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### Information and Notices

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

## I

(Information)

## COUNCIL

## COUNCIL DECISION

of 7 November 2006

**regarding the position to be taken by the Community within the International Tropical Timber Council on the extension of the International Agreement on Tropical Timber, 1994**

(2006/C 298/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Whereas:

- (1) The International Agreement on Tropical Timber of 1994 has been signed and provisionally applied by the Community by Council Decision 96/493/EC <sup>(2)</sup>.
- (2) The successor Agreement to the International Tropical Timber Agreement of 1994 was successfully concluded within UNCTAD in January 2006.
- (3) The International Tropical Timber Agreement of 1994 remains in force until 31 December 2006 unless, in accordance with the provisions of Article 46(3), it is extended beyond that date by decision of the International Tropical Timber Council until such time as the successor Agreement enters into force.
- (4) The extension of that Agreement is in the interest of the Community.

- (5) The European Community's position in the International Tropical Timber Council should be established,

HAS DECIDED AS FOLLOWS:

*Article 1*

The European Community's position within the International Tropical Timber Council shall be to vote in favour of extending of the International Agreement on Tropical Timber, 1994, until the provisional or definitive entry into force of the successor Agreement of 2006.

*Article 2*

The European Community will seek for an International Tropical Timber Council decision aiming at limiting the duration of the extension of the International Agreement on Tropical Timber, 1994 or establishing a review clause.

Done at Brussels, 7 November 2006.

*For the Council*

*The President*

E. HEINÄLUOMA

<sup>(1)</sup> Doc. 12953/06 — COM(2006)469 final

<sup>(2)</sup> OJ L 208, 17.8.1996, p. 1.

**COUNCIL DECISION****of 28 November 2006****replacing a an alternate member of the Governing Board of the European Agency for Safety and Health at Work**

(2006/C 298/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work <sup>(1)</sup>, and in particular Article 8 thereof,

Whereas:

- (1) By its Decisions of 3 June 2002 <sup>(2)</sup> and 29 April 2004 <sup>(3)</sup>, the Council appointed the members and alternate members of the Governing Board of the European Agency for Safety and Health at Work for the period ending on 2 June 2005; that period has been extended in accordance with Article 1(5) of Regulation No 1112/2005.
- (2) An alternate member's seat in the category of government representatives on that Governing Board has fallen vacant following the resignation of Mr Bo BARREFELT.
- (3) The Swedish Government has submitted a nomination for the vacant seat,

HAS DECIDED AS FOLLOWS:

*Sole Article*

Ms Anna-Lena HULTGÅRD SANCINI is hereby appointed an alternate member of the Governing Board of the European Agency for Safety and Health at Work in place of Mr Bo BARREFELT for the remainder of the current term of office, which ends upon inauguration of a new Governing Board in accordance with Article 1(5) of Regulation No 1112/2005.

Done at Brussels, 28 November 2006.

*For the Council*  
*The President*  
E. HEINÄLUOMA

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<sup>(1)</sup> OJ L 216, 20.8.1994, p. 1. Regulation as amended by Regulation (EC) No 1643/95 (OJ L 156, 7.7.1995, p. 1) and Regulation (EC) No 1112/2005 (OJ L 184, 15.7.2005, p. 5).

<sup>(2)</sup> OJ C 161, 5.7.2002, p. 5.

<sup>(3)</sup> OJ C 116, 30.4.2004, p. 16.

**Draft Conclusions of the Council and the Representatives of the Governments of the Member States, meeting within the Council, on efficiency and equity in education and training**

(2006/C 298/03)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

HAVING REGARD to:

1. the strategic goal set for the European Union by the Lisbon Council of 23-24 March 2000, 'to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth, with more and better jobs and greater social cohesion' and the mandate of the Lisbon Council to the Education Council to undertake 'a general reflection on the concrete future objectives of education systems, focusing on common concerns and priorities while respecting national diversity' <sup>(1)</sup>;
2. the report of the Education Council of 12 February 2001 on 'The concrete future objectives of education and training systems' submitted to the European Council in Stockholm on 23 and 24 March 2001 setting out three strategic objectives and thirteen associated objectives <sup>(2)</sup>;
3. the first and second strategic objectives of the 'Education & Training 2010' work programme, 'Improving the quality and effectiveness of education and training systems in the EU' — including its associated objective 'Making the best use of resources' <sup>(3)</sup> — and 'Facilitating the access to all to education and training systems' — including its associated objectives 'Open learning environment' and 'Supporting active citizenship, equal opportunities and social cohesion';
4. the Commission communication of 10 January 2003 on 'Investing efficiently in education and training: an imperative for Europe', which calls for 'a substantial increase in investment in human resources' and for 'spending existing resources more efficiently' <sup>(4)</sup>;
5. the Council conclusions of 5 May 2003 on Reference Levels of European Average Performance in Education and Training (Benchmarks) which stressed that 'the Council has agreed to establish a series of reference levels of European average performance ... which will be used as one of the tools for monitoring the implementation' of the 'Education & Training 2010' work programme <sup>(5)</sup>;
6. the joint interim report of the Council and the Commission of 26 February 2004 on the implementation of the 'Education & Training 2010' work programme, which emphasises the 'urgent need to invest more, and more efficiently and effectively in human resources' and calls for 'a higher level of public sector investment ... and, where appropriate, a higher level of private investment, particularly in higher education, adult education and continuing vocational training' <sup>(6)</sup>;
7. the joint interim report of the Council and the Commission of 23 February 2006 on the implementation of the 'Education & Training 2010' work programme, which underlines that giving equal consideration to the efficiency, quality and equity objectives of the education and training systems is a 'sine qua non of achieving the Lisbon goals while strengthening the European social model' and that 'there is no trade-off between efficiency and equity' and further that 'in particular, investment in pre-primary education is of paramount importance for preventing school failure and social exclusion' <sup>(7)</sup>;
8. the conclusions of the Spring European Council of 23-24 March 2006, which stressed that 'education and training are critical factors to develop the EU's long-term potential for competitiveness, as well as for social cohesion', that 'reforms must ... be stepped up to ensure high quality education systems which are both efficient and equitable' and that 'investments in education and training produce high returns which substantially outweigh the costs and reach far beyond 2010' <sup>(8)</sup>;
9. the Commission communication on 'Efficiency and equity in European education and training systems' <sup>(9)</sup> which invites the Member States to develop a culture of evaluation and which, having been prepared in collaboration with research networks, represents a positive step towards the further development of evidence-based policy in education and training.

<sup>(1)</sup> Presidency conclusions, Lisbon European Council, 23-24 March 2000 (doc. SN 100/1/00 REV 1).

<sup>(2)</sup> 'The concrete future objectives of education and training systems' — Report from the Education Council to the European Council (doc. 5980/01).

<sup>(3)</sup> Detailed work programme on the follow-up of the objectives of education and training systems in Europe (OJ C 142, 14.6.2002).

<sup>(4)</sup> 'Investing efficiently in education and training: an imperative for Europe' — Commission Communication (doc. 5269/03).

<sup>(5)</sup> OJ C 134, 7.6.2003, p. 3.

<sup>(6)</sup> "Education & Training 2010": the success of the Lisbon strategy hinges on urgent reforms' — Joint interim report of the Council and the Commission on the implementation of the detailed work programme on the follow-up of the objectives of education and training systems in Europe (doc. 6905/04).

