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I

(Resolutions, recommendations and opinions)

OPINIONS

COUNCIL

COUNCIL OPINION

of 2 December 2009

on the complement to the updated stability programme of Belgium, 2008-2012

(2010/C 47/01)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ⁽¹⁾, and in particular Article 5(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

- (1) On (2 December 2009) the Council examined the complement to the April 2009 update of the stability programme of Belgium (hereafter called 'the complement'), which covers the period 2008 to 2012 ⁽²⁾, submitted by the Belgian authorities in response to an invitation by the Council included in its opinion of 7 July 2009 on the April 2009 programme. The current opinion updates that of July, taking into account the information contained in the complement to the April 2009 programme.
- (2) The collapse of world trade together with decreasing confidence, wealth effects and tighter credit conditions led to a sharp contraction of the economy in the last quarter of 2008 and the first of 2009. In the second quarter, the contraction was more limited and quarterly growth is expected to turn slightly positive in the second half of the year in view of the improved international environment. According to the Commission services' autumn 2009 forecast, annual GDP is expected to contract by around 3 % in 2009 and turn positive in 2010 (0,6 %). In 2011, growth is projected to increase to 1,5 %, thus somewhat outpacing potential growth which has been reduced by the drop in investment and the rise in unemployment rate in the context of the crisis. The downturn will also have a significant adverse impact on public finances; according to the Commission services' autumn 2009 forecast, the general government deficit set to deteriorate from 1,2 % of GDP in 2008 to around 6 % of GDP in 2009. The deficit is projected to stabilise in 2010 and 2011 taking into account (i) that the budgetary impact of the stimulus measures adopted at the end of 2008 in response to the EERP remains at 0,5 % of GDP in 2010, reflecting that the package includes permanent measures, and (ii) the consolidation measures adopted by the different government tiers in the context of their budgets for 2010 (0,75 % of GDP) and 2011 (0,25 % of GDP). However, the adverse composition of economic growth in 2010 with a further strong increase in unemployment, higher interest expenditure, as well as expenditure growth linked to population ageing (also reflecting measures taken in recent years to increase social benefits, including pensions), are expected to compensate completely the impact of consolidation measures on the headline balance.

⁽¹⁾ OJ L 209, 2.8.1997, p. 1. The documents referred to in this text can be found at the following website: http://ec.europa.eu/economy_finance/about/activities/sgp/main_en.htm

⁽²⁾ The April 2009 update of the stability programme covered the period 2008 to 2013.

- (3) The macroeconomic scenario underlying the complement envisages that, after expanding by 1,1 % in 2008, real GDP will fall by 3,1 % in 2009, before recovering to a 0,4 % growth rate in 2010. Thereafter, GDP growth is projected at 1,9 % in 2011 and 2,4 % in 2012. Compared to the April 2009 update of the programme, growth has been revised downward, especially in 2009. Assessed against currently available information ⁽¹⁾, this new scenario appears to be broadly plausible; it might be slightly cautious for the period 2009-2010, but somewhat favourable for the outer years against most recent potential output estimates. While the Commission services' autumn 2009 forecast also expects a gradual closing of the output gap after the downturn, the projected speed of the closing of the gap in the complement seems rather optimistic. The composition of growth is broadly plausible over the entire period covered by the complement. The forecast for inflation in the complement can be considered realistic. On the other hand, projected wage growth appears to be on the high side over the entire period as lower labour cost growth abroad might exercise more downward pressure on Belgian wages in a context of high unemployment. Finally, the employment growth projection for 2011 in the complement may also be slightly optimistic.
- (4) The complement contains a deficit target for 2009 of 5,9 % of GDP (in line with the Commission services' autumn 2009 forecast). The increase in the deficit in 2009 compared to 1,2 % of GDP in 2008 mainly reflects the impact of the automatic stabilisers. This impact has been much more important than what an application of standard elasticities would suggest, and in particular includes a strong fall in corporate tax revenue. The expansionary measures in the budget for 2009 (0,5 % of GDP) and the fiscal stimulus packages set up by the regional and federal governments (0,5 % of GDP) were relatively contained in line with the limited room for manoeuvre stemming from the high debt level. Finally, the budgetary deterioration reflects also negative one-off measures of about 0,5 % of GDP, mainly following two Court decisions ⁽²⁾. As a result of these one-off measures and a larger-than-expected impact of automatic stabilisers, the current deficit target for 2009 is 2,5 % of GDP higher than the one included in the April 2009 update of the stability programme, while no additional expansionary measures have been taken. The structural deficit (i.e. the cyclically-adjusted balance net of one-off and other temporary measures) on the basis of the information provided in the complement and recalculated by the Commission services according to the commonly agreed methodology, is projected to rise to 4,7 % of GDP in 2009 from 2,3 % in 2008. The Commission services' autumn 2009 forecast expects a somewhat smaller increase in the structural deficit in 2009 (by 2 instead of 2,4 percentage points), mainly because the complement did not consider the 0,5 % of GDP impact of the Court decisions in 2009 to be one-offs.
- (5) The main goal of the medium-term budgetary strategy in the complement is to ensure a gradual return to a balanced budget by 2015. The complement does not explicitly mention the MTO and it also does not foresee Belgium's original Medium Term Objective (a surplus of 0,5 % of GDP in cyclically-adjusted terms and net of one-off and other temporary measures) to be reached within the period covered by the complement. The headline deficit is set to stabilise at around 6 % of GDP in 2010 thanks to 0,5 % of GDP corrective measures, before gradually improving to 4,4 % of GDP by 2012 (on the back of consolidation measures amounting to 1 % in 2011 and 1,25 % in 2012). The complement mentions a target of 2013 for the deficit to be brought below the 3 % of GDP reference value, but it does not present a fully developed scenario for that year ⁽³⁾. The structural deficit in the complement, recalculated according to the commonly agreed methodology, is set to improve by around 0,25 percentage point both in 2010 and 2011 and by 0,5 percentage point in 2012. As the complement did not consider the 0,5 % of GDP impact of the Court decisions in 2009 to be one-offs, the structural balance would actually deteriorate by 0,25 % of GDP in 2010 (from -4,2 % of GDP in 2009 to -4,4 % of GDP in 2010). The structural adjustments foreseen in the complement are considerably smaller than the amounts of planned measures that are mentioned above. This reflects that the structural balance under unchanged policies would automatically deteriorate by on average 0,5 % of GDP per year as a result of the adverse composition of economic growth in 2010, higher interest expenditure, and higher spending linked to population ageing (also reflecting measures taken in recent years to increase social benefits, including pensions). According to the complement, the planned consolidation effort is equally based on increases in tax revenue (in particular of taxes on income and wealth) and reductions in

⁽¹⁾ The assessment notably takes into account the Commission services' autumn 2009 forecast.

⁽²⁾ First, the European Court of Justice ruled that corporate taxes had to be repaid as the Belgian dividends received deduction regime was not compatible with Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States. Second, the Belgian Constitutional Court ruled that unduly paid personal income taxes should be repaid to cohabiting and married unemployed to ensure equal treatment.

⁽³⁾ The programme provides the headline deficits for 2013-2015 (2,8 % of GDP in 2013, 1,3 % of GDP in 2014 and 0 % of GDP in 2015), but does not give a further breakdown or a macroeconomic scenario to underpin these targets.

expenditure (in particular of intermediate consumption, compensation of employees and social transfers in kind). The complement estimates government debt at 89,6 % of GDP in 2008, compared to 84 % of GDP in 2007, where the rise is largely the result of a significant stock-flow adjustment stemming from the bank rescue operations (6 % of GDP). The complement expects the debt-to-GDP ratio to rise further to about 104 % in 2011 where it broadly stabilises; this is substantially higher than in the April update (essentially due to the higher deficits). The Commission services' autumn 2009 forecast projects a comparable increase in the debt ratio.

