

# Official Journal

## of the European Union

C 72

Volume 50

English edition

### Information and Notices

29 March 2007

<u>Notice No</u>	Contents	Page
	I <i>Resolutions, recommendations, guidelines and opinions</i>	
	OPINIONS	
	<b>Council</b>	
2007/C 72/01	Council opinion of 27 February 2007 on the updated convergence programme of Slovakia, 2006-2009	1
2007/C 72/02	Council opinion of 27 February 2007 on the updated convergence programme of Estonia, 2006-2010	5
2007/C 72/03	Council opinion of 27 February 2007 on the updated convergence programme of Malta, 2006-2009	9
2007/C 72/04	Council opinion of 27 February 2007 on the updated convergence programme of Poland, 2006-2009	13
2007/C 72/05	Council opinion of 27 February 2007 on the updated convergence programme of Sweden, 2006-2009	17
2007/C 72/06	Council opinion of 27 February 2007 on the updated convergence programme of United Kingdom, 2006/07-2011/12 .....	20
<hr/>		
	II <i>Information</i>	
	INFORMATION FROM EUROPEAN UNION INSTITUTIONS AND BODIES	
	<b>Commission</b>	
2007/C 72/07	Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty — Cases where the Commission raises no objections <sup>(1)</sup> .....	24

EN

<u>Notice No</u>	Contents (continued)	Page
2007/C 72/08	Non-opposition to a notified concentration (Case COMP/M.4585 — BMW Intec/Dekra Südleasing Services) <sup>(1)</sup> .....	27
2007/C 72/09	Non-opposition to a notified concentration (Case COMP/M.4554 — Berkshire Hathaway/TTI) <sup>(1)</sup> .....	27
2007/C 72/10	Non-opposition to a notified concentration (Case COMP/M.4503 — PBDS/Philips APM) <sup>(1)</sup> .....	28
2007/C 72/11	Non-opposition to a notified concentration (Case COMP/M.4502 — LITE-ON/PBDS) <sup>(1)</sup> .....	28
2007/C 72/12	Non-opposition to a notified concentration (Case COMP/M.4547 — KKR/Permira/Prosiebensat.1) <sup>(1)</sup> .....	29
2007/C 72/13	Non-opposition to a notified concentration (Case COMP/M.4571 — Swiss Life/Capitalleben) <sup>(1)</sup> .....	29

### **Europol**

2007/C 72/14	Decision of the Management Board of Europol of 20 March 2007 on the control mechanisms for retrievals from the computerised system of collected information .....	30
2007/C 72/15	Decision of the Management Board of 20 March 2007 laying down the rules governing the arrangements on the association of third parties' experts with the activities of analysis groups .....	32
2007/C 72/16	Decision of the Management Board of 20 March 2007 laying down the rules governing the arrangements regulating the administrative implementation of the participation of Europol officials in Joint investigation Teams .....	35
2007/C 72/17	Rules for access to Europol documents .....	37

## IV Notices

### NOTICES FROM EUROPEAN UNION INSTITUTIONS AND BODIES

#### **Commission**

2007/C 72/18	Euro exchange rates .....	41
2007/C 72/19	Opinion of the Advisory Committee on concentrations given at its 144th meeting on 25 October 2006 concerning a draft decision relating to Case COMP/M.4180 — Gaz de France/Suez — Rapporteur: Sweden .....	42
2007/C 72/20	Final report of the Hearing Officer in Case COMP/M.4180 — Gaz de France/Suez ( <i>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</i> ) .....	45
2007/C 72/21	Opinion of the Advisory Committee on concentrations given at its 139th meeting on 7 April 2006 concerning a draft decision relating to Case COMP/M.3916 — T-Mobile Austria/Tele.ring — Rapporteur: Luxembourg .....	46



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

2007/C 72/22	Final report of the Hearing Officer in Case COMP/M.3916 — T-Mobile Austria/Tele.ring (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) .....	47
<hr/>		
	V <i>Announcements</i>	
	COURT PROCEEDINGS	
	<b>EFTA Court</b>	
2007/C 72/23	Action brought on 15 November 2006 by the EFTA Surveillance Authority against the Principality of Liechtenstein (Case E-5/06) .....	48
2007/C 72/24	Action brought on 18 December 2006 by the EFTA Surveillance Authority against the Principality of Liechtenstein (Case E-6/06) .....	49
	PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMPETITION POLICY	
	<b>Commission</b>	
2007/C 72/25	Prior notification of a concentration (Case COMP/M.4286 — China Shipbuilding/Mitsubishi/Wärtsilä/JV) <sup>(1)</sup> .....	50
2007/C 72/26	Prior notification of a concentration (Case COMP/M.4590 — REWE/Delvita) <sup>(1)</sup> .....	51
2007/C 72/27	State aid — Portugal — State aid C 55/06 (ex N 42/05) — Interest Subsidies for Loans granted to Undertakings of the Fisheries Sector. — Invitation to submit comments pursuant to Article 88(2) of the EC Treaty <sup>(1)</sup> .....	52
2007/C 72/28	Prior notification of a concentration (Case COMP/M.4624 — EQT/Scandic) <sup>(1)</sup> .....	58
2007/C 72/29	Prior notification of a concentration (Case COMP/M.4608 — Siemens/UGS) <sup>(1)</sup> .....	59



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

## I

(Resolutions, recommendations, guidelines and opinions)

## OPINIONS

## COUNCIL

## COUNCIL OPINION

of 27 February 2007

**on the updated convergence programme of Slovakia, 2006-2009**

(2007/C 72/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies <sup>(1)</sup>, and in particular Article 9(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

- (1) On 27 February 2007 the Council examined the updated convergence programme of Slovakia, which covers the period 2006 to 2009.
- (2) The macroeconomic scenario underlying the programme envisages that real GDP growth will increase from 6,6 % in 2006 to 7,1 % in 2007 and then decrease to 5,5 % and 5,1 % in 2008 and 2009, respectively. Assessed against currently available information, this scenario appears to be based on cautious growth assumptions for 2006 and plausible growth assumptions for the rest of the programme period. The programme's projections for inflation also appear realistic.
- (3) For 2006, the general government deficit is estimated at 3,4 % of GDP in the Commission services' autumn 2006 forecast, against a target of 4,2 % of GDP set in the previous update of the convergence programme. The better outturn is due to much stronger GDP and employment growth and lower interest expenditure and pension reform costs than expected. However, some of the additional revenues owing to the growth surprise were spent rather than devoted to faster deficit reduction.

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 1. Regulation as amended by Regulation (EC) No 1055/2005 (OJ L 174, 7.7.2005, p. 1). The documents referred to in this text can be found at the following website:  
[http://europa.eu.int/comm/economy\\_finance/about/activities/sgp/main\\_en.htm](http://europa.eu.int/comm/economy_finance/about/activities/sgp/main_en.htm)

- (4) As in the previous update, the main goal of the new programme's medium-term budgetary strategy is to achieve long-term sustainability of public finances in 2010, notably by reaching the medium-term objective (MTO) for the budgetary position of a structural balance (i.e. cyclically-adjusted balance net of one-off and other temporary measures) of  $-0,9$  % of GDP. According to the programme the headline deficit should gradually decline from  $3,7$  % of GDP in 2006 to  $1,9$  % of GDP in 2009 and the primary deficit from  $1,9$  % of GDP in 2006 to  $0,2$  % of GDP in 2009. The envisaged fiscal consolidation relies on expenditure restraint with respect to both current and capital expenditure (decline in the expenditure ratio by around  $3\frac{1}{4}$  percentage points of GDP), which is less than fully offset by a decline in the revenue ratio ( $1\frac{1}{2}$  percentage point). Compared with the previous update, the new programme confirms the planned adjustment against a more favourable macroeconomic scenario.
- (5) The structural balance calculated according to the commonly agreed methodology is planned to improve from around  $-3\frac{1}{2}$  % of GDP in 2006 to some  $-2\frac{1}{2}$  % of GDP in 2009. As in the previous update, the medium-term objective (MTO) for the budgetary position presented in the programme is a structural deficit of just below  $1$  % of GDP, which the programme does not aim to achieve within the programme period but by 2010. As the MTO is more demanding than the minimum benchmark (estimated at a deficit of around  $2$  % of GDP), achieving it should fulfil the aim of providing a safety margin against the occurrence of an excessive deficit. The MTO lies within the range indicated for euro-area and ERM II Member States in the Stability and Growth Pact and the code of conduct and adequately reflects the debt ratio and average potential output growth in the long term.
- (6) The risks to the budgetary projections in the programme appear broadly balanced. The risks from the macroeconomic scenario are broadly neutral, while tax projections seem on the whole based on prudent assumptions. The envisaged fiscal consolidation in the programme relies heavily on expenditure restraint, but the programme does not provide sufficient information on the measures supporting this (after 2007) nor is there a binding medium-term expenditure framework. On the other hand, Slovakia has built up a good track-record in recent years, although achieving the budgetary targets was facilitated by higher-than-expected growth and lower-than-expected absorption of EU funds.
- (7) In view of this risk assessment, the budgetary stance in the programme seems broadly consistent with a correction of the excessive deficit by 2007 as recommended by the Council. However, the adjustment path in structural terms during the correction period should be strengthened given the upward revision of growth prospects and the good economic times. In the following years the budgetary stance in the programme does not seem to provide a sufficient safety margin against breaching the  $3$  % of GDP deficit threshold with normal macroeconomic fluctuations. Moreover, it seems insufficient to ensure that the MTO is achieved in 2010, as envisaged in the programme. In the years following the correction of the excessive deficit, the pace of the adjustment towards the MTO implied by the programme should be strengthened to be in line with the Stability and Growth Pact, which specifies that, for euro-area and ERM II Member States, the annual improvement in the structural balance should be  $0,5$  % of GDP as a benchmark and that the adjustment should be higher in good economic times. In particular, an improvement in the structural balance of only around  $\frac{3}{4}$  % of GDP is anticipated between 2007 and 2009 when good times are expected to occur.
- (8) Government gross debt is estimated to have reached  $33,1$  % of GDP in 2006, well below the  $60$  % of GDP Treaty reference value. The programme projects the debt ratio to decline by  $3,4$  percentage points over the programme period.
- (9) The long-term budgetary impact of ageing in Slovakia is lower than the EU average, with pension expenditure influenced by the recent pension reform showing a more limited increase than in many other countries. The initial budgetary position constitutes a risk to sustainable public finances even before considering the long-term budgetary impact of an ageing population. Consolidating the public finances would therefore contribute to reducing risks to the sustainability of public finances. Overall, Slovakia appears to be at medium risk with regard to the sustainability of public finances.

- (10) The convergence programme does not contain a qualitative assessment of the overall impact of the October 2006 implementation report of the national reform programme within the medium-term fiscal strategy. However, it provides some information on the direct budgetary costs or savings of the main reforms envisaged in the national reform programme and its budgetary projections seem to take into account the public finance implications of the actions outlined in the national reform programme. The measures in the area of public finances envisaged in the convergence programme do not seem to be fully consistent with those foreseen in the national reform programme. In particular, apart from education, expenditure priorities listed in the programme are different from the key challenges identified in the national reform programme. Moreover, the significant support for education indicated in the national reform programme is not evident in the 2007 budget or in the convergence programme.
- (11) The budgetary strategy in the programme is broadly consistent with the broad economic policy guidelines included in the integrated guidelines for the period 2005-2008.
- (12) As regards the data requirements specified in the code of conduct for stability and convergence programmes, the programme provides all required and most of the optional data. <sup>(1)</sup>

The Council considers that the programme is consistent with a correction of the excessive deficit by 2007 and envisages progress, but limited, towards the MTO thereafter.

In view of the above assessment, and also in the light of the recommendation under Article 104(7) of 5 July 2004, the Council invites Slovakia to:

- i) exploit the strong growth prospects to strengthen the structural adjustment in order to ensure the correction of the excessive deficit in 2007 with a larger margin and to speed up the progress towards the MTO; and
- ii) reinforce the binding character of the medium-term expenditure ceilings for central government.

#### Comparison of key macro economic and budgetary projections

		2005	2006	2007	2008	2009
Real GDP (% change)	<b>CP Dec 2006</b>	<b>6,1</b>	<b>6,6</b>	<b>7,1</b>	<b>5,5</b>	<b>5,1</b>
	COM Nov 2006	6,0	6,7	7,2	5,7	n.a.
	CP Dec 2005	5,1	5,4	6,1	5,6	n.a.
HICP inflation (%)	<b>CP Dec 2006</b>	<b>2,8</b>	<b>4,4</b>	<b>3,1</b>	<b>2,0</b>	<b>2,4</b>
	COM Nov 2006	2,8	4,5	3,4	2,5	n.a.
	CP Dec 2005	2,2	1,5	2,2	2,5	n.a.
Output gap (% of potential GDP)	<b>CP Dec 2006 <sup>(1)</sup></b>	<b>- 2,2</b>	<b>- 0,9</b>	<b>1,0</b>	<b>1,6</b>	<b>1,9</b>
	COM Nov 2006 <sup>(2)</sup>	- 2,0	- 0,7	1,1	1,6	n.a.
	CP Dec 2005 <sup>(1)</sup>	- 1,6	- 1,1	0,1	0,8	n.a.

<sup>(1)</sup> In particular, the data on general government expenditure by function for 2009 are not provided.

		2005	2006	2007	2008	2009
General government balance <sup>(6)</sup> (% of GDP)	<b>CP Dec 2006</b>	<b>- 3,1</b>	<b>- 3,7</b>	<b>- 2,9</b>	<b>- 2,4</b>	<b>- 1,9</b>
	COM Nov 2006	- 3,1	- 3,4	- 3,0	- 2,9	n.a.
	CP Dec 2005	- 4,9	- 4,2	- 3,0	- 2,7	n.a.
Primary balance <sup>(6)</sup> (% of GDP)	<b>CP Dec 2006</b>	<b>- 1,4</b>	<b>- 1,9</b>	<b>- 0,9</b>	<b>- 0,6</b>	<b>- 0,2</b>
	COM Nov 2006	- 1,4	- 1,7	- 1,1	- 0,9	n.a.
	CP Dec 2005	- 3,1	- 2,3	- 1,1	- 0,8	n.a.
Cyclically-adjusted balance <sup>(6)</sup> (% of GDP)	<b>CP Dec 2006 <sup>(1)</sup></b>	<b>- 2,4</b>	<b>- 3,4</b>	<b>- 3,2</b>	<b>- 2,9</b>	<b>- 2,5</b>
	COM Nov 2006	- 2,5	- 3,2	- 3,3	- 3,3	n.a.
	CP Dec 2005 <sup>(1)</sup>	- 4,4	- 3,9	- 3,0	- 2,9	n.a.
Structural balance <sup>(2)</sup> <sup>(6)</sup> (% of GDP)	<b>CP Dec 2006 <sup>(3)</sup></b>	<b>- 1,6</b>	<b>- 3,5</b>	<b>- 3,2</b>	<b>- 2,9</b>	<b>- 2,5</b>
	COM Nov 2006 <sup>(4)</sup>	- 1,7	- 3,3	- 3,3	- 3,3	n.a.
	CP Dec 2005	- 3,6	- 3,9	- 3,1	- 2,9	n.a.
Government gross debt <sup>(6)</sup> (% of GDP)	<b>CP Dec 2006</b>	<b>34,5</b>	<b>33,1</b>	<b>31,8</b>	<b>31,0</b>	<b>29,7</b>
	COM Nov 2006	34,5	33,0	31,6	31,0	n.a.
	CP Dec 2005	33,7	35,5	35,2	36,2	n.a.

## Notes:

<sup>(1)</sup> Commission services calculations on the basis of the information in the programme.

<sup>(2)</sup> Cyclically-adjusted balance (as in the previous rows) excluding one-off and other temporary measures.

<sup>(3)</sup> One-off and other temporary measures taken from the programme (0,8 % of GDP in 2005 — deficit-increasing; 0,1 % in 2006 — deficit-reducing).

<sup>(4)</sup> One-off and other temporary measures taken from the Commission services' autumn 2006 forecast (0,9 % of GDP in 2005 — deficit-increasing; 0,1 % in 2006 deficit-reducing).

<sup>(5)</sup> Based on estimated potential growth of 5,2 %, 5,3 %, 5,3 % and 5,2 % respectively in the period 2005-2008.

<sup>(6)</sup> Since October 2006, Slovakia has implemented the Eurostat decision of 2 March 2004 on the classification of the second pillar funded pension schemes. The general government data from the previous update have been adjusted accordingly so as to facilitate comparison with the new update and the Commission services' autumn 2006 forecast.

## Source:

Convergence programme (CP); Commission services' autumn 2006 economic forecasts (COM); Commission services' calculations

**COUNCIL OPINION**  
**of 27 February 2007**  
**on the updated convergence programme of Estonia, 2006-2010**

(2007/C 72/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies <sup>(1)</sup>, and in particular Article 9(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

- (1) On 27 February 2007 the Council examined the updated convergence programme of Estonia, which covers the period 2006 to 2010.
- (2) The macroeconomic scenario underlying the programme envisages that real GDP growth abates from a peak of 11 % in 2006 to 8 ¼ % in 2007 and 7 ½ % per year in the outer years. Assessed against currently available information, this scenario appears to be based on cautious growth assumptions. However, the projected medium-term path of a smooth deceleration of growth from the current pace prone to overheating is clearly surrounded by risks. The programme's projections for inflation appear realistic.
- (3) For 2006, the general government surplus is estimated at 2,5 % of GDP in the Commission services' autumn 2006 forecast, against a target of 0,3 % of GDP set in the previous update of the convergence programme. The much better outcome, also expected in the new update, arises from carry-over from the better-than-expected outcome in 2005 and from the growth surprise in 2006. Expenditure has been lower than planned in the budget.
- (4) The main goals of the medium-term budgetary strategy embodied in the programme are keeping the general government finances at least in balance and securing long-term sustainability in the light of the budgetary impact of population ageing. The budgetary strategy foresees the headline general government surplus to decline from 2 ½ % of GDP in 2006 to around 1 ¼ % in 2007-2008 and rebound to around 1 ½ % of GDP thereafter. The primary balance will follow a similar profile, given the negligible weight of interest expenditure. The drop in the surplus in 2007 is driven by a rise in the expenditure-to-GDP-ratio while the revenue ratio follows a declining trend. From 2008 onwards, the overall revenue and expenditure ratios decline in lock-step, reflecting notably the income tax cuts and expenditure growth remaining below the buoyant nominal GDP growth. The new programme departs from the past practice of always targeting zero balance for general government finances (which were as a rule overachieved over the last years) and targets instead a sizeable surplus over the entire programme period, which is a step forward in responding to the cyclical conditions of the economy. Compared to the previous update, the targets from 2007 onwards have been revised upwards by at least 1 percentage point of GDP against the background of a more favourable (and more realistic) macroeconomic scenario.

