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European Parliament

2008-2009 SESSION

Sittings of 10 to 12 March 2009

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I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN PARLIAMENT

Next steps in border management in the EU

P6_TA(2009)0085

European Parliament resolution of 10 March 2009 on the next steps in border management in the European Union and similar experiences in third countries (2008/2181(INI))

(2010/C 87 E/01)

The European Parliament,

— having regard to the Commission Communication of 13 February 2008 entitled 'Preparing the next steps in border management in the European Union' (COM(2008)0069),

— having regard to the Commission Communication of 13 February 2008 entitled 'Report on the evaluation and future development of the FRONTEX Agency' (COM(2008)0067),

— having regard to the Commission Communication of 13 February 2008 entitled 'Examining the creation of a European Border Surveillance System (EUROSUR)' (COM(2008)0068),

— having regard to the preliminary comments of the European Data Protection Supervisor of 3 March 2008 and to the joint comments of the Article 29 Data Protection Working Party and the Working Party on Police and Justice of 29 April 2008 on the three above mentioned communications,

— having regard to the Council Conclusions on the management of the external borders of the Member States of the European Union,

— having regard to Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) ([1]),

— having regard to Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) ([2]),

([1]) OJ L 105, 13.4.2006, p. 1.
([2]) OJ L 218, 13.8.2008, p. 60.

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— having regard to Council Regulation (EC) No 1104/2008 of 24 October 2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) ([1]) and to Council Decision 2008/839/JHA of 24 October 2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) ([2]),

— having regard to the Commission Communication of 24 November 2005 on improved effectiveness, enhanced interoperability and synergies among European databases in the area of Justice and Home Affairs (COM(2005)0597),

— having regard to its resolution of 18 December 2008 on the evaluation and future development of the FRONTEX Agency and of the European Border Surveillance System (EUROSUR) ([3]),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0061/2009),

A. whereas the dismantling of the EU's internal border controls is one of the greatest achievements of European integration,

B. whereas an area without internal borders cannot function without shared responsibility and solidarity in managing its external borders,

C. whereas attention should be paid to cooperation with the border security authorities of third countries' in line with general EU external policy,

D. whereas the EU external border is crossed every year by 160 million EU citizens, 60 million third country nationals (TCNs) not requiring a visa, and 80 million requiring a visa,

E. whereas measures to enhance border security must go hand in hand with facilitation of passenger flows and the promotion of mobility in an increasingly globalised world,

F. whereas within the framework of EU integrated border management, several instruments and programmes have already been established, are in the course of preparation or are at the stage of policy development,

G. whereas the Commission has stated that it intends to be ready in 2009-2010 to present legislative proposals for the introduction of an entry/exit system, a Registered Traveller Programme (RTP) and an Electronic System of Travel Authorisation (ESTA),

H. whereas similar systems exist in Australia and are being implemented by the USA as part of the US-VISIT programme,

I. whereas a comprehensive master plan setting out the overall architecture of the EU's border strategy as well as a thorough evaluation and assessment of existing systems and those under preparation are lacking,

([1]) OJ L 299, 8.11.2008, p. 1.
([2]) OJ L 299, 8.11.2008, p. 43.
([3]) Texts adopted, P6_TA(2008)0633.

Entry/exit system

1. Is aware that the so-called 'overstayers', who are central to the proposed entry/exit system, are supposed to represent the biggest category of illegal immigrants in the EU; requests, however, more information on the data collected by an external contractor estimating that 'there were up to 8 million illegal immigrants within the EU25 in 2006' ([1]); insists, moreover, on a clear definition of the term 'overstayer', including the possible exemptions under specific conditions, and a closer qualitative and quantitative analysis of the threats/risks/costs they bring to European society;

2. Points out that, although the proposed system and alert information might help to deter TCNs from overstaying, as well as provide data and information on patterns, further contact with law enforcement agencies is still necessary for an individual who overstays his or her period of admission to be apprehended, and therefore does not believe that the proposed system will put an end to the 'overstay' phenomenon as such;

