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### Information and Notices

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## II

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

## MONETARY AGREEMENT

**between the European Union and the Principality of Andorra**

(2011/C 369/01)

THE EUROPEAN UNION, represented by the European Commission,

and

THE PRINCIPALITY OF ANDORRA,

Whereas:

- (1) On 1 January 1999, the euro replaced the currency of each Member State participating in the third stage of Economic and Monetary Union, among which Spain and France, pursuant to Council Regulation (EC) No 974/98 of 3 May 1998.
- (2) Prior to this Agreement, the Principality of Andorra did not have an official currency, nor had it concluded a monetary agreement with any Member State or third country. Spanish and French banknotes and coins were used *de facto* in Andorra and were replaced by euro banknotes and coins as from 1 January 2002. The Principality of Andorra has also issued some collector coins denominated in diners.
- (3) In accordance with the present Monetary Agreement, the euro shall be the official currency of the Principality of Andorra. The Principality of Andorra will thus have the right to issue euro coins and the obligation to grant legal tender status euro banknotes and coins issued by the Eurosystem and the Member States which have adopted the euro. The Principality of Andorra should ensure that European Union rules on banknotes and coins denominated in euros — including those related to the protection of the euro against counterfeiting — are applicable within its territory.
- (4) The Principality of Andorra has a significant banking sector which operates in close connection with that of the euro area. Relevant EU banking and financial legislation, legislation concerning the prevention of money laundering, the prevention of fraud and counterfeiting of non-cash means of payment, and statistical reporting requirements should therefore be made progressively applicable to the Principality of Andorra with a view to ensuring a more level playing field.
- (5) This Agreement does not impose any obligation on the ECB and national central banks to include the financial instruments of the Principality of Andorra in the list(s) of securities eligible for monetary policy operations of the Eurosystem.
- (6) A Joint Committee composed of representatives of the Principality of Andorra and of the European Union should be established in order to examine the application of this Agreement, decide the annual ceiling for coin issuance and assess the measures taken by the Principality of Andorra for implementing relevant EU legislation. The delegation of the European Union should be composed of representatives of the European Commission, the Kingdom of Spain, the French Republic and the European Central Bank.

- (7) The Court of Justice of the European Union should be the body in charge of settling any disputes which may arise from the application of the Agreement,

HAVE AGREED AS FOLLOWS:

#### Article 1

The Principality of Andorra shall be entitled to use the euro as its official currency in accordance with Regulations (EC) No 1103/97 and (EC) No 974/98. The Principality of Andorra shall grant legal tender status to euro banknotes and coins.

#### Article 2

1. The Principality of Andorra shall not issue banknotes. The conditions for issuing euro coins as from 1 July 2013 are laid down in the following Articles.
2. The right to issue euro coins as of 1 July 2013 is subordinated to:
  - (a) the prior adoption by the Principality of Andorra of all the EU legal acts and rules listed in the Annex to the present Agreement for which there is a transposition deadline of 12 or 18 months, from the entry into force of this Agreement;
  - (b) the signature by the Principality of Andorra of the International Organization of Securities Commissions' Multilateral Memorandum of Understanding concerning Consultation, Cooperation and the Exchange of Information within a deadline of at most 18 months, from the entry into force of this Agreement.

#### Article 3

The annual ceiling (in value terms) for the issuance of euro coins by the Principality of Andorra shall be calculated by the Joint Committee established by the present Agreement as the sum of:

- a fixed part, whose initial amount for 2013 is set at EUR 2 342 000. The Joint Committee may revise annually the fixed part with a view to taking into account both inflation — on the basis of euro-area HICP inflation in the previous 12 months — and possible significant trends affecting the euro coins collector market,
- a variable part, corresponding to the average per capita coin issuance of the euro area in the previous 12 months multiplied by the number of inhabitants of the Principality of Andorra.

#### Article 4

1. Euro coins issued by the Principality of Andorra shall be identical to those issued by the Member States of the European Union which have adopted the euro as far as the face value, legal tender status, technical characteristics, artistic features of the common side and shared artistic features of the national side are concerned.

2. The Principality of Andorra shall notify in advance the draft national sides of its euro coins to the European Commission, which shall check their compliance with the EU rules.

#### Article 5

1. Euro coins issued by the Principality of Andorra shall be minted by the EU Mint experienced in striking euro coins of its choice. The Joint Committee should be informed of any change of contractor.
2. At least 80 % of euro coins intended for circulation shall be put into circulation at face value. The Joint Committee may decide to increase this proportion.
3. The issuance of euro collector coins by the Principality of Andorra shall be in accordance with the European Union guidelines laid down for euro collector coins, which, inter alia, require the adoption of technical characteristics, artistic features and denominations that enable euro collector coins to be distinguished from coins intended for circulation.

#### Article 6

1. Half of the volume of euro coins issued by the Principality of Andorra shall be added to the volume of coins issued by the Kingdom of Spain and the other half to the volume of coins issued by the French Republic for the purposes of European Central Bank approval of the total volume of the issue by the Kingdom of Spain and the French Republic in accordance with Article 128(2) of the Treaty on the Functioning of the European Union.
2. No later than 1 September each year, the Principality of Andorra shall notify the European Commission, the Kingdom of Spain and the French Republic of the total face value of the euro coins that it intends to issue during the following year. The Principality of Andorra shall also inform the European Commission about the intended conditions of issuance of these coins, in particular the proportion of collector coins and the detailed arrangements for the introduction of circulation coins.

#### Article 7

1. This Agreement does not prejudice the right of the Principality of Andorra to continue issuing collector coins denominated in diners.
2. Collector coins denominated in diners issued by the Principality of Andorra shall not be legal tender in the European Union.

