ISSN 1725-2423

Official Journal of the European Union

C 291

Volume 49

English edition

Information and Notices

30 November 2006

Notice No | Contents | Page

EN

Price: 18 EUR

[1] Text with EEA relevance

(Continued overleaf)

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[1] Text with EEA relevance

I

(Information)

COMMISSION

Euro exchange rates [1]

29 November 2006

(2006/C 291/01)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,3157	SIT	Slovenian tolar	239,65
JPY	Japanese yen	153,01	SKK	Slovak koruna	35,531
DKK	Danish krone	7,4547	TRY	Turkish lira	1,9330
GBP	Pound sterling	0,67430	AUD	Australian dollar	1,6800
SEK	Swedish krona	9,0801	CAD	Canadian dollar	1,4953
CHF	Swiss franc	1,5889	HKD	Hong Kong dollar	10,2303
ISK	Iceland króna	90,61	NZD	New Zealand dollar	1,9398
NOK	Norwegian krone	8,2520	SGD	Singapore dollar	2,0333
BGN	Bulgarian lev	1,9558	KRW	South Korean won	1 224,39
CYP	Cyprus pound	0,5780	ZAR	South African rand	9,3790
CZK	Czech koruna	27,988	CNY	Chinese yuan renminbi	10,3036
EEK	Estonian kroon	15,6466	HRK	Croatian kuna	7,3532
HUF	Hungarian forint	257,16	IDR	Indonesian rupiah	12 060,36
LTL	Lithuanian litas	3,4528	MYR	Malaysian ringgit	4,7727
LVL	Latvian lats	0,6978	PHP	Philippine peso	65,430
MTL	Maltese lira	0,4293	RUB	Russian rouble	34,6550
PLN	Polish zloty	3,8243	THB	Thai baht	47,477
RON	Romanian leu	3,4610			

[1] *Source:* reference exchange rate published by the ECB.

Opinion of the Advisory Committee on restrictive practices and dominant positions given at its 391st meeting on 30 may 2005 concerning a Draft Decision in case COMP/A.37.507/B2 — Astra-Zeneca

(2006/C 291/02)

1. The members of the Advisory Committee agree with the Commission to apply both Article 82 of the EC Treaty and Article 54 of the EEA Agreement.
2. The members of the Advisory Committee agree with the Commission's definition of the relevant product market (that is the market for oral formulations of prescription PPI's, thereby excluding the H2 blockers).
3. The members of the Advisory Committee agree with the Commission's definition of the relevant geographical market (especially the national nature of the market).
4. The members of the Advisory Committee agree with the Commission that AstraZeneca has a dominant position in each of the relevant markets.
5. The majority of members of the Advisory Committee agrees with the Commission that AstraZeneca has abused its dominant position by its pattern of misrepresentations which were made over a long period of time to patent offices in Belgium, Denmark, Germany, the Netherlands, Norway and the United Kingdom and to national courts in Germany and Norway, taking into account the fact that the pattern of misrepresentations was part of AstraZeneca's strategy for omeprazole. A minority abstains.
6. The majority of members of the Advisory Committee agrees with the Commission that AstraZeneca has abused its dominant position by systematic misusing the procedures for the authorisation of pharmaceutical products by selective deregistration of Losec capsules in Denmark, Sweden and Norway combined with a switch from Losec capsules to Losec MUPS tablets as part of AZ's LPPS strategy. A minority abstains and an other minority disagrees.
7. The members of the Advisory Committee agree with the Commission on the gravity of the infringement.
8. The members of the Advisory Committee agree with the Commission on its considerations in relation to the existence of mitigating circumstances (that is the novel features).
9. The members of the Advisory Committee ask the Commission to take into account all the other points raised during the discussion.
10. The members of the Advisory Committee ask the Commission to publish this opinion.

Final report of the hearing officer in the case COMP/A/37.507 — AstraZeneca

(pursuant to Articles 15 and 16 of Commission Decision 2001/462/EC, ECSC of 23 May 2001 on the terms of reference of hearing officers in certain competition proceedings — OJ L 162, 19.6.2001, p. 21)

(2006/C 291/03)

The draft decision in the abovementioned case gives rise to the following observations:

The investigation was initiated subsequent to a joint complaint lodged on 12 May 1999 by the company Generics (UK) Ltd and the company Scandinavian Pharmaceuticals Generics AB (both referred to hereinafter as 'Generics' or 'the complainant') under Article 82 EC and Article 54 EEA against the pharmaceutical companies Astra AB (currently AstraZeneca AB) and AstraZeneca Plc (both referred to hereinafter as 'AstraZeneca') ([1]) pursuant to Article 3 of Council Regulation No 17/62 ([2]).

The case concerns abuses by AstraZeneca of government procedures aimed at excluding generic firms and parallel traders from competing against AstraZeneca's product 'Losec'. The abuses consisted in the misuse of the patent system by knowingly making misrepresentations to patent offices with a view to extending the basic patent protection for Losec as well as in the misuse of the system for authorising the marketing of medicines by deregistering the original capsule version of Losec in selected countries with a view to preventing the authorisation of generic versions of Losec as well as excluding parallel trade.

A Statement of Objections was sent to AstraZeneca on 29 July 2003 in accordance with Article 2 of Regulation No 2842/98 ([3]). At the same time, AstraZeneca was provided with a list of the documents on the Commission file together with copies of accessible documents from that list in the form of two CD-Roms.

AstraZeneca submitted a joint reply on 3 December 2003 (date of receipt) and requested an oral hearing pursuant to Article 5 of Commission Regulation (EC) No 2842/98.

I should mention, with regard to their right to access to file, that AstraZeneca took the view that the Commission services were obliged to take notes of their meetings with the complainant and that these notes should have been placed on the file. DG Competition stated that in the final decision they would rely exclusively on the written submissions that the complainant made in connection with the meetings in question. They considered that they were under no obligation to draft notes of these meetings unless such notes would be used as evidence in the final decision. I consider that this point of view is supported by the case-law of the Court of First Instance (joined cases T-191/98 and T-212/98 to T-214/98 — *Atlantic Container Line,* paragraphs 377, 386, 394-395). On the basis of this case-law, notes that the Commission may — or may not — make of meetings with the complainant constitute internal documents which do not in principle have to be disclosed, unless the Commission relies on them in the final decision.

The complainant was provided with a non-confidential version of the Statement of Objections on 7 November 2003 and with a non-confidential version of AstraZeneca's reply on 8 January 2004. The complainant submitted comments on the Statement of Objections on 16 December 2003, which were transmitted to AstraZeneca.

With a view to enabling two former employees of AstraZeneca to attend the oral hearing, the setting up of the hearing was somewhat delayed. It took place on 16 and 17 February 2004. AstraZeneca and Generics were both represented. Both before and after the oral hearing, on 9 March 2004, AstraZeneca submitted new information, in particular with a view to further responding to matters raised at the oral hearing.

([1]) With effect from 6 April 1999, Astra AB merged with Zeneca Group Plc to form the United Kingdom company AstraZeneca Plc.

([2]) Regulation No 17 of the Council of 6 February 1962, First Regulation implementing Articles 85 and 86 of the EC Treaty (OJ L 13, 21.2.1962, p. 204)

([3]) Regulation No 2842/98/EEC of the Commission of 22 December 1998 on the hearing of parties in certain proceedings under Article 85 and 86 of the EC Treaty (OJ L 354, 30.12.1998, pp. 18-21).

By letter of 23 November 2004 the Commission then afforded AstraZeneca the opportunity to comment on a number of factual elements and considerations not explicitly mentioned in the Statement of Objections to which the Commission could refer in the final decision against AstraZeneca ('letter of facts'). Upon request, I extended the delay for commenting on this letter of facts to 13 January 2005. Furthermore, I ensured that AstraZeneca was provided with all additional non-confidential documents that had been placed on the Commission's case file subsequent to the issuance of the Statement of Objections. AstraZeneca provided its observations on the letter of facts by letter of 21 January 2005.

It is my opinion that the draft decision only contains objections in respect of which the parties have been afforded the opportunity of making known their views.

In the light of the above, I consider that the rights to be heard of all participants to the procedure have been respected in this case.

Brussels, 31 May 2005

Serge DURANDE

STATE AID — UNITED KINGDOM

State aid No C 39/06 (ex NN 94/05)

First Time Shareholders scheme

Invitation to submit comments pursuant to Article 88(2) of the EC Treaty

(2006/C 291/04)

(Text with EEA relevance)

By means of the letter dated 13 September 2006 reproduced in the authentic language on the pages following this summary, the Commission notified the United Kingdom of Great Britain and Northern Ireland of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty concerning the abovementioned aid.

Interested parties may submit their comments within one month of the date of publication of this summary and the following letter, to:

European Commission
Directorate General for Fisheries
DG FISH/D/3 'Legal Issues'
B-1049 Brussels
Fax: (32-2) 295 19 42

These comments will be communicated to the United Kingdom of Great Britain and Northern Ireland. Confidential treatment of the identity of the interested party submitting the comments may be requested in writing, stating the reasons for the request.

SUMMARY

In June 2004 the Commission was informed of aid granted by the Shetland Islands Council, the public authority in the Shetland Islands of the United Kingdom, to the fisheries sector which possibly concerned illegal State aid.

Under the scheme for first time shareholders grants were given as contribution to matching own financial contribution for the purchase of a share in an existing or new fishing vessel. Aid of 50 % of the acquisition costs of the share, with a maximum of GBP 7 500 in case of an existing vessel and GBP 15 000 in case of a new vessel, with a maximum of 25 % of the value of the vessel, was granted to persons over 18 years old that do not yet own a share in a fishing vessel. The aid was granted under the condition that the vessel was used for full time fishing for the next 5 years and that the beneficiary retained his share in the vessel for a period of five years from receipt of the aid.

According to Article 88 (3) of the EC Treaty Member State have to inform the Commission of any plans to grant or alter aid. According to the United Kingdom, the scheme has been applied from 1982 until 14 January 2005. However, the United Kingdom confirmed that the scheme was never notified to the Commission, as result of which the aid measure has to be considered as new aid.

Council Regulation (EC) No 659/1999 [1] does not lay down any limitation period for the examination of unlawful aid. However, Article 15 of that Regulation stipulates that the powers of the Commission to recover aid is subject to a limitation period of ten years, that the limitation period begins on the day on which the aid is awarded to the beneficiary and that that limitation period is interrupted by any action taken by the Commission. Consequently, the Commission considers that it is not necessary in this case to examine the aid granted more than ten years before any measure taken by the Commission concerning it. The Commission considers that the limitation period was interrupted by its request for information sent to the United Kingdom on 24 August 2004. Accordingly, the limitation period applies to aid granted to beneficiaries before 24 August 1994 and the Commission assesses below only aid granted by decisions taken between 24 August 1994 and 14 January 2005. According to the information available to the Commission. It seems that during that time approximately GBP 8 000 000 have been granted under the scheme.

The measures appear to be State aid in the sense of Article 87 of the EC Treaty. State aid can be declared compatible with the common market if it complies with one of the exceptions foreseen in the EC-Treaty. State aid to the fisheries sector may be deemed to be compatible with the common market if they comply with the conditions of Guidelines for the examination of State aid to fisheries and aquaculture applicable at the time of granting of the aid [2].

With regard to the aid granted for the acquisition of a share in a used vessel, according to the 1994, 1997 and 2001 Guidelines, the aid may be deemed compatible with the common market when the aid is intended to enable sea-fishermen to acquire part ownership or to replace a vessel after its total loss and the vessel is not older than 20 years and can be used for at

[1] Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 83, 27.3.1999, p. 1. Regulation as amended by the Act of Accession of 2003.

[2] OJ C 260, 17.9.94, p. 3; OJ C 100, 27.3.1997, p. 12 and OJ C 19, 20.1.2001, p. 7; OJ C 229, 14.9.2004, p. 5.

least another 10 years. The 2004 Guidelines are more strict and refer to the conditions laid down in Article 12(3)(d) an 12(4)(f) of Regulation (EC) No. 2792/1999, which contain additional requirements with regard to the age of the beneficiary and the overall length of the vessel. According to the 1994 and 1997 Guidelines the total amount of aid to be granted may not exceed 30 % of the actual costs of the acquisition of the vessel. Under the 2001 Guidelines this is lowered to 20 %.

At this stage the aid granted for the acquisition of a share in a used vessel seems not to comply with the conditions established by the Guidelines. Furthermore the scheme allows aid up to a maximum of 25 % of the actual cost of the acquisition of the vessel, which would be incompatible with the requirements under the 2001 Guidelines.

With regard to the aid granted for the acquisition of a share in a new vessel, according to point 2.2.3.1. of the 1994 and 1997 Guidelines aid for the construction of new fishing vessels may be deemed compatible with the common market provided that it complies with the relevant conditions of Regulation (EC) No 3699/93. The vessels must be built in compliance with the objective under the Multi-annual Guidance Programme (MAGP) and must comply with the regulations and directives governing hygiene and safety and Community provisions concerning the dimension of vessels. The vessels have to be registered in the fleet register.

Under the 2001 Guidelines reference is made to the conditions of Regulation (EC) No 2792/1999, where it is stated that an entry of new capacity should be compensated by the withdrawal of a capacity without public aid which is at least equal to the new capacity introduced in the segments concerned. Until 31 December 2001, where the objectives were not yet respected, the withdrawal of capacity should at least be 30 % more than the new capacity introduced. Further condition is that the aid may only be granted where the Member State has submitted the information concerning the application of the Multi-annual Guidance Programme (MAGP) as required under Article 5 of that Regulation and has complied with its obligations under Regulation (EEC) No 2930/86 concerning the characteristics of fishing vessels, has implemented the arrangements under Article 6 of Regulation (EC) No 2792/1999 and has complied with the overall MAGP-objectives.

As the scheme makes no reference to the reference level for the size of the fishing fleet nor to the hygiene and safety requirement and there is no obligation for the registration of the vessel in the fleet register, the Commission at this stage has serious doubts on the compatibility of the aid for the acquisition of a share in a new vessel granted in the period after 1 July 2001.

In view of the foregoing analysis the Commission has decided not to raise any objections to this aid scheme as far as it concerns the aid granted for the acquisition of a share in a new vessel granted before 1 July 2001. However, with regard to the aid granted under the scheme for the acquisition of a share in a new vessel after 1 July 2001 and all aid granted for the acquisition of a share in second hand vessels, the Commission has, at this stage, serious doubts on the compatibility with the common market.

In accordance with Article 14 of Council Regulation (EC) No 659/1999, all unlawful aid can be subject to recovery from the recipient.

TEXT OF LETTER

‘(1) The Commission wishes to inform the United Kingdom of Great Britain and Northern Ireland that, having examined the information supplied by your authorities on the measure referred to above, it has decided to initiate the procedure laid down in Article 88 (2) of the EC Treaty.

1. **PROCEDURE**

(2) By letter of 15 June 2004 the Commission was informed by a citizen of the UK of unlawful aid granted by the authorities of the Shetland Islands of the UK. By letters of 24 August 2004, 4 February, 11 May and 16 December 2005 the Commission has requested the UK authorities to provide information about these measures, to which the UK authorities responded by letters of 10 December 2004, 6 April, 8 September 2005 and 31 January 2006.

2. **DESCRIPTION**

(3) The Shetland Islands Council (SIC), the public authority in Shetland, has made payments to the fisheries sector under the scope of two general aid measures named “Aid to the Fish Catching and Processing Industry” and “Aid to the Fish Farming Industry”, which actually consisted of several different types of aid schemes. One of these schemes is the so-called First time shareholders scheme. Under the First time shareholders scheme, which was applied from 1982 until 14 January 2005, grants could be given as contribution to matching own financial contribution for the purchase of a share in an existing or new fishing vessel. Aid was only granted to persons over 18 years old that did not yet own a share in a fishing vessel.

(4) Aid was granted for 50 % of the acquisition costs of the share, with a maximum of GBP 7 500 in case of an existing vessel and GBP 15 000 in case of a new vessel. The other 50 % may only be financed by the beneficiaries own contribution, derived either from his own savings or from any interest-free family loan. The amount of aid may never exceed 25 % of the value of the vessel.

(5) The aid was granted under the condition that the vessel is used for full time fishing for the next 5 years and that the beneficiary retained his share in the vessel for a period of five years from receipt of the aid.

3. **COMMENTS FROM THE UNITED KINGDOM**

(6) The United Kingdom states that the aid measures concerned have already been applied already before the accession of the United Kingdom to the European Economic Community. The United Kingdom is however not able to provide any evidence of the existence of these measures at the time of accession.

(7) The United Kingdom confirms that the aid measures have been changed over the years and that these changes have not been notified to the Commission in accordance with Article 88(3) of the EC Treaty (former Article 93(3)). The United Kingdom states however that the expenditure and application of the measures have been reported yearly to the Commission by way of the annual State aid inventory and that the officials responsible for the aids believed that by transmitting the annual reports no notification of the aid would be necessary.

(8) Finally the United Kingdom states that where the measures and the amendments to the schemes might have been applied without prior notification to the Commission, they were applied in accordance with the conditions laid down in the Guidelines for the examination of State aid to fisheries and aquaculture applicable at the time aid was granted under the measures.

(9) In addition, with regard to the First time shareholder scheme the United Kingdom states that the scheme was in operation until 14 January 2005, but that actually no assistance has been awarded during the financial years 2003/2004 and 2004/2005 as there were no applications. Furthermore, they state that they consider the aid to have been compatible with Guidelines for the examination of State aid to fisheries and aquaculture applicable at the times concerned.

4. **ASSESSMENT**

(10) It must be determined first if the scheme can be regarded as State aid and if this is the case, if this aid is compatible with the common market.

(11) Aid has been granted to a limited number of companies within the fisheries sector and is thus of a selective nature. The aids have been granted by the Shetland Islands Council, the public authority of Shetland, from State resources and are in the benefit of these companies which are in direct competition with other companies in the fisheries sector of both within the United Kingdom as well as in other Member States. Therefore, the measures distort or threaten to distort competition and appear to be State aid in the sense of Article 87 of the EC Treaty.

4.1. **Legality**

(12) According to the United Kingdom, the two general schemes have been applied before the accession of the United Kingdom to the European Economic Community. However, the Commission notes that according to the provided information, the *First time shareholders* scheme was put in place only 1982. In any event, due to the absence of past records, the United Kingdom acknowledged that it is not able to provide evidence that the aid measures existed already before the United Kingdom joined the union and thus would have to be regarded as existing aids. In addition, the United Kingdom confirmed that the aid schemes have been changed over the years and that these changes have not been notified to the Commission in accordance with Article 88(3) of the EC Treaty (former Article 93(3)). As a result, the aid measures have to be considered as new aid.

(13) The Commission regrets that the United Kingdom did not respect Article 88(3) of the EC Treaty, under which Member State are obliged to inform the Commission of any plans to grant or alter aid. In this respect the United Kingdom has stated that its authorities were mistakenly convinced that the inclusion of the measures into the annual State aid inventory, yearly submitted to the Commission, would be sufficient to inform the Commission of the aid in question. It must be noted however that such reporting to the Commission can not be considered as notification of the aid as required under Article 88(3) of the EC Treaty.

4.2. **Basis for the assessment**

(14) Council Regulation (EC) No 659/1999 ([3]) does not lay down any limitation period for the examination of unlawful aid within the meaning of Article 1(f) thereof, i.e. aid implemented before the Commission is able to reach a conclusion about its compatibility with the common market. However, Article 15 of that Regulation stipulates that the powers of the Commission to recover aid is subject to a limitation period of ten years, that the limitation period begins on the day on which the aid is awarded to the beneficiary and that that limitation period is interrupted by any action taken by the Commission. Consequently, the Commission considers that it is not necessary in this case to examine the aid covered by the limitation period, i.e. aid granted more than ten years before any measure taken by the Commission concerning it.

(15) The Commission considers that in this case the limitation period was interrupted by its request for information sent to the United Kingdom on 24 August 2004. Accordingly, the limitation period applies to aid granted to beneficiaries before 24 August 1994. Consequently, the Commission will asses below only the aid granted by decisions taken between 24 August 1994 and January 2005. It seems that during that time approximately GBP 8 000 000 have been granted under the scheme.

(16) State aid can be declared compatible with the common market if it complies with one of the exceptions foreseen in the EC Treaty. As regards the State aid to the fisheries sector, State aid measures are deemed to be compatible with the common market if they comply with the conditions of Guidelines for the examination of State aid to fisheries and aquaculture. According to point 5.3 of the current Guidelines ([4]) an "unlawful aid" within the meaning of Article 1(f) of Regulation (EC) No 659/1999 will be appraised in accordance with the guidelines applicable at the time when the administrative act setting up the aid has entered into force. The aid is thus to be assessed on the compatibility with the Guidelines of 1994, 1997 and 2001 ([5]).

([3]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 83, 27.3.1999, p. 1. Regulation as amended by the Act of Accession of 2003.

([4]) OJ C 229, 14.9.2004, p. 5.

([5]) OJ C 260, 17.9.1994, p. 3; OJ C 100, 27.3.1997, p. 12 and OJ C 19, 20.1.2001, p. 7.

4.3. **Used vessels**

4.3.1. *Guidelines of 1994, 1997 and 2001*

(17) With regard to aid for the acquisition of a share in a second hand vessel, according to point 2.2.3.3 of the 1994, 1997 and 2001 Guidelines, such aid may be deemed compatible with the common market when the vessel can be used for at least another 10 years. Under the 1994, 1997 Guidelines the vessel has to be at least 10 years old, under the 2001 Guidelines 20 years. According to all guidelines the aid should be intended to enable sea-fishermen to acquire part ownership or to replace a vessel after its total loss.

(18) With regard to the aid rate, under the 1994 and 1997 Guidelines the total amount of aid to be granted may not exceed 50 % of the participation rate provided for in Annex IV to Regulation (EC) No 3699/93, applying the scale relating to construction aid set out in that Annex. As Shetland is an Objective I region, the maximum participation rate is set at 60 %. Thus the aid for sea-fishermen to acquire part ownership of a second hand vessel may not exceed 30 % of the actual costs of the acquisition of the vessel.

(19) Under the 2001 Guidelines this provision is amended and it is stated that the rate of the aid may not exceed in subsidy equivalent 20 % of the actual cost of the acquisition of the vessel.

