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

## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

## COUNCIL REGULATION (EC) No 487/2009

of 25 May 2009

**on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector**

(Codified version)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 83 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Whereas:

(1) Council Regulation (EEC) No 3976/87 of 14 December 1987 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector <sup>(2)</sup> has been substantially amended several times <sup>(3)</sup>. In the interests of clarity and rationality the said Regulation should be codified.

(2) Common provisions for the application of Article 81(3) of the Treaty should be adopted by way of Regulation or Directive pursuant to Article 83 of the Treaty. The Commission should be enabled to declare by way of regulation that the provisions of Article 81(1) of the Treaty do not apply to certain categories of agreements between undertakings, decisions by associations of undertakings and concerted practices.

(3) The Commission should be empowered to grant block exemptions in the air transport sector in respect of traffic within the Community, as well as in respect of traffic between the Community and third countries.

(4) It should be laid down under what specific conditions and in what circumstances the Commission may exercise such powers in close and constant liaison with the competent authorities of the Member States.

(5) It is desirable, in particular, that block exemptions be granted for certain categories of agreements, decisions and concerted practices. Those exemptions should be granted for a limited period during which air carriers can adapt to a more competitive environment. The Commission, in close liaison with the Member States, should be able to define precisely the scope of those exemptions and the conditions attached to them.

(6) This Regulation is without prejudice to the application of Article 86 of the Treaty,

HAS ADOPTED THIS REGULATION:

*Article 1*

This Regulation shall apply to air transport.

*Article 2*

1. In accordance with Article 81(3) of the Treaty, the Commission may by Regulation declare that Article 81(1) of the Treaty shall not apply to certain categories of agreements between undertakings, decisions of associations of undertakings and concerted practices.

The Commission may, in particular, adopt such Regulations in respect of agreements, decisions or concerted practices which have as their object any of the following:

- (a) joint planning and coordination of airline schedules;
- (b) consultations on tariffs for the carriage of passengers and baggage and of freight on scheduled air services;
- (c) joint operations on new less busy scheduled air services;

<sup>(1)</sup> Opinion of 21 October 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 374, 31.12.1987, p. 9.

<sup>(3)</sup> See Annex I.

- (d) slot allocation at airports and airport scheduling; the Commission shall take care to ensure consistency with Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports <sup>(1)</sup>;
- (e) common purchase, development and operation of computer reservation systems relating to timetabling, reservations and ticketing by air transport undertakings; the Commission shall take care to ensure consistency with Council Regulation (EEC) No 2299/89 of 24 July 1989 on a code of conduct for computerised reservation systems <sup>(2)</sup>.

2. Without prejudice to the second subparagraph of paragraph 1, the Commission Regulations referred to therein shall define the categories of agreements, decisions or concerted practices to which they apply and shall specify in particular:

- (a) the restrictions or clauses which may, or may not, appear in the agreements, decisions and concerted practices;
- (b) the clauses which must be contained in the agreements, decisions and concerted practices, or any other conditions which must be satisfied.

#### Article 3

Any Regulation adopted pursuant to Article 2 shall apply for a specified period.

It may be repealed or amended where circumstances have changed with respect to any of the factors which prompted its adoption; in such a case, a period shall be fixed for amendment of the agreements and concerted practices to which the earlier Regulation applied before repeal or amendment.

#### Article 4

Regulations adopted pursuant to Article 2 shall include a provision stating that they apply with retroactive effect to agreements, decisions and concerted practices which were in existence at the date of the entry into force of such Regulations.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 25 May 2009.

For the Council

The President

J. ŠEBESTA

#### Article 5

A Regulation adopted pursuant to Article 2 may stipulate that the prohibition contained in Article 81(1) of the Treaty shall not apply, for such a period as fixed by that Regulation, to agreements, decisions and concerted practices already in existence at the date of accession to which Article 81(1) applies by virtue of the accession of Austria, Finland and Sweden and which do not satisfy the conditions of Article 81(3) of the Treaty.

However, this Article shall not apply to agreements, decisions and concerted practices which at the date of accession already fall under Article 53(1) of the EEA Agreement.

#### Article 6

Before adopting a Regulation pursuant to Article 2, the Commission shall publish a draft thereof and invite all persons and organisations concerned to submit their comments within a reasonable time-limit, being not less than one month, as the Commission shall fix.

#### Article 7

The Commission shall consult the Advisory Committee on Restrictive Practices and Dominant Positions referred to in Article 14 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty <sup>(3)</sup> before publishing a draft Regulation and before adopting a Regulation pursuant to Article 2.

#### Article 8

Regulation (EEC) No 3976/87 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and be read in accordance with the correlation table set out in Annex II.

#### Article 9

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

<sup>(1)</sup> OJ L 14, 22.1.1993, p. 1.

<sup>(2)</sup> OJ L 220, 29.7.1989, p. 1.

<sup>(3)</sup> OJ L 1, 4.1.2003, p. 1.

## ANNEX I

**Repealed Regulation with list of its successive amendments**

Council Regulation (EEC) No 3976/87  
(OJ L 374, 31.12.1987, p. 9).

Council Regulation (EEC) No 2344/90  
(OJ L 217, 11.8.1990, p. 15).

Council Regulation (EEC) No 2411/92  
(OJ L 240, 24.8.1992, p. 19).

1994 Act of Accession, Annex I, Point III.A.3  
(JO C 241, 29.8.1994, p. 56).

Council Regulation (EC) No 1/2003  
(OJ L 1, 4.1.2003, p. 1).

Only Article 41

Council Regulation (EC) No 411/2004  
(OJ L 68, 6.3.2004, p. 1).

Only Article 2

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## ANNEX II

## CORRELATION TABLE

Regulation (EEC) No 3976/87	This Regulation
Article 1	Article 1
Article 2(1)	Article 2(1), first subparagraph
Article 2(2), introductory wording	Article 2(1), second subparagraph, introductory wording
Article 2(2), first indent	Article 2(1), second subparagraph, point (a)
Article 2(2), second indent	Article 2(1), second subparagraph, point (b)
Article 2(2), third indent	Article 2(1), second subparagraph, point (c)
Article 2(2), fourth indent	Article 2(1), second subparagraph, point (d)
Article 2(2), fifth indent	Article 2(1), second subparagraph, point (e)
Article 2(3)	Article 2(2)
Articles 3 and 4	Articles 3 and 4
Article 4a, first sentence	Article 5, first paragraph
Article 4a, second sentence	Article 5, second paragraph
Article 5	Article 6
Article 6	Article 7
—	Article 8
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**COMMISSION REGULATION (EC) No 488/2009**  
**of 10 June 2009**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 11 June 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 June 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**Standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	MA	37,3
	MK	39,9
	TR	54,9
	ZZ	44,0
0707 00 05	JO	162,3
	MK	31,4
	TR	131,6
	ZZ	108,4
0709 90 70	TR	111,6
	ZZ	111,6
0805 50 10	AR	55,7
	TR	60,0
	ZA	65,7
	ZZ	60,5
0808 10 80	AR	75,4
	BR	72,8
	CA	69,7
	CL	88,5
	CN	102,4
	NA	101,9
	NZ	105,3
	US	118,5
	ZA	78,1
	ZZ	90,3
0809 10 00	TN	161,5
	TR	197,7
	ZZ	179,6
0809 20 95	TR	510,4
	US	453,6
	ZZ	482,0

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.



**COMMISSION REGULATION (EC) No 489/2009****of 10 June 2009****setting the allocation coefficient for the issuing of import licences applied for from 1 to 5 June 2009  
for sugar products under tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 950/2006 of 28 June 2006 laying down detailed rules of application for the 2006/07, 2007/08 and 2008/09 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements <sup>(2)</sup>, and in particular Article 5(3) thereof,

Whereas:

- (1) Applications for import licences were submitted to the competent authorities in the period from 1 to 5 June 2009 in accordance with Commission Regulation (EC) No 950/2006 and/or Council Regulation (EC) No 508/2007 of 7 May 2007 opening tariff quotas for imports into Bulgaria and Romania of raw cane sugar for

supply to refineries in the marketing years 2006/07, 2007/08 and 2008/09 <sup>(3)</sup>, for a total quantity equal to or exceeding the quantity available for order number 09.4366 (2008-2009).

- (2) In these circumstances, the Commission should establish an allocation coefficient for licences to be issued in proportion to the quantity available and/or inform the Member States that the limit established has been reached,

HAS ADOPTED THIS REGULATION:

*Article 1*

Licences shall be issued within the quantitative limits set in the Annex to this Regulation in respect of import licence applications submitted from 1 to 5 June 2009, in accordance with Article 4(2) of Regulation (EC) No 950/2006 and/or Article 3 of Regulation (EC) No 508/2007.

*Article 2*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 June 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 178, 1.7.2006, p. 1.

<sup>(3)</sup> OJ L 122, 11.5.2007, p. 1.

## ANNEX

**ACP/India Preferential Sugar**  
**Chapter IV of Regulation (EC) No 950/2006**  
**2008/09 marketing year**

Order No	Country	Week of 1.6.2009-5.6.2009: percentage of requested quantity to be granted	Limit
09.4331	Barbados	100	
09.4332	Belize	0	Reached
09.4333	Côte d'Ivoire	100	
09.4334	Republic of the Congo	100	
09.4335	Fiji	100	
09.4336	Guyana	100	
09.4337	India	0	Reached
09.4338	Jamaica	100	
09.4339	Kenya	100	
09.4340	Madagascar	100	
09.4341	Malawi	0	Reached
09.4342	Mauritius	100	
09.4343	Mozambique	0	Reached
09.4344	Saint Kitts and Nevis	—	
09.4345	Suriname	—	
09.4346	Swaziland	0	Reached
09.4347	Tanzania	100	
09.4348	Trinidad and Tobago	100	
09.4349	Uganda	—	
09.4350	Zambia	100	
09.4351	Zimbabwe	0	Reached

**ACP/India Preferential Sugar**  
**Chapter IV of Regulation (EC) No 950/2006**  
**July-September 2009 marketing year**

Order No	Country	Week of 1.6.2009-5.6.2009: percentage of requested quantity to be granted	Limit
09.4331	Barbados	100	
09.4332	Belize	100	
09.4333	Côte d'Ivoire	100	
09.4334	Republic of the Congo	100	
09.4335	Fiji	100	
09.4336	Guyana	100	
09.4337	India	0	Reached
09.4338	Jamaica	100	
09.4339	Kenya	100	
09.4340	Madagascar	100	
09.4341	Malawi	100	
09.4342	Mauritius	100	
09.4343	Mozambique	100	
09.4344	Saint Kitts and Nevis	—	
09.4345	Suriname	—	
09.4346	Swaziland	100	
09.4347	Tanzania	100	
09.4348	Trinidad and Tobago	100	
09.4349	Uganda	—	
09.4350	Zambia	100	
09.4351	Zimbabwe	0	Reached

**Complementary sugar**  
**Chapter V of Regulation (EC) No 950/2006**  
**2008/09 marketing year**

Order No	Country	Week of 1.6.2009-5.6.2009: percentage of requested quantity to be granted	Limit
09.4315	India	—	
09.4316	ACP Protocol signatory countries	—	

**CXL Concessions Sugar**  
**Chapter VI of Regulation (EC) No 950/2006**  
**2008/09 marketing year**

Order No	Country	Week of 1.6.2009-5.6.2009: percentage of requested quantity to be granted	Limit
09.4317	Australia	0	Reached
09.4318	Brazil	0	Reached
09.4319	Cuba	0	Reached
09.4320	Other third countries	0	Reached

**Balkans sugar**  
**Chapter VII of Regulation (EC) No 950/2006**  
**2008/09 marketing year**

Order No	Country	Week of 1.6.2009-5.6.2009: percentage of requested quantity to be granted	Limit
09.4324	Albania	100	Reached
09.4325	Bosnia and Herzegovina	0	
09.4326	Serbia and Kosovo (*)	100	
09.4327	Former Yugoslav Republic of Macedonia	100	
09.4328	Croatia	100	

(\*) As defined by United Nations Security Council Resolution 1244 of 10 June 1999.

