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⁽¹⁾ Text with EEA relevance

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS AND BODIES

COMMISSION

Non-opposition to a notified concentration
(Case COMP/M.5377 — SNCF/VFE P/Bollore/JV)**(Text with EEA relevance)**

(2009/C 136/01)

On 5 June 2009, 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 French 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 32009M5377. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).
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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS AND BODIES

COMMISSION

Euro exchange rates ⁽¹⁾

15 June 2009

(2009/C 136/02)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3850	AUD	Australian dollar	1,7285
JPY	Japanese yen	136,08	CAD	Canadian dollar	1,5690
DKK	Danish krone	7,4465	HKD	Hong Kong dollar	10,7344
GBP	Pound sterling	0,84720	NZD	New Zealand dollar	2,1953
SEK	Swedish krona	10,8345	SGD	Singapore dollar	2,0190
CHF	Swiss franc	1,5110	KRW	South Korean won	1 742,10
ISK	Iceland króna		ZAR	South African rand	11,1603
NOK	Norwegian krone	8,9055	CNY	Chinese yuan renminbi	9,4684
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,2350
CZK	Czech koruna	26,839	IDR	Indonesian rupiah	14 090,25
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,8871
HUF	Hungarian forint	280,40	PHP	Philippine peso	67,054
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	43,2745
LVL	Latvian lats	0,7035	THB	Thai baht	47,353
PLN	Polish zloty	4,5260	BRL	Brazilian real	2,6851
RON	Romanian leu	4,2200	MXN	Mexican peso	18,6982
TRY	Turkish lira	2,1438	INR	Indian rupee	66,0850

⁽¹⁾ Source: reference exchange rate published by the ECB.

Notice from the Commission on a simplified procedure for treatment of certain types of State Aid**(Text with EEA relevance)**

(2009/C 136/03)

1. INTRODUCTION

1. This Notice sets out a simplified procedure under which the Commission intends, in close cooperation with the Member State concerned, to examine within an accelerated time frame certain types of State support measures which only require the Commission to verify that the measure is in accordance with existing rules and practices without exercising any discretionary powers. The Commission's experience gained in applying Article 87 of the Treaty establishing the European Community and the regulations, frameworks, guidelines and notices adopted on the basis of Article 87 ⁽¹⁾, has shown that certain categories of notified aid are normally approved without raising any doubts as to their compatibility with the common market, provided that there are no special circumstances. These categories of aid are described in Section 2. Other aid measures notified to the Commission will be subject to the appropriate procedures ⁽²⁾ and normally to the Code of Best Practice for the conduct of State aid control procedures ⁽³⁾.
2. The purpose of this Notice is to set out the conditions under which the Commission will usually adopt a short-form decision declaring certain types of State support measures compatible with the common market under the simplified procedure and to provide guidance in respect of the procedure itself. When all the conditions set out in this Notice are met, the Commission will use its best endeavours to adopt a short-form decision that the notified measure does not constitute aid or not to raise objections within 20 working days from the date of notification, in accordance with Article 4(2) or Article 4(3) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽⁴⁾.
3. However, if any of the safeguards or exclusions set out in points 6 to 12 of this Notice are applicable, the Commission will revert to the normal procedure regarding notified aid described in Chapter II of Regulation (EC) No 659/1999 and will then adopt a full-form decision pursuant to Article 4 and/or Article 7 of that Regulation. In any case, the only legally enforceable time limits are those set out in Article 4(5) and Article 7(6) of Regulation (EC) No 659/1999.
4. By following the procedure outlined in this Notice, the Commission aims to make Community State Aid control more predictable and efficient, pursuant to the general principles set out in the State Aid Action Plan: Less and Better Targeted State Aid: A Roadmap for State Aid Reform 2005-2009 ⁽⁵⁾.

⁽¹⁾ See, in particular, the Community framework for State aid for research and development and innovation, OJ C 323, 30.12.2006, p. 1, hereinafter referred to as the 'Framework for Research and Development and Innovation'; the Community Guidelines on State aid to promote risk capital investments in small and medium-sized enterprises, OJ C 194, 18.8.2006, p. 2, hereinafter the 'Risk Capital Guidelines'; the Community Guidelines on State aid for environmental protection, OJ C 82, 1.4.2008, p. 1, hereinafter the 'Environmental Aid Guidelines'; the Guidelines on national regional aid for 2007-2013, OJ C 54, 4.3.2006, p. 13, hereinafter the 'Regional Aid Guidelines'; the Commission communication concerning the prolongation of the Framework on State aid to shipbuilding, OJ C 260, 28.10.2006, p. 7, hereinafter the 'Shipbuilding Framework'; the Commission Communication concerning the prolongation of the application of the Communication on the follow-up to the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works, OJ C 134, 16.6.2007, p. 5, hereinafter the 'Cinema Communication'; Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3.

⁽²⁾ Measures notified to the Commission in the context of the current financial crisis pursuant to the Communications from the Commission entitled 'The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis' (OJ C 270, 25.10.2008, p. 8) and the 'Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis' (OJ C 16, 22.1.2009, p. 1) and State aid measures implementing the European Recovery Plan (Communication from the Commission to the European Council, A European Economic Recovery Plan, COM(2008) 800 final of 26 November 2008) will not be subject to the simplified procedure set out in this Notice. Specific ad hoc arrangements have been put in place in order to deal swiftly with those cases.

⁽³⁾ See page 13 of this Official Journal.

⁽⁴⁾ OJ L 83, 27.3.1999, p. 1.

⁽⁵⁾ COM(2005) 107 final.

This Notice thereby also contributes to the simplification strategy launched by the Commission in October 2005 ⁽¹⁾. No part of this Notice should be interpreted as implying that a support measure which does not qualify as State aid within the meaning of Article 87 of the Treaty must be notified to the Commission, although Member States remain free to notify such support measures for reasons of legal certainty.

2. CATEGORIES OF STATE AID SUITABLE FOR TREATMENT UNDER THE SIMPLIFIED PROCEDURE

Eligible categories of State aid

5. The following categories of measures are in principle suitable for treatment under the simplified procedure:

(a) Category 1: Aid measures falling within the 'standard assessment' sections of existing frameworks or guidelines

Aid measures falling within the 'standard assessment' (so-called 'safe harbour' sections ⁽²⁾), or equivalent types of assessment ⁽³⁾ in horizontal guidelines and frameworks, which are not covered by the General block exemption Regulation, are in principle suitable for treatment under the simplified procedure.

The simplified procedure will only be applied in cases where the Commission is satisfied, after the pre-notification phase (see points 13 to 16), that all the substantive and procedural requirements laid down in the applicable sections of the respective instruments are fulfilled. This implies that the pre-notification phase confirms that the notified aid measure *prima facie* meets the relevant conditions, as further detailed in each of the applicable horizontal instruments, concerning:

- type of beneficiaries,
- eligible costs,
- aid intensities and bonuses,
- individual notification ceiling or maximum aid amount,
- type of aid instrument used,
- cumulation,
- incentive effect,
- transparency,
- exclusion of beneficiaries which are subject to an outstanding recovery order ⁽⁴⁾.

⁽¹⁾ Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment COM(2005) 535 final.

⁽²⁾ Such as Section 5 of the Framework for Research and Development and Innovation or Section 3 of the Environmental Aid Guidelines, and Section 4 of the Risk Capital Guidelines.

⁽³⁾ Regional Aid Guidelines; Section 3.1.2 of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 244, 1.10.2004, p. 2, hereinafter the 'Rescue and Restructuring Guidelines'.

⁽⁴⁾ The Commission will revert to the normal procedure where the notified aid measure could benefit an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid unlawful and incompatible with the common market (so-called *Deggendorf* issue). See Case C-188/92 *TWD Textilwerke Deggendorf* [1994] ECR I-833.

The types of measures for which the Commission is prepared to consider applying the simplified procedure within this category include in particular the following:

- (i) risk capital measures taking a form other than a participation into a private equity investment fund and meeting all other conditions of Section 4 of the Risk Capital Guidelines ⁽¹⁾;
- (ii) environmental investment aid meeting the conditions of Section 3 of the Environmental Aid Guidelines:
 - the eligible cost basis of which is determined on the basis of a full cost calculation methodology in line with point 82 of the Environmental Aid Guidelines ⁽²⁾, or
 - including an eco-innovation bonus demonstrated to be in line with point 78 of the Environmental Aid Guidelines ⁽³⁾;
- (iii) aid for young innovative enterprises granted in accordance with Section 5.4 of the Framework for Research and Development and Innovation and the innovative character of which is determined on the basis of Section 5.4(b)(i) of the Framework ⁽⁴⁾;
- (iv) aid for innovation clusters granted in accordance with Sections 5.8 and 7.1 of the Framework for Research and Development and Innovation;
- (v) aid for process and organisational innovation in services granted in accordance with Section 5.5 of the Framework for Research and Development and Innovation;
- (vi) ad hoc regional aid which is below the individual notification threshold laid down in point 64 of the Regional Aid Guidelines ⁽⁵⁾;
- (vii) rescue aid in the manufacturing and services sectors (except in the financial sector) meeting all substantive conditions of Sections 3.1.1 and 3.1.2 of the Rescue and Restructuring Guidelines ⁽⁶⁾;
- (viii) rescue and restructuring schemes for small enterprises meeting all conditions of Section 4 of the Rescue and Restructuring Guidelines ⁽⁷⁾;
- (ix) ad hoc restructuring aid for small and medium enterprises, provided it meets all the conditions laid down in Section 3 of the Rescue and Restructuring Guidelines ⁽⁸⁾;

⁽¹⁾ Including cases where the financial institutions of the European Union act as holding fund to the extent the risk capital measure at stake falls under Section 4 of the Risk Capital Guidelines.

⁽²⁾ Article 18(5) of the General block exemption Regulation foresees a simplified cost calculation methodology.

⁽³⁾ The General block exemption Regulation does not exempt eco-innovation bonuses.

⁽⁴⁾ Only aid to young innovative enterprises meeting the conditions laid down in point 5.4(b)(ii) of the Framework for Research and Development and Innovation are subject to the General block exemption Regulation.

⁽⁵⁾ In such cases, the information to be provided by the Member State will need to demonstrate upfront that: (i) the aid amount remains below the notification threshold (without sophisticated net present value calculations); (ii) the aid concerns a new investment (no replacement investment); and (iii) the beneficial effects of the aid on regional development manifestly outweigh the distortions of competition it creates. See for example the Commission's Decision in case N 721/2007 (Poland, 'Reuters Europe SA').

⁽⁶⁾ See for example the Commission's Decision in cases N 28/2006 (Poland, Techmatrans), N 258/2007 (Germany, Rettungsbeihilfe zugunsten der Erich Rohde KG) and N 802/2006 (Italy, rescue aid to Sandretto Industrie).

