty	4,4304	RUB	Russian rouble	71,0115
RON	Romanian leu	4,5133	THB	Thai baht	39,028
TRY	Turkish lira	3,2284	BRL	Brazilian real	3,6131
AUD	Australian dollar	1,4792	MXN	Mexican peso	20,4241
			INR	Indian rupee	74,9065

⁽¹⁾ Source: reference exchange rate published by the ECB.

Commission notice on the customs enforcement of Intellectual Property Rights concerning goods brought into the customs territory of the Union without being released for free circulation including goods in transit

(2016/C 244/03)

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1. OBJECTIVE

The ‘Guidelines of the European Commission concerning the enforcement by EU customs authorities of intellectual property rights with regard to goods, in particular medicines, in transit through the EU’ published by the Commission services on 1 February 2012 on the Website of the Directorate-General for Taxation and Customs Union (TAXUD) need to be updated to reflect:

- Regulation (EU) No 608/2013 ⁽¹⁾ which has replaced Council Regulation (EC) No 1383/2003 ⁽²⁾;
- The trade mark package (Regulation (EU) 2015/2424 ⁽³⁾ has amended Council Regulation (EC) No 207/2009 ⁽⁴⁾ and Directive (EU) 2015/2436 ⁽⁵⁾ has been adopted).

Regulation (EU) No 608/2013 sets out the conditions and procedures for administrative customs enforcement of Intellectual Property Rights (IPR) and it has notably extended the scope of IPR relevant to customs enforcement (trade mark, design, copyright and related right, geographical indication, patent, plant variety right, topography of semi-conductor product, utility model, trade name).

The provisions of Regulation (EU) No 608/2013 on customs enforcement of IPR must be applied taking into account the need to promote effective and adequate protection of intellectual property rights and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade, as stated in the preamble and Article 41 of the Agreement on Trade-Related Aspects of Intellectual Property Rights agreement (TRIPS agreement) of the World Trade Organisation (WTO) ⁽⁶⁾.

⁽¹⁾ Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights (OJ L 181, 29.6.2013, p. 15).

⁽²⁾ Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (OJ L 196, 2.8.2003, p. 7).

⁽³⁾ Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015 amending Council Regulation (EC) No 207/2009 on the Community trade mark and Commission Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trade mark, and repealing Commission Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OJ L 341, 24.12.2015, p. 21).

⁽⁴⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ L 78, 24.3.2009, p. 1).

⁽⁵⁾ Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ L 336, 23.12.2015, p. 1).

⁽⁶⁾ Annex 1C to the Marrakesh Agreement Establishing the World Trade Organization, signed in Marrakesh, Morocco on 15 April 1994.

The trade mark package now extends the rights of the proprietor of a trade mark registered at Union level as a European Union trade mark or at Member State level as a national trade mark to prevent third parties from bringing, in the course of trade, into the Union without being released for free circulation, goods coming from third countries and bearing without authorisation a trade mark which is identical with the trade mark registered in respect of such goods or which cannot be distinguished in its essential aspects from that trade mark. This has to be taken into account in the customs enforcement of IPR.

This document therefore replaces the 'Guidelines of the European Commission concerning the enforcement by EU customs authorities of intellectual property rights with regard to goods, in particular medicines, in transit through the EU'.

2. GOODS INFRINGING AN INTELLECTUAL PROPERTY RIGHT IN THE CONTEXT OF CUSTOMS ENFORCEMENT

Regulation (EU) No 608/2013 contains enforcement procedures to permit action by customs authorities against goods suspected of infringing intellectual property rights. Article 2 of the Regulation lists the intellectual property rights relevant to customs enforcement. Regulation (EU) No 608/2013 sets out the conditions and procedures for action by the customs authorities with regard to goods suspected of infringing an intellectual property right which are, or should have been, under their supervision or control (Article 1(1)), as the procedural powers of customs authorities are limited to ascertaining whether goods are 'goods suspected of infringing an intellectual property right' as defined in Article 2(7).

Regulation (EU) No 608/2013 does not set out any criteria for ascertaining the existence of an infringement of an intellectual property right (recital 10). The question of whether an intellectual property right is infringed is a matter for substantive intellectual property law, as interpreted by the competent national courts and the Court of Justice of the European Union.