**Exceptional import sugar and industrial import sugar**  
**Chapter VIII of Regulation (EC) No 950/2006**  
**2008/09 marketing year**

Order No	Type	Week of 1.6.2009-5.6.2009: percentage of requested quantity to be granted	Limit
09.4380	Exceptional	—	
09.4390	Industrial	100	

**Additional EPA sugar**  
**Chapter VIIIa of Regulation (EC) No 950/2006**  
**2008/09 marketing year**

Order No	Country	Week of 1.6.2009-5.6.2009: percentage of requested quantity to be granted	Limit
09.4431	Comoros, Madagascar, Mauritius, Seychelles, Zambia, Zimbabwe	100	
09.4432	Burundi, Kenya, Rwanda, Tanzania, Uganda	100	
09.4433	Swaziland	100	
09.4434	Mozambique	0	Reached
09.4435	Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago	0	Reached
09.4436	Dominican Republic	0	Reached
09.4437	Fiji, Papua New Guinea	100	

**Import of sugar under the transitional tariff quotas opened for Bulgaria and Romania**  
**Article 1 of Regulation (EC) No 508/2007**  
**2008/09 marketing year**

Order No	Type	Week of 1.6.2009-5.6.2009: percentage of requested quantity to be granted	Limit
09.4365	Bulgaria	0	Reached
09.4366	Romania	100	Reached

**COMMISSION REGULATION (EC) No 490/2009****of 10 June 2009****amending for the 107th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan,<sup>(1)</sup> and in particular the first indent of Article 7(1) thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.
- (2) On 27 May 2009, the Sanctions Committee of the United Nations Security Council decided to amend the list of natural and legal persons, groups and entities to whom the freezing of funds and economic resources should apply, adding one natural person to the list given the information related to their association with Al-Qaida. The Sanctions Committee provided the statement of reasons for this listing decision.

(3) Annex I should be amended accordingly.

(4) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately.

(5) Since the UN list does not provide the current address for the natural person concerned, a notice should be published in the Official Journal so that the person concerned can contact the Commission and that the Commission can subsequently communicate the grounds on which this Regulation is based to the natural person concerned, provide him with the opportunity to comment on these grounds and review this Regulation in view of the comments and possible available additional information,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EC) No 881/2002 is hereby amended as set out in the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 June 2009.

*For the Commission*  
Eneko LANDÁBURU  
*Director-General for External Relations*

<sup>(1)</sup> OJ L 139, 29.5.2002, p. 9.

## ANNEX

Annex I to Regulation (EC) No 881/2002 is amended as follows:

The following entry shall be added under the heading 'Natural persons':

'Bekkay **Harrach** (*alias* (a) Abu Talha al Maghrabi, (b) al Hafidh Abu Talha der Deutsche ("al Hafidh Abu Talha the German")). Date of birth: 4.9.1977. Place of birth: Berkane, Morocco. Nationality: German. Passport No: 5208116575 (German passport issued in Bonn, Germany, valid until 7.9.2013). National identification No: (a) 5209243072 (German Bundespersonalausweis (national identity card), issued in Bonn, Germany, valid until 7.9.2013, (b) J17001W6Z12 (German driving licence, issued in Bonn, Germany). Date of designation referred to in Article 2a(4)(b): 27.5.2009. Other information: Believed to be in the Afghanistan/Pakistan border area as at April 2009.'

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## II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

## DECISIONS

## COUNCIL

## COUNCIL DECISION

of 5 May 2009

**amending Decision 2007/250/EC authorising the United Kingdom to introduce a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax**

(2009/439/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax <sup>(1)</sup>, and in particular Article 395(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) In a letter registered by the Secretariat-General of the Commission on 28 July 2008, the United Kingdom requested authorisation to continue to apply a special measure derogating from Article 193 of Directive 2006/112/EC as regards the person liable for the payment of value added tax (VAT) to the tax authorities and previously provided for by Council Decision 2007/250/EC of 16 April 2007 <sup>(2)</sup>.

(2) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter of 17 March 2009 of the request made by the United Kingdom. By letter dated 20 March 2009, the Commission notified the United Kingdom that it had all the information it considered necessary for the appraisal of the request.

(3) The person liable for the payment of VAT under Article 193 of Directive 2006/112/EC is the taxable person supplying the goods. However, the derogating measure enabled the United Kingdom to apply, until 30 April 2009 and under certain conditions, a reverse charge mechanism which implied that the liability for the payment of VAT shifted to the taxable person to whom certain supplies of mobile phones and integrated circuit devices were made, provided the taxable amount of the supply was equal to, or higher than, GBP 5 000.

(4) The purpose of that derogating measure was to deal with certain aggressive forms of tax evasion, and in particular with 'carousel' schemes whereby goods are supplied several times without VAT being paid to the tax authorities while leaving customers with a valid invoice for VAT deduction. The application of the reverse charge, without actual payment of VAT from the customer to the supplier, removes the possibility of that form of tax evasion.

(5) Given the apparent seriousness of VAT fraud in the United Kingdom, as attested by the information submitted by the United Kingdom, and given the measure's expected preventive effect, the measure remains proportionate since the extension of the derogation is limited to a reasonable period and the measure remains targeted in scope. Furthermore, it does not form the basis of an overall measure for a generalised reverse charge system.

(6) The derogation has no negative impact on the Community's own resources accruing from VAT.

(7) Legal continuity of the measure should be ensured,

<sup>(1)</sup> OJ L 347, 11.12.2006, p. 1.

<sup>(2)</sup> OJ L 109, 26.4.2007, p. 42.



HAS ADOPTED THIS DECISION:

*Article 3*

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

*Article 1*

Article 4 of Council Decision 2007/250/EC is replaced by the following:

*Article 4*

Done at Brussels, 5 May 2009.

This Decision shall expire on 30 April 2011.'

*Article 2*

This Decision shall apply from 1 May 2009.

*For the Council*

*The President*

M. KALOUSEK

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**COUNCIL DECISION****of 25 May 2009****appointing four Finnish members and two Finnish alternate members of the Committee of the Regions**

(2009/440/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal of the Finnish Government,

Whereas:

(1) On 24 January 2006, the Council adopted Decision 2006/116/EC appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2006 to 25 January 2010 <sup>(1)</sup>.

(2) Four members' seats on the Committee of the Regions have become vacant following the resignation of Ms Auli HYVÄRINEN and Ms Elina LEHTO-HÄGGROTH and following the end of mandate of Mr Risto ERVELÄ and Mr Risto KOIVISTO. Two alternate members' seats have become vacant following the resignation of Ms Martina MALMBERG and Ms Heini UTUNEN,

HAS DECIDED AS FOLLOWS:

*Article 1*

The following are hereby appointed to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2010:

(a) as members:

- Ms Satu TIETARI, Säkylän kunnanvaltuuston jäsen,
- Ms Anne KARJALAINEN, Keravan kaupunginvaltuuston jäsen,
- Mr Risto ERVELÄ, Sauvon kunnanvaltuuston jäsen (change of mandate),
- Mr Risto KOIVISTO, Pirkkalan kunnanjohtaja (change of mandate),

(b) as alternate members:

- Mr Petri KALMI, Nurmijärven kunnanvaltuuston puheenjohtaja,
- Mr Mårten JOHANSSON, Raaseporin kaupunginjohtaja.

*Article 2*

This Decision shall take effect on the day of its adoption.

Done at Brussels, 25 May 2009.

*For the Council*  
*The President*  
J. ŠEBESTA

<sup>(1)</sup> OJ L 56, 25.2.2006, p. 75.

**COUNCIL DECISION**  
**of 25 May 2009**  
**appointing one Italian member of the Committee of the Regions**  
(2009/441/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal of the Italian Government,

Whereas:

- (1) On 24 January 2006, the Council adopted Decision 2006/116/EC appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2006 to 25 January 2010 <sup>(1)</sup>.
- (2) A member's seat on the Committee of the Regions has become vacant following the end of mandate of Mr Renato SORU,

*Article 1*

The following is hereby appointed to the Committee of the Regions as a member for the remainder of the current term of office, which runs until 25 January 2010:

Mr Ugo CAPPELLACCI, Presidente della Regione Sardegna.

*Article 2*

This Decision shall take effect on the day of its adoption.

Done at Brussels, 25 May 2009.

*For the Council*  
*The President*  
J. ŠEBESTA

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<sup>(1)</sup> OJ L 56, 25.2.2006, p. 75.

# COMMISSION

## COMMISSION DECISION

of 5 June 2009

**implementing Directive 2007/2/EC of the European Parliament and of the Council as regards monitoring and reporting**

(notified under document number C(2009) 4199)

(Text with EEA relevance)

(2009/442/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) <sup>(1)</sup>, and in particular Article 21(4) thereof,

Whereas:

- (1) Directive 2007/2/EC requires Member States to monitor the implementation and use of their infrastructures for spatial information and to report on the implementation of that Directive.
- (2) In order to ensure a coherent approach to such monitoring and reporting, Member States should establish a list of the spatial data sets and spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC, grouped by theme and Annex, and of the network services referred to in Article 11(1) of Directive 2007/2/EC, grouped by service type, and should communicate that list to the Commission.
- (3) Monitoring should be based on a set of indicators calculated on the basis of the data collected from the appropriate stakeholders at the various levels of public authority.
- (4) The data collected for calculating the monitoring indicators should be provided to the Commission.
- (5) The results of monitoring and reporting should be provided to the Commission and made publicly available.

- (6) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 22 of Directive 2007/2/EC,

HAS ADOPTED THIS DECISION:

### CHAPTER I

#### GENERAL PROVISIONS

##### Article 1

##### Subject matter

This Decision lays down detailed rules on monitoring by Member States of the implementation and use of their infrastructures for spatial information and on reporting on the implementation of Directive 2007/2/EC.

##### Article 2

##### Common provisions for monitoring and reporting

1. Member States shall establish a list of the spatial data sets and spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC, grouped by theme and Annex, and of the network services referred to in Article 11(1) of that Directive, grouped by service type.

They shall communicate that list to the Commission and update it annually.

2. Member States shall rely on the coordination structure referred to in Article 19(2) of Directive 2007/2/EC to collect data for monitoring and reporting.

3. Contact points of Member States shall provide the results of monitoring referred to in Article 21(1) of Directive 2007/2/EC and the report referred to in Article 21(2) and (3) of that Directive to the Commission.

4. All results of monitoring and reporting shall be made available to the public via the Internet or any other appropriate means of telecommunication.

<sup>(1)</sup> OJ L 108, 25.4.2007, p. 1.

## CHAPTER II

**MONITORING OF THE IMPLEMENTATION OF METADATA REQUIREMENTS***Article 3***Monitoring of the existence of metadata**

1. The following indicators shall be used to measure the existence of metadata for the spatial data sets and services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC:

- (a) a general indicator (MDi1) which measures the existence of metadata for the spatial data sets and services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC;
- (b) the following specific indicators:
  - (i) MDi1,1 which measures the existence of metadata for the spatial data sets corresponding to the themes listed in Annex I to Directive 2007/2/EC;
  - (ii) MDi1,2 which measures the existence of metadata for the spatial data sets corresponding to the themes listed in Annex II to Directive 2007/2/EC;
  - (iii) MDi1,3 which measures the existence of metadata for the spatial data sets corresponding to the themes listed in Annex III to Directive 2007/2/EC;
  - (iv) MDi1,4 which measures the existence of metadata for the spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC.