⁽⁷⁾ See for example the Commission's Decisions in cases N 85/2008 (Austria, Guarantee scheme for small and medium-sized enterprises in the region of Salzburg), N 386/2007 (France, Rescue and restructuring scheme for small and medium-sized enterprises), N 832/2006 (Italy, Rescue and restructuring scheme Valle d'Aosta). This approach is in line with Article 1(7) of the General block exemption Regulation.

⁽⁸⁾ See for example the Commission's Decisions in cases N 92/2008 (Austria, Restructuring aid for Der Bäcker Legat) and N 289/2007 (Italy, Restructuring aid to Fiem SRL).

- (x) export credits in the shipbuilding sector meeting all the conditions of Section 3.3.4 of the Shipbuilding Framework ⁽¹⁾;
- (xi) audiovisual support schemes meeting all the conditions set out in Section 2.3 of the Cinema Communication as regards the development, production, distribution and promotion of audiovisual works ⁽²⁾.

The above list is illustrative and may evolve on the basis of future revisions of the currently applicable instruments or the adoption of new instruments. The Commission may review this list from time to time to keep it in line with applicable State aid rules.

(b) Category 2: Measures corresponding to well-established Commission decision-making practice

Aid measures with features corresponding to those of aid measures approved in at least three earlier Commission decisions (hereinafter 'precedent decisions'), the assessment of which can thus be immediately carried out on the basis of this established Commission decision-making practice, are in principle suitable for treatment under the simplified procedure. Only Commission decisions adopted within the last ten years preceding the date of pre-notification (see point 14) may qualify as 'precedent decisions'.

The simplified procedure will only be applied in cases where the Commission is satisfied, after the pre-notification phase (see points 13-16), that the relevant substantive and procedural conditions which governed the precedent decisions are met, in particular as regards the objectives and overall set-up of the measure, the types of beneficiaries, eligible costs, individual notification ceilings, aid intensities and (where applicable) bonuses, cumulation provisions, incentive effect, and transparency requirements. In addition, as pointed out in point 11, the Commission will revert to the normal procedure where the notified aid measure could benefit an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid unlawful and incompatible with the common market (so-called *Deggendorf* issue).

The types of measures for which the Commission is prepared to consider applying the simplified procedure within this category include in particular the following:

- (i) aid measures for the preservation of national cultural heritage related to activities linked to historic, ancient sites or national monuments, provided that the aid is limited to 'heritage conservation' within the meaning of Article 87(3)(d) of the Treaty ⁽³⁾;
- (ii) aid schemes for theatre, dance and music activities ⁽⁴⁾;

⁽¹⁾ See for example the Commission's Decisions in cases N 76/2008 (Germany, Prolongation of CIRR financing scheme for the export of ships), N 26/2008 (Denmark, Changes to financing scheme for the export of ships) and N 760/2006 (Spain, Extension of export financing scheme — Spanish shipbuilding).

⁽²⁾ Although the Communication's criteria apply directly only to the activity of production, in practice, they are also applied by analogy to assess the compatibility of the activities of pre- and post-production of audiovisual works, as well as the principles of necessity and proportionality under Articles 87(3)(d) and 151 of the Treaty. See for example the Commission's Decisions in cases N 233/2008 (Latvian film support scheme), N 72/2008 (Spain, Scheme for the promotion of films in Madrid), N 60/2008 (Italy, Film support in the Sardinia region) and N 291/2007 (Netherlands Film Fund).

⁽³⁾ See for example the Commission's Decisions in cases N 393/2007 (Netherlands, Subsidy to NV Bergkwartier), N 106/2005 (Poland, Hala Ludowa in Wroclaw) and N 123/2005 (Hungary, Earmarked scheme for tourism and culture in Hungary).

⁽⁴⁾ See for example the Commission's Decisions in cases N 340/2007 (Spain, Aid for theatre, dance, music and audiovisual activities in the Basque country), N 257/2007 (Spain, Promotion of theatre production in the Basque country) and N 818/99 (France; Parafiscal tax on spectacles and concerts).

- (iii) aid schemes for the promotion of minority languages ⁽¹⁾;
- (iv) aid measures in favour of the publishing industry ⁽²⁾;
- (v) aid measures in favour of broadband connectivity in rural areas ⁽³⁾;
- (vi) guarantee schemes for shipbuilding finance ⁽⁴⁾;
- (vii) aid measures fulfilling all other applicable provisions of the General block exemption Regulation, but excluded from its application merely because:
 - the measures constitute ‘ad hoc aid’ ⁽⁵⁾,
 - the measures are provided in an untransparent form (Article 5 of the General block exemption Regulation), but their gross grant equivalent is calculated on the basis of a methodology approved by the Commission in three individual decisions adopted after 1 January 2007;
- (viii) measures supporting the development of local infrastructure not constituting State aid within the meaning of Article 87(1) of the Treaty in view of the fact that, having regard to the specificities of the case, the measure in question will not have any effect on intra-Community trade ⁽⁶⁾;
- (ix) the prolongation and/or modification of existing schemes outside the scope of the simplified procedure foreseen in Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽⁷⁾ (see category 3 below), for example as regards the adaptation of existing schemes to new horizontal guidelines ⁽⁸⁾.

⁽¹⁾ See for example the Commission’s Decisions in cases N 776/2006 (Spain, Aid for the promotion of the Basque Language), N 49/2007 (Spain, Aid for the promotion of the Basque Language) and N 161/2008 (Spain, Aid to the Basque Language).

⁽²⁾ See for example the Commission’s Decisions in cases N 687/2006 (Slovak Republic, Aid to Kalligram s.r.o. in favour of a periodical), N 1/2006 (Slovenia, Promotion of the publishing industry in Slovenia) and N 268/2002 (Italy, Aid in favour of the publishing industry in Sicily).

⁽³⁾ See for example the Commission’s Decisions in cases N 264/2006 (Italy, Broadband for rural Tuscany), N 473/2007 (Italy, Broadband connections for Alto Adige) and N 115/2008 (Broadband in rural areas of Germany).

⁽⁴⁾ See for example the Commission’s Decisions in cases N 325/2006 (Germany, prolongation of the guarantee schemes for shipbuilding finance), N 35/2006 (France, Guarantee scheme for ship financing and bonding) and N 253/2005 (Netherlands, Guarantee scheme for ship financing).

⁽⁵⁾ Ad hoc aid is often excluded from the scope of the General block exemption Regulation. This exclusion applies to all large enterprises (Article 1(6) of the General block exemption Regulation), as well as, in certain instances, to small and medium-sized enterprises (see Articles 13 and 14 concerning regional aid, Article 16 concerning female entrepreneurship, Article 29 concerning aid in the form of risk capital and Article 40 concerning aid for the recruitment of disadvantaged workers). As regards the specific conditions governing ad hoc regional investment aid, see footnote 14 above. Moreover this Notice is without prejudice to any Commission communication or guidance paper laying down detailed economic assessment criteria for the compatibility analysis of cases subject to individual notification.

⁽⁶⁾ See the Commission’s Decisions in cases N 258/2000 (Germany, leisure pool Dorsten), N 486/2002 (Sweden, Aid in favour of a congress hall in Visby), N 610/2001 (Germany, Tourism infrastructure program Baden-Württemberg), N 377/2007 (The Netherlands, Support to *Bataviawerf* — Reconstruction of a vessel from the 17th century). In order for the measure concerned to be considered as not having any effect on intra-Community trade, these four precedent decisions require, most prominently, a demonstration by the Member State of the following features: 1. that the aid does not lead to investments being attracted in the region concerned; and 2. that the goods/services produced by the beneficiary are purely local and/or have a geographically limited attraction zone; and 3. that there is no more than marginal effect on consumers from neighbouring Member States; and 4. that the market share of the beneficiary is minimal on any relevant market definition used and that the beneficiary does not belong to a wider group of undertakings. These features should be highlighted in the draft notification form referred to in point 14 of this Notice.

⁽⁷⁾ OJ L 140, 30.4.2004, p. 1.

⁽⁸⁾ See for example the Commission’s Decisions in cases N 585/2007 (United Kingdom, Prolongation of Yorkshire R&D scheme), N 275/2007 (Germany, Prolongation of rescue and restructuring scheme for small and medium-sized enterprises in Bremen), N 496/2007 (Italy (Lombardia) Guarantee Fund for the development of risk capital) and N 625/2007 (Latvia, Aid to risk capital to small and medium-sized enterprises).

This list is illustrative, since the exact scope of this category may evolve in line with Commission decision-making practice. The Commission may review this illustrative list from time to time to keep it in line with evolving practice.

(c) Category 3: Prolongation or extension of existing schemes

Article 4 of Regulation (EC) No 794/2004 foresees a simplified notification procedure for certain alterations to existing aid. Under that Article, the '[...] following alterations to existing aid shall be notified on the simplified notification form set out in Annex II:

- (a) increases in the budget of an authorised aid scheme exceeding 20 %;
- (b) prolongation of an existing authorised aid scheme by up to six years, with or without an increase in the budget;
- (c) tightening of the criteria for the application of an authorised aid scheme, a reduction of aid intensity or a reduction of eligible expenses'.

The possibility of applying Article 4 of Regulation (EC) No 794/2004 remains unaffected by this Notice. However, the Commission invites the notifying Member State to proceed in accordance with this Notice, including pre-notification of the aid measures concerned, while using the simplified notification form annexed to Regulation (EC) No 794/2004. The Commission will, in the context of this procedure, also invite the Member State concerned to agree on the publication on the Commission's website of the summary of its notification.

Safeguards and exclusions

6. Since the simplified procedure applies only to aid notified on the basis of Article 88(3) of the Treaty, unlawful aids are excluded. Moreover, due to the specificities of the sectors concerned the simplified procedure will not apply to aid favouring activities in the fishery and aquaculture sectors, activities in the primary production of agricultural products or activities in the processing or marketing of agricultural products. In addition, the simplified procedure will not be applied retroactively to measures pre-notified before 1 September 2009.
7. In assessing whether a notified aid measure falls into one of the eligible categories set out in point 5, the Commission will ensure that the applicable frameworks or guidelines and/or established Commission decision-making practice on the basis of which the notified aid measure is to be assessed, as well as all relevant factual circumstances, are established with sufficient clarity. Given that the completeness of the notification constitutes a key element for determining whether the simplified procedure is to be applied, the notifying Member State is invited to provide all relevant information, including the precedent decisions relied upon, if appropriate, at the outset of the pre-notification phase (see point 14).
8. Where the notification form is not complete or contains misleading or incorrect information, the Commission will not apply the simplified procedure. In addition, to the extent that the notification involves novel legal issues of a general interest, the Commission will not normally apply the simplified procedure.
9. While it can normally be assumed that aid measures falling into the categories set out in point 5 will not raise doubts as to their compatibility with the common market, there may nonetheless be special circumstances which require a closer investigation. In such cases, the Commission may revert to the normal procedure at any time.

