

# Official Journal

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## Information and Notices

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

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**Note** (see inside back cover)

**NOTICE**

On 10 March 2001, in the *Official Journal of the European Communities* C 78 A, the 'Common catalogue of varieties of agricultural plant species — Seventh supplement to the 21st complete edition' will be published.

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## I

*(Information)*

## COMMISSION

**Euro exchange rates <sup>(1)</sup>****7 March 2001**

(2001/C 76/01)

<b>1 euro</b>	=	7,4628	Danish krone
	=	9,054	Swedish krona
	=	0,6358	Pound sterling
	=	0,9307	United States dollar
	=	1,4395	Canadian dollar
	=	111,38	Japanese yen
	=	1,5372	Swiss franc
	=	8,2155	Norwegian krone
	=	80,02	Icelandic króna <sup>(2)</sup>
	=	1,8137	Australian dollar
	=	2,1917	New Zealand dollar
	=	7,3232	South African rand <sup>(2)</sup>

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

<sup>(2)</sup> Source: Commission.

## COMMISSION NOTICE

pursuant to Article 12(2) of Council Regulation (EEC) No 4056/86 concerning Case  
COMP/D2/37.939 — P&O Stena Line 2

(2001/C 76/02)

(Text with EEA relevance)

**Application**

1. On 31 October 1996, The Peninsular and Oriental Steam Navigation Company ('P&O') and Stena Line Limited notified to the Commission in accordance with Article 12(1) of Regulation (EEC) No 4056/86, an agreement relating to the establishment and operation of a joint venture ('the agreement') merging the parties' respective ferry operations on the short sea (as defined below). The joint venture is operating under the name P&O Stena Line.
2. On 13 March 1997, pursuant to Article 12(2) of Regulation 4056/86, the Commission published a summary of the application in the *Official Journal of the European Communities* and invited interested parties to submit their comments within 30 days <sup>(1)</sup>.
3. On 10 June 1997, before the expiry of the 90-day deadline provided for in Article 12(3) of Regulation (EEC) No 4056/86, the Commission informed the parties that there existed serious doubts as to the applicability of Article 85(3) (now Article 81(3)) to the agreement <sup>(2)</sup>.
4. On 6 February 1998, pursuant to Article 23(3) of Regulation (EEC) No 4056/86, the Commission published a notice indicating its intention to exempt the agreement <sup>(3)</sup>. The Commission granted an exemption under Article 85(3) (now Article 81(3)) by decision dated 26 January 1999 for the period 10 March 1998 to 9 March 2001 <sup>(4)</sup>.
5. The exemption will come to an end on 9 March 2001. On 22 December 2000, P&O and Stena Line (UK) Limited ('Stena Line'), which holds Stena Line group's shareholding in P&O Stena Line and has therefore replaced Stena Line Limited as the relevant party, together with P&O Stena Line submitted to the Commission pursuant to Article 13(2) of Regulation (EEC) No 4056/86 an application for renewal of the Article 81(3) exemption until 2020. The application for renewal is made in the event that the Commission considers there to be a restriction of competition falling under Article 81(1).

**The joint venture**

6. Details of the agreement establishing the joint venture, which remains unchanged, can be found in the Commission's notice of 13 March 1997 <sup>(1)</sup>.

<sup>(1)</sup> OJ C 80, 13.3.1997, p. 3.

<sup>(2)</sup> See press release IP/97/511 of 11 June 1997.

<sup>(3)</sup> OJ C 39, 6.2.1998, p. 21.

<sup>(4)</sup> OJ L 163, 29.6.1999, p. 61.

7. P&O Stena Line operates a regular passenger and freight ferry service across the short sea. On the Dover/Calais route it operates seven multi-purpose ro-ro (roll on-roll off) vessels carrying freight and tourist traffic. On the Dover/Zeebrugge route it operates three ro-ro vessels carrying freight traffic only. Its service on the Newhaven/Dieppe route ended on 31 January 1999.

**Spillover**

8. The parent companies have remained independent ferry operators on the western Channel, North Sea and Irish Sea. The parties state that the formation of the joint venture has not resulted in any wider cooperation between the parties and that there is no reason to expect such spillover in the future.

**The market**

9. The parties do not challenge the definition of the relevant markets in the Commission decision of 26 January 1999. The application is based on that definition, namely:
  - (a) the market for tourist passenger services (passenger and passenger vehicles) on routes across the short French sea (routes between Dover, Folkestone, Ramsgate, Newhaven and Calais, Dieppe, Boulogne, Dunkirk and the Channel Tunnel) and the Belgian Straits (Ramsgate/Ostend) ('**the short sea tourist market**'); and
  - (b) the market for unitised freight services (maritime services and door-to-door intermodal services) between England and mainland Europe (western Channel, short sea and North Sea routes) ('**the Anglo/Continental freight market**').

**The parties' arguments for negative clearance**

10. The parties believe that the market conditions in both the short sea tourist market and the Anglo/Continental freight market are more competitive with the continued operation of P&O Stena Line than they would be in the absence of the joint venture. It is therefore the parties' opinion that the restrictions in the agreement do not (now) restrict, distort or prevent competition to an appreciable extent.