2. Member States shall determine, for each spatial data set and service mentioned on the list referred to in Article 2(1), whether metadata exist and shall attribute to the spatial data set or service the following values:

- (a) value 1 where metadata exist;
- (b) value 0 where no metadata exist.

3. Member States shall calculate the general indicator MDi1 by dividing the number of spatial data sets and services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which metadata exist, by the total number of spatial data sets and services corresponding to the themes listed in those Annexes.

4. Member States shall calculate the specific indicators as follows:

- (a) the number of spatial data sets corresponding to the themes listed in Annex I to Directive 2007/2/EC for which metadata exist, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (MDi1,1);
- (b) the number of spatial data sets corresponding to the themes listed in Annex II to Directive 2007/2/EC for which metadata exist, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (MDi1,2);
- (c) the number of spatial data sets corresponding to the themes listed in Annex III to Directive 2007/2/EC for which metadata exist, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (MDi1,3);
- (d) the number of spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which metadata exist, divided by the total number of spatial data services corresponding to the themes listed in those Annexes (MDi1,4).

*Article 4***Monitoring of the conformity of metadata**

1. The following indicators shall be used to measure the conformity of metadata for spatial data sets and services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC with the implementing rules referred to in Article 5(4) of that Directive:

- (a) a general indicator (MDi2) which measures the conformity of metadata for the spatial data sets and services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC with the implementing rules referred to in Article 5(4) of that Directive;
- (b) the following specific indicators:
  - (i) MDi2,1 which measures the conformity of metadata for the spatial data sets corresponding to the themes listed in Annex I to Directive 2007/2/EC with the implementing rules referred to in Article 5(4) of that Directive;
  - (ii) MDi2,2 which measures the conformity of metadata for the spatial data sets corresponding to the themes listed in Annex II to Directive 2007/2/EC with the implementing rules referred to in Article 5(4) of that Directive;

(iii) MDi2,3 which measures the conformity of metadata for the spatial data sets corresponding to the themes listed in Annex III to Directive 2007/2/EC with the implementing rules referred to in Article 5(4) of that Directive;

(iv) MDi2,4 which measures the conformity of metadata for the spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC with the implementing rules referred to in Article 5(4) of that Directive.

2. Member States shall determine, for each spatial data set and service mentioned on the list referred to in Article 2(1) of this Decision, whether the corresponding metadata are in conformity with the implementing rules referred to in Article 5(4) of Directive 2007/2/EC and shall attribute to the data set or service the following values:

(a) value 1 where the corresponding metadata are in conformity with the implementing rules referred to in Article 5(4) of Directive 2007/2/EC;

(b) value 0 where the corresponding metadata are not in conformity with the implementing rules referred to in Article 5(4) of Directive 2007/2/EC.

3. Member States shall calculate the general indicator MDi2 by dividing the number of spatial data sets and services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which metadata are in conformity with the implementing rules referred to in Article 5(4) of that Directive, by the total number of spatial data sets and services corresponding to the themes listed in those Annexes.

4. Member States shall calculate the specific indicators as follows:

(a) the number of spatial data sets corresponding to the themes listed in Annex I to Directive 2007/2/EC for which metadata are in conformity with the implementing rules referred to in Article 5(4) of that Directive, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (MDi2,1);

(b) the number of spatial data sets corresponding to the themes listed in Annex II to Directive 2007/2/EC for which metadata are in conformity with the implementing rules referred to in Article 5(4) of Directive 2007/2/EC, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (MDi2,2);

(c) the number of spatial data sets corresponding to the themes listed in Annex III to Directive 2007/2/EC for which metadata are in conformity with the implementing rules referred to in Article 5(4) of Directive 2007/2/EC, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (MDi2,3);

(d) the number of spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which metadata are in conformity with the implementing rules referred to in Article 5(4) of Directive 2007/2/EC, divided by the total number of spatial data services (MDi2,4).

### CHAPTER III

#### MONITORING OF THE IMPLEMENTATION OF THE REQUIREMENTS FOR INTEROPERABILITY OF SPATIAL DATA SETS

##### Article 5

#### Monitoring of the geographical coverage of spatial data sets

1. The following indicators shall be used to measure the geographical coverage of the spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC:

(a) a general indicator (DSi1) which measures the extent of the Member States territory covered by the spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC;

(b) the following specific indicators:

(i) DSi1,1 which measures the extent of the Member States territory covered by the spatial data sets corresponding to the themes listed in Annex I to Directive 2007/2/EC;

(ii) DSi1,2 which measures the extent of the Member States territory covered by the spatial data sets corresponding to the themes listed in Annex II to Directive 2007/2/EC;

(iii) DSi1,3 which measures the extent of the Member States territory covered by the spatial data sets corresponding to the themes listed in Annex III to Directive 2007/2/EC.

2. Member States shall determine, for the spatial data sets mentioned on the list referred to in Article 2(1):

- (a) the area which is to be covered by a given spatial data set (hereinafter relevant area), expressed in km<sup>2</sup>;
- (b) the area which is covered by a given spatial data set (hereinafter actual area), expressed in km<sup>2</sup>.

3. Member States shall calculate the general indicator DSi1 by dividing the sum of the actual areas covered by all spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC, by the sum of the relevant areas for all spatial data sets corresponding to the themes listed in those Annexes.

4. Member States shall calculate the specific indicators as follows:

- (a) the sum of the actual areas covered by the spatial data sets corresponding to the themes listed in Annex I to Directive 2007/2/EC, divided by the sum of the relevant areas for the spatial data sets corresponding to the themes listed in that Annex (DSi1,1);
- (b) the sum of the actual areas covered by the spatial data sets corresponding to the themes listed in Annex II to Directive 2007/2/EC, divided by the sum of the relevant areas for the spatial data sets corresponding to the themes listed in that Annex (DSi1,2);
- (c) the sum of the actual areas covered by the spatial data sets corresponding to the themes listed in Annex III to Directive 2007/2/EC, divided by the sum of the relevant areas for the spatial data sets corresponding to the themes listed in that Annex (DSi1,3).

#### Article 6

##### Monitoring of the conformity of spatial data sets

1. The following indicators shall be used to measure the conformity of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC with the implementing rules referred to in Article 7(1) of that Directive and the conformity of their corresponding metadata with the implementing rules referred to in Article 5(4) of that Directive.

- (a) a general indicator (DSi2) which measures the conformity of the spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC with the implementing rules referred to in Article 7(1) of that Directive and the conformity of their corresponding metadata with the implementing rules referred to in Article 5(4) of that Directive;

(b) the following specific indicators:

- (i) DSi2,1 which measures the conformity of the spatial data sets corresponding to the themes listed in Annex I to Directive 2007/2/EC with the implementing rules referred to in Article 7(1) of that Directive and the conformity of their corresponding metadata with the implementing rules referred to in Article 5(4) of that Directive;
- (ii) DSi2,2 which measures the conformity of the spatial data sets corresponding to the themes listed in Annex II to Directive 2007/2/EC with the implementing rules referred to in Article 7(1) of that Directive and the conformity of their corresponding metadata with the implementing rules referred to in Article 5(4) of that Directive;
- (iii) DSi2,3 which measures the conformity of the spatial data sets corresponding to the themes listed in Annex III to Directive 2007/2/EC with the implementing rules referred to in Article 7(1) of that Directive and the conformity of their corresponding metadata with the implementing rules referred to in Article 5(4) of that Directive.

2. Member States shall determine whether each spatial data set mentioned on the list referred to in Article 2(1) of this Decision is in conformity with the implementing rules referred to in Article 7(1) of Directive 2007/2/EC and whether its corresponding metadata are in conformity with the implementing rules referred to in Article 5(4) of that Directive and shall attribute to the data set the following values:

- (a) value 1 in the case of conformity of the spatial data set with the implementing rules referred to in Article 7(1) of Directive 2007/2/EC and of its corresponding metadata with the implementing rules referred to in Article 5(4) of that Directive;
- (b) value 0 in the case of non conformity of the spatial data set with the implementing rules referred to in Article 7(1) of Directive 2007/2/EC or of its corresponding metadata with the implementing rules referred to in Article 5(4) of that Directive.

3. Member States shall calculate the general indicator DSi2 by dividing the number of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC which are in conformity with the implementing rules referred to in Article 7(1) of that Directive and whose corresponding metadata are in conformity with the implementing rules referred to in Article 5(4) of that Directive, by the total number of spatial data sets corresponding to the themes listed in those Annexes.

4. Member States shall calculate the specific indicators as follows:

- (a) the number of spatial data sets corresponding to the themes listed in Annex I to Directive 2007/2/EC which are in conformity with the implementing rules referred to in Article 7(1) of that Directive and whose corresponding metadata are in conformity with the implementing rules referred to in Article 5(4) of that Directive, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (DSi2,1);
- (b) the number of spatial data sets corresponding to the themes listed in Annex II to Directive 2007/2/EC which are in conformity with the implementing rules referred to in Article 7(1) of that Directive and whose corresponding metadata are in conformity with the implementing rules referred to in Article 5(4) of that Directive, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (DSi2,2);
- (c) the number of spatial data sets corresponding to the themes listed in Annex III to Directive 2007/2/EC which are in conformity with the implementing rules referred to in Article 7(1) of that Directive and whose corresponding metadata are in conformity with the implementing rules referred to in Article 5(4) of that Directive, divided by the total number of spatial data sets corresponding to the themes listed in that Annex (DSi2,3).

#### CHAPTER IV

### MONITORING OF THE IMPLEMENTATION OF NETWORK SERVICES REQUIREMENTS

#### Article 7

#### Monitoring of the accessibility of metadata through discovery services

1. The following indicators shall be used to measure the accessibility of metadata for the spatial data sets and services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC through the discovery services referred to in Article 11(1)(a) of that Directive:

- (a) a general indicator (NSi1), which measures the extent to which it is possible to search for spatial data sets and spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC on the basis of their corresponding metadata through discovery services;
- (b) the following specific indicators:
  - (i) NSi1,1, which measures the extent to which it is possible to search for spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC on the basis of their corresponding metadata through discovery services;

- (ii) NSi1,2, which measures the extent to which it is possible to search for spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC on the basis of their corresponding metadata through discovery services.

2. Member States shall determine, for each spatial data set and spatial data service mentioned on the list referred to in Article 2(1), whether a discovery service exists and shall attribute to the data set or service the following values:

- (a) value 1 where a discovery service exists;
- (b) value 0 where no discovery service exists.

3. Member States shall calculate the general indicator NSi1 by dividing the number of spatial data sets and spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which a discovery service exists, by the total number of spatial data sets and spatial data services corresponding to themes listed in those Annexes.

4. Member States shall calculate the specific indicators as follows:

- (a) the number of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which a discovery service exists, divided by the total number of spatial data sets corresponding to themes listed in those Annexes (NSi1,1);
- (b) the number of spatial data services corresponding to themes listed in Annexes I, II and III to Directive 2007/2/EC for which a discovery service exists, divided by the total number of spatial data services corresponding to themes listed in those Annexes (NSi1,2).

#### Article 8

#### Monitoring of the accessibility of spatial data sets through view and download services

1. The following indicators shall be used to measure the accessibility of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC through the view and download services referred to in points (b) and (c) of Article 11(1) of that Directive:

- (a) a general indicator (NSi2), which measures the extent to which it is possible to view and download spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC through view and download services;
- (b) the following specific indicators:
  - (i) NSi2,1, which measures the accessibility of spatial data sets, corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC through view services;



(ii) NSi2,2, which measures the accessibility of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC through download services.