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 1. Regulation as amended by Regulation (EC) No 1055/2005 (OJ L 174, 7.7.2005, p. 1). The documents referred to in this text can be found at the following website:  
[http://europa.eu.int/comm/economy\\_finance/about/activities/sgp/main\\_en.htm](http://europa.eu.int/comm/economy_finance/about/activities/sgp/main_en.htm)



- (5) The structural balance (i.e. the cyclically-adjusted balance net of one-off and other temporary measures) calculated according to the commonly agreed methodology is planned to drop by about 1 percentage point to reach ½ % of GDP in 2007, and rebound to above 1 % of GDP in 2008 and above 1 ½ % of GDP in 2009 and 2010. As in the previous update of the convergence programme, the medium-term objective (MTO) for the budgetary position presented in the programme is a balanced position in structural terms which the programme plans to maintain throughout the programme period. As the MTO is more demanding than the minimum benchmark (estimated at a deficit of around 2 % of GDP), achieving it should fulfil the aim of providing a safety margin against the occurrence of an excessive deficit. The MTO lies within the range indicated for euro-area and ERM II Member States in the Stability and Growth Pact and the code of conduct and is significantly more demanding than implied by the debt ratio and average potential output growth in the long term.
- (6) The risks to the budgetary projections in the programme appear broadly balanced. The programme's macroeconomic assumptions can be regarded as cautious over the programme period. The tax revenue projections appear overall plausible. However, the achievement of the envisaged moderation in expenditure growth would benefit from making the medium-term fiscal planning framework more binding.
- (7) In view of this risk assessment, the budgetary stance in the programme seems sufficient to maintain the MTO by a large margin throughout the programme period, as envisaged in the programme. A fortiori, it provides a sufficient safety margin against breaching the 3 % of GDP deficit threshold with normal macroeconomic fluctuations over the programme period. The fiscal policy stance implied by the programme is not fully in line with the Stability and Growth Pact in the sense that it is pro-cyclical in good times during 2007, when the structural balance is set to decline by around 1 % of GDP.
- (8) Government gross debt is estimated to have fallen to 3,7 % of GDP in 2006, far below the 60 % of GDP Treaty reference value. The programme projects the debt ratio to decline by a further 2 percentage points over the programme period.
- (9) The long-term budgetary impact of ageing in Estonia is among the lowest in the EU, with age-related expenditure projected to fall as a share of GDP over the coming decades, influenced by the considerable expenditure-reducing impact of the reform of the pension system. The current level of gross debt is very low in Estonia and maintaining sound government finances, in line with the budgetary plans over the programme period, would contribute to containing the risks to the long-term sustainability of public finances. Overall, Estonia appears to be at low risk with regard to the sustainability of public finances.
- (10) The convergence programme contains a qualitative assessment of the overall impact of the October 2006 Implementation Report of the National Reform Programme within the medium-term fiscal strategy. In addition, it provides some information on the direct budgetary costs or savings of the main reforms envisaged in the National Reform Programme and its budgetary projections explicitly take into account the public finance implications of the actions outlined in the National Reform Programme. The measures in the area of public finances envisaged in the convergence programme seem consistent with those foreseen in the National Reform Programme. In particular, both programmes emphasise prudent fiscal policies as a crucial element of macroeconomic stabilisation.
- (11) The budgetary strategy in the programme is broadly consistent with the broad economic policy guidelines included in the integrated guidelines for the period 2005-2008.
- (12) As regards the data requirements specified in the code of conduct for stability and convergence programmes, the programme provides all required and most of the optional data <sup>(1)</sup>.

<sup>(1)</sup> In particular, some labour market variables and the data on net lending/borrowing of the private sector are missing.

The overall conclusion is that the medium-term budgetary position is sound and the budgetary strategy provides a good example of fiscal policies conducted in compliance with the Stability and Growth Pact. Nevertheless, the planned weakening of the budgetary surplus in 2007 during good economic times implies a pro-cyclical stance of fiscal policy.

In view of the above assessment, Estonia is invited to aim for a higher budgetary surplus in 2007 than planned in the programme so as to foster macroeconomic stability and to continue supporting the correction of the external imbalance.

### Comparison of key macroeconomic and budgetary projections

		2005	2006	2007	2008	2009	2010
Real GDP (% change)	<b>CP Dec 2006</b>	<b>10,5</b>	<b>11,0</b>	<b>8,3</b>	<b>7,7</b>	<b>7,6</b>	<b>7,5</b>
	COM Nov 2006	10,5	10,9	9,5	8,4	n.a.	n.a.
	CP Nov 2005	6,5	6,6	6,3	6,3	6,3	n.a.
HICP inflation (%)	<b>CP Dec 2006</b>	<b>4,1</b>	<b>4,4</b>	<b>4,3</b>	<b>4,4</b>	<b>3,5</b>	<b>3,2</b>
	COM Nov 2006	4,1	4,4	4,2	4,6	n.a.	n.a.
	CP Nov 2005	3,5	2,6	2,6	2,7	2,7	n.a.
Output gap (% of potential GDP)	<b>CP Dec 2006 <sup>(1)</sup></b>	<b>0,2</b>	<b>2,0</b>	<b>1,2</b>	<b>0,2</b>	<b>- 0,3</b>	<b>- 0,7</b>
	COM Nov 2006 <sup>(2)</sup>	0,0	1,2	0,9	- 0,6	n.a.	n.a.
	CP Nov 2005 <sup>(1)</sup>	- 0,4	- 0,6	- 0,7	- 0,5	- 0,1	n.a.
General government balance (% of GDP)	<b>CP Dec 2006</b>	<b>2,3</b>	<b>2,6</b>	<b>1,2</b>	<b>1,3</b>	<b>1,6</b>	<b>1,5</b>
	COM Nov 2006	2,3	2,5	1,6	1,3	n.a.	n.a.
	CP Nov 2005	0,3	0,1	0,0	0,0	0,0	n.a.
Primary balance (% of GDP)	<b>CP Dec 2006</b>	<b>2,5</b>	<b>2,8</b>	<b>1,4</b>	<b>1,4</b>	<b>1,7</b>	<b>1,6</b>
	COM Nov 2006	2,5	2,7	1,8	1,5	n.a.	n.a.
	CP Nov 2005	0,5	0,3	0,2	0,1	0,1	n.a.
Cyclically-adjusted balance (% of GDP)	<b>CP Dec 2006 <sup>(3)</sup></b>	<b>2,2</b>	<b>2,0</b>	<b>0,8</b>	<b>1,2</b>	<b>1,7</b>	<b>1,7</b>
	COM Nov 2006	2,3	2,2	1,4	1,5	n.a.	n.a.
	CP Nov 2005 <sup>(1)</sup>	0,4	0,3	0,2	0,1	0,0	n.a.
Structural balance <sup>(2)</sup> (% of GDP)	<b>CP Dec 2006 <sup>(3)</sup></b>	<b>2,2</b>	<b>1,4</b>	<b>0,4</b>	<b>1,2</b>	<b>1,7</b>	<b>1,7</b>
	COM Nov 2006 <sup>(4)</sup>	2,2	1,5	1,0	1,3	n.a.	n.a.
	CP Nov 2005	0,4	0,3	0,2	0,1	0,0	n.a.

		2005	2006	2007	2008	2009	2010
Government gross debt (% of GDP)	<b>CP Dec 2006</b>	<b>4,5</b>	<b>3,7</b>	<b>2,6</b>	<b>2,3</b>	<b>2,1</b>	<b>1,9</b>
	COM Nov 2006	4,5	4,0	2,7	2,1	n.a.	n.a.
	CP Nov 2005	4,6	4,4	3,3	3,0	2,8	n.a.

## Notes:

- (<sup>1</sup>) Commission services calculations on the basis of the information in the programme.  
(<sup>2</sup>) Cyclically-adjusted balance (as in the previous rows) excluding one-off and other temporary measures.  
(<sup>3</sup>) One-off and other temporary measures taken from the programme (0,6 % of GDP in 2006 and 0,4 % in 2007; all deficit-reducing).  
(<sup>4</sup>) One-off and other temporary measures taken from the Commission services' autumn 2006 forecast (0,2 % of GDP in 2005, 0,6 % of GDP in 2006, 0,4 % of GDP in 2007 and 0,2 % in 2008; all deficit-reducing).  
(<sup>5</sup>) Based on estimated potential growth of 9,1 %, 9,6 %, 9,9 % and 9,9 % respectively in the period 2005-2008.

## Source:

Convergence programme (CP); Commission services' autumn 2006 economic forecasts (COM); Commission services' calculations.

**COUNCIL OPINION**  
**of 27 February 2007**  
**on the updated convergence programme of Malta, 2006-2009**

(2007/C 72/03)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies <sup>(1)</sup>, and in particular Article 9(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

- (1) On 27 February 2007 the Council examined the updated convergence programme of Malta, which covers the period 2006 to 2009.
- (2) The macroeconomic scenario underlying the programme envisages that real GDP growth will hover around 3 % over the programme period. Assessed against currently available information, this scenario appears to be based on favourable growth assumptions for 2007 and markedly favourable ones thereafter, especially due to the optimistic medium-term evolution of the external sector. Less favourable net exports in the medium term than foreseen in the programme could heighten the external imbalance recorded in recent years. Inflation projections appear plausible.
- (3) For 2006, the general government deficit is estimated at 2,9 % of GDP in the Commission services' autumn 2006 forecast, against a target of 2,7 % of GDP set in the previous update of the convergence programme. The estimated outturn for 2006 in the new update (2,6 % of GDP) is below that projected in the Commission services' autumn 2006 forecast and seems plausible in the light of recent information on GDP growth and government finance cash data.
- (4) The budgetary strategy outlined in the update aims at reducing the deficit below the 3 % of GDP reference value in 2006 and at pursuing fiscal consolidation thereafter. The update foresees a gradual reduction in the general government deficit leading to a broadly balanced budget by 2009. With a projected decline in the interest burden, the primary surplus is expected to reach 3¼ % of GDP by 2009. The adjustment is to be achieved through a cut in the primary expenditure ratio by almost 5¾ percentage points of GDP, which more than offsets a decline in the revenue ratio by almost 3¾ percentage points of GDP. Despite the success in restraining overall spending, healthcare expenditure followed an upward trend in the past years. Lower recourse will be made to deficit-reducing one-off measures than in the recent past. The programme broadly confirms the planned nominal budgetary adjustment in the previous update against a much more favourable macroeconomic scenario.
- (5) The structural deficit (i.e. the cyclically-adjusted deficit net of one-off and other temporary measures) calculated according to the commonly agreed methodology is planned to improve from around 3 % of GDP in 2006 to ½ % of GDP at the end of the programme period. As in the previous update of the convergence programme, the medium-term objective (MTO) for the budgetary position presented in the programme is a balanced position in structural terms but the new programme does not aim to achieve the MTO within the programme period. As the MTO is more demanding than the minimum benchmark (estimated at a deficit of around 1¾ % of GDP), achieving it should fulfil the aim of

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 1. Regulation as amended by Regulation (EC) No 1055/2005 (OJ L 174, 7.7.2005, p. 1). The documents referred to in this text can be found at the following website:  
[http://europa.eu.int/comm/economy\\_finance/about/activities/sgp/main\\_en.htm](http://europa.eu.int/comm/economy_finance/about/activities/sgp/main_en.htm)

providing a safety margin against the occurrence of an excessive deficit. The MTO lies within the range indicated for euro-area and ERM II Member States in the Stability and Growth Pact and the code of conduct and adequately reflects the debt ratio and average potential output growth in the long term.

- (6) The risks to the budgetary projections in the programme appear broadly balanced for 2007 but the budgetary outcomes could be worse than projected in the programme thereafter. This is due to a favourable GDP growth projected for 2007 and a markedly favourable macroeconomic scenario in 2008-2009 underlying the update's projections (although tax projections for these years seem cautious). In addition, after 2007 no details are given on the adjustment strategy increasing the risks attached to the planned fiscal consolidation.
- (7) In view of this risk assessment, the budgetary stance in the programme seems consistent with a correction of the excessive deficit by 2006 as recommended by the Council. In addition, it seems to provide a sufficient safety margin against breaching the 3 % of GDP deficit threshold with normal macroeconomic fluctuations from 2008 onwards. In the years following the correction of the excessive deficit, the pace of the adjustment towards the MTO implied by the programme is broadly in line with the Stability and Growth Pact, which specifies that, for euro-area and ERM II Member States, the annual improvement in the structural balance should be 0,5 % of GDP as a benchmark and that the adjustment should be higher in good economic times and could be lower in bad economic times.
- (8) Government gross debt is estimated to have reached 68¼ % of GDP in 2006, above the 60 % of GDP Treaty reference value. The programme projects the debt ratio to decline by 8¼ percentage points of GDP over the programme period. The evolution of the debt ratio is likely to be less favourable than projected in the programme given the risks to the budgetary targets mentioned above. In view of this risk assessment, the debt ratio seems to be sufficiently diminishing towards the reference value over the programme period.
- (9) Malta has recently enacted a pension reform aimed at increasing the effective retirement age, while raising the level of pensions. As a result estimates in the programme suggest that pension expenditures will be higher, leading to a higher increase in age-related expenditure, close to the EU average. Although at a somewhat slower pace than historical trends, projections for healthcare spending show an increase of around 1¾ percentage points of GDP in the long term, if current trends persist. The current budgetary position would not ensure a steady reduction of debt to below the Treaty reference value. Therefore, improving the budgetary position, as projected in the programme, would contribute to reducing the risks to the sustainability of public finances. Overall, Malta appears to be at medium risk with regard to the sustainability of public finances.
- (10) The convergence programme does not contain a qualitative assessment of the overall impact of the October 2006 implementation report of the national reform programme within the medium-term fiscal strategy. However, it provides systematic information on the direct budgetary costs or savings of the main reforms envisaged in the national reform programme and its budgetary projections explicitly take into account the public finance implications of the actions outlined in the national reform programme. The measures in the area of public finances envisaged in the convergence programme seem consistent with those foreseen in the national reform programme. In particular, both programmes envisage the implementation of the pension reform while the convergence programme provides details of the tax reform announced in the national reform programme.
- (11) The budgetary strategy in the programme is broadly consistent with the broad economic policy guidelines included in the integrated guidelines for the period 2005-2008.
- (12) As regards the data requirements specified in the code of conduct for stability and convergence programmes, the programme has some gaps in the required and optional data <sup>(1)</sup>.

<sup>(1)</sup> In particular, the data on sectoral balances in particular forecasts for net lending/borrowing vis-à-vis the rest of the world for 2006-2009 and employment and labour productivity in hours worked are not provided.

The Council considers that the programme is consistent with a correction of the excessive deficit by 2006 and, in a context of strong growth prospects, envisages adequate progress towards the MTO thereafter. The debt ratio as envisaged by the programme seems to be diminishing at a satisfactory pace towards the 60 % of GDP reference value. However, there are risks to the achievement of the budgetary targets after 2007. Maintaining a budgetary position that is robust to possible reversals of the projected strong growth pattern is important especially in light of the recent build-up of external imbalances. In view of the above assessment, the Council invites Malta to:

- (i) pursue adequate progress towards the MTO as foreseen in the programme and ensure that the debt-to-GDP ratio is reduced accordingly, while spelling out the budgetary strategy, especially on the expenditure side, with a longer time perspective.
- (ii) in view of the level of debt and the projected increase in age-related expenditure, improve the long-term sustainability of public finances by achieving the MTO and making further progress in the design and implementation of the healthcare reform.

### Comparison of key macroeconomic and budgetary projections

		2005	2006	2007	2008	2009
Real GDP (% change)	<b>CP Dec 2006</b>	<b>2,2</b>	<b>2,9</b>	<b>3,0</b>	<b>3,1</b>	<b>3,1</b>
	COM Nov 2006	2,2	2,3	2,1	2,2	n.a.
	CP Jan 2006	0,9	1,1	1,2	2,0	n.a.
HICP inflation (%)	<b>CP Dec 2006</b>	<b>2,5</b>	<b>3,1</b>	<b>2,2</b>	<b>2,1</b>	<b>2,0</b>
	COM Nov 2006	2,5	3,0	2,6	2,4	n.a.
	CP Jan 2006 <sup>(6)</sup>	2,8	3,1	2,5	1,9	n.a.
Output gap (% of potential GDP)	<b>CP Dec 2006 <sup>(1)</sup></b>	<b>- 2,8</b>	<b>- 2,1</b>	<b>- 1,3</b>	<b>- 0,3</b>	<b>0,9</b>
	COM Nov 2006 <sup>(5)</sup>	- 2,1	- 1,4	- 1,1	- 0,5	n.a.
	CP Jan 2006 <sup>(1)</sup>	- 2,9	- 3,7	- 4,2	- 4,4	n.a.
General government balance (% of GDP)	<b>CP Dec 2006</b>	<b>- 3,2</b>	<b>- 2,6</b>	<b>- 2,3</b>	<b>- 0,9</b>	<b>0,1</b>
	COM Nov 2006	- 3,2	- 2,9	- 2,7	- 2,9	n.a.
	CP Jan 2006	- 3,9	- 2,7	- 2,3	- 1,2	n.a.
Primary balance (% of GDP)	<b>CP Dec 2006</b>	<b>0,8</b>	<b>1,1</b>	<b>1,1</b>	<b>2,5</b>	<b>3,2</b>
	COM Nov 2006	0,8	0,9	0,7	0,6	n.a.
	CP Jan 2006	0,3	1,4	1,5	2,4	n.a.
Cyclically-adjusted balance (% of GDP)	<b>CP Dec 2006 <sup>(1)</sup></b>	<b>- 2,2</b>	<b>- 1,8</b>	<b>- 1,8</b>	<b>- 0,8</b>	<b>- 0,2</b>
	COM Nov 2006	- 2,4	- 2,3	- 2,3	- 2,7	n.a.
	CP Jan 2006 <sup>(1)</sup>	- 2,8	- 1,3	- 0,7	0,4	n.a.

		2005	2006	2007	2008	2009
Structural balance <sup>(2)</sup> (% of GDP)	<b>CP Dec 2006 <sup>(3)</sup></b>	<b>- 3,8</b>	<b>- 2,9</b>	<b>- 2,0</b>	<b>- 1,0</b>	<b>- 0,4</b>
	COM Nov 2006 <sup>(4)</sup>	- 4,0	- 3,5	- 2,5	- 2,7	n.a.
	CP Jan 2006	- 3,8	- 2,3	- 1,4	0,3	n.a.
Government gross debt (% of GDP)	<b>CP Dec 2006</b>	<b>74,2</b>	<b>68,3</b>	<b>66,7</b>	<b>63,2</b>	<b>59,4</b>
	COM Nov 2006	74,2	69,6	69,0	68,6	n.a.
	CP Jan 2006	76,7	70,8	68,9	67,3	n.a.

## Notes:

- (<sup>1</sup>) Commission services calculations on the basis of the information in the programme.  
(<sup>2</sup>) Cyclically-adjusted balance (as in the previous rows) excluding one-off and other temporary measures.  
(<sup>3</sup>) One-off and other temporary measures taken from the programme (1,6 % of GDP in 2005, 1,1 % of GDP in 2006, 0,2 % of GDP in 2007, 0,2 % of GDP in 2008 and 0,2 % of GDP in 2009; all deficit-reducing).  
(<sup>4</sup>) One-off and other temporary measures taken from the Commission services' autumn 2006 forecast (1,6 % of GDP in 2005, 1,1 % of GDP in 2006, 0,2 % of GDP in 2007, 0 % of GDP in 2008; all deficit-reducing).  
(<sup>5</sup>) Based on estimated potential growth of 2,2 %, 1,7 %, 1,7 % and 1,6 % respectively in the period 2005-2008.  
(<sup>6</sup>) The January 2006 CP figures correspond to the Retail Price Index.