- (6) The budgetary targets are overall subject to some downside risks, mainly as of 2011. First, the macro-economic environment is uncertain and therefore worse results than envisaged in the complement in 2011 and 2012 cannot be excluded. Second, the consolidation measures mentioned in the complement to back the targets are not sufficiently specified. While for 2010, it appears on the basis of the draft 2010 budgets of the different government tiers, agreed after the submission of the complement, that the amount of corrective measures exceeds the 0,5 % of GDP foreseen in the complement, as the sufficiently specified measures currently amount to around 0,75 % of GDP, for the later years, there is only little information available on the nature of the planned measures. Finally, the government offered sizeable guarantees to the banking sector which might drive up future deficits and debt to the extent that they are called, although some of the cost of government support to the financial sector could also be recouped in the future. On the other hand, mirroring the stronger-than-projected revenue fall in 2009, it cannot be excluded that tax revenue might be more dynamic than what would be implied by standard elasticities. In view of the risks to the budgetary targets, the evolution of the debt ratio may also be less favourable than projected in the complement.
- (7) The fiscal stance, as measured by the recalculated change in the structural balance of the complement and taking into account the above-mentioned risks, is expansionary in 2009, in line with the EERP, and broadly neutral for the rest of the programme period. In view of the risks related to the long-term sustainability of public finances, including the high level of government debt, which is moreover not sufficiently diminishing towards the reference value over the programme period, and important contingent liabilities following the measures to stabilise the financial system, the consolidation path should be considerably strengthened from 2011 onwards.
- (8) As regards the data requirements specified in the code of conduct for stability and convergence programmes, the complement has improved compliance with the requirements of the code of conduct although some gaps in the required and optional data remain ⁽¹⁾.

The overall conclusion is that the expansionary fiscal stance in 2009 is in line with the EERP. Combined with the functioning of the automatic stabilisers, supportive discretionary measures will drive the headline deficit to almost 6 % of GDP. The government gross debt-to-GDP ratio, which rose in 2008 as a result of the measures to stabilise the financial system, will continue its upward movement to 104 % in 2012. This comes after an impressive decline, from 134 % in 1993 to 84 % in 2007, based on the achievement of balanced budgets. The consolidation path in the complement aims at gradually reducing the headline deficit to 4,4 % in 2012 after which it would further decline to 2,8 % of GDP in 2013 and a balanced budget in 2015. The path is overall subject to downside risk as of 2011, stemming from the fact that the underlying measures are not sufficiently specified and the somewhat favourable macroeconomic assumptions. In the light of the debt dynamics and the long-term sustainability of public finances, the planned consolidation should be considerably strengthened from 2011 onwards in order to decisively bring the deficit below the 3 % of GDP reference value.

In view of the above assessment and in addition to earlier invitations issued in the Council opinion of 7 July 2009 to improve the quality and long-term sustainability of public finances, Belgium is also invited to achieve the amount of consolidation measures in 2010 as planned in the draft 2010 budget and considerably strengthen the adjustment effort as from 2011 through specified structural measures, in order to decisively bring the deficit below the 3 % of GDP reference value.

⁽¹⁾ In particular, the table on cyclical developments is not provided.

Comparison of key macroeconomic and budgetary projections

		2007	2008	2009	2010	2011	2012
Real GDP (% change)	SP Sep 2009	2,8	1,1	- 3,1	0,4	1,9	2,4
	COM aut 2009	2,9	1,0	- 2,9	0,6	1,5	n.a.
	SP Apr 2009	2,8	1,1	- 1,9	0,6	2,3	2,3
HICP inflation (%)	SP Sep 2009	1,8	4,5	0,0	1,5	1,6	1,6
	COM aut 2009	1,8	4,5	0,0	1,3	1,5	n.a.
	SP Apr 2009	1,8	4,5	0,7	1,8	1,8	1,7
Output gap ⁽¹⁾ (% of potential GDP)	SP Sep 2009	2,6	2,0	- 2,3	- 2,9	- 2,3	- 1,5
	COM aut 2009	2,4	1,7	- 2,3	- 2,8	- 2,4	n.a.
	SP Apr 2009	2,3	1,5	- 1,9	- 2,7	- 1,9	- 1,2
Net lending/borrowing vis-à-vis the rest of the world (% of GDP)	SP Sep 2009	2,1	- 1,6	- 1,9	- 2,1	- 2,3	n.a.
	COM aut 2009	3,5	- 0,2	0,1	0,4	0,3	n.a.
	SP Apr 2009	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
General government revenue (% of GDP)	SP Sep 2009	n.a.	48,7	47,9	48,1	48,5	49,2
	COM aut 2009	48,2	48,8	47,7	48,0	48,2	n.a.
	SP Apr 2009	48,1	48,6	48,2	n.a.	n.a.	n.a.
General government expenditure (% of GDP)	SP Sep 2009	n.a.	49,9	53,8	54,1	53,9	53,6
	COM aut 2009	48,4	50,0	53,6	53,8	54,0	n.a.
	SP Apr 2009	48,3	49,8	51,6	n.a.	n.a.	n.a.
General government balance (% of GDP)	SP Sep 2009	n.a.	- 1,2	- 5,9	- 6,0	- 5,5	- 4,4
	COM aut 2009	- 0,2	- 1,2	- 5,9	- 5,8	- 5,8	n.a.
	SP Apr 2009	- 0,2	- 1,2	- 3,4	- 4,0	- 3,4	- 2,6
Primary balance (% of GDP)	SP Sep 2009	n.a.	2,5	- 2	- 1,9	- 1,2	- 0,1
	COM aut 2009	3,6	2,6	- 2,0	- 1,8	- 1,7	n.a.
	SP Apr 2009	3,6	2,5	0,4	- 0,1	0,6	1,5
Cyclically-adjusted balance ⁽²⁾ (% of GDP)	SP Sep 2009	- 1,6	- 2,3	- 4,7	- 4,4	- 4,2	- 3,6
	COM aut 2009	- 1,5	- 2,1	- 4,6	- 4,3	- 4,5	n.a.
	SP Apr 2009	- 1,5	- 2,0	- 2,4	- 2,6	- 2,4	- 1,9
Structural balance ⁽³⁾ (% of GDP)	SP Sep 2009	- 1,5	- 2,3	- 4,7	- 4,4	- 4,2	- 3,6
	COM aut 2009	- 1,4	- 2,2	- 4,2	- 4,4	- 4,5	n.a.
	SP Apr 2009	- 1,3	- 2	- 2,4	- 2,6	- 2,4	- 1,9

		2007	2008	2009	2010	2011	2012
Government gross debt (% of GDP)	SP Sep 2009	n.a.	89,7	97,5	101,9	103,9	104,3
	COM aut 2009	84,2	89,8	97,2	101,2	104,0	n.a.
	SP Apr 2009	84,0	89,6	93,0	95,0	94,9	93,9

Notes:

- (¹) Output gaps and cyclically-adjusted balances from the programmes as recalculated by Commission services on the basis of the information in the complement.
- (²) Based on estimated potential growth of 1,9 %, 1,7 %, 1,1 %, 1,0 % and 1,2 % respectively in the period 2007-2011.
- (³) Cyclically-adjusted balance excluding one-off and other temporary measures. One-off and other temporary measures are 0 all over the period according to the complement. According to the Commission services' autumn 2009 forecast, one-offs are deficit-reducing both in 2008 and 2010 (0,1 % of GDP) and deficit-increasing in 2009 (0,5 % of GDP).

Source:

September 2009 complement to the April 2009 update of the stability programme (SP); Commission services' autumn 2009 forecasts (COM); Commission services calculations.

EUROPEAN DATA PROTECTION SUPERVISOR

Opinion of the European Data Protection Supervisor on the Communication from the Commission on an Action Plan for the Deployment of Intelligent Transport Systems in Europe and the accompanying proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes

(2010/C 47/02)

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty establishing the European Community, and in particular its Article 286,

Having regard to the Charter of Fundamental Rights of the European Union, and in particular its Article 8,

Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data,

Having regard to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector,

Having regard to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, and in particular its Article 41,

Having regard to the request for an opinion in accordance with Article 28(2) of Regulation (EC) No 45/2001 received on 11 February 2009 from the European Commission,

HAS ADOPTED THE FOLLOWING OPINION:

I. INTRODUCTION

1. On 16 December 2008, the Commission adopted a Communication defining an Action Plan for the

Deployment of Intelligent Transport Systems in Europe ('the Communication')⁽¹⁾. The Communication is accompanied by a proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes ('the Proposal')⁽²⁾. The Communication and the accompanying Proposal were sent by the Commission to the EDPS for consultation, in accordance with Article 28(2) of Regulation (EC) No 45/2001⁽³⁾.