4.3.2. *Compatibility*

(20) Under the scheme aid was granted for individuals who acquired for the first time a share in a second hand vessel. According to the Guidelines aid could only be granted with regard to vessels, not older than 20 years, that could be used for at least another 10 years. The scheme does not contain any conditions with regard to the age of the vessels. The fact that the beneficiaries of the aid are obliged to keep their share in the vessel for at least another five years and to use the vessel for fishing during those years seems to insure that aid is granted for vessels that are still operational and to be used for some years. However, this condition is insufficient to comply with the requirements established in point 2.2.3.3. of the 1994, the 1997 as well as the 2001 Guidelines.

(21) In addition, according to the information provided, under the scheme the aid may not exceed 25 % of the value of the vessel. Under to the 1994 and 1997 Guidelines, applicable until 1 July 2001, it is allowed to grant aid with a maximum of 30 % of the actual costs of the acquisition of the vessel and thus the aid rate of the scheme of 25 % is compatible with that condition.

(22) However the 2001 Guidelines, which Member States were to apply as from 1 July 2001, require that the aid shall not exceed 20 % of the actual costs of the acquisition of the vessel. The aid rate of the scheme of 25 % therefore no longer complies with the conditions established under the Guidelines. Therefore, from 1 July 2001, the aid rate of the scheme of 25 % exceeds seems no longer compatible.

(23) With regard to the above, the Commission at this stage has serious doubts on the compatibility with the common market of the aid granted for the acquisition of a share in used vessels.

4.4. **New vessels**

4.4.1. *Guidelines of 1994 and 1997*

(24) With regard to aid for the acquisition of a share in new vessels, point 2.2.3.1 of the 1994 and the 1997 Guidelines apply. According to those guidelines, aid for the construction of new fishing vessels may be deemed compatible with the common market provided that it complies with the relevant conditions of Regulation (EC) No 3699/93 ([6]).

Regulation (EC) No 3699/93

(25) According to the conditions laid down in Articles 7 and 10 and Annex III (paragraph 1.3) of Regulation (EC) No 3699/93, the vessels must be built in compliance with the objectives set for the size of the fishing fleet of the Member State concerned under the mulitannual guidance programme (MAGP) and must comply with the regulations and directives governing hygiene and safety and Community provisions concerning the dimension of vessels. The vessels have to be registered in the fleet register.

4.4.2. *Guidelines of 2001*

(26) With regard to aid for the acquisition of a share in new vessels, point 2.2.3.1 of the 2001 Guidelines applies. According to those guidelines, aid for the construction of new fishing vessels may be deemed compatible with the common market provided that it complies with the relevant conditions of Regulation (EC) No 2792/1999 ([7]).

Regulation (EC) No 2792/1999

(27) Articles 6, 7, 9 and 10 and Annex III (point 1.3) of Regulation (EC) No 2792/1999 ([8]), as applicable until 1 January 2003, require that the entry of new capacity is compensated by the withdrawal of a capacity without public aid which is at least equal to the new capacity introduced in the segments concerned. Until 31 December 2001, where the objectives were not yet respected, the withdrawal of capacity should at least be 30 % more than the new capacity introduced.

([6]) Council Regulation (EC) 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and the marketing of its products, OJ L 346, 31.12.1993, p. 1.

([7]) Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector OJ L 337, 30.12.1999, p.10, as last amended by Regulation (EC) No 485/2005, OJ L 81, 30.3.2005, p. 1.

([8]) Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector OJ L 337, 30.12.1999, p.10, as last amended by Regulation (EC) No 485/2005, OJ L 81, 30.3.2005, p. 1.

(28) The aid may only be granted where the Member State has submitted the information concerning the application of the Multi-annual Guidance Programme (MAGP) as required under Article 5 of that Regulation and furthermore, has complied with its obligations under Regulation (EEC) No 2930/86 concerning the characteristics of fishing vessels, has implemented the arrangements under Article 6 of Regulation (EC) No 2792/1999 and has complied with the overall MAGP-objectives.

(29) When the vessel is deleted from the fishing vessel register of the Community, within 10 years from construction, the aid should be recovered pro rata temporis.

(30) Finally, the vessels must be built to comply with the regulations and directives governing hygiene and safety and Community provisions concerning the dimension of vessels. The vessels have to be registered in the fleet register and must be entered in the Community fishing fleet register.

(31) With regard to the compatibility of aid for the construction of new fishing vessels with the common market, the 2001 Guidelines aid also make reference to the provisions of Regulation (EC) No 2792/1999 as mentioned above.

Regulation (EC) No 2369/2002

(32) However, on 1 January 2003 the relevant Articles and Annex of Regulation (EC) No. 2792/1999 were amended by Regulation (EC) No 2369/2002 [9]. This amendment introduced the phasing out of aid for construction of new fishing vessels. According to the amended provisions, the conditions have been broadened in the sense that aid for the renewal of fishing vessels may only be granted until 31 December 2004 and for vessels of less than 400 GT.

4.4.3. *Compatibility*

(33) Under the scheme grants can be given for the purchase of a share in a new fishing vessel. Aid can only be granted to persons over 18 years old that do not yet own a share in a fishing vessel. The beneficiary is obliged to use the vessel for fishing for the following 5 years and must retain their share in the vessel for at least the same period. In case of breach of the conditions under the scheme the authorities can require pro rata temporis repayment of the aid.

(34) As the scheme seems to make no reference to the reference level for the size of the fishing fleet nor to the hygiene and safety requirement and there is obligation for the registration of the vessel in the fleet register, the Commission at this stage has serious doubts that the conditions for the acquisition of a share in a new vessel during the period starting from 1 July 2001 can be considered compatible with the Guidelines for the examination of State aid to fisheries and aquaculture.

(35) Furthermore the scheme does not seem to contain any provisions with regard to the additional requirements introduced by Regulation (EC) No 2369/2002 (point 32), applicable as from 1 January 2003. Although the United Kingdom has stated that no aid has been granted under the scheme during the financial years 2003/2004 and 2004/2005, aid has been granted during the financial year 2002/2003 which could include aid granted after 1 January 2003. Therefore at this stage the Commission also has doubts whether the additional conditions established by Regulation (EC) No. 2369/2002 have been complied with.

(36) With regard to the above, the Commission at this stage has serious doubts on the compatibility with the common market of the aid granted for the acquisition of a share in new vessels after 1 July 2001. Aid granted before that date however is deemed to be compatible with the guidelines in force at the time the aid was granted and thus compatible with the common market.

5. **DECISION**

(37) In view of the foregoing analysis the Commission has decided not to raise any objections to this aid scheme as far as it concerns the aid granted for the acquisition of a share in a new vessel granted before 1 July 2001.

(38) With regard to the aid granted under the scheme for the acquisition of a share in a new vessel after 1 July 2001 and all aid granted for the acquisition of a share in second hand vessels, the Commission observes that there exist, at this stage of the preliminary examination, as provided for by Article 6 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 88 of the EC Treaty, serious doubts on the compatibility of these aids with the Guidelines for the examination of State aid to Fisheries and aquaculture and, therefore, with the EC Treaty.

(39) In the light of the foregoing conditions, the Commission, acting under the procedure laid down in Article 88 (2) of the EC Treaty and Article 6 of Regulation (EC) No 659/1999, requests the United Kingdom of Great Britain and Northern Ireland to submit its comments and to provide all such information as may help to further assess the aid, within one month of the date of receipt of this letter. It requests your authorities to forward a copy of this letter to the recipients of the aid immediately.

(40) The Commission wishes to remind the United Kingdom of Great Britain and Northern Ireland that Article 88 (3) of the EC Treaty has suspensory effect and would draw your attention to Article 14 of Council Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.

(41) The Commission warns the United Kingdom of Great Britain and Northern Ireland that it will inform interested parties by publishing this letter and a meaningful summary of it in the *Official Journal of the European Union*. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the *Official Journal of the European Union* and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication.'

[9] OJ L 358, 31.12.2002, p. 49.

Publication of an application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(2006/C 291/05)

This publication confers the right to object to the application pursuant to Article 7 of Council Regulation (EC) No 510/2006. Statements of objection must reach the Commission within six months from the date of this publication.

SUMMARY

COUNCIL REGULATION (EC) No 510/2006

Application for registration according to Article 5 and Article 17(2)

'RISO DI BARAGGIA BIELLESE E VERCELLESE'

EC No: IT/PDO/005/0337/26.02.2004

PDO (X) PGI ( )

This summary has been drawn up for information only. For full details, interested parties are invited to consult the full version of the product specification obtainable from the national authorities indicated in section 1 or from the European Commission ([1]).

1. *Responsible department in the Member State:*

Name: Ministero delle Politiche Agricole e Forestali

Address: Via XX Settembre n. 20 — I-00187 Roma

Tel.: (39-06) 481 99 68

Fax: (39-06) 42 01 31 26

e-mail: qtc3@politicheagricole.it

2. *Applicant group:*

Name: Associazione Riso di Baraggia Biellese e Vercellese

Address: Via F.lli Bandiera, 16 — c/o Consorzio di Bonifica della Baraggia Biellese e Vercellese — I-13100 Vercelli

Tel.: (39-0161) 28 38 11

Fax: (39-0161) 25 74 25

e-mail: —

Composition: Producers/processors (X) Other ( )

3. *Type of product:*

Group 1.6 — Fresh or processed Annex II fruit and vegetables — Rice

4. *Specification (summary of requirements under Article 4(2))*

4.1 Name: 'Riso di Baraggia Biellese e Vercellese'

([1]) European Commission, Directorate-General for Agriculture and Rural Development, Agricultural Product Quality Policy, B-1049 Brussels.

4.2 Description: The PDO 'Riso di Baraggia Biellese e Vercellese' exclusively denotes the rice product obtained by processing rough rice into 'whole-grain', 'white' and 'parboiled' rice.

The varieties of rice grown are those listed and described below:

Variety	Colour of pericarp	Length	Shape	Pearl	Striation	Notch	Section	Head
Arborio	White	Long	Semi-round	Central extended	Absent	Pronounced	Flattened	Oblong
Baldo	White	Long	Semi-tapered	Absent	Absent	Regular	Roundish	Regular
Balilla	White	Short	Round	Lateral	Short	Regular	Roundish	Stumpy
Carnaroli	White	Long	Semi-tapered	Central-lateral	Absent	Pronounced	Roundish	Oblong
S.Andrea	White	Long	Semi-tapered	Central-lateral	Short	Regular	Roundish	Regular
Loto	White	Long	Semi-tapered	Absent	Absent	Regular	Roundish	Oblong
Gladio	White	Long	Very tapered	Absent	Absent	Receding	Flattened	Oblong

In addition to the above parameters, the biometric properties and physio-chemical characteristics identifying and defining the varieties of rice concerned are set out below.

	Size of grain		Consistency kg/cm²	Glutinosity g/cm²	Clarity %	Weight of 100 grains g	
	length mm	Width mm				Whole-grain	White
Variety	No more than		No less than	No more than	No less than	No more than	
Arborio	7,2	3,5	0,65	3,6	—	38	34
Baldo	7,2	3,2	0,61	4,7	50	35	31
Balilla	5,2	3,2	0,64	3,4	—	25	22
Carnaroli	7,0	3,4	0,86	1,3	—	35	31
S.Andrea	6,6	3,3	0,58	4,6	—	34	30
Loto	6,4	3,1	0,72	3,8	40	28	25
Gladio	7,0	2,2	0,86	0,8	70	22	20

4.3 Geographical area: The defined area for the protected designation of origin 'Riso di Baraggia Biellese e Vercellese' is in the North-East of Piedmont, comprising the following municipalities: Albano Vercellese, Arborio, Balocco, Brusnengo, Buronzo, Carisio, Casanova Elvo, Castelletto Cervo, Cavaglià, Collobiano, Dorzano, Formigliana, Gattinara, Ghislarengo, Gifflenga, Greggio, Lenta, Massazza, Masserano, Mottalciata, Oldenico, Rovasenda, Roasio, Salussola, San Giacomo Vercellese, Santhià, Villanova Biellese and Villarboit in the Provinces of Biella and Vercelli.

4.4 Proof of origin: Each stage of the production process must be monitored by the inspection body referred to in 4.7, according to the provisions set out in the monitoring plan, with all inputs and outputs recorded. This, along with the compilation of specific lists managed by the inspection body of the land registry parcels in which the production, producers, packagers are located, and timely notification to the inspection body of the quantities produced, packaged and labelled ensures product traceability. All natural and legal persons recorded in the lists may be subject to checks by the monitoring body, according to the terms of the production specification and the corresponding monitoring plan.

4.5 Method of production: The product specification states that, inter alia, any fertilisation used must be for the purpose of producing healthy and perfectly ripe produce. The use of nitrate fertilisers and composts or fertilising mixes containing heavy metals is prohibited. Without prejudice to full compliance with the applicable rules governing the use of plant health care, fungicide and insecticide crop treatments must be carried out at least 40 days before harvesting. The seed required to produce the crop must be a seed product certified by E.N.S.E. to guarantee purity of variety, germination quality and the absence of fungal parasites.

Processes of drying rough rice must be carried out using methods that avoid or minimise contamination of the rice hull from any fuel residues and external odours. Indirect heat dryers are preferable, possibly fuelled by methane, LPG or the like.

Rough rice in storage or sold for processing must not have a moisture content of more than 14 %.

When storing rough rice, rice farmers must take all steps to minimise the presence of animal or parasite funguses and abnormal fermentation. At the end of the summer, and in any case before the rough rice is harvested and then stored, the following processes must be carried out in storage barns or units, silos and adjacent areas:

a) preventative treatment using insecticides to prevent the return of any insects which may have hidden away after previous cleaning operations;

b) cleaning and removal of unsuitable residue from disinfection to prevent insects from returning;

c) thorough cleaning from the combine harvester, own vehicles and those used to transport rough rice to be stored or sold of the residues from previous harvests.The following treatments of rough rice are permitted:

To prepare whole-grain rice or for further refined produce

Dehusking or pearling — designed to remove the glumellae of rice grain husks, after which the rice is measured.

To prepare white rice

Refining or milling — designed to remove the cellular pericarp layers from the rice grain surface through abrasion. These processes must be carried out to produce a level of refining defined as 2nd grade.

The refining processes must follow methods designed to prevent the grains from displaying micro fractures.

4.6 Link: The production area as defined in 4.3 is made up of one core zone characterised by the difficulty of levelling land due to its particular clay and iron-rich structure, which leads to uneven levels of submersion. The climate is another feature, characterised by rather cool summer months and frequent thermal inversions due to the winds blowing from the mountains. In addition, cold water sources in the area, located at the foot of the Alps, make it the first to be irrigated by mountain springs.

As a result of these characteristics of the production area, a feature of 'Riso di Baraggia Biellese e Vercellese' is that it is highly suitable for cooking, has a superior consistency and low glutinosity. These characteristics are unanimously recognised by consumers and are partly due to lower yields and lower growing cycles than varieties from other areas.

Ever since the early 1900s, rice — a historic crop in Baraggia — also had symbolic use in public events, including sporting events, especially cycling, used by the champions Coppi, Bartali and Magni.

The diversity of Baraggia and its rice was described for about 50 years in the 'Giornale di Risicoltura' (journal of rice growing), which was published monthly between 1912 and 1952 by the former Institute for Experimental Rice Growing in Vercelli, which often published technical-scientific articles demonstrating the particular features of the Baraggia area and the rice produced there. In 1931 this Institute acquired a rice producer in the municipality of Villarboit (centre of the rice area in Baraggia) and used it as a research centre for the purpose of perfecting the specific features of production in the Baraggia area. In 1952 this monthly journal gave way to the publication 'Il Riso' (Rice), published by the 'Ente Nazionale Risi' (National Rice Body), in which several articles mentioned the specific qualitative features of rice produced in this area.

Rice was grown in the area defined in Baraggia in the early 17th century and was also recorded in notarised documents in 1606 in the Municipality of Salussola, which is part of the defined area.

4.7 Inspection body:

Name: Ente Nazionale Risi

Address: Piazza Pio XI — I-20123 Milano

Tel.: (39-02) 885 51 11

Fax: —

e-mail: —

4.8 Labelling: To be eligible for consumption, the product PDO 'Riso di Baraggia Biellese e Vercellese' must bear on the packaging the specific name of the variety grown in the area (not an equivalent, even if authorised under the applicable rules). Various types of processing and packaging are carried out depending on the end market. Packages of PDO 'Riso di Baraggia Biellese e Vercellese' released for consumption must be of the following weights in Kg: 0.25, 0.5, 1.0, 2.0, 5.0, 10.0 or 25.0 and must be presented in bags, small bags of fabric or plastic that are suitable — in health and safety terms — for containing food products or boxes of various materials provided they are authorised under the rules governing the health and safety conditions for food products.

The following names must be printed on the packaging:

— The EU PDO mark;

— The logo of PDO 'Riso di Baraggia Biellese e Vercellese', which must be clearly distinguishable on the packaging by the size and colour, together with the PDO mark as above;

— the rice mill and husking plant logos, company names and name of variety.

Promotional or misleading information is not authorised.

Products prepared using PDO 'Riso di Baraggia Biellese e Vercellese', even after processing, may be released for consumption in packaging bearing the name of the PDO without affixing the EU logo provided that:

— the protected designation product certified as such is the sole component of the product group concerned;

— users of the protected designation product are authorised by the holders of the intellectual property right concerned, grouped together in a syndicate and assigned a supervisory role by the Ministry for Agricultural Policy. The syndicate will be responsible for registering them and keeping watch on correct use of the protected designation. In the absence of a supervisory syndicate, these functions will be carried out by the Ministry of Agricultural and Forestry Policy, as the national authority responsible for implementing Regulation (EEC) No 2081/92.

The logo of the PDO 'Riso di Baraggia Biellese e Vercellese' is a circle with three grains of straight, white rice depicted side-by-side at the base, as they are usually presented and visible to the consumer. The colours of the logo are set out in detail in the production specification. At the top of the grains is the tiny gap where the embryo of the rice caryopsis is located before refining.

The white background to the logo contains the image of the Monte Rosa massif. The mountain's glaciers are the source of the water which directly and primarily irrigate the Baraggia rice crops, which produce the rice exclusively designated 'Riso di Baraggia Biellese e Vercellese'.

In addition to the logo, the top part bears the name 'Riso di Baraggia' and the lower part the represented area, Biellese e Vercellese.

4.9 National requirements: —

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty

Cases where the Commission raises no objections

(2006/C 291/06)

Date of adoption of the decision	12.10.2006
Reference number of the aid	N 131/06
Member State	Netherlands
Title	Groeifaciliteit
Legal basis	Wet van 29 februari 1996, houdende vaststelling van regels inzake de verstrekking van subsidies door de Minister van Economische Zaken (Kaderwet EZ-subsidies);
Type of measure	Aid scheme
Objective	Small and medium-sized enterprises
Form of aid	Guarantee
Budget	Overall budget: EUR 900 million
Intensity	Measure does not constitute aid
Duration	1.6.2006 — 1.6.2012
Economic sectors	All sectors
Name and address of the granting authority	Ministry of Economic Affairs Bezuidenhoutseweg 20 Postbus 20101 2500 EC Den Haag Nederland

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	12.10.2006
Reference number of the aid	N 349/06
Member State	France
Region	Ile-de-France
Title	Aide à la formation en faveur de Rioglass France SA
Legal basis	Protocole d'accord pour la formation des salariés Thomson Vidéoglass Bagneaux-sur-Loing du 21 octobre 2005
Type of measure	Individual aid
Objective	Training
Form of aid	Direct grant
Budget	Overall budget: EUR 1,5 million

Duration (period)	1.11.2005 — 1.4.2007
Economic sectors	Manufacturing industry
Name and address of the granting authority	Ministère de l'emploi, de la cohésion sociale et du logement + Conseil régional Ile-de-France

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	11.1.2006
Reference number of the aid	N 613/05
Member State	Czech Republic
Title	Změna úlevy spotřební daně a provozních subvencí na bionaftu (Česká republika)
Legal basis	Nařízení vlády ze 7. prosince 2005, kterým se mění nařízení vlády č. 148/2005
Type of measure	Aid scheme
Objective	Environmental protection
Form of aid	Direct grant
Budget	Annual budget: EUR 77 million;
Duration (period)	1.1.2006 — 31.12.2006
Economic sectors	Energy

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	20.10.2006
Reference number of the aid	N. 625/06
Member State	Italy
Region	Piemonte
Title	Bando regionale sulla ricerca industriale e attività di sviluppo precompetitivo
Legal basis	Determinazione dirigenziale n. 501 del 25.7.2006
Type of measure	Aid scheme
Objective	Research and development
Form of aid	Direct grant
Budget	Overall budget: EUR 32 million

Intensity	50 %
Duration	31.12.2008
Economic sectors	All sectors
Name and address of the granting authority	Regione Piemonte Piazza Castello 165 Torino (Italia)

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	19.1.2006
Reference number of the aid	N 643/05
Member State	Netherlands
Title	Milieu-investeringsaftrek (MIA)
Legal basis	Artikel 3.42a van de Wet inkomstenbelasting 2001
Type of measure	Aid scheme
Objective	Environmental protection
Form of aid	Tax base reduction
Budget	Annual budget: EUR 91 — 123 million
Duration (period)	1.12.2006 — 31.12.2009

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	26.9.2006
Aid No	N. 51/06
Member State	Italy
Title	Poste Italiane SpA: compensation by the Member State for universal postal service obligations 2000-2005
Legal basis	Contratto di programma 2000-2002 tra il Ministero del tesoro, del bilancio e della programmazione economica e le Poste italiane SpA, Contratto di programma 2003-2005 tra il Ministero delle comunicazioni di concerto con il Ministero dell'economia e delle finanze e la società per azioni Poste Italiane
Type of measure	Aid compatible
Objective	SGEI
Form of aid	Direct grant

Budget	EUR 2,4 billion over the period
Duration	2000-2005
Economic sectors	Postal services
Name and address of the granting authority	Ministero dell'economia e delle finanze

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	8.11.2006
Reference number of the aid	NN 54/06
Member State	Czech Republic
Region	Olomouc
Title	Vysoká škola logistiky, o.p.s
Legal basis	Ad hoc contracts
Type of measure	Measure does not constitute aid
Budget	EUR 229 000
Intensity	Measure does not constitute aid
Economic sectors	Education
Name and address of the granting authority	Magistrát města Přerova, Česká republika

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports of okoumé plywood originating in the People's Republic of China

(2006/C 291/07)

The Commission has received a request for a partial interim review pursuant to Article 11(3) of Council Regulation (EC) No 384/96 on protection against dumped imports from countries not members of the European Community ('the basic Regulation') [1], as last amended by Council Regulation (EC) No 2117/2005 [2]. The review is limited to the examination of the product scope.

The request was lodged by the European Federation of the Plywood Industry (FEIC) ('the applicant').