## Source:

Convergence programme (CP); Commission services' autumn 2006 economic forecasts (COM); Commission services' calculations

**COUNCIL OPINION**  
**of 27 February 2007**  
**on the updated convergence programme of Poland, 2006-2009**

(2007/C 72/04)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies <sup>(1)</sup>, and in particular Article 9(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

- (1) On 27 February 2007 the Council examined the updated convergence programme of Poland, which covers the period 2006 to 2009.
- (2) The macroeconomic scenario underlying the programme envisages real GDP growth to have reached 5,4 % in 2006 and to broadly stabilise (around 5¼ % on average) over the rest of the programme period. Assessed against currently available information, this scenario appears to be based on growth assumptions which are cautious in 2007 and rather favourable thereafter as the labour market may not improve as rapidly as foreseen in the programme in particular. The programme's projections for inflation appear realistic, tilted to be on the low side towards the end of the programme horizon, notably because of rising wage pressures from the tightening labour market.
- (3) In the January 2006 convergence programme, the target for the general government balance in 2006 was set at - 2,6 % of GDP, the Commission services' autumn forecast points at - 2,2 % of GDP, while the November 2006 update of the convergence programme estimates the 2006 outturn at - 1,9 % of GDP. The better-than-expected outturn mainly results from an incomplete execution of expenditure plans (especially social transfers and public investment), while revenue increase resulted mainly from stronger-than-expected growth. The above-mentioned deficit figures exclude the pension reform cost, estimated at around 2 % of GDP in 2006, in line with the transition period for implementing the Eurostat decision of 2 March 2004 on the classification of funded pension schemes <sup>(2)</sup>, which expires in spring 2007. The main goal of the budgetary strategy in the November 2006 update is to correct the excessive deficit by 2007 by qualifying for the provision of the reformed Pact which allows a part of the pension reform cost to be deducted. For the following years, the programme plans a gradual reduction of the deficit so that the 3 % of GDP reference value is reached in 2009.
- (4) The deficit is planned to narrow by 0,4 percentage point of GDP annually (0,3 percentage point if the pension reform costs are included), from 1,9 % of GDP in 2006 to 0,6 % of GDP in 2009. The primary surplus is planned to improve from 0,5 % of GDP in 2006 to 1,7 % of GDP in 2009. Including the impact of the above-mentioned Eurostat decision, the deficit in the updated programme would improve from 3,9 % of GDP in 2006 to 2,9 % in 2009. The adjustment is planned to be revenue-based in 2007 (revenue ratio increase by 0,6 percentage point of GDP with a near-constant expenditure ratio) and strongly expenditure-based in 2008-2009 so as to more than offset a large

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 1. Regulation as amended by Regulation (EC) No 1055/2005 (OJ L 174, 7.7.2005, p. 1). The documents referred to in this text can be found at the following website:

[http://europa.eu.int/comm/economy\\_finance/about/activities/sgp/main\\_en.htm](http://europa.eu.int/comm/economy_finance/about/activities/sgp/main_en.htm)

<sup>(2)</sup> See Eurostat News Releases No 30/2004 of 2 March 2004 and No 117/2004 of 23 September 2004.



decline in the revenue ratio (average annual expenditure ratio reduction by 1,6 percentage point, especially consumption and social transfers, with the revenue ratio declining by 1,2 percentage point on average mainly reflecting a cut in social contributions, changes in personal income tax system and other changes to the tax system, which are not always fully specified). Compared with the previous programme, the deficit targets have been revised downwards in view of much stronger growth and the better-than-expected outcome in 2006.

- (5) The structural balance (i.e. the cyclically-adjusted balance net of one-off and other temporary measures) calculated according to the commonly agreed methodology is planned to improve from around  $-2\%$  of GDP in 2006 to  $-\frac{3}{4}\%$  of GDP in 2009 at the end of the programme period (pension reform costs not included). As in the previous update of the convergence programme, the medium-term objective (MTO) for the budgetary position presented in the programme is a structural deficit of  $1\%$  of GDP, which the programme does not aim to achieve within the programme period. As the MTO is more demanding than the minimum benchmark (estimated at a deficit of around  $1\frac{1}{2}\%$  of GDP), achieving it should fulfil the aim of providing a safety margin against the occurrence of an excessive deficit. The MTO adequately reflects the debt ratio and average potential output growth in the long term.
- (6) The budgetary outcomes could be worse than targeted in the programme in particular in the outer years of the programme. There are significant uncertainties about the effective implementation of planned reforms as they are not backed up by precise measures supporting the envisaged expenditure restraint. In addition, there are risks stemming from the rather favourable macroeconomic scenario for the outer years of the programme period. Consequently, the action taken so far is not sufficient and the planned measures should be strengthened to achieve that result.
- (7) In view of this risk assessment, the budgetary stance in the programme does not seem consistent with a correction of the excessive deficit by 2007 as recommended by the Council. The budgetary targets do not provide a sufficient safety margin against breaching the  $3\%$  of GDP deficit threshold with normal macroeconomic fluctuations throughout the programme period. In the years following the correction of the excessive deficit, the pace of the structural adjustment towards the MTO implied by the programme should be strengthened, taking advantage of good economic times, and should be backed up by measures.
- (8) Government gross debt is estimated to have reached  $42,0\%$  of GDP in 2006, well below the  $60\%$  of GDP Treaty reference value. The programme projects the debt ratio to decline by  $1,4$  percentage point over the programme period. Including the impact of the above-mentioned Eurostat decision, the government gross debt would rise from  $48,9\%$  in 2006 to  $50,2\%$  in 2009.
- (9) The long-term budgetary impact of ageing in Poland is the lowest in the EU, with age-related expenditure projected to fall, partly as a result of the considerable expenditure-reducing impact of the reform of the pension system — assuming that the pension reforms are fully implemented. The initial budgetary position, although improved compared to 2005, still constitutes a risk to sustainable public finances before the long-term budgetary impact of an ageing population is considered and further budgetary consolidation envisaged in the programme would contribute to contain risks to the sustainability of public finances. Overall, Poland appears to be at low risk with regard to the sustainability of public finances.
- (10) The convergence programme contains a qualitative assessment of the overall impact of the reforms listed in the October 2006 implementation report of the national reform programme within the medium-term fiscal strategy. In addition, it provides some information on the direct budgetary costs or savings of the main reforms envisaged in the national reform programme and its budgetary projections seem to take into account the public finance implications of the actions outlined in the national reform programme. The measures in the area of public finances envisaged in the convergence programme seem consistent with those foreseen in the national reform programme. In particular, both programmes envisage some harmonisation of the farmers' social security system with the general national system, the gradual harmonisation of the disability benefits with the reformed pension system and the implementation of the basket of guaranteed medical services.

- (11) The budgetary strategy in the programme is partly consistent with the broad economic policy guidelines included in the integrated guidelines for the period 2005-2008. In particular, action taken to correct the excessive deficit does not appear adequate.
- (12) As regards the data requirements specified in the code of conduct for stability and convergence programmes, the programme provides all required and most of the optional data <sup>(1)</sup>.

The programme envisages a correction of the excessive deficit by 2007, referring to the provision of Article 2(7) of Council Regulation (EC) No 1467/97, but the Council recalls that the action taken so far does not appear adequate and the planned measures appear insufficient to achieve that result.

While in subsequent years the programme envisages to make appropriate progress towards the MTO in a context of strong growth prospects, there are important risks to the achievement of the budgetary targets and the durability of the adjustment.

In view of the above assessment, and taking into account a new recommendation addressed to Poland to correct the excessive deficit adopted by the Council on 27 February 2007 under Article 104(7) of the Treaty, the Council invites Poland to:

- (i) ensure the correction of the excessive deficit by 2007 in line with the new recommendation under Article 104(7).
- (ii) taking advantage of the good economic times, using any extra revenue for deficit reduction, strengthen the pace of adjustment towards the MTO after the planned correction of the excessive deficit, by specifying and implementing the additional measures, especially on the expenditure side, that are necessary to achieve the envisaged adjustment.
- (iii) safeguard the results of the pension reform.

#### Comparison of key macroeconomic and budgetary projections

		2005	2006	2007	2008	2009
Real GDP (% change)	<b>CP Nov 2006</b>	<b>3,5</b>	<b>5,4</b>	<b>5,1</b>	<b>5,1</b>	<b>5,6</b>
	COM Nov 2006	3,2	5,2	4,7	4,8	n.a.
	CP Jan 2006	3,3	4,3	4,6	5,0	n.a.
HICP inflation (%)	<b>CP Nov 2006</b>	<b>2,2</b>	<b>1,4</b>	<b>2,1</b>	<b>2,5</b>	<b>2,5</b>
	COM Nov 2006	2,2	1,4	2,5	2,8	n.a.
	CP Jan 2006	2,2	1,5	2,2	2,5	n.a.
Output gap (% of potential GDP)	<b>CP Nov 2006 <sup>(1)</sup></b>	<b>- 0,4</b>	<b>0,5</b>	<b>0,5</b>	<b>0,3</b>	<b>0,4</b>
	COM Nov 2006 <sup>(3)</sup>	- 0,3	0,4	0,3	0,1	n.a.
	CP Jan 2006 <sup>(1)</sup>	0,1	0,3	0,3	0,6	n.a.
General government balance (pension reform cost excluded) (% of GDP)	<b>CP Nov 2006</b>	<b>- 2,5</b>	<b>- 1,9</b>	<b>- 1,4</b>	<b>- 1,0</b>	<b>- 0,6</b>
	COM Nov 2006	- 2,5	- 2,2	- 2,0	- 1,8	n.a.
	CP Jan 2006	- 2,9	- 2,6	- 2,2	- 1,9	n.a.

<sup>(1)</sup> In particular, the data on employment in hours worked and labour productivity measured as GDP per hours worked have not been provided. Contributions to the potential growth are also missing.

		2005	2006	2007	2008	2009
General government balance (pension reform cost included) (% of GDP)	<b>CP Nov 2006</b>	<b>- 4,4</b>	<b>- 3,9</b>	<b>- 3,4</b>	<b>- 3,1</b>	<b>- 2,9</b>
	COM Nov 2006	- 4,4	- 4,2	- 4,0	- 3,9	n.a.
	CP Jan 2006	- 4,7	- 4,6	- 4,1	- 3,7	n.a.
Primary balance (pension reform cost excluded) (% of GDP)	<b>CP Nov 2006</b>	<b>0,1</b>	<b>0,5</b>	<b>1,0</b>	<b>1,4</b>	<b>1,7</b>
	COM Nov 2006	0,1	0,2	0,4	0,6	n.a.
	CP Jan 2006	- 0,3	- 0,2	0,3	0,6	n.a.
Structural balance <sup>(2)</sup> (pension reform cost excluded) (% of GDP)	<b>CP Nov 2006</b>	<b>- 2,4</b>	<b>- 2,1</b>	<b>- 1,6</b>	<b>- 1,1</b>	<b>- 0,7</b>
	COM Nov 2006	- 2,3	- 2,3	- 2,1	- 1,8	n.a.
	CP Jan 2006	- 2,1	- 2,7	- 2,4	- 2,1	n.a.
Structural balance <sup>(2)</sup> (pension reform cost included) (% of GDP)	<b>CP Nov 2006</b>	<b>- 4,3</b>	<b>- 4,1</b>	<b>- 3,6</b>	<b>- 3,2</b>	<b>- 3,0</b>
	COM Nov 2006	- 4,2	- 4,3	- 4,1	- 3,9	n.a.
	CP Jan 2006	- 4,7	- 4,7	- 4,2	- 3,9	n.a.
Government gross debt (pension reform cost excluded) (% of GDP)	<b>CP Nov 2006</b>	<b>41,9</b>	<b>42,0</b>	<b>42,1</b>	<b>41,4</b>	<b>40,6</b>
	COM Nov 2006	42,0	42,4	43,1	42,7	n.a.
	CP Jan 2006	42,5	45,0	45,3	45,4	n.a.
Government gross debt (pension reform cost included) (% of GDP)	<b>CP Nov 2006</b>	<b>47,3</b>	<b>48,9</b>	<b>50,0</b>	<b>50,3</b>	<b>50,2</b>
	COM Nov 2006	47,4	49,3	51,0	51,6	n.a.
	CP Jan 2006	47,9	51,2	52,1	52,6	n.a.

## Notes

<sup>(1)</sup> Commission services calculations on the basis of the information in the programme.

<sup>(2)</sup> Cyclically-adjusted balance excluding one-off and other temporary measures. Cyclically-adjusted balance and structural balance are the same since one-off and other temporary measures taken from the programme are insignificant.

<sup>(3)</sup> Based on estimated potential growth of 4,1 %, 4,4 %, 4,8 % and 5,0 % respectively in the period 2005-2008.

## Source

Convergence programme (CP); Commission services' autumn 2006 economic forecasts (COM); Commission services' calculations

**COUNCIL OPINION**  
**of 27 February 2007**  
**on the updated convergence programme of Sweden, 2006-2009**

(2007/C 72/05)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies <sup>(1)</sup>, and in particular Article 9(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

- (1) On 27 February 2007 the Council examined the updated convergence programme of Sweden, which covers the period 2006 to 2009.
- (2) The macroeconomic scenario underlying the programme envisages that real GDP growth will slow from 4,0 % in 2006 to 3,0 % on average over the rest of the programme period, although it will remain at close to potential. Assessed against currently available information, this scenario appears to be based on plausible growth assumptions, with growth in 2006 having possibly been even higher. The programme's projections for inflation also appear realistic.
- (3) For 2006, the general government surplus is estimated at 2,8 % of GDP in the Commission services' autumn 2006 forecast, against a projected outturn of 0,9 % in the previous update of the convergence programme; the difference mainly reflects a base effect from the much higher-than-expected surplus in 2005. On the basis of available cash data it appears that, due both to lower primary expenditure and higher tax revenues, the 2006 surplus is likely to have been higher than the Commission services' forecast.
- (4) The updated programme confirms that a budget surplus of 2 % of GDP on average over the cycle remains the key guiding fiscal rule, supported by multi-annual expenditure ceilings. In the spring 2007 Fiscal Policy Bill, the Government will re-evaluate the present target for the general government surplus to take into account Eurostat's decision on the classification of funded second-pillar pension schemes. <sup>(2)</sup> After the expiry of the transition period for implementing this decision (spring 2007), the surplus will be lower by approximately 1 % of GDP each year and the gross debt-to-GDP ratio will be revised upward by about 0,5 % of GDP. The budgetary strategy presented in the update foresees a decline in the surplus in 2007 (from 3,0 % of GDP in 2006 to 2,4 %) and thereafter projects a progressive recovery (to 3,1 % in 2009); the primary surplus follows a similar path. Both expenditure- and revenue-to-GDP ratios are on a gradually declining trend throughout the programme period. The strategy is somewhat backloaded, with significant tax cuts in 2007 being only partially financed. Compared with the previous update, the projected path for the surplus (an initial decline followed by gradual recovery) is similar, but with higher net lending positions throughout the programme period.

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 1. Regulation as amended by Regulation (EC) No 1055/2005 (OJ L 174, 7.7.2005, p. 1). The documents referred to in this text can be found at the following website:

[http://europa.eu.int/comm/economy\\_finance/about/activities/sgp/main\\_en.htm](http://europa.eu.int/comm/economy_finance/about/activities/sgp/main_en.htm)

<sup>(2)</sup> See Eurostat News Releases No 30/2004 of 2 March 2004 and No 117/2004 of 23 September 2004.

- (5) The structural surplus (i.e. the cyclically-adjusted surplus net of one-off and other temporary measures), calculated according to the commonly-agreed methodology, is projected to remain above 2 % of GDP throughout the programme period, referring to the need to ensure the long-term sustainability of public finances. As in the previous update of the convergence programme, the medium-term objective (MTO) for the budgetary position presented in the programme corresponds to the above-mentioned objective of a budgetary surplus of 2 % of GDP on average over the business cycle (i.e. in structural terms), which the programme plans to maintain throughout the programme period. As the MTO is significantly more demanding than the minimum benchmark (estimated at a deficit of around 1 % of GDP), achieving it should fulfil the aim of providing a safety margin against the occurrence of an excessive deficit. The MTO is also significantly more demanding than implied by the debt ratio and average potential output growth in the long term.
- (6) The risks to the budgetary projections in the programme appear broadly balanced from 2007. The macroeconomic outlook and the tax revenue projections seem to reflect plausible assumptions, in spite of some uncertainty on the future performance of capital gains taxes. The expenditure targets are supported by a good track record owing to the above-mentioned expenditure ceilings.
- (7) In view of this risk assessment, the budgetary stance in the programme seems sufficient to maintain the MTO throughout the programme period, as envisaged in the programme. In addition, it provides a sufficient safety margin against breaching the 3 % of GDP deficit threshold with normal macroeconomic fluctuations during the programme period. There is a risk, however, that the fiscal policy stance implied by the programme may turn out to be pro-cyclical in 2007, during which good times are expected to continue. This would not be in line with the Stability and Growth Pact.
- (8) Government gross debt is estimated to have fallen to 46,5 % of GDP in 2006, well below the 60 % of GDP Treaty reference value. The programme projects the debt ratio will continue following a downward path, falling by 13,5 percentage points over the programme period.
- (9) The long-term budgetary impact of ageing in Sweden is lower than the EU average, with pension expenditure projected to remain relatively stable as a share of GDP over the long term, influenced by the considerable expenditure-reducing impact of the reform of the pension system. The initial budgetary position with a high primary surplus contributes to the reduction of gross debt and the accumulation of assets. Maintaining sound government finances with continued surpluses as planned would contribute to limiting risks to the sustainability of public finances. Overall, Sweden appears to be at low risk with regard to the sustainability of public finances.
- (10) The convergence programme contains a qualitative assessment of the overall impact of the November 2006 implementation report of the national reform programme within the medium-term fiscal strategy. In addition, it provides systematic information on the direct budgetary costs or savings of the main reforms envisaged in the national reform programme and its budgetary projections seem to take into account the public finance implications of the actions outlined in the national reform programme. The measures in the area of public finances envisaged in the convergence programme seem consistent with those foreseen in the national reform programme. In particular, both programmes envisage the implementation of measures to increase the labour supply.
- (11) The budgetary strategy in the programme is broadly consistent with the broad economic policy guidelines included in the integrated guidelines for the period 2005-2008.
- (12) As regards the data requirements specified in the code of conduct for stability and convergence programmes, the programme has some gaps in the required and optional data <sup>(1)</sup>.

The overall conclusion is that the medium-term budgetary position is sound and the budgetary strategy provides a good example of fiscal policies conducted in compliance with the Stability and Growth Pact. However, it will be important to contain the risk of pro-cyclicality by ensuring that a deterioration of the structural budgetary position in 2007, which is linked to structural reforms aimed at encouraging greater participation in the labour market, will not spill over to subsequent years.

<sup>(1)</sup> Missing required data include inter alia certain deflators, the tax burden and the growth of relevant foreign markets.

