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### Information and Notices

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## II

(Information)

## INFORMATION FROM EUROPEAN UNION INSTITUTIONS AND BODIES

## COMMISSION

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

## Cases where the Commission raises no objections

(2009/C 156/01)

Date of adoption of the decision	22.7.2008
Reference number of State aid	N 683/07
Member State	Lithuania
Region	—
Title (and/or name of the beneficiary)	Nuostolių, patirtų dėl gyvūnų užkrečiamųjų ligų, kompensavimas
Legal basis	— Lietuvos Respublikos žemės ūkio ir kaimo plėtros įstatymas, (Žin., 2002, Nr. 72-3009); — Lietuvos Respublikos veterinarijos įstatymas, (Žin., 1992, Nr. 2-15); — Lietuvos Respublikos Vyriausybės 2006 m. spalio 11 d. nutarimas Nr. 987 Dėl valstybės institucijų, savivaldybių ir kitų juridinių asmenų, atsakingų už Europos žemės ūkio garantijų fondo priemonių įgyvendinimą, paskyrimo; — Projektas. Nuostolių, patirtų likviduojant gyvūnų užkrečiamųjų ligų protrūkius, įvertinimo ir atlyginimo taisyklės.
Type of measure	Eradication of animal diseases
Objective	Sectoral development
Form of aid	Direct grant and subsidised services
Budget	Overall budget LTL 115 000 000 (around EUR 33,3 million)
Intensity	100 %
Duration (period)	Until 31.12.2013
Economic sectors	Agricultural sector
Name and address of the granting authority	Lietuvos Respublikos žemės ūkio ministerija Gedimino pr. 19 LT-01103 Vilnius LIETUVA/LITHUANIA
Other information	—

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

[http://ec.europa.eu/community\\_law/state\\_aids/index.htm](http://ec.europa.eu/community_law/state_aids/index.htm)

Date of adoption of the decision	28.5.2009
Reference number of State aid	N 48/09
Member State	Estonia
Region	—
Title (and/or name of the beneficiary)	Meetod riigiabi elemendi arvutamiseks Maaelu Edendamise Sihtasutuse garantiide andmisel
Legal basis	—
Type of measure	Aid scheme
Objective	Methodology for the calculation of State aid granted in the form of a credit guarantee
Form of aid	Guarantee
Budget	—
Intensity	—
Duration (period)	31.12.2013
Economic sectors	Agriculture and SME-s operating in rural areas
Name and address of the granting authority	Maaelu Edendamise Sihtasutus R. Tobiase 4 10147 Tallinn EESTI/ESTONIA
Other information	—

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

[http://ec.europa.eu/community\\_law/state\\_aids/index.htm](http://ec.europa.eu/community_law/state_aids/index.htm)

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**Commission Communication concerning the prolongation of the Community Guidelines on State aid for Rescuing and Restructuring Firms in Difficulty**

(2009/C 156/02)

The Community Guidelines on State aid for Rescuing and Restructuring Firms in Difficulty <sup>(1)</sup> will expire on 9 October 2009 <sup>(2)</sup>.

Since their adoption in 2004, the Commission has applied these guidelines in numerous cases and experience has shown that they provide a sound basis for the control of this type of State aid.

The economic crisis has created a difficult and unstable economic situation. Having regard to the need to ensure continuity and legal certainty in the treatment of State aid to enterprises in financial difficulty, the Commission has decided to extend the validity of the existing Community Guidelines on State aid for Rescuing and Restructuring Firms in Difficulty until 9 October 2012.

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<sup>(1)</sup> OJ C 244, 1.10.2004, p. 2-17.

<sup>(2)</sup> See paragraph 102 of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (OJ C 244, 1.10.2004, p. 15).

**Non-opposition to a notified concentration****(Case COMP/M.5553 — Perdigão/Sadia)****(Text with EEA relevance)**

(2009/C 156/03)

On 29 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 English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/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 (<http://eur-lex.europa.eu/en/index.htm>) under document number 32009M5553. EUR-Lex is the on-line access to the European law.

**Non-opposition to a notified concentration****(Case COMP/M.5510 — Atlantia/Sias/Acciona/Itinere Chilean Assets)****(Text with EEA relevance)**

(2009/C 156/04)

On 26 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 English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/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 (<http://eur-lex.europa.eu/en/index.htm>) under document number 32009M5510. EUR-Lex is the on-line access to the European law.

## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS AND BODIES

## COMMISSION

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

8 July 2009

(2009/C 156/05)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3901	AUD	Australian dollar	1,7728
JPY	Japanese yen	131,02	CAD	Canadian dollar	1,6206
DKK	Danish krone	7,4469	HKD	Hong Kong dollar	10,7738
GBP	Pound sterling	0,86495	NZD	New Zealand dollar	2,2168
SEK	Swedish krona	11,0600	SGD	Singapore dollar	2,0323
CHF	Swiss franc	1,5162	KRW	South Korean won	1 776,14
ISK	Iceland króna		ZAR	South African rand	11,3450
NOK	Norwegian krone	9,0770	CNY	Chinese yuan renminbi	9,4984
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,3430
CZK	Czech koruna	26,047	IDR	Indonesian rupiah	14 248,39
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,9522
HUF	Hungarian forint	278,10	PHP	Philippine peso	67,049
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	44,1250
LVL	Latvian lats	0,7000	THB	Thai baht	47,368
PLN	Polish zloty	4,4338	BRL	Brazilian real	2,7686
RON	Romanian leu	4,2178	MXN	Mexican peso	18,7010
TRY	Turkish lira	2,1623	INR	Indian rupee	67,9620

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

## 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 156/06)

**Aid No:** XA 387/08

**Maximum aid intensity:**

**Member State:** The Netherlands

In accordance with Article 6 of Commission Regulation (EC) No 1857/2006, aid is to be granted to land-dependent agricultural holdings as follows:

**Region:** De provincies Groningen en Drenthe

**Title of aid scheme or name of company receiving individual aid:** Provinciale Agrarische bedrijfsverplaatsings regelingen, zie onder rechtsgrondslag voor de exacte benamingen

- (a) 100 % of the actual relocation costs incurred, in accordance with Article 6(2) of Regulation (EC) No 1857/2006, up to a maximum amount of EUR 100 000.

Farmers who wind up their business for tax purposes in order to relocate their farm are obliged to pay tax on the hidden reserves and similar assets of their (old) farm. For farmers, this is an expense that is directly and inextricably linked to the relocation of their holding. Under the aid scheme, aid will be granted for up to 100 % of the costs incurred, thereby complying with Article 6(2) of Regulation (EC) No 1857/2006.

**Legal basis:**

- Wet inrichting landelijk gebied;
- Provinciewet;
- Wet inkomstenbelasting 2001, art. 3.54;
- the following provincial provisions:

- (b) At most 40 % of the increase in the value of the facilities concerned, in accordance with Article 6(3) of Regulation (EC) No 1857/2006, up to a maximum amount of EUR 300 000, where relocation results in the applicant benefiting from more modern facilities, provided that the farmer's own contribution corresponds to at least 60 % of the increase in value.

Province	Name of scheme
Groningen	Programma landelijk gebied PMJP 2007-2013 Groningen; deel 3 kader voor subsidies en overeenkomsten; paragraaf 9.3 Beleidsregel Verplaatsing Grondgebonden Agrarische Bedrijven
Drenthe	Provinciaal Meerjarenprogramma Drenthe, deel 3 subsidiegids, 2. subsidies voor natuur, verwerving EHS, Agrarische bedrijfsverplaatsingen

- (c) At most 40 % of the costs involved in achieving an increase in production capacity, in accordance with Article 6(3) and (4) of Regulation (EC) No 1857/2006, the maximum amount being EUR 300 000, where relocation results in an increase in production capacity, provided that the farmer's own contribution corresponds to at least 60 % of the increase in value.

**Annual expenditure planned under the scheme (in EUR million):**

Province	2008	2009	2010	2011	2012	2013	Total (*)
Groningen	0,5	0,5	0,5	0,5	0,5	0,5	3
Drenthe	0,8	0,8	0,8	0,8	0,8	0,8	At most 4,8

(\*) The amounts per year are indicative; the total budget planned remains the same.

Relocation costs (under a) cover:

- actual relocation costs (such as the costs of removing resources and animals to the new location),

- notarial and land registry fees,



- transfer tax payable in connection with relocation,
- consultancy fees in connection with relocation (such as estate agents' and accountants' fees).