*Article 8*

1. The Principality of Andorra shall undertake to adopt all appropriate measures, through direct transposition or possibly equivalent actions, with a view to implementing the EU legal acts and rules listed in the Annex to this Agreement, in the field of:

- (a) euro banknotes and coins;
- (b) banking and financial law, in particular in relation to the activity and supervision of the institutions concerned;
- (c) prevention of money laundering, prevention of fraud and counterfeiting of cash and non-cash means of payment (for which a cooperation agreement should be signed with Europol), medals and tokens and statistical reporting requirements. Regarding legislation on the collection of statistical information, the detailed rules of implementation and the technical adaptations (including the appropriate derogations taking into account the specific status of Andorra) shall be agreed with the European Central Bank no later than 18 months before the required start of the statistical reporting;
- (d) the measures necessary for the use of the euro as a single currency adopted under Article 133 of the Treaty on the Functioning of the European Union.

2. The legal acts and rules referred to in paragraph 1 shall be implemented by the Principality of Andorra by the deadlines specified in the Annex.

3. The Principality of Andorra may request technical assistance — in particular on the compilation and collection of statistical information — to facilitate implementation of relevant EU legislation of the entities constituting the delegation of the European Union.

4. The Annex shall be amended by the Commission once a year or more often if deemed appropriate, with a view to taking into account new relevant EU legal acts and rules and amendments to existing ones. The Joint Committee shall thereafter decide on appropriate and reasonable deadlines for the implementation by the Principality of Andorra of the new legal acts and rules added to the Annex.

5. The Joint Committee may, in exceptional cases, revise an existing deadline specified in the Annex.

6. The updated Annex shall be published in the *Official Journal of the European Union*.

*Article 9*

Credit institutions and, where appropriate, other financial institutions authorised to carry out their activities in the territory of the Principality of Andorra may have access to interbank settlement and payment and securities settlement systems in

the euro area under appropriate terms and conditions to be determined by the relevant authorities in Spain or the relevant authorities in France, in agreement with the European Central Bank.

*Article 10*

1. The Court of Justice of the European Union shall have exclusive competence for settling any dispute between the parties, which may arise from the application of this Agreement, and which has not been solved within the Joint Committee.

2. If the European Union, represented by the European Commission and acting on a recommendation by the EU delegation in the Joint Committee, or the Principality of Andorra considers that the other Party has not fulfilled an obligation under this Agreement, it may bring the matter before the Court of Justice. The judgment of the Court shall be binding on the Parties, which shall take the necessary measures to comply with the judgment within a period to be decided by the Court in its judgment and shall not be subject to an appeal procedure.

3. In the event that the European Union or the Principality of Andorra fails to take the necessary measures to comply with the judgment within the specified period, the other Party may terminate the Agreement subject to three months' notice.

*Article 11*

1. A Joint Committee shall be established. It shall be composed of representatives of the Principality of Andorra and of the European Union. The delegation of the European Union shall be composed of representatives of the European Commission (holding the chairmanship), the Kingdom of Spain and the French Republic, together with representatives of the European Central Bank.

2. The Joint Committee shall meet at least once a year. The Chair shall rotate on an annual basis between a representative of the European Union and a representative of the Principality of Andorra. The Joint Committee shall adopt its decisions unanimously.

3. The Joint Committee shall exchange views and information and adopt the decisions referred to in Articles 3 and 8. In particular, the delegation of the European Union shall inform the Principality of Andorra of any European Union legislative initiatives that fall within the scope of Article 8. Furthermore, the Joint Committee shall examine the measures taken by the Principality of Andorra and shall endeavour to solve any disputes resulting from the implementation of this Agreement.

4. The European Union shall be the first to chair the Joint Committee upon the entry into force of this Agreement, as laid down in Article 13.

*Article 12*

Without prejudice to Article 10(3), each Party may terminate this Agreement subject to one year's notice.

*Article 13*

This Agreement shall enter into force on the first day of the second month following the date on which both Parties have notified each other that their ratification procedures have been completed in accordance with the rules applicable to each Party.

*Article 14*

This Agreement shall be concluded and signed in four languages: Catalan, French, English and Spanish, with the text in each of these languages considered equally authentic.

Done at Brussels, 30 June 2011.

*For the European Union*  
Olli REHN  
*Member of the European Commission*

*For the Principality of Andorra*  
Antoni MARTÍ PETIT  
*Head of Government*

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## ANNEX

Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
Prevention of money laundering	
<p>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</p> <p>Amended by:</p> <p>Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319, 5.12.2007, p. 1</p> <p>Directive 2008/20/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as regards the implementing powers conferred on the Commission, OJ L 76, 19.3.2008, p. 46</p> <p>Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, OJ L 267, 10.10.2009, p. 7</p> <p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120</p> <p>Supplemented by:</p> <p>Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime, OJ L 332, 18.12.2007, p. 103</p> <p>Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis, OJ L 214, 4.8.2006, p. 29</p> <p>Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds, OJ L 345, 8.12.2006, p. 1</p> <p>Corrigendum to Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345, 8.12.2006), OJ L 323, 8.12.2007, p. 59</p> <p>Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community, OJ L 309, 25.11.2005, p. 9</p> <p>Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime, OJ L 182, 5.7.2001, p. 1</p>	18 months

Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information, OJ L 271, 24.10.2000, p. 4	
Prevention of fraud and counterfeiting	
Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, OJ L 181, 4.7.2001, p. 6  Amended by:  Council Regulation (EC) No 44/2009 of 18 December 2008 amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting, OJ L 17, 22.1.2009, p. 1	18 months
Council Decision 2003/861/EC of 8 December 2003 concerning analysis and cooperation with regard to counterfeit euro coins, OJ L 325, 12.12.2003, p. 44	18 months
Council Regulation (EC) No 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins, OJ L 373, 21.12.2004, p. 1  Amended by:  Council Regulation (EC) No 46/2009 of 18 December 2008 amending Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins, OJ L 17, 22.1.2009, p. 5	18 months
Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, OJ L 140, 14.6.2000, p. 1  Amended by:  Council Framework Decision 2001/888/JHA of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, OJ L 329, 14.12.2001, p. 3	18 months
Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol), OJ L 121, 15.5.2009, p. 37	18 months
Council Decision 2001/923/EC of 17 December 2001 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme), OJ L 339, 21.12.2001, p. 50  Amended by:  Council Decision 2006/75/EC of 30 January 2006 amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme), OJ L 36, 8.2.2006, p. 40  Council Decision 2006/849/EC of 20 November 2006 amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme), OJ L 330, 28.11.2006, p. 28  Supplemented by:  Council Decision 2001/887/JHA of 6 December 2001 on the protection of the euro against counterfeiting, OJ L 329, 14.12.2001, p. 1	18 months



Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
Council Framework Decision 2001/413/JHA of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment, OJ L 149, 2.6.2001, p. 1	18 months
Decision of the European Central Bank ECB/2010/14 of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes, OJ L 267, 9.10.2010, p. 1	18 months
Rules on euro banknotes and coins	
Council Regulation (EC) No 975/98 of 3 May 1998 on denominations and technical specifications of euro coins intended for circulation, OJ L 139, 11.5.1998, p. 6  Amended by:  Council Regulation (EC) No 423/1999 of 22 February 1999 amending Regulation (EC) No 975/98 on denominations and technical specifications of euro coins intended for circulation, OJ L 52, 27.2.1999, p. 2	12 months
Council conclusions of 10 May 1999 on the quality management system for euro coins	12 months
Council conclusions of 23 November 1998 and of 5 November 2002 on collector coins	12 months
Commission Recommendation 2009/23/EC of 19 December 2008 on common guidelines for the national sides and the issuance of euro coins intended for circulation (C(2008) 8625), OJ L 9, 14.1.2009, p. 52	12 months
Communication from the Commission 2001/C 318/03 of 22 October 2001 on copyright protection of the common face design of the euro coins (C(2001) 600 final), OJ C 318, 13.11.2001, p. 3	12 months
Regulation (EU) No 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins unfit for circulation, OJ L 339, 22.12.2010, p. 1	12 months
Guideline of the European Central Bank ECB/2003/5 of 20 March 2003 on the enforcement of measures to counter non-compliant reproductions of euro banknotes and on the exchange and withdrawal of euro banknotes, OJ L 78, 25.3.2003, p. 20	12 months
Decision of the European Central Bank ECB/2003/4 of 20 March 2003 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes, OJ L 78, 25.3.2003, p. 16	12 months
Banking and financial legislation	
Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions, OJ L 177, 30.6.2006, p. 201  Amended by:  Directive 2008/23/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, as regards the implementing powers conferred on the Commission, OJ L 76, 19.3.2008, p. 54  Commission Directive 2009/27/EC of 7 April 2009 amending certain Annexes to Directive 2006/49/EC of the European Parliament and of the Council as regards technical provisions concerning risk management, OJ L 94, 8.4.2009, p. 97	4 years

Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
<p>Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management, OJ L 302, 17.11.2009, p. 97</p> <p>Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies, OJ L 329, 14.12.2010, p. 3</p> <p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120</p>	
<p>Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions, OJ L 177, 30.6.2006, p. 1</p> <p>Amended by:</p> <p>Commission Directive 2007/18/EC of 27 March 2007 amending Directive 2006/48/EC of the European Parliament and of the Council as regards the exclusion or inclusion of certain institutions from its scope of application and the treatment of exposures to multilateral development banks, OJ L 87, 28.3.2007, p. 9</p> <p>Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector, OJ L 247, 21.9.2007, p. 1</p> <p>Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319, 5.12.2007, p. 1</p> <p>Directive 2008/24/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions, as regards the implementing powers conferred on the Commission, OJ L 81, 20.3.2008, p. 38</p> <p>Commission Directive 2009/83/EC of 27 July 2009 amending certain Annexes to Directive 2006/48/EC of the European Parliament and of the Council as regards technical provisions concerning risk management, OJ L 196, 28.7.2009, p. 14</p> <p>Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, OJ L 267, 10.10.2009, p. 7</p> <p>Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management, OJ L 302, 17.11.2009, p. 97</p>	4 years

Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
<p>Commission Directive 2010/16/EU of 9 March 2010 amending Directive 2006/48/EC of the European Parliament and of the Council as regards the exclusion of a certain institution from the scope of application, OJ L 60, 10.3.2010, p. 15</p> <p>Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies, OJ L 329, 14.12.2010, p. 3</p> <p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120</p>	
<p>Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, OJ L 267, 10.10.2009, p. 7</p>	4 years
<p>Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319, 5.12.2007, p. 1</p> <p>Corrigendum to Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007), OJ L 187, 18.7.2009, p. 5</p> <p>Amended by:</p> <p>Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management, OJ L 302, 17.11.2009, p. 97</p>	4 years
<p>Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions, OJ L 372, 31.12.1986, p. 1</p> <p>Amended by:</p> <p>Directive 2001/65/EC of the European Parliament and of the Council of 27 September 2001 amending Directives 78/660/EEC, 83/349/EEC and 86/635/EEC as regards the valuation rules for the annual and consolidated accounts of certain types of companies as well as of banks and other financial institutions, OJ L 283, 27.10.2001, p. 28</p> <p>Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings, OJ L 178, 17.7.2003, p. 16</p> <p>Directive 2006/46/EC of the European Parliament and of the Council of 14 June 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings, OJ L 224, 16.8.2006, p. 1</p>	4 years

Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
<p>Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, OJ L 135, 31.5.1994, p. 5</p> <p>Amended by:</p> <p>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</p> <p>Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay, OJ L 68, 13.3.2009, p. 3</p>	4 years
<p>Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding-up of credit institutions, OJ L 125, 5.5.2001, p. 15</p>	6 years
<p>Council Directive 89/117/EEC of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents, OJ L 44, 16.2.1989, p. 40</p>	6 years
<p>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</p> <p>Amended by:</p> <p>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</p> <p>Directive 2008/25/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, as regards the implementing powers conferred on the Commission, OJ L 81, 20.3.2008, p. 40</p> <p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120</p>	6 years
<p>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</p> <p>Corrigendum to 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 45, 16.2.2005, p. 18</p>	6 years

Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
<p>Amended by:</p> <p>Directive 2006/31/EC of the European Parliament and of the Council of 5 April 2006 amending Directive 2004/39/EC on markets in financial instruments, as regards certain deadlines, OJ L 114, 27.4.2006, p. 60</p> <p>Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector, OJ L 247, 21.9.2007, p. 1</p> <p>Directive 2008/10/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2004/39/EC on markets in financial instruments, as regards the implementing powers conferred on the Commission, OJ L 76, 19.3.2008, p. 33</p> <p>Directive 2010/78/EU of the European Parliament and of the Council amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC, and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120</p> <p>Supplemented by:</p> <p>Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, OJ L 241, 2.9.2006, p. 26</p> <p>Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive, OJ L 241, 2.9.2006, p. 1</p>	
<p>Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001, OJ L 266, 9.10.2009, p. 11</p>	6 years
<p>Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements, OJ L 168, 27.6.2002, p. 43</p> <p>Amended by:</p> <p>Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims, OJ L 146, 10.6.2009, p. 37</p>	6 years
<p>Commission Recommendation 97/489/EC of 30 July 1997 concerning transactions by electronic payment instruments and in particular the relationship between issuer and holder, OJ L 208, 2.8.1997, p. 52</p>	6 years
<p>Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investment compensation schemes, OJ L 84, 26.3.1997, p. 22</p>	6 years

Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
<p>Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, OJ L 166, 11.6.1998, p. 45</p> <p>Amended by:</p> <p>Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims, OJ L 146, 10.6.2009, p. 37</p> <p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120</p>	6 years
<p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120</p>	4 years
<p>Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, OJ L 331, 15.12.2010, p. 12</p>	4 years
<p>Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, OJ L 331, 15.12.2010, p. 84</p>	4 years
<p>Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board, OJ L 331, 15.12.2010, p. 1</p>	4 years
<p>Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board, OJ L 331, 15.12.2010, p. 162</p>	4 years
<p>Legislation on collection of statistical information (Article 6.1 of the mandate)</p>	
<p>Regulation (EC) No 25/2009 of the European Central Bank of 19 December 2008 concerning the balance sheet of the monetary financial institutions sector (ECB/2008/32), OJ L 15, 20.1.2009, p. 14</p>	4 years
<p>Regulation (EC) No 63/2002 of the European Central Bank of 20 December 2001 concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2001/18) OJ L 10, 12.1.2002, p. 24</p> <p>Amended by:</p> <p>Regulation (EU) No 674/2010 of the European Central Bank of 23 July 2010 amending Regulation (EC) No 63/2002 (ECB/2001/18) concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2010/7), OJ L 196, 28.7.2010, p. 23</p>	4 years

Legal provisions to be implemented	Deadline for implementing (as of the date of the entry into force of the Agreement)
<p>Regulation (EC) No 290/2009 of the European Central Bank of 31 March 2009 amending Regulation (EC) No 63/2002 (ECB/2001/18) concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2009/7), OJ L 94, 8.4.2009, p. 75</p> <p>Regulation (EC) No 2181/2004 of the European Central Bank of 16 December 2004 amending Regulation (EC) No 2423/2001 (ECB/2001/13) concerning the consolidated balance sheet of the monetary financial institutions sector and Regulation (EC) No 63/2002 (ECB/2001/18) concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2004/21), OJ L 371, 18.12.2004, p. 42</p>	
<p>Guideline of the European Central Bank ECB/2007/9 of 1 August 2007 on monetary, financial institutions and markets statistics, OJ L 341, 27.12.2007, p. 1</p> <p>Corrigendum to the Guideline of the European Central Bank ECB/2007/9 of 1 August 2007 on monetary, financial institutions and markets statistics, OJ L 84, 26.3.2008, p. 393</p> <p>Amended by:</p> <p>Guideline of the European Central Bank ECB/2008/31 of 19 December 2008 amending Guideline ECB/2007/9 on monetary, financial institutions and markets statistics, OJ L 53, 26.2.2009, p. 76</p> <p>Guideline of the European Central Bank ECB/2009/23 of 4 December 2009 amending Guideline ECB/2007/9 on monetary, financial institutions and markets statistics, OJ L 16, 21.1.2010, p. 6</p>	4 years
<p>Guideline of the European Central Bank ECB/2002/7 of 21 November 2002 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts, OJ L 334, 11.12.2002, p. 24</p> <p>Amended by:</p> <p>Guideline of the European Central Bank ECB/2005/13 of 17 November 2005 amending Guideline ECB/2002/7 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts, OJ L 30, 2.2.2006, p. 1</p> <p>Guideline of the European Central Bank ECB/2006/6 of 20 April 2006 amending Guideline ECB/2002/7 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts, OJ L 115, 28.4.2006, p. 46</p> <p>Guideline of the European Central Bank ECB/2007/13 of 15 November 2007 amending Guideline ECB/2002/7 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts, OJ L 311, 29.11.2007, p. 47</p> <p>Guideline of the European Central Bank ECB/2008/6 of 26 August 2008 amending Guideline ECB/2002/7 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts, OJ L 259, 27.9.2008, p. 12</p>	4 years



## IV

(Notices)

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

## COUNCIL

**Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents**

(2011/C 369/02)

Pursuant to Article 288 TFEU, 'A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods'.