2. Member States shall determine, for each spatial data set mentioned on the list referred to in Article 2(1), whether a view service or a download service, or both, exist and shall attribute to the data set the following values:

- (a) value 1 where a view service exists and value 0 where such a service does not exist;
- (b) value 1 where a download service exists and value 0 where such a service does not exist;
- (c) value 1 where both a view service and a download service exist and value 0 where at least one of them does not exist.

3. Member States shall calculate the general indicator NSi2 by dividing the number of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which both view and download services exist, by the total number of spatial data sets corresponding to themes listed in those Annexes (NSi2).

4. Member States shall calculate the specific indicators as follows:

- (a) the number of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which a view service exists, divided by the total number of spatial data sets corresponding to themes listed in those Annexes (NSi2,1);
- (b) the number of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC for which a download service exists, divided by the total number of spatial data sets corresponding to themes listed in those Annexes (NSi2,2).

#### Article 9

##### Monitoring of the use of network services

1. The following indicators shall be used to monitor the use of the network services referred to in Article 11(1) of Directive 2007/2/EC:

- (a) a general indicator (NSi3), which measures the use of all network services;
- (b) the following specific indicators:

(i) NSi3,1, which measures the use of discovery services;

(ii) NSi3,2, which measures the use of view services;

(iii) NSi3,3, which measures the use of download services;

(iv) NSi3,4, which measures the use of transformation services;

(v) NSi3,5, which measures the use of invoke services.

2. Member States shall determine the annual number of service requests for each network service mentioned on the list referred to in Article 2(1).

3. Member States shall calculate the general indicator NSi3 by dividing the sum of the annual number of service requests for all network services, by the number of network services.

4. Member States shall calculate the specific indicators as follows:

- (a) the annual number of service requests for all discovery services, divided by the number of discovery services (NSi3,1);
- (b) the annual number of service requests for all view services, divided by the number of view services (NSi3,2);
- (c) the annual number of service requests for all download services, divided by the number of download services (NSi3,3);
- (d) the annual number of service requests for all transformation services, divided by the number of transformation services (NSi3,4);
- (e) the annual number of service requests for all invoke services, divided by the number of invoke services (NSi3,5).

#### Article 10

##### Monitoring of the conformity of network services

1. The following indicators shall be used to measure the conformity of the network services referred to in Article 11(1) of Directive 2007/2/EC with the implementing rules referred to in Article 16 of that Directive:

- (a) a general indicator (NSi4), which measures the conformity of all network services with the implementing rules referred to in Article 16 of Directive 2007/2/EC;

- (b) the following specific indicators:
- (i) NSi4,1, which measures the conformity of discovery services with the implementing rules referred to in Article 16 of Directive 2007/2/EC;
  - (ii) NSi4,2, which measures the conformity of view services with the implementing rules referred to in Article 16 of Directive 2007/2/EC;
  - (iii) NSi4,3, which measures the conformity of download services with the implementing rules referred to in Article 16 of Directive 2007/2/EC;
  - (iv) NSi4,4, which measures the conformity of transformation services with the implementing rules referred to in Article 16 of Directive 2007/2/EC;
  - (v) NSi4,5, which measures the conformity of invoke services with the implementing rules referred to in Article 16 of Directive 2007/2/EC.
- (c) the number of download services which are in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC, divided by the total number of download services (NSi4,3);
- (d) the number of transformation services which are in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC, divided by the total number of transformation services (NSi4,4);
- (e) the number of invoke services which are in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC, divided by the total number of invoke services (NSi4,5).

#### Article 11

#### Information to be provided

2. Member States shall determine, for each network service mentioned on the list referred to in Article 2(1) of this Decision, whether it is in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC and shall attribute to the network service the following values:
- (a) value 1 where the network service is in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC;
  - (b) value 0 where the network service is not in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC.
3. Member States shall calculate the general indicator NSi4 by dividing the number of network services which are in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC, by the total number of network services.
4. Member States shall calculate the specific indicators as follows:
- (a) the number of discovery services which are in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC, divided by the total number of discovery services (NSi4,1);
  - (b) the number of view services which are in conformity with the implementing rules referred to in Article 16 of Directive 2007/2/EC, divided by the total number of view services (NSi4,2);
  - (a) the values of all general and specific indicators, expressed in percentage;
  - (b) the numerators and denominators of all general and specific indicators;
  - (c) the data collected under Articles 3(2), 4(2), 5(2), 6(2), 7(2), 8(2), 9(2) and 10(2).

2. The results of monitoring referred to in Article 21(1) of Directive 2007/2/EC shall relate to monitoring conducted during a calendar year, and shall be published by 15 May of the following year. Thereafter the results shall be updated at least every year.

The results relating to monitoring conducted in 2009 shall cover the period starting from the date referred to in Article 18 until the end of that year.

#### CHAPTER V

#### REPORTING

#### Article 12

#### Coordination and quality assurance

1. With respect to coordination, the summary description referred to in Article 21(2)(a) of Directive 2007/2/EC shall contain the following:

- (a) the name, contact information, role and responsibilities of the Member State contact point;
- (b) the name, contact information, role and responsibilities, organisation chart of the coordinating structure supporting the contact point of the Member State;
- (c) a description of the relationship with third parties;
- (d) an overview of the working practices and procedures of the coordinating body;
- (e) comments on the monitoring and reporting process.

2. With respect to the organisation of quality assurance, the summary description referred to in Article 21(2)(a) of Directive 2007/2/EC shall contain the following:

- (a) a description of quality assurance procedures, including the maintenance of the infrastructure for spatial information;
- (b) an analysis of quality assurance problems related to the development of the infrastructure for spatial information, taking into account the general and specific indicators;
- (c) a description of the measures taken to improve the quality assurance of the infrastructure;
- (d) where a certification mechanism has been established, a description of that mechanism.

#### Article 13

#### **Contribution to the functioning and coordination of the infrastructure**

The summary description referred to in Article 21(2)(b) of Directive 2007/2/EC shall contain the following:

- (a) an overview of the various stakeholders contributing to the implementation of the infrastructure for spatial information according to the following typology: users, data producers, service providers, coordinating bodies;
- (b) a description of the role of the various stakeholders in the development and maintenance of the infrastructure for spatial information, including their role in the coordination of tasks, in the provision of data and metadata, and in the management, development and hosting of services;
- (c) a general description of the main measures taken to facilitate the sharing of spatial data sets and services between public authorities and a description of how sharing has improved as a result;

- (d) a description of how stakeholders cooperate;
- (e) a description of the access to the services through the Inspire geo-portal, as referred to in Article 15(2) of Directive 2007/2/EC.

#### Article 14

#### **Use of the infrastructure for spatial information**

The information on the use of the infrastructure for spatial information referred to in Article 21(2)(c) of Directive 2007/2/EC shall cover the following:

- (a) the use of the spatial data services of the infrastructure for spatial information, taking into account the general and specific indicators;
- (b) the use of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC by public authorities, with particular attention to good examples in the field of environmental policy;
- (c) if available, evidence showing the use of the infrastructure for spatial information by the general public;
- (d) examples of cross-border use and efforts made to improve cross-border consistency of spatial data sets corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC;
- (e) how transformation services are used to achieve data interoperability.

#### Article 15

#### **Data sharing arrangements**

The summary description referred to in Article 21(2)(d) of Directive 2007/2/EC shall contain the following:

- (a) an overview of data sharing arrangements that have been, or are being, created between public authorities;
- (b) an overview of data sharing arrangements that have been, or are being, created between public authorities and Community institutions and bodies, including examples of data sharing arrangements for a particular spatial data set;
- (c) a list of barriers to the sharing of spatial data sets and services between public authorities and between public authorities and the Community institutions and bodies, as well as a description of the actions which are taken to overcome those barriers.

*Article 16***Cost and benefit aspects**

The summary description referred to in Article 21(2)(e) of Directive 2007/2/EC shall contain the following:

- (a) an estimate of the costs resulting from the implementation of Directive 2007/2/EC;
- (b) examples of the benefits observed, including examples of the positive effects on policy preparation, implementation, evaluation, examples of improved services to the citizen as well as examples of cross-border cooperation.

*Article 17***Updating reports**

The report referred to in Article 21(3) of Directive 2007/2/EC shall cover the three calendar years preceding the year of the report.

## CHAPTER VI

**FINAL PROVISIONS***Article 18***Application**

This Decision shall apply from 5 June 2009.

*Article 19***Addressees**

This Decision is addressed to Member States.

Done at Brussels, 5 June 2009.

*For the Commission*

Stavros DIMAS

*Member of the Commission*

## COMMISSION DECISION

of 10 June 2009

**amending, for the purposes of adapting to technical progress, the Annex to Directive 2002/95/EC of the European Parliament and of the Council as regards exemptions for applications of lead, cadmium and mercury**

(notified under document number C(2009) 4187)

(Text with EEA relevance)

(2009/443/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 <sup>(1)</sup>, and in particular Article 5(1)(b) thereof,

Whereas:

- (1) Directive 2002/95/EC requires the Commission to evaluate certain hazardous substances prohibited pursuant to Article 4(1) of that Directive.
- (2) Certain materials and components containing lead and cadmium should be exempted from the prohibition, since the elimination of these hazardous substances in those specific materials and components is still technically or scientifically impracticable.
- (3) The substitution for lead in solders for the soldering of thin copper wires of 100 µm diameter and less in power transformers is not yet practicable.
- (4) No practicable substitutes for lead in the plating layer of high voltage diodes on the basis of a zinc borate glass body are available.
- (5) The substitution of cadmium and cadmium oxide in thick film pastes used on aluminium bonded beryllium oxide is currently not practicable.
- (6) Substitute technologies to replace analogue sound processing circuits in order to avoid the use of

cadmium-based optocouplers in all professional audio applications should become practicable by 31 December 2009.

- (7) Substitution for mercury used as a cathode sputtering inhibitor in DC plasma displays with content of up to 30 mg per display is currently technically impracticable, but should be practicable by 1 July 2010.
- (8) Directive 2002/95/EC should therefore be amended accordingly.
- (9) Pursuant to Article 5(2) of Directive 2002/95/EC, the Commission has consulted the relevant parties.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18 of Directive 2006/12/EC of the European Parliament and of the Council <sup>(2)</sup>,

HAS ADOPTED THIS DECISION:

*Article 1*

The Annex to Directive 2002/95/EC is amended as set out in the Annex to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 10 June 2009.

*For the Commission*

Stavros DIMAS

*Member of the Commission*

<sup>(1)</sup> OJ L 37, 13.2.2003, p. 19.

<sup>(2)</sup> OJ L 114, 27.4.2006, p. 9.

## ANNEX

In the Annex to Directive 2002/95/EC, the following points 33 to 38 are added:

- '33. Lead in solders for the soldering of thin copper wires of 100 µm diameter and less in power transformers.
  - 34. Lead in cermet-based trimmer potentiometer elements.
  - 35. Cadmium in photoresistors for optocouplers applied in professional audio equipment until 31 December 2009.
  - 36. Mercury used as a cathode sputtering inhibitor in DC plasma displays with a content up to 30 mg per display until 1 July 2010.
  - 37. Lead in the plating layer of high voltage diodes on the basis of a zinc borate glass body.
  - 38. Cadmium and cadmium oxide in thick film pastes used on aluminium bonded beryllium oxide.'
-

## COMMISSION DECISION

of 10 June 2009

**allocating the amounts resulting from the modulation provided for in Articles 7 and 10 of Council Regulation (EC) No 73/2009 to the Member States for the years 2009 to 2012***(notified under document number C(2009) 4375)*

(2009/444/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006 and (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 <sup>(1)</sup>, and in particular Article 9(2), first subparagraph, and (4) and Article 10(3) thereof,

Whereas:

(1) Commission Decision 2009/379/EC <sup>(2)</sup> sets the amounts which, as a result of applying the reductions in direct payments provided for in Article 7(1) and (2) of Regulation (EC) No 73/2009, are available to the European Agricultural Fund for Rural Development (EAFRD) for the financial years 2007 to 2013.