2.1. Goods coming from third countries without being released for free circulation

For goods brought into the customs territory of the Union without being released for free circulation, the relevant intellectual property rights may be infringed when, during their presence within the customs territory of the Union (for instance, placed under a special procedure according to the Union Customs Code⁽¹⁾), or even before their arrival in that territory, these goods are the subject of a commercial act directed at the market of the Union, such as a sale, offer for sale or advertising (see, to that effect, *Philips/Nokia cases*, paragraph 57⁽²⁾), or where it is apparent from documents (e.g. instruction manuals) or correspondence concerning the goods that their diversion to the market of the Union is envisaged, without the authorisation of the right holder.

Therefore, goods coming from a third country without being released for free circulation which are suspected of violating an intellectual property right protected in the European Union by, for example, a trade mark, a copyright or a related right, a design or a patent, may be classified as 'goods suspected of infringing an intellectual property right' where there is evidence that they are intended to be put on sale in the European Union. Such evidence might indicate that the goods have been sold to a customer in the European Union or offered for sale or advertised to consumers in the European Union (see, to that effect, *Philips/Nokia cases*, paragraph 78).

2.2. Goods coming from third countries without being released for free circulation and bearing an identical or essentially identical trade mark

Regulation (EC) No 207/2009 as amended by Regulation (EU) 2015/2424 and Directive (EU) 2015/2436 extend the rights of the proprietor of a trade mark registered at Union level as a European Union trade mark or at Member State level as a national trade mark to prevent third parties from bringing, in the course of trade, into the Union without being released for free circulation, goods coming from third countries and bearing without authorisation a trade mark which is identical with the trade mark registered in respect of such goods or which cannot be distinguished in its essential aspects from that trade mark (hereinafter referred to as 'identical or essentially identical trade mark goods') even if the goods are not intended to be placed on the market of the Union. As explained in recital 15 of Regulation (EU) 2015/2424, the objective is 'to strengthen trade mark protection and combat counterfeiting more effectively, and in line with international obligations of the Union under the framework of the World Trade Organisation (WTO) (...)'.

⁽¹⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

⁽²⁾ Joined cases C-446/09 and C-495/09.

The new provisions concerning the treatment of identical or essentially identical trade mark goods brought into the Union territory, without being released for free circulation, are applicable as follows:

European Union trade marks

- In the case of the European Union trade mark, Regulation (EU) 2015/2424 entered into force on 23 March 2016 (Article 4) and became applicable on the same day. Therefore, customs authorities may, as of 23 March 2016, take action in relation to goods from third countries brought into the customs territory of the Union without being released for free circulation and bearing an identical or essentially identical trade mark to an EU trade mark.

National trade marks

- In the case of national trade marks, Directive (EU) 2015/2436 entered into force on 12 January 2016 (Article 56). Member States, in accordance with Article 54 of the Directive (EU) 2015/2436, shall adjust their national trade mark law, regulations and administrative provisions to implement the Directive by 14 January 2019. This means that, in the case of national trade marks, the new provisions concerning identical or essentially identical trade mark goods brought into the Member State where the trade mark is registered, without being released for free circulation, will be applicable in that Member State once the laws, regulations and administrative provisions necessary to comply with Article 10 of the Directive are adopted and in force, which may happen any time before 14 January 2019. Customs authorities in each Member State should therefore follow closely their national trade mark law revision in order to know from which date they should apply the provisions on transit for the national trade marks. Customs authorities may take action in relation to goods coming from third countries without being released for free circulation and bearing an identical or essentially identical trade mark to a national trade mark as of the date the national provisions are in force and apply in that Member State.

Proprietor rights in relation to identical or essentially identical trade mark goods

Article 9(4) of Council Regulation (EC) No 207/2009 as amended by Regulation (EU) 2015/2424 reads as follows:

'Rights conferred by an EU trade mark

[...] 4. Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the EU trade mark, the proprietor of that EU trade mark shall also be entitled to prevent all third parties from bringing goods, in the course of trade, into the Union without being released for free circulation there, where such goods, including packaging, come from third countries and bear without authorisation a trade mark which is identical with the EU trade mark registered in respect of such goods, or which cannot be distinguished in its essential aspects from that trade mark. [...]' (*emphasis added*)

Rights conferred by a national trade mark

Article 10(4) of the Directive (EU) 2015/2436 reads in similar terms as those used in Article 9(4) of Council Regulation (EC) No 207/2009 as amended by Regulation (EU) 2015/2424, extending the rights of the proprietor of a registered national trade mark with regard to goods brought into the territory of the Member State which bear, without authorisation, a trade mark which is identical or essentially identical to the registered national trade mark without those goods being released for free circulation in the Member State.