**Comparison of key macroeconomic and budgetary projections <sup>(1)</sup>**

		2005	2006	2007	2008	2009
Real GDP (% change)	<b>CP Dec 2006</b>	<b>2,7</b>	<b>4,0</b>	<b>3,3</b>	<b>3,1</b>	<b>2,7</b>
	COM Nov 2006	2,7	4,0	3,3	3,1	n.a.
	CP Dec 2005	2,4	3,1	2,8	2,3	n.a.
HICP inflation <sup>(2)</sup> (%)	<b>CP Dec 2006</b>	<b>1,3</b>	<b>1,9</b>	<b>2,2</b>	<b>1,5</b>	<b>1,9</b>
	COM Nov 2006	0,8	1,5	1,6	1,8	n.a.
	CP Dec 2005	1,5	1,5	2,0	2,0	n.a.
Output gap (% of potential GDP)	<b>CP Dec 2006 <sup>(3)</sup></b>	<b>- 0,7</b>	<b>0,0</b>	<b>0,3</b>	<b>0,3</b>	<b>0,3</b>
	COM Nov 2006 <sup>(7)</sup>	- 0,5	0,2	0,5	0,6	n.a.
	CP Dec 2005 <sup>(3)</sup>	- 0,4	- 0,1	0,1	- 0,1	n.a.
General government balance (% of GDP)	<b>CP Dec 2006</b>	<b>3,0</b>	<b>3,0</b>	<b>2,4</b>	<b>2,7</b>	<b>3,1</b>
	COM Nov 2006	3,0	2,8	2,4	2,5	n.a.
	CP Dec 2005	1,6	0,9	1,2	1,7	n.a.
Primary balance (% of GDP)	<b>CP Dec 2006</b>	<b>4,6</b>	<b>4,5</b>	<b>4,1</b>	<b>4,2</b>	<b>4,6</b>
	COM Nov 2006	4,6	4,5	4,1	4,3	n.a.
	CP Dec 2005	3,2	2,5	3,0	3,6	n.a.
Cyclically-adjusted balance (% of GDP)	<b>CP Dec 2006 <sup>(3)</sup></b>	<b>3,4</b>	<b>3,0</b>	<b>2,2</b>	<b>2,5</b>	<b>3,0</b>
	COM Nov 2006	3,3	2,7	2,1	2,1	n.a.
	CP Dec 2005 <sup>(3)</sup>	1,8	0,9	1,1	1,7	n.a.
Structural balance <sup>(4)</sup> (% of GDP)	<b>CP Dec 2006 <sup>(5)</sup></b>	<b>3,0</b>	<b>3,0</b>	<b>2,2</b>	<b>2,5</b>	<b>3,0</b>
	COM Nov 2006 <sup>(6)</sup>	2,9	2,7	2,1	2,1	n.a.
	CP Dec 2005	1,8	0,9	1,1	1,7	n.a.
Government gross debt (% of GDP)	<b>CP Dec 2006</b>	<b>50,3</b>	<b>46,5</b>	<b>41,5</b>	<b>37,4</b>	<b>33,0</b>
	COM Nov 2006	50,4	46,7	42,6	38,7	n.a.
	CP Dec 2005	50,9	49,4	47,8	46,0	n.a.

## Notes:

- (1) The budgetary projections exclude the impact of the Eurostat decision of 2 March 2004 on the classification of funded pension schemes, which needs to be implemented by the time of the spring 2007 notification. Including this impact, the general government balance according to the updated programme would be 2,0 % of GDP in 2005, 2,0 % in 2006, 1,3 % in 2007, 1,6 % in 2008 and 2,0 % in 2009, while government gross debt would be 50,9 % of GDP in 2005, 47,0 % in 2006, 42,0 % in 2007, 37,9 % in 2008 and 33,5 % in 2009.
- (2) The CP inflation figures are estimated on a December-December basis, whereas the Commission figures are annual averages. This explains the difference between the Commission and HICP figures for 2005 and 2006. The programme also assumes that the HICP will follow UNDI<sub>X</sub> (national consumer price index excluding changes in indirect taxes, subsidies and mortgage interest expenditure) in 2008 and 2009. However, HICP is expected to be 0,5 pp. higher than UNDI<sub>X</sub> inflation in 2007, thereby accentuating the programme's projected drop in HICP inflation in 2008.
- (3) Commission services calculations on the basis of the information in the programme.
- (4) Cyclically-adjusted balance (as in the previous rows) excluding one-off and other temporary measures.
- (5) One-off and other temporary measures taken from the programme (0,4 % of GDP in 2005; deficit-reducing).
- (6) One-off and other temporary measures taken from the Commission services' autumn 2006 forecast (0,4 % of GDP in 2005; deficit-reducing).
- (7) Based on estimated potential growth of 2,6 %, 3,2 %, 3,1 % and 3,0 % respectively in the period 2005-2008.

## Source:

Convergence programme (CP); Commission services' autumn 2006 economic forecasts (COM); Commission services' calculations

**COUNCIL OPINION**  
**of 27 February 2007**  
**on the updated convergence programme of United Kingdom, 2006/07-2011/12**

(2007/C 72/06)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies <sup>(1)</sup>, and in particular Article 9(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

- (1) On 27 February 2007 the Council examined the updated convergence programme of the United Kingdom, which covers the period from financial year 2006/07 to financial year 2011/12 <sup>(2)</sup>.
- (2) The programme contains two macroeconomic scenarios: a central scenario and an alternative scenario which is based on trend growth a quarter percentage point lower than in the central scenario. The projections for the public finances in the update of the convergence programme are based on the latter scenario, which is designed to be more cautious than the central scenario and is considered the reference scenario for this assessment. It envisages real GDP growth of 2¾ % in 2006 and 2007, easing to 2½ % on average over the rest of the programme period. Based on currently available information, the programme appears to be based on plausible growth assumptions. The projections for inflation, which is expected to decline from 2½ % in 2006 to 2 % from 2007 onwards, appear to be on the low side in the short term, in the light of more recently published outturns, but otherwise plausible.
- (3) For 2006/07, the general government deficit is estimated at 3,0 % of GDP in the Commission services' autumn 2006 forecast. The current update of the convergence programme estimates a deficit of 2,8 % of GDP for the same year, which implies recent trends, showing robust growth in revenues and slower growth in expenditure, being maintained in the remaining months of the financial year.
- (4) The key objectives for fiscal policy as identified in the convergence programme update are to ensure long-term sustainability, intra- and intergenerational fairness and, subject to this, to support monetary policy, in particular by allowing the automatic stabilisers to smooth the path of the economy. The programme projects a reduction of the deficit below 3 % of GDP by 2006/07 (2,8 %) and to 1,4 % of GDP by the end of the projection period in 2011/12. The primary balance, estimated as a deficit of 0,6 % of GDP in 2005/06, is expected to return to balance by 2008/09 and to reach a surplus of 0,7 % of GDP by 2011/12. The budgetary adjustment over the projection period is equally distributed between revenues and expenditure. The increase of the revenue ratio is expected to take place in the first two years of the projection period, partly driven by discretionary measures, while significant adjustment on the expenditure side is planned to take place from 2008/09, through a moderation in current expenditure growth. Public investment in the definition used in the convergence programme <sup>(3)</sup> is planned to stabilise at 2¼ % of GDP from 2006/07 so that from 2007/08 the deficit is projected to be used entirely to fund public investment. The adjustment path is broadly in line with the one projected in the 2005 update, against a more favourable macroeconomic outlook in the short term.

<sup>(1)</sup> OJ L 209, 2.8.1997, p. 1. Regulation as amended by Regulation (EC) No 1055/2005 (OJ L 174, 7.7.2005, p. 1). The documents referred to in this text can be found at the following website:

[http://europa.eu.int/comm/economy\\_finance/about/activities/sgp/main\\_en.htm](http://europa.eu.int/comm/economy_finance/about/activities/sgp/main_en.htm)

<sup>(2)</sup> The UK financial year runs from April to March.

<sup>(3)</sup> The definition of public investment in the UK convergence programme, which is not an ESA concept, covers all public sector investment (that is, public corporations as well as general government) and includes capital grants to the private sector net of depreciation.

- (5) Calculated according to the commonly agreed methodology, the structural balance (i.e. the cyclically-adjusted balance net of one-off and other temporary measures) is projected to improve from 2 ½ % of GDP in 2006/07 to about 1 ¼ % of GDP in the final programme year, 2011/12. On the basis of these estimates, this adjustment is more marked between 2006/07 and 2008/09 but slows thereafter. As in the 2005 update, a quantitative medium-term objective (MTO) for the structural balance is not specified. The programme refers to fiscal objectives under the domestic rules, which are consistent with stabilising the debt-to-GDP ratio at a relatively low level and would provide a safety margin with respect to the 3 % of GDP general government deficit threshold only in certain circumstances.
- (6) The risks to the budgetary projections in the programme appear broadly balanced up to 2007/08 but the budgetary outcomes could be worse than projected in the programme thereafter depending on the implementation of spending control. The projected increase in the tax to GDP ratio partly relies on relatively volatile factors such as profits from the financial and oil-producing sectors. However, relatively good prospects for revenues appear supported by recent economic developments, including strong profitability. From 2008/09 on however, achievement of the deficit path in the programme will depend on implementing the projected moderation in expenditure growth, and on active monitoring to enforce expenditure limits. The full implementation of the reduction in expenditure growth expected from the Comprehensive Spending Review will be key to reaching the objectives of the programme. The UK authorities have pre-announced a reduction in the budgetary allocation for a number of smaller departments, and committed to 5 % annual real reductions in administration budgets across government and value for money savings. However, the greatest part of the moderation of expenditure growth from 2008/09 is not yet underpinned by specific budgetary allocations which are subject to confirmation in the authorities' Comprehensive Spending Review, planned for summer 2007, which will announce firm expenditure plans up to 2010/11. The record of active monitoring to enforce expenditure limits is positive.
- (7) In view of this risk assessment, the budgetary stance in the programme appears broadly consistent with a correction of the excessive deficit by 2006/07, as recommended by the Council. It provides a sufficient safety margin against breaching the 3 % of GDP deficit threshold with normal macroeconomic fluctuations only around 2009/10, when the projections are subject to the outcome of the Comprehensive Spending Review. In the years following the correction of the excessive deficit, the pace of fiscal consolidation should thus be strengthened.
- (8) The gross debt ratio, which stood at 42,1 % of GDP in 2005/06, though remaining well below the Treaty reference value of 60 % of GDP, is projected to rise slowly over the projection period, peaking at just above 44 % of GDP in 2008/09. Thereafter the ratio is expected to stabilise and then begin to decline at the end of the programme period.
- (9) The long-term budgetary impact of ageing in the UK is close to the EU average, with pension expenditure showing a somewhat more limited increase than on average in the EU, in part as a result of the UK's historically relying relatively more on private pension arrangements than have other EU countries. The proposed reforms to pension provision address the concern of potentially inadequate provision in the future, by strengthening the incentives for private savings for retirement and by increasing provision of public pensions, thus involving a slightly higher increase in public pension expenditure than previously projected; the reform also incorporates a planned gradual increase in the statutory state pension age. The initial budgetary position, though improved compared to 2005, would still constitute a risk to sustainable public finances if no significant reduction in the deficit occurs in the medium term, even before the long-term budgetary impact of an ageing population is considered. Consolidating the public finances by strengthening the budgetary position further than planned in the convergence programme would thus contribute to reducing risks to the long-term sustainability of public finances. Overall, the UK appears to be at medium risk with regard to the sustainability of public finances.



- (10) The convergence programme contains a qualitative assessment of the overall impact of the October 2006 implementation report of the national reform programme within the medium-term fiscal strategy. In addition it provides systematic information on the direct budgetary costs or savings of the main reforms envisaged in the national reform programme and its budgetary projections explicitly take into account the public finance implications of the actions outlined in the national reform programme. The measures in the area of public finances envisaged in the convergence programme seem consistent with those foreseen in the national reform programme. In particular, both programmes envisage the gradual implementation of the government's objectives to increase efficiency and value for money in public service provision, while the long-term public finance projections incorporate the estimated cost of the proposed pension reform.
- (11) The budgetary strategy in the programme is broadly consistent with the broad economic policy guidelines included in the integrated guidelines for the period 2005-2008.
- (12) As regards the data requirements specified in the code of conduct for stability and convergence programmes, the programme has gaps in the required and optional data <sup>(1)</sup>.

The Council considers that the programme seems broadly consistent with a correction of the excessive deficit by the deadline set by the Council (financial year 2006/07). The Council invites the UK to continue consolidation after 2009/10. The achievement of the budgetary targets after 2007/08 is subject to the effective implementation of the projected expenditure restraint.

In view of the above assessment, the Council invites the United Kingdom to pursue budgetary consolidation over the programme period, especially by implementing the projected reduction in expenditure growth after 2007/08, and to strengthen further its fiscal position in order to address the risks to long-term sustainability of the public finances.

The United Kingdom is also invited to improve compliance with the data requirements of the code of conduct.

### Comparison of key macroeconomic and budgetary projections

		2005/ 06	2006/ 07	2007/ 08	2008/ 09	2009/ 10	2010/ 11	2011/ 12
Real GDP (% change)	<b>CP Dec 2006 <sup>(1)</sup></b>	<b>1 ¾</b>	<b>2 ¾</b>	<b>2 ¾</b>	<b>2 ½</b>	<b>2 ½</b>	<b>2 ½</b>	<b>2 ½</b>
	COM Nov 2006 <sup>(2)</sup>	1,9	2,7	2,6	2,4	n.a.	n.a.	n.a.
	CP Dec 2005 <sup>(1)</sup>	1¾	2¼	3	2¾	2¼	2¼	n.a.
HICP inflation (%)	<b>CP Dec 2006 <sup>(1)</sup></b>	<b>2</b>	<b>2 ½</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>
	COM Nov 2006 <sup>(2)</sup>	2,1	2,4	2,2	2,0	n.a.	n.a.	n.a.
	CP Dec 2005	2¼	2	2	2	2	2	n.a.
Output gap (% of potential GDP)	<b>CP Dec 2006 <sup>(3)</sup></b>	<b>- 0,5</b>	<b>- 0,6</b>	<b>- 0,6</b>	<b>- 0,6</b>	<b>- 0,5</b>	<b>- 0,4</b>	<b>- 0,3</b>
	COM Nov 2006 <sup>(3) (4)</sup>	- 0,3	- 0,4	- 0,5	- 0,7	n.a.	n.a.	n.a.
	CP Dec 2005 <sup>(3)</sup>	- 0,5	- 1,0	- 0,8	- 0,5	- 0,6	- 0,6	n.a.

<sup>(1)</sup> In particular, the data on projections for employment, unemployment, wage inflation and a detailed breakdown of revenue and expenditure projections on a general government basis after 2007/08 are not provided. Compared to the 2005 update, the horizon for the breakdown of expenditure on a general government basis is shorter in the current update, which is the last update before new detailed spending plans will be fixed in the July 2007 Comprehensive Spending Review.

		2005/ 06	2006/ 07	2007/ 08	2008/ 09	2009/ 10	2010/ 11	2011/ 12
General government balance (% of GDP)	<b>CP Dec 2006</b> <sup>(5)</sup> <sup>(6)</sup>	<b>- 2,9</b>	<b>- 2,8</b>	<b>- 2,3</b>	<b>- 1,9</b>	<b>- 1,7</b>	<b>- 1,6</b>	<b>- 1,4</b>
	COM Nov 2006 <sup>(6)</sup> <sup>(7)</sup>	- 2,9	- 3,0	- 2,7	- 2,5	n.a.	n.a.	n.a.
	CP Dec 2005 <sup>(5)</sup>	- 3,1	- 2,8	- 2,4	- 1,9	- 1,7	- 1,5	n.a.
Primary balance (% of GDP)	<b>CP Dec 2006</b> <sup>(8)</sup>	<b>- 0,8</b>	<b>- 0,6</b>	<b>- 0,2</b>	<b>- 0,1</b>	<b>- 0,3</b>	<b>- 0,5</b>	<b>- 0,7</b>
	COM Nov 2006	- 0,9	- 1,0	- 0,6	- 0,4	n.a.	n.a.	n.a.
	CP Dec 2005 <sup>(8)</sup>	- 1,0	- 0,7	- 0,3	n.a.	n.a.	n.a.	n.a.
Cyclically-adjusted balance (% of GDP)	<b>CP Dec 2006</b> <sup>(3)</sup> <sup>(5)</sup>	<b>- 2,7</b>	<b>- 2,5</b>	<b>- 2,1</b>	<b>- 1,7</b>	<b>- 1,5</b>	<b>- 1,4</b>	<b>- 1,3</b>
	COM Nov 2006 <sup>(4)</sup>	- 2,8	- 2,8	- 2,4	- 2,2	n.a.	n.a.	n.a.
	CP Dec 2005 <sup>(3)</sup>	- 2,9	- 2,3	- 2,1	- 1,7	- 1,5	- 1,3	n.a.
Structural balance <sup>(9)</sup> (% of GDP)	<b>CP Dec 2006</b> <sup>(3)</sup> <sup>(5)</sup>	<b>- 3,0</b>	<b>- 2,5</b>	<b>- 2,1</b>	<b>- 1,7</b>	<b>- 1,5</b>	<b>- 1,4</b>	<b>- 1,3</b>
	COM Nov 2006 <sup>(4)</sup>	- 3,1	- 2,8	- 2,4	- 2,2	n.a.	n.a.	n.a.
	CP Dec 2005	- 2,9	- 2,3	- 2,1	- 1,7	- 1,5	- 1,3	n.a.
Government gross debt (% of GDP)	<b>CP Dec 2006</b>	<b>42,7</b>	<b>43,7</b>	<b>44,1</b>	<b>44,2</b>	<b>44,2</b>	<b>44,0</b>	<b>43,6</b>
	COM Nov 2006	42,1	42,5	43,4	44,1	n.a.	n.a.	n.a.
	CP Dec 2005	43,3	44,4	44,8	44,7	44,6	44,4	n.a.

## Notes

- (1) GDP and inflation forecast underlying the authorities' projections for the public finances; derived from a scenario whereby trend growth is one-quarter percentage point higher.
- (2) Commission services' forecast is on a calendar year basis.
- (3) Output gap calculations according to the commonly agreed methodology on the basis of data provided in the convergence programme. The output gap calculations are based on the data underlying the central trend growth scenario.
- (4) Output gaps based on potential growth estimates of 2,8 % in 2006, 2,7 % in 2007 and 2,6 % in 2008.
- (5) Figures in the convergence programme adjusted for treatment of UMTS receipts. The UK authorities include, in their projections for the general government balance, annual receipts of around GBP 1,0 billion from the sale of UMTS licences in 2000. Adjusting for this, to bring the projections onto to an EDP basis, has the effect of subtracting around 0,1 pp from the balance (i.e. increasing the deficit) in each year. All data shown in this table are given after this adjustment, made by the Commission services, to the data in the programme.
- (6) Following discussions between Eurostat and the UK Office for National Statistics, it is likely that the cancellation of Nigerian debt will be reclassified in government accounts as deficit-increasing by about 0,1 % of GDP both in 2005/06 and in 2006/07.
- (7) Commission services' forecast is before discretionary measures announced in the December 2006 Pre-Budget Report and included in the convergence programme. In the absence of announced expenditure plans from 2008/09 onwards, the Commission services' autumn forecast adopts a technical assumption that expenditure remains constant as a percentage of GDP, while the convergence programme adopts a working assumption implying a fall in the expenditure to GDP ratio.
- (8) Data from the convergence programme adapted in line with a definition of the primary balance using gross rather than net interest payments.
- (9) Cyclically-adjusted balance (calculated according to the commonly agreed methodology) excluding one-offs and other temporary measures. One-off and other temporary measures taken from the Commission services' autumn 2006 forecast and based on information provided by the Office for National Statistics (0,3 % of GDP in 2005/06).

