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Price:
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⁽¹⁾ Text with EEA relevance

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Authorisation for State aid pursuant to Articles 107 and 108 TFEU

Cases where the Commission raises no objections

(2010/C 16/01)

Date of adoption of the decision	11.12.2009
Reference number of State Aid	N 312/09
Member State	Spain
Region	Navarra
Title (and/or name of beneficiary)	Ayudas al fomento de medidas agroambientales en el cultivo de la patata de siembra
Legal basis	Orden Foral de la Consejera de Desarrollo Rural y Medio Ambiente, por la que se aprueban las normas reguladoras para la concesión de ayudas al fomento de medidas agroambientales en el cultivo de la patata de siembra
Type of measure	Aid scheme
Objective	Aid to the agro-environmental measures
Form of aid	Direct grant
Budget	Annual expenditure: EUR 200 000 Overall amount: EUR 1 million
Intensity	Max. EUR 600/ha
Duration (period)	2009-2013
Economic sectors	Agricultural sector
Name and address of the granting authority	Departamento de Desarrollo rural y Medio Ambiente del Gobierno de Navarra C/ Tudela, 20 31003 Pamplona (Navarra) ESPAÑA
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/state_aids_texts_en.htm

Date of adoption of the decision	11.12.2009
Reference number of State Aid	N 395/09
Member State	Spain
Region	Castilla y León
Title (and/or name of beneficiary)	Ayudas a la implantación del cultivo del lúpulo
Legal basis	Proyecto de Orden ayg/.../2009, de ... de ..., por la que se establecen las bases reguladoras de la concesión de las ayudas para la implantación del cultivo del lúpulo en la comunidad de Castilla y León
Type of measure	Aid scheme
Objective	Aid for investments
Form of aid	Direct grant
Budget	Overall amount: EUR 4,25 million
Intensity	— 50 % of eligible investments in less favoured areas or in areas referred to in Article 36(a)(i), (ii) and (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, — 40 % of eligible investments in other regions.
Duration (period)	2009-2013
Economic sectors	Agricultural sector
Name and address of the granting authority	Consejería de Agricultura y Ganadería C/ Rigoberto Cortejoso, 14, 6ª planta C.P. 47014 Valladolid (Valladolid) Castilla-Leon ESPAÑA
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/state_aids_texts_en.htm

Date of adoption of the decision	10.12.2009
Reference number of State Aid	N 482/09
Member State	Slovak Republic
Region	—
Title (and/or name of the beneficiary)	Obnova potenciálu lesného hospodárstva a zavedenie preventívnych opatrení
Legal basis	Zákon č. 528/2008 Z. z. o pomoci a podpore poskytovanej z fondov Európskeho spoločenstva Zákon č. 231/1999 Z. z. o štátnej pomoci v znení neskorších predpisov Zákon č. 523/2004 Z. z. o rozpočtových pravidlách verejnej správy a zmene a doplnení niektorých zákonov Zákon č. 326/2005 Z. z. o lesoch v znení neskorších predpisov

Type of measure	Scheme
Objective	Forestry
Form of aid	Direct grant
Budget	Total budget of EUR 126,60 million Annual budget: EUR 23,32 million
Intensity	100 % of eligible expenses
Duration (period)	Date of Commission approval until 31 December 2013
Economic sectors	Forestry
Name and address of the granting authority	Ministerstvo pôdohospodárstva SR Dobrovičova 12 812 66 Bratislava SLOVENSKO/SLOVAKIA
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/state_aids_texts_en.htm

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Non-opposition to a notified concentration**(Case COMP/M.5672 — CANON/OCE)****(Text with EEA relevance)**

(2010/C 16/02)

On 22 December 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 32009M5672. EUR-Lex is the on-line access to the European law.
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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

COUNCIL DECISION

of 18 January 2010

appointing two members of the Management Board of the European Chemicals Agency

(2010/C 16/03)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency⁽¹⁾, and in particular Article 79 thereof,

Whereas:

- (1) Article 79 of Regulation (EC) No 1907/2006 provides that the Council should appoint as Members of the Management Board of the European Chemicals Agency one representative from each Member State.
- (2) By Decision of 7 June 2007⁽²⁾ the Council appointed 27 members of the Management Board of the European Chemicals Agency.
- (3) By Decision of 15 November 2007⁽³⁾ the Council, at the request of the Belgian Government, replaced the Belgian representative on the Management Board.

(4) The Belgian Government has informed the Council of its intention to replace the Belgian representative on the Management Board and has submitted a nomination for a new representative, who should be appointed for a period which runs until 31 May 2011.

(5) The United Kingdom Government has informed the Council of its intention to replace the United Kingdom representative on the Management Board and has submitted a nomination for a new representative, who should be appointed for a period which runs until 31 May 2011,

HAS ADOPTED THIS DECISION:

Article 1

Mr Helmut DE VOS of Belgian nationality, born on 25 February 1978, shall be appointed member of the Management Board of the European Chemicals Agency in place of Mr Marc LEEMANS for the period from 23 January 2010 to 31 May 2011.

Article 2

Mr Arwyn DAVIES of British nationality, born on 17 January 1957, shall be appointed member of the Management Board of the European Chemicals Agency in place of Mr John ROBERTS for the period from 23 January 2010 to 31 May 2011.

Article 3

This Decision shall enter into force on the date of its adoption.

⁽¹⁾ OJ L 396, 30.12.2006, p. 1. Corrected version in OJ L 136, 29.5.2007, p. 3.

⁽²⁾ OJ C 134, 16.6.2007, p. 6.

⁽³⁾ OJ C 280, 23.11.2007, p. 2.

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 18 January 2010.

For the Council
The President
E. ESPINOSA

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

21 January 2010

(2010/C 16/04)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,4064	AUD	Australian dollar	1,5463
JPY	Japanese yen	129,14	CAD	Canadian dollar	1,4740
DKK	Danish krone	7,4426	HKD	Hong Kong dollar	10,9265
GBP	Pound sterling	0,87000	NZD	New Zealand dollar	1,9590
SEK	Swedish krona	10,1375	SGD	Singapore dollar	1,9725
CHF	Swiss franc	1,4723	KRW	South Korean won	1 599,54
ISK	Iceland króna		ZAR	South African rand	10,5954
NOK	Norwegian krone	8,1455	CNY	Chinese yuan renminbi	9,6012
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,2977
CZK	Czech koruna	25,979	IDR	Indonesian rupiah	13 127,00
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,7501
HUF	Hungarian forint	270,43	PHP	Philippine peso	64,685
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	41,8618
LVL	Latvian lats	0,7088	THB	Thai baht	46,418
PLN	Polish zloty	4,0545	BRL	Brazilian real	2,5117
RON	Romanian leu	4,1275	MXN	Mexican peso	17,8760
TRY	Turkish lira	2,0778	INR	Indian rupee	64,7500

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

Opinion of the Advisory Committee on mergers given at its meeting of 21 August 2009 regarding a draft decision relating to Case COMP/M.5440 — Lufthansa/Austrian Airlines

Rapporteur: United Kingdom

(2010/C 16/05)

1. The Advisory Committee agrees with the Commission that the notified transaction constitutes a concentration within the meaning of Article 3(1)(b) of the EC Merger Regulation.
2. The Advisory Committee agrees with the Commission that the notified transaction has a Community dimension pursuant to Article 1(2) of the EC Merger Regulation.
3. The Advisory Committee agrees with the Commission that the markets for scheduled passenger air transport services are to be defined on the basis of point of origin/point of destination (O&D) city pairs.
4. The Advisory Committee agrees with the Commission that, for the purpose of making a competition assessment of this proposed transaction, the acquisition of Austrian Airlines by Air France-KLM is the most likely foreseeable alternative counterfactual (if the proposed acquisition by Lufthansa of Austrian Airlines were to fail) to the pre-merger situation.
5. The Advisory Committee agrees with the Commission's assessment that the notified transaction, as originally proposed by the notifying party, raises serious doubts as to its compatibility with the common market or a substantial part of it with respect to passenger air transport on the following routes:
 - (a) Vienna-Stuttgart;
 - (b) Vienna-Cologne;
 - (c) Vienna-Munich;
 - (d) Vienna-Frankfurt; and
 - (e) Vienna-Brussels.
6. The Advisory Committee agrees with the Commission's assessment that the implementation of the commitments submitted on 31 July 2009 by the notifying party will lead to timely market entry by one or more airlines into, and thereby sufficiently resolve the competition concerns identified with respect to, the supply of passenger air transport services on the following routes:
 - (a) Vienna-Stuttgart;
 - (b) Vienna-Cologne;
 - (c) Vienna-Munich;
 - (d) Vienna-Frankfurt; and
 - (e) Vienna-Brussels.
7. The Advisory Committee agrees with the Commission's assessment that the notified transaction would not significantly impede effective competition with respect to the markets for passenger air transport on other routes.

-
8. The Advisory Committee agrees with the Commission's assessment that the notified transaction would not significantly impede effective competition with respect to the following markets:
- (a) the markets for air transport of cargo;
 - (b) the markets for wholesale supply of airline seats to tour operators;
 - (c) the markets for maintenance, repair and overhaul (MRO) services;
 - (d) the market for in-flight catering; and
 - (e) the markets for ground-handling services.
9. The Advisory Committee agrees with the Commission that the notified transaction should be declared compatible with the common market and with the functioning of the EEA Agreement in accordance with Article 8(2) of the Merger Regulation and Article 57 of the EEA Agreement, subject to compliance with the commitments set out in the Annex to the Commission's Decision.
-

Final Report of the Hearing Officer in Case COMP/M.5440 — Lufthansa/Austrian Airlines

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

(2010/C 16/06)

On 8 May 2009, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 (Merger Regulation) by which the undertaking Deutsche Lufthansa AG (LH) acquires sole control of the undertaking Austrian Airlines (OS) by way of purchase of shares.