It is to be noted that according to the wording and purpose of these new provisions, the rights of the trade mark proprietor shall not only extend to goods bearing a sign which is identical to the registered trade mark of its proprietor (that is a sign which either reproduces, without any modification or addition, all the elements constituting the protected trade mark or which, viewed as a whole, contains differences so insignificant that they may go unnoticed by an average consumer, as defined by the Court of Justice of the European Union in Case 291/00, LTJ Diffusion SA).

The new provisions also cover goods bearing a sign 'which cannot be distinguished in its essential aspects' from the registered trade mark.

3. GOODS SUSPECTED OF INFRINGING AN INTELLECTUAL PROPERTY RIGHT – CUSTOMS ENFORCEMENT

3.1. Control and detention

In accordance with the Union Customs Code (Regulation (EU) No 952/2013), customs authorities may carry out any control on non-Union goods brought into the customs territory of the Union which they find necessary ⁽¹⁾. These controls must be proportionate and carried out in accordance with risk analysis criteria.

⁽¹⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013, in particular Article 46 thereof.

Apart from the general possibility of customs controls, in accordance with Article 1(1) of Regulation (EU) No 608/2013, customs authorities are also competent to detain goods suspected of infringing an intellectual property right that are, or should have been, subject to customs supervision or customs control within the customs territory of the Union, particularly goods in the following situations:

- a) when declared for release for free circulation, export or re-export;
- b) when entering or leaving the customs territory of the Union;
- c) when placed under a special procedure.

The detention of the goods is a decision taken by the customs authorities based on the presence of reasonable indications that those goods are infringing intellectual property rights.

The detention of the goods means holding back the goods and allowing the right holder to have access to confidential information and inspect the goods in question, and may lead to the destruction of goods, without formal determination of infringement ⁽¹⁾. This procedure goes beyond the mere activity of control carried out by the customs authorities.

3.2. Identical or essentially identical trade mark goods

As stated in recital 15 of Regulation (EU) 2015/2424 amending Council Regulation (EC) No 207/2009:

'[...] In order to strengthen trade mark protection and combat counterfeiting more effectively, and in line with international obligations of the Union under the framework of the World Trade Organisation (WTO), in particular Article V of the General Agreement on Tariffs and Trade (GATT) on freedom of transit and, as regards generic medicines, the "Declaration on the TRIPS Agreement and public health" adopted by the Doha WTO Ministerial Conference on 14 November 2001, the proprietor of an EU trade mark should be entitled to prevent third parties from bringing goods, in the course of trade, into the Union without being released for free circulation there, where such goods come from third countries and bear without authorisation a trade mark which is identical or essentially identical with the EU trade mark registered in respect of such goods. [...]

As stated in recitals 16 of Regulation (EU) 2015/2424 amending Council Regulation (EC) No 207/2009 and (22) of Directive (EU) 2015/2436:

'[...], it should be permissible to prevent the entry of infringing goods and their placement in all customs situations, including transit, transshipment, warehousing, free zones, temporary storage, inward processing or temporary admission, also when such goods are not intended to be placed on the market of the Union. In performing customs controls, the customs authorities should make use of the powers and procedures laid down in Regulation (EU) No 608/2013 of the European Parliament and the Council, [...]

In accordance with the trade mark legislation of the Union and the national trade mark legislation, goods suspected of being identical or essentially identical trade mark goods can be detained by the customs authorities under Regulation (EU) No 608/2013 when they are brought into the customs territory of the Union without being released for free circulation and without being intended for the market of the Union. These goods suspected of bearing an identical or essentially identical trade mark without authorisation could be found in the customs territory of the Union:

- In temporary storage,
- In transit on their way from a third country to another third country,
- Under a storage procedure in a free zone or a customs warehouse, without being intended yet for the EU market or for a third country,
- Under the procedure of temporary admission,
- Under the inward processing procedure.

⁽¹⁾ See Article 17 and Article 23 of Regulation (EU) No 608/2013.

Before detaining goods suspected of bearing without authorisation a trade mark identical or essentially identical to the protected trade mark, if those goods are not intended for the EU market, customs authorities may, in accordance with Article 17(2) of Regulation (EU) No 608/2013 and to avoid hampering legitimate trade, consider asking the holder of the decision granting an application to provide them with any relevant information with respect to the goods.