<sup>(7)</sup> 'Modernising education and training: a vital contribution to prosperity and social cohesion in Europe' — 2006 joint interim report of the Council and of the Commission on progress under the 'Education and Training 2010' work programme (OJ C 79, 1.4.2006, p. 1).

<sup>(8)</sup> Presidency conclusions, Brussels European Council, 23/24 March 2006 (doc. 7775/06).

<sup>(9)</sup> 'Efficiency and equity in European education and training systems' — Communication from the Commission to the Council and to the European Parliament (doc. 12677/06).

NOTE that

education and training are fields for the relevant authorities in individual Member States to organise and resource in accordance with national legislation, policies and practices. At the same time, however, there is a need for European cooperation in order to learn from one another's experiences and good practices, and for indicators and benchmarks in order to follow progress. Successful education and training policies in a lifelong learning context require a cross-sectoral approach in conjunction with other relevant policies, especially those in the fields of research and innovation, employment, economic affairs, social and health care, youth and culture.

STATE that

1. education and training, as essential contributors to democracy, social cohesion and sustainable economic growth, should be seen as a priority investment for the future. The challenge for Member States within their lifelong learning strategies is to identify those priorities for education investments that will impact most efficiently on the quality and equity of learning outcomes;
2. improving efficiency and equity in education and training is crucial in the face of the challenges posed by globalisation, demographic changes, rapid technological developments and increasing pressure on public budgets. Despite the tight constraints on public spending, there is widespread recognition of the need to ensure adequate — and where appropriate increased — funding for human resources and therefore to consider how to increase and/or make the best use of private contributions;
3. inequities in education and training systems, resulting in outcomes such as low levels of achievement, school drop-outs and early school leaving, engender heavy hidden social costs for the future which can far outweigh the investments made. The development of efficient and equitable high quality education and training systems contributes significantly towards reducing the risks of unemployment, social exclusion and wasted human potential in a modern knowledge-based economy;
4. quality is a common objective for all forms of education and training in the European Union and should be regularly monitored and evaluated. Quality is not only a matter of learning outcomes or delivery of tuition, but also of how well education and training systems cater for individual, social and economic needs, as well as of strengthening equity and improving well-being;
5. the motivation, skills and competences of teachers, trainers, other teaching staff and guidance and welfare services, as well as the quality of school leadership, are key factors in achieving high quality learning outcomes. The efforts of teaching staff should be supported by continuous professional development and by good cooperation with parents, pupil welfare services and the wider community. In addition, high quality teaching and learning environments ensure good conditions for learning and contribute to positive learning outcomes;
6. research evidence has shown that in the long term pre-primary education and targeted early intervention programmes can bring the highest rates of return over the whole lifelong learning process, especially for the most disadvantaged. They produce positive human and socio-economic results that carry over into further education and adulthood. Whilst respecting the responsibility of the Member States for organising their education and training systems, there is also some research evidence to suggest that, in certain cases, differentiating pupils at too early an age into separate schools of different types on the basis of ability may have negative effects on the achievements of disadvantaged pupils;
7. as learning communities, educational institutions should focus on the wider learning environment in order to promote and maintain efficiency, equity and general well-being. Special measures are needed to identify and support pupils with special educational needs. These measures include ensuring sufficient numbers of specially trained teaching and guidance staff together with a high standard of pupil welfare services and adequate resources. Although the cross-sectoral co-operation needed for early intervention and other special measures aimed at ensuring equity in education and training inevitably entail additional costs, in the long term they pay dividends by helping to avoid future costs resulting from exclusion;
8. improving access to upper secondary level education and reducing rates of early school leaving are crucial for increasing the employability of individuals in a modern knowledge-based society and for fostering social inclusion and active citizenship, as well as for strengthening the European social model. As the labour market demand for skills rises, it is increasingly important to give the younger generation access to qualifications and skills, thereby improving their prospects for employment and social integration;
9. the need to modernise Europe's universities, given their interlinked roles in the fields of education, research and innovation, has been recognised not only as a pre-condition for the success of the broader Lisbon Strategy, but also as part of a general move towards an increasingly global and knowledge-based economy. The growth in

student numbers and cost of high-quality education and research will require increased and/or more effective use of both public and private resources. High quality higher education also has a key role to play in education and training as a whole, by educating future teaching staff and updating and renewing the whole knowledge base of education;

10. vocational education and training have a significant impact on employment and social integration. Ensuring relevant, high quality qualifications for young people and improving the skills and competences of the low-skilled and disadvantaged groups bring substantial economic gains, even in the short term. Competence-based qualifications frameworks and other mechanisms for recognising prior learning promote efficiency and equity by taking into account non-formal and informal learning outcomes in addition to formal qualifications. Encouraging partnerships between stakeholders — including the social partners and sectoral organisations — could also enhance the effectiveness and attractiveness of vocational education and training programmes.

11. rapid technological development together with changes in the demographic structure of Europe make it necessary to invest more in updating and upgrading the skills, qualifications and key competences of adults, especially the low-skilled. In the short term, targeting investments on updating and upgrading existing skills and competences of the labour force is a rapid way of contributing towards economic growth and competitiveness, and of discouraging early retirement of the ageing work force. Adult learning also has a key role to play in providing new key competences, such as digital literacy, and thus contributing towards greater social inclusion and active participation in community and society, including after retirement;

cularly by focusing on pre-primary education, targeted early intervention programmes and equitable education and training systems that are aimed at providing opportunities, access, treatment and outcomes which are independent of socio-economic background and other factors which may lead to educational disadvantage. In addition, the provision of high quality teaching in disadvantaged areas should be particularly encouraged.

3. ensure adequate funding for human resources and, where appropriate, increase public funding and encourage greater complementary private contributions, in order to secure more equitable access to higher education. The modernisation of the higher education and research sectors is also important to improve their efficiency. Consideration should also be given to fostering collaborative links with business in areas of research and development;

4. ensure adequate funding of adult education and continuing vocational education and training, and encourage active partnerships with employers in order to focus on the skills needs of the economy, including at regional and local levels;

5. encourage research into the outcomes of education reforms and investments and into the social benefits resulting from them. Coherent, relevant, reliable, evidence-based information is the basis for accountability as well as for taking the action needed to achieve quality, equity and efficiency throughout the education and training system. At the same time, monitoring, evaluation and quality assurance should provide objective and transparent feedback and support for the development of teaching and learning methods and practice;

INVITE THE MEMBER STATES to

1. further consider whether the present arrangements for funding, governing and managing their education and training systems adequately reflect the need to ensure both efficiency and equity, and so make optimum use of resources. With that in view, they are invited to examine possible ways of improving the present arrangements, in order to avoid the hidden but high costs of educational inequity;

2. ensure the efficient targeting of education and training reforms and investment, both in the long term and the short term, in order to meet the needs of the knowledge-based society through improved quality and equity, parti-

INVITE THE COMMISSION AND THE MEMBER STATES to

1. work together with the relevant research networks, in order to provide more comprehensive and integrated analyses in support of education and training reforms and, where appropriate, develop internationally comparable indicators on the efficiency and equity of education and training systems;

2. encourage and support research into the social and economic impact of education and training reforms and investments both at national and international level. There is a need for more research, particularly in sectors that are not currently sufficiently researched — such as pre-primary education, vocational training, lifelong learning and the economics of education, in particular the impact of private contributions;