3. Does not have sufficient information on how this system will be integrated in – and interact with – the existing framework, on the possible changes that might need to be made to existing systems and on the actual costs generated by it; is therefore of the opinion that the absolute need to implement such a system remains doubtful;

4. Recalls that the correct functioning of the entry/exit system will depend both materially and operationally on the success of the VIS and SIS II; points out that these instruments are not yet fully operational and that it has thus not yet been possible to evaluate them properly; stresses that the operability and reliability of the SIS II are being called into question;

5. Notes that, without a doubt and following the lessons learned in the USA, it is more challenging to implement exit capability than entry, and in particular with regard to sea and land exit; furthermore, following the same lessons learned, has considerable concerns about the cost-effectiveness of such a system; therefore calls on the Commission to provide additional information on the actual investment generated by such a system;

Registered Traveller Programme (RTP)

6. Supports in principle the concept of an RTP for TCNs, whether or not subject to visa requirements, which would help speed up traveller flows and prevent congestion at entry and exit points, and the possible use of automated gates by EU citizens, since Community law as it currently stands does not allow for the simplification of border checks except in the case of TCNs residing in border areas;

7. Criticises, however, the terminology used in the Communication entitled 'Preparing the next steps in border management in the European Union' ('low-risk'/'*bona fide*' travellers), as it would imply that a huge number of travellers are considered a priori as 'high-risk' or '*mala fide*', and recommends the term 'frequent travellers';

8. Points out that several Member States have already set up or are preparing such an RTP for TCNs, and highlights the risk of ending up with a patchwork of twenty-seven systems based on different criteria, including those on data-protection and fees; is aware of the fact that the Netherlands, together with Germany, the UK and FRONTEX, are seeking to promote the 'International Expedited Traveller Programme' as a possible blueprint for other Member States;

9. Advocates a harmonised approach and therefore urges the Commission to speed up the process, on the basis of best practices in Member States, and to make sure that Member States continue to act in conformity with Community law;

10. Notes that, in fact, RTPs for TCNs are different from RTPs for Union citizens; stresses therefore that a clear distinction between the two must be made at all times;

([1]) SEC(2008)0153.

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Electronic System of Travel Authorisation (ESTA)

11. Acknowledges that it would be unwise to focus attention in terms of security measures only on TCNs travelling to the EU from countries with a visa requirement; questions, however, whether the proposed system is absolutely necessary and would like a thorough explanation of the rationale for it; is convinced that close cooperation between intelligence services in particular is the right way forward, rather than a massive collection of data in general;

12. Wishes to be informed on the exact timetable and the details of the study as envisaged by the Commission;

Data protection and biometrics concerns

13. Finds it unacceptable that the Commission failed to consult either the European Data Protection Supervisor (EDPS), who had nonetheless expressed a number of concerns, or the Article 29 Working Party prior to the adoption of the Communication entitled 'Preparing the next steps in border management in the European Union'; requests the Commission, therefore, to consult both in respect of any action to be taken under that Communication, as the proposed building blocks entail the processing of vast amounts of personal data;

14. Is aware that biometrics are theoretically effective personal identifiers because the characteristics measured are thought to be distinctive of each person; however, underlines the fact that the reliability of biometrics is never absolute and that biometrics are not in all cases accurate; therefore points out that fall-back procedures should be provided for at all times and that risk profiles should be better defined;

15. Insists on a standard protocol for the use and exchange of biometric information and interface control agreements to describe how the protocol will be used; is furthermore of the opinion that the use of biometrics should be subject to a quality standard in order to avoid divergences in acceptance between different systems used by Member States;

16. Considers a 'privacy by design' approach to be an essential feature of any development which risks jeopardising the personal information of individuals and the public's trust and confidence in those who hold information about them;

Conclusions

17. Considers the objective of truly EU-integrated border management to be legitimate and agrees that it is important to continuously develop and strengthen the EU's common policy on border management;