10. Such special circumstances may include in particular: certain forms of aid as yet untested in the Commission's decision-making practice, precedent decisions which the Commission may be in the course of reassessing in the light of recent case-law or developments of the common market, novel technical issues, or concerns as regards the measure's compatibility with other provisions of the Treaty (for example, non-discrimination, the four freedoms, etc.).
11. The Commission will revert to the normal procedure where the notified aid measure could benefit an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid unlawful and incompatible with the common market (so-called *Deggendorf* issue).
12. Finally, if a third party expresses substantiated concerns about the notified aid measure within the time-limit laid down in point 21 of this Notice, the Commission will revert to the normal procedure⁽¹⁾ and will inform the Member State to that effect.

3. PROCEDURAL PROVISIONS

Pre-notification contacts

13. The Commission has found pre-notification contacts with the notifying Member State beneficial even in seemingly unproblematic cases. Such contacts allow the Commission and the Member States, in particular, to determine at an early stage the relevant Commission instruments or precedent decisions, the degree of complexity which the Commission's assessment is likely to involve and the scope and depth of the information required for the Commission to make a full assessment of the case.
14. In view of the time constraints of the simplified procedure, the assessment of a State support measure under the simplified procedure is conditional upon the Member State holding pre-notification contacts with the Commission. In this context, the Member State is invited to submit a draft notification form with the necessary supplementary information sheets provided for in Article 2 of Regulation (EC) No 794/2004, and the relevant precedent decisions if appropriate, via the Commission's established IT application. The Member State may also request, at this stage, that the Commission waive the completion of certain parts of the notification form. The Member State and the Commission may also agree, in the context of the pre-notification contact, that the Member State does not need to provide a draft notification form and accompanying information in the pre-notification phase. Such an agreement may be appropriate, for instance, due to the repetitive nature of certain aid measures (for instance the category of aid set out in point 5(c) of this Notice). In this context, the Member State may be invited to proceed directly with the notification where detailed discussion about the envisaged aid measures is not considered necessary by the Commission.
15. Within two weeks from the receipt of the draft notification form, the Commission services will organise a first pre-notification contact. The Commission will promote the holding of contacts via email or conference calls or, at the specific request of the Member State concerned, organise meetings. Within 5 working days after the last pre-notification contact, the Commission services will inform the Member State concerned whether it considers that the case qualifies *prima facie* for treatment under the simplified procedure, which information still needs to be provided for the measure to qualify for treatment under that procedure, or whether the case will remain subject to the normal procedure.
16. The indication by the Commission services that the case concerned can be treated under the simplified procedure implies that the Member State and the Commission services agree *prima facie* that the information provided in the pre-notification context would, if submitted as a formal notification, constitute a complete notification. The Commission would thus, in principle, be in a position to approve the measure, once formally notified on the basis of a notification form embodying the result of the pre-notification contacts, without a further request for information.

⁽¹⁾ This does not imply any increase of third parties' rights in view of the case law of the Community Courts. See Case T-95/03 *Asociación de Empresarios de Estaciones de Servicio de la Comunidad Autónoma de Madrid and Federación Catalana de Estaciones de Servicio v Commission* [2006] ECR II-4739, paragraph 139 and Case T-73/98 *Prayon-Rupel v Commission* [2001] ECR II-867, paragraph 45.

Notification

17. The Member State must notify the aid measure(s) concerned no later than 2 months after it is informed by the Commission services that the measure qualifies *prima facie* for treatment under the simplified procedure. If the notification includes any changes as compared to the information presented in the pre-notification documents, such changes must be highlighted prominently in the context of the notification form.
18. The submission of the notification by the Member State concerned triggers the start of the period referred to in point 2.
19. The simplified procedure does not provide for a specific simplified notification form. Except as regards cases which fall within the category of aid set out in point 5(c) of this Notice, the notification is to be carried out on the basis of the standard notification forms in Regulation (EC) No 794/2004.

Publication of a summary of the notification

20. The Commission will publish on its website a summary of the notification, based on the information provided by the Member State, in the standard form set out in the Annex to this Notice. The standard form contains an indication that, on the basis of the information provided by the Member State, the aid measure may qualify for the application of a simplified procedure. By requesting the Commission to treat a notified measure under this Notice, the Member State concerned will be considered to agree that the information provided in its notification, which is to be published on the website in the form set out in the Annex to this Notice, is non-confidential in nature. Furthermore, Member States are invited to clearly indicate whether the notification contains any business secrets.
21. Interested parties will then have 10 working days to submit observations (including a non-confidential version), in particular on circumstances which might require a more thorough investigation. In cases where substantiated competition concerns are raised by interested parties with respect to the notified measure, the Commission will revert to the normal procedure and inform the Member State and the interested party or parties concerned to that effect. The Member State concerned will also be informed of any substantiated concerns and will be given the opportunity to comment on them.

Short-form decision

22. If the Commission is satisfied that the notified measure fulfils the criteria for the simplified procedure (see, in particular, point 5), it will issue a short-form decision. The Commission will thus use its best endeavours to adopt a decision that the notified measure does not constitute aid or a decision not to raise objections pursuant to Article 4(2) or (3) of Regulation (EC) No 659/1999 within 20 working days from the date of notification, unless any safeguard or exclusion referred to in points 6 to 12 of this Notice is applicable.

Publication of the short-form decision

23. In accordance with Article 26(1) of Regulation (EC) No 659/1999 the Commission will publish a summary notice of the decision in the *Official Journal of the European Union*. The short-form decision will be made available on the Commission's website. It will contain a reference to the summary information about the notification as published on the Commission's website at the time of notification, a standard assessment of the measure under Article 87(1) of the Treaty and, where applicable, a statement that the aid measure is declared compatible with the common market because it falls within one or more of the categories set out in point 5 of this Notice, with the applicable category or categories being explicitly identified and a reference to the applicable horizontal instruments and/or precedent decisions included.

4. FINAL PROVISIONS

24. Upon request of the Member State concerned, the Commission will apply the principles set out in this Notice to measures notified pursuant to point 17 as from 1 September 2009.
 25. The Commission may review this Notice on the basis of important competition policy considerations or in order to take account of the evolution of State aid law and decision-making practice. The Commission intends to carry out a first review of this Notice at the latest four years after its publication. In this context, the Commission will examine the extent to which specific simplified notification forms should be developed in order to facilitate the implementation of this Notice.
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ANNEX

Summary of Notification: Invitation to third parties to submit comments**Notification of a State Aid measure**

On ... the Commission received a notification of an aid measure pursuant to Article 88 of the Treaty establishing the European Community. On preliminary examination, the Commission finds that the notified measure could fall within the scope of the Commission Notice on a simplified procedure for treatment of certain types of State aid (OJ C ... 16.6.2009, p. ...).

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

The main features of the aid measure are the following:

Reference number of the aid: N ...

Member State:

Member State reference number:

Region:

Granting authority:

Title of the aid measure:

National legal basis:

Proposed Community basis for assessment: ... guidelines or established Commission practice as highlighted in Commission Decision (1, 2 and 3).

Type of measure: Aid scheme/Ad hoc aid

Amendment of an existing aid measure:

Duration (scheme):

Date of granting:

Economic sector(s) concerned:

Type of beneficiary (SMEs/large enterprises):

Budget:

Aid instrument (grant, interest rate subsidy, ...):

Observations raising competition issues relating to the notified measure must reach the Commission no later than 10 working days following the date of this publication and include a non-confidential version of these observations to be provided to the Member State concerned and/or other interested parties. Observations can be sent to the Commission by fax, by post or email under reference number N ... to the following address:

European Commission
Directorate-General for Competition
State Aid Registry
1049 Bruxelles/Brussels
BELGIQUE/BELGIË
Fax +32 22961242
Email: stateaidgreffe@ec.europa.eu

Code of Best Practice for the conduct of State aid control procedures

(2009/C 136/04)

1. SCOPE AND PURPOSE OF THIS CODE

1. In 2005, the Commission adopted the State Aid Action Plan: Less and better targeted State aid: a roadmap for State aid reform 2005-2009 ('the SAAP') ⁽¹⁾ to improve the effectiveness, transparency, credibility and predictability of the State aid regime under the Treaty establishing the European Community. Based on the principle of less and better targeted State aid, the central objective of the SAAP is to encourage Member States to reduce their overall aid levels, whilst redirecting State resources to horizontal common interest objectives. To support this objective, the SAAP also calls for more effective, simple and predictable procedures in the State aid field.
2. The Commission wishes to reaffirm that commitment by issuing this Code of Best Practice to make procedures as productive and efficient as possible for all parties concerned. This Code is built on the experience acquired in the application of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽²⁾ and on internal Commission studies on the duration of the different steps of the State aid procedure, the treatment of complaints and information gathering tools. The principal aim of this Code is to provide guidance on the day-to-day conduct of State aid procedures, thereby fostering a spirit of better co-operation and mutual understanding between the Commission services, Member State authorities and the legal and business community.
3. A successful improvement of State aid procedures requires discipline on both sides and a mutual commitment from the Commission and the Member States. While the Commission cannot be held responsible for the consequences of a lack of cooperation from Member States and interested parties, it will work to improve the conduct of its investigations and its internal decision-making process, in order to ensure greater transparency, predictability and efficiency of State aid procedures.
4. In line with modern State aids architecture, this Code is the final part of a simplification package comprising the Notice from the Commission on a simplified procedure for treatment of certain types of State aid ⁽³⁾ and the Commission Notice on the enforcement of State aid law by national courts ⁽⁴⁾ which contributes to more predictable and transparent procedures.
5. The specific features of an individual case may however require an adaptation of, or deviation from, this Code ⁽⁵⁾.
6. The specificities of the fishery and aquaculture sectors and of the activities in the primary production, marketing or processing of agricultural products may also justify a deviation from this Code.

2. RELATIONSHIP TO COMMUNITY LAW

7. This Code is not intended to provide a full or comprehensive account of the relevant legislative, interpretative and administrative measures which govern Community State aid control. It should be read in conjunction with and as a supplement to the basic rules governing State aid procedures.

⁽¹⁾ COM(2005) 107 final.

⁽²⁾ OJ L 83, 27.3.1999, p. 1.

⁽³⁾ See page 3 of this Official Journal.

⁽⁴⁾ OJ C 85, 9.4.2009, p. 1.