3. make use of relevant research results and existing data to combine quality, equity and efficiency dimensions in the preparation of both the 'Education & Training 2010' national reports and the 2008 joint interim report, as well as in relation to a possible proposal for common objectives for European education and training systems and their promotion beyond 2010;
  4. design and implement peer-learning activities in the field of efficiency and equity in the framework of the 'Education & Training 2010' work programme;
  5. make appropriate use of the Lifelong Learning Programme, the Structural Funds and the Seventh Research Framework Programme to support the efficiency and equity aspects of education and training systems.
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**COUNCIL DECISION  
of 28 November 2006**

**replacing a member and an alternate member of the Governing Board of the European Foundation  
for the Improvement of Living and Working Conditions**

(2006/C 298/04)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to Council Regulation (EEC) No 1365/75 of 26 May 1975 on the creation of a European Foundation for the Improvement of Living and Working Conditions <sup>(1)</sup>, and in particular Article 6 thereof,

Whereas:

- (1) In its Decision of 13 December 2004 <sup>(2)</sup> the Council appointed the members and alternate members of the Governing Board of the European Foundation for the Improvement of Living and Working Conditions for the period ending 18 October 2007.
- (2) A member's seat and an alternate member's seat on the Governing Board of the aforementioned Foundation in the government representatives category have fallen vacant following the resignations of Mr Marc BOISNEL and Mr Emmanuel GERAT.
- (3) The French Government has nominated candidates for the vacant seats,

*Sole Article*

1. Ms Mireille JARRY is hereby appointed as a member of the Governing Board of the European Foundation for the Improvement of Living and Working Conditions in place of Mr Marc BOISNEL for the remainder of the term of office, which ends on 18 October 2007.
2. Mr Robert PICCOLI is hereby appointed as an alternate member of the Governing Board of the European Foundation for the Improvement of Living and Working Conditions in place of Mr Emmanuel GERAT for the remainder of the term of office, which ends on 18 October 2007.

Done at Brussels, 28 November 2006.

*For the Council*  
*The President*  
E. HEINÄLUOMA

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<sup>(1)</sup> OJ L 139, 30.5.1975, p. 1, as amended by Regulation (EC) No 1111/2005, OJ L 184, 15.7.2005, p. 1.

<sup>(2)</sup> OJ C 317, 22.12.2004, p. 4.

**Conclusions of the Council and the Representatives of the Governments of the Member States, meeting within the Council, on the future priorities for enhanced European cooperation on Vocational Education and Training (VET)**

**(Review of the Council conclusions of 15 November 2004)**

(2006/C 298/05)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL,

AWARE that

1. on 12 November 2002 the Council approved a Resolution<sup>(1)</sup> on the promotion of enhanced European cooperation in vocational education and training. This was the basis for the declaration adopted by the Ministers responsible for Vocational Education and Training of the EU Member States, the EFTA/EEA and candidate countries, the Commission and the European Social Partners at their meeting in Copenhagen on 29 to 30 November 2002, as the strategy for improving the performance, quality and attractiveness of Vocational Education and Training (Copenhagen process);

2. based on the Council conclusions of 15 November 2004<sup>(2)</sup>, the first review of the process held in Maastricht on 14 December 2004 acknowledged that the visibility and profile of VET had improved at European level and that substantial progress had been made. This included a series of common tools and principles<sup>(3)</sup>. The Maastricht Communiqué set out priorities at national and European level and linked the Copenhagen process more firmly with the 'Education and Training 2010' work programme;

3. since the adoption of the Maastricht Communiqué, the EUROPASS single framework for the transparency of qualifications and competencies and the Council conclusions on the role of development of skills and competences have been adopted<sup>(4)</sup>. Consultation on the European Qualifications Framework has been successfully completed and work has continued on developing a credit system for VET (ECVET) which is now the subject of a public consultation.

<sup>(1)</sup> OJ C 13, 18.1.2003, p. 2.

<sup>(2)</sup> Doc. 13832/04.

<sup>(3)</sup> Resolution on guidance throughout life (doc. 9286/04);  
Conclusions on identification and validation of non-formal and informal learning (doc. 9600/04);  
Conclusions on quality assurance in VET (doc. 9599/04).

<sup>(4)</sup> Europass (OJ L 390, 31.12.2004, p. 6);  
Conclusions on skills and competences (OJ C 292, 24.11.2005, p. 3).

4. the revised Lisbon strategy and its integrated guidelines for growth and jobs 2005 — 2008<sup>(5)</sup> reflect the central role of education and training within the European Union's agenda. It calls on the Member States to expand and improve investment in human capital and to adapt education and training systems in response to the challenges posed by globalisation, demographic change and technological innovation.

5. the 2006 joint interim report on progress under the 'Education and Training 2010' work programme<sup>(6)</sup> concludes that *'the improvement of the quality and attractiveness of VET continues to be a key challenge for the future'*. It also states that *'the search for excellence ... should go hand in hand with a search for greater access and social inclusion'*;

EMPHASISE that

1. vocational education and training should provide a broad knowledge and skills base relevant to working life, highlighting at the same time excellence at all levels. Policies and practices should assess the relative impacts of investing in different levels of skills and competences. The supply of intermediary and technical skills as well as high level skills should be increased to overcome skills shortages and to help sustain innovation and the growth of the knowledge society;

2. VET has a dual role in contributing to competitiveness and in enhancing social cohesion<sup>(7)</sup>. VET policies should address all sections of the population, offering attractive and challenging pathways for those with high potential, while at the same time addressing those at risk of educational disadvantages and labour market exclusion — especially early school leavers, those with low qualifications or no qualifications at all, those with special needs, people with an immigrant background and older workers;

<sup>(5)</sup> Doc. 9341/2/05.

<sup>(6)</sup> *'Modernising education and training: a vital contribution to prosperity and social cohesion in Europe'* — 2006 joint interim report of the Council and of the Commission on progress under the 'Education and Training 2010' work programme, (OJ C 79, 1.4.2006, p. 1).

<sup>(7)</sup> Presidency conclusions, Brussels European Council, 23/24 March 2006 (doc. 7775/06).

3. basic education should provide young people with the knowledge, skills, values and attitudes necessary for further learning, employment and entrepreneurship and prepare students to follow a general education pathway or a VET pathway or a combination of both;

4. young people in VET should acquire skills and competences relevant to labour market requirements and for lifelong learning. This calls for policies to reduce drop-out rates from vocational education and training and to better facilitate school-to-work transition, e.g. by combining education and training with work through apprenticeships and work-based learning.

5. the skills and competences of the adult labour force should be promoted by encouraging the recognition of prior learning gained through training and work experience. Training opportunities should be provided for those in working life, while assessing the possibilities for and the benefits of a balanced sharing of the financial burden. At the same time, learning opportunities should be available for disadvantaged individuals and groups, especially for the less educated;

6. the diversity of European VET systems is an asset which serves as a basis for mutual learning and inspiring reforms. At the same time, this diversity makes it important to increase transparency and common understanding on quality issues, and hence mutual trust between VET systems and practices. The aim should be to promote a European VET area in which qualifications and skills acquired in one country are recognised throughout Europe, thus supporting the mobility of young people and adults.