18. However, is of the opinion that, within the framework of border and immigration management, far-reaching proposals are piling up at an amazing pace; therefore asks the Commission to think in terms of the need for, and the cost of, the border logistics;

19 Deplores, moreover, the notion that the EU's border management policy should be founded on the idea that all travellers are potentially suspect and have to prove their good faith;

20. Criticises the lack of a comprehensive master plan setting out the overall objectives and architecture of the EU's border management strategy as well as the absence of details showing how all related programmes and schemes (already in place, in the course of preparation or at the stage of policy development) are supposed to function together and how relationships among them can be optimised; takes the view that, when considering the architecture of the EU's border management strategy, the Commission should analyse first of all the effectiveness of the existing border management systems of the Member States, in order to bring about the optimal synergies between them;

21. Stresses the need for an evaluation and assessment, first of all, of existing systems and those under preparation, and emphasises that the EU's ability to achieve its strategic goals depends to a great extent on its success in managing the interdependencies among related programmes, as duplication and inconsistency between them will have a negative impact on organisational performance and results as a consequence; is of the opinion that no new instruments or systems should be launched until the existing tools are fully operational, safe and reliable;

22. Is of the opinion that, before any investment is made, it is of the utmost importance to have a clearly defined operational context in which to align all the measures and emerging initiatives; points out, moreover, that it should be crystal clear what modifications are necessary in order to ensure that technology and processes work in harmony, and stresses that all investments should be economically justified;

23. Expresses doubts concerning the need for, and the proportionality of, the proposed measures, given their expense and the potential risks they pose for data protection; is therefore of the opinion that they should be assessed against those criteria before any formal proposal is envisaged;

24. Acknowledges that striking a balance between ensuring the free movement of a growing number of people across borders and ensuring greater security for Europe's citizens is a complex exercise, and does not deny that the use of data offers clear advantages; at the same time, is of the opinion that public trust in government action can only be maintained if provision is made for sufficient data protection safeguards, supervision and redress mechanisms;

*

* *

25. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the European Data Protection Supervisor and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).

Cross-border transfers of companies' registered offices

P6_TA(2009)0086

European Parliament resolution of 10 March 2009 with recommendations to the Commission on the cross-border transfer of the registered office of a company (2008/2196(INI))

(2010/C 87 E/02)

The European Parliament,

— having regard to Article 192, second paragraph, of the EC Treaty,

— having regard to Articles 43 and 48 of the EC Treaty,

— having regard to the Commission communication of 21 May 2003 entitled 'Modernising Company Law and Enhancing Corporate Governance in the European Union – A Plan to Move Forward' (COM(2003)0284),

— having regard to its resolution of 21 April 2004 on the communication from the Commission to the Council and the European Parliament: Modernising company law and enhancing corporate governance in the European Union – A plan to move forward [1],

[1] OJ C 104 E, 30.4.2004, p. 714.

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— having regard to its resolution of 4 July 2006 on recent developments and prospects in relation to company law ([1]),

— having regard to its resolution of 25 October 2007 on the European Private Company and the Fourteenth Company Law Directive on the transfer of the company seat ([2]),

— having regard to the judgments of the Court of Justice in *Daily Mail and General Trust* ([3]), *Centros* ([4]), *Überseering* ([5]), *Inspire Art* ([6]), *SEVIC Systems* ([7]) and *Cadbury Schweppes* ([8]),

— having regard to Rules 39 and 45 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Economic and Monetary Affairs (A6-0040/2009),

A. whereas companies should enjoy freedom of establishment within the internal market as enshrined in the EC Treaty and interpreted by the Court of Justice,

B. whereas cross-border company migration is one of the crucial elements in the completion of the internal market,

C. whereas a cross-border transfer of the registered office of a company should not give rise to its winding-up or any other interruption or loss of legal personality,

D. whereas a cross-border transfer of the registered office should not circumvent legal, social and fiscal conditions,

E. whereas the rights of other stakeholders concerned by the transfer, such as minority shareholders, employees and creditors, etc, should be safeguarded,