Member States and the Commission recognise that the effective implementation of Union law is a prerequisite for achieving the policy objectives of the Union and that, whilst the responsibility for such implementation lies primarily with Member States, it is a matter of common interest since it aims, *inter alia*, to create a level playing field in all Member States.

Member States and the Commission acknowledge that the correct and timely transposition of Union directives is a legal obligation. They note that the Treaties entrust the Commission with the task of overseeing the application of Union law under the supervision of the Court of Justice and share the common understanding that the notification of transposition measures should facilitate the achievement by the Commission of this task.

In this context, Member States acknowledge that the information they supply to the Commission as regards the transposition of directives in national law 'must be clear and precise' and 'must indicate unequivocally the laws, regulations and administrative provisions', or any other provisions of national law, as well as, where relevant, the jurisprudence of national courts, by means of which the Member States consider that they have satisfied the various requirements imposed on them by the directive <sup>(1)</sup>.

In order to improve the quality of information on the transposition of Union directives, where the Commission considers that documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments are required, it shall justify on a case by case basis, when submitting the relevant proposals, the need for, and the proportionality of, providing such documents, taking into account, in particular and respectively, the complexity of the directive and of its transposition, as well as the possible additional administrative burden.

In justified cases, Member States undertake to accompany the notification of transposition measures with one or more explanatory documents, which can take the form of correlation tables or other documents serving the same purpose.

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<sup>(1)</sup> See Judgment of the Court of Justice of 16 July 2009 in case C-427/07, point 107 and the case-law cited therein.



**Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission on explanatory documents**

(2011/C 369/03)

The institutions acknowledge that the information Member States supply to the Commission as regards the transposition of directives in national law ‘must be clear and precise’<sup>(1)</sup>, in order to facilitate the achievement by the Commission of its task of overseeing the application of Union law.

Against this background, the European Parliament and the Council welcome the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011.

Consequently, where the need for, and the proportionality of, the transmission of such documents is justified in accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, the Institutions agree to include the following recital in the directive concerned:

‘In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.’

By 1 November 2013, the Commission will report to the European Parliament and to the Council on the implementation of the two Joint Political Declarations on explanatory documents.

The Institutions undertake to apply these principles as from 1 November 2011 to new and pending directive proposals, with the exception of those on which the European Parliament and the Council have already reached an agreement.

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<sup>(1)</sup> See Judgment of the Court of Justice of 16 July 2009 in case C-427/07, point 107 and the case-law cited therein.

**Notice for the attention of the persons to which restrictive measures provided for in Council Decision 2010/788/CFSP, as implemented by Council Implementing Decision 2011/848/CFSP, apply**

(2011/C 369/04)

THE COUNCIL OF THE EUROPEAN UNION,

The following information is brought to the attention of the persons that appear in the Annex to Council Decision 2010/788/CFSP, as implemented by Council Implementing Decision 2011/848/CFSP <sup>(1)</sup>.

The United Nations Security Council has designated the persons that should be included in the list of persons and entities subject to the measures imposed by paragraphs 13 and 15 of Resolution 1596 (2005), as renewed by paragraph 3 of Resolution 1952 (2010).

The persons and entities concerned may submit at any time a request to the UN Committee established pursuant to paragraph 8 of UNSCR 1533 (2004), together with any supporting documentation, for the decisions to include them in the UN list to be reconsidered. Such a request should be sent to the following address:

United Nations — Focal point for delisting  
Security Council Subsidiary Organs Branch  
Room S-3055 E  
New York, NY 10017  
UNITED STATES OF AMERICA

See for more information at: <http://www.un.org/sc/committees/751/comguide.shtml>

Further to the UN decision, the Council of the European Union has determined that the persons that appear in the above-mentioned Annex should be included in the list of persons and entities which are subject to the restrictive measures provided for in Council Decision 2010/788/CFSP as implemented by Council Implementing Decision 2011/848/CFSP. The grounds for designation of the persons concerned appear in the relevant entries in Annex to the Council Decision.

The attention of the persons concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as indicated in the web-sites in Annex II to Regulation (EC) No 1183/2005, in order to obtain an authorisation to use frozen funds for basic needs or specific payments (cf. Article 3 of the Regulation).

The persons concerned may submit a request to the Council, together with supporting documentation, that the decision to include them on the above-mentioned lists should be reconsidered, to the address provided above.

The attention of the persons concerned is also drawn to the possibility of challenging the Council's Decision before the General Court of the European Union, in accordance with the conditions laid down in Article 275, second paragraph, and Article 263, fourth and sixth paragraphs, of the Treaty on the Functioning of the European Union.

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<sup>(1)</sup> OJ L 335, 17.12.2011, p. 83.