1. **Product**

The product under review is okoumé plywood, defined as plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé not coated by a permanent film of other materials originating in the People's Republic of China ('the product concerned'), currently classifiable within CN code ex 4412 13 10. This CN code is given only for information.

2. **Existing measures**

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 1942/2004 [3] on imports of okoumé plywood, defined as plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé not coated by a permanent film of other materials, falling within CN code ex 4412 13 10 (TARIC code 4412 13 10 10) and originating in the People's Republic of China.

3. **Grounds for the review**

The applicant has provided sufficient evidence that the scope of the existing measures is no longer sufficient to counteract the dumping which is causing the injury.

The applicant alleges that new product types have appeared on the market such as plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of bintangor, red canarium, kedondong or certain other species, not coated by a permanent film of other materials, falling within CN code ex 4412 13 10, ex 4412 13 90 and ex 4412 14 00. These CN codes are only given for information. These products should be included in the scope of the measures on the grounds that they share the same basic physical and chemical characteristics and end uses as the product covered by the existing measures. Both the product concerned and the new product types should therefore be considered as a single product.

4. **Procedure**

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of a partial interim review, the Commission hereby initiates a review in accordance with Article 11(3) of the basic Regulation, limited in scope to the definition of the product concerned. The investigation will assess the need for the amendment of the scope of the existing measures.

(a) *Questionnaires*

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the applicant, to the importers, to the users, to exporting producers in the People's Republic of China and to the authorities of the exporting country concerned. This information and supporting evidence should reach the Commission within the time limit set in point 5(a).

(b) *Collection of information and holding of hearings*

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence must reach the Commission within the time limit set in point 5(a).

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 5(b).

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 340, 23.12.2005, p. 17.
[3] OJ L 336, 12.11.2004, p. 4.

5. **Time limits**

(a) *For parties to make themselves known, to submit questionnaire replies and any other information*

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

(b) *Hearings*

All interested parties may also apply to be heard by the Commission within the same 40-day time limit.

6. **Written submissions, questionnaire replies and correspondence**

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as '*Limited*' ([1]) and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'FOR INSPECTION BY INTERESTED PARTIES'.

Commission address for correspondence:

European Commission
Directorate General for Trade
Directorate B
Office: J-79 5/16
B-1049 Brussels
Fax (32-2) 295 65 05

7. **Non-co-operation**

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

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and use of facts available is made, the result may be less favourable to that party than if it had cooperated.

8. **Schedule of the investigation**

The investigation will be concluded, according to Article 11(5) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

([1]) This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

Value added tax (VAT)

(exempt investment gold)

List of gold coins meeting the criteria established in article 26B(a) (ii) of Council Directive 77/388/EEC of 17 May 1977 As amended by Council Directive 98/80/EC of 12 October 1998 (Special scheme for investment gold)

(2006/C 291/08)

Valid for the year 2007

EXPLANATORY NOTE

a) This list reflects the contributions sent by Member States to the Commission within the deadline set by Article 26b (A) of the Sixth Directive (as amended by Directive 98/80/EC, of 12 October 1998).

b) The coins included in this list are considered to fulfil the criteria of Article 26b and therefore will be treated as investment gold in those Member States. As a result their supply is exempt from VAT for the whole of the 2007 calendar year.

c) The exemption will apply to all issues of the given coin in this list, except to issues of coins with a purity lower than 900 thousandths.

d) However, if a coin does not appear in this list, its supply will still be exempt where the coin meets the criteria for the exemption laid down in the Sixth Directive.

e) The list is in alphabetical order, by names of countries and denominations of coins. Within the same category of coins, the listing follows the increasing value of the currency.

f) In the list the denomination of the coins reflects the currency shown on the coins. However, where the currency on the coins is not shown in roman script, where possible, its denomination in the list is shown in parenthesis.

COUNTRY OF ISSUE	*COINS*
AFGHANISTAN	(20 AFGHANI) 10 000 AFGHANI (½ AMANI) (1 AMANI) (2 AMANI) (4 GRAMS) (8 GRAMS) 1 TILLA 2 TILLAS
ALBANIA	50 LEKE 100 LEKE 200 LEKE 500 LEKE
ALDERNEY	25 POUNDS
ANDORRA	50 DINERS 100 DINERS 250 DINERS 1 SOVEREIGN
ANGUILLA	5 DOLLARS 10 DOLLARS 20 DOLLARS 100 DOLLARS
ARGENTINA	1 ARGENTINO

COUNTRY OF ISSUE	*COINS*
AUSTRALIA	5 DOLLARS 15 DOLLARS 25 DOLLARS 50 DOLLARS 150 DOLLARS 200 DOLLARS 250 DOLLARS 500 DOLLARS 1 000 DOLLARS 2 500 DOLLARS 3 000 DOLLARS 10 000 DOLLARS 1/2 SOVEREIGN (= ½ POUND)
AUSTRIA	20 CORONA (= 20 KRONEN) 100 CORONA (= 100 KRONEN) (4 DUCATS) 10 EURO 25 EURO 50 EURO 100 EURO 4 FLORIN = 10 FRANCS (= 4 GULDEN) 8 FLORIN = 20 FRANCS (= 8 GULDEN) 25 SCHILLING 100 SCHILLING 200 SCHILLING 1 000 SCHILLING 2 000 SCHILLING
BAHAMAS	10 DOLLARS 20 DOLLARS 25 DOLLARS 50 DOLLARS 100 DOLLARS 150 DOLLARS 200 DOLLARS 2 500 DOLLARS
BELGIUM	10 ECU 25 ECU 50 ECU 100 ECU 100 EURO 5 000 FRANCS
BELIZE	25 DOLLARS 50 DOLLARS 100 DOLLARS 250 DOLLARS
BERMUDA	10 DOLLARS 25 DOLLARS 50 DOLLARS 60 DOLLARS 100 DOLLARS 200 DOLLARS 250 DOLLARS
BHUTAN	1 SERTUM 2 SERTUMS 5 SERTUMS
BOLIVIA	4 000 PESOS BOLIVIANOS

COUNTRY OF ISSUE	*COINS*
BOTSWANA	5 PULA 150 PULA 10 THEBE
BRAZIL	300 CRUZEIROS (4 000 REIS) (5 000 REIS) (6 400 REIS) (10 000 REIS) (20 000 REIS)
BRITISH VIRGIN ISLANDS	100 DOLLARS
BULGARIA	10 LEVA 100 LEVA
BURUNDI	10 FRANCS 25 FRANCS 50 FRANCS 100 FRANCS
CANADA	1 DOLLAR 2 DOLLARS 5 DOLLARS 10 DOLLARS 20 DOLLARS 50 DOLLARS 175 DOLLARS 200 DOLLARS 350 DOLLARS
CAYMAN ISLANDS	25 DOLLARS 50 DOLLARS 100 DOLLARS 250 DOLLARS
CHAD	3 000 FRANCS 5 000 FRANCS 10 000 FRANCS 20 000 FRANCS
CHILE	2 PESOS 5 PESOS 10 PESOS 20 PESOS 50 PESOS 100 PESOS 200 PESOS
CHINA	5 (YUAN) 10 (YUAN) 25 (YUAN) 50 (YUAN) 100 (YUAN) 150 (YUAN) 200 (YUAN) 250 (YUAN) 300 (YUAN) 400 (YUAN) 450 (YUAN) 500 (YUAN) 1 000 (YUAN)

COUNTRY OF ISSUE	*COINS*
COLOMBIA	1 PESO 2 PESOS 2 1/2 PESOS 5 PESOS 10 PESOS 20 PESOS 100 PESOS 200 PESOS 300 PESOS 500 PESOS 1 000 PESOS 1 500 PESOS 2 000 PESOS 15 000 PESOS
CONGO	10 FRANCS 20 FRANCS 25 FRANCS 50 FRANCS 100 FRANCS
COOK ISLANDS	100 DOLLARS 200 DOLLARS 250 DOLLARS
COSTA RICA	5 COLONES 10 COLONES 20 COLONES 50 COLONES 100 COLONES 200 COLONES 1 500 COLONES 5 000 COLONES 25 000 COLONES
CUBA	4 PESOS 5 PESOS 20 PESOS 50 PESOS 100 PESOS
CYPRUS	50 POUNDS
CZECH REPUBLIC	1 000 KORUN (1 000 Kč) 2 000 KORUN (2 000 Kč) 2 500 KORUN (2 500 Kč) 5 000 KORUN (5 000 Kč) 10 000 KORUN (10 000 Kč)
CZECHOSLOVAKIA	1 DUKÁT 2 DUKÁT 5 DUKÁT 10 DUKÁT
DOMINICAN REPUBLIC	30 PESOS 100 PESOS 200 PESOS 250 PESOS
ECUADOR	1 CONDOR 10 SUCRES

COUNTRY OF ISSUE	*COINS*
EL SALVADOR	25 COLONES 50 COLONES 100 COLONES 200 COLONES 250 COLONES
EQUATORIAL GUINEA	250 PESETAS 500 PESETAS 750 PESETAS 1 000 PESETAS 5 000 PESETAS
ETHIOPIA	400 BIRR 600 BIRR 10 (DOLLARS) 20 (DOLLARS) 50 (DOLLARS) 100 (DOLLARS) 200 (DOLLARS)
FIJI	200 DOLLARS 250 DOLLARS
FRANCE	10 EURO 20 EURO 50 EURO 5 FRANCS 40 FRANCS 50 FRANCS 100 FRANCS
GABON	10 FRANCS 25 FRANCS 50 FRANCS 100 FRANCS 1 000 FRANCS 3 000 FRANCS 5 000 FRANCS 10 000 FRANCS 20 000 FRANCS
GAMBIA	200 DALASIS 500 DALASIS 1 000 DALASIS
GIBRALTAR	2 CROWNS 25 POUNDS 50 POUNDS 100 POUNDS 1/25 ROYAL 1/10 ROYAL 1/5 ROYAL 1/2 ROYAL 1 ROYAL
GUATAMALA	5 QUETZALES 10 QUETZALES 20 QUETZALES
GUERNSEY	1 POUND 5 POUNDS 10 POUNDS 25 POUNDS 50 POUNDS 100 POUNDS

COUNTRY OF ISSUE	*COINS*
GUINEA	1 000 FRANCS 2 000 FRANCS 5 000 FRANCS 10 000 FRANCS
HAITI	20 GOURDES 50 GOURDES 100 GOURDES 200 GOURDES 500 GOURDES 1 000 GOURDES
HONDURAS	200 LEMPIRAS 500 LEMPIRAS
HONG KONG	1 000 DOLLARS
HUNGARY	1 DUKAT 8 FORINT = 20 FRANCS 50 FORINT 100 FORINT 200 FORINT 500 FORINT 1 000 FORINT 5 000 FORINT 10 000 FORINT 20 000 FORINT 50 000 FORINT 100 000 FORINT 20 KORONA 100 KORONA
ICELAND	500 KRONUR
INDIA	1 MOHUR 15 RUPEES 1 SOVEREIGN
INDONESIA	2 000 RUPIAH 5 000 RUPIAH 10 000 RUPIAH 20 000 RUPIAH 25 000 RUPIAH 100 000 RUPIAH 200 000 RUPIAH
IRAN	(1/2 AZADI) (1 AZADI) (1/4 PAHLAVI) (1/2 PAHLAVI) (1 PAHLAVI) (2 1/2 PAHLAVI) (5 PAHLAVI) (10 PAHLAVI) 500 RIALS 750 RIALS 1 000 RIALS 2 000 RIALS
IRAQ	(5 DINARS) (50 DINARS) (100 DINARS)

COUNTRY OF ISSUE	*COINS*
ISLE OF MAN	1/20 ANGEL 1/10 ANGEL 1/4 ANGEL 1/2 ANGEL 1 ANGEL 5 ANGEL 10 ANGEL 15 ANGEL 20 ANGEL 1/25 CROWN 1/10 CROWN 1/5 CROWN 1/2 CROWN 1 CROWN 1 POUND 2 POUNDS 5 POUNDS 50 POUNDS (1/2 SOVEREIGN) (1 SOVEREIGN) (2 SOVEREIGNS) (5 SOVEREIGNS)
ISRAEL	20 LIROT 50 LIROT 100 LIROT 200 LIROT 500 LIROT 1 000 LIROT 5 000 LIROT 5 NEW SHEQALIM 10 NEW SHEQALIM 20 NEW SHEQALIM 5 SHEQALIM 10 SHEQALIM 500 SHEQEL
IVORY COAST	10 FRANCS 25 FRANCS 50 FRANCS 100 FRANCS
JAMAICA	100 DOLLARS 250 DOLLARS
JERSEY	1 POUND 2 POUNDS 5 POUNDS 10 POUNDS 20 POUNDS 25 POUNDS 50 POUNDS 100 POUNDS 1 SOVEREIGN
JORDAN	2 DINARS 5 DINARS 10 DINARS 25 DINARS 50 DINARS 60 DINARS
KATANGA	5 FRANCS

COUNTRY OF ISSUE	*COINS*
KENYA	100 SHILLINGS 250 SHILLINGS 500 SHILLINGS
KIRIBATI	150 DOLLARS
LATVIA	100 LATUS
LESOTHO	1 LOTI 2 MALOTI 4 MALOTI 10 MALOTI 20 MALOTI 50 MALOTI 100 MALOTI 250 MALOTI 500 MALOTI
LIBERIA	12 DOLLARS 20 DOLLARS 25 DOLLARS 30 DOLLARS 100 DOLLARS 250 DOLLARS
LUXEMBURG	5 EURO 20 FRANCS
MACAU	500 PATACAS 1 000 PATACAS
MALAWI	250 KWACHA
MALAYSIA	100 RINGGIT 200 RINGGIT 250 RINGGIT 500 RINGGIT
MALI	10 FRANCS 25 FRANCS 50 FRANCS 100 FRANCS
MALTA	5 (LIRI) 10 (LIRI) 20 (LIRI) 25 (LIRI) 50 (LIRI) 100 (LIRI)
MARSHALL ISLANDS	20 DOLLARS 50 DOLLARS 200 DOLLARS
MAURITIUS	100 RUPEES 200 RUPEES 250 RUPEES 500 RUPEES 1 000 RUPEES

COUNTRY OF ISSUE	*COINS*
MEXICO	2 PESOS 2 1/2 PESOS 5 PESOS 10 PESOS 20 PESOS 50 PESOS 250 PESOS 500 PESOS 1 000 PESOS 2 000 PESOS 1/20 ONZA 1/10 ONZA 1/4 ONZA 1/2 ONZA 1 ONZA
MONACO	20 FRANCS 100 FRANCS 200 FRANCS
MONGOLIA	750 (TUGRIK) 1 000 (TUGRIK)
NEPAL	1 ASARPHI 1 000 RUPEES
NETHERLANDS	(2 DUKAAT) 1 GULDEN 5 GULDEN
NETHERLANDS ANTILLES	5 GULDEN 10 GULDEN 50 GULDEN 100 GULDEN 300 GULDEN
NEW ZEALAND	10 DOLLARS 150 DOLLARS
NICARAGUA	50 CORDOBAS
NIGER	10 FRANCS 25 FRANCS 50 FRANCS 100 FRANCS
NORWAY	1 500 KRONER
OMAN	25 OMANI RIALS 75 OMANI RIALS
PAKISTAN	3 000 RUPEES
PANAMA	100 BALBOAS 500 BALBOAS
PAPUA NEW GUINEA	100 KINA
PERU	1/5 LIBRA 1/2 LIBRA 1 LIBRA 5 SOLES 10 SOLES 20 SOLES 50 SOLES 100 SOLES

COUNTRY OF ISSUE	*COINS*
PHILIPPINES	1 000 PISO 1 500 PISO 5 000 PISO
POLAND	50 ZLOTY (Golden Eagle) 100 ZLOTY (Golden Eagle) 100 ZLOTY 200 ZLOTY (Golden Eagle) 200 ZLOTY 500 ZLOTY (Golden Eagle)
PORTUGAL	100 ESCUDOS 200 ESCUDOS 500 ESCUDOS 10 000 REIS
RHODESIA	10 SHILLINGS 1 POUND 5 POUNDS
RUSSIA	25 ROUBLES 50 (ROUBLES) 200 (ROUBLES)
RWANDA	10 FRANCS 25 FRANCS 50 FRANCS 100 FRANCS
SAN MARINO	1 SCUDO 2 SCUDI 5 SCUDI 10 SCUDI
SAUDI ARABIA	1 GUINEA (= 1 SAUDI POUND)
SENEGAL	10 FRANCS 25 FRANCS 50 FRANCS 100 FRANCS 250 FRANCS 500 FRANCS 1 000 FRANCS 2 500 FRANCS
SERBIA	10 DINARA
SEYCHELLES	1 000 RUPEES 1 500 RUPEES
SIERRA LEONE	1/4 GOLDE 1/2 GOLDE 1 GOLDE 5 GOLDE 10 GOLDE 20 DOLLARS 50 DOLLARS 100 DOLLARS 250 DOLLARS 500 DOLLARS

COUNTRY OF ISSUE	*COINS*
SINGAPORE	1 DOLLAR 2 DOLLARS 5 DOLLARS 10 DOLLARS 20 DOLLARS 25 DOLLARS 50 DOLLARS 100 DOLLARS 150 DOLLARS 250 DOLLARS 500 DOLLARS
SLOVENIA	5 000 TOLARS 20 000 TOLARS
SOLOMON ISLANDS	10 DOLLARS 25 DOLLARS 50 DOLLARS 100 DOLLARS
SOMALIA	20 SHILLINGS 50 SHILLINGS 100 SHILLINGS 200 SHILLINGS 500 SHILLINGS 1 500 SHILLINGS
SOUTH AFRICA	1/10 KRUGERRAND 1/4 KRUGERRAND 1/2 KRUGERRAND 1 KRUGERRAND 1/10 oz NATURA 1/4 oz NATURA 1/2 oz NATURA 1 oz NATURA 1/10 PROTEA 1 PROTEA 1 RAND 2 RAND 1/2 SOVEREIGN (=½ POUND) 1 SOVEREIGN (= 1 POUND)
SOUTH KOREA	2 500 WON 20 000 WON 30 000 WON 50 000 WON
SPAIN	10 (ESCUDOS) 10 PESETAS 5 000 PESETAS 10 000 PESETAS 20 000 PESETAS 40 000 PESETAS 80 000 PESETAS 100 (REALES)
SUDAN	25 POUNDS 50 POUNDS 100 POUNDS
SURINAM	100 GULDEN

COUNTRY OF ISSUE	*COINS*
SWAZILAND	2 EMALANGENI 5 EMALANGENI 10 EMALANGENI 20 EMALANGENI 25 EMALANGENI 50 EMALANGENI 100 EMALAGENI 250 EMALAGENI 1 LILANGENI
SWITZERLAND	10 FRANCS 50 FRANCS 100 FRANCS
SYRIA	(1/2 POUND) (1 POUND)
TANZANIA	1 500 SHILINGI 2 000 SHILINGI
THAILAND	(150 BAHT) (300 BAHT) (400 BAHT) (600 BAHT) (800 BAHT) (1 500 BAHT) (2 500 BAHT) (3 000 BAHT) (4 000 BAHT) (5 000 BAHT) (6 000 BAHT)
TONGA	1/2 HAU 1 HAU 5 HAU 1/4 KOULA 1/2 KOULA 1 KOULA
TUNISIA	2 DINARS 5 DINARS 10 DINARS 20 DINARS 40 DINARS 75 DINARS 10 FRANCS 20 FRANCS 5 PIASTRES
TURKEY	(25 KURUSH) (= 25 PIASTRES) (50 KURUSH) (= 50 PIASTRES) (100 KURUSH) (= 100 PIASTRES) (250 KURUSH) (= 250 PIASTRES) 1/2 LIRA 1 LIRA 500 LIRA 1 000 LIRA 10 000 LIRA
TURKS & CAICOS ISLANDS	100 CROWNS
TUVALU	50 DOLLARS

COUNTRY OF ISSUE	*COINS*
UGANDA	50 SHILLINGS 100 SHILLINGS 500 SHILLINGS 1 000 SHILLINGS
UNITED ARAB EMIRATES	(500 DIRHAMS) (750 DIRHAMS) (1 000 DIRHAMS)
UNITED KINGDOM	(1/3 GUINEA) (1/2 GUINEA) 50 PENCE 2 POUNDS 5 POUNDS 10 POUNDS 25 POUNDS 50 POUNDS 100 POUNDS (2 SOVEREIGNS) (5 SOVEREIGNS)
URUGUAY	5 000 NUEVO PESOS 20 000 NUEVO PESOS 5 PESOS
USA	25 DOLLARS 50 DOLLARS
VATICAN	20 LIRE
VENEZUELA	(20 BOLIVARES) (100 BOLIVARES) 1 000 BOLIVARES 3 000 BOLIVARES 5 000 BOLIVARES 10 000 BOLIVARES 5 VENEZOLANOS
WESTERN SAMOA	50 TALA 100 TALA
YUGOSLAVIA	20 DINARA 100 DINARA 200 DINARA 500 DINARA 1 000 DINARA 1 500 DINARA 2 000 DINARA 2 500 DINARA
ZAIRE	100 ZAIRES
ZAMBIA	250 KWACHA

Notice of initiation of an anti-dumping proceeding concerning imports of ferro-silicon originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia

(2006/C 291/09)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 384/96 on protection against dumped imports from countries not members of the European Community ('the basic Regulation') [1], alleging that imports of ferro-silicon, originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia ('the countries concerned'), are being dumped and are thereby causing material injury to the Community industry.

1. **Complaint**

The complaint was lodged on 16 October 2006 by Comité de liaison des industries ferro-alliages (EUROALLIAGES) ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of ferro-silicon.

2. **Product**

The product allegedly being dumped is ferro-silicon originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia ('the product concerned'), normally declared within CN codes 7202 21 00, 7202 29 10 and 7202 29 90. These CN codes are only given for information.

3. **Allegation of dumping**

The allegation of dumping in respect of Egypt and Russia is based on a comparison of normal value established on the basis of domestic prices, with the export prices of the product concerned when sold for export to the Community.

The allegation of dumping for the former Yugoslav Republic of Macedonia is based on a comparison of a constructed normal value with the export prices of the product concerned when sold for export to the Community.

In view of the provisions of Article 2(7) of the basic Regulation, the complainant established normal value for the People's Republic of China and Kazakhstan on the basis of a constructed normal value in a market economy country, which is mentioned in point 5.1(d). The allegation of dumping is based on a comparison of normal value, thus calculated, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margins calculated are significant for all exporting countries concerned.