(2) Article 10(3) and (4) of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers <sup>(3)</sup> laid down the criteria for the allocation of the amounts generated by the modulation provided for in paragraph 1 of that Article. These provisions are now contained in Article 9(2) and (3) of Regulation (EC) No 73/2009.

(3) Article 78 of Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers <sup>(4)</sup> lays down the allocation key for sharing these amounts among the Member States using the criteria laid down in Article 10(3) and (4) of Regulation (EC) No 1782/2003.

(4) Commission Decision 2006/588/EC <sup>(5)</sup> allocated the amounts resulting from the modulation provided for in Article 10(3) and (4) of Regulation (EC) No 1782/2003 to the Member States for the years 2006 to 2012. This provision having been adopted in Article 9(2) and (3) of Regulation (EC) No 73/2009, the amounts shown in the Annex to Decision 2006/588/EC for the years 2009 to 2012 are deemed to have been allocated to the Member States pursuant to Article 9(2) and (3) of Regulation (EC) No 73/2009. These amounts therefore continue to apply.

(5) The remaining amount resulting from application of the modulation provided for in Article 7 of Regulation (EC) No 73/2009 for the years 2009 to 2012 should be allocated to the Member States in accordance with Article 9(4) of that Regulation, and the amounts resulting from application of that modulation in the new Member States as defined in Article 2(g) of that Regulation should be allocated to the Member States in accordance with Article 10(3) of that Regulation.

(6) For the sake of clarity Decision 2006/588/EC should be repealed and replaced by a new Decision.

(7) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS DECISION:

*Article 1*

The amounts resulting from the application of five percentage points reduction for the years 2009 to 2012 pursuant to Article 9(2) and (3) of Regulation (EC) No 73/2009 shall be allocated to the Member States in accordance with the table in Annex I to this Decision.

*Article 2*

The amounts resulting from the application of a reduction by more than the five percentage points envisaged in Article 1 of this Decision for the years 2009 to 2012 pursuant to Article 9(4) of Regulation (EC) No 73/2009 shall be allocated to the Member States in accordance with the table in Annex II to this Decision.

<sup>(1)</sup> OJ L 30, 31.1.2009, p. 16.

<sup>(2)</sup> OJ L 117, 12.5.2009, p. 10.

<sup>(3)</sup> OJ L 270, 21.10.2003, p. 1.

<sup>(4)</sup> OJ L 141, 30.4.2004, p. 18.

<sup>(5)</sup> OJ L 240, 2.9.2006, p. 6.

*Article 3*

The amounts allocated for 2012 pursuant to Article 10(3) of Regulation (EC) No 73/2009 to the new Member States as defined in Article 2(g) of that Regulation are laid down in the table in Annex III to this Decision.

*Article 4*

Decision 2006/588/EC is hereby repealed.

*Article 5*

This Decision is addressed to the Member States.

Done at Brussels, 10 June 2009.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

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## ANNEX I

**Allocation to the Member States of the amounts resulting from the modulation provided for in Article 9(2) and (3) of Regulation (EC) No 73/2009 for the years 2009 to 2012***(EUR million)*

Member State	2009	2010	2011	2012
Belgium	18,3	18,2	18,2	18,2
Denmark	33,4	33,4	33,4	33,4
Germany	207,5	206,8	206,8	206,8
Ireland	35,2	34,5	34,5	34,7
Greece	64,3	61,3	61,3	61,4
Spain	223,4	217,8	218,4	218,5
France	271,8	270,6	270,8	271,0
Italy	144,6	140,2	140,8	140,8
Luxembourg	1,2	1,2	1,2	1,2
Netherlands	29,4	28,8	28,8	28,8
Austria	44,3	43,2	43,3	43,3
Portugal	54,1	52,8	52,8	52,9
Finland	20,6	20,2	20,2	20,2
Sweden	26,0	25,5	25,5	25,5
United Kingdom	136,7	136,3	136,3	136,3

## ANNEX II

**Allocation to the Member States of the amounts resulting from the modulation provided for in Article 9(4) of Regulation (EC) No 73/2009 for the years 2009 to 2012**

(EUR million)

Member State	2009	2010	2011	2012
Belgium	9,3	13,8	18,4	23,2
Denmark	17,6	25,9	34,3	43,0
Germany	115,0	158,5	204,0	250,9
Ireland	17,1	25,6	34,1	42,7
Greece	19,6	29,0	38,2	47,3
Spain	70,1	107,3	141,9	178,8
France	132,8	198,0	265,2	335,6
Italy	61,3	78,2	102,0	127,9
Luxembourg	0,6	0,8	1,1	1,4
Netherlands	13,3	19,8	26,4	34,2
Austria	7,3	10,9	14,5	18,1
Portugal	8,8	11,8	15,8	19,8
Finland	6,1	9,1	12,3	15,3
Sweden	10,0	15,2	20,5	25,9
United Kingdom	67,4	100,6	134,3	167,7

## ANNEX III

**Allocation to the new Member States of the amounts resulting from the modulation provided for in Article 10(3) of Regulation (EC) No 73/2009 for the year 2012**

(EUR million)

Member State	2012
Czech Republic	6,3
Lithuania	0,3
Hungary	5,9
Poland	1,1
Slovakia	2,5

## III

*(Acts adopted under the EU Treaty)*

## ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

## COUNCIL JOINT ACTION 2009/445/CFSP

of 9 June 2009

amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo <sup>(1)</sup>,  
EULEX KOSOVO

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

Whereas:

- (1) On 4 February 2008, the Council adopted Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO <sup>(2)</sup>. That Joint Action applies until 14 June 2010.
- (2) Joint Action 2008/124/CFSP provided a financial reference amount intended to cover the expenditure related to the Mission until 14 June 2009. The financial reference amount should be increased to cover the Mission's expenditure until 14 June 2010.
- (3) Joint Action 2008/124/CFSP should be amended accordingly,

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

Joint Action 2008/124/CFSP is hereby amended as follows:

1. Article 16(1) is replaced by the following:

'1. The financial reference amount intended to cover the expenditure of EULEX KOSOVO shall be EUR 265 000 000.;

2. Article 20 is replaced by the following:

*'Article 20***Entry into force and duration**

This Joint Action shall enter into force on the day of its adoption.

It shall expire on 14 June 2010.'

*Article 2*

This Joint Action shall enter into force on the day of its adoption.

*Article 3*

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 9 June 2009.

*For the Council**The President*

E. JANOTA

<sup>(1)</sup> Under United Nations Security Council Resolution 1244 (1999).

<sup>(2)</sup> OJ L 42, 16.2.2008, p. 92.

## POLITICAL AND SECURITY COMMITTEE DECISION ATALANTA/5/2009

of 10 June 2009

**amending Political and Security Committee Decision ATALANTA/2/2009 on the acceptance of third States' contributions to the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta) and Political and Security Committee Decision ATALANTA/3/2009 on the setting-up of the Committee of Contributors for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta)**

(2009/446/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third subparagraph of Article 25 thereof,

Having regard to Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast <sup>(1)</sup>, and in particular Article 10(2) thereof on the participation by third States,

Having regard to Political and Security Committee Decision Atalanta/2/2009 of 21 April 2009 on the acceptance of third States' contributions to the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta) <sup>(2)</sup> and to Political and Security Committee Decision Atalanta/3/2009 of 21 April 2009 on the setting-up of the Committee of Contributors for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta) <sup>(3)</sup>, and the addendum thereto <sup>(4)</sup>,

Whereas:

- (1) The EU Operation Commander held Force Generation and Manning Conferences on 17 November 2008, 16 December 2008 and 19 March 2009.
- (2) Following the recommendations on a contribution from Croatia by the EU Operation Commander and the European Union Military Committee, the contribution from Croatia should be accepted.
- (3) In accordance with Article 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not participate in the elaboration and implementation of decisions and actions of the European Union which have defence implications,

HAS DECIDED AS FOLLOWS:

*Article 1*

Article 1 of Political and Security Committee Decision Atalanta/2/2009 shall be replaced by the following:

*'Article 1***Third States' contributions**

Following the Force Generation and Manning Conferences, the contributions from Norway and Croatia shall be accepted for the EU military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast ("Atalanta").'

*Article 2*

The Annex to Political and Security Committee Decision Atalanta/3/2009 shall be modified as follows:

'ANNEX

**LIST OF THIRD STATES REFERRED TO IN ARTICLE 2(1)**

- Norway,
- Croatia'.

Done at Luxembourg, 10 June 2009.

*For the Political and Security Committee*  
*The Chairperson*  
I. ŠRÁMEK

<sup>(1)</sup> OJ L 301, 12.11.2008, p. 33.

<sup>(2)</sup> OJ L 109, 30.4.2009, p. 52.

<sup>(3)</sup> OJ L 112, 6.5.2009, p. 9.

<sup>(4)</sup> OJ L 119, 14.5.2009, p. 40.

## IV

(Other acts)

## EUROPEAN ECONOMIC AREA

## EFTA SURVEILLANCE AUTHORITY

## EFTA SURVEILLANCE AUTHORITY DECISION

No 387/06/COL

of 13 December 2006

**amending EFTA Surveillance Authority Decision No 195/04/COL on the implementing provisions referred to under Article 27 in Part II of Protocol 3 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice as regards the standard forms for notification of aid**

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD to the Agreement on the European Economic Area <sup>(1)</sup>, in particular to Articles 61 to 63 and Protocol 26 thereof,

HAVING REGARD to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice <sup>(2)</sup>, in particular to Article 27 in Part II of Protocol 3 to the Surveillance and Court Agreement,

WHEREAS on 14 July 2004, the EFTA Surveillance Authority adopted Decision No 195/04/COL on the implementing provisions referred to under Articles 27 to 29 in Part II of Protocol 3 to the Surveillance and Court Agreement <sup>(3)</sup>,

WHEREAS the EFTA Surveillance Authority Decision No 195/04/COL established a compulsory comprehensive State aid notification form,

WHEREAS the EFTA Surveillance Authority adopted new guidelines on national regional aid for the period 2007 to 2013 <sup>(4)</sup> which will be applicable to all regional aid to be granted after 31 December 2006,

WHEREAS as a consequence of the adoption of the new Community guidelines on national regional aid for the period 2007 to 2013 <sup>(5)</sup>, the European Commission has modified parts of the notification form <sup>(6)</sup>,

WHEREAS following the adoption by the EFTA Surveillance Authority of new guidelines on national regional aid for the period 2007 to 2013, it is necessary to modify parts of the notification form in Decision No 195/04/COL,

AFTER CONSULTING the Advisory Committee on State Aid by letter dated 21 November 2006 on the basis of Article 29 in Part II of Protocol 3 to the Surveillance and Court Agreement,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex I to the EFTA Surveillance Authority Decision No 195/04/COL is amended in accordance with the Annex to this Decision.

*Article 2*

This Decision is addressed to the Republic of Iceland, the Principality of Liechtenstein and the Kingdom of Norway.

<sup>(1)</sup> Hereinafter referred to as the EEA Agreement.

<sup>(2)</sup> Hereinafter referred to as the Surveillance and Court Agreement.

<sup>(3)</sup> OJ L 139, 25.5.2006, p. 37 and the EEA Supplement No 26, 25.5.2006, p. 1.