**The parties' arguments for renewal of exemption**

11. The parties consider that even if Article 81(1) applies, the operation of P&O Stena Line continues to qualify for exemption pursuant to Article 81(3) for the following reasons.
12. The application considers that P&O Stena Line has yielded substantial benefits to consumers. The joint venture has maintained and improved the frequency of regular departures and reduced the waiting time on the quayside by using a continuous loading embarkation system. The annual cost savings achieved through the formation of the joint venture have enabled P&O Stena Line to keep price increases to the minimum and have created a viable platform for investments in the quality of onboard services and facilities as well as investments in new ticketing and reservation systems. The application considers that the reduced cost base for P&O Stena Line has allowed the parties to consider a proposed ship renewal programme which would maintain the high standard of service.
13. The application draws attention to Eurotunnel's increasing market position and Eurotunnel's competitive strength in the short sea tourist market, and states that P&O Stena Line is the only operator who is able to offer frequency of services and continuous loading which comes close to the service offered by Eurotunnel's Le Shuttle tourist service. No lesser forms of cooperation between the parent companies could yield similar benefits. In addition the parties believe that lesser forms of cooperation would be more restrictive of competition than a continued operation of P&O Stena Line.
14. The parties do not consider that the joint venture has eliminated competition in respect of any part of the markets under consideration. As regards the Anglo/Continental freight market, the application states that the conditions on the market are characterised by strong competition between a wide range of routes and operators, low barriers to market entry and material excess capacity.
15. As regards in particular the short sea tourist market, the application states that there is no evidence to indicate any grounds for a concern that duopolistic conduct between the joint venture and Eurotunnel has either occurred or is likely to develop in the future. The parties acknowledge

the consumer concern over increased ticket prices, but argue that the end of duty-free concessions has contributed to the loss of passenger volumes, has significantly reduced the contribution from on-board spending and has also largely removed any positive contribution to profits during the low season quarters (October to March). Before the end of duty-free concessions, on-board spending was by far the most significant source of contribution to costs. The application states that overall the increase in ticket revenue has not compensated for the reduced contribution from on-board spending and has moreover itself contributed to declining passenger volumes. The application considers that there are no restrictions which limit entry to the market and the applicants are subject to effective and potential competition from other operators. There has furthermore been a new entrant on the market with the introduction of Norfolkline's services on the Dover/Dunkirk route.

16. The parties request a 20-year exemption until 2020 in order to enable the parties to finance a planned ship renewal investment programme which could replace half of P&O Stena Line's existing fleet. The application further states that a 20-year exemption is needed to maintain a long-term and effective competitive constraint on Eurotunnel's services and that there are no foreseeable major disruptions to market conditions on the horizon as was the case in 1996 with the loss of duty-free concessions.

**Third party comments**

17. This notice is issued pursuant to the procedure established by Article 12 of Regulation (EEC) No 4056/86. The Commission has not at this stage taken any position on the applicability of Article 81 of the Treaty to the agreement. In accordance with Article 12(2) of Regulation (EEC) No 4056/86, the Commission invites interested parties to submit their comments within 30 days from the date of publication of this notice, quoting reference 'Case COMP/D2/37.939 P&O Stena Line 2', to:

European Commission  
Directorate-General for Competition  
Antitrust Greffe  
Rue Joseph II/Jozef II-straat 70  
B-1000 Brussels  
Fax (32-2) 295 01 28.

## ADMINISTRATIVE COMMISSION ON SOCIAL SECURITY FOR MIGRANT WORKERS

(2001/C 76/03)

The annual average costs do not take into account the reduction of 20 % provided for in Articles 94(2) and 95(2) of Council Regulation (EEC) No 574/72.

The net monthly average costs have been reduced by 20 %.

### AVERAGE COSTS OF BENEFITS IN KIND — 1997 <sup>(1)</sup>

#### I. Application of Article 94 of Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 1997 to members of the family as referred to in Article 19(2) of Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net monthly
<b>Sweden</b>	SEK 10 846,11	SEK 723,07

#### II. Application of Article 95 of Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1997 under Article 28 and 28(a) of Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net monthly
<b>Sweden</b>	SEK 34 599,52	SEK 2 306,63

### AVERAGE COSTS OF BENEFITS IN KIND — 1998 <sup>(2)</sup>

#### I. Application of Article 94 of Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1998 to members of the family as referred to in Article 19(2) of Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net monthly
<b>Belgium</b>		
— employed persons	BEF 39 268	BEF 2 618 EUR 64,90
— self-employed persons	BEF 25 517	BEF 1 701 EUR 42,17
<b>Germany</b>	DEM 1 852,31	DEM 123,49 EUR 63,14
<b>Portugal</b>	PTE 104 709	PTE 6 981 EUR 34,82

<sup>(1)</sup> Average costs: Spain, OJ C 228 of 11.8.1999.

Average costs: Belgium, Greece, Ireland, Luxembourg, the Netherlands, Portugal and the United Kingdom, OJ C 27 of 29.1.2000.