RECOGNISE that

the Copenhagen process has played an essential role in emphasising the importance of VET to political decision makers. It has contributed to raising the profile of VET as part of the Lisbon strategy. The process facilitates agreeing common European goals and objectives, discussing national models and initiatives, and exchanging good examples of practice at the European level. At national level, the process has contributed to strengthening the focus on VET and has inspired national reforms.

STRESS that

1. special actions addressing VET need to be strengthened in the future. The Copenhagen process should be continued within the framework of the 'Education and Training 2010' work programme. A focused and holistic approach should be

ensured, in which the different initiatives and tools are inter-linked and mutually supportive, and in which VET is developed at all levels as an essential part of lifelong learning with close links to general education. Emphasis should be placed on engaging social partners and sectoral organisations in all stages of the work, and on feeding national experiences back into the developmental work at European level;

2. measures are voluntary and should be developed through bottom-up cooperation.

AGREE that

The Copenhagen and Maastricht priorities remain valid and should be reinforced in the next phase as follows:

#### 1. Policy focused on improving the attractiveness and quality of VET

More attention should be paid by Member States to the image, status and attractiveness of VET. This calls for:

- improved guidance throughout life to take better account of the opportunities and requirements of VET and of working life, including increased career guidance, information and advice in schools;
- open VET systems which offer access to flexible, individualised pathways and create better conditions for transition to working life, progression to further education and training, including higher education, and which support the skills development of adults in the labour market;
- close links with working life, both in initial and continuing vocational education and training, and increased opportunities to learn at the workplace;
- promoting the recognition of non-formal and informal learning to support career development and lifelong learning;
- measures to increase the interest and participation of men or women in those VET fields in which they remain under-represented, for instance women in the technology field;
- developing and highlighting excellence in skills, for instance by applying world-class standards or organising skills competitions <sup>(1)</sup>.

In improving the attractiveness and quality of VET, more emphasis should be placed on good governance of VET systems and providers in delivering the VET agenda <sup>(2)</sup>. This means:

<sup>(1)</sup> Such as the European Skills Competition to be organised in the Netherlands in 2008 and the biannual World Skills Competitions.

<sup>(2)</sup> Key messages to the Spring European Council (doc. 7620/06).

- responsiveness to the needs of individuals and the labour market, including anticipation of skills needs. Particular attention should be paid to the needs of small and medium-sized enterprises;
- national quality assurance and improvement in line with the Council Conclusions on Quality Assurance in VET <sup>(1)</sup>;
- improving public and private investment in VET through the development of balanced and shared funding and investment mechanisms;
- increased transparency of VET systems;
- stronger leadership of institutions and/or training providers within national strategies;
- highly qualified teachers and trainers who undertake continuous professional development;
- active partnership between different decision makers and stakeholders, in particular social partners and sectoral organisations, at national, regional and local levels.

## 2. Development and implementation of common tools for VET

The development of common European tools should be continued in order to pave the way towards a European area of VET and to support the competitiveness of the European labour market. The aim should be for the agreed tools to be in place by 2010.

Further development of:

- a) common European tools specifically aimed at VET, by:
  - developing and testing a European Credit System for VET (ECVET) as a tool for credit accumulation and transfer, taking into account the specificities of VET and the experience gained with the European Credit Transfer and Accumulation System (ECTS) in higher education;
  - strengthening cooperation on quality improvement by using the European Network of Quality Assurance for VET (ENQA-VET) to support the creation of a common understanding on quality assurance and to foster mutual trust. Cooperation with higher education should be continued;
- b) common European tools in which VET plays a major role, by:
  - developing and testing a European Qualifications Framework (EQF) based on learning outcomes, providing greater parity and better links between the VET and higher education sectors and taking account of international sectoral qualifications;

- further developing EUROPASS as the single European framework for transparency, and tools for the recognition of non-formal and informal learning, in order to support and complement the introduction of EQF and ECVET.

Implementation of:

- a) common European tools specifically aimed at VET, by:
  - participating in the testing of ECVET and encouraging its implementation;
  - drawing on the principles underlying a Common Quality Assurance Framework, as referred to in the May 2004 Council Conclusions on quality assurance in VET, in order to promote a culture of quality improvement and wider participation in the ENQA-VET network;
- b) common European tools in which VET plays a major role, by:
  - linking national qualification systems or national qualifications frameworks to the EQF;
  - supporting national qualifications systems in incorporating international sectoral qualifications, using the EQF as a reference point;
  - promoting widespread use of EUROPASS.

## 3. Strengthening mutual learning

A more systematic approach is needed to strengthen mutual learning, cooperative work and the sharing of experience and know-how. This should be facilitated by:

- common concepts and agreed definitions at European level in order to make national solutions, models and standards more easily understood;
- Commission funding for research and surveys on specific topics to deepen understanding of European VET systems and practices, and their links to the labour market and other education sectors;
- monitoring by the Commission of networks, the exchange of examples of good practice and the development of mechanisms which can be used to disseminate knowledge and expertise;
- a systematic and flexible framework to support peer learning activities in the field of VET. The framework should also support decentralised peer learning.

Adequate and consistent data and indicators are the key to understanding what is happening in VET, to strengthening mutual learning and to laying the foundations for evidence-based training policy.

<sup>(1)</sup> Conclusions on quality assurance in VET (doc. 9599/04).

By the time of the next Ministerial follow-up Conference in 2008 the Commission should have:

- given special attention to improving the scope, precision and reliability of VET statistics so that progress in developing VET can be evaluated;
- devoted attention to the development of the VET component within the coherent framework of indicators and benchmarks <sup>(1)</sup>;
- paid particular attention to the development of statistical information on investment in and the financing of VET.

This would best be achieved by using and combining existing data to the best advantage, while ensuring adequate national/regional data on VET and consistency and comparability with other data on education and training.

#### 4. Taking all stakeholders on board

The success of the Copenhagen process relies on the active involvement of all stakeholders in the field of VET, including in particular the social partners at European and national level, sectoral organisations and VET providers. This calls for:

- concise and clear information on the process, its background, priorities and activities and the effective transfer of results;
- the active participation in all stages of the process of stakeholders at European, national, regional and local level;
- emphasis on involving VET providers, teachers and trainers in testing and implementing the outcomes of the process;
- the involvement, where appropriate, of learners and their organisations at national and European level.

INVITE THE MEMBER STATES AND THE COMMISSION, WITHIN THEIR RESPECTIVE COMPETENCES,

to implement the Copenhagen process through:

- the effective use of structural funds to support VET reforms at national level;
- targeted use of the new Lifelong Learning Programme to support the process, particularly for innovation, testing, experimentation and implementation;
- the active participation of relevant Community agencies, bodies and committees;
- close cooperation on statistics, indicators and benchmarks with EUROSTAT, OECD, CEDEFOP, and ETF;
- the exchange of information, expertise and results with third countries, particularly those countries covered by the wider Europe neighbourhood policy. Cooperation with high-performing countries and international organisations such as OECD should be strengthened.

The right of participation of all Member States in this work should be ensured.

In the annual reporting on the national Lisbon reform programmes special attention should be paid to progress in VET.

The integrated biennial report on the 'Education and Training 2010' work programme should include a specific part addressing VET, enabling monitoring of the progress and identifying key outcomes to be reported to the European Council.

<sup>(1)</sup> Council conclusions of 24 May 2005 on new indicators in education and training (OJ C 141, 10.6.2005, p. 7).