⁽⁵⁾ In the context of the 2008 banking crisis, the Commission has taken appropriate steps to ensure the swift adoption of decisions upon complete notification, if necessary within 24 hours and over a weekend. See Communication from the Commission — The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis (OJ C 270, 25.10.2008, p. 8). As regards the real economy, see Communication from the Commission — Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis (OJ C 83, 7.4.2009, p. 1).

8. This Code therefore does not create or alter any rights or obligations as set out in the EC Treaty, Regulation (EC) No 659/1999 and Commission Regulation (EC) No 794/2004 of 21 April 2004 ⁽¹⁾, which implements Regulation (EC) No 659/1999, as interpreted by the case-law of the Community Courts.
9. This Code sets out day-to-day Best Practices to contribute to speedier, more transparent and more predictable State aid procedures at each step of the investigation of a notified or non-notified case or a complaint.

3. PRE-NOTIFICATION CONTACTS

10. The Commission's experience demonstrates the added value of pre-notification contacts, even in seemingly standard cases. Pre-notification contacts provide the Commission services and the notifying Member State with the possibility to discuss the legal and economic aspects of a proposed project informally and in confidence prior to notification, and thereby enhance the quality and completeness of notifications. In this context, the Member State and the Commission services can also jointly develop constructive proposals for amending problematic aspects of a planned measure. This phase thus paves the way for a more speedy treatment of notifications, once formally submitted to the Commission. Successful pre-notifications should effectively allow the Commission to adopt decisions pursuant to Article 4(2), (3) and (4) of Regulation (EC) No 659/1999 within two months from the date of notification ⁽²⁾.
11. Pre-notification contacts are strongly recommended for cases where there are particular novelties or specific features which would justify informal prior discussions with the Commission services but informal guidance will be provided whenever a Member State calls for it.

3.1. Content

12. The pre-notification phase offers the possibility to discuss and provide guidance to the Member State concerned about the scope of the information to be submitted in the notification form to ensure it is complete as from the date of notification. A fruitful pre-notification phase will also allow discussions, in an open and constructive atmosphere, of any substantive issues raised by a planned measure. This is particularly important as regards projects which could not be accepted as such and should thus be withdrawn or significantly amended. It can also comprise an analysis of the availability of other legal bases or the identification of relevant precedents. In addition, a successful pre-notification phase will allow the Commission services and the Member State to address key competition concerns, economic analysis and, where appropriate, external expertise required to demonstrate the compatibility of a planned project with the common market. The notifying Member State may thus also request the Commission services, in pre-notification, to waive the obligation to provide certain information foreseen in the notification form which in the specific circumstances of the case is not necessary for its examination. Finally, the pre-notification phase is decisive to determine whether a case qualifies *prima facie* for treatment under the simplified procedure ⁽³⁾.

3.2. Scope and timing

13. In order to allow for a constructive and efficient pre-notification phase, it is in the interest of the Member State concerned to provide the Commission with the information necessary for the assessment of a planned State aid project, on the basis of a draft notification form. In order to facilitate swift treatment of the case, contacts by emails or conference calls will in principle be favoured rather than meetings. Within two weeks from the receipt of the draft notification form, the Commission services will normally organise a first pre-notification contact.

⁽¹⁾ OJ L 140, 30.4.2004, p. 1.

⁽²⁾ This time limit cannot be respected where the Commission's services have to issue several requests for information due to incomplete notifications.

⁽³⁾ See Notice from the Commission on a simplified procedure for treatment of certain types of State aid.

14. As a general rule, pre-notification contacts should not last longer than 2 months and should be followed by a complete notification. Should pre-notification contacts not bring the desired results, the Commission services may declare the pre-notification phase closed. However, since the timing and format of pre-notification contacts depend on the complexity of the individual case, pre-notification contacts may last several months. The Commission therefore recommends that, in cases which are particularly complex (for example, rescue aid, large research and development aid, large individual aid or particularly large or complex aid schemes), Member States launch pre-notification contacts as early as possible to allow for meaningful discussions.
15. In the Commission's experience, involving the aid beneficiary in the pre-notification contacts is very useful, particularly for cases with major technical, financial and project-related implications. The Commission therefore recommends that beneficiaries of individual aid be involved in the pre-notification contacts.
16. Except in particularly novel or complex cases, the Commission services will endeavour to provide the Member State concerned with an informal preliminary assessment of the project at the end of the pre-notification phase. That non-binding assessment will not be an official position of the Commission, but informal guidance from the Commission services on the completeness of the draft notification and the *prima facie* compatibility of the planned project with the common market. In particularly complex cases, the Commission services may also provide written guidance, at the Member State's request, on the information still to be provided.
17. Pre-notification contacts are held in strict confidence. The discussions take place on a voluntary basis and remain without prejudice to the handling and investigation of the case following formal notification.
18. In order to enhance the quality of notifications, the Commission services will endeavour to meet requests for training sessions by Member States. The Commission will also maintain regular contacts with Member States to discuss further improvements of the State aid procedure, in particular as regards the scope and content of the applicable notification forms.

4. MUTUALLY AGREED PLANNING

19. In cases which are particularly novel, technically complex or otherwise sensitive, or which have to be examined as a matter of absolute urgency, the Commission services will offer mutually agreed planning to the notifying Member State to increase the transparency and predictability of the likely duration of a State aid investigation.

4.1. Content

20. Mutually agreed planning is a form of structured cooperation between the Member State and the Commission services, based on a joint planning and understanding of the likely course of the investigation and its expected time frame.
21. In this context, the Commission services and the notifying Member State could in particular agree on:
 - the priority treatment of the case concerned, in return for the Member State formally accepting the suspension of the examination ⁽¹⁾ of other notified cases originating from the same Member State, should this be necessary for planning or resource purposes ⁽²⁾,

⁽¹⁾ See Article 4(5) of Regulation (EC) No 659/1999.

⁽²⁾ For instance, in cases where the financial institutions of the European Union act as holding fund.

- the information to be provided by the Member State and/or the beneficiary concerned, including studies or external expertise, or unilateral information-gathering by the Commission services, and
 - the likely form and duration of the assessment of the case by the Commission services, once notified.
22. In return for the Member State's efforts in providing all the necessary information in a timely manner and as agreed in the context of mutually agreed planning, the Commission services will endeavour to respect the mutually agreed time frame for the further investigation of the case, unless the information provided by the Member State or interested parties raises unexpected issues.

4.2. Scope and timing

23. Mutually agreed planning will in principle be reserved for cases which are so novel, technically complex or otherwise sensitive that a clear preliminary assessment of the case by the Commission services proves impossible at the end of the pre-notification phase. In such cases, mutually agreed planning will take place at the end of the pre-notification phase, and be followed by the formal notification.
24. However, the Commission services and the Member State concerned may also agree, at the latter's request, on mutually agreed planning for the further treatment of the case at the outset of the formal investigation procedure.

5. THE PRELIMINARY EXAMINATION OF NOTIFIED MEASURES

5.1. Requests for information

25. In order to streamline the course of the investigation, the Commission services will endeavour to group requests for information during the preliminary examination phase. In principle, there will therefore only be one comprehensive information request, normally to be sent within 4-6 weeks after the date of notification. Unless otherwise agreed in mutually agreed planning, pre-notification should enable Member States to submit a complete notification thereby reducing the need for additional information. However, the Commission may subsequently raise questions most notably on points that have been raised by the Member States' answers, although this does not necessarily indicate that the Commission is experiencing serious difficulties in assessing the case.
26. Should the Member State fail to provide the requested information within the prescribed period, Article 5(3) of Regulation (EC) No 659/1999 will, after one reminder, normally be applied, and the Member State will be informed that the notification is deemed to have been withdrawn. The formal investigation procedure will normally be initiated whenever the necessary conditions are met, and generally after two rounds of questions at most.

5.2. Agreed suspension of the preliminary examination

27. In certain circumstances, the course of the preliminary examination may be suspended if a Member State so requests to amend its project and bring it in line with State aid rules, or otherwise by common agreement. Suspension may only be granted for a period agreed in advance. Should the Member State fail to submit a complete, *prima facie* compatible project at the end of the suspension period, the Commission will resume the procedure from the point at which it was halted. The Member State concerned will normally be informed that the notification is deemed to have been withdrawn, or the formal investigation procedure opened without delay in case of serious doubts.

5.3. State of play contacts

28. At their request, notifying Member States will be informed of the state of play of an ongoing preliminary examination. Member States are invited to involve the beneficiary of an individual aid in these contacts.

6. THE FORMAL INVESTIGATION PROCEDURE

29. In the light of the general complexity of cases subject to formal investigation, the Commission is committed to improving the transparency, predictability and efficiency of this phase as a matter of utmost priority, to contribute to meaningful decision-making in line with the needs of modern business. The Commission will therefore streamline the conduct of formal investigations through efficient use of all the procedural means available to it under Regulation (EC) No 659/1999.

6.1. Publication of the decision and meaningful summary

30. Where the Member State concerned does not request the removal of confidential information, the Commission will endeavour to publish its decision to open the formal investigation procedure, including the meaningful summaries, within two months from the date of adoption of that decision.
31. Where there is disagreement concerning confidentiality issues, the Commission will apply the principles of its Communication of 1 December 2003 on professional secrecy in State aid decisions ⁽¹⁾ and use its best endeavours to proceed with publication of the decision within the shortest possible time frame following its adoption. The same will apply to the publication of all final decisions.
32. To improve the transparency of the procedure, the Member State, the beneficiary and other stakeholders (in particular potential complainants) will be informed of all delays triggered by disagreements concerning confidentiality issues.

6.2. Comments from interested parties

33. According to Article 6 of Regulation (EC) No 659/1999, interested parties must submit comments within a prescribed period which must normally not exceed one month following the publication of the decision to initiate the formal investigation procedure. That time limit will not normally be extended, and the Commission services will thus usually not accept any belated submission of information from interested parties, including the beneficiary of the aid ⁽²⁾. Extensions may be granted only in exceptional duly justified cases, such as the provision of particularly voluminous factual information or following contact between the Commission services and the interested party concerned.
34. In order to improve the factual basis of the investigation of particularly complex cases, the Commission services may send a copy of the decision to initiate the formal investigation procedure to identified interested parties including trade or business associations, and invite them to comment on specific aspects of the case ⁽³⁾. Interested parties' cooperation in this context is purely voluntary, but if an interested party chooses to provide comments, it is in its interest to submit those comments in a timely manner so that the Commission will be able to take them into account. Therefore, the Commission will invite interested parties to react within one month from the date on which the copy of the decision is sent to them. The Commission will not wait any further for those comments to be submitted. In order to ensure equal treatment between interested parties the Commission will send the same invitation to comment to the aid beneficiary. In order to respect the Member State's right of defence, it will forward to the Member State a non-confidential version of any comments received from interested parties and invite the Member State to reply within one month.