2. The EDPS welcomes that he is consulted and recommends that reference to this consultation be made in the recitals of the proposal, in a similar way as in a number of other legislative texts on which the EDPS has been consulted, in accordance with Regulation (EC) No 45/2001.

1.1. The Commission Communication on an Action Plan for the Deployment of ITS in Europe

3. 'Intelligent Transport Systems' ('ITS') are advanced applications that use Information and Communication Technologies (ICT), which are embedded in different transport modes for interaction between them. In the field of road transport, ITS will provide innovative services on transport modes and traffic management to various users such as travellers, road transport infrastructure users and operators, fleet managers and operators of emergency services.
4. Taking stock of the growing deployment of ITS in various transportation modes⁽⁴⁾ in the European Union, the Commission adopted an action plan to accelerate the

⁽¹⁾ COM(2008) 886 final. The Council adopted conclusions concerning the Communication at the 2935th Council Transport, Telecommunications and Energy meeting on 30 and 31 March 2009.

⁽²⁾ COM(2008) 887 final.

⁽³⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽⁴⁾ There are many initiatives at EU level integrating ITS in various transportation modes including air transport (SESAR), waterway (RIS), railway (ERTMS, TAF-TSI), shipping (VTMIS, AIS, LRIT), and road transport (eToll, eCall), see COM(2008) 886 final, p. 3.

introduction and use of ITS applications and services in the field of road transport. The plan also aims at ensuring their interaction with other transport modes, which will facilitate the provision of multimodal services. The coherent deployment of ITS in Europe will serve various Community objectives, including transport efficiency, sustainability, safety and security, fostering the EU internal market and competitiveness. In view of the diversity of the objectives pursued for ITS deployment, the Communication outlines six priority areas for action in the period 2009-2014. To implement the plan, the Commission proposes that a legal framework is defined at EU level by means of a Directive, under which a number of measures in selected priority areas will be defined.

1.2. Proposal for a Directive laying down the framework for the deployment of ITS in the field of road transport and for interfaces with other transport modes

5. The Proposal sets out a framework for the transnational deployment of ITS applications that is intended to facilitate the provision of harmonised cross-border services, notably for traffic and travel information and traffic management. It requires Member States to take several technical measures to facilitate data exchanges between users, public authorities, relevant stakeholders and ITS service providers and to integrate in vehicles and road infrastructure ITS systems that are related to safety and security. Technical specifications for ITS applications and systems in four of the priority areas⁽⁵⁾ listed in the action plan will be defined through a comitology procedure⁽⁶⁾, whose core elements are specified in Annex II. The specific purposes for which ITS will be used in these areas are however not clear. Furthermore, the deployment of ITS may extend to many more areas than the four initially selected for the development of harmonised technical specifications. While the Proposal mainly deals with the deployment of future ITS applications and services, it shall also, where feasible, encompass existing or currently developing technologies in that field (such as eCall, eToll, etc.).

6. The Proposal was sent to the European Parliament, which adopted its position in first reading⁽⁷⁾ on 23 April 2009. Further to a request for consultation from the Council on

⁽⁵⁾ Article 4 of the Proposal envisages the definition of technical measures in the following areas: (i) optimal use of road, traffic and travel data; (ii) continuity of traffic and freight management ITS services on European corridors and in conurbations; (iii) road safety and security; and (iv) integration of the vehicle into the transport infrastructure.

⁽⁶⁾ The Proposal provides for a regulatory procedure with scrutiny, in accordance with Article 5(a)(1) to (4) and Article 7 of Decision 1999/468/EC.

⁽⁷⁾ European Parliament legislative resolution of 23 April 2009 on the proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes, T6-0283/2009.

29 January 2009, the European Economic and Social Committee adopted an opinion on the Proposal on 13 May 2009⁽⁸⁾.

1.3. Focus of the opinion

7. The EDPS welcomes the consultation on the proposed ITS deployment plan put forward by the Commission. This is not the first time that the EDPS deals with the issues raised in the ITS Action Plan. The EDPS issued an opinion on the Commission proposal on facilitating cross-border enforcement in the field of road safety⁽⁹⁾ and contributed to the work of the Article 29 Working Party on a working document on eCall⁽¹⁰⁾.

8. Intelligent Transport Systems are based on the collection, processing and exchange of a wide variety of data, from public and private sources; they therefore constitute a data-intensive area. The deployment of ITS will rely to a large extent on geolocalisation technologies, such as satellite-positioning and contact-less technologies, such as RFID, which will facilitate the provision of a variety of public and/or commercial location-based services (e.g. real-time traffic information, eFreight, eCall, eToll, parking reservation, etc.). Some of the information that will be processed through ITS is aggregated — such as on traffic, accidents, and opportunities — and does not relate to any individual, while other information is related to identified or identifiable individuals and therefore qualifies as personal data within the meaning of Article 2(a) of Directive 95/46/EC.

9. The EDPS considers as essential that the actions planned for ITS deployment are consistent with the existing legal framework as cited in the Proposal, in particular Directive 95/46/EC on data protection⁽¹¹⁾ and Directive 2002/58/EC on e-privacy⁽¹²⁾.

⁽⁸⁾ Opinion of the European Economic and Social Committee on the proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes, TEN/382, 13 May 2009.

⁽⁹⁾ Opinion of the European Data Protection Supervisor on the proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety, 2008/C 310/02 (OJ C 310, 5.12.2008, p. 9).

⁽¹⁰⁾ Article 29 Working Party working document on data protection and privacy implications in eCall initiative, WP 125, 26 September 2006. http://ec.europa.eu/justice_home/fsj/privacy/docs/wpdocs/2006/wp125_en.pdf

⁽¹¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽¹²⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

10. Unresolved issues in privacy and data protection have been identified by the Commission as one of the main obstacles for promoting ITS. These issues will be developed as follows in this opinion:

— in Chapter II, the legal framework put forward by the Commission for the deployment of ITS will be analysed from a data protection perspective,

— Chapter III will highlight the data protection concerns that must be further addressed for the proper deployment of ITS:

— in a first point, the opinion will emphasize the need for 'privacy by design' in the development of ITS and will further outline the important issues that must be tackled in the design of ITS applications and data processing systems,

— the second point will focus on some of the privacy considerations that must be further addressed for the provision of ITS services.

II. ANALYSIS OF THE LEGAL FRAMEWORK PROPOSED FOR ITS DEPLOYMENT

11. The Commission proposal for a Directive contains two provisions (recital 9 and Article 6) dealing with privacy, security and re-use of information. Article 6(1) of the Commission Proposal requires that the operation of ITS is carried out in compliance with the data protection rules set out, *inter alia*, in Directive 95/46/EC and Directive 2002/58/EC. In the Commission Proposal, Article 6(2) envisages concrete data protection measures mainly from a security viewpoint: Article 6(2) of the Proposal states that 'Member States shall ensure that ITS data and records are protected against misuse, including unlawful access, alteration or loss'. Finally, Article 6(3) of the Commission Proposal provides that 'Directive 2003/98/EC shall apply'.

12. The European Parliament proposed in first reading amendments concerning Article 6. In particular, three new paragraphs are added in Article 6(1), which relate to the use of anonymous data where appropriate, to the

processing of sensitive data only upon informed consent of the data subject, and to ensuring that personal data are only processed 'insofar as processing is necessary for the performance of the ITS application and/or service'. In addition, Article 6(2) is modified by adding that ITS data and records 'may not be used for purposes other than those referred to in the Directive.'

13. The EDPS welcomes that data protection has been taken into consideration in the drafting of the Proposal and that it is put forward as a general condition for the proper deployment of ITS in Europe. The EDPS acknowledges that there is a need for a coherent harmonisation of data processes at EU level in order to ensure the workability of ITS applications and services across Europe.

14. The EDPS, however, notes that the proposed legal framework is too broad and general to adequately address the privacy and data protection concerns raised by ITS deployment in the Member States. It is not clear when the performance of ITS services will lead to the collection and processing of personal data, what are the specific purposes for which a data processing occurs, nor what is the legal basis that justifies such processing. Furthermore, the use of location technologies for ITS deployment raises the risk of developing services that are intrusive from a privacy viewpoint if they entail the collection and exchange of personal data. Moreover, the Proposal does not clearly set out the roles and responsibilities of the various operators intervening in the chain of ITS deployment, and it is thus difficult to know which operators will be data controllers and will therefore be responsible⁽¹³⁾ for compliance with data protection obligations. ITS operators will be faced with considerable problems if all these issues are not clarified in the law, since they will ultimately be the ones in charge of applying the measures set out in the proposed Directive.