## COMMISSION

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

6 December 2006

(2006/C 298/06)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3297	SIT	Slovenian tolar	239,67
JPY	Japanese yen	152,87	SKK	Slovak koruna	35,460
DKK	Danish krone	7,4554	TRY	Turkish lira	1,9045
GBP	Pound sterling	0,67610	AUD	Australian dollar	1,6827
SEK	Swedish krona	9,0345	CAD	Canadian dollar	1,5275
CHF	Swiss franc	1,5875	HKD	Hong Kong dollar	10,3283
ISK	Iceland króna	91,85	NZD	New Zealand dollar	1,9261
NOK	Norwegian krone	8,0945	SGD	Singapore dollar	2,0449
BGN	Bulgarian lev	1,9558	KRW	South Korean won	1 215,21
CYP	Cyprus pound	0,5781	ZAR	South African rand	9,3800
CZK	Czech koruna	27,968	CNY	Chinese yuan renminbi	10,4030
EEK	Estonian kroon	15,6466	HRK	Croatian kuna	7,3495
HUF	Hungarian forint	256,04	IDR	Indonesian rupiah	12 063,70
LTL	Lithuanian litas	3,4528	MYR	Malaysian ringgit	4,7105
LVL	Latvian lats	0,6986	PHP	Philippine peso	65,727
MTL	Maltese lira	0,4293	RUB	Russian rouble	34,8610
PLN	Polish zloty	3,8103	THB	Thai baht	47,293
RON	Romanian leu	3,4270			

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

**Notification of a request under Article 30 of Directive 2004/17/EC**

(2006/C 298/07)

**Request from a Member State**

On 20 November 2006 the Commission received a request under Article 30(4) of Directive 2004/17/EC of the European Parliament and of the Council <sup>(1)</sup>. The first working day following receipt of the request was 21 November 2006.

The request, from Denmark, concerns mail services relating to parcels in Denmark. Article 30 of Directive 2004/17/EC stipulates that the Directive shall not apply if the activity in question is directly exposed to competition on markets to which access is not restricted. Assessment of these conditions shall be made exclusively under Directive 2004/17/EC and without prejudice to application of the rules on competition.

The Commission has a three-month period from 21 November 2006, i.e. until 21 February 2007, within which to take a decision on this request.

The third subparagraph of Article 30(4) of Directive 2004/17/EC applies. Consequently, the period within which the Commission must take a decision may be extended by one month. Such an extension would be subject to publication.

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<sup>(1)</sup> OJ L 134, 30.4.2004, p. 1. Directive as amended by Commission Regulation (EC) No 1874/2004 (OJ L 326, 29.10.2004, p. 17).

**Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises**

(Text with EEA relevance)

(2006/C 298/08)

Aid No	XS 58/05
Member State	Hungary
Region	Entire country
Title of aid scheme or name of company receiving individual aid	Partner Credit Programme
Legal basis	A Magyar Fejlesztési Bank Rt. Igazgatóságának 14/2005. (I. 17.) számú határozata
Annual expenditure planned or overall amount of individual aid granted to the company	Expenditure under the programme (credit to be provided) is HUF 10 billion (EUR 40 million)
Maximum aid intensity	Small enterprises 15 % Medium-sized enterprises 7,5 %
Date of implementation	The Board of Directors of the Hungarian Development Bank adopted the programme on 17 January 2005.
Duration of the scheme or individual aid award	Until 31.12.2006
Objective of aid	Provision of low-cost investment loans for investments carried out outside the European Union
Economic sectors concerned	All sectors
Note:	No aid under the programme may be provided for agriculture and fisheries or for coalmining.
Name and address of the granting authority	Magyar Fejlesztési Bank Rt. Nádor u. 31. H-1051 Budapest



**Commission notice on current State aid recovery interest rates and reference/discount rates for 25 Member States applicable as from 1 September 2006**

*Published in accordance with Article 10 of Commission Regulation (EC) 794/2004 of 21 April 2004 (OJ L 140, 30.4.2004, p. 1) and the Commission notice on the method for setting the reference and discount rates (OJ C 273, 9.9.1997, p. 3)*

(2006/C 298/09)

From	To	AT	BE	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	SE	SI	SK	UK
1.9.2006	...	4,36	4,36	6,34	4,34	4,36	4,49	5,50	4,36	4,36	4,36	4,36	8,12	4,36	4,36	6,49	4,36	6,64	7,00	4,36	5,56	4,36	4,31	4,43	5,62	5,33
1.6.2006	31.8.2006	4,36	4,36	6,34	3,72	4,36	4,49	5,50	4,36	4,36	4,36	4,36	7,04	4,36	4,36	6,49	4,36	6,64	7,00	4,36	5,56	4,36	4,31	4,43	4,77	5,33
1.3.2006	31.5.2006	3,70	3,70	6,34	3,72	3,70	3,74	5,50	3,70	3,70	3,70	3,70	7,04	3,70	3,70	6,49	3,70	6,64	7,00	3,70	5,56	3,70	3,74	4,43	3,98	5,33
1.1.2006	28.2.2006	3,70	3,70	6,34	3,72	3,70	3,74	5,50	3,70	3,70	3,70	3,70	7,04	3,70	3,70	6,49	3,70	6,64	7,00	3,70	5,56	3,70	3,74	5,10	3,98	5,33
1.12.2005	31.12.2005	4,08	4,08	6,34	3,40	4,08	3,54	5,50	4,08	4,08	4,08	4,08	8,59	4,08	4,08	6,49	4,08	6,64	7,00	4,08	6,24	4,08	3,96	5,10	7,55	5,81
1.9.2005	30.11.2005	4,08	4,08	7,53	3,40	4,08	3,54	5,50	4,08	4,08	4,08	4,08	8,59	4,08	4,08	6,49	4,08	6,64	7,00	4,08	6,24	4,08	3,96	5,10	7,55	5,81
1.7.2005	31.8.2005	4,08	4,08	7,53	4,05	4,08	4,23	5,50	4,08	4,08	4,08	4,08	8,59	4,08	4,08	6,49	4,08	6,64	7,00	4,08	6,24	4,08	3,96	5,10	7,55	5,81
1.6.2005	30.6.2005	4,08	4,08	7,53	4,05	4,08	4,23	5,50	4,08	4,08	4,08	4,08	8,59	4,08	4,08	6,49	4,08	6,64	7,00	4,08	6,24	4,08	4,69	5,10	7,55	5,81
1.4.2005	31.5.2005	4,08	4,08	7,88	4,05	4,08	4,23	5,50	4,08	4,08	4,08	4,08	8,59	4,08	4,08	6,49	4,08	6,64	7,00	4,08	7,62	4,08	4,69	5,10	7,55	5,81
1.1.2005	31.3.2005	4,08	4,08	7,88	4,86	4,08	4,23	5,50	4,08	4,08	4,08	4,08	8,59	4,08	4,08	6,49	4,08	6,64	7,00	4,08	7,62	4,08	4,69	5,10	7,55	5,81

**Prior notification of a concentration**

(Case COMP/M.4461 — Accor Services France/Groupe Caisse d'Épargne/Accor Emploi Services Universel JV)

**Candidate case for simplified procedure**

(Text with EEA relevance)

(2006/C 298/10)

1. On 28 November 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(1)</sup> by which the undertakings Accor Services France ('ASF', France), belonging to the group Accor ('Accor', France) and Groupe Caisse d'épargne ('GCE', France) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the undertaking A.C.E. ('ACE', France), a newly created company constituting a joint venture.