After examination of the notification, the Commission concluded on 1 July 2009 that the notified operation fell within the scope of the Merger Regulation and that it raised serious doubts as to its compatibility with the common market and the Agreement on the European Economic Area (EEA Agreement). The Commission therefore initiated proceedings in accordance with Article 6(1)(c) of the Merger Regulation.

LH did not request access to the key documents in the file.

LH submitted remedy proposals on 10 and 17 July 2009 with a view to rendering the concentration compatible with the common market which were considered insufficient by the Commission. On 27 July 2009 LH submitted improved commitments that were market tested by the Commission. The finalised version of the remedy proposal was sent on 31 July 2009.

The Commission has concluded that the commitments are sufficient to remove the serious doubts raised by the concentration. Accordingly, subject to the full compliance with the commitments submitted by the notifying party, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement.

No queries or submissions have been made to me by the parties or any third party. The case does not call for any particular comments as regards the right to be heard.

Brussels, 26 August 2009.

Karen WILLIAMS

**Summary of Commission Decision
of 28 August 2009
declaring a concentration compatible with the common market and EEA Agreement**

(Case COMP/M.5440 — Lufthansa/Austrian Airlines)

(notified under document C(2009) 6690 final)

(Only the English text is authentic)

(Text with EEA relevance)

(2010/C 16/07)

On 28 August 2009 the Commission adopted a Decision in a merger case under Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings⁽¹⁾, and in particular Article 8(2) of that Regulation. A non-confidential version of the full Decision can be found in the authentic language of the case and in the working languages of the Commission on the website of the Directorate-General for Competition, at the following address:

http://ec.europa.eu/comm/competition/index_en.html

I. INTRODUCTION

1. On 8 May 2009, the Commission received a notification of a proposed concentration by which the undertaking Deutsche Lufthansa AG ('LH') acquires sole control of the undertaking Austrian Airlines ('OS') by way of purchase of shares.

reichische Industrieholding Aktiengesellschaft ('ÖIAG'). In addition, on 27 February 2009, LH launched a public offer for all remaining free-floating shares in OS, for which it received more than the required amount of declarations of acceptance. Together with the ÖIAG share LH will be able to acquire at least 85 % of the shares of OS.

II. EXPLANATORY MEMORANDUM

A. The parties

2. **LH** is the largest German airline. It provides scheduled passenger and cargo air transport and related services. It has hubs at Frankfurt International Airport and Munich airport and a base at Düsseldorf airport. LH also controls Swiss International Air Lines Ltd ('LX'), based at Zurich airport, Air Dolomiti, Eurowings, and the low-cost carrier Germanwings. In 2009, the acquisitions by LH of sole control over British Midland ('BMI') (without conditions) and over Brussels Airlines ('SN') (subject to conditions) were approved by the Commission and implemented by LH. Both LH and LX are members of the Star Alliance.
3. **OS** is the largest Austrian airline with a principal hub in Vienna. It provides scheduled passenger and cargo air transport and related services. It is a member of the Star Alliance and its subsidiaries include Lauda Air and Tyrolean Airways.

B. The transaction

4. LH intends to acquire sole control over OS. On 5 December 2008, in the context of the privatisation process of OS, LH agreed to indirectly acquire a 41,56 % shareholding in OS from the publicly owned Öster-

C. Community dimension

5. The notified concentration has a Community dimension within the meaning of Article 1(2) of the Merger Regulation.

D. Procedure

6. Based on the results of the first phase market investigation, the Commission concluded that the proposed transaction raised serious doubts as to its compatibility with the common market due to competition concerns identified with respect to passenger air transport on several routes. On 10 June 2009 and 18 June 2009, the parties submitted commitments which, however, proved not sufficient to eliminate the serious doubts identified by the Commission. On 1 July 2009, the Commission adopted a decision to initiate proceedings under Article 6(1)(c) of the Merger Regulation.
7. On 10 July 2009, 17 July 2009, 27 July 2009 and 31 July 2009 LH submitted further commitments in order to enable the Commission to declare the concentration compatible with the common market under Articles 8(2) and 10(2) of the Merger Regulation. The final set of commitments concerns in particular the release and transfer of a number of slots at the airports in Vienna, Stuttgart, Cologne, Munich, Frankfurt and Brussels.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

E. Markets for scheduled air transport of passengers

1. The relevant product and geographic markets

8. The parties' passenger air transport activities overlap horizontally on a number of routes which can be grouped as follows: (i) short-haul routes connecting Austria to Germany, Switzerland, Belgium and the UK with direct overlaps; and (ii) routes with direct-indirect or indirect-indirect overlaps.
9. The market investigation confirmed the Commission's practice in previous cases where the relevant market for scheduled air transport of passengers was based on the 'point of origin/point of destination' ('O&D') city-pair approach, whereby all substitutable airports are included in the respective points of origin and points of destination.
10. The Commission further investigated the issue of airport substitutability between Vienna International Airport Schwechat and Bratislava Airport, Frankfurt International Airport and Frankfurt Hahn Airport, Cologne-Bonn Airport and Düsseldorf International Airport, and Brussels National Airport Zaventem and Brussels South Charleroi Airport.
11. With respect to the distinction between time-sensitive and non time-sensitive passengers, the market investigation confirmed the existence of a special demand of time-sensitive passengers. The effects of the present transaction have been assessed for time-sensitive passengers, and for all passengers on a given route.
12. The market investigation confirmed the Commission's practice in previous cases that for short-haul routes (flights up to three hours) indirect flights generally do not constitute a competitive alternative to direct flights.

2. Treatment of alliance partners

13. Both LH and OS are members of the Star Alliance. LH's and OS' alliance partners have not been taken into account for the determination of affected markets, since LH's cooperation agreements will not be automatically extended to OS and *vice versa*. With respect to the competitive analysis on the affected markets, the relationships between the alliance partners and the impact on their incentive to compete against each other post-transaction have been assessed on a route-by-route basis.

3. *Relevant counterfactual for the routes where the parties have been cooperating*

14. The relevant counterfactual for the assessment of the effects of the proposed transaction on competition is either (a) the pre-merger cooperation between LH and OS; or (b) the most likely future development if the proposed acquisition of OS by LH were to fail.
15. As regards the pre-merger cooperation between the parties, in particular the cost and revenue sharing joint venture between the parties on all routes between Germany and Austria has been considered. This joint venture was initially exempted by the Commission under Article 81(3) of the EC Treaty subject to conditions. After the expiry of the exemption decision and under the new procedural rules, notably Regulation (EC) No 1/2003⁽¹⁾, the parties carried out a self-assessment. The current cooperation is based on contractual agreements that can be amended or terminated at any moment which is different from the structural change that would be created by a merger. With regard to the Austria-Germany routes the present transaction would change the parties' contractual cooperation into a permanent structural link.
16. In case the present transaction fails, the most likely future development appears to be, on the basis of the information available to the Commission, the acquisition of OS by another airline, and more specifically by Air France-KLM. OS would then terminate its pre-merger cooperation with LH as well as its Star Alliance membership and would join Sky Team.
17. On those routes where the proposed concentration does not raise serious doubts as to its compatibility with the common market this is the case under both counterfactual situations. The Commission found that the proposed concentration raises serious doubts as to its compatibility with the common market with respect to the Vienna-Stuttgart, Vienna-Cologne, Vienna-Frankfurt and Vienna-Brussels routes under both counterfactual situations and, under the Air France counterfactual, also for the Vienna-Munich route. The question of whether the creation of a permanent structural link between LH and OS as such raises serious doubts with respect to the Vienna-Munich route can be left open, as the serious doubts identified for this route under the Air France-KLM counterfactual will be removed by the commitments offered by the parties. Ultimately, for the purpose of the present case, the question of which of these two situations constitutes the relevant counterfactual for the assessment of the present transaction can therefore be left open.

⁽¹⁾ 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).

4. Route-by-route assessment

4.1. Routes between Austria and Germany

18. On the **Vienna-Stuttgart route** (approximately [300 000-350 000] passengers per year, out of which around [250 000-300 000] are 'O&D' passengers) the Commission found that OS and Germanwings actually compete with each other and that the transaction would lead to a monopoly. Hence, on the Vienna-Stuttgart route the transaction as initially notified raises serious doubts as to its compatibility with the common market.

Airline	SS 08 figures		WS 08/09 figures	
	Time sensitive	All passengers	Time sensitive	All passengers
LH	[10-20] %	[10-20] %	[10-20] %	[10-20] %
OS	[10-20] %	[10-20] %	[5-10] %	[10-20] %
Germanwings	[60-70] %	[60-70] %	[70-80] %	[70-80] %
Combined	100 %	100 %	100 %	100 %

Source: Estimates of the notifying party on the basis of MIDT data. Unless indicated otherwise, all market shares mentioned hereinafter are MIDT data provided by the notifying party.

19. On the **Vienna-Cologne route** (approximately [250 000-300 000] passengers per year, out of which [250 000-300 000] are O&D passengers), the Commission found that OS and Germanwings actually compete with each other and that the merger would lead to a monopoly. TUIfly plans to start operations on this route, but as TUIfly is in the process of being divested, it is yet unclear whether and to what extent TUIfly will exercise a competitive constraint on the parties. In view of the above, on the Vienna-Cologne route the transaction as initially notified raises serious doubts as to its compatibility with the common market at least for time sensitive passengers.