Once goods suspected of bearing without authorisation a trade mark identical or essentially identical to the protected trade mark, which are not intended for the EU market, have been detained, customs authorities should ensure that notification of detention is promptly addressed to the persons concerned (i.e. to the holder or declarant of the goods and to the right holder).

To reconcile the need to ensure the effective enforcement of trade mark rights with the necessity to avoid hampering the free flow of legitimate trade, the new provisions of the trade mark package establish that the entitlement of the proprietor of a registered trade mark to prevent the mere entry of goods into the EU shall lapse in certain circumstances, with respect to goods suspected of bearing without an authorisation an identical or essentially identical trade mark in transit which are allegedly intended for the market of a third country. This entitlement shall lapse if during the proceedings initiated to determine whether the registered trade mark has been infringed, evidence is provided by the declarant or the holder of the goods that the proprietor of the registered trade mark is not entitled to prohibit the placing of the goods on the market in the country of final destination because the trade mark concerned is not protected in the country of final destination.

3.3. Medicines

Although the Union legislation referred to in this notice does not contain specific rules on medicines, Regulation (EU) No 608/2013 (recital 11) and Regulation (EU) 2015/2424 (recital 19) as well as Directive (EU) 2015/2436 (recital 25) describe the need to facilitate the smooth transit of legitimate medicines across the EU.

Under the 'Declaration on the TRIPS Agreement and Public Health' adopted by the Doha WTO Ministerial Conference on 14 November 2001, the TRIPS Agreement should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, especially, to promote access to medicines for all. The EU and its Member States are fully committed to all the efforts made to facilitate access to medicines for countries in need in accordance with the Declaration.

Customs authorities have to take all reasonable care to ensure that legitimate legally traded medicines ⁽¹⁾, whether or not generic, can be routed through the customs territory of the Union and will not be detained under Regulation (EU) No 608/2013.

Therefore, customs authorities should not detain medicines – in the absence of indications that they are intended for the EU market – for instance if there are similarities between the INN ⁽²⁾ for the active ingredient in the medicines and the trade mark registered in the EU.

Thus, customs authorities should take full precautions to avoid any detention of medicines under Regulation (EU) No 608/2013, unless they are intended for the EU market or unless those goods bear a trade mark suspected of being identical or essentially identical to the protected trade mark within the meaning of point 2.2 of the within notice.

3.4. Cooperation with the right holders

It is crucial that customs authorities have at their disposal sufficient and relevant information from the right holders to organise their risk analysis in an efficient and effective manner.

Right holders submitting an application for action should therefore always pay special attention to the obligation to provide any available information that may assist customs authorities in their assessment of the risk of infringements of the rights at stake.

⁽¹⁾ For instance, medicines in mere transit through the EU territory, covered by a patent right applicable to such medicines in the EU territory, without adequate evidence of a substantial likelihood of diversion of such medicines onto the EU market.

⁽²⁾ International Non-proprietary Names (INN) identify pharmaceutical substances or active pharmaceutical ingredients. Each INN is a unique name that is globally recognised and is public property. A non-proprietary name is also known as a generic name. Information on INN can be found at the following site of the World Health Organization: <http://www.who.int/medicines/services/inn/innguidance/en/>

Article 28 of Regulation (EU) No 608/2013 provides that a right holder is to be liable for damages towards the holder of the goods where, inter alia, the goods in question are subsequently found not to infringe an intellectual property right.

Due to the strict deadlines contained in Regulation (EU) No 608/2013, right holders should ensure that the contact persons indicated in the applications are easily reachable and in a position to swiftly react to customs communications/requests.

Commission notice concerning the date of application of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin or the protocols on rules of origin providing for diagonal cumulation between the Contracting Parties to this Convention

(2016/C 244/04)

For the purpose of the application of diagonal cumulation of origin among the Contracting Parties⁽¹⁾ to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin⁽²⁾ (hereafter referred to as 'the Convention'), the Parties concerned notify each other, through the European Commission, of the origin rules in force with the other Parties.

Based on these notifications, the tables attached specify the date from which diagonal cumulation becomes applicable.

The dates mentioned in Table 1 refer to:

- the date of application of diagonal cumulation on the basis of Article 3 of Appendix I to the Convention, where the free trade agreement concerned refers to the Convention. In that case, the date is preceded by '(C)',
- the date of application of the protocols on rules of origin providing for diagonal cumulation attached to the free trade agreement concerned, in other cases.