2. The business activities of the undertakings concerned are:

- for undertaking ASF: design and provision of services to undertakings and communities in France, in particular through the emission of tickets for services;
- For undertaking GCE: group active in the supply of products and banking and financial services for individuals, companies, communities and financial institutions;
- For undertaking ACE: newly created full-function joint venture, entrusted with the emission and marketing of Cheques for Universal Employment Services (CESU), with a fixed amount.

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 <sup>(2)</sup> it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation 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.4461 — Accor Services France/Groupe Caisse d'Épargne/Accor Emploi Services Universel JV, to the following address:

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

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<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

<sup>(2)</sup> OJ C 56, 5.3.2005, p. 32.

## Commission Notice on Immunity from fines and reduction of fines in cartel cases

(Text with EEA relevance)

(2006/C 298/11)

### I. INTRODUCTION

- (1) This notice sets out the framework for rewarding cooperation in the Commission investigation by undertakings which are or have been party to secret cartels affecting the Community. Cartels are agreements and/or concerted practices between two or more competitors aimed at coordinating their competitive behaviour on the market and/or influencing the relevant parameters of competition through practices such as the fixing of purchase or selling prices or other trading conditions, the allocation of production or sales quotas, the sharing of markets including bid-rigging, restrictions of imports or exports and/or anti-competitive actions against other competitors. Such practices are among the most serious violations of Article 81 EC <sup>(1)</sup>.
- (2) By artificially limiting the competition that would normally prevail between them, undertakings avoid exactly those pressures that lead them to innovate, both in terms of product development and the introduction of more efficient production methods. Such practices also lead to more expensive raw materials and components for the Community companies that purchase from such producers. They ultimately result in artificial prices and reduced choice for the consumer. In the long term, they lead to a loss of competitiveness and reduced employment opportunities.
- (3) By their very nature, secret cartels are often difficult to detect and investigate without the cooperation of undertakings or individuals implicated in them. Therefore, the Commission considers that it is in the Community interest to reward undertakings involved in this type of illegal practices which are willing to put an end to their participation and co-operate in the Commission's investigation, independently of the rest of the undertakings involved in the cartel. The interests of consumers and citizens in ensuring that secret cartels are detected and punished outweigh the interest in fining those undertakings that enable the Commission to detect and prohibit such practices.
- (4) The Commission considers that the collaboration of an undertaking in the detection of the existence of a cartel has an intrinsic value. A decisive contribution to the opening of an investigation or to the finding of an infringement may justify the granting of immunity from any fine to the undertaking in question, on condition that certain additional requirements are fulfilled.
- (5) Moreover, co-operation by one or more undertakings may justify a reduction of a fine by the Commission. Any reduction of a fine must reflect an undertaking's actual contribution, in terms of quality and timing, to the Commission's establishment of the infringement. Reductions are to be limited to those undertakings that provide the Commission with evidence that adds significant value to that already in the Commission's possession.
- (6) In addition to submitting pre-existing documents, undertakings may provide the Commission with voluntary presentations of their knowledge of a cartel and their role therein prepared specially to be submitted under this leniency programme. These initiatives have proved to be useful for the effective investigation and termination of cartel infringements and they should not be discouraged by discovery orders issued in civil litigation. Potential leniency applicants might be dissuaded from cooperating with the Commission under this Notice if this could impair their position in civil proceedings, as compared to companies who do not cooperate. Such undesirable effect would significantly harm the public interest in ensuring effective public enforcement of Article 81 EC in cartel cases and thus its subsequent or parallel effective private enforcement.
- (7) The supervisory task conferred on the Commission by the Treaty in competition matters does not only include the duty to investigate and punish individual infringements, but also encompasses the duty to pursue a general policy. The protection of corporate statements in the public interest is not a bar to their disclosure to other addressees of the statement of objections in order to safeguard their rights of defence in the procedure before the Commission, to the extent that it is technically possible to combine both interests by rendering corporate statements accessible only at the Commission premises and normally on a single occasion following the formal notification of the objections. Moreover, the Commission will process personal data in the context of this notice in conformity with its obligations under Regulation (EC) No 45/2001. <sup>(2)</sup>
- (8) The Commission will grant immunity from any fine which would otherwise have been imposed to an undertaking disclosing its participation in an alleged cartel

### II. IMMUNITY FROM FINES

#### A. Requirements to qualify for immunity from fines

<sup>(1)</sup> Reference in this text to Article 81 EC also covers Article 53 EEA when applied by the Commission according to the rules laid down in Article 56 of the EEA Agreement.

<sup>(2)</sup> OJ L 8, 12.1.2001, p. 1.

- affecting the Community if that undertaking is the first to submit information and evidence which in the Commission's view will enable it to:
- (a) carry out a targeted inspection in connection with the alleged cartel <sup>(1)</sup>; or
  - (b) find an infringement of Article 81 EC in connection with the alleged cartel.
- (9) For the Commission to be able to carry out a targeted inspection within the meaning of point (8)(a), the undertaking must provide the Commission with the information and evidence listed below, to the extent that this, in the Commission's view, would not jeopardize the inspections:
- (a) A corporate statement <sup>(2)</sup> which includes, in so far as it is known to the applicant at the time of the submission:
    - A detailed description of the alleged cartel arrangement, including for instance its aims, activities and functioning; the product or service concerned, the geographic scope, the duration of and the estimated market volumes affected by the alleged cartel; the specific dates, locations, content of and participants in alleged cartel contacts, and all relevant explanations in connection with the pieces of evidence provided in support of the application.
    - The name and address of the legal entity submitting the immunity application as well as the names and addresses of all the other undertakings that participate(d) in the alleged cartel;
    - The names, positions, office locations and, where necessary, home addresses of all individuals who, to the applicant's knowledge, are or have been involved in the alleged cartel, including those individuals which have been involved on the applicant's behalf;
    - Information on which other competition authorities, inside or outside the EU, have been approached or are intended to be approached in relation to the alleged cartel; and
  - (b) Other evidence relating to the alleged cartel in possession of the applicant or available to it at the time of the submission, including in particular any evidence contemporaneous to the infringement.
- (10) Immunity pursuant to point (8)(a) will not be granted if, at the time of the submission, the Commission had already sufficient evidence to adopt a decision to carry out an inspection in connection with the alleged cartel or had already carried out such an inspection.
- (11) Immunity pursuant to point (8)(b) will only be granted on the cumulative conditions that the Commission did not have, at the time of the submission, sufficient evidence to find an infringement of Article 81 EC in connection with the alleged cartel and that no undertaking had been granted conditional immunity from fines under point (8)(a) in connection with the alleged cartel. In order to qualify, an undertaking must be the first to provide contemporaneous, incriminating evidence of the alleged cartel as well as a corporate statement containing the kind of information specified in point (9)(a), which would enable the Commission to find an infringement of Article 81 EC.
- (12) In addition to the conditions set out in points (8)(a), (9) and (10) or in points (8)(b) and 11, all the following conditions must be met in any case to qualify for any immunity from a fine:
- (a) The undertaking cooperates genuinely <sup>(3)</sup>, fully, on a continuous basis and expeditiously from the time it submits its application throughout the Commission's administrative procedure. This includes:
    - providing the Commission promptly with all relevant information and evidence relating to the alleged cartel that comes into its possession or is available to it;
    - remaining at the Commission's disposal to answer promptly to any request that may contribute to the establishment of the facts;
    - making current (and, if possible, former) employees and directors available for interviews with the Commission;
    - not destroying, falsifying or concealing relevant information or evidence relating to the alleged cartel; and
    - not disclosing the fact or any of the content of its application before the Commission has issued a statement of objections in the case, unless otherwise agreed;

<sup>(1)</sup> The assessment of the threshold will have to be carried out *ex ante*, i.e. without taking into account whether a given inspection has or has not been successful or whether or not an inspection has or has not been carried out. The assessment will be made exclusively on the basis of the type and the quality of the information submitted by the applicant.