Airline	SS 08 figures		WS 08/09 figures	
	Time sensitive	All passengers	Time sensitive	All passengers
LH	[5-10] %	[0-5] %	[5-10] %	[0-5] %
OS	[5-10] %	[5-10] %	[5-10] %	[5-10] %
Germanwings	[80-90] %	[80-90] %	[80-90] %	[80-90] %
Others	[0-5] %	[0-5] %	0 %	0 %
Combined	100 %	100 %	100 %	100 %

20. The **Vienna-Munich route** ([350 000-400 000] passengers, out of which [200 000-250 000] are O&D passengers), which is a hub-to-hub route, is operated both by LH and OS, and their competitor Niki Luftfahrt GmbH ('Niki'). The market investigation has by and large confirmed the market share data provided by the parties. The combined market share of the parties is significant, and the constraint exercised by Niki can be considered only as limited, in particular for time-sensitive passengers. Intermodal competition by train cannot be considered a strong constraint, either. On the basis of the Air France-KLM counterfactual, the transaction would eliminate at least potential competition between the parties. Moreover, barriers to entry with respect to slots both in Vienna and in Munich are significant. In view of the above, on the Vienna-Munich route the transaction as initially notified raises serious doubts as to its compatibility with the common market under the Air France-KLM counterfactual.

Airline	SS 08 figures		WS 08/09 figures	
	Time sensitive	All passengers	Time sensitive	All passengers
LH	[50-60] %	[30-40] %	[40-50] %	[30-40] %
OS	[20-30] %	[20-30] %	[20-30] %	[10-20] %
Combined LH+OS	[70-80] %	[50-60] %	[70-80] %	[50-60] %
Niki	[20-30] %	[40-50] %	[20-30] %	[30-40] %
Air Berlin	0 %	0 %	0 %	[10-20] %
Others	[0-5] %	[0-5] %	[0-5] %	[0-5] %
Combined all	100 %	100 %	100 %	100 %

21. The **Vienna-Frankfurt** route (with over [600 000-650 000] passengers in 2008 out of which around [400 000-450 000] are O&D passengers) is a hub-to-hub route and is operated by both LH and OS. In addition, LH code-shares on flights operated by Adria Airways, a Star Alliance member. Other competitors are Niki and Air Berlin (who code-shares on Niki's flights). The market investigation has by and large confirmed the market share data provided by the parties. On the basis of the pre-merger counterfactual, the transaction would eliminate actual competition on the route as it would lead to Niki's exit (Niki's slots are leased from LH on the basis of LH's self-assessment under Article 81 of the EC Treaty of the cost and revenue sharing joint venture, and Niki would have to hand them back in case the joint venture between LH and OS would be terminated, for instance by means of a merger). On the basis of the Air France-KLM counterfactual, the transaction would eliminate potential competition between the parties.
22. The only remaining competitor on the Vienna-Frankfurt route would be Adria Airways who would not exercise a sufficient constraint on LH/OS as also its slots in Frankfurt are leased from LH and it depends on the code-share with LH. Moreover, even if Niki is taken into account, it does not constitute a strong constraint on the parties. On this route neither flights on Bratislava-Frankfurt-Hahn nor intermodal competition by train can be considered as a sufficient constraint. The barriers to entry are particularly high, as the slot capacity in Frankfurt is exhausted during the whole day, and the presence of LH is very significant. In light of the above, it is concluded that on the Vienna-Frankfurt route the transaction as initially notified raises serious doubts as to its compatibility with the common market.

Airline	SS 08 figures		WS 08/09 figures	
	Time sensitive	All passengers	Time sensitive	All passengers
LH	[50-60] %	[30-40] %	[50-60] %	[40-50] %
OS	[20-30] %	[20-30] %	[20-30] %	[20-30] %
Combined LH+OS	[70-80] %	[60-70] %	[70-80] %	[60-70] %
Adria Airways	[0-5] %	[0-5] %	[0-5] %	[0-5] %
Niki	[20-30] %	[20-30] %	[20-30] %	[20-30] %
Air Berlin	0 %	[5-10] %	0 %	[5-10] %
Others	[0-5] %	[0-5] %	[0-5] %	[0-5] %
Combined all	100 %	100 %	100 %	100 %

23. On other investigated routes between Austria and Germany (Vienna-Berlin, Vienna-Düsseldorf, Vienna-Hamburg, Vienna-Hanover, Vienna-Nurnberg, Munich-Linz, Vienna-Dresden, Vienna-Leipzig, Salzburg-Düsseldorf, Graz-Düsseldorf, Linz-Düsseldorf, Innsbruck-Frankfurt, Salzburg-Frankfurt, Innsbruck-Hamburg, Klagenfurt-Munich, Graz-Frankfurt, Graz-Munich, Graz-Stuttgart and Linz-Frankfurt) the transaction does not give rise to competition concerns, regardless of the counterfactual situation, as it would not significantly impede effective competition on these routes.

4.2. Routes between Austria and Switzerland

24. The transaction does not raise serious doubts as to its compatibility with the common market as it would not significantly impede effective competition on the routes between Austria and Switzerland, namely Vienna-Basel, Vienna-Geneva and Vienna-Zurich.

4.3. Vienna-Brussels

25. On the **Vienna-Brussels** route, some [250 000-300 000] O&D and [350 000-400 000] total passengers travelled in 2008. Besides OS and SN, SkyEurope, a low-cost carrier, operates one daily frequency on this route. SkyEurope does not constitute a strong competitive constraint on the parties. Ryanair's flights on the Bratislava-Charleroi route cannot be considered as a sufficient competitive constraint on the merged entity. Accordingly, on the Brussels-Vienna route the transaction as initially notified raises serious doubts as to its compatibility with the common market.

Airline	SS 08 figures		WS 08/09 figures	
	Time sensitive	All passengers	Time sensitive	All passengers
SN	[0-5] %	[20-30] %	[0-5] %	[20-30] %
OS	[50-60] %	[30-40] %	[60-70] %	[40-50] %
BMI	[0-5] %	0 %	[0-5] %	[0-5] %
Combined	[50-60] %	[50-60] %	[60-70] %	[60-70] %
SkyEurope	[40-50] %	[40-50] %	[30-40] %	[30-40] %

Source: Estimates of the parties on the basis of MIDT data. The market share of the parties for SN's time-sensitive passengers appears considerably underestimated as SN did not offer any business class tickets and SN's flexible 'b.flex economy+' ticket sales are not taken into account in the parties' estimate, while at the same time the market share of SkyEurope appears highly overestimated given that it has only one daily frequency.

4.4. Vienna-London

26. The transaction does not raise serious doubts as to its compatibility with the common market as it would not significantly impede effective competition on the Vienna-London route.

4.5. Direct-indirect and indirect-indirect overlaps

27. The transaction does not raise serious doubts as to its compatibility with the common market as it would not significantly impede effective competition on any routes with direct-indirect or indirect-indirect overlaps between the parties.

5. Conclusion

28. In view of all these circumstances, the Commission concluded that the concentration, as originally notified raises serious doubts as to its compatibility with the

common market because it would likely lead to a significant impediment to effective competition on the Vienna-Stuttgart, Vienna-Cologne, Vienna-Munich, Vienna-Frankfurt and Vienna-Brussels routes. The transaction does not raise competition concerns on the other affected routes.

F. Other affected markets

29. With respect to horizontally affected markets for the air transport of cargo and for the sale of airline seats to tour operators, the Commission concluded that the proposed transaction does not significantly impede effective competition on any of these markets.
30. With respect to vertically affected markets for maintenance, repair and overhaul (MRO) services, in-flight catering, and ground handling services, the Commission concluded that the proposed transaction does not significantly impede effective competition on any of these markets.

G. Impact of State aid granted to OS on effective competition

31. OS is currently encountering financial difficulties. On 19 January 2009, the Commission approved rescue aid in the form of a 100 % guarantee on a loan amounting to EUR 200 million for OS. Parallel to the assessment of the transaction under the Merger Regulation, the Commission has assessed the conditions of LH's intended acquisition of Austria's shareholding in OS and a EUR 500 million capital increase, which ÖIAG intends to provide to OS, under the State aid rules of the Treaty.

H. Proposed commitments

32. LH submitted commitments to offer slots, free of charge, within 20 minutes of the requested time, at the airports in Vienna, Stuttgart, Cologne, Munich, Frankfurt and Brussels on each of the five routes on which the Commission identified serious doubts (Identified City Pairs): up to three frequencies per day on the Vienna-Stuttgart route, up to three frequencies per day on the Vienna-Cologne route (but not more than 18 frequencies per week), up to four frequencies per day on the Vienna-Munich route, up to five frequencies per day on the Vienna-Frankfurt route, and up to four frequencies per day on the Vienna-Brussels route (but not more than 24 frequencies per week). Existing slots of competitors may be counted against the number of slots to be made available.
33. On the Vienna-Frankfurt and Vienna-Munich routes, Niki shall be able to exchange its current slots for slots at different times, and on the Vienna-Frankfurt route, it shall be entitled to acquire grandfathering rights for the slots it currently leases from LH. The proposed commitments provide also for a slot allocation procedure that facilitates the schedule planning of new entrants. The new entrant (except for Star Alliance members as new entrants) will obtain grandfather rights over the slots once it has operated on the relevant Identified City Pair(s) during two full consecutive IATA Seasons except for the Vienna-Frankfurt route, on which the operation during eight consecutive IATA seasons is required. The commitments further offer a new entrant the possibility to enter into a special prorata and code-share agreement allowing it to place its codes on flights with a true origin and destination in either Austria, Germany and/or Belgium, provided that part of the journey involves the Identified City Pairs; and

the possibility to conclude interlining and intermodal agreements, as well as frequent flyer programme access agreements.

I. Assessment of the proposed commitments

34. The commitments submitted by the Parties constitute a comprehensive package which takes into consideration past experience with remedies in merger cases in the aviation sector. The commitments take account of the fact that slot congestion is an important entry barrier on the problematic routes in this case. In light of this, they are designed to remove this barrier and foster entry on the routes where competition concerns have been identified.
35. The commitments were market tested with customers and competitors of the parties and other market participants. The large majority of respondents to the market test confirmed that the proposed commitments would overall sufficiently facilitate entry or expansion on the Identified City Pairs and would solve the competition concerns raised by the proposed concentration. Three respondents to the market test replied that they would consider entry into the Identified City Pairs. The Commission concluded that the commitments are likely to lead to entry or expansion by one or several airlines on the Identified City Pairs in a timely manner, and thereby constrain the merged entity and remove the serious doubts identified.