<sup>(4)</sup> EFTA Surveillance Authority's Decision No 85/06/COL of 6 April 2006, not yet published in the Official Journal. Chapter 25B of the State Aid Guidelines corresponds to Communication from the Commission — Guidelines on national regional aid for 2007-2013 (OJ C 54, 4.3.2006, p. 13).

<sup>(5)</sup> See footnote 4.

<sup>(6)</sup> Commission Regulation (EC) No 1627/2006 of 24 October 2006 amending Regulation (EC) No 794/2004 as regards the standard forms for notification of aid (OJ L 302, 1.11.2006, p. 10).

*Article 3*

This Decision shall enter into force on the day following its adoption by the Authority.

*Article 4*

This Decision is authentic in the English language.

Done at Brussels, 13 December 2006.

*For the EFTA Surveillance Authority*

Bjørn T. GRYDELAND  
*President*

Kristján Andri STEFÁNSSON  
*College Member*

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## ANNEX

## PART III.4

**SUPPLEMENTARY INFORMATION SHEET ON REGIONAL AID**

*This supplementary information sheet must be used for the notification of any aid scheme or ad hoc aid covered by Chapter 25B of the State Aid Guidelines, guidelines on national regional aid for 2007-2013 (RAG) <sup>(1)</sup>.*

*The present Annex cannot be used for the particular purpose of notification of new regional aid maps for the period 2007-2013. Transparent investment aid schemes falling under the scope of the exemption regulation on regional investment aid are exempted from the notification obligation. Therefore, EFTA States are invited to clarify the scope of their notification; in the particular case that a scheme covers both transparent and non-transparent forms of investment aid, they are invited to limit the scope of the notification only to the second category.*

*In case of ad hoc aid (i.e. aid granted outside existing aid schemes), EFTA States will have to demonstrate that the project contributes towards a coherent regional development strategy and that, having regard to the nature and size of the project, it will not result in unacceptable distortions of competition. Moreover, EFTA States will have to demonstrate that the aid will not be unduly concentrated on a particular sector of activity and that it creates no adverse sectoral effects.*

*Another supplementary information sheet (Part III.5) must be submitted in case of notification of regional investment aid to large investment projects in the accordance with section 25B.4.3 of the RAG.*

**1. Scheme or ad hoc aid**

The scheme or the ad hoc aid relates to

1.1.  initial investment

The aid is calculated as a percentage of the investment's eligible material and immaterial costs

The aid is calculated as a percentage of the expected wage costs of the persons to be hired

operating aid

aid for newly created small enterprises

combination of any above

## 1.2. The aid is granted:

automatically, should the conditions of the scheme be fulfilled

discretionary, following a decision of the authorities

Should the aid be granted on a discretionary basis, please provide a short description of the criteria followed and attach a copy of the administrative provisions applicable for the awarding of aid:

.....  
 .....

## 1.3. Does the aid respect the regional aid ceilings determined in the regional aid map in force at the time of awarding the aid, including those resulting from the provisions applicable to aid for large investment projects (section 25B.4.3 of RAG)?

yes       no

Does the scheme include a reference to the regional aid map in force?

yes       no

<sup>(1)</sup> Chapter 25B of the Authority's State Aid Guidelines, Guidelines on National Regional Aid for 2007-2013, was adopted by the EFTA Surveillance Authority Decision No 85/06/COL of 6 April 2006. Not yet published in the Official Journal.

2. Initial investment aid

2.1. Does the scheme cover investment in fixed capital or job creation linked to initial investment relating to:

- the setting up of a new establishment?
- the extension of an existing establishment?
- diversification of the output of an establishment into new, additional products?
- a fundamental change in the overall production process of an existing establishment?
- the acquisition of capital assets directly linked to an establishment by an independent investor which has closed or which would have closed had it not been purchased?

2.2. Where the aid is calculated on the basis of material or immaterial investment costs, or of acquisition costs in the case of a takeover, does the aid include a clause stipulating that the beneficiary makes a financial contribution of at least 25 % of the total eligible costs and that this contribution will be free of any public support, including *de minimis* aid?

- yes
- no

2.3. Where the aid is granted automatically on the basis of objective criteria under a legal basis giving rights to the beneficiaries to receive the aid, does the scheme exclude the award of aid to projects which have started before the entry into force of the legal basis?

- yes
- no

Where the aid is not granted automatically, does the scheme provide that the application for aid must be submitted before work is started on the project and the competent authorities must have confirmed in writing that the project in principle meets the conditions of eligibility laid down by the scheme (see paragraph 30 of the RAG)?

- yes
- no

In case of ad hoc aid, did the competent authority issue a letter of intent to award aid before work starts on the project, which is conditional on the Authority's approval of the measure?

- yes
- no

If any of the points above are not fulfilled, please explain why and how the authorities intend to comply with these necessary conditions: .....

2.4. Which are the aid intensities under the scheme or ad hoc aid expressed in gross terms?

.....

What are the parameters enabling the calculation of aid intensities?

.....

2.4.1.  Grants

in nominal amount

.....

in present (discounted) value

.....



2.4.2.  *Tax exemptions*

How is the discounted value of the tax capped and to which aid intensity?

.....

2.4.3.  *Public soft loans*

maximum period of the loan:

.....

maximum proportion (amount of the loan as a % of the eligible investment):

.....

maximum length of the grace period:

.....

minimum interest rate:

.....

— Is the loan covered by normal securities required by banks?

yes       no

If yes, to what extent?

.....

— What is the expected default rate, by categories of beneficiaries?

.....

— Is the interest rate being increased in situations involving a particular risk?

yes       no

— Is the interest rate fixed, variable, dependent on profits, a combination of above?

.....

— Are the loans subordinated?

yes       no

2.4.4.  *Interest rate subsidy*

maximum amount of the rebate:

.....

maximum proportion (amount of the loan as a % or proportion of the eligible investment):

.....

maximum length of the grace period:

.....

duration of the loan:

.....

2.4.5.  *Guarantee schemes*

Please indicate the types of loans for which guarantees may be granted

.....

Please indicate the method and the parameters used for the calculation of the grant equivalent of the guarantee, including duration, proportion and amount of the loan:

.....

Please specify the premiums paid by the State to the bank:

.....

What is the expected default rate, by categories of beneficiaries?

.....

What is the maximum coverage (percentage) of a loan by the guarantee?

.....

What are the conditions for the mobilisation of guarantees?

.....

2.4.6.  *Public participations*

Please indicate if the scheme involves aid in form of public participations

.....

To what extent does the public participation deviate from the Market Economy Investor principle?

.....

Please provide relevant information in order to calculate the aid element of the public participation:

.....

2.4.7.  *Other*

.....

2.5. Is replacement investment excluded from the scheme?

yes       no

If not, the authorities are requested to fill in section 3 of this form on operating aid.

2.6. Is assistance for firms in difficulty <sup>(1)</sup> and/or for the financial restructuring of firms in difficulty excluded from the scheme?

yes       no

<sup>(1)</sup> As defined in Chapter 16 of the EFTA Surveillance Authority's State Aid Guidelines, Guidelines on State aid for rescuing and restructuring firms in difficulty.

## 2.7. Investment aid calculated as a percentage of the investment's eligible material and immaterial costs

Does the eligible expenditure under the scheme relate to:

2.7.1.  *Material assets:*

The value of the investment is established on the basis of <sup>(1)</sup>:

- land
- buildings
- plant/machinery (equipment)
- in case of a takeover, capital assets

Please provide a short description:

.....

.....

Are the assets acquired new, except in the case of SMEs and takeovers?

- yes       no

Please specify:

.....

Does the scheme ensure that any aid awarded in the past for the acquisition of assets in case of takeovers has been taken into account/deducted prior to the purchase (see paragraph 43 of the RAG)?

- yes       no

Please specify:

.....

How is it ensured that the transactions in case of takeovers will take place under market conditions?

.....

Are costs related to the acquisition of assets — other than land and buildings — under financial lease included in the eligible expenditure?

- yes       no

Does the lease contain an obligation to purchase the asset — other than land and buildings — at the expiry of the term of the lease?

- yes       no

<sup>(1)</sup> In the transport sector, expenditure on the purchase of transport equipment (movable assets) is not eligible for investment aid.

For the financial lease of land and buildings, does the lease continue for at least five years after the anticipated date of the completion of the investment project, for large companies, and three years for SMEs?

yes       no

Should one of the previous questions be answered in the negative, please explain how the authorities intend to comply with the necessary conditions:

.....  
.....

2.7.2.  *Immaterial assets:*

The value of the investment is established on the basis of expenditure entailed by the transfer of technology through the acquisition of:

- patent rights
- licences
- know-how
- unpatented technical knowledge

Please provide a short description

.....  
.....

Does the scheme include a clause stipulating that the expenditure on eligible intangible investment must not exceed 50 % of the total eligible investment expenditure for the project in the case of large firms?

yes       no

Does the measure ensure that eligible immaterial assets:

- are used exclusively in the establishment receiving the regional aid?
- are regarded as amortisable assets?
- are purchased from third parties under market conditions?
- are included in the capital assets of the firm and remain in the establishment receiving the regional aid for at least five years for large companies and three years for SMEs?

Should one of these conditions not be explicitly reflected in the scheme, explain why and how the authorities intend to respect these requirements:

.....  
.....

Does the scheme include in the eligible expenditure for SMEs the costs of preparatory studies and consultancy costs linked to the investment?

yes  no

Does the scheme provide that consultancy costs for SMEs are limited to an aid intensity of up to 50 % of the actual costs incurred?

yes  no

2.7.3. How is it ensured that aid for initial investment (both material and immaterial assets) is made conditional on the maintenance of the investment for a minimum period of five years in case of large companies and three years in case of SMEs?

.....  
.....

2.8. Investment aid calculated on the basis of wage costs

2.8.1. Does the measure ensure that the aid calculated on the basis of wage costs is linked to an initial investment project?

yes  no

2.8.2. Does the measure ensure that job creation means a net increase in the number of employees (ALU) directly employed in a particular establishment compared with the average over the previous 12 months, after deducting any jobs lost during that 12-month period in the same establishment?

yes  no

2.8.3. How is it ensured that the eligible expenditure is limited to twice the wage costs arising from the job creation, which results from the operation of the assisted investment?

.....

2.8.4. Does the measure ensure that the posts will be filled within three years of the completion of works?

yes  no

2.8.5. Does the measure ensure that the jobs created will be maintained within the region concerned for a minimum period of five years (or three years in the case of SMEs) from the date the post was first filled?

yes  no

Should one of the previous questions be answered in the negative, please explain how the authorities intend to comply with these requirements:

.....  
.....

### 3. Operating aid

3.1. What is the direct link between the awarding of operating aid and the contribution to regional development?

.....  
 .....

3.2. What are the structural handicaps that the operating aid is seeking to redress?

.....  
 .....

3.3. How is it ensured that the nature and the level of the operating aid are proportional to the handicaps it seeks to alleviate?

.....  
 .....

3.4. What arrangements have been made to ensure that the operating aid is progressively reduced and limited in time?

.....  
 .....

3.5. Is the operating aid scheme open to all sectors?

yes  no

3.6. Is the scheme designed to offset additional transport or employment costs?

yes  no

3.7. If one of the above questions (3.5-3.6) is answered negatively, how is it ensured that paragraph 67 of the RAG is respected?

.....  
 .....

3.8. Is operating aid intended to promote exports excluded?

yes  no

#### **Specific questions relating to regions with low population density or regions with least population density**

3.9. Should operating aid not be progressively reduced and not be limited in time, please specify whether the following conditions are met:

3.9.1. Does the aid benefit a region with low population density or with least population density?

yes  no

3.9.2. Is this aid intended to offset in part additional transport costs?

yes  no

Please provide proof of the existence of these additional costs and the method of calculation used to determine their amount <sup>(1)</sup>. In particular, please provide proof that the conditions of paragraph 70 of the RAG are respected:

.....  
 .....