<sup>(2)</sup> Corporate statements may take the form of written documents signed by or on behalf of the undertaking or be made orally.

<sup>(3)</sup> This requires in particular that the applicant provides accurate, not misleading, and complete information. Cfr judgement of the European Court of Justice of 29 June 2006 in case C-301/04 P, *Commission v SGL Carbon AG a.o.*, at paragraphs 68-70, and judgement of the European Court of Justice of 28 June 2005 in cases C-189/02 P, C-202/02 P, C-205/02 P, C-208/02 P and C-213/02 P, *Dansk Rørindustri A/S a.o. v. Commission*, at paragraphs 395-399.

- (b) The undertaking ended its involvement in the alleged cartel immediately following its application, except for what would, in the Commission's view, be reasonably necessary to preserve the integrity of the inspections;
  - (c) When contemplating making its application to the Commission, the undertaking must not have destroyed, falsified or concealed evidence of the alleged cartel nor disclosed the fact or any of the content of its contemplated application, except to other competition authorities.
- (13) An undertaking which took steps to coerce other undertakings to join the cartel or to remain in it is not eligible for immunity from fines. It may still qualify for a reduction of fines if it fulfils the relevant requirements and meets all the conditions therefor.

#### B. Procedure

- (14) An undertaking wishing to apply for immunity from fines should contact the Commission's Directorate General for Competition. The undertaking may either initially apply for a marker or immediately proceed to make a formal application to the Commission for immunity from fines in order to meet the conditions in points (8)(a) or (8)(b), as appropriate. The Commission may disregard any application for immunity from fines on the ground that it has been submitted after the statement of objections has been issued.
- (15) The Commission services may grant a marker protecting an immunity applicant's place in the queue for a period to be specified on a case-by-case basis in order to allow for the gathering of the necessary information and evidence. To be eligible to secure a marker, the applicant must provide the Commission with information concerning its name and address, the parties to the alleged cartel, the affected product(s) and territory(-ies), the estimated duration of the alleged cartel and the nature of the alleged cartel conduct. The applicant should also inform the Commission on other past or possible future leniency applications to other authorities in relation to the alleged cartel and justify its request for a marker. Where a marker is granted, the Commission services determine the period within which the applicant has to perfect the marker by submitting the information and evidence required to meet the relevant threshold for immunity. Undertakings which have been granted a marker cannot perfect it by making a formal application in hypothetical terms. If the applicant perfects the marker within the period set by the Commission services, the information and evidence provided will be deemed to have been submitted on the date when the marker was granted.
- (16) An undertaking making a formal immunity application to the Commission must:
- (a) provide the Commission with all information and evidence relating to the alleged cartel available to it, as specified in points (8) and (9), including corporate statements; or
  - (b) initially present this information and evidence in hypothetical terms, in which case the undertaking must present a detailed descriptive list of the evidence it proposes to disclose at a later agreed date. This list should accurately reflect the nature and content of the evidence, whilst safeguarding the hypothetical nature of its disclosure. Copies of documents, from which sensitive parts have been removed, may be used to illustrate the nature and content of the evidence. The name of the applying undertaking and of other undertakings involved in the alleged cartel need not be disclosed until the evidence described in its application is submitted. However, the product or service concerned by the alleged cartel, the geographic scope of the alleged cartel and the estimated duration must be clearly identified.
- (17) If requested, the Directorate General for Competition will provide an acknowledgement of receipt of the undertaking's application for immunity from fines, confirming the date and, where appropriate, time of the application.
- (18) Once the Commission has received the information and evidence submitted by the undertaking under point (16)(a) and has verified that it meets the conditions set out in points (8)(a) or (8)(b), as appropriate, it will grant the undertaking conditional immunity from fines in writing.
- (19) If the undertaking has presented information and evidence in hypothetical terms, the Commission will verify that the nature and content of the evidence described in the detailed list referred to in point (16)(b) will meet the conditions set out in points (8)(a) or (8)(b), as appropriate, and inform the undertaking accordingly. Following the disclosure of the evidence no later than on the date agreed and having verified that it corresponds to the description made in the list, the Commission will grant the undertaking conditional immunity from fines in writing.
- (20) If it becomes apparent that immunity is not available or that the undertaking failed to meet the conditions set out in points (8)(a) or (8)(b), as appropriate, the Commission will inform the undertaking in writing. In such case, the undertaking may withdraw the evidence disclosed for the purposes of its immunity application or request the Commission to consider it under section III of this notice. This does not prevent the Commission from using its normal powers of investigation in order to obtain the information.

- (21) The Commission will not consider other applications for immunity from fines before it has taken a position on an existing application in relation to the same alleged infringement, irrespective of whether the immunity application is presented formally or by requesting a marker.
- (22) If at the end of the administrative procedure, the undertaking has met the conditions set out in point (12), the Commission will grant it immunity from fines in the relevant decision. If at the end of the administrative procedure, the undertaking has not met the conditions set out in point (12), the undertaking will not benefit from any favorable treatment under this Notice. If the Commission, after having granted conditional immunity ultimately finds that the immunity applicant has acted as a coercer, it will withhold immunity.

### III. REDUCTION OF A FINE

#### A. Requirements to qualify for reduction of a fine

- (23) Undertakings disclosing their participation in an alleged cartel affecting the Community that do not meet the conditions under section II above may be eligible to benefit from a reduction of any fine that would otherwise have been imposed.
- (24) In order to qualify, an undertaking must provide the Commission with evidence of the alleged infringement which represents significant added value with respect to the evidence already in the Commission's possession and must meet the cumulative conditions set out in points (12)(a) to (12)(c) above.
- (25) The concept of 'added value' refers to the extent to which the evidence provided strengthens, by its very nature and/or its level of detail, the Commission's ability to prove the alleged cartel. In this assessment, the Commission will generally consider written evidence originating from the period of time to which the facts pertain to have a greater value than evidence subsequently established. Incriminating evidence directly relevant to the facts in question will generally be considered to have a greater value than that with only indirect relevance. Similarly, the degree of corroboration from other sources required for the evidence submitted to be relied upon against other undertakings involved in the case will have an impact on the value of that evidence, so that compelling evidence will be attributed a greater value than evidence such as statements which require corroboration if contested.
- (26) The Commission will determine in any final decision adopted at the end of the administrative procedure the level of reduction an undertaking will benefit from, relative to the fine which would otherwise be imposed. For the:
- first undertaking to provide significant added value: a reduction of 30-50 %,

- second undertaking to provide significant added value: a reduction of 20-30 %,
- subsequent undertakings that provide significant added value: a reduction of up to 20 %.

In order to determine the level of reduction within each of these bands, the Commission will take into account the time at which the evidence fulfilling the condition in point (24) was submitted and the extent to which it represents added value.