F. whereas the relevant *acquis communautaire* providing for cross-border information, consultation and participation rights of employees as well as safeguarding pre-existing employee participation rights (Directives 94/45/EC ([9]) and 2005/56/EC ([10])) should be fully preserved, and whereas, consequently, the transfer of a registered office should not result in the loss of those existing rights,

G. whereas a rule requiring a company to maintain its head office and its registered office in the same Member State would run counter to the case-law of the Court of Justice on freedom of establishment and would therefore infringe EC law,

([1]) OJ C 303 E, 13.12.2006, p. 114.
([2]) OJ C 263 E, 16.10.2008, p. 671.
([3]) Case 81/87 *Daily Mail and General Trust* [1988] ECR 5483.
([4]) Case C-212/97 *Centros* [1999] ECR I-1459.
([5]) Case C-208/00 *Überseering* [2002] ECR I-9919.
([6]) Case C-167/01 *Inspire Art* [2003] ECR I-10155.
([7]) Case C-411/03 *SEVIC Systems* [2005] ECR I-10805.
([8]) Case C-196/04 *Cadbury Schweppes* [2006] ECR I-7995.
([9]) Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ L 254, 30.9.1994, p. 64).
([10]) Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies (OJ L 310, 25.11.2005, p. 1).

1. Requests the Commission to submit to Parliament by 31 March 2009, on the basis of Article 44 of the EC Treaty, a legislative proposal for a directive laying down measures for coordinating Member States' national legislation in order to facilitate the cross-border transfer within the Community of the registered office of a company formed in accordance with the legislation of a Member State ('14th Company Law Directive'), and requests that the proposal in question be drawn up within the framework of inter-institutional deliberations and following the detailed recommendations set out below;

2. Notes that undertakings can currently transfer their seat only either by dissolution and the establishment of a new legal entity in the Member State of destination, or by establishing a new legal entity in the Member State of destination and then merging both undertakings; further notes that this procedure involves administrative obstacles, costs and social consequences and offers no legal certainty;

3. Draws attention to the freedom of establishment that is guaranteed for undertakings under Article 48 of the EC Treaty, as interpreted by the Court of Justice [1];

4. Notes that a transfer of a company seat implies a transfer of supervision; points out that, in the context of the drafting of the 14th Company Law Directive on the cross-border transfer of registered offices, the maintenance of the existing rights of shareholders, creditors and workers must be guaranteed and the existing equilibrium in the management of the company ('corporate governance') must be preserved;

5. Proposes that reference be made in the new directive to Directive 94/45/EC and Directive 2005/56/EC, in order to guarantee the coherence and substantive nature of employee participation procedures in the application of EU company law directives;

6. Takes the view that a transfer of a company's seat must be preceded by the issuing of a transfer plan and a report explaining and justifying the legal and economic aspects and any consequences of the transfer for shareholders and employees; points out that the transfer plan and the report must be made available in good time to all those involved;

7. Emphasises the positive effects of tax competition on economic growth in the context of the Lisbon Strategy;

8. Notes that a transfer of a company seat should be tax-neutral;

9. Suggests that the exchange of information and mutual assistance between tax authorities be improved;

10. Calls for transparency in the application of the new directive in the Member States and therefore proposes a reporting requirement for Member States vis-à-vis the Commission whereby undertakings transferring their registered office under the directive must be entered in a European companies register; points out that, in the interests of better law-making, excessive information ('overkill') must be avoided when the reporting requirement is transposed into national law, provided that sufficient information is guaranteed;

11. Confirms that the recommendations respect the principle of subsidiarity and the fundamental rights of citizens;

12. Considers that the requested proposal does not have any financial implications;

13. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission and the Council and to the parliaments and governments of the Member States.

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[1] Judgment in *Centros*, cited above.