**Notice for the attention of the persons to which restrictive measures provided for in Council Decision 2010/639/CFSP, as implemented by Council Implementing Decision 2011/847/CFSP, and in Council Regulation (EC) No 765/2006, as implemented by Council Implementing Regulation (EU) No 1320/2011 concerning restrictive measures against Belarus apply**

(2011/C 369/05)

COUNCIL OF THE EUROPEAN UNION,

The following information is brought to the attention of persons that appear in Annex IIIA to Council Decision 2010/639/CFSP, as amended by Council Decision 2011/847/CFSP <sup>(1)</sup>, and in Annex IA to Council Regulation (EC) No 765/2006, as implemented by Council Implementing Regulation (EU) No 1320/2011 <sup>(2)</sup> concerning restrictive measures against Belarus.

The Council of the European Union has decided that the persons that appear in the above-mentioned Annexes should be included in the list of persons and entities subject to restrictive measures provided for in Decision 2010/639/CFSP and in Regulation (EC) No 765/2006 concerning restrictive measures against Belarus. The grounds for designations of those persons appear in the relevant entries in those Annexes.

The attention of the persons concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as indicated in the web-sites in Annex II to Regulation (EC) No 765/2006, in order to obtain an authorisation to use frozen funds for basic needs or specific payments (cf. Article 3 of the Regulation).

The persons concerned may submit a request to the Council, together with supporting documentation, that the decision to include them on the above-mentioned list should be reconsidered, to the following address:

Council of the European Union  
General Secretariat  
DG K Coordination Unit  
Rue de la Loi/Wetstraat 175  
1048 Bruxelles/Brussel  
BELGIQUE/BELGIË

The attention of the persons concerned is also drawn to the possibility of challenging the Council's decision before the General Court of the European Union, in accordance with the conditions laid down in Article 275, 2nd paragraph, and Article 263, 4th and 6th paragraphs, of the Treaty on the Functioning of the European Union.

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<sup>(1)</sup> OJ L 335, 17.12.2011, p. 81.

<sup>(2)</sup> OJ L 335, 17.12.2011, p. 15.

# EUROPEAN COMMISSION

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

16 December 2011

(2011/C 369/06)

1 euro =

Currency			Exchange rate		
Currency			Exchange rate		
USD	US dollar	1,3064	AUD	Australian dollar	1,3060
JPY	Japanese yen	101,70	CAD	Canadian dollar	1,3497
DKK	Danish krone	7,4336	HKD	Hong Kong dollar	10,1673
GBP	Pound sterling	0,84055	NZD	New Zealand dollar	1,7106
SEK	Swedish krona	9,0337	SGD	Singapore dollar	1,7004
CHF	Swiss franc	1,2249	KRW	South Korean won	1 512,33
ISK	Iceland króna		ZAR	South African rand	10,9181
NOK	Norwegian krone	7,7815	CNY	Chinese yuan renminbi	8,2698
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,5135
CZK	Czech koruna	25,343	IDR	Indonesian rupiah	11 805,04
HUF	Hungarian forint	303,38	MYR	Malaysian ringgit	4,1485
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	57,234
LVL	Latvian lats	0,6975	RUB	Russian rouble	41,5810
PLN	Polish zloty	4,4891	THB	Thai baht	40,903
RON	Romanian leu	4,3345	BRL	Brazilian real	2,4085
TRY	Turkish lira	2,4520	MXN	Mexican peso	18,0479
			INR	Indian rupee	68,8470

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

## V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON  
COMMERCIAL POLICY

## EUROPEAN COMMISSION

**Notice of initiation of an anti-dumping proceeding concerning imports of white phosphorus, also  
called elemental or yellow phosphorus, originating in Kazakhstan**

(2011/C 369/07)

The European Commission ('the Commission') has received a complaint pursuant to Article 5 of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> ('the basic Regulation'), alleging that imports of white phosphorus, also called elemental or yellow phosphorus, originating in Kazakhstan, are being dumped and are thereby causing material injury to the Union industry.

**1. Complaint**

The complaint was lodged on 7 November 2011 by Thermphos International BV ('the complainant'), the sole producer in the Union of white phosphorus representing 100 % of the Union production thereof.

**2. Product under investigation**

The product subject to this investigation is white phosphorus, also called elemental or yellow phosphorus ('the product under investigation').

**3. Allegation of dumping <sup>(2)</sup>**

The product allegedly being dumped is the product under investigation, originating in Kazakhstan ('the country concerned'), currently falling within CN code ex 2804 70 00. This CN code is given for information only.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> Dumping is the practice of selling a product for export ('the product concerned') at a price below its 'normal value'. The normal value is usually taken to be a comparable price for the 'like' product on the domestic market of the country concerned. The term 'like product' is interpreted to mean a product which is alike in all respects to the product concerned or, in the absence of such a product, a product which closely resembles the product.

Since, in view of the provisions of Article 2(7) of the basic Regulation, the country concerned is considered to be a non-market economy country and the complainant alleged that the United States of America, the only market economy third country apart from the European Union that has production of white phosphorous, would not be an appropriate market economy third country due to lack of sufficient competition in the market and lack of sufficient domestic sales or domestic sales made in the ordinary course of trade, the complainant established normal value for the imports from Kazakhstan on the basis of the price actually paid or payable in the Union for the like product, duly adjusted to include a reasonable profit margin. The allegation of dumping is based on a comparison of the normal value thus established with the export price (at ex-works level) of the product under investigation when sold for export to the Union.

Despite considering the USA as an inappropriate market economy third country, the complainant has nevertheless also established normal value for imports from Kazakhstan on the basis of a constructed normal value (manufacturing costs, selling, general and administrative costs (SG&A) and profit) in the USA. The allegation of dumping is therefore also based on a comparison of the normal value thus established with the export price (at ex-works level) of the product under investigation when sold for export to the Union.