Relocation investment costs (under b) comprise:

- investment costs relating to farm buildings and facilities at the new location,
- general (consultancy) fees, such as costs relating to architects, engineers, consultants and feasibility studies in connection with relocation. Legal fees (for licences, changes to the land-use plan, Article 19 procedures, and green land certificates, etc.) are not covered.

Compensation under b and c is calculated on the basis of the representative market value. The aid amounts to 40 % of any positive difference between the representative market value of the old location and buildings, on the one hand, and the total of the following costs, on the other:

- the representative market value of the new farm location and buildings, and
- any investments relating to setting up, modernising, replacing and/or extending the new farm buildings.

**Date of implementation:** Implementation will begin after publication in the *Official Journal of the European Union*, as specified in Article 18(1) of Commission Regulation (EC) No 1857/2006, or after publication of a decree on the entry into force of the Decree of 3 September 2007 amending the 2001 Income Tax Implementing Decree (Uitvoeringsbesluit inkomstenbelasting 2001), Stb. 2007, 328

**Duration of the scheme:** Until 31 December 2013

**Objective of aid:** Relocation — in the public interest — of farms with good prospects, where the farmland is needed in order to improve spatial or agricultural structures, the countryside, the landscape, water or the environment

**Economic sectors concerned:** All primary agricultural holdings producing products referred to in Annex I to the EC Treaty

**Name and address of granting authority:**

Province	Address
Groningen	Postbus 610, 9700 AP Groningen
Drenthe	Postbus 122, 9400 AC Assen

**Websites:**

Province	Website
Groningen	<a href="http://www.provinciegroningen.nl/boa/documenten/boerderijverplaatsingr0901.pdf">http://www.provinciegroningen.nl/boa/documenten/boerderijverplaatsingr0901.pdf</a>
Drenthe	<a href="http://www.provincie.drenthe.nl/actueel/bekendmakingen/?ActImlDt=12790">www.provincie.drenthe.nl/actueel/bekendmakingen/?ActImlDt=12790</a>

**Other information:** Sheet 125 of the 2007-2013 rural development programme refers to the possibility of subsidising the relocation of holdings. The provinces choose not to make use of this possibility since the abovementioned fiche only offers the possibility of subsidisation in relation to reducing ammonia emissions and deposition, while the broader approach of a subsidy scheme is needed for the effective achievement of national and provincial policy goals relating the countryside, water and farming structures

**Aid No:** XA 442/08

**Member State:** Spain

**Region:** Castilla-La Mancha

**Title of aid scheme:** Ayudas para la realización de auditorías, análisis y estudios

**Legal basis:**

Convocatorias de ayudas para las cooperativas agrarias:

Orden de 8.6.2000 de la Consejería de Agricultura y Medio Ambiente por la que se establecen los programas de fomento de la calidad agroalimentaria en Castilla-La Mancha (FOCAL 2000) programa 1 cooperativismo agrario

Orden de \_\_\_\_\_ de la Consejería de Agricultura y Desarrollo Rural, por la que se aprueban las bases reguladoras de las ayudas para la mejora de las estructuras asociativas agrarias en Castilla-La Mancha y se convocan dichas ayudas para el año 2009

**Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:** Overall amount: EUR 200 000

**Maximum aid intensity:**

Up to 50 % of eligible costs:

The expenses billed by external enterprises that carry out the audits, analyses or studies or that introduce quality standards.

In the event of participation in shows, fairs or other events, participation fees and the cost of publications and hiring installations are eligible for subsidy

**Date of implementation:** From the date on which the registration number of the exemption request is published on the website of the European Commission's Directorate-General for Agriculture and Rural Development

**Duration of scheme or individual aid award:** until 31 December 2013

**Objective of aid:** Technical assistance (Article 15 of Regulation (EC) No 1857/2006) and production of quality agricultural products (Article 14 of Regulation (EC) No 1857/2006)

**Sector(s) concerned:** Agriculture, livestock farming, forestry and fisheries

**Name and address of the granting authority:**

Consejería de Agricultura y Desarrollo Rural  
C/Pintor Matías Moreno, nº 4  
45004 Toledo  
ESPAÑA

**Website:**

Provisionally:

<http://www.jccm.es/agricul/paginas/ayudas/cooperativismo/cooperativismo.htm>

once published:

[www.jccm.es/cgi-bin/docm.php3](http://www.jccm.es/cgi-bin/docm.php3)

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**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 156/07)

**Aid No:** XA 82/09

**Member State:** Spain

**Region:** Comunitat Valenciana

**Title of aid scheme or name of company receiving an individual aid:** Intercitrus

**Legal basis:** Propuesta de Resolución del expediente acogido a la línea «Promoción Agroalimentaria de los cítricos»

**Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:** EUR 250 000

**Maximum aid intensity:** 100 %

**Date of implementation:** From the date on which the registration number of the exemption request is published on the website of the European Commission's Directorate-General for Agriculture and Rural Development

**Duration of scheme or individual aid award:** December 2009

**Objective of the aid:** Participation in fairs; organisation of forums to share knowledge between businesses; information campaigns to promote oranges and clementines, so as to increase their consumption by promoting their nutritional qualities and the associated health benefits, without making any reference to enterprises, trademarks or origin; promotion campaigns in schools, targeting school children; review and analysis of scientific information with a view to submitting proposals for inclusion in the lists that are being compiled pursuant to Regulation (EC) No 1924/2006 on nutrition and health claims made on foods; improvement in knowledge of market developments. The eligible activities correspond to those provided for in Article 15 of Regulation (EC) No 1857/2006

**Sector(s) concerned:** SMEs in the agri-food sector in the Comunitat Valenciana

**Name and address of granting authority:**

Conselleria de Agricultura, Pesca y Alimentación  
C/Amadeo de Saboya, 2  
46010 Valencia  
ESPAÑA

**Website:**

[http://www.agricultura.gva.es/especiales/ayudas\\_agrarias/pdf/INTERCITRUS%202009.pdf](http://www.agricultura.gva.es/especiales/ayudas_agrarias/pdf/INTERCITRUS%202009.pdf)

**Other information:** —

*Director-General for Marketing*

Marta VALSANGIACOMO GIL

**Aid No:** XA 96/09

**Member State:** Spain

**Region:** Comunitat Valenciana

**Title of aid scheme or name of company receiving an individual aid:** Consejo Regulador IGP Cítricos Valencianos

**Legal basis:** Ayuda individual nominativa: Presupuestos de la Generalitat 2009

**Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:** EUR 604 750,00

**Maximum aid intensity:** 100 %

**Date of implementation:** From the date on which the registration number of the exemption request is published on the website of the European Commission's Directorate-General for Agriculture and Rural Development

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

**Objective of aid:**

Participating in and organising shows, competitions, fairs and knowledge-sharing forums between enterprises. (Eligible expenditure includes: rental of the space, stand or area for the presentations; participation fees; related travel and publication costs). Publications such as catalogues or websites presenting factual information about producers from a given region or producers of a given product, provided the information and

presentation is neutral and that all producers concerned have equal opportunities to be represented in the publication. Factual information on the generic product, its nutritional benefits and recommendations for use, which can include the product's origin, provided that the references to the origin correspond exactly to those references which have been registered by the European Community (Article 15(2)(e) last indent).

Activities laid down in Article 15 of Commission Regulation (EC) No 1857/2006 of 15 December 2006

**Sector(s) concerned:** Agri-food SMEs in the Autonomous Community of Valencia

**Name and address of the granting authority:**

Conselleria de Agricultura, Pesca y Alimentación  
C/Amadeo de Saboya, 2  
46010 Valencia  
ESPAÑA

**Website:**

[http://www.agricultura.gva.es/especiales/ayudas\\_agrarias/pdf/Consejo\\_Regulador\\_IGP\\_CITRICOS\\_VALENCIANOS.pdf](http://www.agricultura.gva.es/especiales/ayudas_agrarias/pdf/Consejo_Regulador_IGP_CITRICOS_VALENCIANOS.pdf)

**Other information:** —

*Director-General for Marketing*  
Marta VALSANGIACOMO GIL

**Aid No:** XA 99/09

**Member State:** France

**Region:** département de la Haute-Garonne

**Title of aid scheme:** Indemnisation des pertes entraînées par la fièvre catarrhale ovine (FCO) en Haute-Garonne: réduction des surcoûts de mise en «quarantaine» des jeunes bovins en surplus sur les exploitations

**Legal basis:**

Articles L 1511-2 et L 1511-5 du Code général des collectivités territoriales

Article 10(2) of Regulation (EC) No 1857/2006 of 15 December 2006.

Arrêté du 15 décembre 2008 modifiant l'arrêté du 1<sup>er</sup> avril 2008 définissant les zones réglementées relatives à la fièvre catarrhale du mouton,

Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field.