## Source:

2006 update of the UK Convergence Programme, Commission services' forecast

## II

*(Information)*

## INFORMATION FROM EUROPEAN UNION INSTITUTIONS AND BODIES

## COMMISSION

**Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty****Cases where the Commission raises no objections***(Text with EEA relevance)**(2007/C 72/07)*

Date of adoption of the decision	30.11.2006
Reference number of the aid	N 293/06
Member State	United Kingdom
Region	—
Title (and/or name of the beneficiary)	Partnership Support for Regeneration — Extension of N 239/2002
Legal basis	Leasehold Reform, Housing and Urban Development Act 1993, the Scotland Act (1998), the Housing (Scotland) Act (1988), the Housing (Scotland) Act 2001, the Housing Associations Act (1985), the Housing Act (1988), the Housing Act (1996), the Regional Development Act 1998, the Greater London Authority Act 1999 (Chapter 29), the Local Government Act 2000 and the Local Government in Scotland Act (2003)
Type of measure	Aid scheme
Objective	Promote owner-occupied social housing
Form of aid	Direct grant
Budget	Annual budget: GBP 20 million; Overall budget: GBP 140 million
Intensity	60 %
Duration	1.1.2007-31.12.2013
Economic sectors	—

Name and address of the granting authority	—
Other information	Detailed annual report on the implementation of the scheme

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/](http://ec.europa.eu/community_law/state_aids/)

Date of adoption of the decision	9.2.2007
Reference number of the aid	N 773/06
Member State	Austria
Region	—
Title (and/or name of the beneficiary)	Verlängerung der Beihilferegelung „Unternehmenserhaltende Maßnahmen“ für KMU in Kärnten
Legal basis	Kärntner Wirtschaftsförderungsgesetz (K-WFG), Allgemeine Geschäftsbedingungen (AGB), Richtlinie Unternehmenserhaltende Maßnahmen
Type of measure	Aid scheme
Objective	Rescue of firms in difficulty, Restructuring of firms in difficulty
Form of aid	Direct grant, Soft loan
Budget	Annual budget: EUR 1,9 million; Overall budget: EUR 5,22 million
Intensity	—
Duration	Until 9.10.2009
Economic sectors	—
Name and address of the granting authority	Kärntner Wirtschaftsförderungs Fonds
Other information	—

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/](http://ec.europa.eu/community_law/state_aids/)

Date of adoption of the decision	16.5.2006
Aid No	NN 4/06
Member State	Italy
Region	—
Title (and/or name of company receiving aid)	Ammodernamento delle navi da pesca

Legal basis	— Articolo 1, paragrafo 258, della legge n. 311 del 30 dicembre 2004 — Decreto del 15 marzo del ministro delle Politiche agricole e forestali
Type of measure	Aid scheme
Objective	Vessel modernisation
Form of aid	The rates laid down in Regulation (EC) No 2792/1999
Budget	EUR 320 000
Intensity	The rates laid down in Regulation (EC) No 2792/1999
Duration	One year (2005 budget)
Economic sectors	Companies involved in the processing and marketing of fishery and aquaculture products
Name and address of the granting authority	—
Other details	Implementing report

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/](http://ec.europa.eu/community_law/state_aids/)

---

**Non-opposition to a notified concentration**  
**(Case COMP/M.4585 — BMW Intec/Dekra Südleasing Services)**

(Text with EEA relevance)

(2007/C 72/08)

On 23 March 2007, 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 German 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 32007M4585. EUR-Lex is the on-line access to European law. (<http://eur-lex.europa.eu>)

---

**Non-opposition to a notified concentration**  
**(Case COMP/M.4554 — Berkshire Hathaway/TTI)**

(Text with EEA relevance)

(2007/C 72/09)

On 21 March 2007, 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 32007M4554. EUR-Lex is the on-line access to European law. (<http://eur-lex.europa.eu>)
-

**Non-opposition to a notified concentration**  
**(Case COMP/M.4503 — PBDS/Philips APM)**

(Text with EEA relevance)

(2007/C 72/10)

On 16 February 2007, 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 32007M4503. EUR-Lex is the on-line access to European law. (<http://eur-lex.europa.eu>)

---

**Non-opposition to a notified concentration**  
**(Case COMP/M.4502 — LITE-ON/PBDS)**

(Text with EEA relevance)

(2007/C 72/11)

On 16 February 2007, 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 32007M4502. EUR-Lex is the on-line access to European law. (<http://eur-lex.europa.eu>)
-

**Non-opposition to a notified concentration**  
**(Case COMP/M.4547 — KKR/Permira/Prosiebensat.1)**

(Text with EEA relevance)

(2007/C 72/12)

On 22 February 2007, 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 web site 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 32007M4547. EUR-Lex is the on-line access to European law. (<http://eur-lex.europa.eu>)

---

**Non-opposition to a notified concentration**  
**(Case COMP/M.4571 — Swiss Life/Capitalleben)**

(Text with EEA relevance)

(2007/C 72/13)

On 19 March 2007, 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 German 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 32007M4571. EUR-Lex is the on-line access to European law. (<http://eur-lex.europa.eu>)
-



# EUROPOL

## DECISION OF THE MANAGEMENT BOARD OF EUROPOL

of 20 March 2007

### on the control mechanisms for retrievals from the computerised system of collected information

(2007/C 72/14)

THE MANAGEMENT BOARD OF EUROPOL,

Having regard to the Convention based on Article K.3 of the Treaty on European Union on the Establishment of a European Police Office <sup>(1)</sup>, as amended by the Council Act of 27 November 2003 drawing up, on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), a Protocol amending that Convention <sup>(2)</sup> (hereinafter referred to as 'the protocol') and in particular Article 16 thereof,

After consultation of the Joint Supervisory Body <sup>(3)</sup>,

Whereas:

- (1) Article 1(8) of the protocol changes Article 16 of the Europol Convention which stipulates that Europol shall establish appropriate control mechanisms to allow the verification of the legality of retrievals from the computerised system of collected information referred to in Articles 6 and 6a of the Europol Convention, as amended by the protocol,
- (2) Data which is supplied by Member States and third parties for the inclusion in the analysis work files and the information system and which is processed according to Article 3 of the Council Act of 3 November 1998 adopting Rules applicable to Europol Analysis Files <sup>(4)</sup> and according to Article 6a of the Europol Convention, as introduced by the protocol, shall equally be subject to the control mechanism stipulated by the amended Article 16 of the Europol Convention,

HAS ADOPTED THE FOLLOWING DECISION:

#### Article 1

Europol shall establish control mechanisms to ensure that for all retrievals, including attempted retrievals, of data from the

computerised system of collected information referred to in Articles 6 and 6a of the Europol Convention it shall be possible to ascertain the following information as a minimum:

- (1) a unique reference number related to the retrieval or the attempted retrieval
- (2) which of the components of the computerised system of collected information referred to in Articles 6 and 6a of the Europol Convention was accessed or consulted,
- (3) the identification of the user,
- (4) the date and time of the retrieval or consultation, including attempted retrievals,
- (5) where applicable, the Analysis Work File or Files concerned,
- (6) the identity of the person or persons concerning whom data were queried or accessed and displayed or the identification of the record retrieved.

#### Article 2

The information collected in accordance with Article 1 shall be used by Europol officials authorised to ensure compliance with Europol's rules on data protection as well as the supervisory bodies referred to in Articles 23 and 24 of the Europol Convention only for the purpose of verifying the legality of retrievals from the computerised system of collected information referred to in Articles 6 and 6a of the Europol Convention.

#### Article 3

The information collected in accordance with Article 1 shall be deleted after six months unless the data are further required for ongoing control.

<sup>(1)</sup> OJ C 316, 27.11.1995, p. 2.

<sup>(2)</sup> OJ C 2, 6.1.2004, p. 1.

<sup>(3)</sup> See opinion 06/40 of 19 October 2006.

<sup>(4)</sup> OJ C 26, 30.1.1999, p. 1.

*Article 4*

Europol shall, when processing data under this decision, comply with rules on data protection and data security, laid down in the Europol Convention, in particular Articles 14(3) and 25, as well as with rules adopted in the implementation thereof.

*Article 5*

The Management Board Decisions of 9 June 1999 on the drawing up of reports for retrievals of personal data and of 28 February 2001 on the drawing up of reports for retrievals of personal data in the Information System are herewith repealed.

*Article 6*

The present Decision shall enter into force on 19 April 2007.

Done at The Hague on 20 March 2007

Hans-Jürgen FÖRSTER  
*Chairman of the Management Board*

**DECISION OF THE MANAGEMENT BOARD****of 20 March 2007****laying down the rules governing the arrangements on the association of third parties' experts with the activities of analysis groups**

(2007/C 72/15)

THE MANAGEMENT BOARD OF EUROPOL,

Having regard to the Convention on the establishment of a European Police Office (Europol Convention), as amended by the Council Act of 27 November 2003 drawing up, on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office, a Protocol amending that Convention<sup>(1)</sup>, and in particular Article 10(9) thereof,

Having regard to the opinion issued by the Joint Supervisory Body,

Whereas it is for the Management Board, acting by a majority of two thirds of its members, to determine the rules governing the arrangements to which the association of third parties' experts with the activities of an analysis group are subject,

HAS ADOPTED THE FOLLOWING DECISION:

*Article 1***Definitions**

For the purposes of the present Decision:

- (a) 'analysis group' means the group associating the participants to an analysis project, as mentioned in Article 10(2) of the Europol Convention;
- (b) 'arrangement' means an agreement, concluded between Europol and a third party, regulating the association of the latter to the activities of an analysis group;
- (c) 'association' of third party's experts to the activities of an analysis group means that these experts shall be entitled to attend analysis group's meetings, to be informed by Europol, upon request, of the development of the concerned analysis work file and to receive and further disseminate, in accordance with the applicable legal requirements, analysis results which concern the third party they represent;
- (d) 'third part' means a third State or body as referred to in Article 10(4) of the Europol Convention.

*Article 2***Invitation to be associated to the activities of an analysis group**

Europol may invite experts of a third party with which an agreement containing appropriate provisions on the exchange of information, including the transmission of personal data, as well as on the confidentiality of exchanged information, is in force to be associated with the activities of an analysis group. Such an invitation must be made with the unanimous approval of the analysis group's participants.

*Article 3***Arrangements**

1. The association of third parties' experts shall be regulated by arrangements concluded between Europol and third parties. These arrangements, which shall be based on the model laid down in the Annex to the present Decision, will be communicated to the Joint Supervisory Body. Participants of the analysis group shall be consulted should Europol intend to deviate from the model arrangement.
2. The arrangements shall provide that associated third party's experts will be entitled to:
  - (a) attend analysis group meetings, and
  - (b) be informed by Europol, upon request, of the development of the concerned analysis work file, and
  - (c) receive analysis results which concern the third party they represent; such dissemination shall take place in accordance with Articles 17(2) and 18(4) of the Europol Convention, with the relevant provisions of the cooperation and confidentiality agreements, with Article 5(5) of the Council Act of 12 March 1999 adopting the rules governing the transmission of personal data by Europol to third States and third bodies<sup>(2)</sup>, and with the prior consent of the Member State which communicated the concerned data; and
  - (d) further disseminate the analysis results, only with the prior agreement of the concerned participants and in compliance with the relevant provisions of the cooperation and confidentiality agreements.
3. The arrangements shall provide for their termination upon notification by either the associated third party or by Europol, which shall only act after the agreement of the participants of the analysis group. Should no agreement be reached between the participants, Europol shall notify the termination of the arrangement upon request of one participant, and inform the Management Board thereof.

*Article 4***Entry into force**

The present Decision shall enter into force on 19 April 2007.

Done at The Hague on 20 March 2007.

Hans-Jürgen FÖRSTER  
*Chairman of the Management Board*

<sup>(1)</sup> OJ C 2, 6.1.2004, p. 1.

<sup>(2)</sup> OJ C 88, 30.3.1999, p. 1. Act, as amended by the Council Act of 28 February 2002 (OJ C 78, 27.3.2002, p. 1).

## ANNEX

**MODEL ARRANGEMENT ON THE ASSOCIATION OF THIRD PARTIES' EXPERTS TO THE ACTIVITIES OF ANALYSIS GROUPS**

Europol and (name of the third party) (hereinafter referred to as 'the Parties'),

Having regard to the Europol Convention, and in particular Article 10(9) thereof,

Having regard to the cooperation agreement between Europol and (*name of the third party*) and in particular to its provisions concerning the confidentiality of exchanged information,

OR:

Having regard to the cooperation and confidentiality agreements between Europol and (*name of the third party*),

Having regard to the Council Act of 3 November 1998 adopting rules applicable to Europol analysis files <sup>(1)</sup>,

Having regard to the Management Board Decision of (*date*) laying down the rules governing the arrangements on the association of third parties' experts with the activities of analysis groups, and in particular Article 3(1) thereof,

Having regard to the opening order of analysis work file YYY,

Whereas it is in the interest of the Member States to associate (*name of the third party*) experts with the activities of the analysis group YYY,

Whereas (*name of the third party*) is directly concerned by the analysis work carried out by the analysis group YYY,

Have adopted the following arrangement:

*Article 1***Definitions**

For the purposes of the present Arrangement:

- (a) 'association' of third party's experts to the activities of an analysis group means that these experts shall be entitled to attend analysis group meetings, to be informed by Europol, upon request, of the development of the concerned analysis work file and to receive and further disseminate, in accordance with the applicable legal requirements, analysis results which concern the third party they represent;
- (b) 'cooperation agreement' means the agreement signed on (*date*) between Europol and (*name of the third party*);
- (c) 'confidentiality agreement' means an agreement as referred to in Article 18(6) of the Europol Convention.

*Article 2***Scope**

1. XXX <sup>(2)</sup> of (*name of the sending authority*) shall be associated to the activities of the analysis group YYY.
2. XXX shall accordingly be entitled to:
  - (a) attend analysis group meetings, and
  - (b) be informed by Europol, upon request, of the development of the concerned analysis work file YYY, and
  - (c) receive analysis results which concern (*name of the third party*); such dissemination shall take place in accordance with Articles 17(2) and 18(4) of the Europol Convention, with the relevant provisions of the cooperation and confidentiality agreements, with Article 5(5) of the Council Act of 12 March 1999 adopting the rules governing the transmission of personal data by Europol to third States and third bodies, and with the prior consent of the Member State which communicated the concerned data; and
  - (d) further disseminate the analysis results, only with the prior agreement of the concerned participants and in compliance with the relevant provisions of the cooperation and confidentiality agreements.

<sup>(1)</sup> OJ C 26, 30.1.1999, p. 1. Act, as amended by (*add reference when new Act adopted*).

<sup>(2)</sup> Name of the expert(s).

*Article 3***Entry into force**

The present arrangement shall enter into force on *(date)*.

*Article 4***Termination**

1. The present arrangement shall automatically lapse upon closure of analysis work file YYY.
  2. The present arrangement may at any time be terminated upon notification by one of the Parties.
-

## DECISION OF THE MANAGEMENT BOARD

of 20 March 2007

### laying down the rules governing the arrangements regulating the administrative implementation of the participation of Europol officials in Joint investigation Teams

(2007/C 72/16)

THE MANAGEMENT BOARD OF EUROPOL,

Having regard to the Europol Convention, as amended by the Council Act of 28 November 2002 drawing up, on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office a Protocol, and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol, and in particular Article 3(a) thereof,

Having regard to the opinion issued by the Joint Supervisory Body,

Whereas it is for the Management Board, acting by a majority of two thirds of its members, to determine the rules governing the arrangements laying down the administrative implementation of the participation of Europol officials in joint investigation teams.

HAS ADOPTED THE FOLLOWING DECISION:

#### Article 1

#### Definitions

For the purposes of the present Decision:

- (a) 'joint investigation teams' means the joint investigation team as referred to in Article 3(a) of the Europol Convention.
- (b) 'national unit' means the only liaison body between the competent national authorities and Europol as referred to in Article 4 of the Europol Convention.
- (c) 'competent authorities' means all public bodies existing in the Member States which are responsible under national law for preventing and combating criminal offences according to Article 2(4) of the Europol Convention.

#### Article 2

#### Arrangements

1. The administrative implementation of the participation of Europol officials in a joint investigation team shall be laid down in an arrangement concluded between the Director of Europol and the competent authorities of the Member States responsible for setting up that joint investigation team.

2. The arrangements shall be made with the involvement of the National Units of the participating Members States.

#### Article 3

#### Mandate of the Europol officials participating in joint investigations teams

- 1. The arrangements shall specify the tasks, rights and obligations of the Europol officials participating in the joint investigation team.
- 2. The arrangements shall state that Europol officials participating in a joint investigation team shall assist the members of the team in accordance with the Europol Convention and in accordance with the national law of the Member State where the team operates.

#### Article 4

#### Management and supervision

- 1. The arrangements shall stipulate that Europol officials participating in a joint investigation team shall carry out their tasks under the leadership of the leader(s) of the team identified in the arrangement.
- 2. The arrangements shall provide that Europol officials have the right not to execute orders which they consider to be in breach of their obligations under the Europol Convention. In that case, the Europol official shall inform the Europol Director thereof who shall consult with the leader(s) of the team to find a solution. Should a mutually satisfactory solution not be found, the Director shall be entitled to terminate the arrangement.

#### Article 5

#### Access to data

The arrangements shall specify that Europol officials participating in joint investigation teams shall have access to the Europol computerized system in accordance with the provisions of the Europol Convention and in line with the applicable security standards<sup>(1)</sup> for the duration of their membership of the joint investigation team.

<sup>(1)</sup> As outlined in outlined in the *Policy for communication links used to process Europol information* — Document 2450-16 (#16991)

*Article 6***Costs and equipment**

The arrangements shall regulate the distribution of the costs, including insurance, entailed by the participation of Europol officials in joint investigation teams as well as specifying the conditions under which any equipment provided by Europol can be used by the members of the joint investigation team.

*Article 7***Termination**

The arrangements shall specify that they may at any time be terminated upon notification by one of the Parties.

*Article 8***Entry into force**

The present Decision shall enter into force on 30 March 2007.

Done at The Hague on 20 March 2007

Hans-Jürgen FÖRSTER  
*Chairman of the Management Board*

---

## RULES FOR ACCESS TO EUROPOL DOCUMENTS

(2007/C 72/17)

THE MANAGEMENT BOARD OF EUROPOL,

Having regard to the Europol Convention, and in particular Article 32a thereof,

Having regard to the proposal by the Director of Europol

Whereas:

(1) According to Article 32a of the Europol Convention, on the basis of a proposal by the Director of Europol, the Management Board, acting by a majority of two thirds of its members, shall adopt rules for access to Europol documents for any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, taking account of the principles and limits stated in the regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents adopted on the basis of Article 255 of the Treaty establishing the European Community.

(2) The second subparagraph of Article 1 of the Treaty on European Union (hereinafter referred to as 'the EU Treaty') enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

(3) Openness guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system. Openness contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in Article 6 of the EU Treaty, in Article 255 of the Treaty establishing the European Community (hereinafter referred to as 'the EC Treaty') and in Article 42 of the Charter of Fundamental Rights of the European Union.

(4) In accordance with Article 41(1) of the EU Treaty, the right of access also applies to documents relating to police and judicial cooperation in criminal matters.

(5) Regulation (EC) No 1049/2001 of 30 May 2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents<sup>(1)</sup> (hereinafter referred to as 'Regulation 1049/2001') lays down the general principles and limits governing the right of access to European Parliament, Council and Commission documents. Article 32a of the Europol Convention refers to the principles and limits stated in this Regulation.

(6) In principle, all documents should be accessible to the public. However, public and private interests should be protected by way of exceptions. Europol should be entitled where necessary to safeguard its ability to carry out its tasks.

(7) In order to ensure that the right of access is fully respected, a two-stage administrative procedure should apply, with the additional possibility of complaints to the Ombudsman.

(8) These rules are without prejudice to Article 19 of the Europol Convention on the right of access.

HAS ADOPTED THESE RULES:

### *Article 1*

#### **Definitions**

For the purpose of these rules:

- (a) 'Europol document' or 'document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to Europol's activities, policies and decisions.
- (b) 'third party' shall mean any natural or legal person, or any entity outside Europol including the Member States, other institutions, bodies and agencies of the European Union, international organizations and third countries;
- (c) 'Europol classified documents' shall mean documents which contain information requiring additional security measures and which are marked with one of the classification levels 'Europol RESTRICTED', 'Europol CONFIDENTIAL', 'Europol SECRET' or 'Europol TOP SECRET' in accordance with the Rules on the confidentiality of Europol information.