It is recalled that diagonal cumulation can only be applied if the Parties of final manufacture and of final destination have concluded free trade agreements, containing identical rules of origin, with all the Parties participating in the acquisition of originating status, i.e. with all the Parties from which materials used originate. Materials originating in a Party which has not concluded an agreement with the Parties of final manufacture and of final destination shall be treated as non-originating. Specific examples are given in the Explanatory Notes concerning the pan-Euro-Mediterranean protocols on rules of origin⁽³⁾.

The dates mentioned in Table 2 refer to the date of application of the protocols on rules of origin providing for diagonal cumulation attached to the free trade agreements between the EU, Turkey and the participants to the EU's Stabilisation and Association Process. Each time a reference to the Convention is made in a free trade agreement between Parties in this table, a date preceded by '(C)' has been added in Table 1.

It is also recalled that materials originating in Turkey covered by the EU-Turkey customs union can be incorporated as originating materials for the purpose of diagonal cumulation between the European Union and the countries participating in the Stabilisation and Association Process with which an origin protocol is in force.

The codes for the Contracting Parties listed in the tables are given here below.

- | | |
|--|-----------|
| — European Union | EU |
| — EFTA States: | |
| — Iceland | IS |
| — Switzerland (including Liechtenstein) ⁽⁴⁾ | CH (+ LI) |
| — Norway | NO |
| — The Faroe Islands | FO |
| — The participants in the Barcelona Process: | |
| — Algeria | DZ |
| — Egypt | EG |

⁽¹⁾ The Contracting Parties are the European Union, Albania, Algeria, Bosnia and Herzegovina, Egypt, Faeroe Islands, Iceland, Israel, Jordan, Kosovo (under Resolution 1244(1999) of the United Nations Security Council), Lebanon, the former Yugoslav Republic of Macedonia, Montenegro, Morocco, Norway, Serbia, Switzerland (including Liechtenstein), Syria, Tunisia, Turkey and West Bank and Gaza Strip.

⁽²⁾ OJ L 54, 26.2.2013, p. 4.

⁽³⁾ OJ C 83, 17.4.2007, p. 1.

⁽⁴⁾ Switzerland and the Principality of Liechtenstein form a customs union.

— Israel	IL
— Jordan	JO
— Lebanon	LB
— Morocco	MA
— West Bank and Gaza Strip	PS
— Syria	SY
— Tunisia	TN
— Turkey	TR
— The participants in the EU's Stabilisation and Association Process:	
— Albania	AL
— Bosnia and Herzegovina	BA
— The former Yugoslav Republic of Macedonia	MK ⁽¹⁾
— Montenegro	ME
— Serbia	RS
— Kosovo (*)	KO
— The Republic of Moldova	MD

This notice replaces notice 2016/C-67/04 (OJ C 67, 20.2.2016, p. 8).

(*) This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

(1) ISO code 3166. Provisional code which does not prejudice in any way the definitive nomenclature for this country, which will be agreed following the conclusions of negotiations currently taking place under the auspices of the United Nations.

Table 1

Date of application of rules of origin providing for diagonal cumulation in the pan-Euro-Med zone

	EFTA states				Participants in the Barcelona Process											Participants in the EU's Stabilisation and Association Process						
	EU	CH (+ LI)	IS	NO	FO	DZ	EG	IL	JO	LB	MA	PS	SY	TN	TR	AL	BA	KO	ME	MK	RS	MD
EU		1.1. 2006 (C) 1.2. 2016	1.1. 2006 (C) 1.5. 2015	1.1. 2006 (C) 1.5. 2015	1.12. 2005 (C) 12.5. 2015	1.11. 2007	1.3. 2006 (C) 1.2. 2016	1.1. 2006	1.7. 2006		1.12. 2005	1.7. 2009		1.8. 2006	(¹)	(C) 1.5. 2015		(C) 1.4. 2016	(C) 1.2. 2015	(C) 1.5. 2015	(C) 1.2. 2015	
CH (+ LI)	1.1. 2006 (C) 1.2. 2016		1.8. 2005 (C) 1.7. 2013	1.8. 2005 (C) 1.7. 2013	1.1. 2006		1.8. 2007	1.7. 2005	17.7. 2007	1.1. 2007	1.3. 2005			1.6. 2005	1.9. 2007	(C) 1.5. 2015	(C) 1.1. 2015		(C) 1.9. 2012	1.2. 2016	(C) 1.5. 2015	
IS	1.1. 2006 (C) 1.5. 2015	1.8. 2005 (C) 1.7. 2013		1.8. 2005 (C) 1.7. 2013	1.11. 2005		1.8. 2007	1.7. 2005	17.7. 2007	1.1. 2007	1.3. 2005			1.3. 2006	1.9. 2007	(C) 1.5. 2015	(C) 1.1. 2015		(C) 1.10. 2012	1.5. 2015	(C) 1.5. 2015	
NO	1.1. 2006 (C) 1.5. 2015	1.8. 2005 (C) 1.7. 2013	1.8. 2005 (C) 1.7. 2013		1.12. 2005		1.8. 2007	1.7. 2005	17.7. 2007	1.1. 2007	1.3. 2005			1.8. 2005	1.9. 2007	(C) 1.5. 2015	(C) 1.1. 2015		(C) 1.11. 2012	1.5. 2015	(C) 1.5. 2015	
FO	1.12. 2005 (C) 12.5. 2015	1.1. 2006	1.11. 2005	1.12. 2005																		

