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I

(Information)

EUROPEAN PARLIAMENT
COUNCIL
COMMISSION

Statement by the European Parliament, the Council and the Commission concerning the Council Decision of 17 July 2006 amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission (2006/512/EC)

(2006/C 255/01)

1. The European Parliament, the Council and the Commission welcome the forthcoming adoption of the Council Decision amending the Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (⁽¹⁾). The inclusion in the 1999 Decision of a new procedure, known as the 'regulatory procedure with scrutiny', will enable the legislator to scrutinise the adoption of 'quasi-legislative' measures implementing an instrument adopted by codecision.
2. The European Parliament, the Council and the Commission emphasise that, in the context of the existing Treaty, this Decision provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the codecision procedure.
3. Without prejudice to the rights of the legislative authorities, the European Parliament and the Council recognise that the principles of good legislation require that implementing powers be conferred on the Commission without time-limit. However, where an adaptation is necessary within a specified period, the European Parliament, the Council and the Commission consider that a clause requesting the Commission to submit a proposal to revise or abrogate the provisions concerning the delegation of implementing powers could strengthen the scrutiny exercised by the legislator.
4. This new procedure will apply following its entry into force to the quasi-legislative measures provided for in instruments adopted in accordance with the codecision procedure, including those provided for in instruments to be adopted in future in the financial services field (Lamfalussy instruments). However, for it to be applicable to instruments adopted by codecision which are already in force, those instruments must be adjusted in accordance with the applicable procedures, so as to replace the regulatory procedure laid down in Article 5 of Decision 1999/468/EC by the regulatory procedure with scrutiny, wherever there are measures which fall within its scope.
5. The European Parliament, the Council and the Commission consider that the following instruments should be adjusted as a matter of urgency:
 - (a) Regulation of the European Parliament and of the Council on nutrition and health claims made on foods (not yet published in the Official Journal)

(¹) OJ L 184, 17.7.1999, p. 23.

- (b) Directive of the European Parliament and of the Council re-casting Council Directive 93/6/EEC of 15 March 1993 on the capital adequacy of investment firms and credit institutions (not yet published in the Official Journal)
- (c) Directive of the European Parliament and of the Council re-casting Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions (not yet published in the Official Journal)
- (d) Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87)
- (e) Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1)
- (f) Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15)
- (g) Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council (OJ L 191, 22.7.2005, p. 29)
- (h) Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees (OJ L 79, 24.3.2005, p. 9)
- (i) Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1)
- (j) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38)
- (k) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1)
- (l) Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64)
- (m) Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ L 268, 18.10.2003, p. 1)
- (n) Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.9.2003, p. 10)
- (o) Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) (OJ L 96, 12.4.2003, p. 16)

- (p) Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) (OJ L 37, 13.2.2003, p. 24)
- (q) Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 37, 13.2.2003, p. 19)
- (r) Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1)
- (s) Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1)
- (t) Directive 2001/107/EC of the European Parliament and of the Council of 21 January 2002 amending Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) with a view to regulating management companies and simplified prospectuses (OJ L 41, 13.2.2002, p. 20)
- (u) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67)
- (v) Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1)
- (w) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1)
- (x) Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles (OJ L 269, 21.10.2000, p. 34)
- (y) Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123, 24.4.1998, p. 1).

To this end, the Commission has indicated that it will shortly submit proposals to the European Parliament and the Council for the amendment of the instruments referred to above, so as to introduce the regulatory procedure with scrutiny and consequently repeal any provisions of these instruments that provide for a time-limit on the delegation of implementing powers to the Commission. The European Parliament and the Council will ensure that the proposals are adopted as rapidly as possible.

6. In accordance with the Interinstitutional Agreement on better law-making (OJ 2003 C 321/01), the European Parliament, the Council and the Commission draw attention to the important role played by implementing measures in legislation. In addition, they consider that the general principles of the Interinstitutional Agreement on common guidelines for the quality of drafting of Community legislation (OJ 1999/C 73/01) should apply in any event to measures of general scope adopted under the new regulatory procedure with scrutiny.

COUNCIL

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COUNCIL DECISION

of 28 June 1999

laying down the procedures for the exercise of implementing powers conferred on the Commission (1999/468/EC)

(OJ L 184, 17.7.1999, p. 23, Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11))

(Consolidated version)