### *Article 2*

#### **Purpose**

The purpose of these rules is:

- (a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to Europol documents in such a way as to ensure the widest possible access to documents;

<sup>(1)</sup> OJL 145, 31.5.2001, p. 43.



- (b) to establish rules ensuring the easiest possible exercise of this right; and
- (c) to promote good administrative practice on access to documents.

#### Article 3

##### Beneficiaries and scope

1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of Europol, subject to the principles, conditions and limits defined in these rules.
2. Europol may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.
3. These rules shall apply to all documents held by Europol, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of Europol.
4. Individuals specifically requesting data only related to them shall not be covered by these Rules. In such cases individuals shall be referred to the procedure mentioned in Article 19 of the Europol Convention.
5. Without prejudice to Article 4, documents shall be made accessible to the public either following a written application or directly in electronic form in accordance with Article 11.

#### Article 4

##### Exceptions

1. Europol shall refuse access to a document where disclosure would undermine the protection of:
  - (a) the public interest as regards:
    - public security
    - the proper fulfilment of Europol's tasks,
    - investigations and operational activities of third parties,
    - defence and military matters,
    - international relations,
    - the financial, monetary or economic policy of the Community or a Member State,
  - (b) the privacy and integrity of the individual.
2. Europol shall refuse access to a document where disclosure would undermine the protection of:
  - commercial interests of a natural or legal person, including intellectual property,
  - court proceedings and legal advice,
  - the purpose of inspections, investigations and audits, other than those mentioned under paragraph 1 (a),

unless there is an overriding public interest in disclosure.

3. Access to a document, drawn up for internal use or received by Europol, which relates to a matter where the decision has not been taken by Europol, shall be refused if disclosure of the document would undermine Europol's decision-making process, unless there is an overriding public interest in disclosure.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within Europol shall be refused even after the decision has been taken if disclosure of the document would undermine Europol's decision-making process, unless there is an overriding public interest in disclosure.

4. As regards documents originating in whole or in part from third parties, Europol shall consult the third party with a view to assessing whether paragraphs 1, 2 or 3 are applicable. If the third party document originates from a Member State or a third country or organisation with which Europol has concluded a cooperation agreement, Europol will not disclose the document without their written consent.

5. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.

6. The exceptions as laid down in paragraph 1 to 3 shall only apply to the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years. In the case of documents covered by the exceptions relating to integrity or privacy of individuals or commercial interests and in the case of Europol classified documents, the exceptions may, if necessary, continue to apply after this period.

#### Article 5

##### Europol documents in the Member States and third countries or organisations with which Europol has concluded a cooperation agreement

Where a Member State or a third country or organisation with which Europol has concluded a cooperation agreement receives a request for a document in its possession, originating from Europol, Europol shall undertake that these third parties consult with Europol in order to take a decision that does not jeopardise the attainment of the objectives of these Rules. Europol shall also undertake that the third countries or organisations with which Europol has concluded a cooperation agreement do not disclose the document without Europol's written consent. Europol shall ensure that this obligation is reflected in the cooperation agreements concluded between Europol and third countries and organisations.

Member States may, as an alternative, refer the request to Europol.

*Article 6***Applications**

1. Applications for access to a document shall be made in any written form, including electronic form, in one of the languages referred to in Article 33(1) of the Europol Convention and in a sufficiently precise manner to enable Europol to identify the document. The applicant is not obliged to state reasons for the application.
2. If any application is not sufficiently precise, Europol shall invite the applicant to provide additional information making it possible to identify the documents requested; the deadline for reply as established in Article 7 shall begin only from the time when Europol has received this additional information.
3. In the event of an application relating to a very long document or to a very large number of documents, Europol may confer with the applicant, with a view to finding a fair solution.
4. Europol shall provide information and assistance to citizens on how and where applications for access to documents can be made. Guidance shall be set up on the Europol website.

*Article 7***Processing of initial applications**

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 30 working days from registration of the application, Europol shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with paragraph 3 of this Article.
2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in paragraph 1 may be extended by 30 working days, provided that the applicant is notified in advance and that detailed reasons are given.
3. In the event of a total or partial refusal, the applicant may, within 30 working days of receiving Europol's reply, make a confirmatory application asking Europol to reconsider its position.
4. Failure by Europol to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.

*Article 8***Processing of confirmatory applications**

1. A confirmatory application shall be handled promptly. Within 30 working days from registration of such an applica-

tion, Europol shall either grant access to the document requested and provide access in accordance with Article 10 within that period, or in a written reply, state the reasons for the total or partial refusal.

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be extended by 30 working days, provided that the applicant receives reasoned notice in advance.

*Article 9***Europol classified documents**

1. Applications for access to Europol classified documents under the procedures laid down in Articles 7 and 8 shall be handled only by those persons within Europol who have a right to acquaint themselves with those documents in accordance with the provisions of the Europol Security Manual.
2. Europol classified documents shall not automatically be subject to refusal of access. Every classified document shall be examined whether any of the exceptions provided for by Article 4 apply. Classified documents can not be disclosed, unless they have been declassified in accordance with Article 10 of the Rules on confidentiality. Access to classified third party documents shall be subject to the consultation mechanism referred to in Article 4(4).
3. If Europol decides to totally or partially refuse access to a classified document it shall give the reasons for its decision in a manner which does not harm the interests protected in Article 4.

*Article 10***Access following an application**

1. The applicant shall have access to documents by receiving a copy, including where available in electronic form, according to the applicant's preference. Copies of less than 20 A4 pages and direct access in electronic form shall be free of charge. Otherwise, the real cost of producing and sending the copies will be charged to the applicant.
2. If a document has already been released by Europol or the third party concerned and is easily accessible to the applicant, Europol may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document.
3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) and in one of the available linguistic versions in accordance with the applicant's preference.

*Article 11***Direct access in electronic form**

1. Europol shall provide access to a register of publicly accessible documents and shall as far as possible make documents directly accessible in electronic form.
2. In particular, legislative documents, that is to say, documents drawn up or received in the course of procedures for the adoption of acts which are legally binding, shall, subject to Article 4, be made directly accessible.

*Article 12***Implementation**

The implementation of these Rules shall be subject to a decision of the Director of Europol, which will in particular outline the involvement of Europol's organs in the handling of public access requests to these documents.

*Article 13***Information**

Europol shall take the requisite measures to inform the public of the rights they enjoy under these rules.

*Article 14***Reproduction of documents**

These rules shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

*Article 15***Entry into force**

These Rules shall enter into force on 19 April 2007.

Done at The Hague on 20 March 2007

Hans-Jürgen FÖRSTER  
*Chairman of the Management Board*

---

## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS AND BODIES

## COMMISSION

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

28 March 2007

(2007/C 72/18)

1 euro =

Currency	Exchange rate	Currency	Exchange rate
USD US dollar	1,3348	RON Romanian leu	3,3665
JPY Japanese yen	156,38	SKK Slovak koruna	33,518
DKK Danish krone	7,4493	TRY Turkish lira	1,8612
GBP Pound sterling	0,67950	AUD Australian dollar	1,6532
SEK Swedish krona	9,3190	CAD Canadian dollar	1,5477
CHF Swiss franc	1,6164	HKD Hong Kong dollar	10,4293
ISK Iceland króna	88,31	NZD New Zealand dollar	1,8702
NOK Norwegian krone	8,1335	SGD Singapore dollar	2,0260
BGN Bulgarian lev	1,9558	KRW South Korean won	1 254,11
CYP Cyprus pound	0,5807	ZAR South African rand	9,7390
CZK Czech koruna	28,075	CNY Chinese yuan renminbi	10,3173
EEK Estonian kroon	15,6466	HRK Croatian kuna	7,3825
HUF Hungarian forint	249,16	IDR Indonesian rupiah	12 212,75
LTL Lithuanian litas	3,4528	MYR Malaysian ringgit	4,6213
LVL Latvian lats	0,7097	PHP Philippine peso	64,471
MTL Maltese lira	0,4293	RUB Russian rouble	34,6950
PLN Polish zloty	3,8836	THB Thai baht	42,711

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

**Opinion of the Advisory Committee on concentrations given at its 144th meeting on 25 October 2006 concerning a draft decision relating to Case COMP/M.4180 — Gaz de France/Suez**

**Rapporteur: Sweden**

(2007/C 72/19)

1. The Advisory Committee agrees with the Commission that the notified operation is a concentration within the meaning of Article 3(1)(a) of the EC Merger Regulation No 132/2004 of the Commission <sup>(1)</sup>.
2. The Advisory Committee agrees with the Commission that for the purpose of assessing the present operation the definitions of the relevant **product markets, as concerns gas in Belgium**, are:
  - (a) The product markets for supply of gas shall each be divided into two separate product markets for L gas and H gas.
  - (b) Supply of gas to intermediary resellers.
  - (c) Supply of gas to electricity producers/gas fired power plants.
  - (d) Supply of gas to large industrial customers.
  - (e) Supply of gas to small and industrial and commercial customers.
  - (f) Supply of gas to household customers.
  - (g) Trading of natural gas on a hub.
3. The Advisory Committee agrees with the Commission that for the purpose of assessing the present operation the definitions of the relevant **geographic markets, as concerns gas in Belgium**, are:
  - (a) Supply of gas to intermediary resellers — national geographic market.
  - (b) Supply of gas to electricity producers — national geographic market.
  - (c) Supply of gas to large industrial customers — national geographic market.
  - (d) Supply of gas to small and industrial and commercial customers — national geographic market.
  - (e) Supply of gas to household customers — national or regional geographic market.

If these markets were to be considered regional, the relevant product market would include only L gas in the Brussels Capital Region.
  - (f) Trading of natural gas on a hub — Belgian hub and UK hub.

The majority of the Member States agrees, a minority disagrees concerning point (f).
4. The Advisory Committee agrees with the Commission that for the purpose of assessing the present operation the definitions of the relevant **product markets, as concerns gas in France**, are:
  - (a) The product markets, as concerns supply of gas in the North zone, shall be divided into two separate product markets for L gas and H gas.
  - (b) Supply of gas to intermediary resellers.
  - (c) Supply of gas to electricity producers/gas fired power plants.
  - (d) Supply of gas to large industrial and commercial customers (who have exercised their eligibility).
  - (e) Supply of gas to small industrial customers (who have exercised their eligibility).
  - (f) Supply of gas to household customers (eligible from 1 July 2007).

<sup>(1)</sup> OJ L 21, 28.1.2004, p. 5.

5. The Advisory Committee agrees with the Commission that for the purpose of assessing the present operation **as concerns gas in France**, the definitions of the relevant **geographic markets**, are based on the regional balancing zones and that each of them constitutes a relevant geographic market for all product markets as identified in question 4.
6. The Advisory Committee agrees with the Commission that for the purpose of assessing the present operation the definitions of the relevant **product markets, as concerns electricity in Belgium**, are:
  - (a) Electricity generation and wholesale supply.
  - (b) Electricity trading market.
  - (c) Balancing power and ancillary services.
  - (d) Supply to large commercial and industrial customers (>70kV).
  - (e) Supply to small commercial and industrial customers (<70kV).
  - (f) Supply to household customers.
7. The Advisory Committee agrees with the Commission that for the purpose of assessing the present operation the definitions of the relevant **geographic markets, as concerns electricity in Belgium**, are:
  - (a) Electricity generation and wholesale supply — national geographic market.
  - (b) Electricity trading market — national geographic market.
  - (c) Balancing power and ancillary services — national geographic market.
  - (d) Supply to large commercial and industrial customers — national geographic market.
  - (e) Supply to small industrial and commercial customers — national geographic market.
  - (f) Supply to eligible household customers — regional geographic or national markets (left open).
8. The Advisory Committee agrees with the Commission that for the purpose of assessing the present operation the definition of the relevant **product market, as concerns district heating in France**, is:
  - Market for the delegated management of district heating networks.
9. (a) The Advisory Committee agrees with the Commission that for the purpose of assessing the present operation the definition of the relevant **geographic market, as concerns district heating in France**, is:
  - Market for the delegated management of district heating networks — national geographic market.
- (b) The Advisory Committee agrees with the Commission that for the purposes of assessing the present operation, it is not necessary to come to a conclusion on the definition of the relevant product and geographic markets in respect of any horizontal overlaps or vertical relationship between the parties in Luxembourg, the UK, the Netherlands and Hungary.
10. The Advisory Committee agrees with the Commission that the proposed concentration is likely to result in a **significant impediment to effective competition** in the common market or in a substantial part of it and the EEA for the following markets:

*Belgium:*

- (a) Supply of gas to intermediary resellers;
- (b) Supply of gas to electricity producers;
- (c) Supply of gas to large industrial customers;
- (d) Supply of gas to small industrial customers;
- (e) Supply of gas to household customers;

- (f) Generation and Wholesale of electricity;
- (g) Balancing power and ancillary services;
- (h) Supply of electricity to large industrial customers;
- (i) Supply of electricity to small industrial customers;
- (j) Supply of electricity to residential customers.

*France:*

- (a) Markets for the supply of H gas to intermediary resellers in the North and East zones and the market for the supply of L gas to intermediary resellers in the North zone;
  - (b) Markets for the supply of (i) H gas to electricity producers in the North and East zones and (ii) L gas to electricity producers in the North zone;
  - (c) Markets for the supply of H gas to large industrial customers which have exercised their eligibility in the North, East, West and South zones;
  - (d) Markets for the supply of H gas to small industrial customers which have exercised their eligibility in the North, East, West, South and South-West zones;
  - (e) Markets for the supply of L gas to (i) large industrial customers which have exercised their eligibility and (ii) small industrial customers which have exercised their eligibility in the North zone;
  - (f) Markets for the supply of (i) H gas to household customers from 1 July 2007 in the North, East, West, South and South-West zones and (ii) L gas to household customers from 1 July 2007 in the North zone;
  - (g) Market for delegated management of district heating networks.
11. The Advisory Committee agrees with the Commission that the **commitments** are **sufficient** to remove the significant impediments to competition in the markets identified in Question 10. The majority of the Member States agrees, a minority disagrees.
  12. The Advisory Committee agrees with the Commission that, subject to full compliance with the commitments offered by the parties, and considered all commitments together, the proposed concentration does **not significantly impede effective competition** in the common market or in a substantial part of it, in particular as a result of the creation or strengthening of a dominant position, within the meaning of Article 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement. The majority of the Member States agrees, a minority disagrees.
  13. The Advisory Committee asks the Commission to take into account all the other points raised during the discussion
-

**Final report of the Hearing Officer in Case COMP/M.4180 — Gaz de France/Suez**

*(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 <sup>(1)</sup>)*

(2007/C 72/20)

On 10 May 2006 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(2)</sup> (the Merger Regulation) according to which the undertakings Gaz de France and Suez would merge, within the meaning of Article 3(1)(a) of the Merger Regulation, via an exchange of shares.

By decision dated 19 June 2006 the Commission found that the transaction raised serious doubts as to its compatibility with the common market and the functioning with the EEA Agreement. Accordingly, the Commission initiated proceedings in accordance with Article 6(1)(c) of the Merger Regulation.

A statement of objections was sent to the parties on 18 August 2006 to which they were asked to reply by 1 September 2006. On the same day, the parties were granted access to the file, which was completed on 21 August. The parties replied to the Statement of Objections within the deadline.

The Parties were given additional access to the file on 9 October and on 20 October 2006, which allowed them the opportunity of making their views known on the objections against them, within the meaning of Article 18(1) of the Merger Regulation.

The parties did not request the opportunity to develop their arguments at an oral hearing.

Several competitors and clients of the merging parties were admitted to the proceedings as interested third parties according to Article 18(4) of the Merger Regulation. They were informed of the nature and subject matter of the case in the form of non-confidential versions of the Statement of objections. However, I rejected a request from the European Federation of Public Service Unions' (EPSU) to receive a non confidential version of the Statement of Objections. In particular, I took note of the fact that EPSU is neither the recognised representative of the employees of the undertakings concerned, nor a consumer association within the meaning of Article 11(c) of Commission Regulation (EC) 802/2004 <sup>(3)</sup> and had not demonstrated a sufficient interest in the proceedings.

On 20 September 2006 the parties offered commitments in order to resolve the competition concerns identified in the Statement of Objections. A market test of the commitments was carried out and the result of the market inquiry indicated that the commitments were not sufficient to remove the competition concerns identified by the Commission. The Parties were immediately given access to all non-confidential replies by participants to the market test. I have not been asked to verify the objectivity of the market inquiry.

On 10 October 2006, the Commission decided, in agreement with the parties, to extend the procedure with 5 working days pursuant to Article 10(3), second paragraph of the Merger Regulation.

Subsequently, on 13 October 2006, the parties submitted new modified commitments in order to resolve the remaining competition concerns. The Parties have indicated that these commitments would replace the commitments submitted on 20 September.

Subject to full compliance with the commitments submitted on 13 October 2006 the draft decision concludes that the proposed concentration will not significantly impede effective competition and is hence compatible with the common market and the EEA Agreement.

I consider that the rights to be heard of all participants to the present proceedings have been respected.

Brussels, 30 October 2006

Serge DURANDE

---

<sup>(1)</sup> OJ L 162, 19.6.2001, p. 21.

<sup>(2)</sup> OJ L 24, 29.1.2004, p. 1.

<sup>(3)</sup> OJ L 133, 30.4.2004, p. 1.



**Opinion of the Advisory Committee on concentrations given at its 139th meeting on 7 April 2006 concerning a draft decision relating to Case COMP/M.3916 — T-Mobile Austria/Tele.ring**

**Rapporteur: Luxembourg**

(2007/C 72/21)

1. The Advisory Committee agrees with the Commission that the notified operation constitutes a concentration within the meaning of Article 3(1)(b) of Council Regulation (EC) No 139/2004 <sup>(1)</sup> and that it has a Community dimension.
2. The majority of the Advisory Committee agrees with the Commission that for the purposes of assessing the present operation, the relevant product markets are the following:
  - a) The market for provision of mobile telecommunication services to end consumers;
  - b) The market for wholesale of termination services;
  - c) The market for wholesale international roaming services.A minority disagrees with respect to a) and a minority abstains for c).
3. The Advisory Committee agrees with the Commission that for the purposes of assessing the present operation, the relevant geographic markets are national.
4. The majority of the Advisory Committee agrees with the Commission that the operation as notified would give rise to non-coordinated effects in the Austrian market for the provision of mobile telecommunication services to end consumers and therefore result in a significant impediment of effective competition in that market. A minority abstains.
5. The Advisory Committee agrees with the Commission that the efficiency claims raised by T-Mobile are very unlikely to take place after the concentration.
6. The majority of the Advisory Committee agrees with the Commission that the commitments submitted by the parties are sufficient to remove the competition concerns raised and that, as a result, the concentration should be declared compatible with the Common Market. A minority disagrees.
7. The Advisory Committee asks the Commission to take into account all the other points raised during the discussion.

---

<sup>(1)</sup> JOL 24 du 29.1.2004, p. 1.

**Final report of the Hearing Officer in Case COMP/M.3916 — T-Mobile Austria/Tele.ring**

(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 <sup>(1)</sup>)

(2007/C 72/22)

On 21 September 2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(2)</sup> by which the undertaking T-Mobile Austria GmbH ('T-Mobile', Austria) belonging to the German group Deutsche Telekom AG ('DTAG') acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Tele.ring Unternehmensgruppe ('TeleRing', Austria) by way of purchase of shares.