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ANNEX TO THE RESOLUTION

DETAILED RECOMMENDATIONS ON THE CONTENT OF THE PROPOSAL REQUESTED

The European Parliament requests the Commission to put forward a proposal for a directive that should contain the following elements:

Recommendation 1 (effects of a cross-border transfer of the registered office)

Cross-border transfers of registered offices shall not give rise to the winding-up of the company concerned or to any interruption or loss of its legal personality; consequently, the company shall retain its legal identity and all its assets, liabilities and contractual relations shall remain unaffected. Furthermore, the transfer shall not circumvent legal, social and fiscal conditions. The transfer shall take effect on the date of registration in the host Member State. From the date of registration in the host Member State, the company shall be governed by the legislation of that State.

Recommendation 2 (transfer procedure within the company)

The management or board of a company planning a transfer shall be required to draw up a transfer proposal. The proposal shall cover at least:

(a) the legal form, name and registered office of the company in the home Member State;

(b) the envisaged legal form, name and registered office of the company in the host Member State;

(c) the memorandum and articles of association envisaged for the company in the host Member State;

(d) the timetable envisaged for the transfer;

(e) the date from which the transactions of the company intending to transfer its registered office will be treated for accounting purposes as being located in the host Member State;

(f) where appropriate, detailed information on the transfer of the central administration or principal place of business;

(g) the rights guaranteed to the company's members, employees and creditors or the relevant measures proposed;

(h) if the company is managed on the basis of employee participation and if the national legislation of the host Member States does not impose such a scheme, information on the procedures whereby the arrangements for employee participation are determined.

The transfer proposal shall be submitted to the members and employee representatives of the company for examination within an appropriate period prior to the date of the company's meeting of shareholders.

A company planning a transfer shall be required to publish at least the following particulars pursuant to the applicable national legislation, in accordance with Directive 68/151/EEC [1]:

(a) the legal form, name and registered office of the company in the home Member State as well as those envisaged for the company in the host Member State;

(b) the register in which the documents and particulars referred to in Article 3(2) of Directive 68/151/EEC have been entered in respect of the company and the entry number in that register;

(c) an indication of the arrangements whereby creditors and minority shareholders of the company may exercise their rights and the address at which full information concerning those arrangements can be obtained free of charge.

The management or board of the company planning a transfer shall also draw up a report explaining and justifying the proposal's legal and economic aspects and indicating the consequences for the company's members, creditors and employees, unless agreed otherwise.

[1] First Council Directive 68/151/EEC of 9 March 1968 on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community (OJ L 65, 14.3.1968, p. 8).

Recommendation 3 (transfer decision by meeting of the shareholders)

The shareholders' meeting shall approve the transfer proposal in accordance with the arrangements laid down and by the majority required to amend the memorandum and articles of association under the legislation applicable to the company in its home Member State.

If the company is managed on the basis of employee participation, the shareholders' meeting may make completion of the transfer conditional on its expressly approving the arrangements for employee participation.

Recommendation 4 (administrative transfer procedure and verification)

The home Member State shall verify the legality of the transfer procedure in accordance with its legislation. The competent authority designated by the home Member State shall issue a certificate conclusively declaring that all the acts and formalities required have been completed.

The certificate, a copy of the memorandum and articles of association envisaged for the company in the host Member State and a copy of the transfer proposal shall be presented within an appropriate period of time to the body responsible for registration in the host Member State. Those documents shall be sufficient to enable the company to be registered in the host Member State. The competent authority responsible for registration in the host Member State shall verify that the substantive and formal conditions for the transfer are met.

The competent authority in the host Member State shall give immediate notification of the registration to the respective authority in the home Member State. Thereupon, the home Member State authority shall remove the company from the register.

Registration in the host Member State and removal from the register in the home Member State shall be published. At least the following particulars must be covered:

(a) the date of registration;

(b) the new and former entry number in the respective registers of the home and host Member States.

Recommendation 5 (employee participation)

Employee participation shall be governed by the legislation of the host Member State.