(2006/C 255/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third indent of Article 202 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) In the instruments which it adopts, the Council has to confer on the Commission powers for the implementation of the rules which the Council lays down; the Council may impose certain requirements in respect of the exercise of these powers; it may also reserve to itself the right, in specific and substantiated cases, to exercise directly implementing powers.
- (2) The Council adopted Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission; that Decision has provided for a limited number of procedures for the exercise of such powers.
- (3) Declaration No 31 annexed to the Final Act of the Intergovernmental Conference which adopted the Amsterdam Treaty calls on the Commission to submit to the Council a proposal amending Decision 87/373/EEC.
- (4) For reasons of clarity, rather than amending Decision 87/373/EEC, it has been considered more appropriate to replace that Decision by a new Decision and, therefore, to repeal Decision 87/373/EEC.
- (5) The first purpose of this Decision is, with a view to achieving greater consistency and predictability in the choice of type of committee, to provide for criteria relating to the choice of committee procedure, it being understood that such criteria are of a non-binding nature, with the exception of those governing the regulatory procedure with scrutiny.
- (6) In this regard, the management procedure should be followed as regards management measures such as those relating to the application of the common agricultural and common fisheries policies or to the implementation of programmes with substantial budgetary implications; such management measures should be taken by the Commission by a procedure ensuring decision-making within suitable periods; however, where non-urgent measures are referred to the Council, the Commission should exercise its discretion to defer application of the measures.
- (7) The regulatory procedure should be followed as regards measures of general scope designed to apply essential provisions of basic instruments, including measures concerning the protection of the health or safety of humans, animals or plants, as well as measures designed to adapt or update certain non-essential provisions of a basic instrument; such implementing measures should be adopted by an effective procedure which complies in full with the Commission's right of initiative in legislative matters.
- (7a) It is necessary to follow the regulatory procedure with scrutiny as regards measures of general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements. This procedure should enable the two arms of the legislative authority to scrutinise such measures before they are adopted. The essential elements of a legislative act may only be amended by the legislator on the basis of the Treaty.
- (8) The advisory procedure should be followed in any case in which it is considered to be the most appropriate; the advisory procedure will continue to be used in those cases where it currently applies.

- (9) The second purpose of this Decision is to simplify the requirements for the exercise of implementing powers conferred on the Commission as well as to improve the involvement of the European Parliament in those cases where the basic instrument conferring implementation powers on the Commission was adopted in accordance with the procedure laid down in Article 251 of the Treaty; it has been accordingly considered appropriate to reduce the number of procedures as well as to adjust them in line with the respective powers of the institutions involved and notably to give the European Parliament an opportunity to have its views taken into consideration by, respectively, the Commission or the Council in cases where it considers that, respectively, a draft measure submitted to a committee or a proposal submitted to the Council under the regulatory procedure exceeds the implementing powers provided for in the basic instrument.
- (10) The third purpose of this Decision is to improve information to the European Parliament by providing that the Commission should inform it on a regular basis of committee proceedings, that the Commission should transmit to it documents related to activities of committees and inform it whenever the Commission transmits to the Council measures or proposals for measures to be taken; particular attention will be paid to the provision of information to the European Parliament on the proceedings of committees in the framework of the regulatory procedure with scrutiny, so as to ensure that the European Parliament takes a decision within the stipulated deadline.
- (11) The fourth purpose of this Decision is to improve information to the public concerning committee procedures and therefore to make applicable to committees the principles and conditions on public access to documents applicable to the Commission, to provide for a list of all committees which assist the Commission in the exercise of implementing powers and for an annual report on the working of committees to be published as well as to provide for all references to documents related to committees which have been transmitted to the European Parliament to be made public in a register.
- (12) The specific committee procedures created for the implementation of the common commercial policy and the competition rules laid down by the Treaties that are not currently based upon Decision 87/373/EEC are not in any way affected by this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

Other than in specific and substantiated cases where the basic instrument reserves to the Council the right to exercise directly certain implementing powers itself, such powers shall be conferred on the Commission in accordance with the relevant provisions in the basic instrument. These provisions shall stipulate the essential elements of the powers thus conferred.

Where the basic instrument imposes specific procedural requirements for the adoption of implementing measures, such requirements shall be in conformity with the procedures provided for by Articles 3, 4, 5, 5a and 6.

Article 2

1. Without prejudice to paragraph 2, the choice of procedural methods for the adoption of implementing measures shall be guided by the following criteria:

- (a) management measures, such as those relating to the application of the common agricultural and common fisheries policies, or to the implementation of programmes with substantial budgetary implications, should be adopted by use of the management procedure;
- (b) measures of general scope designed to apply essential provisions of basic instruments, including measures concerning the protection of the health or safety of humans, animals or plants, should be adopted by use of the regulatory procedure;

where a basic instrument stipulates that certain non-essential provisions of the instrument may be adapted or updated by way of implementing procedures, such measures should be adopted by use of the regulatory procedure;

- (c) without prejudice to points (a) and (b), the advisory procedure shall be used in any case in which it is considered to be the most appropriate.

2. Where a basic instrument, adopted in accordance with the procedure referred to in Article 251 of the Treaty, provides for the adoption of measures of general scope designed to amend non-essential elements of that instrument, *inter alia*, by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements, those measures shall be adopted in accordance with the regulatory procedure with scrutiny.

Article 3

Advisory procedure

1. The Commission shall be assisted by an advisory committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

3. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

4. The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which the opinion has been taken into account.

Article 4

Management procedure

1. The Commission shall be assisted by a management committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) and (4) of the Treaty, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall, without prejudice to Article 8, adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period to be laid down in each basic instrument but which shall in no case exceed three months from the date of such communication.

4. The Council, acting by qualified majority, may take a different decision within the period provided for by paragraph 3.