Average costs: Germany, France and Austria, OJ C 207 of 20.7.2000.

<sup>(2)</sup> Average costs: Spain and Luxembourg, OJ C 27 of 29.1.2000.

Average costs: the Netherlands and Austria, OJ C 207 of 20.7.2000.

## II. Application of Article 95 of Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1998 under Article 28 and 28(a) of Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net monthly
<b>Belgium</b>		
— employed persons (per family)	BEF 162 379	BEF 10 825 EUR 268,34
— employed persons (per person)	BEF 122 625	BEF 8 175 EUR 202,65
— self-employed persons (per family)	BEF 90 233	BEF 6 016 EUR 149,13
— self-employed persons (per person)	BEF 64 906	BEF 4 327 EUR 107,26
<b>Germany</b>		
— per family	DEM 8 019,80	DEM 534,65 EUR 273,36
— per person	DEM 7 139,60	DEM 475,97 EUR 243,36
<b>Portugal</b>		
— per family	PTE 207 030	PTE 13 802 EUR 68,84
— per person	PTE 189 023	PTE 12 602 EUR 62,86

### AVERAGE COSTS OF BENEFITS IN KIND — 1999

#### I. Application of Article 94 of Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1999 to members of the family as referred to in Article 19(2) of Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net monthly
<b>Spain</b>	PTA 76 276	PTA 5 085 EUR 30,56
<b>Austria</b>	ATS 22 144	ATS 1 476,27 EUR 107,28

#### II. Application of Article 95 of Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1999 under Article 28 and 28(a) of Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net monthly
<b>Spain</b>		
— per family	PTA 397 564	PTA 26 504 EUR 159,29
— per person	PTA 297 287	PTA 19 819 EUR 119,11
<b>Austria</b>		
— per family	ATS 51 997	ATS 3 466,47 EUR 251,92
— per person	ATS 44 342	ATS 2 956,13 EUR 214,83



**Non-opposition to a notified concentration**  
**(Case COMP/M.2196 — Enron/Bergmann/Hutzler)**

(2001/C 76/04)

(Text with EEA relevance)

On 7 December 2000 the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
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**Non-opposition to a notified concentration**  
**(Case COMP/M.2278 — Lafarge/Blue Circle/JV)**

(2001/C 76/05)

(Text with EEA relevance)

On 29 January 2001 the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
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**Prior notification of a concentration****(Case COMP/M.2367 — Siemens/E.ON/Shell/SSG)**

(2001/C 76/06)

**(Text with EEA relevance)**

1. On 27 February 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which Shell Erneuerbare Energien GmbH (Deutsche Shell), a holding company within the Royal Dutch Shell group (Shell), acquires, within the meaning of Article 3(1)(b) of the Regulation, joint control of Siemens Solar GmbH (SSG), controlled by Siemens Aktiengesellschaft (Siemens) and E.ON Energie AG (E.ON), by way of purchase of shares.
2. The business activities of the undertakings concerned are:
  - SSG: the company develops, manufactures and sells solar cells and modules,
  - Siemens: electronic engineering and electronics,
  - E.ON Energie is a subsidiary of E.ON AG which is the holding company of the E.ON group. The E.ON group is active in the fields of production, transmission, distribution and supply of electricity, wholesale transmission and local distribution of gas, and other areas among which the production of silicon wafers,
  - Deutsche Shell: Deutsche Shell is a holding company within the Royal Dutch Shell group of companies, which holds interests in Shell operating companies that are active in the field of renewable energy in Germany.
3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2367 — Siemens/E.ON/Shell/SSG, to:

European Commission,  
Directorate-General for Competition,  
Directorate B — Merger Task Force,  
Rue Joseph II/Jozef II-straat 70,  
B-1000 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

**Prior notification of a concentration**  
**(Case COMP/M.2384 — Ratos/3i Group/Atle)**

(2001/C 76/07)

(Text with EEA relevance)

1. On 1 March 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the undertaking Woodrose Invest AB, controlled by Ratos AB and 3i Group plc, acquires, within the meaning of Article 3(1)(b) of the Regulation, control of the whole of the undertaking Atle AB by way of public bid announced on 19 February 2001.

2. The business activities of the undertakings concerned are:

- Ratos AB: a Swedish holding company,
- 3i Group plc: a UK venture capital company,
- Atle AB: a Swedish private equity company,
- Woodrose Invest AB: vehicle to make a public offer for Atle AB.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2384 — Ratos/3i Group/Atle, to:

European Commission,  
Directorate-General for Competition,  
Directorate B — Merger Task Force,  
Rue Joseph II/Jozef II-straat 70,  
B-1000 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

**Prior notification of a concentration****(Case COMP/M.2334 — Dmdata/Kommunedata/e-Boks JV)****Candidate case for simplified procedure**

(2001/C 76/08)

**(Text with EEA relevance)**

1. On 1 March 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the undertakings Dmdata A/S, controlled by Mærsk Data A/S, forming part of the AP Møller Group, and Danske Bank Aktieselskab and Kommunedata A/S, controlled by the National Association of Local Authorities in Denmark, acquires, within the meaning of Article 3(1)(b) of the Regulation, joint control of the undertaking e-Boks A/S, by way of purchase of shares in a newly created company constituting a joint venture.