J. Conclusion

36. The concentration as originally notified would significantly impede effective competition in the common market or in a substantial part of the common market. The notifying party, however, submitted a set of remedies to remove the competition concerns identified. The Commission therefore concluded that the concentration as modified by the commitments would not lead to a significant impediment to effective competition, subject to the implementation of the commitments submitted by the notifying party.
37. Consequently, the concentration is compatible with the common market and the functioning of the EEA Agreement pursuant to Article 8(2) of the Merger Regulation and Article 57 of the EEA Agreement, subject to compliance with the commitments set out in the Annex to the Commission's Decision.

Summary of Commission Decision
of 3 August 2009
repealing Commission Decision C(2006) 412 of 15 February 2006

(notified under document C(2009) 6055 final)

(Only the English text is authentic)

(Text with EEA relevance)

(2010/C 16/08)

On 15 February 2006, the Commission adopted a decision relating to a sanction imposed on Sellafield Limited (then called British Nuclear Group Sellafield Limited) pursuant to Article 83(1)(a) of the Euratom Treaty ('the 2006 Decision'). The Commission herewith publishes the main content of the decision of 3 August 2009, without prejudice to the full effect of the decision itself.

- (1) In accordance with Chapter VII of the Euratom Treaty, the Commission controls the accounting of nuclear materials in the Community. The 2006 Decision was limited to issues of the adequacy of the accounting and reporting procedures in place at the Sellafield site.

nities (CFI) requesting the annulment of the Commission Decision of 15 February 2006. Pursuant to Article 83(2), second subparagraph of the Euratom Treaty, the legal effects of the Commission Decision of 15 February 2006 were accordingly suspended upon the lodging of the application with the CFI.
- (2) The sanction, a warning, was imposed with the understanding that Sellafield Limited demonstrate within a specified period, following the publication of the 2006 Decision, that it had implemented adequate and robust remedies against the failures and the sources of infringements identified and that it had put in place appropriate measures to continuously improve the quality and the performance of its system of accounting for and control of nuclear materials.
- (3) The warning was imposed with the understanding that Sellafield Limited demonstrates within a further specified period that the implemented remedies had achieved the envisaged effects.
- (4) At the end of a specified period, starting on the date of publication of the 2006 Decision, Sellafield Limited was asked to provide the Commission with a report including detail of the remedies implemented.
- (5) At the end of a further specified period Sellafield Limited was asked to provide the Commission with a report including detail of specific outcomes achieved by the remedies implemented.
- (6) On 27 April 2006, Sellafield Limited lodged an application with the Court of First Instance of the European Commu-

(7) The Commission services and Sellafield Limited agreed to stay the proceedings before the CFI in order to explore an agreed solution to the Commission's concerns as an alternative to litigation.

(8) Sellafield Limited and the Commission services held regular meetings in order to establish the required improvements of nuclear safeguards procedures on the Sellafield site and agreed a Target Achievements programme, highlighting tangible improvements to be implemented by Sellafield Limited in relation to nuclear safeguards requirements on the Sellafield site.

(9) Sellafield Limited also submitted an amended version of a document known as the 'Sellafield Safeguards Improvement Programme' (SSIP). The SSIP is the existing programme established on the Sellafield site that also serves as a vehicle, inter alia, for the execution and the technical follow up of the activities defined in the Target Achievements programme.

(10) Meetings have taken place on a regular basis between the Commission services and Sellafield Limited to review progress in relation to the Target Achievements programme and the SSIP respectively.

- (11) The analysis and on-site verification by the Commission services of the final management report on the completion of the Target Achievements programme have shown that the necessary steps have been taken by Sellafield Limited to redress the concerns which led the Commission to take the 2006 Decision.
- (12) Consequently, the Commission considered it appropriate in the given circumstances to repeal the 2006 Decision containing the warning to Sellafield Limited. It also took
- note that Sellafield Limited would continue to implement the SSIP. The Commission also intended to follow-up the implementation of the targets also after the adoption of this Decision, through the routine activities foreseen in Chapter 7 of the Euratom Treaty.
- (13) Commission Decision C(2006) 412 of 15 February 2006 was repealed and the repealing decision was communicated to the addressee, Sellafield Limited, and to the United Kingdom.
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Commission communication in the framework of the implementation of Commission Regulation (EC) No 643/2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for household refrigerating appliances

(Text with EEA relevance)

(2010/C 16/09)

1. Publication of titles and references of transitional methods of measurement ⁽¹⁾ for the implementation of Regulation (EC) No 643/2009 and, in particular, Annex III thereof.

Measured parameter	Organisation	Reference	Title
Terms, definitions, symbols and classification	CEN	Clauses 3 and 4 of EN 153. Where Clauses 3 and 4 of EN 153 conflict with the definitions set out in Article 2 and Annex I of Regulation (EC) No 643/2009, then that Regulation shall prevail.	Methods of measuring the energy consumption of electric mains operated household refrigerators, frozen food storage cabinets, food freezers and their combinations, together with associated characteristics
General test conditions	CEN	Clause 8 of EN 153. Where Clause 8 of EN 153 conflicts with the conditions set out in Annex III, Part 1 to Regulation (EC) No 643/2009, then that Regulation shall prevail.	
Collection and disposal of defrost water	CEN	Clause 5 of EN 153	
Storage temperatures	CEN	Clauses 6 and 13 of EN 153. Where Clauses 6 and 13 of EN 153 conflict with Table 4 in Annex IV to Regulation (EC) No 643/2009, then that Regulation shall prevail.	
Determination of linear dimensions, volumes and areas	CEN	Clause 7 of EN 153	
Energy consumption	CEN	Clause 15 of EN 153	
Temperature rise time	CEN	Clause 16 of EN 153	
Freezing capacity	CEN	Clause 17 of EN 153	
Built-in refrigerating appliances	CEN	Annex D to EN 153	
Rated characteristics and control procedure	CEN	Annex E to EN 153. Where Annex E to EN 153 conflicts with Table 1 of Annex V to Regulation (EC) No 643/2009, then that Regulation shall prevail.	
Elements for the test report, marking	CEN	Clauses 20 and 21 of EN 153	

⁽¹⁾ It is intended that these transitional methods will ultimately be replaced by harmonised standard(s). When available, reference(s) to the harmonised standard(s) will be published in the *Official Journal of the European Union* in accordance with Articles 9 and 10 of Directive 2009/125/EC.

Measured parameter	Organisation	Reference	Title
Noise	International Electro-technical Commission	IEC 60704-2-14	Household and similar electrical appliances — Test code for the determination of airborne acoustical noise — Part 2-14: Particular requirements for refrigerators, frozen-food storage cabinets and food freezers
Power consumption	European Commission	Regulation (EC) No 1275/2008	Commission Regulation (EC) No 1275/2008 of 17 December 2008 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for standby and off mode electric power consumption of electrical and electronic household and office equipment
Wine storage compartment humidity	European Commission	Part 2(d) of this communication	Measurement method for wine storage appliances

2. Measurement method for wine storage appliances

(a) General test conditions:

- the duration of the test period is defined in accordance with clause 8 of EN 153,
- the variation over time of the storage temperature is measured three times as follows: the first measurement is performed at the lowest prescribed ambient temperature of the climate class(es) of the wine storage appliance, the second measurement is performed at an ambient temperature of + 25 °C and the third at the highest prescribed ambient temperature of the climate class(es) of the wine storage appliance,
- the measurement of the active or passive control of the compartment humidity is performed with an ambient humidity between 50 % and 75 % at an ambient temperature of + 25 °C,
- the measurements of the active or passive control of the compartment humidity and of the variation over time of the storage temperature at an ambient temperature of + 25 °C may be done simultaneously,
- the average storage temperature of each compartment (t_{wma}) is set at + 12 °C or the nearest colder temperature.

(b) The average storage temperature (t_{wma}) of each compartment is calculated as follows:

$$t_{wma} = \frac{\sum_{i=1}^n t_{wim}}{n}$$

where:

- t_{wim} = integrated time average of the instantaneous temperature value of one package of 500 g of food simulant (M-package) placed at the measurement point(s) (T_{wi}) in compliance with Figure 1
- n = number of food simulant (M-packages) placed at the measurement point(s) (T_{wi}), $1 \leq n \leq 3$

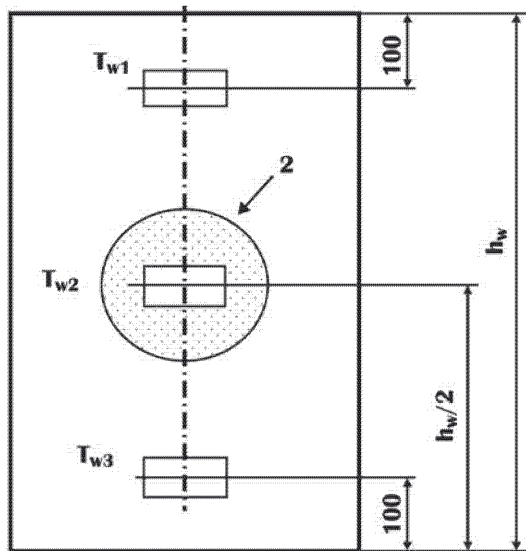
- (c) The variation over time of the storage temperature(s), hereafter referred to as the 'temperature amplitude', is measured at each measurement point (T_{wi}) in compliance with Figure 1. It is calculated as the average of the differences between the warmest and coldest instantaneous temperature values (t_{wi}) measured between two successive stops of the refrigerating system over the duration of the test period. If no successive stops of the refrigerating system can be identified then sequential periods of 4 hours must be considered.