⁽¹⁾ OJ C 297, 9.12.2003, p. 6.

⁽²⁾ Without prejudice to Article 10(1) of Regulation (EC) No 659/1999.

⁽³⁾ According to settled case-law, the Commission is entitled to send the decision to open the formal investigation to identified third parties; see for example, Case T-198/01 *Technische Glaswerke Ilmenau v. Commission* (2004) ECR II-2717, paragraph 195; T-198/01R *Technische Glaswerke Ilmenau v. Commission* (2002) ECR II-2153; Joined Cases C-74/00 P and C-75/00 P *Falck Spa and others v. Commission* (2002) ECR I-7869, paragraph 83.

35. In order to ensure transmission of all comments from interested parties to the Member State concerned in the most expedient manner, Member States will, as far as possible, be invited to accept transmission of those comments in their original language. If a Member State so requests, the Commission services will provide a translation, which may have implications as regards the expediency of procedures.
36. Member States will also be informed of the absence of any comments from interested parties.

6.3. Member States' comments

37. To ensure timely completion of the formal investigation procedure, the Commission will rigorously enforce all time limits applicable to this phase under Regulation (EC) No 659/1999. If a Member State fails to submit its comments on the Commission's decision to initiate the formal investigation procedure and on interested parties' comments within the one-month time limit set in Article 6(1) of Regulation (EC) No 659/1999, the Commission services will immediately send a reminder granting the Member State concerned an additional period of one month and informing the Member State that no further extension will be granted, save in exceptional circumstances. In the absence of a meaningful reply by the Member State concerned, the Commission will take a decision on the basis of the information available to it, in accordance with Article 7(7) and Article 13(1) of Regulation (EC) No 659/1999.
38. In the case of unlawful aid, and in the absence of comments from the Member State on the decision to initiate the formal investigation procedure, the Commission will, pursuant to Article 10 of Regulation (EC) No 659/1999, issue an information injunction. Should the Member State fail to reply to that injunction within the time limit set therein, the Commission will take a decision on the basis of the information available to it.

6.4. Request for additional information

39. It cannot be excluded that, in particularly complex cases, the information submitted by the Member State in response to the decision to initiate the formal investigation procedure may require the Commission services to send a further request for information. A time limit of one month will be set for the Member State to reply.
40. Should the Member State not reply within the time limit, the Commission services will immediately send a reminder setting a final deadline of 15 working days and informing the Member State concerned that the Commission will thereafter take a decision on the basis of the information available to it, or issue an information injunction in the case of unlawful aid.

6.5. Justified suspension of the formal investigation

41. Only in exceptional circumstances and by common agreement between the Commission services and the Member State concerned may the formal investigation be suspended. Suspension could, for example, occur if the Member State formally requests a suspension in order to bring its project in line with State aid rules, or if there is pending litigation before the Community courts regarding similar issues, the outcome of which is likely to have an impact on the assessment of the case.
42. Suspension will normally only be granted once, and for a period agreed in advance between the Commission services and the Member State concerned.

6.6. Adoption of the final decision and justified extension of the formal investigation

43. In accordance with Article 7(6) of Regulation (EC) No 659/1999, the Commission will as far as possible endeavour to adopt a decision within a period of 18 months from the opening of the procedure. That time limit may be extended by common agreement between the Commission and the Member State concerned. An extension of the duration of the investigation may in particular be appropriate in cases concerning novel projects or raising novel legal issues.
44. In order to ensure effective implementation of Article 7(6) of Regulation (EC) No 659/1999, the Commission will endeavour to adopt the final decision no later than 4 months after the submission of the last information by the Member State, or the expiry of the last time limit without information having been received.

7. COMPLAINTS

45. The efficient and transparent handling by the Commission services of complaints brought before them is of considerable importance to all stakeholders in State aid procedures. The Commission therefore proposes the following Best Practices, designed to contribute to that joint objective.

7.1. The complaint form

46. The Commission services will systematically invite complainants to use the new complaints form available on DG's Competition website (http://ec.europa.eu/comm/competition/forms/sa_complaint_en.html) and, at the same time, to submit a non-confidential version of the complaint. The submission of complete forms will normally allow complainants to enhance the quality of their submissions.

7.2. Indicative time frame and outcome of the investigation of a complaint

47. The Commission will use its best endeavours to investigate a complaint within an indicative time frame of twelve months from its receipt. That time limit does not constitute a binding commitment. Depending on the circumstances of the individual case, the possible need to request complementary information from the complainant, the Member State or interested parties may extend the investigation of a complaint.
48. The Commission is entitled to give different degrees of priority to the complaints brought before it ⁽¹⁾, depending for instance on the scope of the alleged infringement, the size of the beneficiary, the economic sector concerned or the existence of similar complaints. In the light of its workload and its right to set the priorities for investigations ⁽²⁾, it can thus postpone dealing with a measure which is not a priority. Within twelve months, the Commission will, therefore, in principle, endeavour to:
- (a) adopt a decision for priority cases pursuant to Article 4 of Regulation (EC) No 659/1999, with a copy addressed to the complainant;
 - (b) send an initial administrative letter to the complainant setting out its preliminary views on non-priority cases. The administrative letter is not an official position of the Commission, but only a preliminary view of the Commission services, based on the information available and pending any additional comments the complainant might wish to make within one month from the date of the letter. If further comments are not provided within the prescribed period, the complaint will be deemed to be withdrawn.

⁽¹⁾ Case C-119/97 *Ufex and Others v Commission* (1999) ECR I-1341, paragraph 88.

⁽²⁾ Case T-475/04 *Bouygues SA v Commission* (2007) ECR II-2097, paragraphs 158 and 159.

49. As a matter of transparency, the Commission services will use their best endeavours to inform the complainant of the priority status of its submission, within two months from the date of receipt of the complaint. In the case of unsubstantiated complaints, the Commission services will inform the complainant within two months from receipt of the complaint that there are insufficient grounds for taking a view on the case, and that the complaint will be deemed to be withdrawn if further substantive comments are not provided within one month. As regards complaints which refer to approved aid, the Commission services will also endeavour to reply to the complainant within 2 months from receipt of the complaint.
50. In the case of unlawful aid, complainants will be reminded of the possibility to initiate proceedings before national courts, which can order the suspension or recovery of such aid ⁽¹⁾.
51. When necessary, the non-confidential version of a complaint will be transmitted to the Member State concerned for comments. Member States and the complainants will systematically be kept informed of the closure or other processing of a complaint. In return, Member States will be invited to respect the time limits for commenting and providing information on complaints transmitted to them. They will also be invited to accept, as far as possible, transmission of complaints in their original language. If a Member State so requests, the Commission services will provide a translation, which may have implications as regards the expediency of procedures.

8. INTERNAL DECISION MAKING PROCEDURES

52. The Commission is committed to streamlining and further improving its internal decision-making process, in order to contribute to an overall shortening of State aid procedures.
53. To this effect, internal decision-making procedures will be applied as efficiently as possible. The Commission will also review its current internal legal framework to optimise its decision-making procedures.
54. The Commission services will keep their internal decision-making practice under constant review and adapt it if necessary.

9. FUTURE REVIEW

55. Procedural Best Practices can only be effective if they are based on a shared commitment by the Commission and Member States to diligently pursue State aid investigations, respect applicable time limits and thereby ensure the necessary transparency and predictability of procedures. This Code and the Best Practices enshrined therein are a first contribution to this joint commitment.
56. The Commission will apply this Code to measures which have been notified to the Commission or otherwise brought to the Commission's attention as from 1 September 2009.
57. This Code may be revised to reflect changes to legislative, interpretative and administrative measures or the case-law of the European Courts, which govern State Aid procedure or any experience gained in its application. The Commission further intends to engage, on a regular basis, in a dialogue with the Member States and other stakeholders on the experience gained in the application of Regulation (EC) No 659/1999 in general, and this Code of Best Practice in particular.

⁽¹⁾ See Commission Notice on the enforcement of State aid law by national courts.

Commission notice concerning the date of application of the protocols on rules of origin providing for diagonal cumulation between the Community, Algeria, Egypt, Faroe Islands, Iceland, Israel, Jordan, Lebanon, Morocco, Norway, Switzerland (including Liechtenstein), Syria, Tunisia, Turkey and West Bank and Gaza Strip

(2009/C 136/05)

For the purpose of the creation of diagonal cumulation of origin among the Community, Algeria, Egypt, Faroe Islands, Iceland, Israel, Jordan, Lebanon, Morocco, Norway, Switzerland (including Liechtenstein), Syria, Tunisia, Turkey and West Bank and Gaza Strip, the Community and the countries concerned notify each other, through the European Commission, of the origin rules in force with the other countries.

Based on the notifications received from the countries concerned, the table here enclosed gives an overview of the protocols on rules of origin providing for diagonal cumulation specifying the date from which such cumulation becomes applicable. This table replaces the previous one (OJ C 85, 9.4.2009).

It is recalled that cumulation can be only applied if the countries of final manufacture and of final destination have concluded free trade agreements, containing identical rules of origin, with all the countries participating in the acquisition of originating status, i.e. with all the countries from which all the materials used originate. Materials originating in the country which has not concluded an agreement with the countries of final manufacture and of final destination shall be treated as non-originating. Specific examples are given in the Explanatory Notes concerning the pan-Euro-Mediterranean protocols on rules of origin ⁽¹⁾.

It is also recalled that:

- Switzerland and the Principality of Liechtenstein form a customs union;
- within the European Economic Area, which is composed of the EU, Iceland, Liechtenstein and Norway, the date of application is 1.11.2005.

The ISO-Alpha-2 codes for the country listed in the table are given here below.

— Algeria	DZ
— Egypt	EG
— Faroe Islands	FO
— Iceland	IS
— Israel	IL
— Jordan	JO
— Lebanon	LB
— Liechtenstein	LI
— Morocco	MA
— Norway	NO
— Switzerland	CH
— Syria	SY
— Tunisia	TN
— Turkey	TR
— West Bank and Gaza Strip	PS

⁽¹⁾ OJ C 83, 17.4.2007.