2. The business activities of the undertakings concerned are:

- Dmdata A/S: IT services,
- Mærsk Data A/S: leading supplier in Denmark of information technology,
- Danske Bank Aktieselskab: provider of banking and other financial services,
- Kommunedata A/S: develops, distributes and centrally operates a wide variety of administrative systems used in the public sector,
- e-Boks A/S: provider of safe infrastructure for sending, receiving and storing electronic documents and mail as well as safe and lifelong electronic mail box of private individuals.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Regulation (EEC) No 4064/89 <sup>(3)</sup>, it should be noted that this case is a candidate for treatment under the procedure set out in the notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2334 — Dmdata/Kommunedata/e-Boks JV, to:

European Commission,  
Directorate-General for Competition,  
Directorate B — Merger Task Force,  
Rue Joseph II/Jozef II-straat 70,  
B-1000 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

<sup>(3)</sup> OJ C 217, 29.7.2000, p. 32.

**Prior notification of a concentration****(Case COMP/M.2275 — PepsiCo/Quaker)****Candidate case for simplified procedure**

(2001/C 76/09)

**(Text with EEA relevance)**

1. On 26 February 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the US undertaking PepsiCo Inc. (PepsiCo) acquires, within the meaning of Article 3(1)(b) of the Regulation, control of the whole of the US undertaking The Quaker Oats Company (Quaker) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— PepsiCo: carbonated soft drinks, fruit juices and savoury snack foods,

— Quaker: sports beverages, sweet cereal bars, rice cakes and breakfast cereals.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Regulation (EEC) No 4064/89 <sup>(3)</sup>, it should be noted that this case is a candidate for treatment under the procedure set out in the notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2275 — PepsiCo/Quaker, to:

European Commission,  
Directorate-General for Competition,  
Directorate B — Merger Task Force,  
Rue Joseph II/Jozef II-straat 70,  
B-1000 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

<sup>(3)</sup> OJ C 217, 29.7.2000, p. 32.

**Initiation of proceedings****(Case COMP/JV.55 — Hutchison/RCPM/ECT)**

(2001/C 76/10)

**(Text with EEA relevance)**

On 1 March 2001 the Commission decided to initiate proceedings in the abovementioned case after finding that the notified concentration raises serious doubts as to its compatibility with the common market. The initiation of proceedings opens a second phase investigation with regards to the notified concentration. The decision is based on Article 6(1)(c) of Council Regulation (EEC) No 4064/89.

The Commission invites interested third parties to submit their observations on the proposed concentration.

In order to be fully taken into account in the procedure, observations should reach the Commission not later than 15 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/JV.55 — Hutchison/RCPM/ECT, to:

European Commission,  
Directorate-General for Competition,  
Directorate B — Merger Task Force,  
Rue Joseph II/Jozef II-straat 70,  
B-1000 Brussels.

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# EUROPEAN CENTRAL BANK

## CODE OF CONDUCT OF THE EUROPEAN CENTRAL BANK

### in accordance with Article 11.3 of the Rules of Procedure of the European Central Bank

(2001/C 76/11)

#### 1. PRELIMINARY STATEMENTS

This Code of Conduct (hereinafter referred to as the 'Code') gives guidance in matters of professional ethics to all persons employed by the European Central Bank (hereinafter referred to as the 'addressees') and serves as a reference for the public with regard to the standard of conduct that third parties are entitled to expect in their dealings with the European Central Bank (ECB). The Code makes explicit the ethical conventions and standards by which the ECB considers it necessary for the addressees to abide and clarifies the benchmarks against which fulfilment of the obligations already assumed by the addressees will be measured. The Code draws on, and is without prejudice to, the terms of individual contracts of the members of the Executive Board, the Conditions of Employment for Staff of the European Central Bank (hereinafter referred to as the 'conditions of employment') and all texts implementing them. Similarly, the Code gives guidance to and sets ethical conventions, standards and benchmarks for the members of the Executive Board of the ECB.

#### 2. BASIC PRINCIPLES

The addressees are expected to act with exclusive loyalty to the ECB, honestly, independently, impartially, with discretion and without regard to self-interest or national interests, to subscribe to high standards of professional ethics, and to avoid any situation liable to give rise to a conflict of interest.

The addressees are encouraged in their inter-personal relationships within the ECB to behave as Europeans and citizens of the European Union, with no national bias, drawing on the cross-cultural heritage of the Member States, and achieving a level of teamwork and team spirit which goes beyond cultural differences.

##### 2.1. Equal treatment and non-discrimination

The addressees should avoid any form of discrimination and, in particular, any discrimination based on race, nationality, gender, age, physical disability, sexual preference, political opinions, philosophical views or religious convictions.

Sexual harassment or psychological or physical bullying of any kind whatsoever will not be tolerated by the ECB. Community legislation defines sexual harassment as 'unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work. This can include

unwelcome physical, verbal or non-verbal conduct'<sup>(1)</sup>. The addressees need both to show sensitivity to and respect for others and to stop any behaviour seen as offensive by another person at his/her first indication. None of the addressees shall be prejudiced in any way whatsoever for preventing or reporting harassment or bullying.