4. **Allegation of injury**

The complainant has provided evidence that imports of the product concerned from the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia have increased overall in absolute terms and in terms of market share.

It is alleged that the volumes and the prices of the imported product concerned have, among other consequences, had a negative impact on the market share held, the quantities sold and the level of prices charged by the Community industry, resulting in substantial adverse effects on the overall performance and the financial situation of the Community industry.

5. **Procedure**

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

5.1. ***Procedure for the determination of dumping and injury***

The investigation will determine whether the product concerned originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia is being dumped and whether this dumping has caused injury.

(a) *Sampling*

In view of the apparent large number of parties involved in this proceeding, the Commission may decide to apply sampling in accordance with Article 17 of the basic Regulation.

(i) Sampling for importers

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission and to provide the following information on their company or companies within the time limit set in point 6(b)(i) and in the formats indicated in point 7:

— name, address, e-mail address, telephone and fax numbers and contact person,

— the total turnover in euro of the company during the period 1 October 2005 to 30 September 2006,

— the total number of employees,

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

— the precise activities of the company with regard to the product concerned,

— the volume in tonnes and value in euro of imports into and resales made in the Community market during the period 1 October 2005 to 30 September 2006 of the imported product concerned originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia,

— the names and the precise activities of all related companies [1] involved in the production and/or selling of the product concerned,

— any other relevant information that would assist the Commission in the selection of the sample,

— by providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed to not have co-operated in the investigation. The consequences of non-cooperation are set out in point 8 below.

In order to obtain the information it deems necessary for the selection of the sample of importers, the Commission will, in addition, contact any known associations of importers.

(ii) Final selection of the sample

All interested parties wishing to submit any relevant information regarding the selection of the sample must do so within the time limit set in point 6(b)(ii).

The Commission intends to make the final selection of the sample after having consulted the parties concerned that have expressed their willingness to be included in the sample.

Companies included in the sample must reply to a questionnaire within the time limit set in point 6(b)(iii) and must co-operate within the framework of the investigation.

If sufficient co-operation is not forthcoming, the Commission may base its findings, in accordance with Articles 17(4) and 18 of the basic Regulation, on the facts available. A finding based on facts available may be less advantageous to the party concerned, as explained in point 8.

(b) *Questionnaires*

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community industry and to any association of producers in the Community, to the exporters/producers in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia, to any association of exporters/producers, to the sampled importers, to any association of importers named in the complaint, and to the authorities of the exporting countries concerned.

Exporters producers in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia

All such interested parties should contact the Commission forthwith by fax, but not later than the time limit set out in point 6(a)(i), in order to find out whether they are listed in the complaint and, if necessary, request a questionnaire, given that the time limit set in point 6(a)(ii) applies to all such interested parties.

(c) *Collection of information and holding of hearings*

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence has to reach the Commission within the time limit set in point 6(a)(ii).

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(a)(iii).

(d) *Selection of the market economy country*

In accordance with Article 2(7)(a) of the basic Regulation, it is envisaged to choose Norway as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China and Kazakhstan. Interested parties are hereby invited to comment on the appropriateness of this choice within the specific time limit set in point 6(c).

(e) *Market economy status*

For those exporters/producers in the People's Republic of China and Kazakhstan who claim and provide sufficient evidence that they operate under market economy conditions, i.e. that they meet the criteria laid down in Article 2(7)(c) of the basic Regulation, normal value will be determined in accordance with Article 2(7)(b) of the basic Regulation. Exporters/producers intending to submit duly substantiated claims must do so within the specific time limit set in point 6(d). The Commission will send claim forms to all exporters/producers in the People's Republic of China named in the complaint and to exporters/producers in Kazakhstan who have been included in the sample and to any association of exporters/producers named in the complaint, as well as to the authorities of the People's Republic of China and Kazakhstan.

[1] For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p.1).

5.2. ***Procedure for assessment of Community interest***

In accordance with Article 21 of the basic Regulation and in the event that the allegations of dumping and injury caused thereby are substantiated, a decision will be reached as to whether the adoption of anti-dumping measures would not be against the Community interest. For this reason the Community industry, importers, their representative associations, representative users and representative consumer organisations, provided that they prove that there is an objective link between their activity and the product concerned, may, within the general time limits set in point 6(a)(ii), make themselves known and provide the Commission with information. The parties which have acted in conformity with the precedent sentence may request a hearing setting the particular reasons why they should be heard within the time limit set in point 6(a)(iii). It should be noted that any information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

6. **Time limits**

(a) *General time limits*

(i) For parties to request a questionnaire or other claim forms

All interested parties should request a questionnaire or other claim forms as soon as possible, but not later than 10 days after the publication of this notice in the *Official Journal of the European Union*.

(ii) For parties to make themselves known, to submit questionnaire replies and any other information

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

Companies selected in a sample must submit questionnaire replies within the time limits specified in point 6(b)(iii).

(iii) Hearings

All interested parties may also apply to be heard by the Commission within the same 40 day time limit.

(b) *Specific time limit in respect of sampling*

(i) The information specified in point 5.1(a)(i) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included in the sample on its final selection within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(ii) All other information relevant for the selection of the sample as referred to in 5.1(a)(ii) must reach the Commission within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(iii) The questionnaire replies from sampled parties must reach the Commission within 37 days from the date of the notification of their inclusion in the sample.

(c) *Specific time limit for the selection of the market economy country*

Parties to the investigation may wish to comment on the appropriateness of Norway which, as mentioned in point 5.1(d), is envisaged as a market-economy country for the purpose of establishing normal value in respect of the People's Republic of China and Kazakhstan. These comments must reach the Commission within 10 days of the date of publication of this notice in the *Official Journal of the European Union*.

(d) *Specific time limit for submission of claims for market economy status and/or for individual treatment*

Duly substantiated claims for market economy status (as mentioned in point 5.1(e)) and/or for individual treatment pursuant to Article 9(5) of the basic Regulation, must reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*.

7. **Written submissions, questionnaire replies and correspondence**

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as '*Limited*' ([1]) and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'For inspection by interested parties'.

Commission address for correspondence:

European Commission
Directorate General for Trade
Directorate B
Office: J-79 5/16
B-1049 Brussels
Fax (32-2) 295 65 05.

([1]) This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

8. **Non-cooperation**

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

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available. If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

9. **Schedule of the investigation**

The investigation will be concluded, according to Article 6(9) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*. According to Article 7(1) of the basic Regulation, provisional measures may be imposed no later than 9 months from the publication of this notice in the *Official Journal of the European Union*.

Revision by France of a public service obligation in respect of scheduled air services between Paris (Orly) and Béziers

(2006/C 291/10)

1. France has decided to revise, with effect from 25 March 2007, the public service obligation imposed on scheduled air services between Paris (Orly) and Béziers published in *Official Journal of the European Communities* No C 95 of 19 April 2002 pursuant to Article 4(1)(a) of Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes.

2. **The new public service obligation is as follows:**

2.1. *Frequency*

The following minimum services must be delivered, excepting public holidays:

— 2 daily outward flights and 2 daily return flights from Monday to Friday throughout the year;

— 1 outward and 1 return flight on Sunday throughout the year;

— 3 additional outward and return flights per week, 13 weeks per year;

— 1 additional outward and flight on Saturday or Sunday, 13 weeks per year.

On public holidays, at least one outward and one return flight must be delivered.

2.2. *Category and capacity of aircraft used*

The service must be operated with a pressurised aircraft having a seating capacity of at least 48.

2.3. *Timetables*

From Monday to Friday, the timetables must allow passengers to make the round trip within the day and to spend at least seven hours at their destination, be it Paris or Béziers.

2.4. *Flight bookings*

Seats on these flights must be marketed using at least one computerised booking system.

2.5. *Continuity of service*

Except in cases of *force majeure*, the number of flights cancelled for reasons directly attributable to the carrier must not exceed 3 % of the minimum number of required flights in any operating year.

The carrier must give at least six months' notice before discontinuing these services.

Carriers are hereby informed that the operation of air services without regard to the abovementioned public service obligation will result in administrative and/or legal penalties.

3. Slots are currently reserved at Paris (Orly) airport for the scheduled Paris (Orly) — Béziers service pursuant to Article 9 of Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports. Carriers interested in this route can obtain information on the slots from the Paris airports coordinator.

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid

(2006/C 291/11)

(Text with EEA relevance)

Aid No	XT 38/06	
Member State	Hellas	
Region	Entire country	
Title of aid scheme	Hellenic Technology Clusters Initiative (HTCI) is an endorsed activity under the auspices of the Hellenic Ministry of Development, that targets the establishment and development of competitive technology clusters in knowledge-intensive and exports-oriented focused segments. The selected clusters are comprised mainly of SMEs.	
Legal basis	Νόμος 1514/85 όπως τροποποιήθηκε από το Νόμο 2919/01. Ο ρόλος του Ερευνητικού Κέντρου «Αθηνά» περιγράφεται στο Άρθρο 8 του Νόμου 2919/01 και το Προεδρικό Διάταγμα 145/03 όπως τροποποιήθηκαν από το άρθρο 9 του Νόμου 3438/06 και το άρθρο 15 του Νόμου 3460/06.	
Annual expenditure planned under the scheme or overall amount of individual aid granted to the company	Annual overall amount	2006: EUR 200 000 2007: EUR 200 000 2008: EUR 106 000
	Overall aid amount Actual amounts in each year may vary somewhat, but the total is fixed.	287 000
Maximum aid intensity	The maximum aid intensity will not exceed the ceilings of Regulation (EC) No 68/2001 as amended by Regulation (EC) No 363/2004.	
Date of implementation	First call for proposals opened at the beginning of August 2006	
Duration of scheme or individual aid award	Until 31 December 2008. Legal commitments until 31 December 2006	
Objective of aid	The HTCI programme will support the clustering initiatives by providing support in the form of grants for a short period of time (2006-2008) for general training and specific training for both SME and non-SMEs. The objective of the aid is to help expand cluster-members' activities, promote technology and know-how diffusion among cluster members, focus on the utilization of talented human capital, and improve skills of the firms involved.	
Economic sectors concerned	Microelectronics and Embedded Systems with the exception of firms with activities linked to the production, processing or marketing of products listed in Annex I to the Treaty establishing the European Community.	
Name and address of the granting authority	Υπουργείο Ανάπτυξης, Γενική Γραμματεία Έρευνας και Τεχνολογίας, Ερευνητικό Κέντρο 'Αθηνά' Γ. Αναστασίου 13 GR-11527 Αθήνα (Ministry of Development, General Secretariat for Research and Technology, Research Center Athena G. Anastasiou 13 GR-11527 Athens)	
Further information	The scheme is in accordance with Regulation (EC) No 68/2001 as amended by Regulation (EC) No 363/2004. The aid concerns Action 4.6.3 of the Competitiveness Operational Programme which is jointly funded by Structural Funds.	

Aid No	XT 47/06		
Member State	Austria		
Region	Kärnten		
Title of aid scheme or name of company receiving an individual aid	Carinthian business training offensive		
Legal basis	Ziel-2-Programm Kärnten 2000 — 2006		
Annual expenditure planned or overall amount of individual aid granted to the company	Aid scheme	Annual overall amount (subsid)y	Approx. EUR 1,2 million
Maximum aid intensity	In conformity with Article 4(2)-(7) of the Regulation	Yes	General training — Large enterprises: 50 % — uzed enterprises (SMEs): 70 % — utensity: 70 % of eligible costs Specific training — Large enterprises: 25 % — Small and medium-sized enterprises (SMEs): 35 % — Maximum aid intensity: 35 % of eligible costs
Date of implementation	1 June 2004		
Duration of scheme or individual aid award	Until 31 December 2007		
Objective of aid	General training		Strengthening of the human resources potential through training, and support for firms' growth opportunities through future-oriented manpower development strategies
	Specific training		
Economic sectors concerned	Limited to specific sectors		Yes
	Other manufacturing		Manufacture of machinery and equipment (NACE 29, 34 and 35) Manufacture of wood and wood products (NACE 20) Manufacture of chemicals and chemical products (NACE 24) Research and development (NACE 73) Manufacture of pulp, paper and paper products (NACE 21)
	Other services		Electronics, software, hardware and data communications (NACE 30-33 and 72)
Name and address of the granting authority	Amt der Kärntner Landesregierung, Unterabteilung 6 — Bildungs- und Arbeitsmarktpolitik		
	Mießtaler Straße 12 A-9020 Klagenfurt		
Large individual aid grants	In conformity with Article 5 of the Regulation		Yes

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty

Cases where the Commission raises no objections

(2006/C 291/12)

Date of adoption of the decision	18.9.2006
Reference number of the aid	N 556/06
Member State	United Kingdom
Region	Wales
Title (and/or name of the beneficiary)	Beef Quality
Legal basis	Section 1 of The Welsh Development Agency Act 1975 (as amended)
Type of measure	scheme
Objective	quality
Form of aid	grant
Budget	GBP 0,41 million (EUR 0,6 million)
Intensity	40 %
Duration (period)	2 years
Economic sectors	agriculture
Name and address of the granting authority	Hybu Cig Cymru Aberystwyth Ceredigion SY233YA United Kingdom

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	2.10.2006
Reference number of the aid	N 18/06
Member State	Spain
Title	Aid for the development of SMEs and its associations in the horse sector
Legal basis	Real Decreto 1200/2005, du 10 de octubre, por el que se establecen las bases reguladoras de las subvenciones estatales destinadas al sector equino Proyecto de Real Decreto …./2006, por el que se modifica el Real Decreto 1200/2005
Type of measure	Scheme
Objective	Investment, technical support, quality products, producer groups, advertising
Form of aid	Grant
Budget	EUR 7,35 million
Intensity	Variable
Duration (period)	5 years
Economic sectors	Agriculture
Name and address of the granting authority	Autoridades competentes de las 17 Comunidades Autónomas del Reino de España

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	18.9.2006
Aid No	N 154/06
Member State	Italy
Region	Veneto
Title	Assistance in farming areas affected by natural disasters (hail, high winds and rain from 29 June to 31 July 2005 in the Veneto Region and the provinces of Padua, Vicenza and Verona)
Legal basis	Decreto legislativo n. 102/2004
Type of measure	Individual aid
Objective	To compensate for damage to farming structures as a result of bad weather.
Budget	EUR *560 000*
Intensity	Up to 100 % of the cost of the damage.
Duration	Measure implementing an aid scheme approved by the Commission.
Economic sectors	Agriculture
Other information	Measure applying the scheme approved by the Commission under State aid NN 54/A/2004 (Commission letter C(2005)1622 final, dated 7 June 2005).

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision	2.10.2006
Reference number of the aid	N 474/06
Member State	Italy
Region	Campania
Title (and/or name of the beneficiary)	Assistance in agricultural areas hit by natural disasters (frosts on 25 and 26 January 2006 in certain municipalities of the Salerno province in Campania)
Legal basis	Decreto legislativo n. 102/2004
Type of measure	Aid scheme
Objective	Adverse weather conditions
Form of aid	Subsidies
Budget	See dossier NN 54/A/04
Intensity	Up to 100 %
Duration (period)	Until the final payment is made
Economic sectors	Agriculture

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Prior notification of a concentration

(Case COMP/M.4415 — Motorola/Symbol)

(2006/C 291/13)

(Text with EEA relevance)

1. On 23 November 2006 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 [1] by which the undertaking Motorola Inc. ('Motorola', USA) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Symbol Technologies Inc. ('Symbol', USA) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for Motorola: wireless handsets, communication and network systems, broadband products;

— for Symbol: ruggedised mobile computers, data capture and scanning devices, wireless local area network infrastructure, radio frequency identification.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved.

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax (32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4415 — Motorola/Symbol, to the following address:

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

[1] OJ L 24, 29.1.2004, p. 1.

Prior notification of a concentration

(Case COMP/M.4481 — Onex Corporation/Sitel Corporation)

Candidate case for simplified procedure

(2006/C 291/14)

(Text with EEA relevance)

1. On 22 November 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 [1] by which the undertaking Onex Corporation ('Onex', Canada), through its wholly-owned subsidiary ClientLogic Corporation ('ClientLogic', Canada), proposes to acquire, within the meaning of Article 3(1)(b) of the Council Regulation, sole control of the undertaking Sitel Corporation ('Sitel', USA) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— For Onex: the acquisition, administration and divestment of participations in undertakings in a wide range of markets;

— For ClientLogic: the provision of business process outsourcing services in the customer care services industry;

— For Sitel: the provision of business process outsourcing services in the customer care services industry.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004 [2] 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 to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4481 — Onex Corporation/Sitel Corporation, to the following address:

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

[1] OJ L 24, 29.1.2004, p. 1.
[2] OJ C 56, 5.3.2005, p. 32.

Non-opposition to a notified concentration

(Case COMP/M.4421 — OJSC Novolipetsk Steel/Duferco/JV)

(2006/C 291/15)

(Text with EEA relevance)

On 20 November 2006, 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 (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— from the Europa competition website (http://ec.europa.eu/comm/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website under document number 32006M4421. EUR-Lex is the on-line access to European law. (http://eur-lex.europa.eu)

Non-opposition to a notified concentration

(Case COMP/M.4293 — Nordic Capital Fund VI/ICA MENY)

(2006/C 291/16)

(Text with EEA relevance)

On 8 September 2006, 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 (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— from the Europa competition website (http://ec.europa.eu/comm/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website under document number 32006M4293. EUR-Lex is the on-line access to European law. (http://eur-lex.europa.eu)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

Guidelines on the effect on trade concept contained in Articles 53 and 54 of the EEA Agreement

(2006/C 291/17)

A. The present notice is issued pursuant to the rules of the Agreement on the European Economic Area (hereafter the 'EEA Agreement') and the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice (hereafter the 'Surveillance and Court Agreement').

B. The European Commission (hereafter the 'Commission') has issued a notice entitled 'Guidelines on the effect on trade concept contained in Articles 81 and 82 of the Treaty' ([1]). That non-binding act sets out the principles for the interpretation of the effect on trade concept of Articles 81 and 82 of the EC Treaty. The notice also intends to set out the methodology for the application of the effect on trade concept and gives guidance on its application.

C. The EFTA Surveillance Authority considers the abovementioned act to be EEA relevant. In order to maintain equal conditions of competition and to ensure a uniform application of the EEA competition rules throughout the European Economic Area, the Authority adopts the present notice under the power conferred upon it by Article 5(2)(b) of the Surveillance and Court Agreement. The Authority intends to follow the principles and rules laid down in this notice when applying the relevant EEA rules to a particular case ([2]).

D. In particular, the notice sets out the principles for the interpretation of the effect on trade concept of Articles 53 and 54 of the EEA Agreement. The notice also intends to set out the methodology for the application in the EFTA pillar of the effect on trade concept and to give guidance on its application

E. The present notice applies to cases where the Authority is the competent surveillance authority under Article 56 of the EEA Agreement.

1. INTRODUCTION

1. Articles 53 and 54 of the EEA Agreement are applicable to horizontal and vertical agreements and practices on the part of undertakings which '*may affect trade between Contracting Parties*'.

2. In the interpretation by the EFTA Court of Articles 53 and 54 of the EEA Agreement and the Community Courts of the corresponding Articles 81 and 82 of the EC Treaty, the content and scope of the concept of effect on trade between Contracting Parties to the EEA Agreement (hereafter 'EEA States') have already been substantially clarified ([3]).

([1]) OJ C 101, 27.4.2004, p. 81.

([2]) The competence to handle individual cases falling under Articles 53 and 54 of the EEA Agreement is divided between the EFTA Surveillance Authority and the Commission according to the rules laid down in Article 56 of the EEA Agreement. Only one of the surveillance authorities is competent to handle any given case.

([3]) Article 6 of the EEA Agreement provides that, without prejudice to future developments of case-law, the provisions of this Agreement, in so far as they are identical in substance to corresponding rules of the Treaty establishing the European Community and the Treaty establishing the European Coal and Steel Community and to acts adopted in application of these two treaties, shall in their implementation and application, be interpreted in conformity with the relevant rulings of the Court of Justice of the European Communities given prior to the date of signature of the EEA Agreement. As regards relevant rulings by the Court of Justice given after the date of signature of the EEA Agreement, it follows from Article 3(2) of the Surveillance and Court Agreement that the EFTA Surveillance Authority and the EFTA Court shall pay due account to the principles laid down by these rulings.

3. The present guidelines set out the principles developed by the EFTA Court and the Community Courts in relation to the interpretation of the effect on trade concept of Articles 53 and 54 of the EEA Agreement and the corresponding provisions of the EC Treaty. They further spell out a rule indicating when agreements are in general unlikely to be capable of appreciably affecting trade between EEA States (the no appreciable affectation of trade rule or NAAT-rule). The guidelines are not intended to be exhaustive. The aim is to set out the methodology for the application of the effect on trade concept and to provide guidance on its application in frequently occurring situations. Although not binding on them, these guidelines also intend to give guidance to the courts and authorities of the EFTA States in their application of the effect on trade concept contained in Articles 53 and 54 of the EEA Agreement.

4. The present guidelines do not address the issue of what constitutes an appreciable restriction of competition under Article 53(1). This issue, which is distinct from the ability of agreements to appreciably affect trade between EEA States, is dealt with in the EFTA Surveillance Authority Notice on agreements of minor importance which do not appreciably restrict competition under Article 53(1) of the EEA Agreement ([4]) (the *de minimis* rule). The guidelines are also not intended to provide guidance on the effect on trade concept contained in Article 61(1) of the EEA Agreement on State aid.

5. These guidelines, including the NAAT-rule, are without prejudice to the interpretation of Articles 53 and 54 of the EEA Agreement which may be given by the EFTA Court, the Court of Justice of the European Communities and the Court of First Instance.

2. THE EFFECT ON TRADE CRITERION

2.1. General principles

6. Article 53(1) provides that 'the following shall be prohibited as incompatible with the functioning of this Agreement: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Contracting Parties and which have as their object or effect the prevention, restriction or distortion of competition within the territory covered by this Agreement.' For the sake of simplicity the terms 'agreements, decisions by associations of undertakings and concerted practices' are collectively referred to as 'agreements'.

7. Article 54 on its part stipulates that 'any abuse by one or more undertakings of a dominant position within the territory covered by this Agreement or in a substantial part of it shall be prohibited as incompatible with the functioning of this Agreement in so far as it may affect trade between Contracting Parties.' In what follows the term 'practices' refers to the conduct of dominant undertakings.

8. The effect on trade criterion also determines the scope of application of Article 3 of Chapter II of Protocol 4 of the Surveillance and Court Agreement (hereafter 'Chapter II') on the implementation of the rules on competition laid down in Articles 53 and 54 of the EEA Agreement ([5]).