Article 5

Regulatory procedure

1. The Commission shall be assisted by a regulatory committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) and (4) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall, without prejudice to Article 8, adopt the measures envisaged if they are in accordance with the opinion of the committee.

4. If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken and shall inform the European Parliament.

5. If the European Parliament considers that a proposal submitted by the Commission pursuant to a basic instrument adopted in accordance with the procedure laid down in Article 251 of the Treaty exceeds the implementing powers provided for in that basic instrument, it shall inform the Council of its position.

6. The Council may, where appropriate in view of any such position, act by qualified majority on the proposal, within a

period to be laid down in each basic instrument but which shall in no case exceed three months from the date of referral to the Council.

If within that period the Council has indicated by qualified majority that it opposes the proposal, the Commission shall re-examine it. It may submit an amended proposal to the Council, re-submit its proposal or present a legislative proposal on the basis of the Treaty.

If on the expiry of that period the Council has neither adopted the proposed implementing act nor indicated its opposition to the proposal for implementing measures, the proposed implementing act shall be adopted by the Commission.

Article 5a

Regulatory procedure with scrutiny

1. The Commission shall be assisted by a Regulatory Procedure with Scrutiny Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) and (4) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. If the measures envisaged by the Commission are in accordance with the opinion of the Committee, the following procedure shall apply:

- (a) the Commission shall without delay submit the draft measures for scrutiny by the European Parliament and the Council;
- (b) the European Parliament, acting by a majority of its component members, or the Council, acting by a qualified majority, may oppose the adoption of the said draft by the Commission, justifying their opposition by indicating that the draft measures proposed by the Commission exceed the implementing powers provided for in the basic instrument or that the draft is not compatible with the aim or the content of the basic instrument or does not respect the principles of subsidiarity or proportionality;
- (c) if, within three months from the date of referral to them, the European Parliament or the Council opposes the draft measures, the latter shall not be adopted by the Commission. In that event, the Commission may submit to the Committee an amended draft of the measures or present a legislative proposal on the basis of the Treaty;
- (d) if, on expiry of that period, neither the European Parliament nor the Council has opposed the draft measures, the latter shall be adopted by the Commission.

4. If the measures envisaged by the Commission are not in accordance with the opinion of the Committee, or if no opinion is delivered, the following procedure shall apply:

- (a) the Commission shall without delay submit a proposal relating to the measures to be taken to the Council and shall forward it to the European Parliament at the same time;
- (b) the Council shall act on the proposal by a qualified majority within two months from the date of referral to it;
- (c) if, within that period, the Council opposes the proposed measures by a qualified majority, the measures shall not be adopted. In that event, the Commission may submit to the Council an amended proposal or present a legislative proposal on the basis of the Treaty;
- (d) if the Council envisages adopting the proposed measures, it shall without delay submit them to the European Parliament. If the Council does not act within the two-month period, the Commission shall without delay submit the measures by the European Parliament;
- (e) the European Parliament, acting by a majority of its component members within four months from the forwarding of the proposal in accordance with point (a), may oppose the adoption of the measures in question, justifying its opposition by indicating that the proposed measures exceed the implementing powers provided for in the basic instrument or are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality;
- (f) if, within that period, the European Parliament opposes the proposed measures, the latter shall not be adopted. In that event, the Commission may submit to the Committee an amended draft of the measures or present a legislative proposal on the basis of the Treaty;
- (g) if, on expiry of that period, the European Parliament has not opposed the proposed measures, the latter shall be adopted by the Council or by the Commission, as the case may be.

5. By way of derogation from paragraphs 3 and 4, a basic instrument may in duly substantiated exceptional cases provide:

- (a) that the time-limits laid down in paragraphs 3(c), 4(b) and 4(e) shall be extended by an additional month, when justified by the complexity of the measures; or
- (b) that the time-limits laid down in paragraphs 3(c), 4(b) and 4(e) shall be curtailed where justified on the grounds of efficiency.

6. A basic instrument may provide that if, on imperative grounds of urgency, the time limits for the regulatory procedure with scrutiny referred to in paragraphs 3, 4 and 5 cannot be complied with, the following procedure shall apply:

- (a) if the measures envisaged by the Commission are in accordance with the opinion of the Committee, the Commission shall adopt the measures, which shall immediately be implemented. The Commission shall without delay communicate them to the European Parliament and to the Council;

- (b) within a time-limit of one month following that communication, the European Parliament, acting by a majority of its component members, or the Council, acting by a qualified majority, may oppose the measures adopted by the Commission, on the grounds that the measures exceed the implementing powers provided for in the basic instrument or are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality;
- (c) in the event of opposition by the European Parliament or the Council, the Commission shall repeal the measures. It may, however, provisionally maintain the measures in force if warranted on health protection, safety or environmental grounds. In that event, it shall without delay submit to the Committee an amended draft of the measures or a legislative proposal on the basis of the Treaty. The provisional measures shall remain in force until they are replaced by a definitive instrument.