##### 2.2. Diligence, efficiency, responsibility

The addressees are expected always to carry out diligently, efficiently and to the best of their abilities the responsibilities and the duties entrusted to them. They are expected to be mindful of the importance of their duties and responsibilities, to take into account the expectations of the public concerning their moral behaviour, to conduct themselves in a way that maintains and boosts the public's trust in the ECB, and to contribute to the efficiency of the administration of the ECB.

##### 2.3. Legal compliance

According to the protocol on the privileges and immunities of the European Communities, the privileges and immunities enjoyed by the addressees are accorded solely in the interests of the ECB. These privileges and immunities shall in no way exempt the addressees from fulfilling their private obligations or from complying with the applicable national laws. In particular, the criminal laws and police regulations in force in Germany are to be respected in full by the addressees.

#### 3. RELATIONS WITH THE OUTSIDE WORLD

##### 3.1. Independence

###### 3.1.1. Avoidance of external influence

The principle of independence is laid down in Article 7 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'). In all external relations the addressees should support the commitment of the ECB to act in accordance with the principle of independence. Accordingly, addressees should not seek or take instructions from any government, authority, organisation or person outside the ECB.

<sup>(1)</sup> Commission Recommendation of 27 November 1991 on the protection of the dignity of women and men at work (OJ L 49, 24.2.1992, p. 1).

### 3.1.2. *Negotiating prospective employment outside the ECB*

The addressees should behave with integrity and discretion in respect of both any negotiations concerning prospective employment and the acceptance of professional positions after they have ceased to hold office at the ECB, in particular if such positions are taken with a financial institution or with one of the ECB's suppliers. As soon as any such negotiations are under way or such a perspective exists, the addressees concerned are expected to abstain from any matter that may relate to the prospective employer, if the continuation of such relationship may lead to their being reproached for a conflict of interest or for having misused their position at the ECB.

### 3.1.3. *Gifts and honours*

Respect of the principle of independence is incompatible with applying for, receiving or accepting from any source outside the ECB or from subordinates any benefits, rewards, remuneration or gifts in excess of a customary or negligible amount, whether financial or non-financial, which are connected in any way whatsoever with an addressee's activity within the ECB.

As regards the acceptance of honours or decorations granted to addressees by national authorities on the grounds of services to the ECB, addressees should give prior notification to and seek clearance by the President of the ECB.

### 3.1.4. *External activities*

Addressees may undertake non-remunerated and non-financial activities outside working hours in domains such as culture, science, education, sports, charity, religion, social work or other benevolent work, on condition that such activities do not have a negative impact on the addressees' obligations with regard to the ECB. Remunerated activities of this nature and other activities outside working hours require prior approval in accordance with the conditions of employment.

The addressees are requested to employ prudence and caution in any political activities so as to preserve the independence and neutrality of the ECB. In particular, the ECB is not in favour of senior management acquiring or maintaining any prominent position in political parties. The addressees should not carry out political activities within working hours, using the facilities of the ECB, or on its premises.

The addressees may associate with academic societies and contribute to their material and scientific development. In particular, the addressees may engage in research, deliver lectures, write articles or books or pursue any other similar activities involving a subject matter related to topics covered by their work, subject to the approval of the Executive Board. However, it must be made clear that such scientific or academic contributions by the addressees are made in a personal capacity and do not involve the ECB. The addressees should in no way appear to represent an institutional position held by the ECB, unless they have been authorised to the contrary in advance.

The addressees shall neither solicit nor receive remuneration whether financial or of any other kind for any external activities carried out in the performance of their duties, except where strictly required to cover their expenses, unless duly authorised to do so by the Executive Board.

## 3.2. **Confidentiality and public access to documentation**

Professional secrecy, provided for in Article 38 of the Statute, in the conditions of employment and in all texts implementing them, requires the non-divulgence of confidential information obtained by the addressees in the performance of their duties. Permission to give evidence, whether as a witness in legal proceedings or otherwise, shall be requested and it shall be granted whenever a refusal to give evidence would involve the addressee in criminal proceedings. Permission shall not, however, be required in the event of an addressee being summoned to give evidence before the Court of Justice of the European Communities in a case between the ECB and a current or former member of its staff.

The obligations with regard to professional secrecy do not prevent public access to information and documents as determined in the ECB Decision of 3 November 1998 (ECB/1998/12 and subsequent modifications).

## 3.3. **Relations with the public**

### 3.3.1. *Basic principles*

Accessibility, efficiency, correctness and courtesy should guide the addressees in their relations with the public. The addressees shall ensure, to the extent possible, that members of the public are provided with the information they request. Such information, as well as any reason not to provide the information, shall be clear and understandable.

### 3.3.2. *Data protection*

Addressees dealing with personal data concerning individual citizens shall respect the principles laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(1)</sup>. Such addressees shall, in particular, avoid processing personal data for non-legitimate purposes or the transmission of such data to non-authorised persons.