Date of application of the protocols on rules of origin providing for diagonal cumulation in the pan-euro-med zone

	EU	DZ	CH (EFTA)	EG	FO	IL	IS (EFTA)	JO	LB	LI (EFTA)	MA	NO (EFTA)	PS	SY	TN	TR
EU		1.11.2007	1.1.2006	1.3.2006	1.12.2005	1.1.2006	1.1.2006	1.7.2006		1.1.2006	1.12.2005	1.1.2006			1.8.2006	(¹)
DZ	1.11.2007															
CH(EFTA)	1.1.2006			1.8.2007	1.1.2006	1.7.2005	1.8.2005	17.7.2007	1.1.2007	1.8.2005	1.3.2005	1.8.2005			1.6.2005	1.9.2007
EG	1.3.2006		1.8.2007				1.8.2007	6.7.2006		1.8.2007	6.7.2006	1.8.2007			6.7.2006	1.3.2007
FO	1.12.2005		1.1.2006				1.11.2005			1.1.2006		1.12.2005				
IL	1.1.2006		1.7.2005				1.7.2005	9.2.2006		1.7.2005		1.7.2005				1.3.2006
IS(EFTA)	1.1.2006		1.8.2005	1.8.2007	1.11.2005	1.7.2005		17.7.2007	1.1.2007	1.8.2005	1.3.2005	1.8.2005			1.3.2006	1.9.2007
JO	1.7.2006		17.7.2007	6.7.2006		9.2.2006	17.7.2007			17.7.2007	6.7.2006	17.7.2007			6.7.2006	
LB			1.1.2007				1.1.2007			1.1.2007		1.1.2007				
LI(EFTA)	1.1.2006		1.8.2005	1.8.2007	1.1.2006	1.7.2005	1.8.2005	17.7.2007	1.1.2007		1.3.2005	1.8.2005			1.6.2005	1.9.2007
MA	1.12.2005		1.3.2005	6.7.2006			1.3.2005	6.7.2006		1.3.2005		1.3.2005			6.7.2006	1.1.2006
NO(EFTA)	1.1.2006		1.8.2005	1.8.2007	1.12.2005	1.7.2005	1.8.2005	17.7.2007	1.1.2007	1.8.2005	1.3.2005				1.8.2005	1.9.2007
PS																
SY																1.1.2007
TN	1.8.2006		1.6.2005	6.7.2006			1.3.2006	6.7.2006		1.6.2005	6.7.2006	1.8.2005				1.7.2005
TR	(¹)		1.9.2007	1.3.2007		1.3.2006	1.9.2007			1.9.2007	1.1.2006	1.9.2007		1.1.2007	1.7.2005	

(¹) For goods covered by the EC-Turkey customs union, the date of application is 27 July 2006.
 For agricultural products, the date of application is 1 January 2007.
 For coal and steel products, the date of application is 1 March 2009.

NOTICES FROM MEMBER STATES

Information communicated by Member States regarding State Aid granted under Commission Regulation (EC) No 1857/2006 on the application of Articles 87 and 88 of the Treaty to State Aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001

(2009/C 136/06)

Aid No: XA 449/08**Member State:** Cyprus**Region:** Cyprus**Title of aid scheme or name of company receiving an individual aid:** Πρόγραμμα Ελέγχου της σαλμονέλας στα σμήνη αυγο-παραγωγής**Legal basis:**

1. Άρθρο 03525 του Προϋπολογισμού για το 2009 — Συμμετοχή σε Προγράμματα της Ευρωπαϊκής Ένωσης.
2. Οι περί της Υγείας των Ζώων Νόμοι του 2001 έως 2007.
3. Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents.
4. Commission Regulation (EC) No 1168/2006 of 31 July 2006 implementing Regulation (EC) No 2160/2003.
5. Απόφαση Εφόρου Ελέγχου Κρατικών Ενισχύσεων με αριθμό 305 και ημερομηνία 31 Δεκεμβρίου 2008 (Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με αριθμό 4339 και ημερομηνία 16 Ιανουαρίου 2009 σ. 156).

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 0,3 million**Maximum aid intensity:** 100 %**Date of implementation:** The programme will be implemented only after it has been published by the European Commission in accordance with Regulation (EC) No 1857/2006.**Duration of scheme or individual aid award:** Until 31 December 2009**Objective of aid:** Animal diseases (Article 10 of Regulation (EC) No 1857/2006). The scheme concerns: (i) aid to compensate farmers for the costs of prevention and eradication of animal diseases (Article 10(1) of Regulation (EC) No 1857/2006); or (ii) aid to compensate farmers for losses caused by animal diseases (Article 10(2) of Regulation (EC) No 1857/2006).**Sector(s) concerned:** NACE code A10407 — Raising of poultry**Name and address of the granting authority:**

Veterinary Services
Ministry of Agriculture, Natural Resources and the Environment
Athalassa
1417 Nicosia
CYPRUS

Website:

http://www.moa.gov.cy/moa/vs/vs.nsf/DMLinfo_gr/DMLinfo_gr?OpenDocument

[http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/\\$file/Απόφαση%20Αρ.%20305.pdf](http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/$file/Απόφαση%20Αρ.%20305.pdf)

Other information:

The objective of the aid is to implement the programme for controlling salmonella in laying flocks, in accordance with the provisions of Community legislation (Regulation (EC) No 1168/2006). The disease is included in the list of the World Organisation for Animal Health (OIE) and in the Annex to Council Decision 90/424/EEC (list of diseases that can receive cofinancing).

The expenditure planned for 2009 for the programme for controlling salmonella in laying flocks was notified to the European Commission under the cofinancing programmes.

The beneficiaries of aid under this measure are farmers raising laying hens in the areas controlled by the Republic of Cyprus, on whose farms *Salmonella enteritidis* or *Salmonella typhimurium* are found to be present.

Aid No: XA 451/08

Member State: Cyprus

Region: Cyprus

Title of aid scheme or name of company receiving an individual aid: Πρόγραμμα Ελέγχου της σαλμονέλας στα σμήνη κρεο- παραγωγής

Legal basis:

1. Άρθρο 03525 του Προϋπολογισμού για το 2009 — Συμμετοχή σε Προγράμματα της Ευρωπαϊκής Ένωσης.
2. Οι περί της Υγείας των Ζώων Νόμοι του 2001 έως 2007.
3. Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents.
4. Commission Regulation (EC) No 646/2007 of 12 June 2007 implementing Regulation (EC) No 2160/2003 of the European Parliament and of the Council.
5. Απόφαση Εφόρου Ελέγχου Κρατικών Ενισχύσεων με αριθμό 305 και ημερομηνία 31 Δεκεμβρίου 2008 (Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με αριθμό 4339 και ημερομηνία 16 Ιανουαρίου 2009 σ. 156).

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 0,01 million

Maximum aid intensity: 100 %

Date of implementation: The programme will be implemented only after it has been published by the European Commission in accordance with Regulation (EC) No 1857/2006.

Duration of scheme or individual aid award: Until 31 December 2009

Objective of aid: Animal diseases (Article 10 of Regulation (EC) No 1857/2006). The scheme concerns aid to compensate farmers for the costs of prevention and eradication of animal diseases (Article 10(1) of Regulation (EC) No 1857/2006).

Sector(s) concerned: NACE code A10407 — Raising of poultry

Name and address of the granting authority:

Veterinary Services
Ministry of Agriculture, Natural Resources and the Environment
Athalassa
1417 Nicosia
CYPRUS

Website:

http://www.moa.gov.cy/moa/vs/vs.nsf/DMLinfo_gr/DMLinfo_gr?OpenDocument

[http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/\\$file/Απόφαση%20Αρ.%20305.pdf](http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/$file/Απόφαση%20Αρ.%20305.pdf)

Other information: The objective of the aid is to implement the programme for controlling salmonella in meat production flocks, in accordance with the provisions of Community legislation (Regulation (EC) No 1168/2006). The disease is included in the list of the World Organisation for Animal Health (OIE) and in the Annex to Council Decision 90/424/EEC (list of diseases that can receive cofinancing). The expenditure planned for 2009 for the programme for controlling salmonella in meat production flocks was notified to the European Commission under the cofinancing programmes. The measure covers expenditure on laboratory tests. Samples will be collected and tested by the Veterinary Services.

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 1857/2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001

(2009/C 136/07)

Aid No: XA 29/09

Member State: France

Region: Bourgogne

Title of aid scheme: Investissements bâtiments

Legal basis:

Code Général des collectivités territoriales, in particular article L 1511-2

Délibération du Conseil régional de Bourgogne

Annual expenditure planned under the scheme:
EUR 600 000

Maximum aid intensity:

For collective buildings of regional importance: 20 % of the eligible expenditure (on the construction, purchase or improvement of immovable assets, except for the purchase of land ; purchase of machinery and equipment, overheads (architects' fees, feasibility studies, patents and licences, etc). Aid capped at EUR 100 000.

For individual buildings and cooperatives for the use of agricultural equipment (CUMA) that are not eligible under the modernisation scheme for livestock buildings (Plan de Modernisation des Bâtiments d'Élevage - PMBE): Aid for the supply and working of wood for building frames; EUR 300/m³ for Douglas fir and EUR 500/m³ for oak, capped at EUR 15 000 for individual structures and EUR 20 000 for collective structures (agricultural cooperatives, CUMA).

The maximum intensity of combined public aid (Regional Council (Conseil régional de Bourgogne - CRB), State, EU, local authorities, etc) is 40 %.

Collective structures and agricultural holdings in difficulty are not eligible.

Date of implementation: 2009

Duration of scheme: Until 2013

Objective of aid:

This aid scheme comes under Article 4 of Commission Regulation (EC) No 1857/2006 of 15 December 2006.

The objective of the aid is to improve agricultural production conditions and the utilisation of agricultural products by reducing production costs and improving the quality of production, products and buildings.

Sector concerned: Agricultural production

Name and address of the authority responsible:

Conseil régional de Bourgogne
Direction de l'agriculture et du développement rural
17, boulevard de la Trémouille
BP 1602
21035 Dijon cedex
FRANCE

Website:

http://www.cr-bourgogne.fr/documents/gda/2008-12/equipements_collectifs.doc

http://www.cr-bourgogne.fr/doc/gda/2009-02/RT_2_BAB.doc

Aid No: XA 30/09

Member State: France

Region: Bourgogne

Title of aid scheme: Promotion des produits des filières de diversification et de qualité

Legal basis:

Code Général des collectivités territoriales, in particular article L 1511-2

Délibération du Conseil régional de Bourgogne

Annual expenditure planned under the scheme:
EUR 100 000

Maximum aid intensity:

80 % of the eligible costs (engineering, documentation and communication costs) for:

— publications, catalogues and websites providing information about producers from Burgundy or producers of particular products.

Date of implementation: 2009

Duration of scheme: Until 2013

Objective of aid:

This aid scheme comes under Article 15 of Commission Regulation (EC) No 1857/2006 of 15 December 2006.

The objective of the aid is to publicise and make the most of all types of production and all producers involved with product diversification (horticulture, medicinal plants, vegetables, etc) or quality products (SIQO) in compliance with pre-defined specifications.

This aid scheme will make it possible to fund the specific costs of the various actions carried out by collective structures in the agricultural sector. No aid will be paid to farmers, and any eligible person will be able to participate in actions carried out by collective structures without being affiliated to them.