	EFTA states				Participants in the Barcelona Process											Participants in the EU's Stabilisation and Association Process							
	EU	CH (+ LI)	IS	NO	FO	DZ	EG	IL	JO	LB	MA	PS	SY	TN	TR	AL	BA	KO	ME	MK	RS	MD	
DZ	1.11.2007																						
EG	1.3.2006 (C) 1.2.2016	1.8.2007	1.8.2007	1.8.2007					6.7.2006		6.7.2006			6.7.2006	1.3.2007								
IL	1.1.2006	1.7.2005	1.7.2005	1.7.2005					9.2.2006						1.3.2006								
JO	1.7.2006	17.7.2007	17.7.2007	17.7.2007			6.7.2006	9.2.2006			6.7.2006			6.7.2006	1.3.2011								
LB		1.1.2007	1.1.2007	1.1.2007																			
MA	1.12.2005	1.3.2005	1.3.2005	1.3.2005			6.7.2006		6.7.2006					6.7.2006	1.1.2006								
PS	1.7.2009																						
SY															1.1.2007								
TN	1.8.2006	1.6.2005	1.3.2006	1.8.2005			6.7.2006		6.7.2006		6.7.2006				1.7.2005								
TR	(¹)	1.9.2007	1.9.2007	1.9.2007			1.3.2007	1.3.2006	1.3.2011		1.1.2006		1.1.2007	1.7.2005									

	EFTA states				Participants in the Barcelona Process											Participants in the EU's Stabilisation and Association Process						
	EU	CH (+ LI)	IS	NO	FO	DZ	EG	IL	JO	LB	MA	PS	SY	TN	TR	AL	BA	KO	ME	MK	RS	MD
AL	(C) 1.5. 2015	(C) 1.5. 2015	(C) 1.5. 2015	(C) 1.5. 2015													(C) 1.2. 2015	(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014
BA		(C) 1.1. 2015	(C) 1.1. 2015	(C) 1.1. 2015												(C) 1.2. 2015		(C) 1.4. 2014	(C) 1.2. 2015	(C) 1.2. 2015	(C) 1.2. 2015	(C) 1.4. 2014
KO	(C) 1.4. 2016															(C) 1.4. 2014	(C) 1.4. 2014		(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014
ME	(C) 1.2. 2015	(C) 1.9. 2012	(C) 1.10. 2012	(C) 1.11. 2012												(C) 1.4. 2014	(C) 1.2. 2015	(C) 1.4. 2014		(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014
MK	(C) 1.5. 2015	1.2. 2016	1.5. 2015	1.5. 2015												(C) 1.4. 2014	(C) 1.2. 2015	(C) 1.4. 2014	(C) 1.4. 2014		(C) 1.4. 2014	(C) 1.4. 2014
RS	(C) 1.2. 2015	(C) 1.5. 2015	(C) 1.5. 2015	(C) 1.5. 2015												(C) 1.4. 2014	(C) 1.2. 2015	(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014		(C) 1.4. 2014
MD																(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014	(C) 1.4. 2014	

(¹) For goods covered by the EU-Turkey customs union, the date of application is 27 July 2006.

For agricultural products, the date of application is 1 January 2007.

For coal and steel products, the date of application is 1 March 2009.