### 3.3.3. *Appeals*

Addressees should ensure that any decision of the ECB which may have an adverse effect on the rights or interests of a third party shall contain an indication of the options available to challenge the decision, as well as the competent appeal bodies and time-limits required for the exercise of such options.

<sup>(1)</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).



### 3.4. Contacts with the media

Addressees should refrain from giving interviews or supplying off-the-record information (i.e. information that is not available in the public domain) on their own initiative or upon invitation to the media without prior authorisation. When meeting members of the media on a social basis, addressees shall exercise the utmost degree of discretion with regard to matters related to the European System of Central Banks (ESCB).

### 3.5. Relations with national central banks

A spirit of close mutual cooperation should govern the relations between the addressees and their colleagues at the national central banks (NCBs) forming part of the ESCB. Such cooperation with the NCBs should be guided by the principles of non-discrimination, equal treatment and the avoidance of national bias. It should be without prejudice to the maintenance of confidentiality wherever appropriate. In this context it has to be borne in mind that not all members of the ESCB form part of the Eurosystem, which has institutional implications for the extent of this cooperation.

In any relationship with an NCB, the addressees should bear in mind their obligations with regard to loyalty to the ECB and the impartial role of the ECB within the ESCB.

### 3.6. European institutions and bodies and national authorities

Contacts, whether formal or informal, with representatives of European institutions, other European bodies and national authorities should always reflect the position of the ECB if and when such a position exists; in the absence of an established ECB position, the addressees should explicitly reserve any ECB position on a given matter when advancing personal views. Contacts with European institutions and bodies require special attention and a high level of accessibility, while the independence of the ECB and the maintenance of professional secrecy as provided for in the Statute should be ensured.

Addressees should inform their superiors of any attempt to influence the ECB in the performance of its tasks in an improper manner.

### 3.7. Private financial activities and conflicts of interest

The tasks and activities of the ECB involve financial transactions with financial institutions as well as a diverse set of other business relationships. They also involve the analysis for and the preparation of decisions which may have an impact on market developments. In these and other professional activities, the addressees should be in a position to act with full independence and impartially.

#### 3.7.1. Avoidance of potential conflicts of interest

The addressees should avoid any situation liable to give rise to a conflict of interest. Conflicts of interest arise where the

addressees have private or personal interests which may influence or appear to influence the impartial and objective performance of their duties. Private or personal interests mean any potential advantage for themselves, their families, their other relatives or their circle of friends and acquaintances.

#### 3.7.2. Information on tenders for goods and services

During tender procedures the addressees should communicate only through the official channels and avoid providing information orally.

#### 3.7.3. Insider trading

Addressees shall comply with the rules on insider trading established by the Executive Board.

### 3.8. Relations with interest groups

Relations with interest groups should be built upon the basic rules of professional ethics. The addressees should ensure that all representatives of interest groups identify themselves as such, clearly state the capacity in which they are acting and give the names of any other addressee whom they have contacted on the same subject.

## 4. IN-HOUSE RELATIONS

### 4.1. Loyalty and cooperation

For the addressees, loyalty implies not only the fulfilment of the tasks entrusted to them by their superiors and compliance with the latter's instructions and with the applicable reporting lines, but also assistance, advice, openness and transparency in all dealings with superiors and colleagues. In particular, the addressees should keep other concerned colleagues informed with regard to work in progress and enable them to contribute to it. Withholding information that may affect the conduct of business from superiors or colleagues, particularly in order to gain a personal advantage, providing false, inaccurate or exaggerated information, refusing to cooperate with colleagues or demonstrating any obstructive behaviour would be contrary to the form of loyalty expected of the addressees.

Any communication should demonstrate due respect for the reporting channels. Documents should be copied to any colleagues concerned. Managers shall instruct the addressees working with them in a clear and understandable manner, whether orally or in writing.

### 4.2. Use of the ECB's resources

The addressees are expected to respect and protect the ECB's property and not to allow third parties to make use of the ECB's services and/or facilities. All equipment and facilities, whatever their nature, are provided to the addressees by the ECB for official use only, unless private use is permitted either according to relevant internal rules or practices or on a discretionary basis.

The addressees are also expected to take all reasonable and appropriate measures to limit the costs and expenses of the ECB wherever possible, so that the available resources can be employed in the most efficient manner.

## 5. IMPLEMENTATION

### 5.1. Role of the addressees

Proper implementation of this Code depends first and foremost on the professionalism, conscience and common sense of the addressees.

In addition to the vigilance which addressees in positions of authority are expected to demonstrate, they are also expected to behave in an exemplary fashion with regard to the adherence to the principles and rules laid down in this Code.

### 5.2. Ethics Adviser

Addressees who have any questions on the application of the Code of Conduct should discuss the matter with the Ethics Adviser mentioned in the staff rules. Conduct that is fully in conformity with the advice and interpretative ethical rules developed by the Ethics Adviser shall not give rise to a disciplinary procedure for non-compliance by the addressee with his/her obligations *vis-à-vis* the ECB. Such advice shall, however, not release the addressee from his/her external liability.