Sector concerned: Agricultural production

Name and address of the authority responsible:

Conseil régional de Bourgogne
Direction de l'agriculture et du développement rural
17, boulevard de la Trémouille
BP 1602
21035 Dijon cedex
FRANCE

Website: http://www.cr-bourgogne.fr/doc/gda/2009-02/RT_9302_CPER_promotion_produits_diversifies.doc

Aid No: XA 31/09

Member State: France

Region: Bourgogne

Title of aid scheme: Démarches qualité SIQO et HACCP

Legal basis:

Code Général des collectivités territoriales, notamment son article L 1511-2

Délibération du Conseil régional de Bourgogne

Annual expenditure planned under the scheme:
EUR 250 000

Maximum aid intensity:

Eighty of the value of eligible expenses (engineering, documentation and communication costs) concerning the activities linked to the development of SICQ (except for organic farming and wine) and HACCP quality measures, defined as follows:

- Market survey
- Preparation of applications for the recognition of products and adaptation of specifications produced before the actual date of application of the new rules
- HACCP measures on farms

Date of implementation: 2009

Duration of scheme: until 2013

Objective of aid:

This aid scheme comes under Article 14 of Commission Regulation (EC) No 1857/2006 of 15 December 2006.

The objective of the aid is to encourage and support the putting in place of quality measures for production and products in Burgundy.

This aid scheme will fund the specific costs of the various actions carried out by collective structures in the agricultural sector. No aid will be paid to farmers and all eligible persons will be able to access the actions carried out by the collective structures without being required to be members thereof.

Sector(s) concerned: Agricultural Production

Name and address of the granting authority:

Conseil régional de Bourgogne
Direction de l'agriculture et du développement rural
17, boulevard de la Trémouille
BP 1602
21035 Dijon cedex
FRANCE

Website: http://www.cr-bourgogne.fr/documents/gda/2008-12/demarches_qualiteSIQO_HACCP.doc

Aid No: XA 44/09

Member State: Spain

Region: Asturias

Title of aid scheme or name of company receiving individual aid: Ayudas al sector ganadero en forma de servicios prestados por Asturiana de Control Lechero, Cooperativa Limitada (ASCOL).

Legal basis:

Convenio de colaboración entre el Gobierno del Principado de Asturias y la Cooperativa Asturiana de Control Lechero (ASCOL) para el desarrollo de un programa de mejora genética de la cabaña ganadera asturiana de raza frisona durante el trienio 2009-2011.

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:

The maximum amount of aid to be granted in each year under the agreement will be:

(EUR)		
2009	2010	2011
553 100	573 500	591 500

Maximum aid intensity:

The maximum aid intensity to be granted for each of the headings of the action programme to be implemented by the beneficiary of the aid will be:

Programme chapters	Maximum intensity of the grant
I. Performance testing and tests to determine the genetic quality of livestock (milk testing)	70 %
II. Performance testing and tests to determine the genetic quality of livestock (testing of stallions)	70 %
III. Introduction of innovative animal breeding practices (Genesis Programme)	40 %
IV. Technical Assistance	100 %

Date of implementation: from the date of publication of the registration number of the exemption request on the website of the Commission's Directorate-General for Agriculture and Rural Development.

Duration of scheme or individual aid award: until 31 December 2011

Objective of aid: to implement the programme for improving the Friesian breed in Asturias

The following Articles of Regulation (EC) No 1857/2006 apply:

Article 15 — Provision of technical support in the agricultural sector. Eligible costs: cost of organising training programmes for breeders, cost of consultancy services provided by third parties, cost of organising knowledge-sharing forums, competitions and exhibitions, cost of disseminating scientific knowledge, cost of publications.

As provided for in Article 15(4), technical assistance will be available to all owners of animals registered in the herd book for this breed, without membership of the Cooperative being a prerequisite for access to the service.

Article 16 — Support for the livestock sector. Eligible costs: cost of carrying out tests to determine the genetic quality and yield of livestock, cost of introducing innovative animal breeding techniques, excluding the cost of introducing and performing artificial insemination and routine checks on milk quality.

In accordance with Articles 15(3) and 16(3) of the Regulation, the aid will be granted in kind by means of subsidised services provided by third parties and will not involve direct payments of money to producers.

Sector(s) concerned: the breeding of dairy cattle

Name and address of the granting authority:

Consejería de Medio Rural y Pesca del Principado de Asturias
C/Coronel Aranda, s/n, 4ª planta
33071 Oviedo (Asturias)
ESPAÑA

Website: the text of the cooperation agreement can be found at www.asturias.es on the following page:

<http://www.asturias.es/Asturias/descargas/CONVENIOS%20GANADERIA/ASCOL%2009%20%20convenio.pdf>

Other information: —

The director-general for livestock farming and Agri-food

Luis Miguel ÁLVAREZ MORALES

Aid No: XA 46/09

Member State: Spain

Region: Asturias

Title of aid scheme or name of company receiving individual aid.: Asociación de Criadores de Ponis de Raza Asturcón (ACPRA).

Legal basis: Convenio de colaboración entre el Gobierno del Principado de Asturias y la Asociación de Criadores de ponis de raza Asturcón (ACPRA) para el desarrollo del programa de conservación de dicha raza durante el trienio 2009-2011.

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:

The maximum amount of aid to be granted in each year under the agreement will be:

(EUR)		
2009	2010	2011
163 000	169 000	175 000

Maximum aid intensity:

The maximum aid intensity to be granted for each of the headings of the action programme to be implemented by the beneficiary of the aid will be:

Programme chapters	Maximum intensity of the grant
I. Maintenance of the herd book	100 %
II. Technical assistance	100 %

Date of implementation.: from the date of publication of the registration number of the exemption request on the website of the Commission's Directorate-General for Agriculture and Rural Development.

Duration of scheme or individual aid award: until 31 December 2011.

Objective of aid: to implement the programme for the conservation of the Asturcón pony breed.

The following Articles of Regulation (EC) No 1857/2006 apply:

Article 15 — Provision of technical support in the agricultural sector. Eligible costs: cost of organising training programmes for breeders, cost of consultancy services provided by third parties, cost of organising knowledge-sharing forums, competitions and exhibitions, cost of disseminating scientific knowledge, cost of publications.

Article 16 — Support for the livestock sector. Eligible costs: cost of maintaining a herd book; tests carried out by or on behalf of third parties to determine the genetic quality or yield of livestock are excluded.

Sector(s) concerned: breeding of equines

Name and address of the granting authority:

Consejería de Medio Rural y Pesca del Principado de Asturias
C/Coronel Aranda, s/n, 4a planta
33071 Oviedo (Asturias)
ESPAÑA

Website: the text of the cooperation agreement can be found at www.asturias.es on the following page:

<http://www.asturias.es/Asturias/descargas/CONVENIOS%20GANADERIA/ACOXAX%2009%20convenio.pdf>

Other information: —

The Director-General for livestock farming and Agri-food

Luis Miguel ÁLVAREZ MORALES

Commission communication in the framework of the implementation of the Regulation (EC) No 765/2008 of the European Parliament and of the Council, Decision 768/2008/EC of the European Parliament and of the Council, Regulation (EC) No 761/2001 of the European Parliament and of the Council

(Publication of titles and references of harmonised standards)

(2009/C 136/08)

ESO (*)	Reference and title of the harmonised standard (and reference document)	Reference of superseded standard	Date of cessation of presumption of conformity of superseded standard Note 1
CEN	EN ISO 9000:2005 Quality management systems — Fundamentals and vocabulary (ISO 9000:2005)	—	
CEN	EN ISO 9001:2008 Quality management systems — Requirements (ISO 9001:2008)	—	
CEN	EN ISO 14001:2004 Environmental management systems — Requirements with guidance for use (ISO 14001:2004)	—	
CEN	EN ISO 14020:2001 Environmental labels and declarations — General principles (ISO 14020:2000)	—	
CEN	EN ISO 14021:2001 Environmental labels and declarations — Self-declared environmental claims (Type II environmental labelling) (ISO 14021:1999)	—	
CEN	EN ISO 14024:2000 Environmental labels and declarations — Type I environmental labelling — Principles and procedures (ISO 14024:1999)	—	
CEN	EN ISO 14031:1999 Environmental management — Environmental performance evaluation — Guidelines (ISO 14031:1999)	—	
CEN	EN ISO 14040:2006 Environmental management — Life cycle assessment — Principles and framework (ISO 14040:2006)	—	
CEN	EN ISO 14044:2006 Environmental management — Life cycle assessment — Requirements and guidelines (ISO 14044:2006)	—	
CEN	EN ISO/IEC 17000:2004 Conformity assessment — Vocabulary and general principles (ISO/IEC 17000:2004)	—	
CEN	EN ISO/IEC 17011:2004 Conformity assessment — General requirements for accreditation bodies accrediting conformity assessment bodies (ISO/IEC 17011:2004)	—	
CEN	EN ISO/IEC 17020:2004 General criteria for the operation of various types of bodies performing inspection (ISO/IEC 17020:1998)	—	
CEN	EN ISO/IEC 17021:2006 Conformity assessment — Requirements for bodies providing audit and certification of management systems (ISO/IEC 17021:2006)	—	
CEN	EN ISO/IEC 17024:2003 Conformity assessment — General requirements for bodies operating certification of persons (ISO/IEC 17024:2003)	—	

ESO ⁽¹⁾	Reference and title of the harmonised standard (and reference document)	Reference of superseded standard	Date of cessation of presumption of conformity of superseded standard Note 1
CEN	EN ISO/IEC 17025:2005 General requirements for the competence of testing and calibration laboratories (ISO/IEC 17025:2005) EN ISO/IEC 17025:2005/AC:2006	—	
CEN	EN ISO/IEC 17040:2005 Conformity assessment — General requirements for peer assessment of conformity assessment bodies and accreditation bodies (ISO/IEC 17040:2005)	—	
CEN	EN ISO/IEC 17050-1:2004 Conformity assessment — Supplier's declaration of conformity — Part 1: General requirements (ISO/IEC 17050-1:2004)	—	
CEN	EN ISO/IEC 17050-2:2004 Conformity assessment — Supplier's declaration of conformity — Part 2: Supporting documentation (ISO/IEC 17050-2:2004)	—	
CEN	EN ISO 19011:2002 Guidelines for quality and/or environmental management systems auditing (ISO 19011:2002)	—	
CEN	EN 45011:1998 General requirements for bodies operating product certification systems (ISO/IEC Guide 65:1996)	—	

⁽¹⁾ ESO: European Standardisation Organisation:

- CEN: Avenue Marnix 17, B-1000 Brussels, Tel. +32 25500811; Fax +32 25500819 (<http://www.cen.eu>)
- CENELEC: Avenue Marnix 17, B-1000 Brussels, Tel. +32 25196871; Fax +32 25196919 (<http://www.cenelec.org>)
- ETSI: 650, route des Lucioles, F-06921 Sophia Antipolis, Tel. +33 492944200; Fax +33 493654716 (<http://www.etsi.org>).