At the end of the first phase of the investigation, the Commission concluded that the concentration raised serious doubts as to its compatibility with the common market and with the EEA Agreement. In particular, concerns resulted from the fact that TeleRing was considered to be the most active competitor in the market driving prices down due to, *inter alia*, its very strong incentive to build up a sufficiently large customer base in order to generate considerable economies of scale for its fully expanded mobile 2G network.

Accordingly, and in spite of the commitments proposed by T-Mobile on 19 October 2005, the Commission initiated proceedings in accordance with Article 6(1)(c) of the Merger Regulation on 14 November 2005.

T-Mobile did not request access to the 'key documents' in the Commission file in accordance with chapter 7 (2). of the 'Best Practices on the conduct of EC merger control proceedings'.

On 1 December 2005, T-Mobile submitted a further commitment proposal.

On 8 February 2006, a Statement of Objections was sent to T-Mobile, which replied on 27 February 2006. The same day, access to file was provided. On 1 March 2006, TeleRing submitted its comments to the SO.

The parties did not request to develop their arguments in a formal oral hearing.

In agreement with T-Mobile, the Commission issued a decision on 21 February 2006 pursuant to Article 10 (3) second paragraph of the Merger Regulation in order to extend the procedure by 20 working days.

On 3 March 2006, T-Mobile submitted an improved set of commitments which were subsequently market-tested. The market test of these improved undertakings was mainly positive.

I have not been asked to verify the objectivity of the enquiry.

In the light of the commitments eventually proposed and having analysed the results of the market test, the draft Decision concludes that the proposed concentration, subject to full respect of the commitments, is compatible with the common market and with the EEA Agreement.

In the light of the above, I consider that the parties' rights to be heard have been respected.

Brussels, 18 April 2006

Serge DURANDE

---

<sup>(1)</sup> OJ L 162, 19.6.2001, p. 21.

<sup>(2)</sup> OJ L 24, 29.1.2004, p. 1.

## V

(Announcements)

## COURT PROCEEDINGS

## EFTA COURT

**Action brought on 15 November 2006 by the EFTA Surveillance Authority against the Principality of Liechtenstein****(Case E-5/06)**

(2007/C 72/23)

An action against the Principality of Liechtenstein was brought before the EFTA Court on 15 November 2006 by the EFTA Surveillance Authority, represented by Niels Fenger and Arne Torsten Andersen, acting as Agents of the EFTA Surveillance Authority, 35, Rue Belliard, B-1040 Brussels.

The applicant claims that the Court should:

1. Declare that by applying a requirement of residence in Liechtenstein for the entitlement to helplessness allowance, the Principality of Liechtenstein has failed to fulfil its obligations pursuant to Articles 19(1) and (2), 25(1) and 28(1) of the Act referred to at point 1 of Annex VI to the EEA Agreement (*Council Regulation EEC No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community*), as adapted to the EEA Agreement by Protocol 1 thereto; and
2. Order the Principality of Liechtenstein to bear the costs of the proceedings.

*Legal and factual background and pleas in law adduced in support:*

- The present case concerns the Liechtenstein *Hilflosenentschädigung*, (helplessness allowance) for persons who permanently require a considerable degree of help from a third person or personal surveillance to carry out daily tasks. The allowance is not supplementing any other social security benefit, and is granted without regard to income. The allowance is not linked to past contributions to the State, and the recipient is not required to suffer from a sickness.
- Liechtenstein law requires that the recipient of the allowance reside in Liechtenstein.
- The Liechtenstein helplessness allowance is listed in Annex IIa to Regulation 1408/71 (cf. Articles 4(2a) (c) and 10a of the Regulation) as a special non-contributory cash benefit, which would as such not be an exportable benefit under the Regulation.
- The EFTA Surveillance Authority pleads, however, that the correct classification of the helplessness allowance would be as a sickness benefit in cash (cf. Article 4(1) of the Regulation), exportable in accordance with Articles 19 (1) and (2), 25 (1) and 28 (1) of the Regulation.
- The correct classification of the allowance is decisive as to whether the Principality of Liechtenstein is obliged to grant the benefit to applicants residing outside Liechtenstein but otherwise fulfilling the relevant criteria as set out in the Regulation.

**Action brought on 18 December 2006 by the EFTA Surveillance Authority against the Principality of Liechtenstein**

**(Case E-6/06)**

(2007/C 72/24)

An action against the Principality of Liechtenstein was brought before the EFTA Court on 18 December 2006 by the EFTA Surveillance Authority, represented by Niels Fenger and Lorna Young, acting as Agents of the EFTA Surveillance Authority, 35, Rue Belliard, B-1040 Brussels.

The applicant claims that the Court should:

1. Declare that by failing to adopt, or to notify the Authority of, the measures necessary to implement the Act referred to at point 32g of Annex XX to the Agreement on the European Economic Area (*Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise*), as adapted to the EEA Agreement by Protocol 1 thereto, within the time limit prescribed, the Principality of Liechtenstein has failed to fulfil its obligations under Article 14 of that Act and Article 7 EEA, and
2. Order the Principality of Liechtenstein to bear the costs of the proceedings.

*Legal and factual background and pleas in law adduced in support:*

- The case concerns the non-implementation of the environmental noise directive.
  - In the pre-litigation phase, Liechtenstein has not disputed that, by the expiry of the time limit, it had not taken the measures necessary to ensure implementation of the directive.
-

## PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMPETITION POLICY

### COMMISSION

#### **Prior notification of a concentration**

**(Case COMP/M.4286 — China Shipbuilding/Mitsubishi/Wärtsilä/JV)**

**(Text with EEA relevance)**

(2007/C 72/25)

1. On 19 March 2007, 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 China Shipbuilding Industry Corporation group ('China Shipbuilding', China) through Qingdao Qiyao Linshan Power Development Company Ltd ('Qingdao Qiyao Linshan', China), Wärtsilä Corporation ('Wärtsilä' Finland) and Mitsubishi Heavy Industries Ltd ('Mitsubishi', Japan) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control by way of purchase of shares in a newly created company constituting a joint venture, under the name Qingdao Qiyao Wärtsilä MHI Linshan Marine Diesel Company ('JV', China).

2. The business activities of the undertakings concerned are:

- for China Shipbuilding: ships and marine equipment engineering, designing, manufacturing;
- for Wärtsilä: ship power supplier, global service network operator;
- for Mitsubishi: heavy machinery manufacturer;
- for JV: manufacturing and marketing of two-stroke low-speed marine diesel engines.

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 ((32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4286 — China Shipbuilding/Mitsubishi/Wärtsilä/JV, to the following address:

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

---

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

**Prior notification of a concentration**  
**(Case COMP/M.4590 — REWE/Delvita)**

(Text with EEA relevance)

(2007/C 72/26)

1. On 16 March 2007, 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 undertaking Euro-Billa Holding AG ('Euro-Billa', Germany), belonging to the REWE group ('REWE', Germany), acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Delvita a.s. ('Delvita', Czech Republic) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for Euro-Billa/REWE: food and non-food wholesale and retail, travel and tourism;

— for Delvita: (part of Delhaize group) active in food and non-food retailing in the Czech Republic.

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 ((32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4590 — REWE/Delvita, to the following address:

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

---

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

## STATE AID — PORTUGAL

## State aid C 55/06 (ex N 42/05) — Interest Subsidies for Loans granted to Undertakings of the Fisheries Sector.

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

(Text with EEA relevance)

(2007/C 72/27)

By means of the letter dated 20 December 2006, reproduced in the authentic language on the pages following this summary, the Commission notified the Portuguese Republic of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty concerning the above-mentioned 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 Portuguese Republic. Confidential treatment of the identity of the interested party submitting the comments may be requested in writing, stating the reasons for the request.

## TEXT OF SUMMARY

By letter of 11 January 2005, the Permanent Representation of Portugal before the European Union notified the Commission of a new aid scheme envisaging the establishment of a EUR 60-million credit line that would allow for the profitability of investments carried out by undertakings in the fisheries sector in view of the modernisation and restructuring of their capital goods (fleet, processing industry and aquaculture). This scheme aims ultimately at supporting the financial recovery of undertakings in difficulty by the means of loans with a reduced interest rate.

The basis of the loans corresponds to the amount of the investments made between 10 July 2000 and the date of publishing of the *Decreto-lei* (Art. 1). The amount of aid is expressed as the number of percentage points of the rebate, i.e. the difference between the reference rate fixed by the European Commission for Portugal (currently 3,7 %) and the rate charged by the lender to each individual beneficiary. The final profit is calculated at 2,68 %. This calculation is the result of adding the points of rebate for each year.

Credits will be granted as reimbursable loans by financial institutions having concluded a protocol with the IFADAP (Financing and Development Aid Institute for Agriculture and Fisheries) by which a maximum nominal interest rate is set up.

The assessment carried out by the Commission shows that this proposed scheme is not in line with several requirements of the *Community Guidelines on State aid for rescuing and restructuring firms in difficulty*:

- a) The eligibility criteria used by the Portuguese authorities do not allow for the demonstration that the potential beneficiaries are firms in difficulty in the sense of the Guidelines.
- b) The Portuguese authorities fail to demand a proper restructuring plan of the firm's economic activity.
- c) The Portuguese authorities have not produced any information on the compliance with the conditions to avoid undue distortion of competition in the case of restructuring of medium-sized enterprises and are not enforcing the 'aid limited to the minimum' and the 'one time, last time' principles.

In addition, the Portuguese authorities have not increased the reference rate set for Portugal with a risk premium, as required by the *Commission notice on the method for setting the reference and discount rates*.

Finally, the Commission considers that the Portuguese authorities intend to make a formal fleet reduction which cannot be considered as being in line with the requirements of the Fisheries Guidelines.

## TEXT OF LETTER

'A Comissão informa o Governo português de que, após ter examinado as informações comunicadas pelas autoridades portuguesas sobre a medida em epígrafe, decidiu dar início ao procedimento formal de investigação previsto no n.º 2 do artigo 88.º do Tratado CE e enunciado no Regulamento (CE) n.º 659/1999 do Conselho, de 22 de Março de 1999, que estabelece as regras de execução do artigo 93.º do Tratado CE (¹).

(¹) JO L 83 de 27.3.1999, p. 1.

## 1. PROCEDIMENTO

Por carta de 11 de Janeiro de 2005, a Representação Permanente de Portugal junto da União Europeia notificou a Comissão de um regime de auxílios estatais destinado a alargar a validade e o âmbito de aplicação do regime de auxílios estatais aprovado pela Comissão com o número de referência N 676/98 por Decisão de 1 de Março de 2000 <sup>(2)</sup>.

Por cartas de 26 de Janeiro de 2005, 3 de Maio de 2005, 6 de Outubro de 2005 e 30 de Maio de 2006, os serviços da Comissão enviaram pedidos de informações complementares às autoridades portuguesas, aos quais estas últimas responderam por cartas de 17 de Março de 2005, 5 de Agosto de 2005, 2 de Setembro de 2005, 7 de Outubro de 2005 e 22 de Junho de 2006.

## 2. DESCRIÇÃO

### 2.1. Natureza e montante do auxílio

O regime proposto destina-se a apoiar a recuperação financeira de empresas que se encontram em situação difícil devido à realização de investimentos. Para esse efeito, as autoridades portuguesas prevêem o estabelecimento de uma linha de crédito no montante de 60 milhões de EUR, cujo objectivo é tornar rentáveis os investimentos efectuados por empresas do sector das pescas no âmbito da modernização e reestruturação das suas estruturas produtivas (frota, indústria transformadora e aquicultura).

O regime é instituído por um decreto-lei, transmitido à Comissão na fase de projecto, que se aplica ao conjunto do sector das pescas, incluindo a pesca, produção aquícola, transformação e comercialização.

A base dos empréstimos corresponde ao montante dos investimentos realizados entre 10 de Julho de 2000 e a data de entrada em vigor do decreto-lei (artigo 1.º). Nesse contexto, os investimentos tomados em consideração são aqueles para os quais as empresas em causa beneficiaram do apoio do IFOP.

Os empréstimos beneficiam de uma taxa de juro reduzida. O montante total dos empréstimos a conceder pelas instituições de crédito é de sessenta milhões de EUR (artigo 2.º do decreto-lei), dos quais, de acordo com ponto 1.7 do formulário de notificação enviado pelas autoridades portuguesas, se estima que cerca de dez milhões sejam suportados pelo orçamento do Estado através de bonificações de juros.

O artigo 5.º do decreto-lei indica que os empréstimos são concedidos pelo prazo máximo de dez anos e amortizáveis anualmente, até ao máximo de oito prestações de igual montante, ocorrendo a primeira amortização no máximo três anos após a data prevista para a utilização do crédito.

As bonificações de juros são repartidas por seis anos e correspondem, respectivamente, a 90 %, 70 %, 60 %, 40 % e 30 % da taxa de referência de 4,5 %. De acordo com as autoridades portuguesas, a bonificação efectiva será de 4,05 %, 3,15 %, 2,70 %, 1,80 % e 1,35 % em cada um dos seis anos.

O montante do auxílio é expresso em pontos de bonificação, ou seja, a diferença entre a taxa de referência fixada pela Comissão Europeia para Portugal (actualmente 3,7 %) e a taxa aplicada a

cada beneficiário individual pelo organismo que concede o empréstimo. Calcula-se que o resultado final seja de 2,68 % por cada 100 unidades de crédito. Este cálculo resulta da adição dos pontos de bonificação relativos a cada ano.

Prevê-se que o número de beneficiários do auxílio seja de 150, no máximo.

### 2.2. Elegibilidade

As empresas elegíveis são empresas do sector das pescas para as quais o pagamento dos juros gerados pela dívida contraída para fins de investimento em estruturas produtivas representem 15 % ou mais dos resultados brutos obtidos em pelo menos um dos três últimos exercícios económicos. As autoridades portuguesas indicaram igualmente que, para poder beneficiar do auxílio, as pessoas singulares ou colectivas devem satisfazer as seguintes condições:

- apresentar um plano de reestruturação,
- comprovar a sua viabilidade técnica e económico-financieira a longo prazo,
- encontrar-se em situação financeira difícil.

Têm acesso à linha de crédito todos os tipos de empresas do sector das pescas, mas as autoridades portuguesas indicaram que notificariam a Comissão de qualquer caso individual em que o auxílio fosse solicitado por uma grande empresa.

### 2.3. Existência de um plano de reestruturação para as empresas elegíveis

As empresas elegíveis devem apresentar um plano de reestruturação, destinada a restabelecer a sua viabilidade a longo prazo mediante cobertura dos encargos financeiros e obtenção de uma rentabilidade mínima dos investimentos efectuados, por forma a estarem em posição de enfrentar a concorrência com os seus fundos próprios.

Os planos de reestruturação das empresas elegíveis são directamente avaliados e aprovados pelas instituições de crédito que concedem os empréstimos, as quais, por sua vez, informam, em seguida, as autoridades portuguesas sobre a situação específica de cada empresa.

### 2.4. Procedimento

Os créditos são concedidos sob a forma de empréstimos reembolsáveis pelas instituições de crédito que tenham celebrado um protocolo com o IFADAP (Instituto de Financiamento e Apoio ao Desenvolvimento da Agricultura e das Pescas), que estabelece uma taxa de juro nominal máxima. Os pedidos são avaliados e aprovados pelas instituições de crédito que concedem os empréstimos de acordo com os seus próprios procedimentos. As instituições de crédito informam subsequentemente as autoridades portuguesas da situação individual de cada empresa beneficiária de um empréstimo.

Para fins de controlo, as instituições de crédito devem apresentar imediatamente ao IFADAP todas as informações exigidas em relação aos empréstimos concedidos. O próprio IFADAP pode solicitar aos beneficiários quaisquer informações ou documentos que considere necessários para avaliar a situação da empresa.

<sup>(2)</sup> Ref. SG (2000) D/101992 (JO C 110 de 15.4.2000, p. 44).



Se se concluir que um beneficiário não respeitou todas as suas obrigações, o empréstimo é cancelado e a instituição de crédito pode solicitar o seu reembolso.

### 3. APRECIACÃO

#### 3.1. Procedimento

Ao notificar o auxílio previsto antes da sua entrada em vigor, as autoridades portuguesas cumpriram a obrigação enunciada no n.º 3 do artigo 88.º do Tratado CE.

A alínea c) do artigo 1.º do Regulamento (CE) n.º 659/1999 do Conselho estabelece que se entende por “novo auxílio, quaisquer auxílios, isto é, regimes de auxílio e auxílios individuais, que não sejam considerados auxílios existentes, incluindo as alterações a um auxílio existente”. As alterações do regime de auxílio N 676/98 notificados pelas autoridades portuguesas constituem, por conseguinte, um novo auxílio na acepção do referido regulamento. Além disso, o âmbito de aplicação e a base jurídica das medidas notificadas afiguram-se totalmente independentes do regime N 676/98, pelo que a Comissão examina as medidas a título de regime distinto. A compatibilidade do projecto é avaliada abaixo.

#### 3.2. Auxílio estatal na acepção do n.º 1 do artigo 87.º do Tratado CE

A proposta de regime em análise pretende reduzir as taxas de juro de empréstimos concedidos a empresas privadas no sector das pescas. Assim, a medida beneficia essas empresas. As taxas de juro reduzidas são suportadas pelo orçamento do Estado, sendo a medida criada por uma lei. Por este motivo, a Comissão considera que o regime constitui uma vantagem para as empresas em causa, financiada através de fundos públicos e imputada ao Estado.

Além disso, o auxílio é concedido a um número limitado de empresas do sector das pescas, assumindo, pois, uma natureza selectiva. Por outro lado, as empresas beneficiárias estão em concorrência directa com outras empresas do sector das pescas tanto em Portugal como noutros Estados-Membros ou com empresas de outros sectores cujos produtos estejam em concorrência directa com os produtos de pesca.

Em consequência, o auxílio concedido ao abrigo deste regime distorce ou ameaça distorcer a concorrência e deve ser considerado um auxílio estatal na acepção do n.º 1 do artigo 87.º do Tratado CE. O auxílio em análise só poderá ser considerado compatível com o mercado comum se for susceptível de beneficiar de uma das derrogações previstas no Tratado CE.

#### 3.3. Base da apreciação

Uma vez que o auxílio se destina ao sector das pescas, o regime notificado deve ser avaliado no âmbito da legislação comunitária pertinente, nomeadamente os artigos 87.º-88.º do Tratado CE e as Directrizes para o exame dos auxílios estatais no sector das pescas e da aquicultura<sup>(3)</sup> (a seguir denominadas “directrizes para o sector das pescas”).

<sup>(3)</sup> JO C 229 de 14.9.2004, p. 5.

As autoridades portuguesas consideram que o auxílio concedido no âmbito do regime proposto constitui um auxílio ao investimento. Contudo, a Comissão verifica que o auxílio visa atenuar a carga financeira representada pelo reembolso de empréstimos. Embora o auxílio esteja associado a investimentos, o investimento em si já foi realizado. Por conseguinte, o auxílio não tem por efeito apoiar um investimento mas atenua a carga financeira resultante de investimentos realizados anteriormente pelas empresas em causa.

O auxílio induz, pois, a melhoria do rendimento dessas empresas. O auxílio deve ser considerado um auxílio ao funcionamento, sendo, em conformidade com o ponto 3.7 das directrizes para o sector das pescas, a esse título, em princípio, incompatível com o mercado comum.