9. According to Article 3(1) of Chapter II the competition authorities and courts of the EFTA States must apply Article 53 to agreements, decisions by associations of undertakings or concerted practices within the meaning of Article 53(1) of the EEA Agreement which may affect trade between EEA States within the meaning of that provision, when they apply national competition law to such agreements, decisions or concerted practices. Similarly, when the competition authorities and courts of the EFTA States apply national competition law to any abuse prohibited by Article 54 of the

([4]) EFTA Surveillance Authority Notice on agreements of minor importance which do not appreciably restrict competition under Article 53(1) of the EEA Agreement (de minimis), OJ C 67, 20.3.2003, p. 20 and EEA Supplement to the OJ No 15, 20.3.2003, p. 11.

([5]) When the Agreement amending Protocol 4 to the Agreement of the EFTA States on the establishment of a Surveillance Authority and a Court of Justice of 24 September 2004 has entered into force, Chapter II of Protocol 4 of the Surveillance and Court Agreement will reflect to a large extent in the EFTA pillar Council Regulation (EC) No 1/2003 (OJ L 1, 4.1. 2003, p. 1).

EEA Agreement, they must also apply Article 54 of the EEA Agreement. Article 3(1) thus obliges the competition authorities and courts of the EFTA States to also apply Articles 53 and 54 when they apply national competition law to agreements and abusive practices which may affect trade between EEA States. On the other hand, Article 3(1) does not oblige national competition authorities and courts of the EFTA States to apply national competition law when they apply Articles 53 and 54 to agreements, decisions and concerted practices and to abuses which may affect trade between EEA States. They may in such cases apply the EEA competition rules on a stand alone basis.

10. It follows from Article 3(2) that the application of national competition law may not lead to the prohibition of agreements, decisions by associations of undertakings or concerted practices which may affect trade between EEA States but which do not restrict competition within the meaning of Article 53(1) of the EEA Agreement, or which fulfil the conditions of Article 53(3) of the EEA Agreement or which are covered by an act corresponding to a Community Regulation for the application of Article 81(3) of the EC Treaty referred to in Annex XIV to the EEA Agreement. EFTA States, however, are not under Chapter II precluded from adopting and applying on their territory stricter national laws which prohibit or sanction unilateral conduct engaged in by undertakings.

11. Finally it should be mentioned that Article 3(3) of Chapter II stipulates that without prejudice to general principles and other provisions of EEA law, Article 3(1) and (2) do not apply when the competition authorities and the courts of the EFTA States apply national merger control laws, nor do they preclude the application of provisions of national law that predominantly pursue an objective different from that pursued by Articles 53 and 54 of the EEA Agreement.

12. The effect on trade criterion is an autonomous EEA law criterion, which must be assessed separately in each case. It is a jurisdictional criterion, which defines the scope of application of EEA competition law ([6]). EEA competition law is not applicable to agreements and practices that are not capable of appreciably affecting trade between EEA States.

13. The effect on trade criterion confines the scope of application of Articles 53 and 54 to agreements and practices that are capable of having a minimum level of cross-border effects within the territory covered by the EEA Agreement (hereafter the 'EEA'). The ability of the agreement or practice to affect trade between EEA States must be '*appreciable*' ([7]).

14. In the case of Article 53 of the EEA Agreement, it is the agreement that must be capable of affecting trade between EEA States. It is not required that each individual part of the agreement, including any restriction of competition which may flow from the agreement, is capable of doing so ([8]). If the agreement as a whole is capable of affecting trade between EEA States, there is EEA law jurisdiction in respect of the entire agreement, including any parts of the agreement that individually do not affect trade between EEA States. In cases where the contractual relations between the same parties cover several activities, these activities must, in order to form part of the same agreement, be directly linked and form an integral part of the same overall business arrangement ([9]). If not, each activity constitutes a separate agreement.

15. It is also immaterial whether or not the participation of a particular undertaking in the agreement has an appreciable effect on trade between EEA States ([10]). An undertaking cannot escape EEA law jurisdiction merely because of the fact that its own contribution to an agreement, which itself is capable of affecting trade between EEA States, is insignificant.

([6]) See e.g. Joined Cases 56/64 and 58/64, Consten and Grundig, [1966] ECR p. 429, and Joined Cases 6/73 and 7/73, Commercial Solvents, [1974] ECR p. 223.

([7]) See in this respect Case 22/71, Béguelin, [1971] ECR p. 949, paragraph 16 and EFTA Surveillance Authority Decision in NSF, OJ L 284, 16.10.1997, p 68, paragraph 77.

([8]) See Case 193/83, Windsurfing, [1986] ECR p. 611, paragraph 96, and Case T-77/94, Vereniging van Groothandelaren in Bloemkwekerijprodukten, [1997] ECR II-759, paragraph 126.

([9]) See paragraphs 142 to 144 of the judgment in Vereniging van Groothandelaren in Bloemkwekerijprodukteten cited in the previous footnote.

([10]) See e.g. Case T-2/89, Petrofina, [1991] ECR II-1087, paragraph 226.

16. It is not necessary, for the purposes of establishing EEA law jurisdiction, to establish a link between the alleged restriction of competition and the capacity of the agreement to affect trade between EEA States. Non-restrictive agreements may also affect trade between EEA States. For example, selective distribution agreements based on purely qualitative selection criteria justified by the nature of the products, which are not restrictive of competition within the meaning of Article 53(1), may nevertheless affect trade between EEA States. However, the alleged restrictions arising from an agreement may provide a clear indication as to the capacity of the agreement to affect trade between EEA States. For instance, a distribution agreement prohibiting exports is by its very nature capable of affecting trade between EEA States, although not necessarily to an appreciable extent ([11]).

17. In the case of Article 54 it is the abuse that must affect trade between EEA States. This does not imply, however, that each element of the behaviour must be assessed in isolation. Conduct that forms part of an overall strategy pursued by the dominant undertaking must be assessed in terms of its overall impact. Where a dominant undertaking adopts various practices in pursuit of the same aim, for instance practices that aim at eliminating or foreclosing competitors, in order for Article 54 to be applicable to all the practices forming part of this overall strategy, it is sufficient that at least one of these practices is capable of affecting trade between EEA States ([12]).

18. It follows from the wording of Articles 53 and 54 of the EEA Agreement and the case law of the Community Courts that in the application of the effect on trade criterion three elements in particular must be addressed:

(a) The concept of '*trade between Contracting Parties*',

(b) The notion of '*may affect*', and

(c) The concept of *appreciability*.

2.2. **The concept of 'trade between Contracting Parties'**

19. The concept of '*trade*' is not limited to traditional exchanges of goods and services across borders ([13]). It is a wider concept, covering all cross-border economic activity including establishment ([14]). This interpretation is consistent with the fundamental objective of the EEA Agreement to promote free movement of goods, services, persons and capital.

20. According to settled case law the concept of '*trade*' also encompasses cases where agreements or practices affect the competitive structure of the market. Agreements and practices that affect the competitive structure inside the EEA by eliminating or threatening to eliminate a competitor operating within the EEA may be subject to the EEA competition rules ([15]). When an undertaking is or risks being eliminated the competitive structure within the EEA is affected and so are the economic activities in which the undertaking is engaged.

21. The requirement that there must be an effect on trade '*between the Contracting Parties*' implies that there must be an impact on cross-border economic activity involving at least two EEA States. It is not required that the agreement or practice affect trade between the whole of one EEA State and the whole of another EEA State. Articles 53 and 54 may be applicable also in cases involving part of an EEA State, provided that the effect on trade is appreciable ([16]).

([11]) The concept of appreciability is dealt with in section 2.4 below.

([12]) See in this respect Case 85/76, Hoffmann-La Roche, [1979] ECR p. 461, paragraph 126.

([13]) Throughout these guidelines the term '*products*' covers both goods and services.

([14]) See Case 172/80, Züchner, [1981] ECR p. 2021, paragraph 18. See also Case C-309/99, Wouters, [2002] ECR I-1577, paragraph 95, Case C-475/99, Ambulanz Glöckner, [2001] ECR I-8089, paragraph 49, Joined Cases C-215/96 and 216/96, Bagnasco, [1999] ECR I-135, paragraph 51, Case C-55/96, Job Centre, [1997] ECR I-7119, paragraph 37, and Case C-41/90, Höfner and Elser, [1991] ECR I-1979, paragraph 33.

([15]) See e.g. Joined Cases T-24/93 and others, Compagnie maritime belge, [1996] ECR II-1201, paragraph 203, and paragraph 23 of the judgment in Commercial Solvents cited in footnote 6.

([16]) See e.g. Joined Cases T-213/95 and T-18/96, SCK and FNK, [1997] ECR II-1739, and sections 3.2.4 and 3.2.6 below.

22. The application of the effect on trade criterion is independent of the definition of relevant geographic markets. Trade between EEA States may be affected also in cases where the relevant market is national or sub-national ([17]).

2.3. **The notion 'may affect'**

23. The function of the notion '*may affect*' is to define the nature of the required impact on trade between EEA States. According to the standard test developed by the Court of Justice of the European Communities, the notion '*may affect*' implies that it must be possible to foresee with a sufficient degree of probability on the basis of a set of objective factors of law or fact that the agreement or practice may have an influence, direct or indirect, actual or potential, on the pattern of trade between EEA States ([18]) ([19]). As mentioned in paragraph 20 above the Court of Justice of the European Communities has in addition developed a test based on whether or not the agreement or practice affects the competitive structure. In cases where the agreement or practice is liable to affect the competitive structure inside the EEA, EEA law jurisdiction is established.

24. The 'pattern of trade'-test, as developed by the Court of Justice of the European Communities, contains the following main elements, which are dealt with in the following sections:

(a) 'A sufficient degree of probability on the basis of a set of objective factors of law or fact',

(b) An influence on the 'pattern of trade' between EEA States,

(c) 'A direct or indirect, actual or potential influence' on the pattern of trade.

2.3.1. *A sufficient degree of probability on the basis of a set of objective factors of law or fact*

25. The assessment of effect on trade is based on objective factors. Subjective intent on the part of the undertakings concerned is not required. If, however, there is evidence that undertakings have intended to affect trade between EEA States, for example because they have sought to hinder exports to or imports from other EEA States, this is a relevant factor to be taken into account.

26. The words '*may* affect' and the reference by the Court of Justice of the European Communities to '*a sufficient degree of probability*' imply that, in order for EEA law jurisdiction to be established, it is not required that the agreement or practice will actually have or has had an effect on trade between EEA States. It is sufficient that the agreement or practice is '*capable*' of having such an effect ([20]).

27. There is no obligation or need to calculate the actual volume of trade between EEA States affected by the agreement or practice. For example, in the case of agreements prohibiting exports to other EEA States there is no need to estimate what would have been the level of parallel trade between the EEA States concerned, in the absence of the agreement. This interpretation is consistent with the jurisdictional nature of the effect on trade criterion. EEA law jurisdiction extends to categories of agreements and practices that are capable of having cross-border effects, irrespective of whether a particular agreement or practice actually has such effects.

([17]) See section 3.2 below.

([18]) See e.g. the judgment in Züchner cited in footnote 14 and Case 319/82, Kerpen & Kerpen, [1983] ECR 4173, Joined Cases 240/82 and others, Stichting Sigarettenindustrie, [1985] ECR p. 3831, paragraph 48, and Joined Cases T-25/95 and others, Cimenteries *CBR*, [2000] ECR II-491, paragraph 3930.

([19]) In some judgments mainly relating to vertical agreements the Court of Justice of the European Communities has added wording to the effect that the agreement was capable of hindering the attainment of the objectives of a single market between EC Member States, see e.g. Case T-62/98, Volkswagen, [2000] ECR II-2707, paragraph 179, and paragraph 47 of the Bagnasco judgment cited in footnote 14, and Case 56/65, Société Technique Minière, [1966] ECR 337. The impact of an agreement on the functioning of the EEA Agreement is thus a factor which can be taken into account.

([20]) See e.g. Case E-7-01, Hegelstad Eiendomsselskap Arvid B. Hegelstad and others and Hydro Texaco AS, [2002] EFTA Court Report p 310 and Case T-228/97, Irish Sugar, [1999] ECR II-2969, paragraph 170, and Case 19/77, Miller, [1978] ECR 131, paragraph 15.

28. The assessment under the effect on trade criterion depends on a number of factors that individually may not be decisive ([21]). The relevant factors include the nature of the agreement and practice, the nature of the products covered by the agreement or practice and the position and importance of the undertakings concerned ([22]).

29. The nature of the agreement and practice provides an indication from a qualitative point of view of the ability of the agreement or practice to affect trade between EEA States. Some agreements and practices are by their very nature capable of affecting trade between EEA States, whereas others require more detailed analysis in this respect. Cross-border cartels are an example of the former, whereas joint ventures confined to the territory of a single EEA State are an example of the latter. This aspect is further examined in section 3 below, which deals with various categories of agreements and practices.

30. The nature of the products covered by the agreements or practices also provides an indication of whether trade between EEA States is capable of being affected. When by their nature products are easily traded across borders or are important for undertakings that want to enter or expand their activities in other EEA States, EEA jurisdiction is more readily established than in cases where due to their nature there is limited demand for products offered by suppliers from other EEA States or where the products are of limited interest from the point of view of cross-border establishment or the expansion of the economic activity carried out from such place of establishment ([23]). Establishment includes the setting-up by undertakings in one EEA State of agencies, branches or subsidiaries in another EEA State.

31. The market position of the undertakings concerned and their sales volumes are indicative from a quantitative point of view of the ability of the agreement or practice concerned to affect trade between EEA States. This aspect, which forms an integral part of the assessment of appreciability, is addressed in section 2.4 below.

32. In addition to the factors already mentioned, it is necessary to take account of the legal and factual environment in which the agreement or practice operates. The relevant economic and legal context provides insight into the potential for an effect on trade between EEA States. If there are absolute barriers to cross-border trade between EEA States, which are external to the agreement or practice, trade is only capable of being affected if those barriers are likely to disappear in the foreseeable future. In cases where the barriers are not absolute but merely render cross-border activities more difficult, it is of the utmost importance to ensure that agreements and practices do not further hinder such activities. Agreements and practices that do so are capable of affecting trade between EEA States.

2.3.2. *An influence on the 'pattern of trade' between EEA States*

33. For Articles 53 and 54 to be applicable there must be an influence on the '*pattern of trade*' between EEA States.

34. The term '*pattern of trade*' is neutral. It is not a condition that trade be restricted or reduced ([24]). Patterns of trade can also be affected when an agreement or practice causes an increase in trade. Indeed, EEA law jurisdiction is established if trade between EEA States is likely to develop differently with the agreement or practice compared to the way in which it would probably have developed in the absence of the agreement or practice ([25]).

([21]) See e.g. Case C-250/92, Gøttrup-Klim. [1994] ECR II-5641, paragraph 54.

([22]) See e.g. Case C-306/96, Javico, [1998] ECR I-1983, paragraph 17, and paragraph 18 of the judgment in Béguelin cited in footnote 7.

([23]) Compare in this respect the judgments in Bagnasco and Wouters cited in footnote 14.

([24]) See e.g. Case T-141/89, Tréfileurope, [1995] ECR II-791, Case T-29/92, Vereniging van Samenwerkende Prijsregelende Organisaties in de Bouwnijverheid *(SPO)*, [1995] ECR II-289, as far as exports were concerned, and Commission Decision in Volkswagen (II), OJ L 262, 2.10.2001, p. 14.

([25]) See in this respect Case 71/74, Frubo, [1975] ECR 563, paragraph 38, Joined Cases 209/78 and others, Van Landewyck, [1980] ECR 3125, paragraph 172, Case T-61/89, Dansk Pelsdyravler Forening, [1992] ECR II-1931, paragraph 143, and Case T-65/89, BPB Industries and British Gypsum, [1993] ECR II-389, paragraph 135.

35. This interpretation reflects the fact that the effect on trade criterion is a jurisdictional one, which serves to distinguish those agreements and practices which are capable of having cross-border effects, so as to warrant an examination under the EEA competition rules, from those agreements and practices which do not.

2.3.3. *A 'direct or indirect, actual or potential influence' on the pattern of trade*

36. The influence of agreements and practices on patterns of trade between EEA States can be '*direct or indirect, actual or potential*'.

37. Direct effects on trade between EEA States normally occur in relation to the products covered by an agreement or practice. When, for example, producers of a particular product in different EEA States agree to share markets, direct effects are produced on trade between EEA States on the market for the products in question. Another example of direct effects being produced is when a supplier limits distributor rebates to products sold within the EEA State in which the distributors are established. Such practices increase the relative price of products destined for exports, rendering export sales less attractive and less competitive.

38. Indirect effects often occur in relation to products that are related to those covered by an agreement or practice. Indirect effects may, for example, occur where an agreement or practice has an impact on cross-border economic activities of undertakings that use or otherwise rely on the products covered by the agreement or practice ([26]). Such effects can, for instance, arise where the agreement or practice relates to an intermediate product, which is not traded, but which is used in the supply of a final product, which is traded. The Court of Justice of the European Communities has held under the corresponding Article 81 of the EC Treaty that trade between EC Member States was capable of being affected in the case of an agreement involving the fixing of prices of spirits used in the production of cognac ([27]). Whereas the raw material was not exported, the final product — cognac — was exported. In such cases EEA competition law is thus applicable, if trade in the final product is capable of being appreciably affected.

39. Indirect effects on trade between EEA States may also occur in relation to the products covered by the agreement or practice. For instance, agreements whereby a manufacturer limits warranties to products sold by distributors within their EEA State of establishment create disincentives for consumers from other EEA States to buy the products because they would not be able to invoke the warranty ([28]). Export by official distributors and parallel traders is made more difficult because in the eyes of consumers the products are less attractive without the manufacturer's warranty ([29]).

40. Actual effects on trade between EEA States are those that are produced by the agreement or practice once it is implemented. An agreement between a supplier and a distributor within the same EEA State, for instance one that prohibits exports to other EEA States, is likely to produce actual effects on trade between EEA States. Without the agreement the distributor would have been free to engage in export sales. It should be recalled, however, that it is not required that actual effects are demonstrated. It is sufficient that the agreement or practice be capable of having such effects.

41. Potential effects are those that may occur in the future with a sufficient degree of probability. In other words, foreseeable market developments must be taken into account ([30]). Even if trade is not capable of being affected at the time the agreement is concluded or the practice is implemented, Articles 53 and 54 remain applicable if the factors which led to that conclusion are likely to change

([26]) See in this respect Case T-86/95, Compagnie Générale Maritime and others, [2002] ECR II-1011, paragraph 148, and paragraph 202 of the judgment in Compagnie maritime belge cited in footnote 15.
([27]) See Case 123/83, BNIC v Clair, [1985] ECR 391, paragraph 29. See also EFTA Surveillance Authority Decision in NSF, paragraph 79, footnote 7.
([28]) See Commission Decision in Zanussi, OJ L 322, 16.11.1978, p. 36, paragraph 11.
([29]) See in this respect Case 31/85, ETA Fabrique d'Ebauches, [1985] ECR 3933, paragraphs 12 and 13.
([30]) See Joined Cases C-241/91 P and C-242/91 P, RTE (Magill), [1995] ECR I-743, paragraph 70, and Case 107/82, AEG, [1983] ECR 3151, paragraph 60.

in the foreseeable future. In this respect it is relevant to consider the impact of liberalisation measures taken into the EEA Agreement or adopted by the EEA State in question and other foreseeable measures aiming at eliminating legal barriers to trade.

42. Moreover, even if at a given point in time market conditions are unfavourable to cross-border trade, for example because prices are similar in the EEA States in question, trade may still be capable of being affected if the situation may change as a result of changing market conditions ([31]). What matters is the ability of the agreement or practice to affect trade between EEA States and not whether at any given point in time it actually does so.

43. The inclusion of indirect or potential effects in the analysis of effects on trade between EEA States does not mean that the analysis can be based on remote or hypothetical effects. The likelihood of a particular agreement to produce indirect or potential effects must be explained by the authority or party claiming that trade between EEA States is capable of being appreciably affected. Hypothetical or speculative effects are not sufficient for establishing EEA law jurisdiction. For instance, an agreement that raises the price of a product which is not tradable reduces the disposable income of consumers. As consumers have less money to spend they may purchase fewer products imported from other EEA States. However, the link between such income effects and trade between EEA States is generally in itself too remote to establish EEA law jurisdiction.

2.4. **The concept of appreciability**

2.4.1. *General principle*

44. The effect on trade criterion incorporates a quantitative element, limiting EEA law jurisdiction to agreements and practices that are capable of having effects of a certain magnitude. Agreements and practices fall outside the scope of application of Articles 53 and 54 when they affect the market only insignificantly having regard to the weak position of the undertakings concerned on the market for the products in question ([32]). Appreciability can be appraised in particular by reference to the position and the importance of the relevant undertakings on the market for the products concerned ([33]).

45. The assessment of appreciability depends on the circumstances of each individual case, in particular the nature of the agreement and practice, the nature of the products covered and the market position of the undertakings concerned. When by its very nature the agreement or practice is capable of affecting trade between EEA States, the appreciability threshold is lower than in the case of agreements and practices that are not by their very nature capable of affecting trade between EEA States. The stronger the market position of the undertakings concerned, the more likely it is that an agreement or practice capable of affecting trade between EEA States can be held to do so appreciably ([34]).

46. In a number of cases concerning imports and exports the Court of Justice of the European Communities has considered that the appreciability requirement was fulfilled when the sales of the undertakings concerned accounted for about 5 % of the market ([35]). Market share alone, however, has not always been considered the decisive factor. In particular, it is necessary also to take account of the turnover of the undertakings in the products concerned ([36]).

([31]) See paragraph 60 of the AEG judgment cited in the previous footnote.

([32]) See Case 5/69, Völk, [1969] ECR 295, paragraph 7.

([33]) See e.g. paragraph 17 of the judgment in Javico cited in footnote 22, and paragraph 138 of the judgment in BPB Industries and British Gypsum cited in footnote 25.

([34]) See paragraph 138 of the judgment in BPB Industries and British Gypsum cited in footnote 25.

([35]) See e.g. paragraphs 9 and 10 of the Miller judgment cited in footnote 20, and paragraph 58 of the AEG judgment cited in footnote 30.

([36]) See Joined Cases 100/80 and others, Musique Diffusion Française, [1983] ECR p. 1825, paragraph 86. In that case the products in question accounted for just above 3 % of sales on the national markets concerned. The Court of Justice of the European Communities held that the agreements, which hindered parallel trade, were capable of appreciably affecting trade between EC Member States due to the high turnover of the parties and the relative market position of the products, compared to those of products produced by competing suppliers.