15. There is therefore a risk that the lack of clarity of the proposed legal framework will create diversity in the implementation of ITS in Europe and that, instead of reducing divergences amongst Member States it will, on the contrary, lead to considerable uncertainty, fragmentation and inconsistencies, due to different levels of data protection in Europe. This may also lead to a lack of compliance with essential safeguards for data protection. The EDPS emphasizes the need for further harmonisation on these issues at EU level. The EDPS will hereby suggest modifications to the proposed legal framework from a data protection viewpoint. He strongly recommends that Parliament and Council insert in the Proposal the proposed modifications as well as, where feasible, additional provisions to clarify outstanding issues (such as definition and responsibilities of ITS actors, development of

⁽¹³⁾ According to Articles 2(d), 6(2) and 23 of Directive 95/46/EC, mentioned in footnote 11.

harmonised contracts for the provision of ITS services, etc.). He further stresses that Member States will also bear responsibility in implementing the Directive in a proper fashion so that operators can develop systems and services that offer an appropriate level of data protection across Europe.

II.1. Data processing activities must rely on an appropriate legal basis

16. It is not clear when processing of personal data will start once ITS equipment is integrated in a vehicle and on which legal ground the processing will be performed. Different legal bases may be relied upon by operators for the data processing, *inter alia* unambiguous consent of users, a contract or a legal obligation with which the controller shall comply. There is a need to harmonise the legal basis upon which the processing of data through ITS will be carried out in order to ensure that the systems work throughout Europe and that users do not suffer from divergences in the way processing occurs in each EU country.
17. In a number of cases, ITS systems will be integrated in vehicles by default. This is notably the case for safety and security-related ITS systems, which must be embedded in vehicles pursuant to the Proposal. The Proposal does not however define what 'safety and security-related ITS systems' are, and it should therefore be further clarified what the specific ITS applications and systems are that must be embedded in vehicles. Furthermore, it should be made clear whether the activation and use of the device will be done on a voluntary or on a compulsory basis for users. The choice to perform a data processing on a mandatory basis should only be made for specific purposes in consideration of compelling justifications (e.g. good tracking for freight management) and with appropriate safeguards as concerns the processing of data relating to individuals. If the use of ITS is made on a voluntary basis, appropriate safeguards should be implemented to prevent that by reason of the mere presence of the system in the vehicle users are deemed to have implicitly consented to its use.
18. The EDPS favours the choice that ITS services are provided on a voluntary basis. This entails that users must be able to freely consent to the use of the system and to the particular purposes for which it will be used. When the service provided relies on location data, appropriate information must be provided to the user (in accordance notably with Article 9 of Directive 2002/58/EC), who must be in a position to withdraw this consent. In practical terms, this requires that an easy way of de-activation of the device and/or feature must be introduced, without technical or financial constraint for the user⁽¹⁴⁾, when the user no longer agrees to the use of the system and/or of a particular feature. Further safeguards should be implemented so that users are not discriminated against when they refuse to use a service.

19. In cases where certain processing activities are mandatory and others are subject to the consent of the user, transparency must be ensured about the various data processing operations performed, by providing appropriate information to users about the mandatory and/or voluntary nature of each particular processing and the scope of such processing. Furthermore, it will be crucial to implement appropriate security safeguards so that no data are collected and processed outside the scope of what has been legally defined and/or voluntary agreed.
20. In consideration of the transnational effect of ITS services, the EDPS further recommends developing pan-European standard contracts to ensure that services provided through ITS offer the same data protection safeguards across Europe, and in particular that information provided to users is sufficiently clear about the specific features used, the impact on the use of specific technologies on the protection of their data, and how they can exercise their rights. When new features are added, further steps should be taken by service providers to provide clear and specific information to users in respect of these additional features and to obtain their appropriate consent to the use of new features.

II.2. The purposes and modalities of data processing must be further defined

21. The EDPS notes that the Proposal does not precisely define the specific services and purposes for which ITS applications could be used, which are thus left open. This allows flexibility in practice, but means that unresolved issues in privacy and data protection — identified by the Commission as one of the main obstacles for promoting ITS (see point 10) — may remain unresolved and could hamper a balanced implementation of the proposed measures.
22. The EDPS emphasizes that it is particularly important that the processing operations undertaken for the provision of specific ITS services are not only done pursuant to an appropriate legal basis, but also for specified, explicit and legitimate purposes, and that the envisaged processing is proportionate and necessary for those purposes (Article 6 of Directive 95/46/EC). Consideration should therefore be given to the possible need to further legislate at EU level in respect of specific uses of ITS in order to provide a harmonised and adequate legal basis for the processing activities to be undertaken, and in order to avoid discrepancies in the deployment of ITS services between Member States.
23. Under the proposed framework there is no decision as yet about the modalities of the data processing and of the data exchanges for the use of ITS. Many technical parameters, the choice of which will have different privacy and data protection implications, will only be decided at a later stage through comitology. Taking into account the particular protection granted to privacy and data

⁽¹⁴⁾ See WP 125 on eCall, p. 4, mentioned in footnote 10.

protection as fundamental rights protected in Article 8 of the European Convention of Human Rights and Fundamental Freedoms and in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, it can be questioned whether and to which extent the definition of the data processing operations should be decided through comitology procedure.

24. In a democratic society, decisions on essential principles and modalities that impact fundamental rights should be taken within a full legislative procedure, which includes the appropriate checks and balances. In this case, this means that decisions that have a major impact on the privacy and data protection of individuals, such as purposes and modalities of mandatory data processing activities and the definition of modalities for the deployment of ITS in new areas should be decided by European Parliament and Council and not through comitology procedure.
25. In this perspective, the EDPS strongly advises that the Article 29 Working Party and the EDPS are involved, where relevant, in the work of the Committee created under Article 8 of the Proposal and in future actions taken concerning the deployment of ITS, through consultation at a sufficiently early stage before the development of relevant measures.
26. Furthermore, the EDPS takes note of the amendments adopted by the European Parliament in relation to Article 6 of the Proposal. The EDPS first notes that the amendment relating to encouraging the use of anonymous data where appropriate, although very welcome in principle, will not solve all data protection concerns as many data collected and exchanged through ITS may qualify as personal data. For the processing of personal data to be done on an anonymous basis, there must be no possibility for any person at any stage of the processing — taking account of all the means likely reasonably to be used either by the controller or by any other person — to link the data with data relating to an identified individual, otherwise such data constitute personal data in the meaning of Article 2(a) of Directive 95/46/EC⁽¹⁵⁾. Further, on the basis of the amendments proposed by the European Parliament, the EDPS recommends that Article 6 of the Proposal is modified as follows:

— the assessment of the necessity of processing personal data through ITS should be made in view of the legitimate and specific purposes for which data are processed (in accordance with Articles 6 and 7 of

Directive 95/46/EC). The performance of the ITS application⁽¹⁶⁾ itself cannot be a legitimate purpose justifying the data processing, as the application is only a means of collecting and exchanging data, the use of which should necessarily be oriented towards particular purposes,

- the amendment⁽¹⁷⁾ relating to the prohibition to use ITS data and records ‘for purposes other than those referred to in this Directive’ does not provide sufficient guarantees, in particular as the specific purposes and services for which ITS will be used are not clearly and exhaustively set out in the Directive. Considering that various data processing activities will be carried out through ITS for very different purposes, it should be ensured that the data collected in the course of processing for one particular purpose are not used for other purposes that are incompatible, as provided in Article 6(1)(b) of Directive 95/46/EC. The EDPS therefore recommends that Article 6(2) should be further modified to ensure that ITS data and records are not used ‘for purposes other than the ones for which they were collected in a way incompatible with those purposes’.

III. DATA PROTECTION IN INTELLIGENT TRANSPORT SYSTEMS

27. It is particularly crucial that the roles of the different actors involved in ITS are clarified in order to identify who will bear the responsibility to ensure that systems work properly from a data protection perspective. It should therefore be further clarified who should be responsible for implementing the applications and systems the design of which will be specified through comitology, and who will be responsible amongst the chain of actors for compliance of the data processing with data protection law (i.e. the data controllers). The EDPS will underline below some of the privacy and data protection concerns that should be addressed in comitology and by data controllers when designing the applications and systems architecture. Further, he will outline some of the data protection issues that must be addressed by the legislator and data controllers in respect of the provision of ITS services.