Article 6

Safeguard procedure

The following procedure may be applied where the basic instrument confers on the Commission the power to decide on safeguard measures:

- (a) the Commission shall notify the Council and the Member States of any decision regarding safeguard measures. It may be stipulated that before adopting its decision, the Commission shall consult the Member States in accordance with procedures to be determined in each case;
- (b) any Member State may refer the Commission's decision to the Council within a time-limit to be determined within the basic instrument in question;
- (c) the Council, acting by a qualified majority, may take a different decision within a time-limit to be determined in the basic instrument in question. Alternatively, it may be stipulated in the basic instrument that the Council, acting by qualified majority, may confirm, amend or repeal the decision adopted by the Commission and that, if the Council has not taken a decision within the abovementioned time-limit, the decision of the Commission is deemed to be revoked.

Article 7

1. Each committee shall adopt its own rules of procedure on the proposal of its chairman, on the basis of standard rules which shall be published in the *Official Journal of the European Communities*.

In so far as necessary existing committees shall adapt their rules of procedure to the standard rules.

2. The principles and conditions on public access to documents applicable to the Commission shall apply to the committees.

3. The European Parliament shall be regularly kept informed by the Commission of committee proceedings following arrangements which ensure that the transmission system is transparent and that the information forwarded and the various stages of the procedure are identified. To that end, it shall receive agendas for committee meetings, draft measures submitted to the committees for the implementation of instruments adopted by the procedure provided for by Article 251 of the Treaty, and the results of voting and summary records of the meetings and lists of the authorities and organisations to which the persons designated by the Member States to represent them belong.

The European Parliament shall also be kept informed whenever the Commission transmits to the Council measures or proposals for measures to be taken.

4. The Commission shall, within six months of the date on which this Decision takes effect, publish in the *Official Journal of the European Communities*, a list of all committees which assist the Commission in the exercise of implementing powers. This list shall specify, in relation to each committee, the basic instrument(s) under which the committee is established. From 2000 onwards, the Commission shall also publish an annual report on the working of committees.

5. The references of all documents sent to the European Parliament pursuant to paragraph 3 shall be made public in a register to be set up by the Commission in 2001.

Article 8

If the European Parliament indicates, in a resolution setting out the grounds on which it is based, that draft implementing measures, the adoption of which is contemplated and which have been submitted to a committee pursuant to a basic instrument adopted under Article 251 of the Treaty, would exceed the implementing powers provided for in the basic instrument, the Commission shall review the draft measures. Taking the resolution into account and within the time-limits of the procedure under way, the Commission may submit new draft measures to the committee, continue with the procedure or submit a proposal to the European Parliament and the Council on the basis of the Treaty.

The Commission shall inform the European Parliament and the committee of the action which it intends to take on the Resolution of the European Parliament and of its reasons for doing so.

Article 9

Decision 87/373/EEC shall be repealed.

Article 10

This Decision shall take effect on the day following that of its publication in the *Official Journal of the European Communities*.

NB:

Readers are informed that statements in the Council minutes relating to these two Decisions are set out in OJ C 203, 17.7.1999, p. 1, and in OJ C 171, 22.7.2006, p. 21.

A statement by the European Parliament, the Council and the Commission concerning the Decision of 17 July 2006 is set out on page 1 of this Official Journal.

COMMISSION

Euro exchange rates ⁽¹⁾

20 October 2006

(2006/C 255/03)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,2618	SIT	Slovenian tolar	239,57
JPY	Japanese yen	149,29	SKK	Slovak koruna	36,580
DKK	Danish krone	7,4552	TRY	Turkish lira	1,8405
GBP	Pound sterling	0,66930	AUD	Australian dollar	1,6607
SEK	Swedish krona	9,2108	CAD	Canadian dollar	1,4156
CHF	Swiss franc	1,5867	HKD	Hong Kong dollar	9,8242
ISK	Iceland króna	86,14	NZD	New Zealand dollar	1,8853
NOK	Norwegian krone	8,4135	SGD	Singapore dollar	1,9835
BGN	Bulgarian lev	1,9558	KRW	South Korean won	1 207,98
CYP	Cyprus pound	0,5767	ZAR	South African rand	9,5034
CZK	Czech koruna	28,335	CNY	Chinese yuan renminbi	9,9714
EEK	Estonian kroon	15,6466	HRK	Croatian kuna	7,3959
HUF	Hungarian forint	262,70	IDR	Indonesian rupiah	11 554,93
LTL	Lithuanian litas	3,4528	MYR	Malaysian ringgit	4,6390
LVL	Latvian lats	0,6960	PHP	Philippine peso	63,216
MTL	Maltese lira	0,4293	RUB	Russian rouble	33,8973
PLN	Polish zloty	3,8661	THB	Thai baht	46,987
RON	Romanian leu	3,5135			

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

Notice of the expiry of certain anti-dumping measures

(2006/C 255/04)

Further to the publication of a notice of impending expiry ⁽¹⁾, following which no request for a review was received, the Commission gives notice that the anti-dumping measures mentioned below will shortly expire.

This notice is published in accordance with Article 11(2) of Council Regulation (EC) No 384/96 of 22 December 1995 ⁽²⁾ on protection against dumped imports from countries not members of the European Community.