On those bases the dumping margins calculated are significant for the country concerned.

**4. Allegation of injury**

The complainant has provided evidence that imports of the product under investigation from the country concerned have increased overall in absolute terms and have increased in terms of market share.

The *prima facie* evidence provided by the complainant shows that the volume and the prices of the imported product under investigation have, among other consequences, had a negative impact on the quantities sold, the level of the prices charged and the market share held by the Union industry, resulting in substantial adverse effects on the overall performance and the financial situation of the Union industry.

## 5. Procedure

Having determined, after consulting the Advisory Committee, that the complaint has been lodged by or on behalf of the Union industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

The investigation will determine whether the product under investigation originating in the country concerned is being dumped and whether this dumping has caused injury to the Union industry. If the conclusions are affirmative, the investigation will examine whether the imposition of measures would not be against the Union interest.

### 5.1. Procedure for the determination of dumping

Exporting producers <sup>(3)</sup> of the product under investigation from the country concerned are invited to participate in the Commission investigation.

#### 5.1.1. Investigating exporting producers

##### 5.1.1.1. Procedure for selecting exporting producers to be investigated in the country concerned

In order to obtain the information it deems necessary for its investigation with regard to exporting producers in Kazakhstan, the Commission will send questionnaires to the known exporting producers in the country concerned, to any known association of exporting producers, and to the authorities of the country concerned. All exporting producers and associations of exporting producers are invited to contact the Commission, preferably by e-mail, immediately, but no later than 15 days after the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, in order to make themselves known and to request a questionnaire.

The exporting producers and, where applicable, the associations of exporting producers must submit the completed ques-

tionnaire within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

The questionnaire will contain information on, *inter alia*, the structure of the exporting producer's company(ies), the activities of the company(ies) in relation to the product under investigation, the cost of production, the sales of the product under investigation on the domestic market of the country concerned and the sales of the product under investigation to the Union.

#### 5.1.2. Additional procedure with regard to exporting producers in the non-market economy country concerned

##### 5.1.2.1. Selection of a Market Economy Third Country

Subject to the provisions of section 5.1.2.2 below, in accordance with Article 2(7)(a) of the basic Regulation, in the case of imports from the country concerned normal value shall be determined on the basis of the price or constructed value in a market economy third country. For this purpose the Commission shall select an appropriate market economy third country. The Commission has provisionally chosen the United States of America. Given the possibility that the USA is an inappropriate market economy third country, the Commission intends to determine normal value on the basis of the price actually paid in the Union, duly adjusted to include a reasonable profit margin. Interested parties are hereby invited to comment on the appropriateness of these choices within 10 days of the date of publication of this notice in the *Official Journal of the European Union*.

##### 5.1.2.2. Treatment of exporting producers in the non-market economy country concerned

In accordance with Article 2(7)(b) of the basic Regulation, individual exporting producers in the country concerned, which consider that market economy conditions prevail for them in respect of the manufacture and sale of the product under investigation, may submit a properly substantiated claim to this effect ('MET claim'). Market economy treatment ('MET') will be granted if the assessment of the MET claim shows that the criteria laid down in Article 2(7)(c) of the basic Regulation <sup>(4)</sup> are fulfilled. The dumping margin of the exporting producers granted MET will be calculated, to the extent possible and without prejudice to the use of facts available pursuant to Article 18 of the basic Regulation, by using their own normal value and export prices in accordance with Article 2(7)(b) of the basic Regulation.

<sup>(3)</sup> An exporting producer is any company in the country concerned which produces and exports the product under investigation to the Union market, either directly or via third party, including any of its related companies involved in the production, domestic sales or exports of the product concerned.

<sup>(4)</sup> The exporting producers have to demonstrate in particular that: (i) business decisions and costs are made in response to market conditions and without significant State interference; (ii) firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes; (iii) there are no significant distortions carried over from the former non-market economy system; (iv) bankruptcy and property laws guarantee legal certainty and stability and (v) exchange rate conversions are carried out at market rates.

Individual exporting producers in the country concerned may also, or as an alternative, claim individual treatment ('IT'). To be granted IT these exporting producers must provide evidence that they fulfil the criteria set out in Article 9(5) of the basic Regulation<sup>(5)</sup>. The dumping margin of the exporting producers granted IT will be calculated on the basis of their own export prices. The normal value for exporting producers granted IT will be based on the values established for the market economy third country selected as outlined above.

(a) Market economy treatment (MET)

The Commission will send MET claim forms to all known exporting producers in the country concerned to any known association of exporting producers, as well as to the authorities of the country concerned. Any exporting producers wishing to apply for MET should request the MET claim form from the Commission no later than 10 days after the publication of this notice in the *Official Journal of the European Union*. All exporting producers claiming MET should submit the completed MET claim form within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

(b) Individual treatment (IT)

To apply for IT, exporting producers in the country concerned should submit the MET claim form with the sections relevant for IT duly completed within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

5.1.3. Investigating unrelated importers<sup>(6)</sup> <sup>(7)</sup>

In view of the potentially large number of unrelated importers involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated

importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission. These parties should do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the following information on their company or companies:

- name, address, e-mail address, telephone and fax numbers and contact person,
- the precise activities of the company with regard to the product under investigation,
- total turnover during the period from 1 January 2011 until 31 December 2011
- the volume in tonnes and value in EUR of imports into and resales made on the Union<sup>(8)</sup> market during the period from 1 January 2011 until 31 December 2011 of the imported product under investigation originating in the country concerned,
- the names and the precise activities of all related companies<sup>(9)</sup> involved in the production and/or sales of the product under investigation,
- any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will imply completing a questionnaire and accepting a visit at its premises in order to verify its response ('on-spot verification'). If the company

<sup>(5)</sup> The exporting producers have to demonstrate in particular that: (i) in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits; (ii) export prices and quantities and conditions and terms of sale are freely determined; (iii) the majority of the shares belong to private persons. State officials appearing on the Board of Directors or holding key management positions shall either be in a minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference; (iv) exchange rate conversions are carried out at the market rate and (v) State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

<sup>(6)</sup> Only importers not related to exporting producers can be sampled. Importers that are related to exporting producers have to fill in Annex 1 to the questionnaire for these exporting producers. For the definition of a related party see footnote 9.