The variation over time of the storage temperature(s) is considered to meet the 0,5 K feature listed in Annex I, point (n)(ii) to Regulation (EC) No 643/2009 where the average(s) of all temperature amplitudes at each measurement point (T_{wi}) is less than 0,5 K in the three tested ambient temperatures.

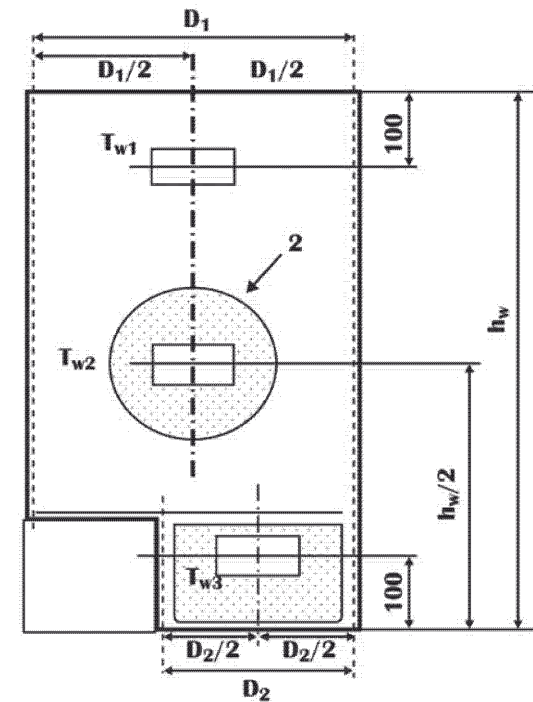
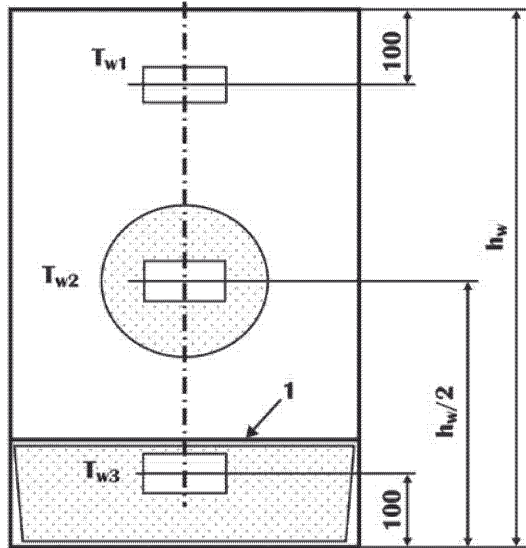
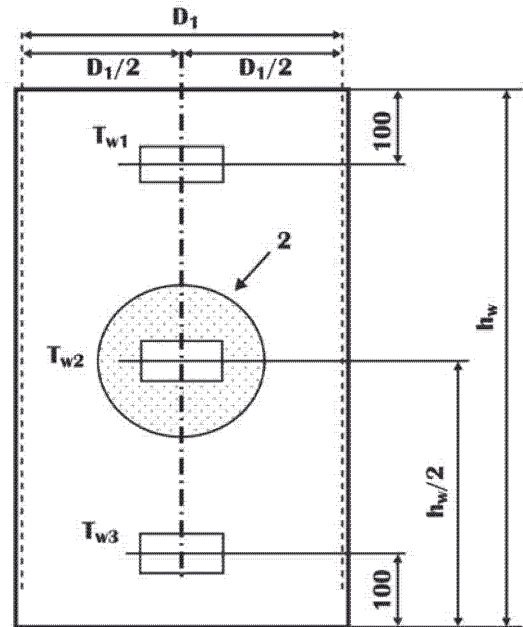
- (d) The relative humidity of each compartment (H_{wm}) is measured in percentage and rounded to the nearest integer, as follows:
- H_{wm} is measured by using a humidity sensor located at the measurement point (T_{w2}) in compliance with Figure 1,
 - for wine storage appliances with a single door but split by fixed or adjustable dividers into separate compartments each with independent temperature control, H_{wm} is measured for each compartment in compliance with Figure 1,
 - the active or passive control of the compartment humidity is considered to meet the range from 50 % to 80 % as listed in Annex I, point (n)(iii) to Regulation (EC) No 643/2009 where the measured relative humidity (H_{wm}) remains between 50 % and 80 % over the duration of the test period,
 - if the height of the compartment or sub-compartment (h_w) is less than 400 mm (Figure 1), H_{wm} is not measured for that compartment or sub-compartment.

Figure 1: Measurements points (T_{wi}) in wine storage compartment(s)
(dimensions in millimetres)

Front view



Side view



Where:

- h_w = height in millimetres of the wine storage compartment
- D_1 and D_2 = distance between the reference lines used for determining the net volume
- If there is a drawer, the shelf above that drawer is placed at the lowest possible position as illustrated in point 1 of Figure 1.

-
- The temperature measurement point(s) (T_{wi}) must be placed equidistant of the sides of the compartment at $D_1/2$ or $D_2/2$ as illustrated in Figure 1.
 - The humidity measurement point must be placed near T_{w2} with an accuracy of 100 mm as illustrated in point 2 of Figure 1.
 - If $h_w > 400$, three temperature measurement points (T_{w1} , T_{w2} and T_{w3}) are used.
 - If $300 < h_w \leq 400$, two temperature measurement points (T_{w1} and T_{w3}) are used.
 - If $h_w \leq 300$ mm, only one temperature measurement point (T_{w2}) is used.
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NOTICES FROM MEMBER STATES

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 800/2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation)

(Text with EEA relevance)

(2010/C 16/10)

Reference number of State Aid	X 798/09
Member State	Germany
Member State reference number	421-40306-BY/0009
Name of the Region (NUTS)	Bayern Article 87(3)(c)
Granting authority	Technologie- und Förderzentrum im Kompetenzzentrum für Nachwachsende Rohstoffe (TFZ) Schulgasse 18 94315 Straubing DEUTSCHLAND http://www.tfz.bayern.de/
Title of the aid measure	Bayern: Förderung von Forschungsvorhaben der energetischen und stofflichen Nutzung von Biomasse im Rahmen des „Gesamtkonzeptes Nachwachsende Rohstoffe“ in Bayern
National legal basis (Reference to the relevant national official publication)	— Artikel 23 und 44 der Bayer. Haushaltsordnung und die Verwaltungsvorschriften hierzu — Grundsätze zur Förderung von Forschungsvorhaben der energetischen und stofflichen Nutzung von Biomasse im Rahmen des „Gesamtkonzeptes Nachwachsende Rohstoffe“ in Bayern auf der Grundlage der Verordnung (EG) Nr. 800/2008 der Kommission vom 6. August 2008 zur Erklärung der Vereinbarkeit bestimmter Gruppen von Beihilfen mit dem Gemeinsamen Markt in Anwendung der Artikel 87 und 88 des EG-Vertrags
Type of measure	Scheme
Amendment of an existing aid measure	—
Duration	1.10.2009-31.12.2013
Economic sector(s) concerned	All economic sectors eligible to receive aid
Type of beneficiary	SME large enterprise
Annual overall amount of the budget planned under the scheme	EUR 4,00 million
For guarantees	—
Aid Instrument (Article 5)	Grant
Reference to the Commission Decision	—
If co-financed by Community funds	—

Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Fundamental research (Article 31(2)(a))	100 %	—
Industrial research (Article 31(2)(b))	50 %	10 %
Experimental development (Article 31(2)(c))	25 %	10 %
Aid for technical feasibility studies (Article 32)	65 %	—

Web link to the full text of the aid measure:

http://www.stmelf.bayern.de/agrarpolitik/programme/26373/grunds_fue.pdf

Reference number of State Aid	X 967/09
Member State	Lithuania
Member State reference number	LT
Name of the Region (NUTS)	Lithuania Article 87(3)(a)
Granting authority	Lietuvos Respublikos ūkio ministerija Gedimino pr. 38/2 LT-01104 Vilnius LIETUVA/LITHUANIA http://www.ukmin.lt
Title of the aid measure	Ekonomikos augimo veiksmų programos II prioriteto „Verslo produktyvumo didinimas ir aplinkos verslui gerinimas“ VP2-2.2-ŪM-02-V priemonė „Asistentas-2“
National legal basis (Reference to the relevant national official publication)	Lietuvos Respublikos ūkio ministro 2009 m. spalio 8 d. įsakymas Nr. 4-485 „Dėl VP2-2.2-ŪM-02-V priemonės „Asistentas-2“ projektų finansavimo sąlygų aprašo patvirtinimo“ (Žin., 2009, Nr. 123-5292)
Type of measure	Scheme
Amendment of an existing aid measure	—
Duration	8.10.2009-31.12.2013
Economic sector(s) concerned	All economic sectors eligible to receive aid
Type of beneficiary	SME large enterprise
Annual overall amount of the budget planned under the scheme	LTL 15,00 million
For guarantees	—
Aid Instrument (Article 5)	Grant
Reference to the Commission Decision	—
If co-financed by Community funds	Lietuvos Respublikos Vyriausybės 2008 m. liepos 23 d. nutarimas Nr. 788 Dėl Ekonomikos augimo veiksmų programos patvirtinimo – 60,00 LTL (mln.)

Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Regional investment and employment aid (Article 13) Scheme	50 %	20 %

Web link to the full text of the aid measure:

http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=355020&p_query=&p_tr2=

Reference number of State Aid	X 969/09	
Member State	Germany	
Member State reference number	—	
Name of the Region (NUTS)	Oldenburg (Old.), Landkr Article 87(3)(a)	
Granting authority	NBank Günther-Wagner-Allee 12—16 30177 Hannover DEUTSCHLAND http://www.nbank.de	
Title of the aid measure	Zuwendung zur Förderung der Integration von Frauen in den Arbeitsmarkt (FIFA) — für Stadt Oldenburg, Stau 73, 26105 Oldenburg Projekt: EFA	
National legal basis (Reference to the relevant national official publication)	Richtlinie über die Gewährung von Zuwendungen zur Förderung der Integration von Frauen in den Arbeitsmarkt (FIFA) — MBl. 2007, Nr. 49, Seite 1399	
Type of measure	Scheme	
Amendment of an existing aid measure	—	
Duration	1.1.2010-31.12.2011	
Economic sector(s) concerned	All economic sectors eligible to receive aid	
Type of beneficiary	Large enterprise	
Annual overall amount of the budget planned under the scheme	EUR 0,04 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
General training (Article 38(2))	60 %	10 %

Web link to the full text of the aid measure:

<http://www.ms.niedersachsen.de>

Reference number of State Aid	X 970/09	
Member State	Germany	
Member State reference number	—	
Name of the Region (NUTS)	Osnabrueck, Landkr Article 87(3)(a)	
Granting authority	NBank Günther-Wagner-Allee 12—16 30177 Hannover DEUTSCHLAND http://www.nbank.de	
Title of the aid measure	Zuwendung zur Förderung der Integration von Frauen in den Arbeitsmarkt (FIFA) — für Unternehmerverband Einzelhandel Osnabrück-Emsland e.V., Herrenteichstr. 5, 49074 Osnabrück Projekt: PRIMA	
National legal basis (Reference to the relevant national official publication)	Richtlinie über die Gewährung von Zuwendungen zur Förderung der Integration von Frauen in den Arbeitsmarkt (FIFA) — MBl. 2007, Nr. 49, Seite 1399	
Type of measure	Scheme	
Amendment of an existing aid measure	—	
Duration	1.1.2010-30.6.2011	
Economic sector(s) concerned	Whole sale and retail trade; repair of motor vehicles and motorcycles	
Type of beneficiary	Large enterprise	
Annual overall amount of the budget planned under the scheme	EUR 0,11 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
General training (Article 38(2))	60 %	10 %

Web link to the full text of the aid measure:

<http://www.ms.niedersachsen.de>

Reference number of State Aid	X 971/09	
Member State	Germany	
Member State reference number	—	

Name of the Region (NUTS)	Braunschweig, Krfr.St. Article 87(3)(a)	
Granting authority	NBank Günther-Wagner-Allee 12—16 30177 Hannover DEUTSCHLAND http://www.nbank.de	
Title of the aid measure	Zuwendung zur Förderung der Integration von Frauen in den Arbeitsmarkt (FIFA) — für Bildungswerk ver.di, Julius-Konegen-Str. 24 b, 38114 Braunschweig Projekt: „AFA — Aufstieg für Frauen in der Altenpflege“	
National legal basis (Reference to the relevant national official publication)	Richtlinie über die Gewährung von Zuwendungen zur Förderung der Integration von Frauen in den Arbeitsmarkt (FIFA) — MBl. 2007, Nr. 49, Seite 1399	
Type of measure	Scheme	
Amendment of an existing aid measure	—	
Duration	1.1.2010-31.12.2010	
Economic sector(s) concerned	Human health and social work activities	
Type of beneficiary	Large enterprise	
Annual overall amount of the budget planned under the scheme	EUR 0,09 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
General training (Article 38(2))	60 %	10 %

Web link to the full text of the aid measure:

<http://www.ms.niedersachsen.de>

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 800/2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation)

(Text with EEA relevance)

(2010/C 16/11)

Reference number of State Aid	X 667/09	
Member State	Germany	
Member State reference number	—	
Name of the Region (NUTS)	Hamburg Non-assisted areas	
Granting authority	Behörde für Stadtentwicklung und Umwelt Stadthausbrücke 8 20355 Hamburg DEUTSCHLAND http://www.hamburg.de/umwelt	
Title of the aid measure	Erstellung einer KWK-Anlage im Gebäude 118 für das Werk 1	
National legal basis (Reference to the relevant national official publication)	§ 44 LHO (Hamburg) http://hh.juris.de/hh/gesamt/HO_HA.htm#HO_HA_P15	
Type of measure	Ad hoc aid Beiersdorf AG	
Amendment of an existing aid measure	—	
Date of granting	7.7.2009	
Economic sector(s) concerned	Manufacture of soap and detergents, cleaning and polishing preparations, perfumes and toilet preparations	
Type of beneficiary	large enterprise	
Overall amount of the ad hoc aid awarded to the undertaking	EUR 0,09 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Environmental investment aid for high efficiency cogeneration (Article 22)	15 %	—

Web link to the full text of the aid measure:

<http://www.hamburg.de/start-teilnehmer/1281752/eg-gruppenfreistellungsverordnung.html>

Reference number of State Aid	X 757/09	
Member State	Germany	
Member State reference number	—	
Name of the Region (NUTS)	Hamburg Non-assisted areas	
Granting authority	Behörde für Stadtentwicklung und Umwelt Stadthausbrücke 8 20355 Hamburg DEUTSCHLAND http://www.hamburg.de/umwelt	
Title of the aid measure	Primärenergieeinsparung und CO ₂ -Vermeidung bei der Herstellung von Malz durch den Einsatz einer Wärmepumpe in Verbindung mit einem Blockheizkraftwerk	
National legal basis (Reference to the relevant national official publication)	§ 44 LHO (Hamburg) http://hh.juris.de/hh/gesamt/HO_HA.htm#HO_HA_P15	
Type of measure	Ad hoc aid Tivoli Malz GmbH	
Amendment of an existing aid measure	—	
Date of granting	4.6.2009	
Economic sector(s) concerned	Manufacture of malt	
Type of beneficiary	SME	
Overall amount of the ad hoc aid awarded to the undertaking	EUR 0,33 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Environmental investment aid for high efficiency cogeneration (Article 22)	17 %	—

Web link to the full text of the aid measure:

<http://www.hamburg.de/start-teilnehmer/1281752/eg-gruppenfreistellungsverordnung.html>

Reference number of State Aid	X 771/09
Member State	Estonia

Member State reference number	—	
Name of the Region (NUTS)	Estonia Article 87(3)(a)	
Granting authority	Ettevõtluse Arendamise Sihtasutus Eesti Vabariik Lasnamäe 2 11412 Tallinn EESTI/ESTONIA http://www.eas.ee	
Title of the aid measure	Loomemajanduse tugistruktuuride toetamise tingimused ja kord	
National legal basis (Reference to the relevant national official publication)	„Loomemajanduse tugistruktuuride toetamise tingimused ja kord” (RTL, 21.8.2009, 67, 992). „Perioodi 2007–2013 struktuuritoetuse seadus” (RT I 2006, 59, 440).	
Type of measure	Scheme	
Amendment of an existing aid measure	—	
Duration	24.8.2009-31.12.2013	
Economic sector(s) concerned	Administrative and support service activities	
Type of beneficiary	SME large enterprise	
Annual overall amount of the budget planned under the scheme	EEK 19,60 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	Euroopa Regionaalarengufond (ERDF) – 19,60 EEK (miljonites)	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Regional investment and employment aid (Article 13) Scheme	50 %	20 %

Web link to the full text of the aid measure:

<http://www.riigiteataja.ee/ert/act.jsp?id=13213266>

Reference number of State Aid	X 953/09
Member State	Germany
Member State reference number	421-40306-BY/0010

Name of the Region (NUTS)	Bayern Article 87(3)(c)	
Granting authority	Staatliche Führungsakademie für Ernährung, Landwirtschaft und Forsten (FÜAK) Am Lurzenhof 3c 84036 Landshut DEUTSCHLAND http://www.fueak.bayern.de/	
Title of the aid measure	Bayern: Qualifizierung von landwirtschaftlichen Unternehmerinnen und Unternehmern sowie deren Kooperationspartnern; Vollzugsanweisung zur Durchführung von Qualifizierungsmaßnahmen 421-40306-BY/0010	
National legal basis (Reference to the relevant national official publication)	— Bayerisches Gesetz zur nachhaltigen Entwicklung der Agrarwirtschaft und des ländlichen Raumes — Bayerisches Agrarwirtschaftsgesetz BayAgrarWiG (Art. 7 Abs. 1 Nr. 1, 5, 7 und Art. 15 BayAgrarWiG) — Bayerische Haushaltsordnung (BayHO)	
Type of measure	Scheme	
Amendment of an existing aid measure	—	
Duration	8.12.2009-31.12.2013	
Economic sector(s) concerned	All economic sectors eligible to receive aid	
Type of beneficiary	SME	
Annual overall amount of the budget planned under the scheme	EUR 0,10 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Aid for consultancy in favour of SMEs (Article 26)	50 %	—

Web link to the full text of the aid measure:

<http://www.stmelf.bayern.de/agrarpolitik/programme/26373/qualifizierung.pdf>

Reference number of State Aid	X 954/09
Member State	Italy
Member State reference number	—
Name of the Region (NUTS)	Emilia-Romagna Mixed

Granting authority	Regione Emilia-Romagna — DG Cultura Formazione Lavoro Viale Aldo Moro 38 40127 Bologna BO ITALIA http://www.regione.emilia-romagna.it	
Title of the aid measure	Aiuti destinati alle imprese operanti nel territorio della Regione Emilia-Romagna appartenenti ai settori esposti alla concorrenza internazionale, rivolti a favorire l'occupazione	
National legal basis (Reference to the relevant national official publication)	Delibera della Giunta Regionale n. 1916 del 30 novembre 2009 — Pubblicata sul BURER n. 214 del 16.12.2009 — Parte II	
Type of measure	Scheme	
Amendment of an existing aid measure	—	
Duration	30.11.2009-30.6.2014	
Economic sector(s) concerned	All economic sectors eligible to receive aid	
Type of beneficiary	SME large enterprise	
Annual overall amount of the budget planned under the scheme	EUR 3,75 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	«Programma Operativo della Regione Emilia-Romagna FSE Obiettivo 2 "Competitività regionale e occupazione" 2007-2013», approvato dalla Commissione Europea con decisione C(2007) 5327 del 26.10.2007 — 5,50 milioni di EUR	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Aid for the recruitment of disadvantaged workers in the form of wage subsidies (Article 40)	50 %	—
Aid for the employment of disabled workers in the form of wage subsidies (Article 41)	75 %	—
Aid for compensating the additional costs of employing disabled workers (Article 42)	100 %	—