Product	Country(ies) of origin or exportation	Measures	Reference	Date of expiry
Internal gear hubs for bicycles	Japan	Anti-dumping duty	Council Regulation (EC) No 2080/2001 (OJ L 282, 26.10.2001, p. 1).	26.10.2006

⁽¹⁾ OJ C 30, 7.2.2006, p. 2.

⁽²⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Council Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

Prior notification of a concentration
(Case COMP/M.4402 — UCB/Schwarz Pharma)

(2006/C 255/05)

(Text with EEA relevance)

1. On 13 October 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking UCB SA ('UCB', Belgium) together with its German wholly-owned subsidiary UCB SP GmbH acquire within the meaning of Article 3(1)(b) of the Council Regulation sole control of the whole of Schwarz Pharma Aktiengesellschaft ('Schwarz', Germany), by way of purchase of shares through a public tender offer.
2. The business activities of the undertakings concerned are:
 - for UCB: research, development and commercialization of pharmaceuticals and biotechnology products;
 - for Schwarz: research and development of pharmaceuticals, manufacture and supply of mainly generic medicines.
3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4402 — UCB/Schwarz Pharma, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Imposition of public service obligations in respect of scheduled air services between the Canary Islands pursuant to Council Regulation (EEC) No 2408/92 of 23 July 1992

(2006/C 255/06)

(Text with EEA relevance)

I. Air routes concerned.

Public service obligations shall be imposed in respect of scheduled air services provided on the following routes:

- (a) Gran Canaria — Tenerife Norte
- (b) Gran Canaria — Tenerife Sur
- (c) Gran Canaria — Lanzarote
- (d) Tenerife Norte — Lanzarote
- (e) Gran Canaria — Fuerteventura
- (f) Gran Canaria — El Hierro
- (g) Gran Canaria — La Palma
- (h) Tenerife Norte — Fuerteventura
- (i) Tenerife Norte — El Hierro
- (j) Tenerife Norte — La Palma
- (k) La Palma — Lanzarote
- (l) Gran Canaria- La Gomera
- (m) Tenerife Norte — La Gomera

II. General conditions.

1. Community air carriers wishing to operate scheduled air services in conformity with the public service obligations governed by this Decision must hold a valid operating licence, in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers.
2. Such carriers must submit to the Directorate-General for Civil Aviation [*Dirección General de Aviación Civil*], by the dates and within the time limits specified in paragraph 3 of this section, the schedule of operations on routes subject to public service obligations, which shall cover a minimum period of twelve consecutive months. This schedule must be presented separately from the rest of the schedule of flights they may submit for the operation of services on other routes.

The schedule of operations on routes subject to public service obligations shall include the following information:

- (a) route on which the carrier wishes to operate;
- (b) operating periods in the relevant International Air Transport Association (IATA) scheduling seasons;
- (c) flight identification number;
- (d) timetables;
- (e) available capacity;
- (f) period and days on which the service is to be operated;
- (g) type of aircraft/number of seats/cargo capacity;

(h) configuration of passenger compartment, where appropriate;

(i) written confirmation of knowledge and acceptance of the continuity of the schedule of operations imposed as part of the public service obligations laid down in this Decision.

Approval for any permanent amendment to the flight schedule agreed for each carrier must be obtained from the Directorate-General for Civil Aviation. Such amendments must be notified to the Government of the Canary Islands.

The carrier must also submit a document detailing the fares and associated conditions to be applied in accordance with the specific conditions laid down in paragraph 2 of Section III of this Annex.

3. The following must be taken into account when submitting flight schedules:
 - 3.1. By the dates and subject to the conditions specified below, each air carrier shall submit its schedule of services, split according to the winter and summer scheduling seasons:
 - (a) if the start of the service schedule coincides with the beginning of the summer scheduling season, it shall be submitted before 1 March and shall include the planned schedule for the following winter scheduling season;
 - (b) if the start of the service schedule coincides with the beginning of the winter scheduling season, it shall be submitted before 1 October and shall include the planned schedule for the following summer scheduling season.
 - 3.2. In the case of access to the market at any other time of year, the carrier shall submit its service schedule at least thirty calendar days before the planned date of commencement of its operations and shall include the schedule of services for the part-period corresponding to the scheduling season in which operations are to commence and the planned schedule for the rest of the period so as to cover a full twelve months' operation. Starting with the scheduling season following that in which operations commenced, the carrier shall follow the procedure laid down in paragraph 3.1.
 - 3.3. Service schedules shall be considered to have been approved if the Directorate-General for Civil Aviation has not delivered an opinion on them by the planned first day of operation. In all cases, however, services may be commenced once they have been expressly approved by the Directorate-General for Civil Aviation.

Approval shall be subject to verification that the schedule meets the public service obligations, taking account of the schedules of all the carriers involved.

