



**EUROPEAN COMMISSION**

**PRESS RELEASE**

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## **Antitrust: Commission fines four North Sea shrimps traders € 28 million for price fixing cartel**

The European Commission has fined four European North Sea shrimps traders a total of € 28 716 000 for operating a cartel in breach of EU antitrust rules. The companies are Heiploeg, Klaas Puul, Kok Seafood (all of the Netherlands) and Stührk (of Germany). Between June 2000 and January 2009 Heiploeg and Klaas Puul agreed to fix prices and share sales volumes of North Sea shrimps in Belgium, France, Germany and the Netherlands. Kok Seafood participated at least from February 2005 and Stührk was involved in price fixing in Germany in the period from March 2003 to November 2007. Klaas Puul received full immunity from fines under the Commission's 2006 Leniency Notice, as it was the first to provide information about the cartel.

Commission Vice President in charge of competition policy Joaquín Almunia said: *"This cartel undermined competition in the market for North Sea shrimps for several years, a market important for consumers in several EU countries. It is astonishing to see in what kind of detail North Sea shrimps traders in their frequent contacts with each other discussed commercially sensitive information concerning their business. And it is even more astonishing taking into account that the sector had already received a clear warning via the previous conviction of some traders by the Dutch competition authority."*

The coordinated price level at which the retailer bought their shrimps directly affected the prices charged to the end-consumers. The size of the market varies heavily from year to year depending on the volumes landed by the fishermen and the prices paid, but is always at least €100 million. The companies involved have high combined market shares in the European Economic Area (EEA), estimated to be around 80%.

The purpose of the cartel was to freeze the market by stabilising the suppliers' market shares in order to facilitate price increases and stimulate profitability. The cartel affected the EU market and sales in Belgium, Germany, France and the Netherlands in particular.

The cartel took the form of a range of informal bilateral contacts primarily between Heiploeg and Klaas Puul but also involving Stührk and Kok Seafood. The discussions usually covered a wide range of aspects of their business, including their purchase prices from fishermen, conduct towards other traders on the market, market sharing, and prices charged to specific important customers that often set the benchmark price for other customers.

## Fines

The fines were set on the basis of the EU 2006 Guidelines on fines. The Commission took into account the companies' sales of the products concerned in the EU, the very serious nature of the infringement, its scope and its duration. For most of the parties to this case, North Sea shrimps constitute a large fraction of their turnover. For this reason, the fines of all parties would have been capped at 10% of their total turnover, the legal maximum set out in the [Antitrust Regulation](#). Exceptionally, therefore, the Commission exercised its discretion in accordance with point 37 of the Guidelines (see [IP/06/857](#) and [MEMO/06/256](#)) and reduced the fines in a way that takes into account the characteristics of the companies and their differences in participation in the infringement. This leads to the fines on two of the companies being significantly below the legal maximum.

The individual fines are as follows:

|    | Undertaking | Fine (€)*  | Includes reduction (%) under the Leniency Notice |
|----|-------------|------------|--|
| 1. | Klaas Puul  | 0          | 100%   |
| 2. | Heiploeg    | 27 082 000 | 0%   |
| 3. | Stührk      | 1 132 000  | 0%   |
| 4. | Kok Seafood | 502 000    | 0%   |

(\*) Legal entities within the undertaking may be held jointly and severally liable for the fine imposed.

Klaas Puul received full immunity under the Commission's 2006 Leniency Notice, as it brought the cartel to the Commission's attention and provided valuable information to prove the infringement.

## Inability to pay

One of the companies invoked its inability to pay the fine under paragraph 35 of the 2006 Guidelines on Fines. The Commission thoroughly assessed the application on the basis of a financial and qualitative analysis of the ability of the company concerned and its shareholders to pay the final amount of the fine imposed, taking into account the likely effect such payment would have on the economic viability of the company, and on whether there would be a significant loss in asset value as a result of the fine. As a result of this assessment, the Commission rejected the application.

## Background

Article 101 of the Treaty on the Functioning of the European Union (TFEU) prohibits cartels and restrictive business practices.

The Commission's investigation started with unannounced inspections in March 2009 (see [MEMO/09/142](#)). The Commission sent the companies a Statement of Objections in July 2012 (see [IP/12/782](#)) on which they had the opportunity to comment and to be heard.

Competition rules play an important role in the food supply chain. In 2012, a report of the European Competition Network showed that strong enforcement of competition rules in the food sector had helped operators in accessing supplies and markets and consumers in enjoying lower prices (see [IP/12/502](#) and [MEMO/12/373](#)). The Commission has carried out a number of investigations concerning food products and is working with other European competition authorities to implement the specific competition rules applying to agricultural and fisheries products following the reform of the common agriculture and fisheries policies. The Commission is also addressing concerns expressed about the possible deterioration of choice and innovation in food products and has launched a comprehensive study to assess the evolution and drivers of choice and innovation (see [IP/12/1356](#)). The results of the study will be published in 2014.

More information on today's decision will be available on the [competition](#) website in the public [case register](#) under the case number [39633](#), once confidentiality issues have been dealt with. For more information on the Commission's action against cartels, see its [cartels](#) website.

### **Action for damages**

Any person or firm affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision is binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without these being reduced on account of the Commission fine.

In June 2013, the Commission has adopted a proposal for a Directive that aims at making it easier for victims of anti-competitive practices to obtain such damages (see [IP/13/525](#) and [MEMO/13/531](#)). More information on antitrust damages actions, including a practical guide on how to quantify the harm typically caused by antitrust infringements, the public consultation and a citizens' summary, is available at:

<http://ec.europa.eu/comm/competition/antitrust/actionsdamages/documents.html>

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