### 5.3. Distribution and publication

A copy of this Code shall be distributed to each addressee. It shall be published in the *Official Journal of the European Communities*.

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## Part 1.2 of the ECB Staff Rules containing the rules on professional conduct and professional secrecy

(2001/C 76/12)

### 1.2. Professional conduct and professional secrecy

The provisions of Articles 4(b), 4(c), 4(f) and 5(b) of the conditions of employment are applied as follows:

- 1.2.1. The Executive Board shall appoint an Ethics Adviser. The role of the Ethics Adviser shall be to provide guidance in relation to all aspects of professional conduct and professional secrecy. The Ethics Adviser shall in particular ensure a consistent interpretation of the insider trading rules of the ECB. Without prejudice to such obligation, the Ethics Adviser shall adopt interpretative ethical criteria. The Ethics Adviser shall perform his/her role under an obligation of strict confidentiality.
- 1.2.2. 'Remuneration, rewards or gifts' means any financial benefit and/or any non-financial benefit.
- 1.2.3. A member of staff who is invited to attend an event in his/her official capacity may not accept a fee of any kind.
- 1.2.4. Normal hospitality and token gifts may be accepted to avoid causing offence.
- 1.2.5. Where there is any doubt, a member of staff shall obtain the approval of his/her Director-General/Director before accepting any gift or hospitality

or, where this is not possible, report to him/her immediately any gift or hospitality received.

- 1.2.6. Without the prior permission of the Executive Board, members of staff shall not publish any work or articles or give any lectures relating to the ECB or its activities.
- 1.2.7. In view of the position held by the ECB and the general economic and financial importance of the issues with which it deals, members of staff shall maintain professional secrecy concerning information relating to issues dealt with by the ECB.
- 1.2.8. Information relating to issues dealt with by the ECB (inside information) shall mean information which is known to a member of staff, which relates to the administration of the ECB or to transactions of any kind (including proposed transactions), which arises in connection with the objectives and tasks of the ECB, which is confidential or which is or might be perceived as being relevant to decisions to be made by the ECB. Inside information relating to issues dealt with by the ECB can comprise a broad range of information and may originate from any country or business area within the ECB. Therefore, the following items are examples only and this is not to be considered as an exhaustive list:

- changes in the monetary or exchange rate policies of the Eurosystem or of other central banks internationally,
- movements in monthly monetary aggregates, balance of payment data or foreign currency reserves or any other market-sensitive economic or financial data,
- impending regulatory changes,
- market-sensitive information related to discussions and negotiations in international forums,
- internal administrative decisions taken by the ECB.

The disclosure of information in the regular course of employment does not constitute a breach of these rules.

- 1.2.9. Members of staff are prohibited from using, whether directly or indirectly via third parties, inside information to which they have access, irrespective of whether such information is used in any kind of private financial transaction conducted at their own risk and for their own account, or at the risk and for the account of third parties. The term 'third party' shall include, but is not limited to, spouses, recognised partners, parents, children, other family members, colleagues, and legal persons.
- 1.2.10. Members of staff are specifically prohibited from taking advantage, whether directly or indirectly via third parties, of their position and functions at the ECB or of inside information to which they have access by acquiring or disposing of, whether at their own risk and for their own account, or at the risk and for the account of a third party as defined in Article 1.2.9, any assets (including transferable securities, foreign currency and gold) or rights (including rights under derivative contracts or closely related financial instruments) to which that information is closely related. This prohibition applies to any kind of financial (investment) transactions, including but not limited to the following:
- investment in securities (shares, bonds, warrants, options, futures or any other securities in the broadest sense of the term, as well as contracts to subscribe to, acquire or dispose of such securities),
  - index contracts based on such securities,
  - interest rate transactions,
  - foreign exchange transactions,
  - commodity transactions.

1.2.11. Short-term trading (i.e. a combination of buying and selling within a period of one month) for speculative purposes in any assets (including transferable securities, foreign currency, and gold) or rights (including rights under derivatives contracts or closely related financial instruments) is prohibited unless the member of staff concerned is able objectively to demonstrate the non-speculative nature of and the need for such trading.

1.2.12. Members of staff shall be prohibited from using any component of the technical infrastructure dedicated to the financial operations of the ESCB when conducting any personal financial transactions at their own risk and for their own account or at the risk and for the account of third parties as defined in Article 1.2.9.

The term 'technical infrastructure dedicated to financial operations of the ESCB' shall encompass the Bosch dealing telephones, the telex system, connections with agencies or wire services such as Bloomberg and Reuters, TOP, BI, EBS, FinanceKIT and SWIFT, as well as any subsequent replacements thereof.

Moreover, the use of mobile telephones in the Front Office Division's part of the Market Room and in the Own Funds Management premises shall be prohibited, except as an emergency measure in accordance with ECB contingency procedures.