Table 2

Date of application of the protocols on rules of origin providing for diagonal cumulation between the European Union, Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey

	EU	AL	BA	MK	ME	RS	TR
EU		1.1.2007	1.7.2008	1.1.2007	1.1.2008	8.12.2009	(¹)
AL	1.1.2007		22.11.2007	26.7.2007	26.7.2007	24.10.2007	1.8.2011
BA	1.7.2008	22.11.2007		22.11.2007	22.11.2007	22.11.2007	14.12.2011
MK	1.1.2007	26.7.2007	22.11.2007		26.7.2007	24.10.2007	1.7.2009
ME	1.1.2008	26.7.2007	22.11.2007	26.7.2007		24.10.2007	1.3.2010
RS	8.12.2009	24.10.2007	22.11.2007	24.10.2007	24.10.2007		1.9.2010
TR	(¹)	1.8.2011	14.12.2011	1.7.2009	1.3.2010	1.9.2010	

(¹) For goods covered by the EU-Turkey customs union, the date of application is 27 July 2006.

NOTICES FROM MEMBER STATES

United Kingdom Government notice concerning European Parliament and Council Directive 94/22/EEC on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons

(Text with EEA relevance)

(2016/C 244/05)

Announcement of United Kingdom 29th Offshore Oil and Gas Licensing Round

Department of Energy and Climate Change

The Petroleum Act 1998

Offshore Licensing Round

1. The Secretary of State for Energy and Climate Change invites interested persons to apply for Seaward Production Licences in respect of certain acreage on the United Kingdom Continental Shelf.
2. Full details of the offer, including lists and maps of the acreage on offer and guidance about licences, the terms which those licences will include, and how to apply, are available on the gov.uk website (see below).
3. All applications will be determined in accordance with the terms of the Hydrocarbons Licensing Directive Regulations 1995 (S.I. 1995 No 1434), the Petroleum Licensing (Applications) Regulations 2015 (SI 2015 No 766) and the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (SI 2015 No 385). Further guidance in relation to all safety and environmental requirements can be found at www.hse.gov.uk/osdr/assets/docs/osd-licensing-operatorship-safety-environmental-aspects%20.pdf. Determinations will be made against a background of the continuing need for expeditious, thorough, efficient and safe exploration to identify the United Kingdom's oil and gas resources with due regard to environmental considerations.

Innovate Framework

4. Licence applications will be considered in light of a new innovative approach being taken for Initial Term Work Programmes ('Work Programmes') for licences, which utilises the flexibility provided under the current Model Clauses. These Work Programmes will incorporate a flexible combination of up to three Phases (A, B and C) in the Initial Term. This will help to ensure Work Programmes for the block(s) that are being applied for are appropriate to the geotechnical and other challenges that must be addressed in an area, whilst optimising the factors listed in Paragraph 3. The flexibility afforded by the combination of up to three phases also enables applicants to design a Work Programme which is appropriate for their own particular plans and requirements.

Phase A of the Work Programme comprises a period in which Geotechnical Studies and Geophysical Data Reprocessing will be undertaken; Phase B of the Work Programme will be a period in which New Seismic data will be Shot; Phase C of the Work Programme will be for exploratory and/or appraisal drilling. Applicants may decide the Phase combination, whether all three Phases, straight to Phase B followed by Phase C, straight to Phase C, or Phase A direct to Phase C.

Phase A and Phase B are not mandatory and may not be appropriate in particular circumstances, but every application must propose a Phase C, except where the applicant doesn't think any exploration is needed and proposes to go straight to development (i.e. 'straight to Second Term').

All licences awarded in this round will have an Initial Term of up to 9 years duration and may contain surrender provisions in accordance with clause 5 of the current Model Clauses.

5. Applications where the starting Phase is Phase A or B will be judged on the basis of the following criteria:
 - (a) The financial viability of the applicant;
 - (b) The technical capability of the applicant which will be assessed in part as demonstrated by the quality of analysis related to the block;

- (c) The way in which the applicant proposes to carry out the activities that would be permitted under the licence, including the quality of the Work Programme submitted for evaluating the full potential of the area applied for; and
- (d) Where the applicant holds or has held a licence granted under or treated as having been granted under the Petroleum Act 1998, any lack of efficiency and responsibility displayed by the applicant in operations under that licence.

In accordance with the current Model Clauses, licences with a Phase B will specify a time period under clause 4(2) so the licence will expire at the end of this phase if the Licensee has not satisfied DECC of its technical and financial capability to complete the Work Programme. For licences with a Phase A but no Phase B, the licence will also specify a period under clause 4(2) so the licence will expire at the end of this phase if the Licensee has not satisfied DECC of its technical and financial capability to complete the Work Programme.