47. Appreciability can thus be measured both in absolute terms (turnover) and in relative terms, comparing the position of the undertaking(s) concerned to that of other players on the market (market share). This focus on the position and importance of the undertakings concerned is consistent with the concept '*may affect*', which implies that the assessment is based on the ability of the agreement or practice to affect trade between EEA States rather than on the impact on actual flows of goods and services across borders. The market position of the undertakings concerned and their turnover in the products concerned are indicative of the ability of an agreement or practice to affect trade between EEA States. These two elements are reflected in the presumptions set out in paragraphs 52 and 53 below.

48. The application of the appreciability test does not necessarily require that relevant markets be defined and market shares calculated ([37]). The sales of an undertaking in absolute terms may be sufficient to support a finding that the impact on trade is appreciable. This is particularly so in the case of agreements and practices that by their very nature are liable to affect trade between EEA States, for example because they concern imports or exports or because they cover several EEA States. The fact that in such circumstances turnover in the products covered by the agreement may be sufficient for a finding of an appreciable effect on trade between EEA States is reflected in the positive presumption set out in paragraph 53 below.

49. Agreements and practices must always be considered in the economic and legal context in which they occur. In the case of vertical agreements it may be necessary to have regard to any cumulative effects of parallel networks of similar agreements ([38]). Even if a single agreement or network of agreements is not capable of appreciably affecting trade between EEA States, the effect of parallel networks of agreements, taken as a whole, may be capable of doing so. For that to be the case, however, it is necessary that the individual agreement or network of agreements makes a significant contribution to the overall effect on trade ([39]).

2.4.2. *Quantification of appreciability*

50. It is not possible to establish general quantitative rules covering all categories of agreements indicating when trade between EEA States is capable of being appreciably affected. It is possible, however, to indicate when trade is normally not capable of being appreciably affected. Firstly, in its notice on agreements of minor importance which do not appreciably restrict competition in the meaning of Article 53(1) of the EEA Agreement (the *de minimis* rule) ([40]), the EFTA Surveillance Authority has stated that agreements between small and medium-sized undertakings (SMEs), as defined in the Authority's Decision No 112/96/COL of 11 September 1996 ([41]), are normally not capable of affecting trade between EEA States. The reason for this presumption is the fact that the activities of SMEs are normally local or at most regional in nature. However, SMEs may be subject to EEA law jurisdiction in particular where they engage in cross-border economic activity. Secondly, the Authority considers it appropriate to set out general principles indicating when trade is normally not capable of being appreciably affected, i.e. a standard defining the absence of an appreciable effect on trade between EEA States (the NAAT-rule). When applying Article 53, the Authority will consider this standard as a negative rebuttable presumption applying to all agreements within the meaning of Article 53(1) irrespective of the nature of the restrictions contained in the agreement, including restrictions that have been identified as hardcore restrictions in acts corresponding to Commission block exemption regulations referred to in Annex XIV to the EEA Agreement. In cases where this presumption applies the Authority will normally not institute proceedings either upon application or on its own initiative. Where the undertakings assume in good faith that an agreement is covered by this negative presumption, the Authority will not impose fines.

([37]) See in this respect paragraphs 179 and 231 of the Volkswagen judgment cited in footnote 16, and Case T-213/00, CMA CGM and others, [2003] ECR I-, paragraphs 219 and 220.

([38]) See e.g. Case T-7/93, Langnese-Iglo, [1995] ECR II-1533, paragraph 120.

([39]) See paragraphs 140 and 141 of the judgment in Vereniging van Groothandelaren in Bloemkwekerijprodukten cited in footnote 8. See also the judgment in Hegelstad cited in footnote 20.

([40]) See EFTA Surveillance Authority Notice on agreements of minor importance, footnote 4, paragraph 3.

([41]) This decision referred to the definition of small and medium size enterprises laid down in the European Commission Recommendation 96/280/EC (OJ L 107, 30.4.1996, p. 4). With effect from 1.1.2005 this recommendation has been replaced by Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises, OJ L 124, 20.5.2003, p. 36, incorporated into the EEA Agreement by EEA Joint Committee Decision of 25 September 2004 No 131/2004 (OJ L 64, 10.3.2005, p. 67 and EEA Supplement to the OJ, 10.3.2005, p. 49).

51. Without prejudice to paragraph 53 below, this negative definition of appreciability does not imply that agreements, which do not fall within the criteria set out below, are automatically capable of appreciably affecting trade between EEA States. A case by case analysis is necessary.

52. The EFTA Surveillance Authority holds the view that in principle agreements are not capable of appreciably affecting trade between EEA States when the following cumulative conditions are met:

(a) The aggregate market share of the parties on any relevant market within the EEA affected by the agreement does not exceed 5 %, and

(b) In the case of horizontal agreements, the aggregate annual EEA turnover of the undertakings concerned ([42]) in the products covered by the agreement does not exceed 40 million Euro. In the case of agreements concerning the joint buying of products the relevant turnover shall be the parties' combined purchases of the products covered by the agreement.

In the case of vertical agreements, the aggregate annual EEA turnover of the supplier in the products covered by the agreement does not exceed 40 million Euro. In the case of licence agreements the relevant turnover shall be the aggregate turnover of the licensees in the products incorporating the licensed technology and the licensor's own turnover in such products. In cases involving agreements concluded between a buyer and several suppliers the relevant turnover shall be the buyer's combined purchases of the products covered by the agreements.

The Authority will apply the same presumption where during two successive calendar years the above turnover threshold is not exceeded by more than 10 % and the above market threshold is not exceeded by more than 2 percentage points. In cases where the agreement concerns an emerging not yet existing market and where as a consequence the parties neither generate relevant turnover nor accumulate any relevant market share, the Authority will not apply this presumption. In such cases appreciability may have to be assessed on the basis of the position of the parties on related product markets or their strength in technologies relating to the agreement.

53. The EFTA Surveillance Authority will also hold the view that where an agreement by its very nature is capable of affecting trade between EEA States, for example, because it concerns imports and exports or covers several EEA States, there is a rebuttable *positive* presumption that such effects on trade are appreciable when the turnover of the parties in the products covered by the agreement calculated as indicated in paragraphs 52 and 54 exceeds 40 million Euro. In the case of agreements that by their very nature are capable of affecting trade between EEA States it can also often be presumed that such effects are appreciable when the market share of the parties exceeds the 5 % threshold set out in the previous paragraph. However, this presumption does not apply where the agreement covers only part of an EEA State (see paragraph 90 below).

54. With regard to the threshold of 40 million Euro (cf. paragraph 52 above), the turnover is calculated on the basis of total EEA sales excluding tax during the previous financial year by the undertakings concerned, of the products covered by the agreement (the contract products). Sales between entities that form part of the same undertaking are excluded ([43]).

55. In order to apply the market share threshold, it is necessary to determine the relevant market ([44]). This consists of the relevant product market and the relevant geographic market. The market shares are to be calculated on the basis of sales value data or, where appropriate, purchase value data. If value data are not available, estimates based on other reliable market information, including volume data, may be used.

56. In the case of networks of agreements entered into by the same supplier with different distributors, sales made through the entire network are taken into account.

([42]) The term '*undertakings concerned*' shall include connected undertakings as defined in paragraph 12.2 of the EFTA Surveillance Authority Notice on agreements of minor importance, see footnote 4 above.

([43]) See the previous footnote.

([44]) When defining the relevant market, reference should be had to the notice on the definition of the relevant market for the purpose of competition law within the EEA (OJ L 200, 16.7.1998, p. 48 and EEA Supplement to the OJ No 28, 16.7.1998, p. 3).

57. Contracts that form part of the same overall business arrangement constitute a single agreement for the purposes of the NAAT-rule ([45]). Undertakings cannot bring themselves inside these thresholds by dividing up an agreement that forms a whole from an economic perspective.

3. THE APPLICATION OF THE ABOVE PRINCIPLES TO COMMON TYPES OF AGREEMENTS AND ABUSES

58. The EFTA Surveillance Authority will apply the negative presumption set out in the preceding section to all agreements, including agreements that by their very nature are capable of affecting trade between EEA States as well as agreements that involve trade with undertakings located in third countries (cf. section 3.3 below).

59. Outside the scope of negative presumption, the EFTA Surveillance Authority will take account of qualitative elements relating to the nature of the agreement or practice and the nature of the products that they concern (see paragraphs 29 and 30 above). The relevance of the nature of the agreement is also reflected in the positive presumption set out in paragraph 53 above relating to appreciability in the case of agreements that by their very nature are capable of affecting trade between EEA States. With a view to providing additional guidance on the application of the effect on trade concept it is therefore useful to consider various common types of agreements and practices.

60. In the following sections a primary distinction is drawn between agreements and practices that cover several EEA States and agreements and practices that are confined to a single EEA State or to part of a single EEA State. These two main categories are broken down into further subcategories based on the nature of the agreement or practice involved. Agreements and practices involving third countries are also dealt with.

3.1. Agreements and abuse covering or implemented in several EEA States

61. Agreements and practices covering or implemented in several EEA States are in almost all cases by their very nature capable of affecting trade between EEA States. When the relevant turnover exceeds the threshold set out in paragraph 53 above it will therefore in most cases not be necessary to conduct a detailed analysis of whether trade between EEA States is capable of being affected. However, in order to provide guidance also in these cases and to illustrate the principles developed in section 2 above, it is useful to explain what are the factors that are normally used to support a finding of EEA law jurisdiction.

3.1.1. *Agreements concerning imports and exports*

62. Agreements between undertakings in two or more EEA States that concern imports and exports are by their very nature capable of affecting trade between EEA States. Such agreements, irrespective of whether they are restrictive of competition or not, have a direct impact on patterns of trade between EEA States. In Kerpen & Kerpen, for example, which concerned an agreement between a French producer and a German distributor covering more than 10 % of exports of cement from France to Germany, amounting in total to 350,000 tonnes per year, the Court of Justice of the European Communities held that it was impossible to take the view that such an agreement was not capable of (appreciably) affecting trade between EC Member States ([46]).

63. This category includes agreements that impose restrictions on imports and exports, including restrictions on active and passive sales and resale by buyers to customers in other EEA States ([47]). In these cases there is an inherent link between the alleged restriction of competition and the effect on trade,

([45]) See also paragraph 14 above.

([46]) See paragraph 8 of the judgment in Kerpen & Kerpen cited in footnote 18. It should be noted that the Court of Justice of the European Communities does not refer to market share but to the share of French exports and to the product volumes involved.

([47]) See e.g. the judgment in Volkswagen cited in footnote 16 and Case T-175/95, BASF Coatings, [1999] ECR II-1581. For a horizontal agreement to prevent parallel trade see Joined Cases 96/82 and others, IAZ International, [1983] ECR 3369, paragraph 27.

since the very purpose of the restriction is to prevent flows of goods and services between EEA States, which would otherwise be possible. It is immaterial whether the parties to the agreement are located in the same EEA State or in different EEA States.

3.1.2. *Cartels covering several EEA States*

64. Cartel agreements such as those involving price fixing and market sharing covering several EEA States are by their very nature capable of affecting trade between EEA States. Cross-border cartels harmonise the conditions of competition and affect the interpenetration of trade by cementing traditional patterns of trade ([48]). When undertakings agree to allocate geographic territories, sales from other areas into the allocated territories are capable of being eliminated or reduced. When undertakings agree to fix prices, they eliminate competition and any resulting price differentials that would entice both competitors and customers to engage in cross-border trade. When undertakings agree on sales quotas traditional patterns of trade are preserved. The undertakings concerned abstain from expanding output and thereby from serving potential customers in other EEA States.

65. The effect on trade produced by cross-border cartels is generally also by its very nature appreciable due to the market position of the parties to the cartel. Cartels are normally only formed when the participating undertakings together hold a large share of the market, as this allows them to raise price or reduce output.

3.1.3. *Horizontal cooperation agreements covering several EEA States*

66. This section covers various types of horizontal cooperation agreements. Horizontal cooperation agreements may for instance take the form of agreements whereby two or more undertakings cooperate in the performance of a particular economic activity such as production and distribution ([49]). Often such agreements are referred to as joint ventures. However, joint ventures that perform on a lasting basis all the functions of an autonomous economic entity are covered by the Merger Regulation ([50]). At the level of the EEA such full function joint ventures are not dealt with under Articles 53 and 54 of the EEA Agreement except in cases where Article 2(4) of the Merger Regulation is applicable ([51]). This section therefore does not deal with full-function joint ventures. In the case of non-full function joint ventures the joint entity does not operate as an autonomous supplier (or buyer) on any market. It merely serves the parents, who themselves operate on the market ([52]).

67. Joint ventures which engage in activities in two or more EEA States or which produce an output that is sold by the parents in two or more EEA States affect the commercial activities of the parties in those areas of the EEA. Such agreements are therefore normally by their very nature capable of affecting trade between EEA States compared to the situation without the agreement ([53]). Patterns of trade are affected when undertakings switch their activities to the joint venture or use it for the purpose of establishing a new source of supply in the EEA.

([48]) See e.g. Case T-142/89, Usines Gustave Boël, [1995] ECR II-867, paragraph 102.

([49]) Horizontal cooperation agreements are dealt with in the EFTA Surveillance Authority Notice on Guidelines on the applicability of Article 53 of the EEA Agreement to horizontal cooperation agreements (OJ C 266, 31.10.2002, p. 1 and EEA Supplement to the OJ No 55, 31.10.2002, p. 1). Those guidelines deal with the substantive competition assessment of various types of agreements but do not deal with the effect on trade issue.

([50]) See the act referred to in point 1 of Annex XIV to the EEA Agreement (Regulation (EEC) No 139/2004) on the control of concentrations between undertakings (the EC Merger Regulation), OJ, L 24, 29.1.2004, p.1 (as incorporated into the EEA Agreement by EEA Joint Committee Decision No 78/2004 of 4 June 2004, OJ L 219, 19.6.2004, p. 13 and EEA Supplement to the OJ No 32, 19.6.2004, p. 1).

([51]) The Commission has issued a Notice on the concept of full-function joint ventures under the Merger Regulation, OJ C 66, 2.3.1998, p. 1, which gives guidance on the scope of this concept. The EFTA Surveillance Authority has so far not adopted any notices in the field of concentrations. However, the Authority applies the principles set out in the Commission merger notices whenever relevant.

([52]) See e.g. the Commission Decision in Ford/Volkswagen, OJ L 20, 28.1.1993, p. 14.

([53]) See in this respect paragraph 146 of the Compagnie Générale Maritime judgment cited in footnote 26 above.

68. Trade may also be capable of being affected where a joint venture produces an input for the parent companies, which is subsequently further processed or incorporated into a product by the parent undertakings. This is likely to be the case where the input in question was previously sourced from suppliers in other EEA States, where the parents previously produced the input in other EEA States or where the final product is traded in more than one EEA State.

69. In the assessment of appreciability it is important to take account of the parents' sales of products related to the agreement and not only those of the joint entity created by the agreement, given that the joint venture does not operate as an autonomous entity on any market.

3.1.4. *Vertical agreements implemented in several EEA States*

70. Vertical agreements and networks of similar vertical agreements implemented in several EEA States are normally capable of affecting trade between EEA States if they cause trade to be channelled in a particular way. Networks of selective distribution agreements implemented in two or more EEA States for example, channel trade in a particular way because they limit trade to members of the network, thereby affecting patterns of trade compared to the situation without the agreement ([54]).

71. Trade between EEA States is also capable of being affected by vertical agreements that have foreclosure effects. This may for instance be the case of agreements whereby distributors in several EEA States agree to buy only from a particular supplier or to sell only its products. Such agreements may limit trade between the EEA States in which the agreements are implemented, or trade from EEA States not covered by the agreements. Foreclosure may result from individual agreements or from networks of agreements. When an agreement or networks of agreements that cover several EEA States have foreclosure effects, the ability of the agreement or agreements to affect trade between EEA States is normally by its very nature appreciable.

72. Agreements between suppliers and distributors which provide for resale price maintenance (RPM) and which cover two or more EEA States are normally also by their very nature capable of affecting trade between EEA States ([55]). Such agreements alter the price levels that would have been likely to exist in the absence of the agreements and thereby affect patterns of trade.

3.1.5. *Abuses of dominant positions covering several EEA States*

73. In the case of abuse of a dominant position it is useful to distinguish between abuses that raise barriers to entry or eliminate competitors (exclusionary abuses) and abuses whereby the dominant undertaking exploits its economic power for instance by charging excessive or discriminatory prices (exploitative abuses). Both kinds of abuse may be carried out either through agreements, which are equally subject to Article 53(1), or through unilateral conduct, which as far as EEA competition law is concerned is subject only to Article 54.

74. In the case of exploitative abuses such as discriminatory rebates, the impact is on downstream trading partners, which either benefit or suffer, altering their competitive position and affecting patterns of trade between EEA States.

75. When a dominant undertaking engages in exclusionary conduct in more than one EEA State, such abuse is normally by its very nature capable of affecting trade between EEA States. Such conduct has a negative impact on competition in an area extending beyond a single EEA State, being likely to divert trade from the course it would have followed in the absence of the abuse. For example, patterns of trade are capable of being affected where the dominant undertaking grants loyalty rebates. Customers covered by the exclusionary rebate system are likely to purchase less from competitors of the dominant firm than they would otherwise have done. Exclusionary conduct that aims directly at eliminating a competitor such as predatory pricing is also capable of affecting trade

([54]) See in this respect Joined Cases 43/82 and 63/82, VBVB and VBBB, [1984] ECR 19, paragraph 9.
([55]) See in this respect Case T-66/89, Publishers Association, [1992] ECR II-1995.

between EEA States because of its impact on the competitive market structure inside the EEA ([56]). When a dominant firm engages in behaviour with a view to eliminating a competitor operating in more than one EEA State, trade is capable of being affected in several ways. First, there is a risk that the affected competitor will cease to be a source of supply inside the EEA. Even if the targeted undertaking is not eliminated, its future competitive conduct is likely to be affected, which may also have an impact on trade between EEA States. Secondly, the abuse may have an impact on other competitors. Through its abusive behaviour the dominant undertaking can signal to its competitors that it will discipline attempts to engage in real competition. Thirdly, the very fact of eliminating a competitor may be sufficient for trade between EEA States to be capable of being affected. This may be the case even where the undertaking that risks being eliminated mainly engages in exports to third countries ([57]). Once the effective competitive market structure inside the EEA risks being further impaired, there is EEA law jurisdiction.

76. Where a dominant undertaking engages in exploitative or exclusionary abuse in more than one EEA State, the capacity of the abuse to affect trade between EEA States will normally also by its very nature be appreciable. Given the market position of the dominant undertaking concerned, and the fact that the abuse is implemented in several EEA States, the scale of the abuse and its likely impact on patterns of trade is normally such that trade between EEA States is capable of being appreciably affected. In the case of an exploitative abuse such as price discrimination, the abuse alters the competitive position of trading partners in several EEA States. In the case of exclusionary abuses, including abuses that aim at eliminating a competitor, the economic activity engaged in by competitors in several EEA States is affected. The very existence of a dominant position in several EEA States implies that competition in a substantial part of the common market is already weakened ([58]). When a dominant undertaking further weakens competition through recourse to abusive conduct, for example by eliminating a competitor, the ability of the abuse to affect trade between EEA States is normally appreciable.

3.2. **Agreements and abuses covering a single, or only part of an, EEA State**

77. When agreements or abusive practices cover the territory of a single EEA State, it may be necessary to proceed with a more detailed inquiry into the ability of the agreements or abusive practices to affect trade between EEA States. It should be recalled that for there to be an effect on trade between EEA States it is not required that trade is reduced. It is sufficient that an appreciable change is capable of being caused in the pattern of trade between EEA States. Nevertheless, in many cases involving a single EEA State the nature of the alleged infringement, and in particular, its propensity to foreclose the national market, provides a good indication of the capacity of the agreement or practice to affect trade between EEA States. The examples mentioned hereafter are not exhaustive. They merely provide examples of cases where agreements confined to the territory of a single EEA State can be considered capable of affecting trade between EEA States.

3.2.1. *Cartels covering a single EEA State*

78. Horizontal cartels covering the whole of an EEA State are normally capable of affecting trade between EEA States. The Community Courts have held in a number of cases that agreements extending over the whole territory of an EC Member State by their very nature have the effect of reinforcing the partitioning of markets on a national basis by hindering the economic penetration which the EC Treaty is designed to bring about ([59]).

([56]) See in this respect the judgment in Commercial Solvents cited in footnote 6, in the judgment in Hoffmann-La Roche, cited in footnote 12, paragraph 125, and in RTE and ITP cited in footnote 30, as well as Case 6/72, Continental Can, [1973] ECR 215, paragraph 16, and Case 27/76, United Brands, [1978] ECR 207, paragraphs 197 to 203.

([57]) See paragraphs 32 and 33 of the judgment in Commercial Solvents cited in footnote 7.

([58]) According to settled case law dominance is a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to act to an appreciable extent independently of its competitors, its customers and ultimately of the consumers, see e.g. paragraph 38 of the judgment in Hoffmann-La Roche cited in footnote 12.

([59]) See for a recent example paragraph 95 of the Wouters judgment cited in footnote 14.

79. The capacity of such agreements to partition the internal market follows from the fact that undertakings participating in cartels in only one EEA State, normally need to take action to exclude competitors from other EEA States ([60]). If they do not, and the product covered by the agreement is tradable ([61]), the cartel risks being undermined by competition from undertakings from other EEA States. Such agreements are normally also by their very nature capable of having an appreciable effect on trade between EEA States, given the market coverage required for such cartels to be effective.

80. Given the fact that the effect on trade concept encompasses potential effects, it is not decisive whether such action against competitors from other EEA States is in fact adopted at any given point in time. If the cartel price is similar to the price prevailing in other EEA States, there may be no immediate need for the members of the cartel to take action against competitors from other EEA States. What matters is whether or not they are likely to do so, if market conditions change. The likelihood of that depends on the existence or otherwise of natural barriers to trade in the market, including in particular whether or not the product in question is tradable. In a case involving certain retail banking services ([62]) the Court of Justice of the European Communities has, for example, held that trade was not capable of being appreciably affected because the potential for trade in the specific products concerned was very limited and because they were not an important factor in the choice made by undertakings from other EC Member States regarding whether or not to establish themselves in the EC Member State in question ([63]).