1.2.13. Members of staff who, by virtue of the exercise of their employment, profession or duties, have regular access to inside information concerning the financial operations of the ESCB, and are identified in accordance with Article 1.2.14, shall refrain from conducting on the same day as an ESCB transaction, whether directly or indirectly, any transactions concerning assets (including transferable securities, foreign currency, and gold) or rights (including rights under derivatives contracts or closely related financial instruments) that are similar to those traded on that day by the ESCB, whether at their own risk and for their own account, or at the risk and for the account of third parties as defined in Article 1.2.9.

1.2.14. The Executive Board shall determine those members of staff who, by virtue of the exercise of their employment, profession or duties, are deemed to have regular access to inside information concerning the monetary or exchange rate policies of the ECB or the financial operations of the ESCB. Such a decision by the Executive Board shall automatically become part of the Staff Rules.

Those members of staff shall provide the ECB's External Auditor with the information hereafter on a confidential basis. This information shall be provided to the ECB's External Auditor by each individual member of staff on a semi-annual basis and shall include the following:

- a list of his/her bank accounts, including custody accounts and accounts with stockbrokers,
- a list of any powers of attorney which third parties have conferred upon him/her in connection with their bank accounts, including custody accounts,
- his/her general directives or guidelines to third parties to whom responsibility for managing his/her investment portfolio has been delegated <sup>(1)</sup>.

In the same context, those members of staff shall provide the ECB's External Auditor additionally at the latter's request with the following documentation:

- any sale or purchase of assets (including transferable securities, foreign currency, and gold) or rights (including rights under derivatives contracts or closely related financial instruments) conducted by the member of staff at his/her own risk and for his/her own account, or conducted by him/her at the risk and for the account of third parties as defined in Article 1.2.9,
- statements of bank accounts, including custody accounts and accounts with stockbrokers; the conclusion or the amendment of mortgages or other loans at his/her own risk and for his/her own account, or by him/her at the risk and for the account of third parties as defined in Article 1.2.9,
- his/her dealings in relation to retirement plans, including the ECB retirement plan.

All information provided to the ECB's External Auditor shall remain confidential. In derogation from the abovementioned rule, a report by the ECB's External Auditor to the ECB's Directorate Internal Audit for the further investigation of a specific case in accordance with Article 1.2.16 shall contain the information received from the member of staff concerned.

<sup>(1)</sup> Members of staff identified in accordance with Article 1.2.14 may wish to consider taking the opportunity to delegate the management of their investment portfolios to third parties, such as 'blind trusts', mutual funds, etc.

1.2.15. In the event that the ECB's External Auditor has reasonable grounds to believe that the abovementioned rules, including the advice and interpretative ethical rules developed by the Ethics Adviser have not been respected, he/she shall have the right to ask any of the ECB's members of staff to provide him/her with full information thereon. The member of staff concerned shall provide full information on a confidential basis to the ECB's External Auditor at the latter's reasoned request regarding the following:

- all his/her bank accounts, including custody accounts and accounts with stockbrokers,
- all his/her investment transactions concerning assets (including transferable securities, foreign currency, and gold) or rights (including rights under derivatives contracts or closely related financial instruments) that he/she has performed at his/her own risk and for his/her own account, or at the risk and for the account of third parties as defined in Article 1.2.9, during the period indicated by the ECB's External Auditor,
- his/her dealings in relation to retirement plans including the ECB retirement plan,
- a list of any powers of attorney which third parties have conferred upon members of staff in connection with their bank accounts, including custody accounts.

The information provided to the ECB's External Auditor shall remain confidential. In derogation to the abovementioned rule, a report by the ECB's External Auditor to the ECB's Directorate Internal Audit for the further investigation of a specific case in accordance with Article 1.2.16 shall contain the information received from the member of staff concerned.

1.2.16. The ECB's External Auditor shall report any cases of non-compliance with the abovementioned rules to the ECB's Directorate Internal Audit, which shall further investigate compliance with these rules. Private financial activities carried out in full conformity with the advice and interpretative ethical rules developed by the Ethics Adviser shall not give rise to such a report by the ECB's External Auditor. The ECB's External Auditor shall be informed in full and immediately of such advice and interpretative ethical rules developed by the Ethics Adviser. The member of staff concerned shall be informed of such a report by the ECB's External Auditor, and he/she shall

have the right to make his/her views on this report known to the ECB's Directorate Internal Audit.

A report prepared by the ECB's External Auditor, including the information therein supplied by the member of staff concerned, may be used in a disciplinary procedure as set out in Part 8 of the conditions of employment for the staff of the European Central Bank and, to the extent required by applicable law, in any prosecution by external authorities regarding alleged violations of national criminal laws.

1.2.17. A member of staff with any questions on the application of these rules (e.g. whether a private financial transaction he/she may be contemplating would involve a misuse of inside information) should discuss the matter with the Ethics Adviser. The conduct of private financial transactions that is fully in conformity with the advice and interpretative ethical rules developed by the Ethics Adviser shall not give rise to a disciplinary procedure for non-compliance by the member of staff with his/her obligations. Such advice shall, however, not release the member of staff from his/her external liability.

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**NOTICE**

On 10 March 2001, in the *Official Journal of the European Communities* C 78 A, the 'Common catalogue of varieties of agricultural plant species — Seventh supplement to the 21st complete edition' will be published.

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