If the applicant for a reduction of a fine is the first to submit compelling evidence in the sense of point (25) which the Commission uses to establish additional facts increasing the gravity or the duration of the infringement, the Commission will not take such additional facts into account when setting any fine to be imposed on the undertaking which provided this evidence.

#### B. Procedure

- (27) An undertaking wishing to benefit from a reduction of a fine must make a formal application to the Commission and it must present it with sufficient evidence of the alleged cartel to qualify for a reduction of a fine in accordance with point (24) of this Notice. Any voluntary submission of evidence to the Commission which the undertaking that submits it wishes to be considered for the beneficial treatment of section III of this Notice must be clearly identified at the time of its submission as being part of a formal application for a reduction of a fine.
- (28) If requested, the Directorate General for Competition will provide an acknowledgement of receipt of the undertaking's application for a reduction of a fine and of any subsequent submissions of evidence, confirming the date and, where appropriate, time of each submission. The Commission will not take any position on an application for a reduction of a fine before it has taken a position on any existing applications for conditional immunity from fines in relation to the same alleged cartel.
- (29) If the Commission comes to the preliminary conclusion that the evidence submitted by the undertaking constitutes significant added value within the meaning of points (24) and (25), and that the undertaking has met the conditions of points (12) and (27), it will inform the undertaking in writing, no later than the date on which a statement of objections is notified, of its intention to apply a reduction of a fine within a specified band as provided in point (26). The Commission will also, within the same time frame, inform the undertaking in writing if it comes to the preliminary conclusion that the undertaking does not qualify for a reduction of a fine. The Commission may disregard any application for a reduction of fines on the grounds that it has been submitted after the statement of objections has been issued.

- (30) The Commission will evaluate the final position of each undertaking which filed an application for a reduction of a fine at the end of the administrative procedure in any decision adopted. The Commission will determine in any such final decision:
- (a) whether the evidence provided by an undertaking represented significant added value with respect to the evidence in the Commission's possession at that same time;
  - (b) whether the conditions set out in points (12)(a) to (12)(c) above have been met;
  - (c) the exact level of reduction an undertaking will benefit from within the bands specified in point (26).

If the Commission finds that the undertaking has not met the conditions set out in point (12), the undertaking will not benefit from any favourable treatment under this Notice.

#### IV. CORPORATE STATEMENTS MADE TO QUALIFY UNDER THIS NOTICE

- (31) A corporate statement is a voluntary presentation by or on behalf of an undertaking to the Commission of the undertaking's knowledge of a cartel and its role therein prepared specially to be submitted under this Notice. Any statement made vis-à-vis the Commission in relation to this notice, forms part of the Commission's file and can thus be used in evidence.
- (32) Upon the applicant's request, the Commission may accept that corporate statements be provided orally unless the applicant has already disclosed the content of the corporate statement to third parties. Oral corporate statements will be recorded and transcribed at the Commission's premises. In accordance with Article 19 of Council Regulation (EC) No 1/2003<sup>(1)</sup> and Articles 3 and 17 of Commission Regulation (EC) No 773/2004<sup>(2)</sup>, undertakings making oral corporate statements will be granted the opportunity to check the technical accuracy of the recording, which will be available at the Commission's premises and to correct the substance of their oral statements within a given time limit. Undertakings may waive these rights within the said time-limit, in which case the recording will from that moment on be deemed to have been approved. Following the explicit or implicit approval of the oral statement or the submission of any corrections to it, the undertaking shall listen to the recordings at the Commission's premises and check the accuracy of the transcript within a given time limit. Non-compliance with the last requirement may lead to the loss of any beneficial treatment under this Notice.

- (33) Access to corporate statements is only granted to the addressees of a statement of objections, provided that they commit, — together with the legal counsels getting access on their behalf —, not to make any copy by mechanical or electronic means of any information in the corporate statement to which access is being granted and to ensure that the information to be obtained from the corporate statement will solely be used for the purposes mentioned below. Other parties such as complainants will not be granted access to corporate statements. The Commission considers that this specific protection of a corporate statement is not justified as from the moment when the applicant discloses to third parties the content thereof.
- (34) In accordance with the Commission Notice on rules for access to the Commission file<sup>(3)</sup>, access to the file is only granted to the addressees of a statement of objections on the condition that the information thereby obtained may only be used for the purposes of judicial or administrative proceedings for the application of the Community competition rules at issue in the related administrative proceedings. The use of such information for a different purpose during the proceeding may be regarded as lack of cooperation within the meaning of points (12) and (27) of this Notice. Moreover, if any such use is made after the Commission has already adopted a prohibition decision in the proceeding, the Commission may, in any legal proceedings before the Community Courts, ask the Court to increase the fine in respect of the responsible undertaking. Should the information be used for a different purpose, at any point in time, with the involvement of an outside counsel, the Commission may report the incident to the bar of that counsel, with a view to disciplinary action.
- (35) Corporate statements made under the present Notice will only be transmitted to the competition authorities of the Member States pursuant to Article 12 of Regulation No 1/2003, provided that the conditions set out in the Network Notice<sup>(4)</sup> are met and provided that the level of protection against disclosure awarded by the receiving competition authority is equivalent to the one conferred by the Commission.

#### V. GENERAL CONSIDERATIONS

- (36) The Commission will not take a position on whether or not to grant conditional immunity, or otherwise on whether or not to reward any application, if it becomes apparent that the application concerns infringements covered by the five years limitation period for the imposition of penalties stipulated in Article 25(1)(b) of Regulation 1/2003, as such applications would be devoid of purpose.

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

<sup>(2)</sup> OJ L 123, 27.4.2004, p. 18.

<sup>(3)</sup> OJ C 325, 22.12.2005, p. 7.

<sup>(4)</sup> Commission Notice on cooperation within the Network of Competition Authorities, OJ C 101, 27.4.2004, p. 43.

- (37) From the date of its publication in the Official Journal, this notice replaces the 2002 Commission notice on immunity from fines and reduction of fines in cartel cases for all cases in which no undertaking has contacted the Commission in order to take advantage of the favourable treatment set out in that notice. However, points (31) to (35) of the current notice will be applied from the moment of its publication to all pending and new applications for immunity from fines or reduction of fines.
- (38) The Commission is aware that this notice will create legitimate expectations on which undertakings may rely when disclosing the existence of a cartel to the Commission.
- (39) In line with the Commission's practice, the fact that an undertaking cooperated with the Commission during its administrative procedure will be indicated in any decision, so as to explain the reason for the immunity or reduction of the fine. The fact that immunity or reduction in respect of fines is granted cannot protect an undertaking from the civil law consequences of its participation in an infringement of Article 81 EC.
- (40) The Commission considers that normally public disclosure of documents and written or recorded statements received in the context of this notice would undermine certain public or private interests, for example the protection of the purpose of inspections and investigations, within the meaning of Article 4 of Regulation (EC) No 1049/2001 <sup>(1)</sup>, even after the decision has been taken.
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<sup>(1)</sup> OJ L 145, 31.5.2001, p. 43.



**Non-opposition to a notified concentration****(Case COMP/M.4390 — PHL/IBFF)****(Text with EEA relevance)**

(2006/C 298/12)

On 20 October 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 32006M4390. EUR-Lex is the on-line access to European law. (<http://ec.europa.eu/eur-lex/lex>)
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