4. Air carriers shall undertake to operate their service schedule for a minimum period of twelve consecutive months. If, on a specific route, there is a new entrant or an operator significantly increases its schedule of flights, other carriers operating on that route may choose to maintain their schedule or adjust their service schedule without affecting compliance with the public service obligations. Nevertheless, a carrier may definitively cease providing services if it notifies the Directorate-General for Civil Aviation accordingly at least six months before the planned end of the agreed period of operation.
5. If, for all the operating carriers combined, load factors on a route in the summer or winter period continuously exceed 75 %, save in the case of seasonal operation of routes, carriers which have an operational service schedule must take the necessary steps to increase the capacity available so as to reduce the percentage specified above. The above provision shall not apply in the circumstances referred to in paragraph 2.3(a) 'Fares' of Section III of this Annex.
6. For the purposes of this Decision, the terms below shall have the following meanings:
 - (a) air fare: the price expressed in euros which passengers must pay to air carriers or their agents for transporting them and their baggage by air in accordance with the conditions attached in each case. The fare shall include remuneration paid to and the conditions offered to agencies and taxes, excluding the tax for the use of infrastructures and the security tax.

The total price given in the carriage contract shall be broken down to show: the fare, the tax for the use of infrastructures and the security tax;
 - (b) reference fare: the lowest fare to which price conditions are not attached, as laid down in paragraph 2.1 of Section III;
 - (c) promotional fare: fare with a discount of at least 10 % on the reference fare to be subject to conditions determined by the air carrier;
 - (d) flexible fare: a fare that may include services additional to those provided for the reference fare and which may not exceed the percentages laid down in paragraph 2.3.(b) of Section III of this Annex.
 - (e) Social fare: the fare laid down by air carriers for certain categories of passenger, to which the conditions and prices laid down in paragraph 2.3.(c) of Section III of this Annex shall apply.

III. Specific conditions

1. The specific conditions associated with the public service obligations for the routes specified in Section I are as follows:
 - 1.1 Period of operation, minimum frequency, timetables and capacity offered.
 - 1.1.1 For flights from Gran Canaria and Tenerife Norte, with the exception of those to the island of La Gomera, the timetables shall be such as to guarantee departures between 07.00 and 08.30 and return flights at the end of the day, subject to the limits imposed by airport operating hours.
 - 1.1.2 On the routes referred to under (c), (e) and (j) below, air carriers shall undertake to increase services between 07.00 and 08.30 where necessary to meet the demand for travel. In the case of cargo transport, carriers shall give priority to perishable and urgently needed products such as daily newspapers and medicines on services from Gran Canaria and Tenerife.

Where aircraft with more than 72 seats are used, the minimum frequency may be reduced to 70 % of the number of daily return flights laid down, while maintaining the minimum number of seats laid down in the relevant paragraphs.

(a) Between Gran Canaria and Tenerife Norte

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be fourteen (14) return flights daily.

From 1 July to 30 September, the minimum frequency shall be twelve (12) return flights daily

Timetables must be such as to permit both legs of a return journey to be made on the same day with eight hours' stay at the destination, with flights spread out over the period from 07.00 to 22.30 and tailored to meet demand early in the morning and late at night.

The minimum capacity available in each direction shall be as follows:

- during the IATA winter season: 295 000 seats;
- during the IATA summer season: 393 000 seats.

(b) Between Gran Canaria and Tenerife Sur

Services shall be provided throughout the year.

The minimum frequency shall be two (2) return flights daily, for which air carriers may use a type of aircraft suited to the demand but which shall have not fewer than 19 seats.

The minimum capacity available in each direction shall be as follows:

- during the IATA winter season: 19 000 seats;
- during the IATA summer season: 38 000 seats.

(c) Between Gran Canaria and Lanzarote

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be eleven (11) return flights daily.

From 1 July to 30 September, the minimum frequency shall be fourteen (14) return flights daily.

Timetables must be such as to permit both legs of a return journey to be made on the same day with eight hours' stay at the destination, with flights spread out over the period from 07.00 to 22.30 and tailored to meet demand early in the morning and late at night.

The minimum capacity available in each direction shall be as follows:

- during the IATA winter season: 240 000 seats;
- during the IATA summer season: 378 000 seats.

(d) Between Tenerife Norte and Lanzarote

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be five (5) return flights daily.

From 1 July to 30 September, the minimum frequency shall be seven (7) return flights daily.

Timetables must be such as to permit both legs of a return journey to be made on the same day with eight hours' stay at the destination, with flights spread out over the period from 07.00 to 22.30 and tailored to meet demand early in the morning and late at night.

The minimum capacity available in each direction shall be as follows:

- during the IATA winter season: 108 000 seats;
- during the IATA summer season: 180 000 seats.

(e) Between Gran Canaria and Fuerteventura

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be thirteen (13) return flights daily.

From 1 July to 30 September, the minimum frequency shall be fourteen (14) return flights daily.

Timetables must be such as to permit both legs of a return journey to be made on the same day with eight hours' stay at the destination, with flights spread out over the period from 07.00 to 22.30 and tailored to meet demand early in the morning and late at night.

The minimum capacity available in each direction shall be as follows:

- during the IATA winter season: 274 000 seats;
- during the IATA summer season: 402 000 seats.

(f) Between Gran Canaria and El Hierro

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be one (1) return flight daily.