III.1. ‘Privacy by design’

28. The correct application of the data protection principles set forth in Directive 95/46/EC is a core condition for the success of the deployment of ITS in the Community. These principles have implications for the design of the systems architecture and applications. The EDPS recommends that a ‘privacy by design’ approach is adopted at an early stage of the design of ITS, to define

⁽¹⁵⁾ As set out in recital 26 of Directive 95/46/EC, ‘to determine whether a person is identifiable, account should be taken of all the means likely reasonably to be used either by the controller or by any other person to identify the said person.’

⁽¹⁶⁾ Amendment 34 introducing a new Article 6(1)(b) provides: ‘Personal data shall only be processed insofar as processing is necessary for the performance of the ITS application and/or service.’

⁽¹⁷⁾ Amendment 36 adds to Article 6(2) the following text: ‘and may not be used for purposes other than those referred to in this Directive.’

the architecture, operation and management of the applications and systems. This approach is notably emphasised in Directive 1999/5/EC⁽¹⁸⁾ as concerns the design of radio and telecommunications terminal equipment.

29. The design of ITS applications and systems will be done in several stages, by various actors, who should all take into account privacy and data protection. The Commission and the ITS Committee will bear specific initial responsibility in the definition, through the comitology procedure, of measures, standardisation initiatives, procedures and best practices that should promote 'privacy by design'.

30. 'Privacy by design' should be encouraged at all stages of the processes and in all forms of the processes:

- at an organisational level, privacy should be considered in the definition of the necessary procedures for data exchange between all relevant points of exchange — this may have direct impact on the type of exchange and on which data are exchanged,

- privacy and security requirements should be incorporated within standards, best practices, technical specifications, and systems,

- at the technical level, the EDPS recommends the development, for instance through comitology, of Best Available Techniques⁽¹⁹⁾ (BATs) for privacy, data protection and security in specific sectors and/or for particular purposes, in which the different security parameters that must be implemented throughout the lifecycle of the system would be defined in order to guarantee compliance with the EU regulatory framework.

31. The EDPS outlines some of the issues that must be specifically addressed in the design of the applications and the architecture of the systems below. They relate to the data collected, to the interoperability of systems, and to the security of the data.

III.1(a) *Data minimisation and anonymity*

32. In accordance with Article 6(1)(c) of Directive 95/46/EC, only personal data that are necessary and relevant for specific purposes may be collected and processed.

⁽¹⁸⁾ Mainly the Article 3.3(c) of Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity.

⁽¹⁹⁾ Best Available Techniques shall mean the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for ITS applications and systems to be compliant with privacy, data protection and security requirement of the EU regulatory framework.

33. The EDPS stresses the importance of undertaking an appropriate classification of the information and data to be processed through ITS before designing the applications and systems, in order to avoid a massive and inappropriate collection of personal data. In this respect, account should be taken of:

- the source of the data (whether from a public source, telecommunication provider, ITS service provider, other operators, vehicle, user of vehicle or other data subjects),

- the nature of the data (e.g. aggregated information, anonymous data, personal data, sensitive data),

- the purpose(s) for which the data are intended to be used, and

- with respect to cooperative systems, it should be clarified which data is pushed/pulled from the vehicle, exchanged with other vehicle and/or infrastructure, and from infrastructure to infrastructure, and for what purposes.

34. The single features should be carefully analyzed according to the pursued purposes in order to assess the necessity of collecting personal data. The EDPS stresses the importance of striking a proper balance between the fundamental rights of data subjects and the interests of the different actors involved, which implies that as few personal data as possible are processed. To the greatest extent, the architecture of the applications and systems should be designed in such a way that only the personal data that are strictly necessary for fulfilling the purposes to be achieved are collected.

35. If personal data are not necessary or are necessary only at an early stage of the processing, they should not be collected or should be anonymised as soon as possible. It is thus particularly important not only to assess the necessity of collecting data, but furthermore of retaining them in the different systems. Specific time limits for storage of personal data should be defined for all different actors in the service chain, which should be differentiated according to the type of data and purpose for which they were collected⁽²⁰⁾. As a result, when it is no longer necessary to keep personal data to achieve the purposes for which they were collected or further processed, they should be rendered anonymous, i.e. no longer relate to an identified or identifiable individual.

36. The design of the systems architecture and the data exchange procedures should support the processing of as few personal data as possible. In this respect, all stages of the processing and all actors in the chain of provision of

⁽²⁰⁾ For example, the retention of traffic data and of location data processed in connection with the provision of publicly available electronic communication services in public communications networks is regulated in Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC.

ITS services should be taken into account. While some data may be exchanged and processed on an anonymous basis, other data, even if exchanged on an unidentified basis, may be linked to data relating to identified individuals and will therefore constitute personal data in the meaning of Article 2(a) of Directive 95/46/EC⁽²¹⁾. Given the purposes for which ITS will be used, it seems difficult to ensure that a large amount of the data gathered through ITS will be processed on an anonymous basis, as the identity of the individual will be needed at some point for specific purposes, such as invoicing. It would, as a result, at least take special — technical, organisational and legal — measures to ensure anonymity in certain domains.

III.1(b) Interoperability, data quality and purpose limitation

37. Interoperability of applications and systems is a core element for successful ITS deployment. Harmonisation work will be done through which the technical specifications of the interfaces to be integrated in applications and systems will be defined, in order to allow them to interoperate with other applications embedded in other transport modes and/or systems. While interoperability of systems will help facilitate the provision of a variety of services and will contribute to ensuring their continuity throughout Europe, it poses a certain number of risks from a data protection viewpoint, such as the risks of misuse or abuse of the data. Any interconnection of databases should be done with due respect for data protection principles⁽²²⁾ and practical safeguards on security (see also section III.1(c)).
38. The principle of data quality enunciated in Article 6(d) of Directive 95/46/EC is particularly crucial in the context of interoperability of applications and systems. The technical specifications to be defined for the design of the interfaces should ensure the accuracy of the data to be obtained as a result of the interconnection of applications and systems.
39. Given that the interoperability of systems will facilitate the interconnection of databases and the matching of data for further purposes, the EDPS emphasizes that any interconnection should be done with careful consideration of the purpose limitation principle set forth in Article 6(1)(b) of Directive 95/46/EC. It is particularly important that the design of ITS systems architecture prevents any further use of the data for other purposes than those for which they were collected. Appropriate security protections must be built in the system to prevent misuse, unauthorised disclosure or access, as well as collateral effects of devices. For example, sufficient protections should be implemented so that nomadic devices are not accessed by unauthorised third parties and are not used to identify and track people beyond the purposes of the system.

⁽²¹⁾ See footnote 15.

⁽²²⁾ See also comments of the EDPS on the Communication of the Commission on interoperability of European databases, 10 March 2006. http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Comments/2006/06-03-10_Interoperability_EN.pdf

40. As to the lawfulness of the interconnection itself, this will need to be assessed on a case-by-case basis, taking account of the nature of the data that are made available and exchanged through the systems and of the purposes for which they are originally intended to be used.

III.1(c) Security of data

41. Security of personal data is a key element of ITS deployment. The EDPS welcomes the fact that security is explicitly mentioned in the action plan and in the proposal for a Directive. Security should be envisaged not only during the functioning of the ITS device (in the in-vehicle system and in the communication transport protocol) but also beyond the functioning of the device — in the databases where the data are processed and/or stored. Appropriate technical, administrative, and organisational requirements should be defined for all stages of the processing which ensure an adequate level of security in accordance with Articles 16 and 17 of Directive 95/46/EC (as well as Articles 4 and 5 of Directive 2002/58/EC, where relevant).
42. The definition of appropriate security measures should only be done after a careful assessment of the specific purposes for which ITS will be used and of the modalities of the processing has been done. In this respect, the EDPS recommends that privacy and data protection impact assessments are conducted in relation to particular sectors and/or purposes of use (e.g. for security-related ITS systems, for freight management systems, etc.). The conduct of a privacy and data protection impact assessment and the use of BATs for privacy and data protection will contribute to defining the most appropriate security measures relevant to the specific processing performed.