<sup>(1)</sup> The description should reflect how the authorities intend to ensure that the aid is given only in respect of the extra cost of transport of goods inside the national borders, it must not be allowed to become export aid, it is calculated on the basis of the most economical form of transport and the shortest route between the place of production or processing and commercial outlets, and cannot be given for the transport of the products of businesses without an alternative location.

Indicate what will be the maximum amount of aid (on the basis of an aid per tonne/kilometre) and the percentage of the additional costs covered by the aid:

.....  
 .....

3.9.3. Is the aid intended to prevent or reduce the continuing depopulation of the least populated regions?

yes       no

How can the authorities demonstrate that the aid proposed is necessary and appropriate to prevent or reduce continuing depopulation and that it will not affect trading conditions to an extent contrary to the common interest?

.....  
 .....

#### 4. Aid for newly created small enterprises

*Information on the beneficiaries*

4.1. Are the beneficiaries small enterprises on the date of granting the aid within the meaning of Article 2 of Annex I to Commission Regulation (EC) No 364/2004 <sup>(1)</sup>: or any successor regulation?

yes       no

4.2. Is the aid awarding authority required to verify that all the beneficiaries are autonomous in the meaning of Article 3 of the Annex I to the abovementioned Regulation?

yes       no

4.3. Does the scheme ensure that aid is only granted to small enterprises which have been created less than five years before the date of granting the aid?

yes       no

4.4. Please describe the mechanisms put in place in order to ensure that no misuse of the aid measure takes place in the form of existing enterprises being artificially closed down and re-started in order to receive this type of aid:

.....  
 .....

*Geographical application of the scheme*

4.5. Is the aid scheme limited to assisted areas only?

yes       no

<sup>(1)</sup> Small enterprises within the meaning of Article 2 of Annex I to Commission Regulation (EC) No 364/2004 (OJ L 63, 28.2.2004, p. 22) incorporated in the EEA Agreement through Annex XV point 1(f) by Decision of the EEA Joint Committee No 131/2004 of 24 September 2004 (OJ L 64, 10.3.2005, p. 67 and EEA Supplement No 12, 10.3.2005, p. 49) or any successor regulation.

4.6. The beneficiaries conduct their economic activity in the following regions (please specify in conformity with the denomination of the regions as defined in the regional aid map):

— All assisted areas in the EFTA State concerned

yes  no

— Article 61(3)(c) region(s)

yes  no

Please specify the region(s) (NUTS):

.....

*Eligible expenditure*

4.7. Are legal, advisory, consultancy and administrative costs directly related to the creation of the enterprise included in the eligible expenditure?

yes  no

If yes, please specify: .....

4.8. Are the eligible costs strictly limited to those that are incurred within the first five years after the creation of the enterprise and, within those five years, to the time when the company meets the conditions of small enterprise according to the Community definition?

yes  no

4.9. Please indicate in the following list, which costs are included in the eligible expenditures:

— Interests on external finance

— Dividend on own capital employed not exceeding the reference rate

— Fees for renting production facilities/equipment

— Energy, water, heating costs

— Taxes (other than VAT and corporate taxes on business income)

Please specify: .....

— Administrative charges

Please specify: .....

— Depreciation

— Fees for leasing production facilities/equipment

— Wage costs

Are compulsory social charges included in the wage costs?

yes  no



As regards depreciation, fees for leasing production facilities/equipment or wage costs, can you confirm that the underlying investments or job creation and recruitment measures have not benefited or will not benefit from other forms of aid?

yes       no

*Aid intensities*

4.10. What is the aid intensity foreseen by the measure for eligible expenses incurred within the first three years after the creation of the enterprises or for expenditures directly related to the creation of the enterprise?

... % for Article 61(3)(c) region(s)

4.11. What is the aid intensity foreseen by the measure for eligible expenses incurred in the fourth and fifth year after the creation of the enterprises?

... % for Article 61(3)(c) region(s)

4.12. Is the aid intensity increased by 5 % as indicated under paragraph 78 of the RAG?

yes       no

If yes, please specify:

— For low population density regions with less than 12,5 inhabitants/km<sup>2</sup>

yes       no

— For small islands with a population of less than 5 000

yes       no

— For other communities with a population of less than 5 000 suffering from similar isolation like islands

yes       no

Please specify the region(s): .....

4.13. In case the beneficiaries have establishments located in more than one type of region (Article 61(3)(c), outside assisted areas or those indicated under 4.12), please indicate how it will be ensured that intensities or a possible top-up are applied correctly:

.....  
 .....

*Aid amount*

4.14. Is the maximum aid amount awarded to beneficiaries located in Article 61(3)(c) regions to EUR 1 million per enterprise?

yes       no

4.15. Are the annual aid amounts awarded limited to 33 % of the abovementioned maximum amounts?

yes       no

- 4.16. Please provide a description on the mechanisms used or the form in which the aid is awarded to the beneficiary enterprises (e.g. grant, loan, etc.) and explain in detail how aid intensities and maximum aid amounts are calculated, in particular, for non-transparent forms of aid:

.....  
 .....

*Cumulation*

- 4.17. Can any other form of public support be granted on the basis of the same eligible costs as regards interest on external finance, dividend on own capital employed, fees for renting production facilities/equipment, energy, water, heating costs, or taxes (other than VAT and corporate taxes)?

yes       no

If yes, please describe the mechanism put in place in order to ensure that the upper limits for the aid amount per enterprise in total and per year as well as aid intensities are respected:

.....  
 .....

**5. Scope of the scheme or ad hoc aid**

- 5.1. Does the aid scheme apply to all sectors?

yes       no

Is the aid scheme is targeted at a particular sector of activity?

yes       no

If yes, please explain

.....

- 5.2. Does the scheme apply to the transport sector?

yes       no

If yes,

— Transport Services

- Maritime transport  
 Air transport  
 Road transport  
 Rail transport  
 Urban transport  
 Inland waterway transport  
 Combined transport

Management of transport infrastructure

- Port infrastructure  
 Airport infrastructure  
 Road infrastructure  
 Rail infrastructure  
 Urban transport infrastructure  
 Inland waterway infrastructure

## — Monitoring

Will the annual report trace any individual aid falling under the abovementioned categories with its amount and its beneficiary?

yes  no

5.3. Does the scheme apply to the shipbuilding sector?

yes  no

5.4. Does the scheme respect the specific provisions, such as the prohibition to grant aid to the steel sector <sup>(1)</sup> and/or synthetic fibres <sup>(2)</sup>

yes  no

5.5. Does the scheme provide for respect of individual notification obligation foreseen in section 25B.4.3 of the RAG — Aid for large investment projects <sup>(3)</sup>?

yes  no

## 6. Cumulation

6.1. Where regional aid under one scheme can be combined with aid under other scheme(s), please specify, in each scheme, the method by which it is ensured compliance with the conditions on cumulation listed in section 25B.4.4 of the RAG.

.....

6.2. Is it ensured that regional investment aid shall not be cumulated with *de minimis* support in respect of the same eligible expenses in order to circumvent the maximum aid intensities laid down in the approved regional aid map?

yes  no

6.3. Where aid calculated on the basis of (material or immaterial) investment costs is combined with aid calculated on the basis of wage costs, does the aid scheme respect the intensity ceiling laid down for the region concerned?

yes  no

## 7. Transparency

7.1. Does the scheme exclude projects for which eligible expenditure were incurred before the date of publication of the final scheme in the Internet (see paragraph 93 of the RAG)?

yes  no

## 8. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the guidelines on national regional aid.

.....

<sup>(1)</sup> In the sense of Annex I to the RAG.

<sup>(2)</sup> In the sense of Annex II to the RAG.

<sup>(3)</sup> Please note that you have to fill in a specific notification form (Part III.5) has in case of aid to large investment projects.

PART III.5

**SUPPLEMENTARY INFORMATION SHEET ON REGIONAL AID FOR LARGE INVESTMENT PROJECTS**

This supplementary information sheet must be used for the notification of any regional investment aid exceeding the threshold for individual notification defined in paragraph 64 of the Guidelines for national regional aid for 2007-2013.

For ad hoc aid (aid granted outside existing schemes) the EFTA State must also provide the Supplementary Information Sheet on regional aid (Part III.4). In addition, EFTA States will have to demonstrate that the project contributes towards a coherent regional development strategy and that, having regard to the nature and size of the project, it will not result in unacceptable distortions of competition. Moreover, EFTA States will have to demonstrate that the aid will not be unduly concentrated on a particular sector of activity and that it creates no adverse sectoral effects.

The Authority reserves the right to ask for further information in order to carry out an in-depth assessment if the thresholds for such an assessment as defined in paragraph 57 of the Regional Aid Guidelines are reached.

Additionally to this supplementary information sheet(s) the EFTA State must provide:

- Part I. General Information,
- Part II. Summary Information for publication in the Official Journal of the European Union.

The EFTA State must also provide the relevant investment agreement, the (draft) aid contract and any other relevant document (including, in the case of ad hoc aid, the letter of intent), in order to confirm that the granting of the aid is in conformity with the general rules under the Guidelines for national regional aid for 2007-2013 and with any underlying aid scheme..

If amounts are converted into the euro or other currencies, please provide the implicit exchange rate assumptions. Please always indicate if the amounts mentioned are in nominal amounts or discounted.

**1. Additional information on beneficiaries**

1.1. Structure of the company or companies investing in the project

1.1.1. Identity of aid recipient(s):

.....

1.1.2. If the legal identity of the aid recipient is different from the undertaking(s) that finance(s) the project or from the actual beneficiary(ies) of the aid, describe also these differences.

.....

1.1.3. Please give a clear description of the relation between the beneficiary, the group of enterprises it belongs to and other associated enterprises, including joint ventures.

.....

1.2. For the company or companies investing in the project, provide the following data for the last three financial years (at group level).

1.2.1. Worldwide turnover, EEA turnover, turnover in the EFTA State concerned:

.....

1.2.2. Net operating income, return on capital employed and free cash flow:

.....

1.2.3. Employment worldwide, at EEA level and in the EFTA State concerned:

.....

1.2.4. Audited financial statements and annual report(s) for the last three years:

.....

1.3. If the investment takes place in an existing establishment (*plant*), provide the following data for the last three financial years of that entity (data for the existing establishment/*plant*).

1.3.1. Worldwide turnover, EEA turnover, turnover in EFTA State concerned:

.....

1.3.2. Net operating income, return on capital employed and free cash flow:

.....

1.3.3. Employment:

.....

1.3.4. Aid history — Did the beneficiary receive aid for any other investment in the same establishment (*plant*) in the last three years?

yes       no

If yes, please give more details:

.....

1.4. *Firms in difficulty*

Does the aid benefit a firm in difficulty <sup>(1)</sup> or will it be used for the financial restructuring of a firm in difficulty?

yes       no

If yes, please note that Chapter 16 of Authority's Guidelines on State aid for rescuing and restructuring firms in difficulty is applicable.

2. **Aid**

2.1. *Form of aid*

Please give a detailed description of each form of aid:

.....

2.2. *Amount of aid*

For each form of aid, provide the following information:

2.2.1. Amount of support, both in nominal and discounted terms:

.....

2.2.2. A complete schedule of the payment of the proposed assistance:

.....

In case of aid awarded in the form of exemptions on future taxes, please indicate how the discounted aid amount will be capped:

.....

2.2.3. The applicable existing aid scheme(s), including title, State aid number and reference to Authority approval, submission under interim procedure, or supplementary information sheet pursuant to an exemption regulation:

.....