Délibération du Conseil général de la Haute-Garonne du 28 janvier 2009

**Annual expenditure planned under the aid scheme:** EUR 1 million

**Maximum aid intensity:** 100 %

This aid would be granted for animals which:

- were born on the farm between 1 January 2008 and 1 June 2008 and registered in Haute-Garonne,
- were present on the farm after 22 August 2008,
- have been vaccinated against bluetongue disease serotypes 1 and 8,
- were placed on the market before 1 March 2009.

The aid is intended to cover additional costs arising from holding young cattle in quarantine, subject to a limit of 100 % of the additional costs arising and of EUR 105 per animal.

The minimum costs arising from quarantine are estimated at EUR 161,44 for a holding period of 62 days (leaving with negative virology) and EUR 201,72 for a holding period of 81 days:

- feed: EUR 1,70/day,
- litter and veterinary care: EUR 0,42/day,
- cash deferral: EUR 30/animal.

Cost for 62 days:

$$= (1,7 + 0,42) \times 62 + 30 = \text{EUR } 161,44$$

Cost for 81 days:

$$= (1,7 + 0,42) \times 81 + 30 = \text{EUR } 201,72$$

In the former case, at least EUR 56,44 will be met by the farmer.

In the latter case, at least EUR 96,72 will be met by the farmer.

**Date of implementation:** as from 27 March 2009, the date of publication of the identification number of the request for exemption on the website of the Commission's Directorate-General for Agriculture and Rural Development

**Duration of the aid scheme:** until the end of 2009

**Objective of the aid:**

As the Department of Haute-Garonne became:

— a restricted zone for bluetongue serotype 8 on 20 June 2008,

— and then for bluetongue serotypes 1 and 8 on 22 August 2008,

farmers in the Department had to keep young cattle on the farm for the time it took the animals to build up immunity to the disease, whereas cattle-rearing practice in Haute-Garonne is to sell lean animals (aged five months on average) for export.

The aid from the Conseil général de la Haute-Garonne is intended to offset part of the additional costs entailed by quarantining the animals.

In line with the national bluetongue control programme, and to supplement the various measures adopted to monitor this disease, the aid will make it possible, as an exceptional measure, for farmers to bear the additional costs entailed by quarantining their young male and female cattle; quarantining involved the holding of animals from 20 June 2008 and then from 22 August 2008 and was justified by the time necessary to carry out vaccinations and for the animals to build up immunity so that they could be exported.

All the eligibility criteria for young cattle and their cumulative nature ensure that the aid is targeted exclusively at the animals actually concerned by the quarantining requirement.

**Sector concerned:** beef and veal

**Name and address of the granting authority:**

Conseil général de la Haute-Garonne  
1 boulevard de la Marquette  
31090 Toulouse Cedex  
FRANCE

**Website address:**

[http://www.cg31.fr/upload/pdf\\_dadre\\_fco/aide\\_au\\_maintien\\_quarantaine\\_bovins.pdf](http://www.cg31.fr/upload/pdf_dadre_fco/aide_au_maintien_quarantaine_bovins.pdf)

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**Updated list of customs offices <sup>(1)</sup> in which products listed in Annex I of Commission Regulation (EC) No 1635/2006 <sup>(2)</sup> may be declared for free circulation in the European Community**

(2009/C 156/08)

Member State	Customs offices	
BELGIQUE/BELGIË	Anvers DE — voie maritime Bierset — (Grâce-Hollogne) DE — voies aérienne et/ou terrestre Bruxelles DE — voie aérienne Zaventem D — voie aérienne	
БЪЛГАРИЯ	Varna and Bourgas ports Sofia, Varna and Bourgas airports	
ČESKÁ REPUBLIKA	All customs offices	
DANMARK	Every port and airport in Denmark	
DEUTSCHLAND	Baden-Württemberg	HZA Lörrach-ZA Weil-am-Rhein-Autobahn HZA Stuttgart-ZA Flughafen HZA Ulm-ZA Aalen
	Bayern	HZA München-ZA Flughafen HZA Regensburg-ZA Furth-im-Wald-Schafberg HZA Schweinfurt-ZA Bayreuth HZA Nürnberg-ZA Erlangen-Tennenlohe
	Berlin	HZA Berlin-ZA Marzahn HZA Potsdam-ZA Berlin-Flughafen-Tegel
	Brandenburg	Bereich HZA Frankfurt (Oder) HZA Frankfurt (Oder)-ZA Frankfurt (Oder) Autobahn HZA Frankfurt (Oder)-ZA Forst-Autobahn Bereich HZA Potsdam HZA Potsdam-ZA Berlin-Flughafen Schönefeld
	Bremen	HZA Bremen-ZA Neustädter Hafen HZA Bremerhaven-ZA Bremerhaven
	Hamburg	HZA Hamburg-Hafen-ZA Waltershof-Abfertigung Köhlfleetdamm HZA Hamburg-Stadt-ZA Oberelbe HZA Hamburg-Hafen-ZA Waltershof HZA Itzehoe-ZA Hamburg-Flughafen
	Hessen	HZA Frankfurt-am-Main-Flughafen
	Mecklenburg-Vorpommern	HZA Stralsund-ZA Rostock-Grenzkontrollstelle Rostock
	Niedersachsen	HZA Hannover-ZA Hannover-Nord HZA Braunschweig-ZA Braunschweig-Broitzem
	Nordrhein-Westfalen	HZA Dortmund-ZA Ost HZA Düsseldorf-ZA Flughafen
	Rheinland-Pfalz	HZA Koblenz-ZA Hahn-Flughafen
Schleswig-Holstein	HZA Kiel-ZA Wik, Grenzkontrollstelle Kiel Ostuferhafen HZA Kiel-ZA Travemünde	

<sup>(1)</sup> The updating is shown in italic letters.

<sup>(2)</sup> OJ L 306, 7.11.2006, p. 3.

Member State	Customs offices
EESTI	Narva, Koidula, Luhamaa Frontier Posts, Tallinn Airport, Tallinn, Paljassaare and Muuga Ports
ΕΛΛΑΔΑ	Αθηνών, Πειραιά, Κρατικού Αερολιμένα Αθηνών, Θεσσαλονίκης, Αερολιμένα Μίκρας, Βόλου, Πατρών, Ηρακλείου, Αερολιμένα Ηρακλείου Κρήτης, Καβάλας, Ιωαννίνων, Ναυπλίου
ESPAÑA	Barcelona (Aeropuerto), Barcelona (Puerto), Irun (Carretera), La Junquera (Carretera), Madrid (Aeropuerto)
FRANCE	Bordeaux: transport aérien Brive: transport terrestre Dunkerque: transport maritime Lille: transport aérien et terrestre Lyon-Satolas: transport aérien Le Puy-en-Velay: transport terrestre Marseille: transport aérien, terrestre et maritime Nice-aéroport: transport aérien Orly: transport aérien Roissy: transport aérien et terrestre Rungis: transport terrestre Saint-Julien-en-Genevois: transport terrestre Saint-Louis/Bâle: transport aérien et terrestre Strasbourg: transport terrestre Thionville: transport terrestre Toulouse-Blagnac: transport aérien Valence: transport terrestre
IRELAND	All customs offices
ITALIA	Ufficio di Sanità marittima ed aerea di Trieste Ufficio di Sanità aerea di Torino-Caselle Ufficio di Sanità aerea di Roma-Fiumicino Ufficio di Sanità marittima ed aerea di Venezia Ufficio di Sanità marittima ed aerea di Genova Ufficio di Sanità marittima di Livorno Ufficio di Sanità marittima ed aerea di Ancona Ufficio di Sanità marittima ed aerea di Brindisi Ufficio di Sanità aerea di Varese-Malpensa Ufficio di Sanità aerea di Bologna-Pancale Ufficio di Sanità marittima ed aerea di Bari Posto d'Ispezione frontaliera di Chiasso
ΚΥΠΡΟΣ	All customs offices
LATVIJA	Roads: Grebneva, Pāternieki, Terehova; Railways: Daugavpils, Rēzekne-2; Seaports: Liepāja, Rīga, Ventspils; Airport: Rīga; Post: Rīga International branch of the Latvian Post Office
LIETUVA	All customs offices
LUXEMBOURG	Bureau des douanes et accises Centre douanier-Luxembourg Bureau des douanes et accises Luxembourg-aéroport-Niederanven