III.2. Further data protection and privacy considerations for the provision of ITS services

43. Further harmonisation of the modalities of deployment of ITS services is necessary at EU level in order to prevent discrepancies in the deployment of ITS services. In this regard, the EDPS would like to point out two issues that will notably require further consideration from a privacy and data protection viewpoint below:
 - the use of location tools for the provision of location-based public and commercial services requires that additional safeguards are implemented. In such a context, particular attention should be paid to whether and when ITS location-based services are used for private purposes or for professional purposes, and how individuals using a vehicle in a professional context might be impacted by the use of such a system,
 - it is particularly important in integrated systems that the roles and responsibilities of the different parties involved in ITS deployment are clarified.

III.2(a) *Safeguards for the use of location tools for the provision of ITS location-based services*

44. The deployment of ITS will support the development of applications for 'tracking and tracing' of goods and will allow for the deployment of location-based commercial and public services. Such services will rely on the use of technologies such as satellite-based positioning and RFID tags⁽²³⁾. Navigation, tracking and tracing systems are intended to be used for a variety of purposes such as remote in-route monitoring of vehicles and cargo (e.g. for the transport of dangerous goods or living animals), invoicing vehicles on a variety of parameters including distance travelled and time of day (e.g. road pricing, electronic road toll systems), and monitoring drivers for enforcement purposes such as checking driving times (through digital tachographs) and imposing sanctions (through electronic vehicle identification).
45. The use of location technologies is particularly intrusive from a privacy viewpoint as it allows for the tracking of drivers and for the collection of a wide variety of data relating to their driving habits. As was stressed by the Article 29 Working Party⁽²⁴⁾, the processing of location data is a particularly sensitive matter involving the key issue of the freedom to move anonymously, and which requires the implementation of specific safeguards in order to prevent surveillance of individuals and misuse of the data.
46. The EDPS emphasizes that the use of location tools must be lawful, i.e. based on a proper legal ground, for explicit and legitimate purposes, and proportionate to the purposes to be achieved. The lawfulness of the data processing undertaken will much depend on the manner in which and the purposes for which location tools will be used. As the Article 29 Working Party underlined in its opinion on eCall, 'it would not be acceptable, from a data protection viewpoint, to have such devices permanently connected and vehicles thus permanently be trackable in view of the possible activation of eCall devices'⁽²⁵⁾. It is therefore important to clarify further the specific circumstances in which a vehicle will be tracked and its impact on the user. In any event, the use of location devices should be justified by a legitimate need (e.g. monitoring the transport of goods) and strictly limited to what is necessary for that purpose. Thus, it is important to precisely define which location data are collected, where they are stored and for how long they are kept, with whom and for which purposes they are exchanged, and to take all necessary steps to avoid any misuse or abuse of the data.
47. Furthermore, the processing of location data relating to users of public communications networks or publicly available electronic communication services is strictly regulated in Article 9 of Directive 2002/58/EC. It notably requires that processing of location data should be done on an anonymous basis, or otherwise upon informed consent of the user. This means that users must, prior to agreeing to the use of a location tool, be provided with appropriate information, including the type of location data processed, the purposes and duration of the processing, and whether the data will be transmitted to a third party for the purpose of providing the value added service. There must be a simple means, free of charge, for users to temporarily refuse the processing of location data for each connection to the network or for each transmission of a communication. The processing of location data should be strictly limited to persons acting under the authority of the provider of the public communications network or publicly available communication service or of the third party providing the value added service.
48. Additional safeguards must be adopted when location data are collected from vehicles that are being used in the course of professional activity, to prevent the location technology being used to unduly monitor employees. In any event, the processing should be limited to location data collected during the working time — thus employees shall be able to switch off the location function outside the working hours and/or when using the vehicle for private purposes.
49. There is a risk that third parties (such as insurance companies, employers, and law enforcement authorities) require access to data collected through navigation and tracking systems for legitimate and specified purposes (such as tracking of goods, electronic payment of toll, etc.) in order to use them for secondary purposes, such as checking driving times and rest periods or verifying compliance with road regulations and imposing sanctions. As a principle, access to the data for secondary purposes is not allowed if this access serves purposes which are incompatible with the ones, for which they were collected. Access can only be allowed by way of derogation to this principle if the conditions for such access meet the strict requirements of Article 13 of Directive 95/46/EC. As a consequence, any access to location data by third parties should only be provided in accordance with the law and in a transparent way, on the basis of a legal measure that sets out appropriate procedures and modalities for access to the
- ⁽²³⁾ See the privacy and data protection issues raised by the use of RFID in the opinion of the European Data Protection Supervisor on the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on 'Radio Frequency Identification (RFID) in Europe: steps towards a policy framework' COM(2007) 96, OJ C 101, 23.4.2008, p. 1. http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2007/07-12-20_RFID_EN.pdf
- ⁽²⁴⁾ Article 29 Working Party, Opinion on the use of location data with a view to providing value-added services, WP 115, November 2005. http://ec.europa.eu/justice_home/fsj/privacy/docs/wpdocs/2005/wp115_en.pdf
- ⁽²⁵⁾ See WP 125 on eCall, p. 5, mentioned in footnote 10.

data for specific purposes, and that provides adequate safeguards to individuals in accordance with the further purposes for which their data could be used.

III.2(b) Roles and responsibilities of ITS actors

50. It is not yet clear who the data controller will be in respect of each part of the processing. In many cases, ITS service providers will likely be the controllers of the data, whether alone in respect of the personal data processed for the provision of their own ITS services or jointly in the cases where the processing is carried out together with other data controllers. Operators involved in ITS in different capacities should have their role and responsibilities, as data controller and as data processor, clearly specified in respect of each part of the processing (e.g. telecommunication operators providing communications services as well as ITS services).
51. Those persons acting as data controllers will be responsible⁽²⁶⁾ for ensuring compliance of the systems and services with all data protection obligations, and in particular for implementing systems that embed 'privacy by design', that respect data quality and purpose limitation principles, and that guarantee an appropriate level of security of the data, as described in III.1.
52. Data controllers will need to ensure that appropriate safeguards are put in place at all levels of the chain of actors involved in ITS deployment. This will notably require that they enter into appropriate contractual schemes with all stakeholders involved in the exchange and processing of data, which should provide adequate data protection safeguards (in particular in respect of Articles 16 and 17 of Directive 95/46/EC, and Articles 4 and 5 of Directive 2002/58/EC). It is important to note that from a data protection perspective, while data controllers must ensure that data protection is ensured at all stages of the processing, they remain responsible for the processing and cannot exclude their responsibility by contract.

IV. CONCLUSIONS

53. The EDPS welcomes the proposed ITS deployment plan put forward by the Commission that aims at harmonising the data processes throughout Europe in order to facilitate the provision of ITS services, and in which data protection is put forward as a core condition for the proper deployment of ITS in Europe.
54. The EDPS notes that the proposed Directive sets forth a general framework which raises a number of privacy and data protection issues that need to be further addressed at EU and national level:

- there is a risk that the lack of clarity of the proposed legal framework will create diversity in the implementation of ITS in Europe which will lead to different levels of data protection in Europe. The EDPS emphasizes the need for further harmonisation on these issues at EU level to clarify outstanding issues (such as definition of the roles and responsibilities of ITS actors, which specific ITS applications and systems must be embedded in vehicles, the development of harmonised contracts for the provision of ITS services, the specific purposes and modalities of use of ITS, etc.). It is particularly crucial to identify who the data controllers will be in respect of the data processing performed, as they will bear the responsibility to ensure that privacy and data protection considerations are implemented at all levels of the chain of processing,
- decisions concerning certain modalities of the processing that could seriously impact on the privacy and data protection rights of individuals should be taken by the European Parliament and the Council, and not through comitology procedure,
- it is paramount to consider privacy and data protection from an early stage of the processing and in all stages of the processing; the implementation of 'Privacy by design' should be encouraged for the design of ITS applications and systems, and should be incorporated within standards, best practices, technical specifications, and systems,
- any interconnection of applications and systems should be done with due respect for data protection principles and practical safeguards on security,
- in regard of the uncertainties that remain at this stage concerning the modalities of deployment of ITS, the EDPS particularly welcomes the initiative put forward by the Commission in its Communication that a privacy assessment be conducted by 2011. He furthermore strongly advises that privacy and data protection impact assessments are conducted in relation to particular sectors and/or purposes of use for the definition of appropriate security measures and that Best Available Techniques for privacy, data protection and security in ITS are developed,
- the EDPS further stresses that Member States will bear responsibility in implementing the Directive in a proper fashion so that ITS operators implement systems and services that offer an appropriate level of data protection across Europe,

⁽²⁶⁾ See footnote 13.