Web link to the full text of the aid measure:

http://www.emiliaromagnasapere.it/operatori/atti-amministrativi/delibere_aiuti

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 800/2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation)

(Text with EEA relevance)

(2010/C 16/12)

Reference number of State Aid	X 626/09	
Member State	Germany	
Member State reference number	—	
Name of the Region (NUTS)	Berlin Article 87(3)(a) Article 87(3)(c)	
Granting authority	Senatsverwaltung für Integration, Arbeit und Soziales Oranienstraße 106 10969 Berlin DEUTSCHLAND http://www.berlin.de/sen/ias/index.html	
Title of the aid measure	Förderung der Berufsausbildung im Land Berlin (Förderung des Besuchs einer Berufsschule außerhalb Berlins bei Splitterberufen)	
National legal basis (Reference to the relevant national official publication)	§§ 23, 44 Landeshaushaltsordnung Berlin Verwaltungsvorschriften über die Gewährung von Zuschüssen zur Förderung der Berufsausbildung im Land Berlin vom 8.5.2007 (ABl. Nr. 22, S. 1366-1368 vom 25.5.2007)	
Type of measure	Scheme	
Amendment of an existing aid measure	—	
Duration	1.4.2007-31.3.2010	
Economic sector(s) concerned	All economic sectors eligible to receive aid	
Type of beneficiary	SME	
Annual overall amount of the budget planned under the scheme	EUR 0,12 million	
For guarantees	—	
Aid Instrument (Article 5)	Other, Grant, betroffene Wirtschaftszweige: Wirtschaftszweige, in denen in Berufen ausgebildet wird und für die in Berlin wegen der geringen Anzahl von Auszubildenden kein Berufsschulunterricht angeboten wird.	
Reference to the Commission decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
General training (Article 38(2))	70 %	80 %

Web link to the full text of the aid measure:

<http://www.berlin.de/sen/arbeit/besch-impulse/ausbildung>

<http://www.hwk-berlin.de/fbb>

Reference number of State Aid	X 627/09	
Member State	Germany	
Member State reference number	—	
Name of the Region (NUTS)	Hamburg Non-assisted areas	
Granting authority	Behörde für Umwelt und Stadtentwicklung Stadthausbrücke 8 20355 Hamburg DEUTSCHLAND http://www.hamburg.de/umwelt	
Title of the aid measure	Deckung von Forschungsausgaben im Rahmen des Projekts TERM (Erschließung der Ressource Mikroalgen)	
National legal basis (Reference to the relevant national official publication)	§ 44 der Landeshaushaltsordnung, Hamburgisches Gesetz- und Verordnungsblatt (hmbGVBl.) 1972, S. 10, zuletzt geändert durch das Gesetz vom 20. November 2007 (HmbGVBl. S. 402)	
Type of measure	Ad hoc aid Strategic Science Consult GmbH	
Amendment of an existing aid measure	—	
Date of granting	11.6.2009	
Economic sector(s) concerned	Research and experimental development on biotechnology	
Type of beneficiary	SME	
Overall amount of the ad hoc aid awarded to the undertaking	EUR 0,15 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Fundamental research (Article 31(2)(a))	100 %	—

Web link to the full text of the aid measure:

<http://www.hamburg.de/erneuerbare/nofl/350474/start-bioenergie.html>

Reference number of State Aid	X 637/09	
Member State	Germany	
Member State reference number	421-40306-SN/0001	
Name of the Region (NUTS)	Chemnitz, Dresden, Leipzig Article 87(3)(a)	

Granting authority	Sächsisches Landesamt für Umwelt, Landwirtschaft und Geologie Postfach 54 01 37 01311 Dresden DEUTSCHLAND http://www.smul.sachsen.de/lfulg	
Title of the aid measure	Sachsen: Förderrichtlinie des Freistaates Sachsen zur Absatzförderung der Land- und Ernährungswirtschaft (RL AbsLE)	
National legal basis (Reference to the relevant national official publication)	Haushaltsordnung des Freistaates Sachsen (Sächsische Haushaltsordnung — SäHO) in der Fassung der Bekanntmachung vom 10. April 2001 (SächsGVBl. S. 153), geändert durch Artikel 10 des Gesetzes vom 13. Dezember 2002 (SächsGVBl. S. 333, 352), insbesondere §§ 23 und 44	
Type of measure	Scheme	
Amendment of an existing aid measure	Modification XA 7008/08	
Duration	1.1.2009-31.12.2013	
Economic sector(s) concerned	Agriculture, forestry and fishing	
Type of beneficiary	SME	
Annual overall amount of the budget planned under the scheme	EUR 4,20 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Aid for consultancy in favour of SMEs (Article 26)	50 %	—
Aid for SME participation in fairs (Article 27)	50 %	—

Web link to the full text of the aid measure:

<http://www.revosax.sachsen.de/Details.do?sid=9571212965114>

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 800/2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation)

(Text with EEA relevance)

(2010/C 16/13)

Reference number of State Aid	X 3/10	
Member State	Hungary	
Member State reference number	—	
Name of the Region (NUTS)	Hungary Article 87(3)(a) Article 87(3)(c)	
Granting authority	Nemzeti Kutatási és Technológiai Hivatal Budapest Neumann János u. 1/c. 1117 MAGYARORSZÁG/HUNGARY http://www.nkth.gov.hu	
Title of the aid measure	Innovációs Alapból nyújtott regionális beruházási és foglalkoztatási támogatás, képzési támogatás, kis- és középvállalkozások részére tanácsadáshoz nyújtott támogatás, kis- és középvállalkozások vásárokon való részvételéhez nyújtott támogatás	
National legal basis (Reference to the relevant national official publication)	A Nemzeti Kutatási és Technológiai Alapról szóló 2003. évi XC. törvény 8. §; a Kutatási és Technológiai Innovációs Alapból nyújtott állami támogatások szabályairól szóló 146/2007. (VI. 26.) Korm. rendelet módosításának, és a pénzügyi válság kapcsán nyújtott átmeneti támogatás – támogatási program bejelentése	
Type of measure	Scheme	
Amendment of an existing aid measure	—	
Duration	24.10.2009-31.12.2013	
Economic sector(s) concerned	All economic sectors eligible to receive aid	
Type of beneficiary	SME large enterprise	
Annual overall amount of the budget planned under the scheme	HUF 13 200,00 million	
For guarantees	—	
Aid Instrument (Article 5)	Grant	
Reference to the Commission Decision	—	
If co-financed by Community funds	—	
Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Regional investment and employment aid (Article 13) Scheme	50 %	20 %
Aid for consultancy in favour of SMEs (Article 26)	50 %	—

Aid for SME participation in fairs (Article 27)	50 %	—
Specific training (Article 38(1))	25 %	20 %
General training (Article 38(2))	60 %	20 %

Web link to the full text of the aid measure:

http://www.complex.hu/jr/gen/hjegy_doc.cgi?docid=A0700146.KOR

146/2007. (VI. 26.) Korm. rendelet a Kutatási és Technológiai Innovációs Alapból nyújtott állami támogatások szabályairól

Reference number of State Aid	X 4/10
Member State	Hungary
Member State reference number	—
Name of the Region (NUTS)	Hungary Article 87(3)(a) Article 87(3)(c)
Granting authority	Nemzeti Fejlesztési Ügynökség Regionális Fejlesztési Programok Irányító Hatóság Budapest Wesselényi u. 20–22. 1077 MAGYARORSZÁG/HUNGARY http://www.nfu.hu
Title of the aid measure	Regionális Operatív Programból nyújtott: regionális beruházási és foglalkoztatási támogatás; kkv vásárokon való részvételéhez, kkv-k részére tanácsadáshoz nyújtott támogatás; képzési célú támogatás; újonnan létrehozott kisvállalkozások részére nyújtható támogatás; NFGM-megtakarítási intézkedésekhez környezetvédelmi beruházási támogatás
National legal basis (Reference to the relevant national official publication)	19/2007. (VII. 30.) MeHVM rendelet az Új Magyarország Fejlesztési Tervben szereplő Regionális Fejlesztés Operatív Programokra meghatározott előirányzatok felhasználásának állami támogatási szempontú szabályairól
Type of measure	Scheme
Amendment of an existing aid measure	—
Duration	25.7.2009-31.12.2013
Economic sector(s) concerned	All economic sectors eligible to receive aid
Type of beneficiary	SME large enterprise
Annual overall amount of the budget planned under the scheme	HUF 110 000,00 million
For guarantees	—
Aid Instrument (Article 5)	Grant
Reference to the Commission Decision	—
If co-financed by Community funds	ROP – 93 500 HUF (millió)

Objectives	Maximum aid intensity in % or maximum aid amount in national currency	SME-bonuses in %
Regional investment and employment aid (Article 13) Scheme	50 %	—
Aid for newly created small enterprises (Article 14)	35 %	—
Environmental investment aid for energy saving measures (Article 21)	60 %	—
Aid for consultancy in favour of SMEs (Article 26)	50 %	—
Aid for SME participation in fairs (Article 27)	50 %	—
Specific training (Article 38(1))	25 %	—
General training (Article 38(2))	60 %	—

Web link to the full text of the aid measure:

<http://www.nfu.hu/download/24823/19-2007.%20%28VII.%2030.%29%20MeHVM%20rendelet.doc>

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

Notice of the impending expiry of certain anti-dumping measures

(2010/C 16/14)

1. As provided for in Article 11(2) of Council Regulation (EC) No 384/96 of 22 December 1995 ⁽¹⁾ on protection against dumped imports from countries not members of the European Community, the Commission gives notice that, unless a review is initiated in accordance with the following procedure, the anti-dumping measures mentioned below will expire on the date mentioned in the table below.