Member State	Customs offices
MAGYARORSZÁG	All customs offices
MALTA	The Air Freight Section at Malta International Airport, Luqa The Sea Freight Entry Processing Unit at Customs House, Valletta The Parcel Post Office at Customs Office, Qormi
NEDERLAND	All customs offices
ÖSTERREICH	Nickelsdorf Heiligenkreuz Spielfeld Tissis Wien-Flughafen Schwechat
POLSKA	All customs offices
PORTUGAL	Aeropostos de Lisboa, Porto e Faro Portos de Lisboa e Leixões
ROMÂNIA	All customs offices
SLOVENIJA	Obrežje (road border crossing), Koper (port border crossing), Dobova (railway border crossing), Gruškovje (road bordercrossing), Jelšane (road border crossing), Brnik (air border crossing), Ljubljana (road and railway)
SLOVENSKO	All customs offices
SUOMI — FINLAND	Helsinki, Vaalimaa, Niirala, Vartius, Raja-Jooseppi, Utsjoki, Kilpisjärvi, <i>Helsinki-Vantaan lentoaseman</i>
SVERIGE	Arlanda, Göteborg, Landvetter, Helsingborg, Karlskrona, Stockholm, Ystad, Karlshamn
UNITED KINGDOM	Belfast International Airport, Port of Belfast, Port of Dover, Port of Falmouth, Port of Felixstowe, Gatwick Airport, Glasgow Prestwick Airport, Manchester Airport, Port of Hull and Goole, Port of London, Port of Southampton



## NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

## EFTA SURVEILLANCE AUTHORITY

**The EFTA Surveillance Authority's notice on current State aid recovery interest rates and reference/discount rates for three EFTA States applicable as from 1 March 2009**

*(Published in accordance with Article 10 of the Authority's Decision No 195/04/COL of 14 July 2004 (OJ L 139, 25.5.2006, p. 37 and in the EEA Supplement No 26/2006, 25.5.2006, p. 1))*

(2009/C 156/09)

Base rates are calculated in accordance with the Chapter on the method for setting Reference and Discount rates of the Authority's State aid Guidelines as amended by the Authority's Decision No 788/08/COL of 17 December 2008. To get the applicable reference rate, appropriate margins have to be added in accordance with the State aid Guidelines. For the discount rate this means that the appropriate margin of 100 basis points has to be added to the base rate. The recovery rate will also normally be calculated by adding 100 basis points to the base rate as foreseen in the Authority's Decision No 789/08/COL of 17 December 2008 amending the Authority's Decision No 195/04/COL of 14 July 2004 (published in OJ L 139, 25.5.2006, p. 37 and in the EEA Supplement No 26/2006, 25.5.2006, p. 1).

	Iceland	Liechtenstein	Norway
1.1.2009-31.1.2009	16,42	2,95	6,43
1.2.2009-28.2.2009	16,42	2,33	5,41
1.3.2009-	16,42	1,58	4,26

**Authorisation of State aid pursuant to Article 61 of the EEA Agreement and Article 1(3) in Part 1 of Protocol 3 to the Surveillance and Court Agreement**

(2009/C 156/10)

The EFTA Surveillance Authority raises no objections to the following aid measure:

<b>Date of adoption of the decision:</b>	18 February 2009
<b>Case number:</b>	64824
<b>EFTA State:</b>	Norway
<b>Region:</b>	—
<b>Title (and/or name of the beneficiary):</b>	The Bioenergy Scheme
<b>Legal basis:</b>	The Norwegian National Budget, Chapter 1150, item 50, and the Annual Agricultural Agreement
<b>Type of measure:</b>	Aid scheme
<b>Objective:</b>	Environmental protection
<b>Form of aid:</b>	Direct grants
<b>Budget:</b>	NOK 35 million (approximately EUR 3.9 million) annually. Annual budget subject to parliamentary budget procedures
<b>Intensity:</b>	According to guidelines
<b>Duration:</b>	Until 1 January 2014
<b>Name and address of the granting authority:</b>	Ministry of Agriculture and Food P.O. Box 8007 0030 Oslo NORWAY
<b>Other information:</b>	—

The authentic text of the decision, from which all confidential information has been removed, can be found on the EFTA Surveillance Authority's website:

<http://www.eftasurv.int/fieldsofwork/fieldstateaid/stateaidregistry/>

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**The EFTA Surveillance Authority has found that the following measure does not constitute State aid within the meaning of Article 61 of the EEA Agreement**

(2009/C 156/11)

<b>Date of adoption of the decision:</b>	30 January 2009
<b>Case number:</b>	65833
<b>EFTA State:</b>	Norway
<b>Region:</b>	—
<b>Title (and/or name of the beneficiary):</b>	State funding of Eksportfinans
<b>Legal basis:</b>	61(1) of the EEA Agreement
<b>Type of measure:</b>	Loan facility
<b>Objective:</b>	Providing long-term financing to Eksportfinans
<b>Form of aid:</b>	Direct loans
<b>Budget:</b>	NOK 30 billion, approx. EUR 3,1 billion
<b>Intensity:</b>	—
<b>Duration:</b>	Until 31 December 2010
<b>Economic sectors:</b>	Eksportfinans provides financing for the entire Norwegian export industry
<b>Name and address of the granting authority:</b>	The Norwegian State, Ministry of Trade and Industry Einar Gerhardsens plass 1 0030 Oslo NORWAY
<b>Other information:</b>	—

The authentic text of the decision, from which all confidential information has been removed, can be found on the EFTA Surveillance Authority's website:

<http://www.eftasurv.int/fieldsOfWork/fieldStateAid/stateAidRegistry/>

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## EFTA SURVEILLANCE AUTHORITY RECOMMENDATION

of 5 November 2008

**on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with the Act referred to at point 5cl of Annex XI to the EEA Agreement (Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services), as adapted by Protocol 1 thereto and by the sectoral adaptations contained in Annex XI to that Agreement**

(2009/C 156/12)

THE EFTA SURVEILLANCE AUTHORITY,

States adopt a recommendation on relevant product and service markets.

HAVING REGARD to the Agreement on the European Economic Area <sup>(1)</sup>,

HAVING REGARD to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice, and in particular Article 5(2)(b) thereof,

HAVING REGARD to the Act referred to at point 5cl of Annex XI to the EEA Agreement (Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communication networks and services) <sup>(2)</sup>, as adapted by Protocol 1 thereto and by the sectoral adaptations contained in Annex XI to that Agreement, and in particular Article 15 thereof,HAVING REGARD to the Authority's Decision No 194/04/COL of 14 July 2004 adopting a Recommendation on relevant markets within the electronic communications sector susceptible to *ex ante* regulation and Guidelines on market analysis and assessment of significant market power,

Whereas:

- (1) The Framework Directive establishes a legislative framework for the electronic communications sector that seeks to respond to convergence trends by covering all electronic communications networks and services within its scope. The aim of the regulatory framework is to reduce *ex ante* sector-specific rules progressively as competition in the market develops.
- (2) Article 15 of the Framework Directive provides that the EFTA Surveillance Authority (hereinafter the Authority) shall, after public consultation and consultation with national regulatory authorities (NRAs) in the EFTA

- (3) The purpose of this Recommendation is to identify those product and service markets in which *ex ante* regulation may be warranted in accordance with Article 15(1) of the Framework Directive. The objective of any *ex ante* regulatory intervention is ultimately to produce benefits for end-users by making retail markets competitive on a sustainable basis. The definition of relevant markets may and does change over time as the characteristics of products and services evolve and the possibilities for demand and supply substitution change. As the Recommendation of 14 July 2004 <sup>(3)</sup> has been in force for more than four years, it is now appropriate to revise it on the basis of market developments in the EEA. Hence, this Recommendation replaces the Recommendation of 14 July 2004, as adopted by Decision No 194/04/COL.
- (4) Article 15(1) of the Framework Directive requires the Authority to define markets in accordance with the principles of competition law. Competition law principles are therefore used in this Recommendation to set product market boundaries within the electronic communications sector, while the identification or selection of defined markets for *ex ante* regulation depends on those markets having characteristics which may be such as to justify the imposition of *ex ante* regulatory obligations. The terminology used in this Recommendation is based on terminology used in the Framework Directive and Directive 2002/22/EC <sup>(4)</sup>. In accordance with the Framework Directive, it is for national regulatory authorities to define relevant markets appropriate to national circumstances, in particular relevant geographic markets within their territory.

<sup>(1)</sup> Hereinafter referred to as the 'EEA Agreement'.

<sup>(2)</sup> OJ L 108, 24.4.2002, p. 33. Directive as amended by Regulation (EC) No 717/2007 (OJ L 171, 29.6.2007, p. 32). Hereinafter referred to as the 'Framework Directive'.