However, the legislation of the host Member State shall not be applicable:

(a) where the host Member State does not provide for at least the same level of participation as operated in the company in the home Member State, or

(b) where the legislation of the host Member State does not give employees of establishments of the company situated in other Member States the same entitlement to exercise participation rights as enjoyed by such employees before the transfer.

In these cases, the provisions of Article 16 of Directive 2005/56/EC should apply accordingly.

Recommendation 6 (third parties concerned by the transfer)

Any company against which proceedings for winding-up, liquidation, insolvency or suspension of payments or other similar proceedings have been brought shall not be allowed to undertake a cross-border transfer of its registered office within the Community.

For the purposes of ongoing judicial or administrative proceedings which commenced before the transfer of the registered office, the company shall be regarded as having its registered office in the home Member State.

Tuesday 10 March 2009

Common European Asylum System

P6_TA(2009)0087

European Parliament resolution of 10 March 2009 on the future of the Common European Asylum System (2008/2305(INI))

(2010/C 87 E/03)

The European Parliament,

— having regard to Article 63(1) and (2) of the EC Treaty,

— having regard to the Charter of Fundamental Rights of the European Union,

— having regard to the 1951 Geneva Convention relating to the Status of Refugees, and the 1967 Additional Protocol thereto,

— having regard to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ([1]) ('the Dublin Regulation'),

— having regard to Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers ([2]) ('Reception Directive'),

— having regard to Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status ([3]) ('Asylum Directive'),

— having regard to Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ([4]),

— having regard to the Commission report on the application of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (COM(2007)0745),

— having regard to its resolution of 14 April 2005 on Lampedusa ([5]),

— having regard to its resolution of 6 April 2006 on the situation with refugee camps in Malta ([6]),

— having regard to its resolution of 21 June 2007 on entitled 'Asylum: practical cooperation, quality of decision-making in the common European asylum system' ([7]),

— having regard to its resolution of 2 September 2008 on the evaluation of the Dublin system ([8]),

— having regard to the reports of the Committee on Civil Liberties, Justice and Home Affairs on the visits to various holding centres in order to monitor reception conditions,

([1]) OJ L 50, 25.2.2003, p. 1.
([2]) OJ L 31, 6.2.2003, p. 18.
([3]) OJ L 326, 13.12.2005, p. 13.
([4]) OJ L 304, 30.9.2004, p. 12.
([5]) OJ C 33 E, 9.2.2006, p. 598.
([6]) OJ C 293 E, 2.12.2006, p. 301.
([7]) OJ C 146 E, 12.6.2008, p. 364.
([8]) Texts adopted, P6_TA(2008)0385.

— having regard to the judgment of the Court of Justice of the European Communities of 6 May 2008 in Case C-133/06 European Parliament v Council of the European Union [1] concerning an action for annulment of the Asylum Directive, seeking in particular annulment of the Directive's provisions on the procedure for adoption and amendment of minimum common lists of safe countries,

— having regard to the European Pact on Immigration and Asylum adopted by the European Council on 16 October 2008, whose fourth objective is to 'construct a Europe of Asylum',

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Development (A6-0050/2009),

A. whereas the legislative instruments relating to the first phase of the establishment of the Common European Asylum System (CEAS) have allowed the introduction of common minimum standards but not of equal conditions of access to protection throughout the EU and, as a result, there are still problems such as secondary movements and multiple applications,

B. whereas the Dublin system's first country of entry criteria can result in a disproportionate burden being imposed on some Member States, in particular on those constituting the EU's external border, simply as a result of their exposed location, and whereas this has harmful consequences for both Member States and asylum seekers,

C. whereas the Commission's evaluation of the Dublin system reveals that, in 2005, the 13 border Member States had to deal with increasing challenges raised by the Dublin system,

D. whereas, in its above-mentioned report on the Reception Directive, the Commission noted serious problems in its implementation, in particular in closed centres and transit zones, as the Parliamentary delegations were able to note at first hand during their many visits,