2. Procedure

Union producers may lodge a written request for a review. This request must contain sufficient evidence that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury.

Should the Commission decide to review the measures concerned, importers, exporters, representatives of the exporting country and Union producers will then be provided with the opportunity to amplify, rebut or comment on the matters set out in the review request.

3. Time limit

Union producers may submit a written request for a review on the above basis, to reach the European Commission, Directorate-General for Trade (Unit H-1), N-105 4/92, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË ⁽²⁾, at any time from the date of the publication of the present notice but no later than three months before the date mentioned in the table below.

4. This notice is published in accordance with Article 11(2) of Regulation (EC) No 384/96.

Product	Country(ies) of origin or exportation	Measures	Reference	Date of expiry
Furfuraldehyde	People's Republic of China	Anti-dumping duty	Council Regulation (EC) No 639/2005 (OJ L 107, 28.4.2005, p. 1)	29.4.2010

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ Fax +32 22956505.

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.5771 — CSN/Cimpor)

Candidate case for simplified procedure

(Text with EEA relevance)

(2010/C 16/15)

1. On 14 January 2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking Companhia Siderúrgica Nacional ('CSN', Brazil) intends to acquire within the meaning of Article 3(1)(b) of the EC Merger Regulation control of the whole of Cimpor — Cimentos de Portugal, SGPS, S.A ('Cimpor', Portugal) by way of public bid.

2. The business activities of the undertakings concerned are:

- for CSN: steel production, mining, logistics,
- for Cimpor: cement production.

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 22964301 or 22967244) or by post, under reference number COMP/M.5771 — CSN/Cimpor, to the following address:

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

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

⁽²⁾ OJ C 56, 5.3.2005, p. 32.

Notice published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case COMP/B-1/39.317 — E.ON gas

(Text with EEA relevance)

(2010/C 16/16)

1. INTRODUCTION

- (1) According to Article 9 of the Council Regulation (EC) No 1/2003 ⁽¹⁾, 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 meet 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 observations within the time limit fixed by the Commission.

2. SUMMARY OF THE CASE

- (2) On 22 December 2009, the Commission adopted a preliminary assessment pursuant to Article 9(1) of Regulation (EC) No 1/2003 concerning alleged infringements of E.ON AG, Düsseldorf and its subsidiaries on the German gas markets ('E.ON').
- (3) According to the preliminary assessment E.ON is a dominant player on the gas transmission market(s) within its L-gas network and the NetConnect Germany network. E.ON is according to the preliminary assessment also a dominant player on the downstream gas markets for the supply of regional and local wholesalers as well as for the supply of large industrial customers.
- (4) The preliminary assessment expressed the concern that E.ON may have abused its dominant position according to Article 102 of the Treaty on the Functioning of the European Union ('TFEU') in the form of a refusal to supply by way of long-term bookings on E.ON's gas transmission system. E.ON has booked large parts of the available firm and freely allocable entry capacities on its gas transmission grid, which may lead according to the preliminary assessment to a foreclosure of competitors trying to transport and sell gas to customers connected to the E.ON grid and therefore may restrict competition on the downstream gas supply markets.

3. THE MAIN CONTENT OF THE OFFERED COMMITMENTS

- (5) E.ON 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 meet the Commission's competition concerns. The key elements of the commitments can be summarised as follows:
- (6) In a first step, E.ON proposes to release firm freely allocable entry capacities into its gas transmission grid by October 2010 ('Immediate Capacity Release') covering a capacity volume of 17,8 GWh/h. 10 GWh/h of the total released capacities are offered for H-gas capacities, 7,8 GWh/h for L-gas capacities. The relevant entry points for H-gas are (released capacity volumes in brackets):

- Waidhaus (3,469 MWh/h),
- Emden NPT (1,250 MWh/h),
- Dornum (500 MWh/h),
- Emden EPT (250 MWh/h),
- Eynatten/Raeren (2,250 MWh/h),
- Oude Statenzijl (500 MWh/h),
- Achim (171 MWh/h),
- Bocholtz (44 MWh/h),
- Oberkappel (364 MWh/h) and
- Lampertheim (1,200 MWh/h).

For L-gas, E.ON's commitment relates to the entry points:

- Emsbüren (2,193 MWh/h),
- Drohne (1,413 MWh/h),
- Steinbrink (187 MWh/h),
- Vreden (1,400 MWh/h) and
- Elten (2,565 MWh/h).

⁽¹⁾ OJ L 1, 4.1.2003, p. 1. With effect from 1 December 2009, Article 82 of the EC Treaty has become Article 102 of the Treaty on the Functioning of the European Union ('TFEU'). For the purposes of the Commission's preliminary assessment in this case and a potential decision according to Article 9(1), references to Article 102 TFEU should be understood as reference to Article 82 of the EC Treaty when appropriate.

- (7) In a second step, E.ON proposed to further reduce its overall share in the bookings of firm freely allocable entry capacity ('Long-term Reduction') in the relevant H-gas market area NetConnect Germany to 50 % by October 2015. For the L-gas network, E.ON proposes a further overall reduction of its booking share to 64 % by October 2015. E.ON may reach these thresholds by returning capacities to the TSO, by measures to increase the capacity in the grid or by entering into market area co-operations which increase the total volume of capacities into E.ON's grid. E.ON commits not to exceed these thresholds until 2025 ⁽¹⁾.
- (8) E.ON is not prevented from booking interruptible capacities which are not part of the commitments. E.ON is, moreover, not restricted with regards to short-term bookings (bookings with a duration of up to one year) under the conditions laid out in the commitments ⁽²⁾. E.ON may, moreover, as of October 2011 also book long-term capacities under the condition that E.ON's overall booking share decreases over time until reaching the thresholds of 50 % for H-gas and 64 % for L-gas by October 2015.
- (9) An independent trustee will be asked to supervise the fulfilment of these commitments by E.ON.
- (10) The commitments are published in full in German on the website of the Directorate-General for Competition at:
http://ec.europa.eu/comm/competition/index_en.html

4. INVITATION TO MAKE COMMENTS

- (11) The Commission intends, subject to the outcome of the market test, to adopt a decision under Article 9(1) of Regulation (EC) No 1/2003 declaring the commitments summarised above and published on the Internet, on the website of the Directorate-General for Competition, to be binding.
- (12) In accordance with Article 27(4) of Regulation (EC) No 1/2003, the Commission invites interested third parties to submit their observations on the proposed commitments. In this context, the Commission asks interested parties to comment in particular on the following questions. Comments should, as far as

possible, be substantiated with a detailed reasoning, containing the necessary facts on which the comment is based and, if a problem is identified, a proposal for a solution of the identified problem:

- (a) The Immediate Capacity Releases are supposed to alleviate at least parts of the identified access problems to E.ON's transmission grid quickly. Does the proposed schedule for a release (as of October 2010), allow for a successful marketing of the entire capacities offered in the 'Immediate Release' in particular with a view of the short marketing period for these capacities of probably less than 6 months?
- (b) Do you have comments regarding the selection of the entry points at which E.ON offers to immediately release capacities and the released volumes at these points? In particular, are any of these entry points not eligible to allow (potential) competitors to effectively access E.ON's transmission grid?

Third parties are invited to make comments also on all other aspects of the commitments.

- (13) Third parties' observations must reach the Commission not later than one month following the date of this publication. Interested third parties are also asked to submit a non-confidential version of their comments, in which commercial secrets and other confidential passages are deleted and are replaced as required by a non-confidential summary or by the words 'commercial secrets' or 'confidential'. If your request for the protection of confidential information is legitimate, the Commission will ensure the protection of this information.
- (14) Observations can be sent to the Commission under reference number COMP/B-1/39.317 — E.ON gas 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

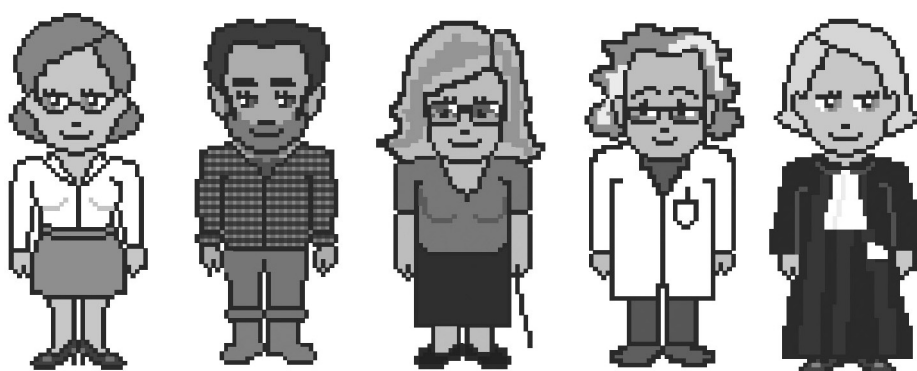
⁽¹⁾ After 1 October 2025, E.ON may book such capacities without limitation except if the bookings are made very early in advance: Between 1 October 2015 and 1 October 2020, E.ON undertakes, with respect to the period from 1 October 2025 to 1 October 2030, to exceed the mentioned thresholds only by at maximum 5%. Between 1 October 2020 and 1 October 2025, E.ON commits, with respect to the same period (from 1 October 2025 to 1 October 2030), to exceed the mentioned thresholds only by at maximum 10%.

⁽²⁾ See paragraphs 5, 6 and 10 of the commitments text.

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⁽¹⁾ Text with EEA relevance

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