Note 1 Generally the date of cessation of presumption of conformity will be the date of withdrawal ('dow'), set by the European Standardisation Organisation, but attention of users of these standards is drawn to the fact that in certain exceptional cases this can be otherwise.

Note 2 The new (or amended) standard has the same scope as the superseded standard. On the date stated, the superseded standard ceases to give presumption of conformity with the essential requirements of the directive.

Note 3 In case of amendments, the referenced standard is EN CCCCC:YYYY, its previous amendments, if any, and the new, quoted amendment. The superseded standard (column 3) therefore consists of EN CCCCC:YYYY and its previous amendments, if any, but without the new quoted amendment. On the date stated, the superseded standard ceases to give presumption of conformity with the essential requirements of the directive.

NOTE:

- Any information concerning the availability of the standards can be obtained either from the European Standardisation Organisations or from the national standardisation bodies of which the list is annexed to the Directive 98/34/EC ⁽¹⁾ of the European Parliament and Council amended by the Directive 98/48/EC ⁽²⁾.
- Publication of the references in the *Official Journal of the European Union* does not imply that the standards are available in all the Community languages.
- This list replaces all the previous lists published in the *Official Journal of the European Union*. The Commission ensures the updating of this list.

More information about harmonised standards on the Internet at:
<http://ec.europa.eu/enterprise/newapproach/standardization/harmstds>

⁽¹⁾ OJ L 204, 21.7.1998, p. 37.

⁽²⁾ OJ L 217, 5.8.1998, p. 18.

V

(Announcements)

ADMINISTRATIVE PROCEDURES

COMMISSION

CALL FOR PROPOSALS — EACEA/14/09

ICI Education Cooperation Programme — Cooperation in higher education and training between the EU and Australia, Japan and the Republic of Korea

(2009/C 136/09)

1. OBJECTIVES AND DESCRIPTION

The general objective is to enhance mutual understanding between peoples of the EU and the Partner Countries including broader knowledge of their languages, cultures and institutions; and to enhance the quality of Higher education and training by stimulating balanced partnerships between higher education and vocational training institutions in Europe and in Partner Countries.

2. ELIGIBLE APPLICANTS

Submission of grant requests under this call is open to higher education institutions, to vocational education and training institutions and to consortia of higher education and/or vocational education and training institutions.

Eligible applicants must be from one of the Partner Countries and from one of the 27 countries of the European Union.

3. ELIGIBLE ACTIONS

This ICI-ECP call supports Joint Mobility projects focused on structured exchanges of students and faculty members; and on the joint development of joint, or shared curricula and joint study programmes.

All the mobility projects must address: development of innovative international curricula; student services, language and cultural preparation; organisational frameworks for student mobility and faculty members' mobility; evaluation; and sustainability and dissemination.

A consortium applying for an ICI-ECP Joint Mobility project must include at least 3 Higher Education and/or VET institutions from 3 different EU Member States and at least 2 institutions from the Partner Country.

The project duration is 3 years.

Activities must start between 1 November 2009 and 31 December 2009 and finish 31 October 2012.

4. AWARD CRITERIA

The following quality criteria will be applied to determine the overall quality score of each eligible proposal:

The significance of the project for the relationship between the EU and the Partner countries, (representing 25 % of the total score) will be determined by:

- The relevance of the proposal to the objectives of the Call;
- The added value of the programme of study in the proposed discipline and profession from the perspective of the relations between the EU and a Partner country.

Contribution to quality and excellence, (representing 25 % of the total score) as determined by:

- The likely project contribution to educational quality, excellence and innovation;
- The significance of the project towards improvement of teaching methods and students' further study/professional opportunities;
- The extent of an academic quality control system definition and its efficiency towards ensuring a contribution to academic excellence.

The quality of project implementation, (50 % of the total score) as determined by:

- Well defined cooperation mechanisms and administrative structure of a functioning partnership;
- The balance of the mobility scheme integration among the partner institutions; the balance of the proposed mobility flows;
- The soundness of the application of students selection mechanisms based on transparency, equality and merit principle, and common standards agreed by the partnership for joint application, selection admission and exams procedure.
- The soundness and clarity of the arrangements for academic credits and credit transfer and the extent of compatibility with ECTS;
- The quality of resources available for hosting foreign students and faculty members;
- The quality of a language plan;
- The quality of a monitoring system and evaluation plan;
- The quality of dissemination activities and
- The quality of a development and sustainability plan.

5. BUDGET

The budget available amounts to approximately EUR 2,8 million. Comparable funding will be provided by the Partner Countries in accordance with the rules applicable for each of them.

It is anticipated that three to four projects EU — Australia, one to two projects EU — Japan and three to four projects EU- Republic Korea will be funded in 2009.

6. DEADLINE

Applications must be submitted both to the EU (Agency) and to the implementing institutions in Australia (Australian Department of Education — DEEWR), Japan (Japan Student Services Organisation — JASSO) and in the Republic of Korea (Ministry of Education, Science and Technology — MEST).

The Applications on behalf of the EU lead institution must be sent to the Education, Audiovisual and Culture Executive Agency no later than 15 September 2009.

The Education, Audiovisual and Culture Executive Agency
EU-ICI Call for Proposals 2009
Avenue du Bourget n° 1
Bour 02/23
1140 Bruxelles/Brussel
BELGIQUE/BELGIË

Applications on behalf of the EU lead institution must be submitted on the correct form, duly completed, signed by the person authorised to enter into legally binding commitments on behalf of the applicant organization and dated.

7. FURTHER INFORMATION

The Guidelines and the application forms are available on the following website:

http://eacea.ec.europa.eu/extcoop/ici-ecp/index_en.htm

Applications must be submitted using the form provided and they have to include all the annexes and information requested.

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMPETITION POLICY

COMMISSION

Prior notification of a concentration

(Case COMP/M.5543 — EnBW/Borusan/JV)

Candidate case for simplified procedure

(Text with EEA relevance)

(2009/C 136/10)

1. On 10 June 2009, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings EnBW Energie Baden-Württemberg AG ('EnBW', Germany), jointly controlled by Electricité de France International S.A. ('EDF', France) and Zweckverband Oberschwäbische Elektrizitätswerke ('OEW', Germany), and acting through its subsidiary EnBW Holding A.Ş. ('EnBW Turkey', Turkey), and Borusan Holding A.Ş. ('Borusan', Turkey) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the undertaking Borusan Enerji Yatirimlari Ve Üretim A.Ş. ('Borusan Enerji', Turkey) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for EnBW: electricity and gas together with energy and environmental services. Other activities include telecommunication, waste recycling and financial services,
- Borusan: steel, distributorship, logistics, telecommunications and energy industries,
- Borusan Enerji: electricity generation in Turkey.

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 2 2964301 or 2967244) or by post, under reference number COMP/M.5543 — EnBW/Borusan/JV, to the following address:

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

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

⁽²⁾ OJ C 56, 5.3.2005, p. 32.

OTHER ACTS

COUNCIL

Notice for the attention of the persons, groups and entities on the list provided for in Article 2(3) of Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism**(see Annex to Council Regulation 2009/.../EC of 15 June 2009)**

(2009/C 136/11)

The following information is brought to the attention of the persons, groups and entities listed in Council Regulation 2009/.../EC of 15 June 2009.

The Council of the European Union has determined that the reasons for including the persons, groups and entities that appear on the abovementioned list of persons, groups and entities subject to the restrictive measures provided for under Council Regulation (EC) No 2580/2001 of 27 December 2001, on specific restrictive measures directed against certain persons and entities with a view to combating terrorism ⁽¹⁾, are still valid. Consequently, the Council has decided to maintain those persons, groups and entities on the list.

Council Regulation (EC) No 2580/2001 of 27 December 2001 provides for a freezing of all funds, other financial assets and economic resources belonging to the persons, groups and entities concerned and that no funds, other financial assets and economic resources may be made available to them, whether directly or indirectly.

The attention of the persons, groups and entities concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as listed in the Annex to the Regulation in order to obtain an authorisation to use frozen funds for essential needs or specific payments in accordance with Article 5(2) of that Regulation. An updated list of competent authorities is available on the web at the following address:

http://ec.europa.eu/comm/external_relations/cfsp/sanctions/measures.htm

The persons, groups and entities concerned may submit a request to obtain the Council's statement of reasons for maintaining them on the abovementioned list (unless the statement of reasons has already been communicated to them), to the following address:

Council of the European Union
(Attn: CP 931 designations)
Rue de la Loi 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

The persons, groups and entities concerned may submit at any time a request to the Council, together with any supporting documentation, that the decision to include and maintain them on the list should be reconsidered, to the address provided above. Such requests will be considered when they are received. In this respect, the attention of the persons, groups and entities concerned is drawn to the regular review by the Council of the list according to Article 1(6) of Common Position 2001/931/CFSP. In order for requests to be considered at the next review, they should be submitted **within two months from the date of publication of this notice.**

⁽¹⁾ OJ L 344, 28.12.2001, p. 70.

The attention of the persons, groups and entities concerned is also drawn to the possibility of challenging the Council's Regulation before the Court of First Instance of the European Communities, in accordance with the conditions laid down in Article 230(4) and (5) of the Treaty establishing the European Community.

COMMISSION

Notice concerning a request under Article 30 of Directive 2004/17/EC

Request made by a Member State

(2009/C 136/12)

On 3 June 2009 the Commission received a request under Article 30(4) of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors ⁽¹⁾. The first working day following receipt of the request is 4 June 2009.

This request, made by the Kingdom of Spain, concerns the production and sale of electricity in that country. Article 30 provides that the Directive does not apply where the activity in question is directly exposed to competition on markets to which access is not limited. These conditions are evaluated solely for the purposes of Directive 2004/17/EC and are without prejudice to the application of competition rules.

The Commission has a period of three months to take a decision on this request, commencing on the working day referred to above. The period therefore expires on 4 September 2009.

The provisions of the third subparagraph of the abovementioned paragraph 4 are applicable. Consequently, the period allowed to the Commission may be extended by one month. Any such extension must be published.

⁽¹⁾ OJ L 134, 30.4.2004, p. 1.

OTHER ACTS

Council

2009/C 136/11	Notice for the attention of the persons, groups and entities on the list provided for in Article 2(3) of Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (see Annex to Council Regulation 2009/.../EC of 15 June 2009)	35
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⁽¹⁾ Text with EEA relevance

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