<sup>(3)</sup> EFTA Surveillance Authority Recommendation of 14 July 2004 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services, as incorporated into the Agreement on the European Economic Area (OJ L 113, 27.4.2006, p. 18 and EEA Supplement No 21, 27.4.2006, p. 33). Adopted by Decision No 194/04/COL.

<sup>(4)</sup> Directive of the European Parliament and of the Council of 7 March 2002 on universal service and users rights relating to electronic communications networks and services (Universal Service Directive), (OJ L 108, 24.4.2002, p. 51, as inserted to point 5 cm of Annex XI to the EEA Agreement by Joint Committee Decision No 11/2004 (OJ L 116, 22.4.2004, p. 60 and EEA Supplement No 20, 22.4.2004, p. 14).

- (5) The starting point for the identification of markets in the Recommendation is the definition of retail markets from a forward-looking perspective, taking into account demand-side and supply-side substitutability. Having defined retail markets, it is then appropriate to identify relevant wholesale markets. If the downstream market is to a large extent supplied by a vertically-integrated undertaking or undertakings, it might be difficult for potential non-integrated undertakings to obtain the necessary input. Consequently, in order to determine whether the market is susceptible to *ex ante* regulation, it may be necessary to construct a theoretical upstream wholesale market. Markets in the electronic communications sector are often of a two-sided nature, in that they comprise services provided over networks or platforms that bring together users on either side of the market; for example end-users that exchange communications, or senders and receivers of information or content. These aspects need to be taken into account when considering the identification and definition of markets, as they can affect both the way markets are defined and whether they have the characteristics which may justify the imposition of *ex ante* regulatory obligations.
- (6) In order to identify markets that are susceptible to *ex ante* regulation, it is appropriate to apply the following cumulative criteria. The first criterion is the presence of high and non-transitory barriers to entry. These may be of a structural, legal or regulatory nature. However, given the dynamic character and functioning of electronic communications markets, possibilities to overcome barriers to entry within the relevant time horizon should also be taken into consideration when carrying out a prospective analysis to identify the relevant markets for possible *ex ante* regulation. Therefore the second criterion admits only those markets whose structure does not tend towards effective competition within the relevant time horizon. The application of this criterion involves examining the state of competition behind the barriers to entry. The third criterion is that application of competition law alone would not adequately address the market failure(s) concerned.
- (7) The main indicators to be considered when assessing the first and second criteria are similar to those examined as part of a forward-looking market analysis, in particular, indicators of barriers to entry in the absence of regulation, (including the extent of sunk costs), market structure, market performance and market dynamics, including indicators such as market shares and trends, market prices and trends, and the extent and coverage of competing networks or infrastructures. Any market which satisfies the three criteria in the absence of *ex ante* regulation is susceptible to *ex ante* regulation.
- (8) From a competition point of view, newly emerging markets should not be subject to inappropriate obligations, even if there is a first mover advantage, in accordance with the Framework Directive. Newly emerging markets are considered to comprise products or services, where, due to their novelty, it is very difficult to predict demand conditions or market entry and supply conditions, and consequently difficult to apply the three criteria. The purpose of not subjecting newly emerging markets to regulatory measures in the name of competition is to promote innovation as required by Article 8 of the Framework Directive; at the same time, foreclosure of such markets by a leading undertaking should be prevented, as also indicated in the Authority's guidelines on market analysis and the assessment of significant market power under the regulatory framework for electronic communications and services<sup>(1)</sup>. Incremental upgrades to existing network infrastructure rarely lead to a new or emerging market. The lack of substitutability of a product has to be established from both demand and supply-side perspectives before it can be concluded that it is not part of an already existing market. The emergence of new retail services may give rise to a new derived wholesale market to the extent that such retail services cannot be provided using existing wholesale products.
- (9) As far as barriers to entry are concerned, two types are relevant for the purpose of this Recommendation: structural barriers and legal or regulatory barriers.
- (10) Structural barriers to entry result from original cost or demand conditions that create asymmetric conditions between incumbents and new entrants impeding or preventing market entry of the latter. For instance, high structural barriers may be found to exist when the market is characterised by absolute cost advantages, substantial economies of scale and/or economies of scope, capacity constraints and high sunk costs. To date, such barriers can still be identified with respect to the widespread deployment and/or provision of local access networks to fixed locations. A related structural barrier can also exist where the provision of service requires a network component that cannot be technically duplicated or only duplicated at a cost that makes it uneconomic for competitors.
- (11) Legal or regulatory barriers are not based on economic conditions, but result from legislative, administrative or other state measures that have a direct effect on the conditions of entry and/or the positioning of operators on the relevant market. An example of a legal or

<sup>(1)</sup> EFTA Surveillance Authority Guidelines of 14 July 2004 on market analysis and the assessment of significant market power under the regulatory framework for electronic communications networks and services referred to in Annex XI of the Agreement on the European Economic Area (OJ C 101, 27.4.2006, p. 1 and EEA Supplement No 21, 27.4.2006, p. 1).

regulatory barrier preventing entry into a market is a limit on the number of undertakings that have access to spectrum for the provision of underlying services. Other examples of legal or regulatory barriers are price controls or other price-related measures imposed on undertakings, which affect not only entry but also the positioning of undertakings on the market. Legal or regulatory barriers, which can be removed within the relevant time horizon, should not normally be deemed to constitute an economic barrier to entry, such as to fulfil the first criterion.

- (12) Barriers to entry may also become less relevant with regard to innovation-driven markets characterised by ongoing technological progress. In such markets, competitive constraints often come from innovative threats from potential competitors that are not currently in the market. In innovation-driven markets, dynamic or longer-term competition can take place among firms that are not necessarily competitors in an existing 'static' market. This Recommendation does not identify markets where barriers to entry are not expected to persist over a foreseeable period. In assessing whether barriers to entry are likely to persist in the absence of regulation, it is necessary to examine whether the industry has experienced frequent and successful entry and whether entry has been or is likely in the future to be sufficiently immediate and persistent to limit market power. The relevance of barriers to entry will depend inter alia on the minimum efficient scale of output and the costs which are sunk.
- (13) Even when a market is characterised by high barriers to entry, other structural factors in that market may mean that the market tends towards an effectively competitive outcome within the relevant time horizon. Market dynamics may for instance be caused by technological developments, or by the convergence of products and markets which may give rise to competitive constraints being exercised between operators active in distinct product markets. This may also be the case in markets with a limited — but sufficient — number of undertakings having diverging cost structures and facing price-elastic market demand. There may also be excess capacity in a market that would normally allow rival firms to expand output very rapidly in response to any price increase. In such markets, market shares may change over time and/or falling prices may be observed. Where market dynamics are changing rapidly, care should be taken in choosing the relevant time horizon so as to reflect the pertinent market developments.
- (14) The decision to identify a market as susceptible to *ex ante* regulation should also depend on an assessment of the sufficiency of competition law to address the market failures that result from the first two criteria being met.

Competition law interventions are unlikely to be sufficient where the compliance requirements of an intervention to redress a market failure are extensive or where frequent and/or timely intervention is indispensable.

- (15) The application of the three criteria should limit the number of markets within the electronic communications sector where *ex ante* regulatory obligations are imposed and thereby contribute to the aim of the regulatory framework to reduce *ex ante* sector-specific rules progressively as competition in the markets develops. These criteria should be applied cumulatively, so that failure to meet any one of them would indicate that a market should not be identified as susceptible to *ex ante* regulation.
- (16) Regulatory controls on retail services should only be imposed where national regulatory authorities consider that relevant wholesale measures or measures regarding carrier selection or pre-selection would fail to achieve the objective of ensuring effective competition and the fulfilment of public interest objectives. By intervening at the wholesale level, including with remedies which may affect retail markets, EEA States can ensure that as much of the value chain is open to the normal competitive process as possible, thereby delivering the best outcomes for end-users. This Recommendation therefore mainly identifies wholesale markets, the appropriate regulation of which is intended to address a lack of effective competition that is manifest on end-user markets. Should a national regulatory authority demonstrate that wholesale interventions have been unsuccessful, the relevant retail market may be susceptible to *ex ante* regulation provided that the three criteria set out above are met.
- (17) On 17 December 2007, the European Commission issued a new Recommendation 2007/879/EC<sup>(1)</sup> on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with the Framework Directive.
- (18) The starting point for the revision of the Authority's Recommendation on relevant markets is the Commission's new Recommendation and the considerations of the Commission in the Explanatory Note to its Recommendation. In its revision process, the Authority has taken the approach that the comparison of market developments should be carried out against an EEA benchmark and not just taking into account the market situation within the individual EFTA States.

(<sup>1</sup>) OJ L 344, 28.12.2007, p. 65.