Porém, o auxílio só é concedido a empresas que as autoridades portuguesas considerem estar em dificuldade. Nesse contexto, o auxílio poderia ser considerado um auxílio à reestruturação. O ponto 4.1.2. das directrizes para o sector das pescas estabelece que “os auxílios estatais de emergência e à reestruturação de empresas em dificuldade serão apreciados de acordo com as Orientações comunitárias dos auxílios estatais de emergência e à reestruturação concedidos a empresas em dificuldade<sup>(4)</sup>” (a seguir denominadas “orientações para a reestruturação”). Tal foi também recentemente sublinhado pela Comissão no ponto 3 da Comunicação de 9 de Março de 2006 ao Conselho e ao Parlamento Europeu sobre a melhoria da situação económica no sector das pescas<sup>(5)</sup>. Para além dos requisitos enunciados nas orientações para a reestruturação, os auxílios estatais à reestruturação de empresas em dificuldade cuja principal actividade consista na pesca marítima apenas podem ser concedidos se tiver sido apresentado à Comissão um plano adequado que preveja reduções da capacidade da frota superiores às reduções exigidas pela legislação comunitária. Em consequência, o regime notificado será avaliado à luz das orientações para a reestruturação, assim como da condição suplementar de as empresas que exercem a pesca marítima elaborarem e apresentarem à Comissão um plano adequado, destinado a reduzir as capacidades da frota além do obrigatório por força do direito comunitário.

#### 3.4. Grandes empresas abrangidas pelo regime

De acordo com as informações apresentadas pelas autoridades portuguesas, todos os tipos de empresas do sector das pescas podem ser beneficiárias da linha de crédito proposta. Contudo, é de observar que, por força das orientações para a reestruturação (pontos 78-85), a Comissão só pode autorizar regimes de auxílios de emergência e/ou à reestruturação para pequenas e médias empresas em dificuldade se estas forem abrangidas pela definição comunitária de PME.

É verdade que as autoridades portuguesas indicaram que notificariam a Comissão de todos os casos individuais em que uma grande empresa solicitasse o auxílio. Porém, à luz das orientações para a reestruturação, o regime de auxílio proposto deve limitar-se estritamente às PME. Por estes motivos, a Comissão restringe a sua avaliação *infra* a auxílios à reestruturação das PME.

<sup>(4)</sup> JO C 288 de 9.10.1999, p. 2.

<sup>(5)</sup> COM(2006) 103 final.

### 3.5. Elegibilidade das empresas candidatas

Os pontos 9, 10 e 11 das orientações para a reestruturação estabelecem certos critérios que permitem a identificação das “empresas em dificuldade”.

O princípio de base é que a empresa deve ser incapaz de suportar prejuízos que, na ausência de uma intervenção externa, a condenariam ao desaparecimento quase certo a curto ou médio prazo. As circunstâncias que, nos termos das orientações para a reestruturação, indicam que uma empresa se encontra em dificuldade são, nomeadamente, o desaparecimento de mais de metade do seu capital subscrito e a perda de mais de um quarto desse capital nos últimos 12 meses ou o facto de a empresa preencher, nos termos do direito nacional, as condições para ser objecto de um processo de falência ou de insolvência.

As autoridades portuguesas consideram que o ponto 11 das orientações para a reestruturação confere aos Estados-Membros um certo grau de discricção ao determinar se uma empresa está ou não em dificuldade. A Comissão observa que, contrariamente ao ponto 10, que enuncia critérios objectivos que determinam em que condições uma empresa é considerada em dificuldade, o ponto 11 contém critérios subjectivos que fazem parte da avaliação da compatibilidade do auxílio com o mercado comum com base nas orientações para a reestruturação elaboradas pela Comissão. Além disso, nos termos do ponto 79 das orientações, salvo disposição em contrário constante de regras sectoriais em matéria de auxílios estatais, os auxílios a favor de pequenas e médias empresas só estão dispensados de notificação individual se a empresa beneficiária preencher pelo menos um dos três critérios enunciados no ponto 10. Os auxílios a favor de empresas que não satisfaçam nenhum destes três critérios, devem ser notificados individualmente à Comissão a fim de que esta possa apreciar o carácter de empresa em dificuldade do beneficiário. Por conseguinte, se uma PME não satisfizer nenhum dos três critérios do ponto 10, o auxílio deve ser notificado individualmente à Comissão, que avaliará se a empresa está realmente em dificuldade.

É de assinalar igualmente que a última frase do ponto 11 estabelece que uma empresa só é elegível após verificação da sua incapacidade de garantir a sua recuperação com os seus recursos próprios.

No regime de auxílio proposto, as empresas elegíveis são aquelas para as quais o pagamento dos juros gerados pela dívida contraída para fins de investimento representem 15 % ou mais dos resultados brutos obtidos em pelo menos um dos três últimos exercícios económicos.

Embora se afigure muito distante das circunstâncias identificadas pelas orientações para a reestruturação como constituindo uma indicação de que as empresas estão em situação de dificuldade, este limiar permitiria, na opinião das autoridades portuguesas, identificar as empresas que não estão em posição de garantir a sua recuperação financeira sem auxílio estatal.

Por carta de 30 de Maio de 2006 (FISH(06)D/6650), a Comissão solicitou às autoridades portuguesas a apresentação de informações exaustivas sobre a estrutura financeira das empresas de

pesca em Portugal, a fim de demonstrar que 15 % dos resultados brutos podem ser considerados um limiar adequado para determinar que as empresas se encontram em dificuldade. Não obstante, a resposta enviada pelas autoridades portuguesas em 28 de Junho de 2006 (ref. 001521) reitera simplesmente o que designam por um “poder discricionário”, concedido aos Estados-Membros pelo ponto 11 das orientações para a reestruturação. A resposta não contém nenhum elemento que permita à Comissão verificar a adequação deste critério para determinar quais as empresas que podem ser consideradas em dificuldade.

Atendendo ao exposto, a Comissão é de opinião que as autoridades portuguesas não conseguiram demonstrar que as empresas potencialmente elegíveis são empresas em dificuldade na acepção das orientações para a reestruturação, pelo que duvida que esta condição das orientações seja respeitada.

### 3.6. Existência de planos de reestruturação

No respeitante aos regimes de auxílios concedidos às PME, o ponto 82 das orientações para a reestruturação estabelece que “a Comissão só poderá autorizar regimes de auxílios à reestruturação se a concessão dos auxílios for sujeita à execução completa por parte do beneficiário de um plano de reestruturação previamente aprovado pelo Estado-Membro e que satisfaça as seguintes condições:

- a) *Restauração da viabilidade:* são aplicáveis os critérios definidos nos pontos 34 a 37;
- b) *Prevenção de distorções indevidas da concorrência:* uma vez que os auxílios às pequenas empresas são menos susceptíveis de distorcer a concorrência, o princípio enunciado nos pontos 38 a 42 não é aplicável, salvo disposição em contrário das regras sectoriais em matéria de auxílios estatais. Os regimes devem em contrapartida prever que as empresas beneficiárias não poderão proceder a qualquer aumento de capacidade durante o plano de reestruturação. No que se refere às empresas de média dimensão, aplicam-se os pontos 38 a 42;
- c) *Auxílios limitados ao mínimo necessário:* são aplicáveis os princípios definidos nos pontos 43, 44 e 45;
- d) *Alteração do plano de reestruturação:* qualquer alteração no plano de reestruturação deve respeitar as regras descritas nos pontos 52, 53 e 54.”

Acresce que o ponto 83 estipula que os regimes devem indicar o montante máximo do auxílio susceptível de ser concedido a uma mesma empresa no âmbito de uma operação de auxílio de emergência e/ou à reestruturação e que o montante máximo para a concessão combinada de auxílios de emergência e à reestruturação a uma empresa não pode ultrapassar 10 milhões de EUR, incluindo em caso de acumulação com outras fontes ou outros regimes. Qualquer auxílio que ultrapasse esse montante deve ser notificado individualmente à Comissão.

O ponto 84 exige, além disso, que seja respeitado “o princípio do auxílio único”, especificando o ponto 85 que os Estados-Membros devem também notificar individualmente à Comissão os auxílios nos casos em que uma empresa tiver adquirido activos de outra empresa que tenha já recebido um auxílio de emergência ou à reestruturação.

Com base nas informações disponíveis, a Comissão tem sérias dúvidas quanto à tomada em consideração pelo regime notificado de todas as condições indicadas acima. No respeitante aos planos de reestruturação, embora o regime notificado exija que os beneficiários apresentem um plano de reestruturação para as empresas em causa, a Comissão, com base nas informações disponíveis, tem sérias dúvidas de que estes planos obedeçam a todos os requisitos estabelecidos nos pontos 34-37 das orientações em causa. Tal como definidos no regime notificado, estes planos visam essencialmente auxiliar as empresas a reembolsar as dívidas contraídas para a modernização das suas estruturas produtivas, ou seja, prevêm apenas a reestruturação financeira das dívidas das empresas em causa por meio do auxílio concedido. Os planos não constituem, porém, um plano de reestruturação da actividade económica da empresa. Em particular, o regime notificado não exige a inclusão, nos planos de reestruturação, de uma análise económica aprofundada da situação da empresa, que permita a identificação das circunstâncias que suscitaram as suas dificuldades, nem propostas relativas às medidas e adaptações necessárias para permitir à empresa beneficiária evoluir para uma nova estrutura que lhe ofereça perspectivas de viabilidade a longo prazo e a possibilidade de funcionar com os seus recursos próprios.

Na opinião das autoridades portuguesas, no caso presente, a reestruturação económica das empresas em causa não se afigura necessária, uma vez que os subsídios não visam investimentos futuros mas a renegociação de dívidas assumidas no âmbito da modernização e reestruturação das estruturas produtivas.

A Comissão considera, contudo, que as orientações exigem que a reestruturação de uma empresa, nem que meramente financeira, abranja, em todos os casos, um certo número de medidas destinadas a melhorar a sua viabilidade e a abandonar as actividades que, mesmo após a reestruturação, continuariam a ser estruturalmente deficitárias. Além disso, o plano de reestruturação deve ter em conta, nomeadamente, a situação e a evolução previsível da oferta e da procura no mercado dos produtos em causa, com cenários que traduzam hipóteses optimistas, pessimistas e intermédias, bem como os pontos fortes e fracos específicos da empresa.

Por outro lado, de acordo com as informações comunicadas pelas autoridades portuguesas, os planos de reestruturação serão avaliados e aprovados pelas instituições de crédito que concedem os empréstimos, as quais informarão posteriormente as autoridades portuguesas sobre a situação específica de cada empresa. Porém, é de sublinhar que, nos termos do ponto 59 das orientações para a reestruturação, o plano de reestruturação deve, no caso das PME, “ser aprovado pelo Estado-Membro em causa e ser comunicado à Comissão”. Na opinião da Comissão, tal significa que, embora a avaliação dos planos possa ser confiada às instituições de crédito, a aprovação formal deve ser feita pela autoridade competente que concederá o auxílio.

### 3.7. Distorção indevida da concorrência e proporcionalidade do auxílio

A alínea b) do ponto 82 das orientações para a reestruturação refere-se aos pontos 38-42 das mesmas, os quais estabelecem várias condições a fim de evitar distorções indevidas da concorrência em caso de reestruturação das médias empresas. No tocante às pequenas empresas, os regimes devem prever que as

empresas beneficiárias não aumentem a sua capacidade durante a reestruturação. No que se refere às empresas de médias dimensões, os planos de reestruturação devem prever as necessárias medidas compensatórias, a fim de garantir que sejam minimizados os efeitos negativos nas trocas comerciais. A Comissão observa que as autoridades portuguesas não apresentaram quaisquer informações sobre o cumprimento dos critérios estabelecidos nos referidos pontos.

Acresce que, de acordo com os pontos 43 a 45, os auxílios devem “ser limitados ao mínimo necessário”. Este princípio implica que os beneficiários do auxílio contribuam de modo significativo para o plano de reestruturação através dos seus fundos próprios. As autoridades portuguesas indicaram que não tiveram em conta estas exigências no regime de auxílio proposto por considerarem que este último não prevê nenhum auxílio directo em termos de capital. Cabe, porém, à Comissão sublinhar que este princípio é aplicável a todos os tipos de auxílio à reestruturação, não se limitando, pois, aos casos em que é concedido um auxílio directo.

Por último, os pontos 72-77 das orientações para a reestruturação estabelecem o princípio do “auxílio único”, segundo o qual os auxílios de emergência e à reestruturação só podem ser concedidos uma única vez, a fim de evitar que as empresas sejam apoiadas quando só conseguem sobreviver graças aos sucessivos apoios do Estado. Sempre que for notificado à Comissão um projecto de auxílio de emergência ou à reestruturação, o Estado-Membro deve especificar se a empresa em causa já beneficiou de auxílios estatais deste tipo. No caso dos regimes de auxílio que beneficiam várias empresas, as autoridades nacionais devem assegurar que seja observado este princípio e fornecer à Comissão as informações pertinentes que lhe permitam verificar que as empresas beneficiárias não tenham anteriormente recebido auxílios de emergência ou à reestruturação.

De acordo com as autoridades portuguesas, o apoio financeiro proposto beneficiará empresas que investiram na modernização e reestruturação das suas estruturas produtivas. Estes investimentos devem ser compatíveis com a legislação comunitária e com os limites estabelecidos para os auxílios ao investimento no sector das pescas e da aquicultura. Porém, as autoridades portuguesas não transmitiram informações que permitam verificar que o princípio do “auxílio único” será respeitado no âmbito do regime de auxílio proposto.

### 3.8. Método de estabelecimento das taxas de referência e de actualização

As autoridades portuguesas indicaram que, em conformidade com o disposto no anexo III das Orientações relativas aos auxílios estatais com finalidade regional<sup>(6)</sup>, o auxílio ao investimento sob a forma de empréstimo bonificado, previsto pelo regime proposto, é, em primeiro lugar, expresso em pontos de bonificação, ou seja, na diferença entre a taxa de referência fixada pela Comissão Europeia para Portugal (actualmente 3,7 %) e a taxa aplicada a cada beneficiário individual pelo organismo que concede o empréstimo. As mesmas autoridades admitem, contudo, que a taxa de referência não foi aumentada de nenhum prémio, não obstante o facto de os beneficiários potenciais serem empresas em dificuldade e estarem, por conseguinte, sujeitas a um risco específico.

<sup>(6)</sup> JO C 74 de 10.3.1998, p. 9.

O resultado final é de 2,68 %. Este cálculo resulta da adição dos pontos de redução para cada ano.

A Comissão considera que, à luz do disposto na Comunicação da Comissão relativa ao método de fixação das taxas de referência e de actualização (<sup>7</sup>), as autoridades portuguesas deviam ter aumentado a taxa de referência fixada para Portugal de um prémio de risco, por forma a compensar o risco potencial inerente às empresas em dificuldade. De contrário, os pontos de bonificação não são realistas, uma vez que, quando o regime se aplica efectivamente a empresas em dificuldade, não tomam em consideração a taxa efectiva que uma instituição de crédito fixaria em condições normais para uma empresa em dificuldade.

### 3.9. Redução das capacidades da frota

O ponto 4.1.2 das directrizes para o sector das pescas estabelece que os auxílios estatais à reestruturação de empresas em dificuldade cuja principal actividade consista na pesca marítima apenas podem ser concedidos se tiver sido apresentado à Comissão um plano adequado que preveja reduções da capacidade da frota superiores às reduções exigidas pela legislação comunitária.

As autoridades portuguesas exprimiram o seu empenho em reduzir a frota que beneficia do regime de auxílio em causa de 1,005 vezes as novas capacidades da frota introduzidas no período efectivo de bonificação de três anos. As mesmas autoridades acrescentam que esta redução de 0,5 % será aplicada cumulativamente a outras acções de redução da frota empreendidas por Portugal nos termos de legislação comunitária, nomeadamente planos de recuperação e gestão.

As autoridades portuguesas observam ainda que a frota portuguesa foi sujeita a uma redução drástica nos últimos 15 anos.

A Comissão considera que o compromisso assumido no sentido de reduzir a frota com base num rácio de apenas 1:1,005 se apresenta meramente como uma diminuição formal, que não pode ser considerada uma verdadeira redução no espírito das directrizes supracitadas. Por outro lado, as autoridades portuguesas não fornecem nenhuma indicação sobre a forma como essa redução será aplicada, por exemplo, consoante o tipo de actividade de pesca exercida ou o tipo de navio.

### 3.10. Conclusão

Atendendo ao exposto, a Comissão tem sérias dúvidas de que o regime notificado cumpra as directrizes para o sector das pescas e as orientações para a reestruturação aplicáveis, assim como o previsto na comunicação da Comissão relativa ao método de fixação das taxas de referência e de actualização.

### 4. PROPOSTA

A Comissão informa o Governo português de que, após ter examinado as informações comunicadas pelas autoridades portuguesas sobre a medida em epígrafe, decidiu dar início ao procedimento formal de investigação previsto no n.º 2 do artigo 88.º do Tratado CE por ter sérias dúvidas quanto à compatibilidade deste regime de auxílio com o mercado comum.

À luz do que precede, a Comissão convida o Governo português, no âmbito do procedimento previsto no n.º 2 do artigo 88.º do Tratado CE e no artigo 6.º do Regulamento (CE) n.º 659/1999 do Conselho, de 22 de Março de 1999, que estabelece as regras de execução do artigo 93.º do Tratado CE, a apresentar as suas observações e fornecer quaisquer informações úteis para a avaliação do auxílio em causa, no prazo de um mês a contar da data de recepção da presente carta. A Comissão solicita às autoridades portuguesas o envio imediato de uma cópia da presente carta aos potenciais beneficiários do auxílio.

A Comissão recorda às autoridades portuguesas o efeito suspensivo do n.º 3 do artigo 88.º do Tratado CE e remete para o artigo 14.º do Regulamento (CE) n.º 659/1999 do Conselho, segundo o qual qualquer auxílio concedido ilegalmente pode ser objecto de recuperação junto do beneficiário.

Por último, a Comissão comunica às autoridades portuguesas que informará as partes interessadas através da publicação da presente carta e de um resumo da mesma no *Jornal Oficial da União Europeia*. A Comissão informará igualmente os interessados dos países da EFTA signatários do Acordo EEE, mediante publicação de uma comunicação no suplemento EEE do *Jornal Oficial da União Europeia*, bem como o Órgão de Fiscalização da EFTA, através do envio de uma cópia da presente carta. As partes interessadas acima referidas serão convidadas a apresentar as suas observações no prazo de um mês a contar da data de publicação da referida comunicação.

(<sup>7</sup>) JO C 273 de 9.9.1997, p. 3.

**Prior notification of a concentration**  
**(Case COMP/M.4624 — EQT/Scandic)**

(Text with EEA relevance)

(2007/C 72/28)

1. On 19 March 2007, 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 undertaking EQT V Limited ('EQT', United Kingdom) controlled by Investor AB ('Investor', Sweden) acquires within the meaning of Article 3(1) (b) of the Council Regulation control of parts of the undertakings Scandic Hotels AB ('Scandic', Sweden) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for Investor: investment company,
- for EQT: investment fund,
- for Scandic: hotel management.

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 ((32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4624 — EQT/Scandic, to the following address:

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

---

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

**Prior notification of a concentration**  
**(Case COMP/M.4608 — Siemens/UGS)**

(Text with EEA relevance)

(2007/C 72/29)

1. On 21 March 2007, 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 undertaking Siemens Aktiengesellschaft ('Siemens', Germany) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking UGS Capital Corporation ('UGS', USA) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for undertaking Siemens: Information and communication technology, automation and control systems, power generation systems, medical solutions, transportation systems, lightening, financing and real estate services;

— for undertaking UGS: Product life cycle management software.

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 ((32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.4608 — Siemens/UGS, to the following address:

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

---

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