81. The extent to which the members of a cartel monitor prices and competitors from other EEA States can provide an indication of the extent to which the products covered by the cartel are tradable. Monitoring suggests that competition and competitors from other EEA States are perceived as a potential threat to the cartel. Moreover, if there is evidence that the members of the cartel have deliberately fixed the price level in the light of the price level prevailing in other EEA States (limit pricing), it is an indication that the products in question are tradable and that trade between EEA States is capable of being affected.

82. Trade is normally also capable of being affected when the members of a national cartel temper the competitive constraint imposed by competitors from other EEA States by inducing them to join the restrictive agreement, or if their exclusion from the agreement places the competitors at a competitive disadvantage ([64]). In such cases the agreement either prevents these competitors from exploiting any competitive advantage that they have, or raises their costs, thereby having a negative impact on their competitiveness and their sales. In both cases the agreement hampers the operations of competitors from other EEA States on the national market in question. The same is true when a cartel agreement confined to a single EEA State is concluded between undertakings that resell products imported from other EEA States ([65]).

3.2.2. *Horizontal cooperation agreements covering a single EEA State*

83. Horizontal cooperation agreements and in particular non-full function joint ventures (cf. paragraph 66 above), which are confined to a single EEA State and which do not directly relate to imports and exports, do not belong to the category of agreements that by their very nature are capable of affecting trade between EEA States. A careful examination of the capacity of the individual agreement to affect trade between EEA States may therefore be required.

84. Horizontal cooperation agreements may, in particular, be capable of affecting trade between EEA States where they have foreclosure effects. This may be the case with agreements that establish sector-wide standardisation and certification regimes, which either exclude undertakings from other

([60]) See e.g. Case 246/86, Belasco, [1989] ECR 2117, paragraph 32-38.

([61]) See paragraph 34 of the Belasco judgment cited in the previous footnote and more recently Joined Cases T-202/98 a.o., British Sugar, [2001] ECR II-2035, paragraph 79. On the other hand this is not so when the market is not susceptible to imports, see paragraph 51 of the Bagnasco judgment cited in footnote 14.

([62]) Guarantees for current account credit facilities.

([63]) See paragraph 51 of the Bagnasco judgment cited in footnote 14.

([64]) See in this respect Case 45/85, Verband der Sachversicherer, [1987] ECR 405, paragraph 50, and Case C-7/95 P, John Deere, [1998] ECR I-3111. See also paragraph 172 of the judgment in Van Landewyck cited in footnote 25, where the Court of Justice of the European Communities stressed that the agreement in question reduced appreciably the incentive to sell imported products.

([65]) See e.g. the judgment in Stichting Sigarettenindustrie, cited in footnote 18, paragraphs 49 and 50.

EEA States or which are more easily fulfilled by undertakings from the EEA State in question due to the fact that they are based on national rules and traditions. In such circumstances the agreements make it more difficult for undertakings from other EEA States to penetrate the national market.

85. Trade may also be affected where a joint venture results in undertakings from other EEA States being cut off from an important channel of distribution or source of demand. If, for example, two or more distributors established within the same EEA State, and which account for a substantial share of imports of the products in question, establish a purchasing joint venture combining their purchases of that product, the resulting reduction in the number of distribution channels limits the possibility for suppliers from other EEA States of gaining access to the national market in question. Trade is therefore capable of being affected ([66]). Trade may also be affected where undertakings which previously imported a particular product form a joint venture which is entrusted with the production of that same product. In this case the agreement causes a change in the patterns of trade between EEA States compared to the situation before the agreement.

3.2.3. *Vertical agreements covering a single EEA State*

86. Vertical agreements covering the whole of an EEA State may, in particular, be capable of affecting patterns of trade between EEA States when they make it more difficult for undertakings from other EEA States to penetrate the national market in question, either by means of exports or by means of establishment (foreclosure effect). When vertical agreements give rise to such foreclosure effects, they contribute to the partitioning of markets on a national basis, thereby hindering the economic interpenetration which the EEA Agreement is designed to bring about ([67]).

87. Foreclosure may, for example, occur when suppliers impose exclusive purchasing obligations on buyers ([68]). In Delimitis ([69]), which concerned agreements between a brewer and owners of premises where beer was consumed whereby the latter undertook to buy beer exclusively from the brewer, the Court of Justice of the European Communities defined foreclosure as the absence, due to the agreements, of real and concrete possibilities of gaining access to the market. Agreements normally only create significant barriers to entry when they cover a significant proportion of the market. Market share and market coverage can be used as an indicator in this respect. In making the assessment account must be taken not only of the particular agreement or network of agreements in question, but also of other parallel networks of agreements having similar effects ([70]).

88. Vertical agreements which cover the whole of an EEA State and which relate to tradable products may also be capable of affecting trade between EEA States, even if they do not create direct obstacles to trade. Agreements whereby undertakings engage in resale price maintenance (RPM) may have direct effects on trade between EEA States by increasing imports from other EEA States and by decreasing exports from the EEA State in question ([71]). Agreements involving RPM may also affect patterns of trade in much the same way as horizontal cartels. To the extent that the price resulting from RPM is higher than that prevailing in other EEA States this price level is only sustainable if imports from other EEA States can be controlled.

3.2.4. *Agreements covering only part of an EEA State*

89. In qualitative terms the assessment of agreements covering only part of an EEA State is approached in the same way as in the case of agreements covering the whole of an EEA State. This means that the analysis in section 2 applies. In the assessment of appreciability, however, the two categories must be distinguished, as it must be taken into account that only part of an EEA State is covered by the agreement. It must also be taken into account what proportion of the national territory is

([66]) See in this respect Case T-22/97, Kesko, [1999] ECR II-3775, paragraph 109.
([67]) See e.g. Case T-65/98, Van den Bergh Foods, [2003] ECR II-, and the judgment in Langnese-Iglo, cited in footnote 38 paragraph 120.
([68]) See e.g. judgment of 7.12.2000, Case C-214/99, Neste, [2000] ECR I-11121.
([69]) See judgment of 28.2.1991, Case C-234/89, Delimitis, [1991] ECR I-935.
([70]) See paragraph 120 of the Langnese-Iglo judgment cited in footnote 38. See also the judgment in Hegelstad cited in footnote 20.
([71]) See e.g. Commission Decision in Volkswagen (II), cited in footnote 24, paragraphs 81 *et seq*.

susceptible to trade. If, for example, transport costs or the operating radius of equipment render it economically unviable for undertakings from other EEA States to serve the entire territory of another EEA State, trade is capable of being affected if the agreement forecloses access to the part of the territory of an EEA State that is susceptible to trade, provided that this part is not insignificant ([72]).

90. Where an agreement forecloses access to a regional market, then for trade to be appreciably affected, the volume of sales affected must be significant in proportion to the overall volume of sales of the products concerned inside the EEA State in question. This assessment cannot be based merely on geographic coverage. The market share of the parties to the agreement must also be given fairly limited weight. Even if the parties have a high market share in a properly defined regional market, the size of that market in terms of volume may still be insignificant when compared to total sales of the products concerned within the EEA State in question. In general, the best indicator of the capacity of the agreement to (appreciably) affect trade between EEA States is therefore considered to be the share of the national market in terms of volume that is being foreclosed. Agreements covering areas with a high concentration of demand will thus weigh more heavily than those covering areas where demand is less concentrated. For EEA jurisdiction to be established the share of the national market that is being foreclosed must be significant.

91. Agreements that are local in nature are in themselves not capable of appreciably affecting trade between EEA States. This is the case even if the local market is located in a border region. Conversely, if the foreclosed share of the national market is significant, trade is capable of being affected even where the market in question is not located in a border region.

92. In cases in this category some guidance may be derived from the case law concerning the concept in the corresponding Article 82 of the EC Treaty of a substantial part of the common market ([73]). Agreements that, for example, have the effect of hindering competitors from other EEA States from gaining access to part of an EEA State, which constitutes a substantial part of the EEA, should be considered to have an appreciable effect on trade between EEA States.

3.2.5. *Abuses of dominant positions covering a single EEA State*

93. Where an undertaking, which holds a dominant position covering the whole of an EEA State engages in exclusionary abuses, trade between EEA States is normally capable of being affected. Such abusive conduct will generally make it more difficult for competitors from other EEA States to penetrate the market, in which case patterns of trade are capable of being affected ([74]). In Michelin ([75]), for example, the Court of Justice of the European Communities held that a system of loyalty rebates foreclosed competitors from other EC Member States and therefore affected trade within the meaning of Article 82 of the EC Treaty. In Rennet ([76]) the Court of Justice similarly held that an abuse in the form of an exclusive purchasing obligation on customers foreclosed products from other EC Member States.

94. Exclusionary abuses that affect the competitive market structure inside an EEA State, for instance by eliminating or threatening to eliminate a competitor, may also be capable of affecting trade between EEA States. Where the undertaking that risks being eliminated only operates in a single EEA State, the abuse will normally not affect trade between EEA States. However, trade between EEA States is capable of being affected where the targeted undertaking exports to or imports from other EEA States ([77]) and where it also operates in other EEA States ([78]). An effect on trade may arise from the dissuasive impact of the abuse on other competitors. If through repeated conduct the dominant

([72]) See in this respect paragraphs 177 to 181 of the judgment in SCK and FNK cited in footnote 16.
([73]) See as to this notion the judgment in Ambulanz Glöckner, cited in footnote 14, paragraph 38, and Case C-179/90, Merci convenzionali porto di Genova, [1991] ECR I-5889, and Case C-242/95, GT-Link, [1997] ECR I-4449.
([74]) See e.g. paragraph 135 of the judgment in BPB Industries and British Gypsum cited in footnote 25.
([75]) See Case 322/81, Nederlandse Banden Industrie Michelin, [1983] ECR 3461
([76]) See Case 61/80, Coöperative Stremsel- en Kleurselfabriek, [1981] ECR 851, paragraph 15.
([77]) See in this respect judgment in Irish Sugar, cited in footnote 20 paragraph 169.
([78]) See paragraph 70 of the judgment in RTE (Magill) cited in footnote 30.

undertaking has acquired a reputation for adopting exclusionary practices towards competitors that attempt to engage in direct competition, competitors from other EEA States are likely to compete less aggressively, in which case trade may be affected, even if the victim in the case at hand is not from another EEA State.

95. In the case of exploitative abuses such as price discrimination and excessive pricing, the situation may be more complex. Price discrimination between domestic customers will normally not affect trade between EEA States. However, it may do so if the buyers are engaged in export activities and are disadvantaged by the discriminatory pricing or if this practice is used to prevent imports ([79]). Practices consisting of offering lower prices to customers that are the most likely to import products from other EEA States may make it more difficult for competitors from other EEA States to enter the market. In such cases trade between EEA States is capable of being affected.

96. As long as an undertaking has a dominant position which covers the whole of an EEA State it is normally immaterial whether the specific abuse engaged in by the dominant undertaking only covers part of its territory or affects certain buyers within the national territory. A dominant firm can significantly impede trade by engaging in abusive conduct in the areas or vis-à-vis the customers that are the most likely to be targeted by competitors from other EEA States. For example, it may be the case that a particular channel of distribution constitutes a particularly important means of gaining access to broad categories of consumers. Hindering access to such channels can have a substantial impact on trade between EEA States. In the assessment of appreciability it must also be taken into account that the very presence of the dominant undertaking covering the whole of a EEA State is likely to make market penetration more difficult. Any abuse which makes it more difficult to enter the national market should therefore be considered to appreciably affect trade. The combination of the market position of the dominant undertaking and the anti-competitive nature of its conduct implies that such abuses have normally by their very nature an appreciable effect on trade. However, if the abuse is purely local in nature or involves only an insignificant share of the sales of the dominant undertaking within the EEA State in question, trade may not be capable of being appreciably affected.

3.2.6. *Abuse of a dominant position covering only part of an EEA State*

97. Where a dominant position covers only part of an EEA State some guidance may, as in the case of agreements, be derived from the condition in Article 54 that the dominant position must cover a substantial part of the EEA. If the dominant position covers part of an EEA State that constitutes a substantial part of the EEA and the abuse makes it more difficult for competitors from other EEA States to gain access to the market where the undertaking is dominant, trade between EEA States must normally be considered capable of being appreciably affected.

98. In the application of this criterion regard must be had in particular to the size of the market in question in terms of volume. Regions and even a port or an airport situated in an EEA State may, depending on their importance, constitute a substantial part of the EEA ([80]). In the latter cases it must be taken into account whether the infrastructure in question is used to provide cross-border services and, if so, to what extent. When infrastructures such as airports and ports are important in providing cross-border services, trade between EEA States is capable of being affected.

99. As in the case of dominant positions covering the whole of an EEA State (cf. paragraph 95 above), trade may not be capable of being appreciably affected if the abuse is purely local in nature or involves only an insignificant share of the sales of the dominant undertaking.

([79]) See the judgment in Irish Sugar cited in footnote 20.
([80]) See e.g. the case law cited in footnote 73.

3.3. Agreements and abuses involving imports and exports with undertakings located in third countries, and agreements and practices involving undertakings located in third countries

3.3.1. *General remarks*

100. Articles 53 and 54 of the EEA Agreement apply to agreements and practices that are capable of affecting trade between EEA States even if one or more of the parties are located outside the EEA ([81]). Articles 53 and 54 apply irrespective of where the undertakings are located or where the agreement has been concluded, provided that the agreement or practice is either implemented inside the EEA ([82]), or produce effects inside the EEA ([83]). Articles 53 and 54 may also apply to agreements and practices that cover third countries, provided that they are capable of affecting trade between EEA States. The general principle set out in section 2 above according to which the agreement or practice must be capable of having an appreciable influence, direct or indirect, actual or potential, on the pattern of trade between EEA States, also applies in the case of agreements and abuses which involve undertakings located in third countries or which relate to imports or exports with third countries.

101. For the purposes of establishing EEA law jurisdiction it is sufficient that an agreement or practice involving third countries or undertakings located in third countries is capable of affecting cross-border economic activity inside the EEA. Import into one EEA State may be sufficient to trigger effects of this nature. Imports can affect the conditions of competition in the importing EEA State, which in turn can have an impact on exports and imports of competing products to and from other EEA States. In other words, imports from third countries resulting from the agreement or practice may cause a diversion of trade between EEA States, thus affecting patterns of trade.

102. In the application of the effect on trade criterion to the above mentioned agreements and practices it is relevant to examine, *inter alia*, what is the object of the agreement or practice as indicated by its content or the underlying intent of the undertakings involved ([84]).

103. Where the object of the agreement is to restrict competition inside the EEA the requisite effect on trade between EEA States is more readily established than where the object is predominantly to regulate competition outside the EEA. Indeed in the former case the agreement or practice has a direct impact on competition inside the EEA and trade between EEA States. Such agreements and practices, which may concern both imports and exports, are normally by their very nature capable of affecting trade between EEA States.

3.3.2. *Arrangements that have as their object the restriction of competition inside the EEA*

104. In the case of imports, this category includes agreements that bring about an isolation of the territory covered by the EEA Agreement ([85]). This is, for instance, the case of agreements whereby competitors in the EEA and in third countries share markets, e.g. by agreeing not to sell in each other's home markets or by concluding reciprocal (exclusive) distribution agreements ([86]).

105. In the case of exports, this category includes cases where undertakings that compete in two or more EEA States agree to export certain (surplus) quantities to third countries with a view to co-ordinating their market conduct inside the EEA. Such export agreements serve to reduce price competition by limiting output inside the EEA, thereby affecting trade between EEA States. Without the export agreement these quantities might have been sold inside the EEA ([87]).

([81]) See in this respect Case 28/77, Tepea, [1978] ECR 1391, paragraph 48, and paragraph 16 of the judgment in Continental Can cited in footnote 56.
([82]) See Joined Cases C-89/85 and others, Ahlström Osakeyhtiö (Woodpulp), [1988] ECR 651, paragraph 16.
([83]) See in this respect Case T-102/96, Gencor, [1999] ECR II-753, which applies the effects test in the field of mergers.
([84]) See to that effect paragraph 19 of the judgment in Javico cited in footnote 22.
([85]) See in this respect Case 51/75, EMI v CBS, [1976] ECR 811, paragraphs 28 and 29.
([86]) See Commission Decision in Siemens/Fanuc, OJ L 376, 31.12.1985, p. 29.
([87]) See in this respect Joined Cases 29/83 and 30/83, CRAM and Rheinzinc, [1984] ECR 1679, and Joined Cases 40/73 and others, Suiker Unie, [1975] ECR 1663, paragraphs 564 and 580.

3.3.3. *Other arrangements*

106. In the case of agreements and practices whose object is not to restrict competition inside the EEA, it is normally necessary to proceed with a more detailed analysis of whether or not cross-border economic activity inside the EEA, and thus patterns of trade between EEA States, are capable of being affected.

107. In this regard it is relevant to examine the effects of the agreement or practice on customers and other operators inside the EEA that rely on the products of the undertakings that are parties to the agreement or practice ([88]). In Compagnie maritime belge ([89]), which concerned agreements between shipping companies operating between Community ports and West African ports, the agreements were held to be capable of indirectly affecting trade between EC Member States because they altered the catchment areas of the Community ports covered by the agreements and because they affected the activities of other undertakings inside those areas. More specifically, the agreements affected the activities of undertakings that relied on the parties for transportation services, either as a means of transporting goods purchased in third countries or sold there, or as an important input into the services that the ports themselves offered.

108. Trade may also be capable of being affected when the agreement prevents re-imports into the EEA. This may, for example, be the case with vertical agreements between EEA suppliers and third country distributors, imposing restrictions on resale outside an allocated territory, including the EEA. If in the absence of the agreement resale to the EEA would be possible and likely, such imports may be capable of affecting patterns of trade inside the EEA ([90]).

109. However, for such effects to be likely, there must be an appreciable difference between the prices of the products charged in the EEA and those charged outside the EEA, and this price difference must not be eroded by customs duties and transport costs. In addition, the product volumes exported compared to the total market for those products in the territory of the EEA market must not be insignificant ([91]). If these product volumes are insignificant compared to those sold inside the EEA, the impact of any re-importation on trade between EEA States is considered not to be appreciable. In making this assessment, regard must be had not only to the individual agreement concluded between the parties, but also to any cumulative effect of similar agreements concluded by the same and competing suppliers. It may be, for example, that the product volumes covered by a single agreement are quite small, but that the product volumes covered by several such agreements are significant. In that case the agreements taken as a whole may be capable of appreciably affecting trade between EEA States. It should be recalled, however (cf. paragraph 49 above), that the individual agreement or network of agreements must make a significant contribution to the overall effect on trade.

([88]) See paragraph 22 of the judgment in Javico cited in footnote 22.
([89]) See paragraph 203 of the judgment in Compagnie maritime belge cited in footnote 15.
([90]) See in this respect the judgment in Javico cited in footnote 22.
([91]) See in this respect paragraphs 24 to 26 of the Javico judgment cited in footnote 22.

STANDING COMMITTEE OF THE EFTA STATES

EMAS

The Eco-Management and Audit Scheme

List of registered sites in Norway in accordance with Regulation (EC) No 761/2001 of the European Parliament and of the council of 19 March 2001

(2006/C 291/18)

Registration Number	Company name and address	Tel. Fax E-mail	Contact person	Industrial sector
NO-000005	Kraft Foods Norge AS, avd Disenå N-2114 Disenå	(47) 62 96 82 00 (47) 62 96 82 50 kmellem@krafteurope.com	Kari Benterud Mellem	15.31
NO-000015	Rescon Mapei AS Vallsetveien 6 N-2120 Sagstua	(47) 62 97 20 00 (47) 62 97 20 99 alan.ulstad@resconmapei.no	Alan K. Ulstad	24.66
NO-000016	Håg ASA Sundveien N-7460 Røros	(47) 72 40 72 00 (47) 72 40 72 72 mbf@hag.no	Maj Britt Fjerdingen	36.11
NO-000017	Gyproc AS Habornv 59 N-1631 Gamle Fredrikstad	(47) 69 35 75 00 (47) 69 35 75 01 gyprocno@gyproc.com	Jon Gjerløw	26.62
NO-000034	Savo AS Fyrstikkbakken 7 N-0667 Oslo	(47) 22 91 67 00 (47) 22 63 12 09	Birgit Madsen	31.11
NO-000044	Hydro Aluminium Profiler AS, Magnor Gaustadveien N-2240 Magnor	(47) 62 83 34 15 (47) 62 83 33 00 oyvind.aasen@hydro.com	Øyvind Aasen	27.422
NO-000059	Ørsta Gruppen AS N-6151 Ørsta	(47) 70 04 70 00 (47) 70 04 70 04 firmapost@orstastaal.no	Rolf O. Hjelle	28.1
NO-000063	Pyrox AS N-5685 Uggdal	(47) 53 43 04 00 (47) 53 43 04 04	Eirik Helgesen	29.2
NO-000071	Forestia AS Avd Kvam N-2650 Kvam	(47) 62 42 82 00 (47) 61 29 25 30 kvam@forestia.com	Harvey Rønningen	20.200
NO-000083	Total E & P Norge AS Finnestadveien 44 N-4029 Stavanger	(47) 51 50 39 18 (47) 51 50 31 40 firmapost@ep.total.no	Ulf Einar Moltu	11.100
NO-000085	Kährs Brumunddal AS Nygata 4 N-2380 Brumunddal	(47) 62 36 23 00 (47) 62 36 23 01	Knut Midtbruket	20.200
NO-000086	Grøset Trykk AS N-2260 Kirkenær	(47) 62 94 65 00 (47) 62 99 65 01 firmapost@groset.no	Mari L Breen	22.22
NO-000087	Norske Skogindustrier ASA Follum N-3505 Hønefoss	(47) 32 11 21 00 (47) 32 11 22 00 astrid.broch-due@norske-skog.com	Astrid Broch-Due	21.12

Registration Number	Company name and address	Tel. Fax E-mail	Contact person	Industrial sector
NO-000090	AS Oppland Metall Mattisrudsvingen 2 N-2827 Hunndalen	(47) 61 18 76 70 (47) 61 17 04 71 firmapost@opplandmetall.no	Knut Sørlie	37.00, 60.2
NO-000092	Forestia AS Braskereidfoss N-2435 Braskereidfoss	(47) 62 42 82 00 (47) 62 42 82 78 braskeriedfoss@forestia.com	Per Olav Løken	20.200
NO-000095	Grip Senter Storgata 23 C N-0184 Oslo	(47) 22 97 98 00 (47) 22 42 75 10 eva-britt.isager@grip.no	Eva Britt Isager	74.2
NO-000096	Gjøvik Land og Toten Interkommunale Avfallsselskap DA Dalborgmarka 100 N-2827 Hunndalen	(47) 61 14 55 80 (47) 61 13 22 45 post@glt-avfall.no	Bjørn E. Berg	90
NO-000097	Hydro Polymers AS Rafnes N-3966 Stathelle	(47) 35 00 60 94 (47) 35 00 52 98 nils.eirik.stamland@hydro.com	Nils Eirik Stamland	24.140

Amendments to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice

(2006/C 291/19)

The Agreements amending Protocol 4 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice signed in Brussels on 11 March 2005 and 10 March 2006 entered into force on 27 March 2006.