- (19) On the basis of market developments in the EFTA States as well as comments submitted in the public consultation and other information available to the Authority, it seems that the functioning of the three EFTA States electronic communication markets in general is not likely to deviate to a larger extent from the average functioning of the markets in the European Union or the whole of the EEA than the functioning of respective markets in individual EU Member States does in comparison with that average.
- (20) The objective of the EEA Agreement is to establish 'a dynamic and homogenous European Economic Area, based on common rules and equal conditions of competition' <sup>(1)</sup>. In light of this objective and the considerations above, the Authority adopts a Recommendation aligned to the Commission's Recommendation in order to ensure uniform application of the common regulatory framework and legal certainty for stakeholders within the electronic communications markets in the EEA. Therefore the number of markets susceptible to *ex ante* regulation is reduced in this Recommendation from 18 to 7 markets.
- (21) The reduction of the number of markets susceptible to *ex ante* regulation does not necessarily indicate that the removed markets are effectively competitive in each of the EFTA States and that *ex ante* regulation is no longer warranted for these markets. Contributions submitted to the Authority during the revision process claim that continued regulation might be justified in certain markets.
- (22) The markets listed in the Annex have been identified on the basis of the three cumulative criteria. For markets not listed in this Recommendation national regulatory authorities should apply the three-criteria test to the market concerned. For the markets in the Annex to Recommendation No 194/04/COL of 14 July 2004, which are not listed in the Annex to this Recommendation, national regulatory authorities should have the power to apply the three-criteria test in order to assess whether, on the basis of national circumstances, a market is still susceptible to *ex ante* regulation. For markets listed in this Recommendation a national regulatory authority may choose not to carry out a market analysis procedure if it determines that the three criteria are not satisfied for the particular market. National regulatory authorities may identify markets that differ from those listed in this Recommendation, provided that they act in accordance with Article 7 of the Framework Directive. Failure to notify a draft measure which affects trade between EFTA States as described in Recital 38 of the Framework Directive may result in infringement proceedings being taken against the State in question. Markets other than those listed in this Recommendation should be defined on the basis of competition principles laid down in the Authority's Notice on the definition of relevant market for the purposes of EEA competition law <sup>(2)</sup> and be consistent with the Authority's Guidelines on market analysis and the assessment of significant market power whilst satisfying the three criteria set out above.
- (23) The fact that this Recommendation identifies those product and service markets in which *ex ante* regulation may be warranted does not mean that regulation is always warranted or that these markets will be subject to the imposition of regulatory obligations set out in the specific Directives. In particular, regulation cannot be imposed or must be withdrawn if there is effective competition on these markets in the absence of regulation, that is to say, if no operator has significant market power within the meaning of Article 14 of the Framework Directive. Regulatory obligations must be appropriate and be based on the nature of the problem identified, proportionate and justified in the light of the objectives laid down in the Framework Directive, in particular maximising benefits for users, ensuring no distortion or restriction of competition, encouraging efficient investment in infrastructure and promoting innovation, and encouraging efficient use and management of radio frequencies and numbering resources.
- (24) The identification of markets in this Recommendation is without prejudice to market definitions in individual cases under competition law. Moreover, the scope of *ex ante* regulation is without prejudice to the scope of activities that may be analysed under competition law.
- (25) This Recommendation has been subject to a public consultation and to consultation with national regulatory authorities and other national authorities in the EFTA States.
- (26) This Recommendation should be interpreted in light of the Explanatory Note of the Commission's Recommendation 2007/879/EC on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with the Framework Directive. The Explanatory Note includes, inter alia, the description of evolving technologies in relation to the markets defined in the Recommendation,

HAS ADOPTED THIS RECOMMENDATION:

1. In defining relevant markets appropriate to national circumstances in accordance with Article 15(3) of the Act referred

<sup>(1)</sup> 4th consideration in the Preamble to the EEA Agreement.

<sup>(2)</sup> Decision of the EFTA Surveillance Authority No 46/98/COL of 4 March 1998 on the issuing of two notices in the field of competition on the definition of the relevant market for the purpose of competition law within the European Economic Area (EEA), and on agreements of minor importance which do not fall under Article 53(1) of the EEA Agreement (OJ L 200, 16.7.1998, p. 46 and EEA Supplement No 28, 16.7.1998, p. 1).

- to at point 5cl of Annex XI to the EEA Agreement, Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services, as adapted to the Agreement by Protocol 1 thereto and by the sectoral adaptations contained in Annex XI to that Agreement, national regulatory authorities should analyse the product and service markets identified in the Annex to this Recommendation.
2. When identifying markets other than those set out in the Annex, national regulatory authorities should ensure that the following three criteria are cumulatively met:
    - (a) the presence of high and non-transitory barriers to entry. These may be of a structural, legal or regulatory nature;
    - (b) a market structure which does not tend towards effective competition within the relevant time horizon. The application of this criterion involves examining the state of competition behind the barriers to entry;
    - (c) the insufficiency of competition law alone to adequately address the market failure(s) concerned.
  3. This Recommendation is without prejudice to market definitions, results of market analyses and regulatory obligations adopted by national regulatory authorities in accordance with Articles 15(3) and 16 of the Act referred to at point 5cl of Annex XI to the EEA Agreement and as adapted to the Agreement by Protocol 1 thereto and by the sectoral adaptations contained in Annex XI to that Agreement (Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services), prior to the date of adoption of this Recommendation.
  4. This Recommendation is addressed to the EFTA States.
- Done at Brussels, 5 November 2008.
- For the EFTA Surveillance Authority*
- |                                  |                                      |
|----------------------------------|--------------------------------------|
| Per SANDERUD<br><i>President</i> | Kurt JAEGER<br><i>College Member</i> |
|----------------------------------|--------------------------------------|
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## ANNEX

**Retail level**

1. Access to the public telephone network at a fixed location for residential and non-residential customers.

**Wholesale level**

2. Call origination on the public telephone network provided at a fixed location.

For the purposes of this Recommendation, call origination is taken to include call conveyance, delineated in such a way as to be consistent, in a national context, with the delineated boundaries for the market for call transit and for call termination on the public telephone network provided at a fixed location.

3. Call termination on individual public telephone networks provided at a fixed location.

For the purposes of this Recommendation, call termination is taken to include call conveyance, delineated in such a way as to be consistent, in a national context, with the delineated boundaries for the market for call origination and the market for call transit on the public telephone network provided at a fixed location.

4. Wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location.
5. Wholesale broadband access.

This market comprises non-physical or virtual network access including 'bit-stream' access at a fixed location. This market is situated downstream from the physical access covered by market 4 listed above, in that wholesale broadband access can be constructed using this input combined with other elements.

6. Wholesale terminating segments of leased lines, irrespective of the technology used to provide leased or dedicated capacity.
  7. Voice call termination on individual mobile networks.
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## V

*(Announcements)*

## ADMINISTRATIVE PROCEDURES

## COMMISSION

**Call for applications 'Consumer policy'***(2009/C 156/13)*

The call for applications for financial support to European consumer organisations in 2009 has been published on the Executive Agency for Health and Consumers' website at the following address:

[http://ec.europa.eu/eahc/consumers/consumers\\_calls.html](http://ec.europa.eu/eahc/consumers/consumers_calls.html)

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## PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMPETITION POLICY

### COMMISSION

#### Notice published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case COMP/B-1/39.316 — Gaz de France (gas market foreclosure)

(Text with EEA relevance)

(2009/C 156/14)

#### 1. INTRODUCTION

- (1) According to Article 9 of Council Regulation (EC) No 1/2003<sup>(1)</sup>, the Commission may decide — in cases where it intends to adopt a decision requiring that an infringement is brought to an end and the parties concerned offer commitments to address the concerns expressed to them by the Commission in its preliminary assessment — to make those commitments binding on the undertakings. Such a decision may be adopted for a specified period and shall conclude that there are no longer grounds for action by the Commission. According to Article 27(4) of the same Regulation, the Commission shall publish a concise summary of the case and the main content of the commitments. Interested parties may submit their comments within the time limit fixed by the Commission.

#### 2. SUMMARY OF THE CASE

- (2) On 22 June 2009 the Commission adopted a preliminary assessment pursuant to Article 9(1) of Regulation (EC) No 1/2003 concerning alleged infringements by Gaz de France Suez S.A. and its subsidiaries GRTgaz S.A. and Elengy S.A. (known jointly as 'GDF Suez') on the French gas markets.
- (3) According to the preliminary assessment, GDF Suez is a dominant player in the gas import and supply markets in the two balancing zones (North and South) of the GRTgaz transport network. The Commission's preliminary assessment is that GDF Suez may have abused its dominant position within the meaning of Article 82 of the EC Treaty by foreclosing access to gas import capacities in France, thereby restricting competition on the supply markets. The foreclosure is deemed to be a result of the long-term reservation of most of France's import capacity, the procedures for allocating import capacity in the new Fos Cavaou liquefied natural gas terminal, and the strategic limitation of investments in

additional import capacity in the Montoir de Bretagne liquefied natural gas terminal.