- appropriate safeguards should be implemented by data controllers providing ITS services so that the use of location technologies, such as satellite positioning and RFID tags, is not intrusive of the privacy of individuals using vehicles in a purely private or in a professional context. This will notably require limiting the processing to the data strictly necessary for that purpose, ensuring that appropriate security measures are built in the systems so that location data are not disclosed to unauthorised recipients, and providing users with an effective means of deactivation of the location device/feature.
55. The EDPS recommends that Article 6 of the Proposal is amended, in line with Directive 95/46/EC, as follows:
- data minimisation should be encouraged for the data processing performed through ITS. In this view, it is recommended to amend Article 6(1)(b) of the Proposal as follows: 'Personal shall only be processed insofar as processing is necessary for the specific purpose for which ITS is used and pursuant to an appropriate legal basis',
- it is important that personal data processed through interoperable systems are not used for further purposes that are incompatible with those for which they were collected. It is therefore recommended to modify Article 6(2) as follows: 'and may not be used for purposes other than the ones for which they were collected in a way incompatible with those purposes',
- he recommends adding an explicit reference to the notion of 'privacy by design' for the design of ITS applications and systems in Article 6 of the Proposal. Moreover, he recommends that the Article 29 Working Party and the EDPS are informed about and consulted on further actions taken on this issue through the comitology procedure.
56. The EDPS further recommends that reference to this consultation be made in the recitals of the Proposal.
57. In consideration of the above, the EDPS recommends that data protection authorities, in particular through the Article 29 Working Party, and the EDPS are closely involved in initiatives related to the deployment of ITS, through consultation at a sufficiently early stage before the development of relevant measures.
- Done at Brussels, 22 July 2009.
- Peter HUSTINX
European Data Protection Supervisor
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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**

(Text with EEA relevance)

(2010/C 47/03)

Date of adoption of the decision	14.1.2010
Reference number of State Aid	NN 68/09
Member State	Hungary
Region	The whole territory of Hungary
Title (and/or name of the beneficiary)	Liquidity scheme for Hungarian banks
Legal basis	Az államháztartásról szóló 1992. évi XXXVIII. törvény 8/B. §-a alapján.
Type of measure	Aid scheme
Objective	Aid to remedy serious disturbances in the economy
Form of aid	Soft loan
Budget	Overall budget: EUR 4 000 million
Intensity	—
Duration (period)	Until 30.6.2010
Economic sectors	Financial intermediation
Name and address of the granting authority	Pénzügyminisztérium Budapest József nádor tér 2–4. 1051 MAGYARORSZÁG/HUNGARY
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	22.12.2009
Reference number of State Aid	N 374/09
Member State	Ireland
Region	—
Title (and/or name of the beneficiary)	National Development Plan 2007-2013. R&D&I aid scheme
Legal basis	Ireland National Development Plan 2007-2013 — Agriculture and Food Development Programme — Agriculture and Forestry Competitiveness Sub-Programme — Forestry element
Type of measure	Aid scheme
Objective	Research and development, Environmental protection
Form of aid	Direct grant
Budget	Annual budget: — 2007: EUR 2,79 million — 2008: EUR 3,02 million — 2009-2013: EUR 4,0 million Overall budget: EUR 25,81 million
Intensity	Measure does not constitute aid
Duration (period)	1.1.2007-31.12.2013
Economic sectors	Agriculture
Name and address of the granting authority	Department of Agriculture, Fisheries and Food Agriculture House Kildare Street Dublin 2 IRELAND
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	16.12.2009
Reference number of State Aid	N 470/09
Member State	Czech Republic
Region	—
Title (and/or name of the beneficiary)	Program bezpečnostního výzkumu ČR 2010–2015
Legal basis	Zákon č. 132/2002 Sb., o podpoře výzkumu, experimentálního vývoje a inovací z veřejných prostředků a o změně některých souvisejících zákonů. Usnesení vlády České republiky ze dne 12. ledna 2009 č. 50.
Type of measure	Aid scheme

Objective	Research and development, Innovation
Form of aid	Direct grant
Budget	Overall budget: CZK 2 394 million
Intensity	100 %
Duration (period)	Until 31.12.2015
Economic sectors	—
Name and address of the granting authority	Ministerstvo vnitra ČR Nad Štolou 3 170 34 Praha 7 ČESKÁ REPUBLIKA
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	22.12.2009
Reference number of State Aid	N 502/09
Member State	Germany
Region	Freie und Hansestadt Hamburg
Title (and/or name of the beneficiary)	Richtlinie zur Förderung von Forschungs- und Entwicklungsvorhaben Hamburger Forschungsinstitute und zur Förderung von Netzwerken und Clustern
Legal basis	§§ 23 und 44 der Haushaltsordnung der Freien und Hansestadt Hamburg und die dazu erlassenen Verwaltungsvorschriften sowie deren Anlagen. Hamburgisches Verwaltungsverfahrensgesetz (HmbVwVfG); Richtlinie zur Förderung von Forschungs- und Entwicklungsvorhaben Hamburger Forschungseinrichtungen, von Prozess- und Betriebsinnovationen im Dienstleistungssektor, von Innovationsberatungsdiensten und innovationsunterstützenden Dienstleistungen sowie von Netzwerken und Clustern
Type of measure	Aid scheme
Objective	Research and development
Form of aid	Direct grant
Budget	Annual budget: EUR 18 million Overall budget: EUR 72 million
Intensity	80 %
Duration (period)	Until 31.12.2013
Economic sectors	All sectors
Name and address of the granting authority	—

Other information	—
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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	17.12.2009
Reference number of State Aid	N 680/09
Member State	Romania
Region	—
Title (and/or name of the beneficiary)	Modification of N 478/09 Individual State Guarantee for Ford Romania S.A
Legal basis	Ministry of Public Finance Order No 138/2009 for the approval of the procedures on Government public debt concentration by issuing of State Guarantees
Type of measure	Individual aid
Objective	Aid to remedy serious disturbances in the economy
Form of aid	Guarantee
Budget	Overall budget: EUR 400 million
Intensity	—
Duration (period)	2009-2014
Economic sectors	Motor vehicles
Name and address of the granting authority	Ministry of Public Finance Str. Apolodor nr. 17, sector 5 București ROMÂNIA
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

Non-opposition to a notified concentration**(Case COMP/M.5768 — Klöckner/Becker)****(Text with EEA relevance)**

(2010/C 47/04)

On 19 February 2010, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in German and will be made public after it is cleared of any business secrets it may contain. It will be available:

- 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 32010M5768. EUR-Lex is the on-line access to the European law.

Non-opposition to a notified concentration**(Case COMP/M.5771 — CSN/CIMPOR)****(Text with EEA relevance)**

(2010/C 47/05)

On 15 February 2010, 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 32010M5771. 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

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

24 February 2010

(2010/C 47/06)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3547	AUD	Australian dollar	1,5191
JPY	Japanese yen	122,16	CAD	Canadian dollar	1,4306
DKK	Danish krone	7,4427	HKD	Hong Kong dollar	10,5185
GBP	Pound sterling	0,87750	NZD	New Zealand dollar	1,9588
SEK	Swedish krona	9,7850	SGD	Singapore dollar	1,9099
CHF	Swiss franc	1,4641	KRW	South Korean won	1 559,43
ISK	Iceland króna		ZAR	South African rand	10,5358
NOK	Norwegian krone	8,0290	CNY	Chinese yuan renminbi	9,2485
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,2699
CZK	Czech koruna	25,880	IDR	Indonesian rupiah	12 616,76
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,6107
HUF	Hungarian forint	270,50	PHP	Philippine peso	62,532
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	40,6900
LVL	Latvian lats	0,7093	THB	Thai baht	44,753
PLN	Polish zloty	3,9926	BRL	Brazilian real	2,4680
RON	Romanian leu	4,1260	MXN	Mexican peso	17,4655
TRY	Turkish lira	2,0958	INR	Indian rupee	62,6990

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

New national side of euro coins intended for circulation

(2010/C 47/07)

*National side of the new commemorative 2-euro coin intended for circulation and issued by Spain*

Euro coins intended for circulation have legal tender status throughout the euro area. For the purpose of informing the public and all parties who handle the coins, the Commission publishes a description of the designs of all new coins ⁽¹⁾. In accordance with the Council conclusions of 10 February 2009 ⁽²⁾, the Member States of the euro area and countries that have concluded a monetary agreement with the Community providing for the issuing of euro coins are allowed to issue commemorative euro coins intended for circulation, provided that certain conditions are met, particularly that only the 2-euro denomination is used. These coins have the same technical characteristics as other 2-euro coins, but their national side features a commemorative design that is highly symbolic in national or European terms.