From 1 July to 30 September, the minimum frequency shall be two (2) return flights daily.

Air carriers may use a type of aircraft suited to the demand during each season but which shall have not fewer than 19 seats.

Where aircraft with a capacity of more than 19 seats are used during the period July to September, the minimum frequency may be reduced to 50 % of the number of return flights laid down, while maintaining the minimum number of seats laid down.

The minimum capacity available in each direction shall be as follows:

- during the IATA winter season: 6 000 seats;
- during the IATA summer season: 16 000 seats.

(g) Between Gran Canaria and La Palma

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be two (2) return flights daily, one in the morning and one in the evening.

From 1 July to 30 September, the minimum frequency shall be three (3) return flights daily.

Timetables must be such as to permit both legs of a return journey to be made on the same day with seven hours' stay at the destination between 07.00 and 20.00, with morning and evening services.

The minimum capacity available in each direction shall be as follows:

- during the IATA winter season: 43 000 seats;
- during the IATA summer season: 74 000 seats.

(h) Between Tenerife Norte and Fuerteventura

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be three (3) return flights daily.

From 1 July to 30 September, the minimum frequency shall be six (6) return flights daily.

Timetables must be such as to permit both legs of a return journey to be made on the same day with seven hours' stay at the destination between 07.00 and 20.00, with morning, midday and evening services.

The minimum capacity available in each direction shall be as follows:

- during the IATA winter season: 65 000 seats;
- during the IATA summer season: 132 000 seats.

(i) Between Tenerife Norte and El Hierro

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be three (3) return flights daily.

From 1 July to 30 September, the minimum frequency shall be four (4) return flights daily.

Timetables must be such as to permit both legs of a return journey to be made on the same day with seven hours' stay at the destination between 07.00 and 20.00, with morning, midday and evening services.

The minimum capacity available in each direction shall be as follows:

— during the IATA winter season: 60 000 seats;

— during the IATA summer season: 100 000 seats.

(j) Between Tenerife Norte and La Palma

From 1 January to 30 June and from 1 October to 31 December, the minimum frequency shall be thirteen (13) return flights daily.

From 1 July to 30 September, the minimum frequency shall be fourteen (14) return flights daily.

Timetables must be such as to permit both legs of a return journey to be made on the same day with eight hours' stay at the destination, with flights spread out over the period from 07.00 to 22.30 and tailored to meet demand early in the morning and late at night.

The minimum capacity available in each direction shall be as follows:

— during the IATA winter season: 274 000 seats;

— during the IATA summer season: 402 000 seats.

(k) Between La Palma and Lanzarote

During July, August and September, the minimum frequency shall be three (3) return flights weekly.

The minimum capacity available in each direction shall be 6 800 seats.

(l) Between Gran Canaria and La Gomera

The minimum frequency shall two (2) return flights daily throughout the year.

Air carriers may use a type of aircraft suited to the demand during each season but which shall have not fewer than 19 seats.

The minimum capacity available in each direction shall be as follows:

— during the IATA winter season: 11 000 seats;

— during the IATA summer season: 16 000 seats.

(m) Between Tenerife Norte and La Gomera

The minimum frequency shall two (2) return flights daily throughout the year.

Air carriers may use a type of aircraft suited to the demand during each season but which shall have not fewer than 19 seats.

The minimum capacity available in each direction shall be as follows:

— during the IATA winter season: 11 000 seats;

— during the IATA summer season: 16 000 seats.

2. Fares

2.1. Under the public service obligations laid down, the reference single fare for each of the routes shall be as follows:

(a) Gran Canaria — Tenerife Norte:: EUR 52

(b) Gran Canaria — Tenerife Sur:: EUR 52

(c) Gran Canaria — Fuerteventura:: EUR 60

(d) Gran Canaria — El Hierro:: EUR 88

(e) Gran Canaria — Lanzarote:: EUR 67

(f) Gran Canaria — La Palma:: EUR 82

(g) Tenerife Norte — Fuerteventura:: EUR 83

(h) Tenerife Norte — El Hierro:: EUR 60

(i) Tenerife Norte — Lanzarote:: EUR 88

(j) Tenerife Norte — La Palma:: EUR 55

(k) La Palma — Lanzarote:: EUR 88

(l) Gran Canaria — La Gomera:: EUR 82

(m) Tenerife Norte — La Gomera:: EUR 60

2.2. The Directorate-General for Civil Aviation shall approve the adjustment of the above reference fares in January each year.

Where such adjustment involves an increase in those fares, this shall be approved at the request of the air carriers operating the routes subject to public service obligations, following registration in accordance with paragraph 2.4 of this section.

Fares shall be adjusted by an amount to reflect the effects of applying the corresponding annual increase or, where appropriate, decrease in the national consumer price index [*Índice General Nacional del Sistema de Índices de Precios al Consumo*] to the costs directly affected by any such annual fluctuation, which are estimated at 73 % of the total cost structure of an air carrier.