#### 3. THE MAIN CONTENT OF THE PROPOSED COMMITMENTS

- (4) GDF does not agree with the Commission's preliminary assessment. It has nevertheless offered commitments pursuant to Article 9 of Regulation (EC) No 1/2003 to address the Commission's competition concerns. The key elements of the commitments are summarised below (for details of all the points, see the text of the commitments).
- (5) From 1 October 2010, and for the remaining duration of GDF Suez' capacity bookings still to run at the date of notification of the decision which the Commission might adopt pursuant to Article 9(1) of Regulation (EC) No 1/2003, GDF Suez will sell to third parties firm long-term capacities at the Obergailbach (80 GWh/day) and Taisnières-H (10 GWh/day) entry points.
- (6) From 1 October 2010 GDF Suez will also sell to third parties equivalent upstream transport capacities running until 30 September 2027 at the Waidhaus entry point and the Medelsheim exit point; running until 30 September 2025 at the Zeebrugge entry point and the Blaregnies exit point and, at the request of the purchasers, running until 30 September 2018 on the Interconnector gas pipeline at the 'NBP exit' entry point and at the 'Zeebrugge IZT entry zone' exit point.
- (7) GDF Suez will also sell to third parties firm long-term capacities in the Montoir de Bretagne (1 Gm<sup>3</sup>/year from 1 October 2010, and 1 Gm<sup>3</sup>/year from 1 October 2011) and Fos Cavaou (2,175 Gm<sup>3</sup>/year from 1 January 2011<sup>(2)</sup>) liquefied natural gas terminals.

<sup>(1)</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

<sup>(2)</sup> Of which 0,175 Gm<sup>3</sup>/year will primarily benefit transporters having booked short-term capacities at the Fos Cavaou terminal.

- (8) From 1 October 2014 at the latest, and for a period of 10 years, GDF Suez will limit its capacity subscriptions to below 50 % of total firm long-term entry capacity of H-gas in the North and South balancing zones of the GRTgaz network and throughout French territory <sup>(1)</sup>.
- (9) Between 1 October 2014 and 1 October 2021, GDF Suez undertakes, with respect to the period from 1 October 2024 to 1 October 2029, to limit its capacity bookings of firm long-term entry capacities in H-gas in all infrastructure existing as of 1 October 2014 to less than 50 % of total firm long-term capacity available at this infrastructure.
- (10) Lastly, GDF Suez undertakes to continue, under close to identical conditions to the existing ones, with the swap between H-gas and L-gas supplied to GRTgaz so that the latter can ensure the continuation of the regulated conversion service from H-gas into L-gas.
- (11) An independent trustee will be asked to supervise the fulfilment of these commitments by GDF Suez.
- (12) The commitments are published in full, in French, on the website of the Directorate-General for Competition at: [http://ec.europa.eu/comm/competition/index\\_fr.html](http://ec.europa.eu/comm/competition/index_fr.html)

#### 4. INVITATION TO SUBMIT COMMENTS

- (13) The Commission intends, subject to market testing, to adopt a decision under Article 9(1) of Regulation

(EC) 1/2003 declaring the commitments summarised above and published on the Internet, on the website of the Directorate-General for Competition, to be binding.

- (14) In accordance with Article 27(4) of Regulation (EC) No 1/2003, the Commission invites interested third parties to submit their comments on the proposed commitments. Interested third parties are also asked to state in their comments whether they consider that the commitments which GDF Suez intends to make are likely to address the concerns raised. These comments must reach the Commission within the two months following the date of this Notice. Interested third parties are also asked to submit a non-confidential version of their comments, in which business secrets and other confidential passages are deleted and are replaced as required by a non-confidential summary or by the words 'business secrets' or 'confidential'. Legitimate requests will be respected.
- (15) Comments can be sent to the Commission under reference number COMP/B-1/39.316 — GDF (gas market foreclosure) either by e-mail (COMP-GREFFE-ANTITRUST@ec.europa.eu), by fax +32 22950128 or by post to the following address:

European Commission  
Directorate-General for Competition  
Antitrust Registry  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

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<sup>(1)</sup> For the purpose of the commitments, the gas entry points include all existing and future gas entry points in France, including the Spain-France entry point.

## OTHER ACTS

## COMMISSION

**Publication of an application pursuant to Article 8(2) of Council Regulation (EC) No 509/2006 on agricultural products and foodstuffs as traditional specialities guaranteed**

(2009/C 156/15)

This publication confers the right to object to the application pursuant to Article 9 of Council Regulation (EC) No 509/2006. Statements of objection must reach the Commission within six months from the date of this publication.

## APPLICATION FOR REGISTRATION OF A TSG

## COUNCIL REGULATION (EC) No 509/2006

## 'KABANOSY'

EC No: PL-TSG-0007-0050-22.01.2007

## 1. Name and address of the applicant group:

Name: Związek „Polskie Mięso”  
Address: ul. Chałubińskiego 8  
00-613 Warsaw  
POLSKA/POLAND  
Tel. +48 228302657  
Faks +48 228301648  
E-mail: info@polskie-mieso.pl

## 2. Member State or third country:

Poland

## 3. Product Specification:

## 3.1. Name(s) to be registered (Article 2 of Regulation (EC) No 1216/2007):

'Kabanosy'

## 3.2. Whether the name:

 is specific in itself expresses the specific character of the agricultural product or foodstuff

The name expresses the specific character of the product. In 19th century Poland and Lithuania the term 'kaban', or the diminutive form 'kabanek', referred to extensively reared young hogs which used to be fattened mainly with potatoes, and the meat they produced was customarily called 'kabanina'. 'Kabanos' is derived from the name used to designate these hogs.

## 3.3. Whether reservation of the name is sought under Article 13(2) of Regulation (EC) No 509/2006:

 Registration with reservation of the name Registration without reservation of the name

### 3.4. Type of product

Class 1.2. — Meat products (cooked, salted, smoked, etc.)

### 3.5. Description of the agricultural product or foodstuff to which the name under point 3.1 applies (Article 3(1) of Regulation (EC) No 1216/2007)

'Kabanosy' are long, thin sticks of dry sausage twisted off at one end and evenly wrinkled. The sticks are folded in two and in the curve there is an indent where they were hung.

The surface of the 'kabanosy' is dark red in colour with a cherry tint. A cross-section reveals dark red pieces of meat and cream-coloured fat.

The 'feel to the touch' is that of a smooth, dry and evenly wrinkled surface.

'Kabanosy' have a strong taste of cured, baked pork and a delicate, smoky aftertaste redolent of caraway and pepper.

Chemical composition:

- protein content — not less than 15,0 %
- water content — not more than 60,0 %
- fat content — not more than 35,0 %
- salt content — not more than 3,5 %
- nitrate (III) and nitrate (V) content expressed as  $\text{NaNO}_2$  — not more than 0,0125 %

The above chemical composition values ensure the traditional quality of the product. The finished product yield in relation to the meat used as a raw material must be less than 68 %.

### 3.6. Description of the production method of the agricultural product or foodstuff to which the name under point (3.1) applies (Article 3(2) of Commission Regulation (EC) No 1216/2007)

#### Ingredients

Meat (100 kg of raw material):

- Class I pork with a fat content of up to 15 % — 30 kg
- Class IIA pork with a fat content of up to 20 % — 40 kg
- Class IIB pork with a fat content of up to 40 % — 30 kg

Seasonings (per 100 kg of meat)

- natural pepper — 0,15 kg
- nutmeg — 0,05 kg
- caraway — 0,07 kg
- sugar — 0,20 kg

Other additives:

- curing mix (based on a mixture of table salt ( $\text{NaCl}$ ) and sodium nitrite ( $\text{NaNO}_2$ )) — about 2 kg

Feeding in the context of the production of pork intended for use in the making of 'kabanosy':

Feeding refers to fatty-meat fattening. The aim is to produce pigs with a bodyweight of up to 120 kg, characterised by a higher intramuscular fat content (more than 3 %).