6. Applications where the starting Phase is Phase C will be judged on the basis of the following criteria:

- (a) the financial viability of the applicant and its financial capacity to carry out the activities that would be permitted under the licence during the Initial Term including the Work Programme submitted for evaluating the full potential of the area within the block;
- (b) the technical capability of the applicant to carry out activities that would be permitted under the licence during the Initial Term, including the identification, delineation and analysis of hydrocarbon prospects within the block. The technical capability will be assessed in part upon the quality of the applicant's analysis related to the block;
- (c) the way in which the applicant proposes to carry out the activities that would be permitted under the licence, including the quality of the Work Programme submitted for evaluating the full potential of the area applied for; and
- (d) where the applicant holds or has held a licence granted under or treated as having been granted under the Petroleum Act 1998, any lack of efficiency and responsibility displayed by the applicant in operations under that licence.

Guidance

7. Further guidance can be viewed on the gov.uk website: <https://www.gov.uk/oil-and-gas-licensing-rounds>

Licence Offers

8. Unless an Appropriate Assessment in relation to a particular Block is required (see Para. 11 below), any offer by the Secretary of State of a licence pursuant to this invitation, will be made within eighteen months of the date of this Notice.

9. The Secretary of State accepts no liability for any costs incurred by the applicant in considering or making its application.

Environmental Assessments

10. The Secretary of State has conducted a Strategic Environmental Assessment (SEA) pursuant to Directive 2001/42/EC on the Assessment of the Effects of Certain Plans and Programmes on the Environment of all of the areas to be offered in this Round. The findings of that SEA can be found at the gov.uk offshore energy SEA website:

<https://www.gov.uk/offshore-energy-strategic-environmental-assessment-sea-an-overview-of-the-sea-process>

11. Licences pursuant to this invitation will only be offered if, in accordance with the Habitats Directive (Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora):

- (a) the activities to be carried out under the licence are not likely to have a significant effect on the management of a Special Area of Conservation(SAC) or Special Protection Area (SPA); or if
- (b) an Appropriate Assessment has ascertained that the activities will have no adverse effects on the integrity of such SACs or SPAs; or

- (c) in a case where the activities are assessed as likely to cause such adverse effects, subject to
- (i) there being imperative reasons of overriding public interest for awarding the licence,
 - (ii) the taking of appropriate compensatory measures, and
 - (iii) there being no alternative solutions.

12. Contact: Ricki Kiff, The Oil and Gas Authority, 21 Bloomsbury Street, London WC1B 3HF, United Kingdom.
(Tel. +44 3000671637).

The gov.uk website: <https://www.gov.uk/oil-and-gas-licensing-rounds>

V

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

EUROPEAN COMMISSION

Prior notification of a concentration
(Case M.8032 — RAM/Termica Milazzo)
Candidate case for simplified procedure
(Text with EEA relevance)
(2016/C 244/06)

1. On 27 June 2016 the European Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which Raffineria di Milazzo S.C.p.A. ('RAM', Italy), jointly controlled by Eni S.p.A. ('Eni', Italy) and Kuwait Petroleum Italia S.p.A. ('Kupit', Italy), acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Termica Milazzo s.r.l. ('Termica Milazzo', Italy), by way of purchase of 100 % of its capital.
2. The business activities of the undertakings concerned are:
 - RAM is a joint-stock consortium company which operates an oil refinery in Milazzo, Sicily (Italy),
 - ENI is a global company active in various sectors such as the exploration and production of natural gas and oil and electricity generation and supply,
 - Kupit, the Italian subsidiary of Kuwait Petroleum Corporation, operates in the oil marketing, trade and distribution sector,
 - Termica Milazzo is a company active in the energy sector and operates a combined cycle thermoelectric power plant in Milazzo, Sicily (Italy).
3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004 ⁽²⁾, it should be noted that this case is a candidate for treatment under the procedure set out in this Notice.
4. The Commission invites interested third parties to submit to it their observations on the proposed operation.

Observations must reach the Commission no later than 10 days following the date on which this notification is published. They can be sent to the Commission under reference number M.8032 — RAM/Termica Milazzo by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post to the following address:

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

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

⁽²⁾ OJ C 366, 14.12.2013, p. 5.

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