With regard to all aviation taxes, comprising landing charges, airport approach charges and charges for use of the air navigation aids network, account shall be taken of the increases or, where appropriate, decreases authorised for each of these charges for the year in question in the Budget Act [*Ley de Presupuestos Generales del Estado*] or its implementing rules, which shall be applied to the reference fares, with up to 4 % of the cost structure being weighted by these increases for each of the above three charges.

The proposal to increase fares referred to in the second paragraph, which must under no circumstances be submitted before 1 January each year, shall be considered to have been approved if no decision has been expressly notified within 15 days of submission. The calculation shall be without prejudice to any adjustments necessary following the final determination of the change in the national consumer price index.

In the event of an increase in the cost components affecting the operation of these air services which is abnormal, unforeseeable and not attributable to the carriers, and acting on a proposal from the air carriers, the Minister for Internal Development [*Ministro de Fomento*] may adjust the reference fares in proportion to that increase, based on the overall year-on-year increase.

The adjusted fare shall be notified to the carriers operating the services concerned. It shall also be communicated to the European Commission for publication in the *Official Journal of the European Union*.

2.3. In setting flexible, promotional and social fares, air carriers shall meet the conditions and follow the procedures set out below:

(a) The 75 % occupancy rate laid down in paragraph 5 of Section II may be exceeded provided that the price of the promotional and social fares applied to any such supplementary offer is at least 15 % less than the reference fare.

(b) Air carriers may apply to the Directorate-General for Civil Aviation to be allowed to set flexible fares provided these do not exceed the following percentages of the reference fare. During 2006, these may not exceed 20 % and from 2007 25 %. In any case, the number of seats occupied on each flight at these tariffs shall not exceed 50 % of the seats offered.

(c) Air carriers shall be required to set social fares which are lower than the reference fare for at least the following categories of passenger: persons under 22 years of age, university students under 27 years of age resident on islands other than capital islands, persons aged 65 or over and teams competing in the Autonomous Community of the Canary Islands. The discounts applied shall not be less than 10 % of the reference fare. In the case of reductions for large families, the relevant legislation shall apply. The conditions applicable to such reductions laid down by the carrier shall in all cases be similar to those applied to the promotional fares.

(d) In order to facilitate the mobility of residents of the Canary Islands, where there are no direct, non-stop flights between two islands in different provinces, carriers shall offer on those routes fares that do not exceed 60 % of the sum of the reference fares for each of the individual legs making up the flight,

rounded up or down to the nearest unit. Under no circumstances shall such fares exceed the reference fare for a direct flight between Lanzarote and La Palma.

(e) The number of seats offered at flexible tariffs by each carrier shall be restricted by the average revenue per passenger calculated by annual period for each of the routes operated by each carrier, which shall be no more than the reference fare laid down for the route, weighted for the period of application. Carriers shall provide the Directorate-General for Civil Aviation with the information necessary to allow it to carry out the relevant checks.

(f) The Directorate-General for Civil Aviation shall guarantee the confidentiality of the data received. Should the average revenue per passenger carried by a carrier on a particular route exceed the reference fare, the carrier shall compensate passengers during the subsequent annual period by an amount equal to the total sum deriving from the difference between the average revenue per passenger and the reference fare, weighted for the total number of passengers carried. Should that compensation not be paid, Article 45.3.1^a of the Air Safety Act (Law No 21/2003) of 7 July 2003) shall apply to the carrier. The annual period referred to above shall run from the date the carrier begins operations in accordance with the conditions laid down in this Decision.

2.4. Air carriers shall be required to register their reference, flexible and social fares and, where appropriate, their fares for large families with the Directorate-General for Civil Aviation no later than 30 calendar days before the planned date of their entry into force. These fares shall be considered to have been approved if the Directorate-General for Civil Aviation has not delivered an opinion on them by 15 calendar days before their planned entry into force. Fares shall enter into force once approved and the Government of the Canary Islands shall be so notified.

The promotional fares referred to in paragraph 2.3(a) may be notified for registration up to 48 hours before their entry into force and shall be deemed to have been approved unless notification to the contrary is given.

Approval of fares shall be limited to checking that they comply with the price levels and the public service obligations laid down.

2.5. The reductions laid down by the relevant legislation for citizens of Spain, the other Member States of the European Union, the States of the European Economic Area and Switzerland resident in the Canary Islands shall apply to fares on scheduled air services on the routes referred to in Section I of this Annex.

- 2.6. The conditions for the accreditation of residents and payments made to air carriers in respect of the rebates which have been granted must be in conformity with rules governing this type of public aid.
- 2.7. Continuity of service. Except in cases of *force majeure*, the number of flights cancelled for reasons directly attributable to the carrier may not exceed, for each IATA scheduling season, 1,5 % of the scheduled flights. Except in cases of *force majeure*, delays may not exceed 15 minutes for 90 % of the flights.
- In the event of the suspension of services in exceptional circumstances, air carriers operating services subject to these public service obligations shall, in cooperation with the Committee provided for in Part Three of this Decision, take all necessary steps to re-establish the service as quickly as possible.
- 2.8. Marketing of flights. Seats and services shall be marketed via distribution channels which take account of the characteristics of the services and the need to ensure appropriate information for users at the lowest possible cost.
-