- Fattening is based on late-maturing breeds, and an appropriate fattening regime makes it possible to achieve the desired intramuscular fat content. The breeds used for fattening do not carry the RN gene, and the RYR 1T gene is present in 20 % of the population.
- Fattening should be carried out in three phases — phase I up to about 60 kg, phase II up to about 90 kg, and phase III up to 120 kg.

- Fattening of animals up to 90 kg bodyweight is carried out using two types of feed mixes. The feed mixes (doses) contain:
  - as energy components: cereal middlings — wheat, barley, rye, oat, triticale or maize; maize middlings and middlings of naked oat varieties account for up to 30 % of mixes,
  - as protein components: — lupin, field bean and pea middlings, post-extraction soya meal, post-extraction rapeseed meal, rapeseed oil cake, fodder yeast or dried green fodder.
- Feed mixes (doses) for animals from 90 to 120 kg contain:
  - as energy components: wheat, barley, rye and triticale middlings. Maize middlings and middlings of naked oat varieties may not be used in mixes (doses),
  - as protein components: middlings of leguminous crops (lupin, field bean and pea), post-extraction soya meal, rapeseed oilcake or post-extraction rapeseed meal and dried green fodder.
- At no point in the feeding cycle may the following be used: vegetable oils, feed of animal origin, e.g. powdered milk, dried whey, fish meal.
- The metabolic energy content in mixes in all phases of fattening is 12-13 MJ of ME/kg of mix. The protein content in mixes should be around 16-18 % in the first phase of fattening, 15-16 % in the second phase, and about 14 % in the final phase.
- Doses for fatteners may be based on nutritive mixes alone, or nutritive mixes and bulk feed, i.e. potatoes and green fodder.

#### Stages in the production of 'kabanosy'

##### Stage 1

Preliminary cutting up of all meat ingredients. Ensuring that the pieces of meat are of a uniform size (about 5 cm in diameter).

##### Stage 2

Traditional curing (dry method) for about 48 hours, using a curing mix.

##### Stage 3

Class I meat is reduced to around 10 mm in size, Class IIA and Class IIB meat to around 8 mm in size.

##### Stage 4

Mixing of all meat ingredients and seasonings: natural pepper, nutmeg, caraway and sugar.

##### Stage 5

Stuffing into thin sheep casings of between 20 and 22 mm in diameter and twisting-off at one end of sticks of about 25 cm in length.

##### Stage 6

Settling at a temperature not exceeding 30 °C for two hours. Preliminary drying of the surface, 'settling' of the ingredients within the sticks.

##### Stage 7

Drying of the surface and traditional smoking in hot smoke (for about 150 minutes) and baking until a temperature of at least 70 °C is reached inside the sticks.

##### Stage 8

Smoking is stopped and the 'kabanosy' are left in the smoke room for about one hour, after which they are chilled and refrigerated to below 10 °C.

##### Stage 9

Drying at 14-18 °C and 80 % humidity for 3-5 days until the desired yield is obtained (not exceeding 68 %).

3.7. *Specific character of the agricultural product or foodstuff (Article 3(3) of Commission Regulation (EC) No 1216/2007)*

The specific character of 'kabanosy' derives from several attributes that are typical of the product:

- tenderness, succulence and specific properties of the meat
- exceptional taste and aroma
- uniform, characteristic shape.

**Tenderness, succulence and specific properties of the meat**

Pork from pigs of late-maturing breeds fattened to a bodyweight of about 120 kg and having the genetic traits described in point 3.6 is an essential ingredient of 'kabanosy' which influences the specific nature of the sausage. Compliance with these requirements yields an intramuscular fat content in excess of 3 %, ensuring that the meat possesses the appropriate gustatory and technological properties that are essential for the production of 'kabanosy'. The use of such raw materials and conformity to the traditional method of production, with special regard to the stages of mincing, curing and smoking, ensures that 'kabanosy' are exceptionally tender and succulent. Another characteristic of 'kabanosy' is the clearly audible noise they make when they are broken in two. This is the result of the meat's tenderness and the way in which 'kabanosy' are prepared, in particular, drying and smoking.

**Exceptional taste and aroma**

Their taste and aroma are the features which set 'kabanosy' apart from other sausages. These features are the result of the use in the production process of appropriately selected seasonings and the proportions thereof: natural pepper, nutmeg, caraway, sugar and the specific smoking process, which further enhances the product's flavour.

**Uniform, characteristic shape**

The specific character of 'kabanosy' is linked mainly to their unique shape. 'Kabanosy' are long, thin sticks of dry sausage twisted off at one end and evenly wrinkled.

3.8. *Traditional character of the agricultural product or foodstuff (Article 3(4) of Regulation (EC) No 1216/2007):*

**Traditional method of production and storage**

Kabanosy, or thin, dried and smoked pork sausages in sheep casings, were eaten throughout Poland as early as the 1920s and 1930s. They were produced in small, local butchers' establishments under the same name, but in different regional varieties. The main differences concerned the seasonings used, but also the quality of the sausages themselves. The cookery books and food publications of the day, like M. Karczewska's 'Wyrób wędlin i innych przetworów mięsnych sposobem domowym', published in Warsaw in 1937, provided recipes and helped to standardise production techniques for 'kabanosy', enabling brand consolidation and quality improvements. These sausages tasted good and preservation techniques like smoking and drying meant that they could be kept for long periods.

After 1945 standardisation was introduced in an attempt to improve product quality. 'Kabanosy' were officially released for consumption by the Decree of the Ministers for Provisions, Industry and Commerce of 15 September 1948 (Journal of Laws 1948/44, item 334). Technological and production aspects were subsequently standardised (Standard No RN-54/MPMIM1-Mięs-56 of 30 December 1954), and in 1964 the Polish Meat Industry Headquarters in Warsaw issued a standard recipe for 'Kabanosy' based on traditional production methods (Internal Regulations No 21).

'Kabanosy' were extremely popular during Communist times (1945-1989); everybody used to buy them. They graced elegant tables on special occasions and were equally suitable as picnic food for travellers, as gifts or as a snack with vodka. Together with ham and bacon, they also became a Polish export speciality.



#### Traditional ingredient — pork

'Kabanosy' are made from specially fattened hogs which used to be known as 'kabany'. The term 'kaban' features in the 1834 epic poem 'Pan Tadeusz' by Poland's national bard Adam Mickiewicz. Originally used to refer to wild boars, hogs and even horses, by the 19th century, according to the 1863 Encyklopedyja Powszechna, Volume 13, the term was universally used to designate a well fed, fat young hog. The hogs were specially fattened up to obtain delicate, exquisite meat with a high intramuscular fat content which gave the products made from it a strong, specific taste, tenderness and succulence. The term 'kabanina', derived from 'kaban', was also widely used. According to the definition in the Polish dictionary published in Vilnius in 1861, it usually referred to pork.

The meat of pigs kept for the production of 'kabanosy' must have an intramuscular fat content of more than 3 %; this is the marbling that confers on the product the desired tenderness, succulence and excellent taste. The use of such meat has a decisive influence on the quality of the final product and its specific character, and is in keeping with the traditional method of production.

#### 3.9. Minimum requirements and procedures to check the specific character (Article 4 of Regulation (EC) No 1216/2007)

With regard to the specific character of 'kabanosy', the following in particular should be subjected to checks:

##### 1. Quality of raw materials used in production (pork, seasonings), including:

- technological suitability of the meat,
- type of fattening,
- curing time,
- seasonings used in the production of 'kabanosy' and the proportions in which they are used.

##### 2. 'Kabanosy' smoking process

In the course of an inspection, the following must be checked:

- maintenance of the temperature required for traditional smoking in hot smoke and the heating temperature,
- maintenance of the duration and temperature of repeat smoking in cold smoke,
- use of beech chips for smoking in cold smoke.

##### 3. Quality of the finished product:

- protein content,
- water content,
- fat content,
- sodium chloride content,
- nitrate (III) and nitrate (V) content,
- taste and aroma.

##### 4. Shape of the product.

##### Frequency of checks

Checks on the above-mentioned stages must be carried out once every two months. If all these stages are proceeding correctly, the frequency of the checks may be reduced to two per year.

If irregularities occur at any stage, the frequency of checks on that stage must be increased (to once every two months). Checks on other stages may be carried out once every six months.

#### 4. Authorities or bodies verifying compliance with the product specification

##### 4.1. Name and address

Name: Główny Inspektorat Jakości Handlowej Artykułów Rolno-Spożywczych  
Address: ul. Wspólna 30  
00-930 Warsaw  
POLSKA/POLAND  
Tel. +48 226232901  
Faks +48 226232099  
E-mail: —

Public  Private

##### 4.2. Specific tasks of the authority or body

The above inspection authority is responsible for checks on the entire specification.

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

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