<sup>(7)</sup> The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

<sup>(8)</sup> The 27 Member States of the European Union are: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

<sup>(9)</sup> In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognized partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.



indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that party than if it had cooperated.

In order to obtain the information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under investigation in the Union which can reasonably be investigated within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified. The completed questionnaire will contain information on, *inter alia*, the structure of their company(ies), the activities of the company(ies) in relation to the product under investigation and on the sales of the product under investigation.

## 5.2. Procedure for the determination of injury

Injury means material injury to the Union industry, or threat of material injury to the industry, or material retardation of the establishment of such an industry. A determination of injury is based on positive evidence and involves an objective examination of the volume of the dumped imports, their effect on prices on the Union market and the consequent impact of those imports on the Union industry. In order to establish whether the Union industry is materially injured, Union producers of the product under investigation are invited to participate in the Commission investigation.

### 5.2.1. Investigating Union producers

In order to obtain the information it deems necessary for its investigation with regard to Union producers the Commission will send questionnaires to the known Union producers or representative Union producers and to any known association of Union producers.

The aforementioned Union producers and the associations of Union producers must submit the completed questionnaire within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. The completed questionnaire will contain information on, *inter alia*, the structure of their company(ies), the financial situation of the company(ies), the activities of the company(ies) in relation to the product under investigation, the cost of production and the sales of the product under investigation.

Any Union producer and association of Union producers not listed above is invited to contact the Commission immediately, preferably by e-mail, but no later than 15 days after the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, in order to make itself known and request a questionnaire.

## 5.3. Procedure for the assessment of Union interest

Should the existence of dumping and injury caused thereby be established, a decision will be reached, pursuant to Article 21 of the basic Regulation, as to whether the adoption of anti-dumping measures would be against the Union interest. Union producers, importers and their representative associations, users and their representative associations, and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under investigation.

Parties that make themselves known within the above deadline may provide the Commission with information on the Union interest within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. In any case, information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

## 5.4. Other written submissions

Subject to the provisions of this notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence should reach the Commission within 37 days of the date of publication of this notice in the *Official Journal of the European Union*.



### 5.5. *Possibility to be heard by the Commission investigation services*

All interested parties may request to be heard by the Commission investigation services. Any request to be heard should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard should be submitted within the specific deadlines set by the Commission in its communication with the parties.

### 5.6. *Instructions for making written submissions and sending completed questionnaires and correspondence*

All written submissions, including the information requested in this notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' <sup>(10)</sup>.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such confidential information may be disregarded.

Interested parties are required to make all submissions and requests in electronic format (the non-confidential submissions via e-mail, the confidential ones on CD-R/DVD), and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. However, any Powers of Attorney, signed certifications, and any updates thereof, accompanying MET and IT claim forms or questionnaire replies shall be submitted on paper, i.e. by post or by hand, at the address below. Pursuant to Article 18(2) of the basic Regulation if an interested party cannot provide its submissions and requests in electronic format, it must immediately inform the Commission. For further information concerning correspondence with the Commission, interested parties may consult the relevant web page on the website of Directorate-General for Trade: <http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence>

<sup>(10)</sup> A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343 22.12.2009 p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

Commission address for correspondence:

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E-mail injury: [trade-yp4-injury@ec.europa.eu](mailto:trade-yp4-injury@ec.europa.eu)

## 6. **Non-cooperation**

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

## 7. **Hearing Officer**

Interested parties may request the intervention of the Hearing Officer of Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes on the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among others, to dumping, injury, causal link and Union interest. Such a hearing would, as a rule, take place at the latest at the end of the fourth week following the disclosure of provisional findings.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: [http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index\\_en.htm](http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index_en.htm)

#### **8. Schedule of the investigation**

The investigation will be concluded, according to Article 6(9) of the basic Regulation within 15 months of the date of the

publication of this notice in the *Official Journal of the European Union*. According to Article 7(1) of the basic Regulation, provisional measures may be imposed no later than nine months from the publication of this notice in the *Official Journal of the European Union*.

#### **9. Processing of personal data**

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(1)</sup>.

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<sup>(1)</sup> OJ L 8, 12.1.2001, p. 1.

## CORRIGENDA

**Corrigendum to the Commission communication in the framework of the implementation of the Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC***(Official Journal of the European Union C 338 of 18 November 2011)**(2011/C 369/08)*

On page 22:

*for:*

'CEN	EN ISO 10218-1:2011 Robots and robotic devices - Safety requirements for industrial robots - Part 1: Robots (ISO 10218-1:2011)	This is the first publication	EN ISO 10218-1:2008 Note 2.1	31.1.2012'
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*read:*

'CEN	EN ISO 10218-1:2011 Robots and robotic devices - Safety requirements for industrial robots - Part 1: Robots (ISO 10218-1:2011)	This is the first publication	EN ISO 10218-1:2008 Note 2.1	1.1.2013'
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