Issuing country: Spain

Subject of commemoration: The historical centre of Córdoba, UNESCO world heritage site

Description of the design:

The inner part of the coin depicts the interior of the Mosque-Cathedral of Córdoba. On the left, the Mint mark. Below, the name of the issuing country followed by the year of issue 'ESPAÑA 2010'.

The coin's outer ring contains the 12 stars of the European flag.

Number of coins to be issued: 8 million

Date of issue: First quarter of 2010

⁽¹⁾ See OJ C 373, 28.12.2001, p. 1, for the national sides of all the coins issued in 2002.

⁽²⁾ See the conclusions of the Economic and Financial Affairs Council of 10 February 2009 and the Commission Recommendation of 19 December 2008 on common guidelines for the national sides and the issuance of euro coins intended for circulation (OJ L 9, 14.1.2009, p. 52).

NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

No State aid within the meaning of Article 61 of the EEA Agreement

(2010/C 47/08)

The EFTA Surveillance Authority considers that the following measure does not constitute State aid within the meaning of Article 61(1) of the EEA Agreement:

Date of adoption of the decision:	7 October 2009
Case number:	55120
EFTA State:	Norway
Title (and/or name of the beneficiary):	Alleged aid being granted in connection with the sale of shares in the company Youngstorget 2 AS
Type of measure:	No aid
Economic sectors:	Management of commercial property
Name and address of the granting authority:	Municipality of Oslo Rådhuset 0037 Oslo NORWAY
Other information:	—

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/state-aid/state-aid-register/>

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

**Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports
of certain polyethylene terephthalate originating, inter alia, in the Republic of Korea**

(2010/C 47/09)

The Commission has received a request for a partial interim review pursuant to Article 11(3) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation').

1. Request for review

The request was lodged by the Polyethylene Terephthalate (PET) Committee of PlasticsEurope ('the applicant'), representing seven Union producers.

The request is limited in scope to the examination of dumping as far as the exporting producer KP Chemical Group, composed of Honam Petrochemicals Corp. and KP Chemical Corp. ('KP Chemical Group'), is concerned, and of certain injury aspects.

2. Product

The product under review is polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, currently falling within CN code 3907 60 20 and originating in the Republic of Korea ('the product concerned').

3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 192/2007 ⁽²⁾ on imports of certain polyethylene terephthalate originating, inter alia, in the Republic of Korea.

4. Grounds for the review

The request pursuant to Article 11(3) is based on *prima facie* evidence, provided by the applicant, that, as far as KP Chemical Group is concerned, the circumstances on the basis of which

the existing measures were imposed have changed and that these changes are of a lasting nature.

The applicant provided *prima facie* evidence showing that, as far as KP Chemical Group is concerned, the continued imposition of the measure at the current level of zero, which has been in place since February 2007 following a combined expiry and partial interim review, is no longer sufficient to counteract the current injurious dumping. A comparison of the exporting producer's constructed normal value and its export prices to the Union indicates the existence of a significant level of dumping.

The applicant also provided *prima facie* evidence that KP Chemical Group's exports to the Union undercut and undersold the Union industry's prices.

Therefore, the continued imposition of measures at the existing level, which was based on the level of dumping previously established, appears to be no longer sufficient to counteract the injurious dumping.

5. Procedure

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of a partial interim review, the Commission hereby initiates a review in accordance with Article 11(3) of the basic Regulation.

The investigation will assess the need for the continuation, removal or amendment of the existing measures in respect of the exporting producer concerned. As a part of that assessment, the claim that KP Chemical Group's exports to the Union undercut and undersold the Union industry's prices will be investigated.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 59, 27.2.2007, p. 1.

In view of the apparent large number of Union producers involved in this proceeding, the Commission may decide to apply sampling, in accordance with Article 17 of the basic Regulation.

If it is determined that measures should be amended for the exporting producer concerned, it may be necessary to amend the rate of duty currently applicable to imports of the product concerned from companies not individually mentioned in Article 1 of Regulation (EC) No 192/2007.

(a) *Questionnaires*

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the above-mentioned exporting producer, to the Union industry and to the authorities of the exporting country concerned. This information and supporting evidence should reach the Commission within the time limit set in point 6(a).

(b) *Collection of information and holding of hearings*

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and provide supporting evidence. This information and supporting evidence must reach the Commission within the time limit set in point 6(a).

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(b).

6. Time limits

(a) *For parties to make themselves known, to submit questionnaire replies and any other information*

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party making itself known within the aforementioned period.

(b) *Hearings*

All interested parties may also apply to be heard by the Commission within the same 37-day time limit.

7. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise

specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited' ⁽¹⁾ and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'For inspection by interested parties'.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: N105 04/92
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 22956505

8. Non-cooperation

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and use of facts available is made, the result may be less favourable to that party than if it had cooperated.

9. Schedule of the investigation

The investigation will be concluded, according to Article 11(5) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

10. Processing of personal data

It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽²⁾.

⁽¹⁾ This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

11. **Hearing Officer**

It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of Trade DG. He acts as an interface between the interested parties and the Commission services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this proceeding, in particular with regard to issues concerning access to file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details, interested parties may consult the Hearing Officer's web pages of the website of Trade DG (<http://ec.europa.eu/trade>).

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.5554 — HAVI/KeyLux/STI Freight JV)

Candidate case for simplified procedure

(Text with EEA relevance)

(2010/C 47/10)

1. On 17 February 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 undertakings HAVI Global Logistics GmbH (HAVI, Germany), belonging to HAVI Group LP (USA), and McKey Luxembourg S.à.r.l ('KeyLux', Luxembourg), belonging to Keystone Group (USA), acquire within the meaning of Article 3(1)(b) of the EC Merger Regulation joint control of the undertaking STI Freight Management GmbH ('STI Freight', Germany) by way of purchase of shares in a newly created company constituting a joint venture.
2. The business activities of the undertakings concerned are:
 - for HAVI: food and non-food logistics and distribution, food processing, packaging and administrative services and promotional marketing,
 - for KeyLux: freight forwarding, logistics and distribution in the food sector,
 - for STI Freight: taking over of the activities of the 'STI Global Network' companies in the food/non-food freight forwarding sector.
3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽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), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.5554 — HAVI/KeyLux/STI Freight JV, to the following address:

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

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

OTHER ACTS

EUROPEAN COMMISSION

Notice concerning a request under Article 30 of Directive 2004/17/EC of the European Parliament and of the Council**Request from a contracting entity**

(2010/C 47/11)

On 15 February 2010, the Commission received a request under Article 30(5) of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors ⁽¹⁾. The first working day following receipt of the request is 16 February 2010.

The request, from Compagnia Valdostana delle Acque S.p.A., concerns the production and sale of electricity in Italy. The above-mentioned Article 30 provides that Directive 2004/17/EC is not applicable when the activity in question is directly exposed to competition in markets to which access is not restricted. These conditions are evaluated solely for the purposes of Directive 2004/17/EC and are without prejudice to the application of competition rules.

The Commission has a period of three months to take a decision on this request, starting on the working day referred to above. The period therefore ends on 16 May 2010.

This period may be extended by three months. Any such extension must be published.

Pursuant to the second subparagraph of Article 30(6), further requests concerning the production and sale of electricity in Italy, submitted before the period opened for this request expires, will not be considered as new procedures and will be dealt with as part of this request.

⁽¹⁾ OJ L 134, 30.4.2004, p. 1.

V *Announcements*

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

European Commission

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PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

European Commission

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OTHER ACTS

European Commission

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⁽¹⁾ Text with EEA relevance

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