These Agreements and the updated consolidated version of the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice have now been published on the EFTA Secretariat's website.

They can be found through the following links:

http://secretariat.efta.int/Web/legaldocuments/ESAAndEFTACourtAgreement/Amendments

http://secretariat.efta.int/Web/legaldocuments/ESAAndEFTACourtAgreement/Documents/

List of marketing authorisations granted by the EEA EFTA States for the second half of 2005

(2006/C 291/20)

With reference to EEA Joint Committee Decision No 74/1999 of 28 May 1999, the EEA Joint Committee is invited to note, at the meeting on 2 June 2006, the following lists concerning marketing authorisations for medicinal products for the period 1 June — 31 December 2005:

Annex I	List of *new* marketing authorisations
Annex II	List of *renewed* marketing authorisations
Annex III	List of *extended* marketing authorisations
Annex IV	List of *withdrawn* marketing authorisations
Annex V	List of *suspended* marketing authorisations

ANNEX I

1. **New Marketing Authorisations:**

The following marketing authorisations have been granted in the EEA EFTA States during the period **1 June — 31 December 2005**:

EU-Number	Product	Country	Date of authorisation
EU/1/00/129/001-003	Azopt	Liechtenstein	31.7.2005
EU/1/00/131/001-030	PegIntron	Liechtenstein	30.9.2005
EU/1/00/134/008-011	Lantus	Liechtenstein	30.9.2005
EU/1/00/135/002	DaTSCAN	Liechtenstein	30.9.2005
EU/1/00/142/009-010	NovoMix	Liechtenstein	30.9.2005
EU/1/00/142/011-016	NovoMix	Liechtenstein	30.11.2005
EU/1/00/142/017-022	NovoMix	Liechtenstein	30.11.2005
EU/1/01/198/007-010	Glivec	Liechtenstein	31.7.2005
EU/1/02/215/001/NO-010/NO	Pritor Plus	Norway	7.9.2005
EU/1/02/227/003	Neulasta	Liechtenstein	30.11.2005
EU/1/02/228/003	Neupopeg	Liechtenstein	30.11.2005
EU/1/03/255/001-003	Ventavis	Liechtenstein	30.11.2005
EU/1/03/258/013-014	Avandamet	Liechtenstein	30.9.2005
EU/1/03/263/001-003/IS	Dukoral, Suspension of vaccine and effervescent granules for oral solution	Iceland	6.10.2005
EU/1/03/265/003-004	Bonviva	Liechtenstein	30.9.2005
EU/1/03/266/003-004	Bondenza	Liechtenstein	30.9.2005
EU/1/03/269/001	Faslodex	Liechtenstein	30.11.2005
EU/1/03/270/003	Kentera	Liechtenstein	31.7.2005
EU/1/04/276/021-032	Abilify	Liechtenstein	31.7.2005
EU/1/04/276/033-035	Abilify	Liechtenstein	30.11.2005
EU/1/04/279/030-032	Lyrica	Liechtenstein	30.9.2005
EU/1/04/280/007	Yentreve	Liechtenstein	30.9.2005
EU/1/04/283/007	Ariclaim	Liechtenstein	30.9.2005
EU/1/04/289/002	Angiox	Liechtenstein	31.7.2005
EU/1/04/296/005-006	Cymbalta	Liechtenstein	31.7.2005
EU/1/04/297/005-006	Xeristar	Liechtenstein	31.7.2005
EU/1/05/310/001/NO-005/NO	Fosavance	Norway	6.9.2005
EU/1/05/310/001-005	Fosavance	Liechtenstein	30.9.2005
EU/1/05/310/001-005/IS	Fosavance tablets	Iceland	20.9.2005
EU/1/05/311/001/NO-003/NO	Tarceva	Norway	26.9.2005
EU/1/05/311/001-003	Tarceva	Liechtenstein	30.9.2005

EU-Number	Product	Country	Date of authorisation
EU/1/05/311/001-003/IS	Tarceva	Iceland	18.10.2005
EU/1/05/312/001/IS	Xyrem	Iceland	18.11.2005
EU/1/05/312/001/NO	Xyrem	Norway	18.11.2005
EU/1/05/313/001/NO-009/NO	Vasovist	Norway	14.10.2005
EU/1/05/313/001-009	Vasovist	Liechtenstein	30.11.2005
EU/1/05/313/001-009/IS	Vasovist	Iceland	2.11.2005
EU/1/05/314/001	Kepivance	Liechtenstein	30.11.2005
EU/1/05/314/001/IS	Kepivance	Iceland	24.11.2005
EU/1/05/314/001/NO	Kepivance	Norway	22.11.2005
EU/1/05/315/001	Aptivus	Liechtenstein	30.11.2005
EU/1/05/315/001/IS	Aptivus	Iceland	25.11.2005
EU/1/05/315/001/NO	Aptivus	Norway	2.11.2005
EU/1/05/316/001/NO-014/NO	Procoralan	Norway	10.11.2005
EU/1/05/316/001-014	Procoralan	Liechtenstein	30.11.2005
EU/1/05/316/001-014/IS	Procoralan	Iceland	24.11.2005
EU/1/05/317/001/NO-014/NO	Corlentor	Norway	10.11.2005
EU/1/05/317/001-014	Corlentor	Liechtenstein	30.11.2005
EU/1/05/317/001-014/IS	Corlentor	Iceland	24.11.2005
EU/1/05/318/001	Revatio	Liechtenstein	30.11.2005
EU/1/05/318/001/IS	Revatio	Iceland	28.11.2005
EU/1/05/318/001/NO	Revatio	Norway	11.11.2005
EU/1/05/319/001/NO-002/NO	Xolair	Norway	7.11.2005
EU/1/05/319/001-002	Xolair	Liechtenstein	30.11.2005
EU/1/05/319/001-002/IS	Xolair	Iceland	25.11.2005
EU/1/05/320/001	Noxafil	Liechtenstein	30.11.2005
EU/1/05/320/001/IS	Noxafil	Iceland	20.11.2005
EU/1/05/320/001/NO	Noxafil	Norway	23.11.2005
EU/1/05/321/001	Posaconazole SP	Liechtenstein	30.11.2005
EU/1/05/321/001/IS	Posaconazole SP	Iceland	24.11.2005
EU/1/05/321/001/NO	Posaconazole SP	Norway	23.11.2005
EU/2/01/030/003-004	Virbagen Omega	Liechtenstein	30.9.2005
EU/2/04/047/001-002/IS	Purevax RCPCh Fel V, powder and solv. for susp. for injection	Iceland	30.6.2005
EU/2/04/048/001-002/IS	Purevax RCP Fel V, powder and solv. for susp. for injection	Iceland	30.6.2005

EU-Number	Product	Country	Date of authorisation
EU/2/04/049/001-002/IS	Purevax RCCh, powder and solvent for suspension for injection	Iceland	30.6.2005
EU/2/04/050/001-002/IS	Purevax RCPCh, powder and solv. for susp. for injection	Iceland	30.6.2005
EU/2/04/051/001-002/IS	Purevax RC, powder and solvent for suspension for injection	Iceland	30.6.2005
EU/2/04/052/001-002/IS	Purevax RCP, powder and solvent for suspension for injection	Iceland	30.6.2005
EU/2/05/053/001	Naxcel	Liechtenstein	31.7.2005
EU/2/05/053/001/IS	Naxcel, suspension for injection	Iceland	9.6.2005
EU/2/05/053/001/NO	Naxcel	Norway	17.6.2005
EU/2/05/054/001/NO-017/NO	Profender	Norway	30.8.2005
EU/2/05/054/001-017	Profender	Liechtenstein	30.9.2005
EU/2/05/054/001-017/IS	Profender Spot-on solution	Iceland	26.8.2005
EU/2/05/055/001/NO-002/NO	Equilis Te	Norway	12.8.2005
EU/2/05/055/001-002	Equilis Te	Liechtenstein	30.9.2005
EU/2/05/055/001-002/IS	Equilis Te, susp. for injection	Iceland	2.8.2005
EU/2/05/056/001/NO-002/NO	Equilis Prequenza	Norway	12.8.2005
EU/2/05/056/001-002	Equilis Prequenza	Liechtenstein	30.9.2005
EU/2/05/056/001-002/IS	Equilis Prequenza, susp. for injection	Iceland	2.08.2005
EU/2/05/057/001/NO-002/NO	Equilis Prequenza Te	Norway	12.8.2005
EU/2/05/057/001-002	Equilis Prequenza Te	Liechtenstein	30.9.2005
EU/2/05/057/001-002/IS	Equilis Prequenza Te, susp. for injection	Iceland	2.8.2005
EU/2/97/004/011	Metacam	Liechtenstein	31.7.2005
EU/2/97/004/012-013	Metacam	Liechtenstein	30.9.2005

ANNEX II

2. **Renewed Marketing Authorisations**

The following marketing authorisations have been renewed in the EEA EFTA States during the period **1 June — 31 December 2005**:

EU-Number	Product	Country	Date of renewal
EU/1/00/129/001/NO-003/NO	Azopt	Norway	30.6.2005
EU/1/00/129/001-003/IS	Azopt, eye drops, suspension, 1%	Iceland	30.6.2005
EU/1/05/131/001/NO-005/NO	PegIntron	Norway	24.06.2005
EU/1/00/131/001-050/IS	PegIntron	Iceland	28.6.2005
EU/1/00/131/031-050	PegIntron	Liechtenstein	30.9.2005
EU/1/05/132/001/NO-005/NO	ViraferonPeg	Norway	24.6.2005
EU/1/00/132/001-050	ViraferonPeg	Liechtenstein	31.7.2005
EU/1/00/132/001-050/IS	ViraferonPeg	Iceland	28.6.2005
EU/1/00/133/001/NO-008/NO	Optisulin	Norway	27.7.2005
EU/1/00/133/001-008	Optisulin	Liechtenstein	30.9.2005
EU/1/00/133/001-008/IS	Optisulin	Iceland	29.8.2005
EU/1/00/134/001/NO-029/NO	Lantus	Norway	27.7.2005
EU/1/00/134/001-007, 012-029	Lantus	Liechtenstein	30.9.2005
EU/1/00/134/001-029/IS	Lantus	Iceland	29.8.2005
EU/1/00/135/001	DaTSCAN	Liechtenstein	30.9.2005
EU/1/00/135/001/NO-002/NO	DaTSCAN	Norway	20.9.2005
EU/1/00/135/001-002/IS	DaTSCAN	Iceland	11.10.2005
EU/1/00/137/001/NO-012/NO	Avandia	Norway	27.7.2005
EU/1/00/137/001-012	Avandia	Liechtenstein	30.9.2005
EU/1/00/137/001-012/IS	Avandia	Iceland	16.9.2005
EU/1/00/140/001	Visudyne	Liechtenstein	31.7.2005
EU/1/00/140/001/IS	Visudyne 15 mg Powder for solution for injection	Iceland	14.7.2005
EU/1/00/140/001/NO	Visudyne	Norway	27.7.2005
EU/1/00/141/001	Myocet	Liechtenstein	30.9.2005
EU/1/00/141/001/IS	Myocet	Iceland	13.10.2005
EU/1/00/141/001/NO	Myocet	Norway	28.9.2005
EU/1/00/142/004/NO-005/NO	NovoMix Penfill	Norway	13.10.2005
EU/1/00/142/004-005	NovoMix	Liechtenstein	30.9.2005
EU/1/00/142/004-005/IS	NovoMix 30 Penfill	Iceland	21.10.2005
EU/1/00/142/009/NO-010/NO	NovoMix Flexpen	Norway	13.10.2005
EU/1/00/142/009-010/IS	NovoMix 30 FlexPen	Iceland	21.10.2005

EU-Number	Product	Country	Date of renewal
EU/1/00/143/001/NO-006/NO	Kogenate Bayer	Norway	7.9.2005
EU/1/00/143/001-006	Kogenate	Liechtenstein	30.9.2005
EU/1/00/143/001-006/IS	Kogenate Bayer	Iceland	7.10.2005
EU/1/00/144/001/NO-003/NO	Helixate NexGen	Norway	7.9.2005
EU/1/00/144/001-003	Helixate	Liechtenstein	30.9.2005
EU/1/00/144/001-003/IS	Helixate NexGen	Iceland	7.10.2005
EU/1/00/145/001	Herceptin	Liechtenstein	30.9.2005
EU/1/00/145/001/IS	Herceptin	Iceland	28.11.2005
EU/1/00/145/001/NO	Herceptin	Norway	23.9.2005
EU/1/00/146/001/NO-029/NO	Keppra	Norway	08.8.2005
EU/1/00/146/001-029	Keppra	Liechtenstein	30.9.2005
EU/1/00/146/001-029/IS	Keppra	Iceland	12.9.2005
EU/1/00/148/001/NO-004/NO	Agenerase	Norway	12.12.2005
EU/1/00/148/001-004	Agenerase	Liechtenstein	30.11.2005
EU/1/00/148/001-004/IS	Agenerase	Iceland	16.12.2005
EU/1/00/149/001	Panretin	Liechtenstein	30.11.2005
EU/1/00/149/001/IS	Panretin	Iceland	16.12.2005
EU/1/00/149/001/NO	Panretin	Norway	9.12.2005
EU/1/00/150/001/NO-015/NO	Actos	Norway	2.11.2005
EU/1/00/150/001-015	Actos	Liechtenstein	30.11.2005
EU/1/00/150/001-015/IS	Actos	Iceland	11.11.2005
EU/1/00/151/001/NO-013/NO	Glustin	Norway	2.11.2005
EU/1/00/151/001-013	Glustin	Liechtenstein	30.11.2005
EU/1/00/151/001-013/IS	Glustin	Iceland	11.11.2005
EU/1/00/152/001-018	Infanrix hexa	Liechtenstein	30.11.2005
EU/1/00/153/001-010	Infanrix penta	Liechtenstein	30.11.2005
EU/1/00/153/001-010/IS	Infanrix penta	Iceland	16.12.2005
EU/1/00/153/001-010/NO	Infanrix penta	Norway	7.12.2005
EU/1/00152/001-018/NO	Infanrix hexa	Norway	7.12.2005
EU/1/95/001/001, 003-005, 009, 012, 021-022, 025-028, 031-035/IS	Gonal-F	Iceland	15.11.2005
EU/1/95/001/001/NO	Gonal-F	Norway	11.11.2005
EU/1/95/001/003/NO-006/NO	Gonal-F	Norway	11.11.2005
EU/1/95/001/009/NO	Gonal-F	Norway	11.11.2005
EU/1/95/001/012/NO	Gonal-F	Norway	11.11.2005

EU-Number	Product	Country	Date of renewal
EU/1/95/001/021/NO-022/NO	Gonal-F	Norway	11.11.2005
EU/1/95/001/025/NO-028/NO	Gonal-F	Norway	11.11.2005
EU/1/95/001/031/NO-035/NO	Gonal-F	Norway	11.11.2005
EU/1/98/093/002	Forcaltonin	Liechtenstein	31.7.2005
EU/1/99/127/001/NO-044/NO	IntronA	Norway	20.6.2005
EU/1/99/127/001-044	IntronA	Liechtenstein	31.7.2005
EU/1/99/127/001-044/IS	IntronA	Iceland	27.6.2005
EU/1/99/128/001/NO-037/NO	Viraferon	Norway	20.6.2005
EU/1/99/128/001-037	Viraferon	Liechtenstein	31.7.2005
EU/1/99/128/001-037/IS	Viraferon	Iceland	27.6.2005
EU/2/00/018/001	Incurin	Liechtenstein	31.7.2005
EU/2/00/018/001/NO	Incurin	Norway	16.6.2005
EU/2/00/022//002b-03a	Ibaflin	Liechtenstein	30.9.2005
EU/2/00/022/001/NO-017/NO	Ibaflin	Norway	31.8.2005
EU/2/00/022/001-017/IS	Ibaflin	Iceland	15.07.2005
EU/2/00/022/001a	Ibaflin	Liechtenstein	30.9.2005
EU/2/00/022/001b-02a	Ibaflin	Liechtenstein	30.9.2005
EU/2/00/022/003b-04a	Ibaflin	Liechtenstein	30.9.2005
EU/2/00/022/004b	Ibaflin	Liechtenstein	30.9.2005
EU/2/00/022/005-017	Ibaflin	Liechtenstein	30.9.2005
EU/2/00/024/001/IS	Pruban	Iceland	16.12.2005
EU/2/99/016/001/NO-006/NO	Porcilis Pesti	Norway	18.7.2005
EU/2/99/016/001-006	Porcilis Pesti	Liechtenstein	31.7.2005
EU/2/99/016/001-006/IS	Porcilis Pesti	Iceland	13.7.2005
EU/2/99/017/001/NO-006/NO	Ibraxion	Norway	2.6.2005

ANNEX III

3. **Extended Marketing Authorisations**

The following marketing authorisations have been extended in the EEA EFTA States during the period **1 June — 31 December 2005**:

EU-Number	Product	Country	Date of extention
EU/1/00/142/011/NO-013/NO	NovoMix Penfill 50	Norway	1.11.2005
EU/1/00/142/001-013/IS	NovoMix 50 Penfill suspension for injection	Iceland	5.10.2005
EU/1/00/142/014/NO-016/NO	NovoMix Flexpen 50	Norway	1.11.2005
EU/1/00/142/014-016/IS	NovoMix 50 FlexPen suspension for injection	Iceland	5.10.2005
EU/1/00/142/017/NO-019/NO	NovoMix Penfill 70	Norway	1.11.2005
EU/1/00/142/017-019/IS	NovoMix 70 Penfill suspension for injection	Iceland	5.10.2005
EU/1/00/142/020/NO-022/NO	NovoMix Flexpen 70	Norway	1.11.2005
EU/1/00/142/020-022/IS	NovoMix 70 FlexPen suspension for injection	Iceland	5.10.2005
EU/1/03/265/003/NO-004/NO	Bonviva, film-coated tablets	Norway	28.9.2005
EU/1/03/265/003-004/IS	Bonviva, film-coated tablets	Iceland	25.10.2005
EU/1/03/266/003/NO-004/NO	Bondenza, film-coated tablets	Norway	28.9.2005
EU/1/03/266/003-004/IS	Bondenza, film-coated tablets	Iceland	21.10.2005
EU/1/04/276/021/NO-023/NO	Abilify, orodispersible tablet 5 mg	Norway	18.7.2005
EU/1/04/276/021-023/IS	Abilify, orodispersible tablet 5 mg	Iceland	14.7.2005
EU/1/04/276/024/NO-026/NO	Abilify, orodispersible tablet 10 mg	Norway	18.7.2005
EU/1/04/276/024-026/IS	Abilify, orodispersible tablet 10 mg	Iceland	14.7.2005
EU/1/04/276/027/NO-029/NO	Abilify, orodispersible tablet 15 mg	Norway	18.7.2005
EU/1/04/276/027-029/IS	Abilify, orodispersible tablet 15 mg	Iceland	14.7.2005
EU/1/04/276/030/NO-032/NO	Abilify, orodispersible tablet 30 mg	Norway	18.7.2005
EU/1/04/276/030-032/IS	Abilify, orodispersible tablet 30 mg	Iceland	14.7.2005
EU/1/04/276/033/NO-035/NO	Abilify 1mg/ml, oral solution	Norway	9.11.2005
EU/1/04/276/033-035/IS	Abilify 1 mg/ml, oral solution	Iceland	1.12.2005
EU/1/96/026/002/IS	Invirase, filmcoated tablet 500 mg	Iceland	19.7.2005
EU/1/96/026/002/NO	Invirase	Norway	9.6.2005
EU/2/97/004/012/NO-013/NO	Metacam, 0,5 mg/ml oral suspension for dogs	Norway	5.9.2005
EU/2/97/004/012-013/IS	Metacam, 0,5 mg/ml oral suspension for dogs	Iceland	2.9.2005

ANNEX IV

4. **Withdrawn Marketing Authorisations**

The following marketing authorisations have been withdrawn in the EEA EFTA States during the period **1 June — 31 December 2005**:

EU-Number	Product	Country	Date of withdrawal
EU/1/00/158/001-034/IS	Opulis	Iceland	9.9.2005
EU/1/00/168/001/NO-006/NO	Tenecteplase	Norway	9.8.2005
EU/1/00/168/001-006	Tenecteplase	Liechtenstein	30.9.2005
EU/1/02/208/001-008/IS	Xapit	Iceland	9.9.2005
EU/1/02/210/001/NO-008/NO	Rayzon	Norway	22.7.2005
EU/1/02/210/001-008	Rayzon	Liechtenstein	31.7.2005
EU/1/02/210/001-008/IS	Rayzon	Iceland	5.7.2005
EU/1/02/242/001-024	Valdyn	Liechtenstein	30.9.2005
EU/1/02/242/001-024/IS	Valdyn, filmcoated tablets	Iceland	5.07.2005
EU/1/02/244/001/NO-024/NO	Valdyn	Norway	22.7.2005
EU/1/02/244/001-024/IS	Valdyn	Liechtenstein	31.7.2005
EU/1/96/009/010/NO-017/NO	Zerit	Norway	30.9.2005
EU/1/96/009/010-017/IS	Zerit prolonged-release capsules	Iceland	29.11.2005
EU/1/96/023/001	Cea-Scan	Liechtenstein	30.11.2005
EU/1/96/023/001/IS	CEA-Scan	Iceland	9.11.2005
EU/1/97/048/001-014/IS	Infanrix HepB, suspension for injection	Iceland	15.6.2005
EU/2/00/023/001-003	Pulsaflox	Liechtenstein	30.11.2005

ANNEX V

5. **Suspended Marketing Authorisations**

The following marketing authorisations have been suspended in the EEA EFTA States during the period **1 June — 31 December 2005**:

EU-Number	Product	Country	Date of suspension
EU/1/00/147/001/NO-012/NO	Hexavac	Norway	17.11.2005
EU/1/00/147/001-008	Hexavac	Liechtenstein	30.11.2005
EU/1/00/147/001-008/IS	Hexavac	Iceland	17.11.2005