2.2.4. The application for aid was submitted before work was started on the project.

yes       no

<sup>(1)</sup> As defined in Chapter 16 of the EFTA Surveillance Authority's State Aid Guidelines, Guidelines on State aid for rescuing and restructuring firms in difficulty.

2.3. Characteristics

2.3.1. Are any of the assistance measures of the overall package not yet defined?

- yes
- no

If yes, please specify, and explain how the total discounted aid amount will be capped:

.....

2.3.2. Indicate which of the abovementioned measures does not constitute State aid and for what reason(s):

.....

2.4. Financing from Community and other sources

2.4.1. Are some of the abovementioned measures to be co-financed by Community funds (European Investment Bank, European Social Fund, European Regional Development Fund, other)? Please explain.

.....

2.4.2. Is some additional support for the same project to be requested from any other European or international financing institutions?

- yes
- no

If so, for what amounts?

.....

2.5. Reporting

Please confirm that the following documents will be provided to the Authority:

- within two months of granting the aid, a copy of the aid contract between the granting authority and the beneficiary;
- on a five-yearly basis, starting from the approval of the aid by the Authority, an intermediary report (including information on the aid amounts being paid, on the execution of the aid contract and on any other investment projects started at the same establishment/plant);
- within six months after payment of the last tranche of the aid, based on the notified payment schedule, a detailed final report.

3. Assisted project

3.1. Timeline

Specify the planned start date of the investment, the planned date of completion of the investment and the planned year by which full production will be reached, if necessary for each product envisaged by the investment project.

.....

3.2. Description of the project

3.2.1. Specify the type of the project and whether it is a new establishment; the extension of an existing establishment; diversification of the output of an establishment into new, additional products; a fundamental change in the overall production process of an existing establishment; or the acquisition of capital assets directly linked to an establishment by an independent investor which has closed or which would have closed had it not been purchased:

.....

3.2.2. Provide a short description of the project:

.....

3.3. Breakdown of the project costs

3.3.1. Specify the total cost of the investment over the lifetime of the project:

.....

3.3.2. Provide a detailed breakdown per year and per category (land, buildings, plant/machinery, or other) of the eligible costs associated with the investment project, where relevant for each product envisaged by the investment project:

.....

#### 3.4. *Financing of total project costs*

Please provide a complete description of the financing of the project and how it ensures that at least 25 % of the eligible costs are financed in a way which is free of public support, including *de minimis* aid.

.....

#### 4. **Product and market characteristics**

In this section, if applicable, please take account of any relevant marketing or similar arrangements with other companies for the calculation of the capacity and the market share (e.g. exclusive licenses for sales).

##### 4.1. *Characterisation of product(s) envisaged by the project*

4.1.1. Specify all the product(s) that will be produced in the aided facility upon the completion of the investment and indicate, where appropriate, the Prodcom code or CPA nomenclature for projects in the service sectors.

.....

4.1.2. Will the products envisaged by the project replace any other products produced by the beneficiary (at group level)? What product(s) will it replace? If these replaced products are not produced at the location of the project, indicate where they are currently produced. Please provide a description of the link between the replaced production and the current investment and give a time schedule for the replacement.

.....

4.1.3. What other product(s) can be produced with the same new facilities (through flexibility of the production installations of the beneficiary) at little or no additional cost?

.....

##### 4.2. *Product concerned and relevant product market*

4.2.1. Explain if the project concerns an intermediate product and if a significant part of the output is not sold on the market (under market conditions). Based on the above explanation, for the purpose of calculating the market share and capacity increase in the remainder of this section, please indicate if the product concerned is the product envisaged by the project or if it is the downstream product.

.....

4.2.2. Please indicate the demand side substitutes and the supply side substitutes of the product concerned. The relevant product market includes the product concerned and its substitutes considered to be such either by the consumer (by reason of the product's characteristics, prices and intended use) or by the producer (through flexibility of the production installations of the beneficiary and its competitors).

.....

##### 4.3. *Market share data*

Please answer the following questions for all products concerned.

4.3.1. For the purpose of applying paragraph 57(a) of the RAG, the Authority will normally assume that the relevant geographic market is the EEA. Please provide arguments if another geographic market for the product(s) is considered relevant.

.....

4.3.2. For the purpose of applying paragraph 57(a) of the RAG, the Authority will normally assume that the relevant geographic market is the EEA. Please provide arguments if another geographic market for the product(s) is considered relevant.

.....

4.3.3. Please provide an estimate of the overall sales of all producers on the relevant market (in value and volume terms), from the year preceding the start year of the investment to the year following full production of the product envisaged by the project. If available, include statistics prepared by public and/or independent sources.

.....

4.3.4. Please explain the methodology underlying the estimates and the implicit price assumptions.

.....

4.4. *Market evolution*

Please answer the following questions for all products concerned.

4.4.1. Provide for each of the last six years data on apparent consumption <sup>(1)</sup> (in value and volume terms) in the relevant product market in the EEA. Please also provide implicit price assumptions. If available, include statistics prepared by public and/or independent sources.

.....

4.4.2. Please calculate from the above figures the Compound Annual Growth Rate (CAGR) <sup>(2)</sup> of apparent consumption in the relevant product market in the EEA.

.....

4.4.3. Please calculate the average annual growth rate of the EEA's GDP over the last five years as a Compound Annual Growth Rate (CAGR) using Eurostat figures <sup>(3)</sup> ([www.eu.int/comm/eurostat/](http://www.eu.int/comm/eurostat/) — currently the figures can be found under "Themes/Economy and finance/National accounts/Annual national accounts/GDP and main aggregates").

.....

4.4.4. Is the average annual growth rate of the apparent consumption on the relevant product market in the EEA over the last five years below the average annual growth rate of the European Economic Area's GDP over the last five years?

yes                       no

4.5. *Capacity considerations*

Please answer the following questions for all products concerned.

If from point 4.4 on market evolution follows that the average annual growth rate of the apparent consumption on the relevant market is below the average annual growth rate of the European Economic Area's GDP, provide the following information:

4.5.1. Provide an estimate of the production capacity created by the investment (in volume and value terms).

.....

4.5.2. Provide an estimate of any changes in the total capacity of the beneficiary (at group level) in the EEA between the year preceding the start year of the project and the year following completion of the project (in volume and in value terms). Please also provide implicit price assumptions. If available, include statistics prepared by public and/or independent sources.

.....

4.5.3. Provide an estimate of the total apparent consumption on the relevant product market(s) in the EEA for the year preceding the start year and for the year following the completion of the project (in volume and in value terms). Please also provide implicit price assumptions. If available, include statistics prepared by public and/or independent sources.

.....

5. **Other information**

Please indicate here any other information (e.g. environmental impacts or benefits) you consider relevant to the assessment of the measure(s) concerned.

.....

<sup>(1)</sup> Apparent consumption is production plus imports minus exports. If no apparent consumption data are readily available, other relevant data can be used.

<sup>(2)</sup> The CAGR is calculated as  $[y(t) / y(t - 5)]^{1/5} - 1$ .

<sup>(3)</sup> EU25 can be used as a proxy for the EEA in this context.



## EFTA SURVEILLANCE AUTHORITY DECISION

No 637/08/COL

of 8 October 2008

**amending, for the sixty-sixth time, the procedural and substantive rules in the field of State aid**

THE EFTA SURVEILLANCE AUTHORITY <sup>(1)</sup>,

prolongation of the Framework on State aid to shipbuilding <sup>(6)</sup> extending the validity of these guidelines until 31 December 2011,

HAVING REGARD to the Agreement on the European Economic Area <sup>(2)</sup>, in particular to Articles 61 to 63 and Protocol 26 thereof,

WHEREAS this Communication is also of relevance for the European Economic Area,

HAVING REGARD to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice <sup>(3)</sup>, in particular to Article 24 and Article 5(2)(b) thereof,

WHEREAS uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

WHEREAS under Article 24 of the Surveillance and Court Agreement, the Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the Authority, after consultation with the EC Commission, is to adopt acts corresponding to those adopted by the EC Commission,

WHEREAS under Article 5(2)(b) of the Surveillance and Court Agreement, the Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the Authority considers it necessary,

HAVING consulted the EC Commission on 9 September 2008,

RECALLING that the Authority by letter of 9 September 2008 invited the EFTA States to submit comments on the subject and that the EFTA States did not present any objection,

RECALLING the Procedural and Substantive Rules in the Field of State Aid adopted on 19 January 1994 by the Authority <sup>(4)</sup>,

HAS ADOPTED THIS DECISION:

WHEREAS, on 8 July 2008, the Commission of the European Communities <sup>(5)</sup> adopted a Communication concerning the

*Article 1*

The validity of the Chapter in the EFTA Surveillance Authority's Guidelines on State aid to shipbuilding is prolonged until 31 December 2011. Paragraph 31 of the Guidelines on State aid to shipbuilding shall read as follows:

'This Framework will be applicable from 1 January 2004 until 31 December 2011 at the latest. It may be reviewed by the Authority during this period.'

<sup>(1)</sup> Hereinafter referred to as 'the Authority'.

<sup>(2)</sup> Hereinafter referred to as 'the EEA Agreement'.

<sup>(3)</sup> Hereinafter referred to as 'the Surveillance and Court Agreement'.

<sup>(4)</sup> Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the Authority on 19 January 1994, published in OJ L 231, 3.9.1994, and in EEA Supplement No 32 of 3.9.1994, p. 1. The Guidelines were last amended on 16 July 2008. Hereinafter referred to as 'the State Aid Guidelines'. The updated version of the State Aid Guidelines is published on the Authority's website: [http://www.eftasurv.int/fieldsOfWork/fieldStateAid/state\\_aid\\_guidelines/](http://www.eftasurv.int/fieldsOfWork/fieldStateAid/state_aid_guidelines/)

<sup>(5)</sup> Hereinafter referred to as 'the EC Commission'.

<sup>(6)</sup> OJ C 173, 8.7.2008, p. 3.

Footnote 1 of the Guidelines on State aid to shipbuilding shall read as follows:

'This Chapter corresponds to Community Framework on State aid to shipbuilding (OJ C 317, 30.12.2003, p. 11), as amended by the Commission on 24 October 2006 (OJ C 260, 28.10.2006, p. 7), and on 8 July 2008 (OJ C 173, 8.7.2008, p. 3).'

*Article 2*

Only the English version is authentic.

Done at Brussels, 8 October 2008.

*For the EFTA Surveillance Authority*

Per SANDERUD  
*President*

Kristján Andri STEFÁNSSON  
*College Member*

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III *Acts adopted under the EU Treaty*

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

- ★ **Council Joint Action 2009/445/CFSP of 9 June 2009 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO** ..... 33
  
  - 2009/446/CFSP:
  - ★ **Political and Security Committee Decision ATALANTA/5/2009 of 10 June 2009 amending Political and Security Committee Decision ATALANTA/2/2009 on the acceptance of third States' contributions to the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta) and Political and Security Committee Decision ATALANTA/3/2009 on the setting-up of the Committee of Contributors for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta)** ..... 34
- 

IV *Other acts*

EUROPEAN ECONOMIC AREA

**EFTA Surveillance Authority**

- ★ **EFTA Surveillance Authority Decision No 387/06/COL of 13 December 2006 amending EFTA Surveillance Authority Decision No 195/04/COL on the implementing provisions referred to under Article 27 in Part II of Protocol 3 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice as regards the standard forms for notification of aid** ..... 35
  
- ★ **EFTA Surveillance Authority Decision No 637/08/COL of 8 October 2008 amending, for the sixty-sixth time, the procedural and substantive rules in the field of State aid** ..... 55

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