General considerations

1. Notes that in the past year the number of refugees has grown to more than 12 million refugees and 26 million internally displaced people worldwide; in this context, supports the establishment of a CEAS and welcomes the Commission's Policy Plan on Asylum, serving as a roadmap for the completion of the CEAS;

2. Regrets that, owing to the change of legal basis which will result from the entry into force of the Lisbon Treaty, there are plans to put back to 2012 the deadline for completion of the second phase of the CEAS, which is due to put an end to the unhealthy disparities between the asylum systems of Member States;

3. Draws attention to the fact that recognition rates of candidates to refugee status for certain third-country nationals vary from approximately 0 % up to 90 % between Member States;

4. Stresses that the harmonisation of standards leading to a common asylum procedure and uniform asylum status should result in a high level of protection throughout the EU and should not be based on the lowest common denominator, which would deprive the common asylum scheme of its added value;

5. Regrets that the concept of the institution of asylum, an essential part of democracy and protection of human rights, has been severely eroded in recent years; reiterates the need for full respect for the rights and needs of asylum seekers and the principle of non-refoulement;

[1] OJ C 158, 21.6.2008, p. 3.

6. Draws attention to the fact that the EU should provide for mechanisms at the external borders to identify asylum seekers and ensure that persons entitled to international protection gain access to EU territory, including in the context of its external border control operations;

7. Welcomes the fact that the Commission has identified access for those in need of protection to be one of the overarching objectives of the CEAS;

8. Calls on the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) to provide detailed data relating to the number of asylum seekers identified as such during its operations and the plight of persons intercepted and sent back to a country of transit or origin during its operations; calls on the Commission to table a proposal for a revision of Frontex' mandate in order to explicitly state that protection and human rights concerns are an integral part of the management of the EU external borders;

9. Welcomes the fact that the Commission recognises the need to ensure coherence with other policies that have an impact on international protection; calls therefore on the Commission to support and introduce initiatives to review and adapt all border management policies and practices such as Frontex and the European Border Surveillance System (EUROSUR) to guarantee refugees' access to protection in the EU and full respect for the principle of *non-refoulement* at the EU's external borders; in addition, stresses that the duty to render assistance as enshrined in the UN Convention on the Law of the Sea (UNCLOS) is legally binding on the Member States, the EU and Frontex;

Improvement of existing legislation

10. Welcomes the fact that, in its above-mentioned judgment in Case C-133/06, the Court of Justice annulled paragraphs 1 and 2 of Article 29 and paragraph 3 of Article 36 of the Asylum Directive, which concerned the adoption or amendment of a minimum common list of safe countries of origin and a common list of safe third countries;

11. Welcomes the positive initiatives carried out in some Member States to welcome asylum seekers – on submission of their request for international protection – in facilities that are open and fully integrated with local communities;

12. Considers that asylum seekers are vulnerable persons who require appropriate reception conditions; draws attention to the fact that a prison environment can under no circumstances help them to overcome the traumas experienced in their countries of origin or during their journey to Europe;

13. Welcomes the provisions mentioned in the latest Commission proposals that Member States shall not hold a person in detention for the sole reason that he or she is an applicant for international protection; considers that asylum seekers should, as a matter of principle, not be placed in detention, in view of their particularly vulnerable position;

14. Regrets the fact that, in several Member States, asylum seekers are still detained following their irregular entry into the country, and therefore welcomes the insertion into the Reception Directive of procedural guarantees relating to detention; in this regard, is of the opinion that detention of asylum seekers should only be possible under very clearly defined exceptional circumstances and subject to the principle of necessity and proportionality with regard both to the manner and to the purpose of such detention; is also of the opinion that, where an asylum seeker is held in detention, that person should have a right to a remedy before a national court;

15. Considers that the scope of the new Reception Directive must be clarified in order to cover holding centres, transit areas, border procedures and Dublin transferees;

16. Welcomes the establishment, in the Reception Directive, of a formal system to immediately identify vulnerable persons, in particular unaccompanied minors, dependent elderly persons, disabled persons, pregnant women, single parents with children and persons who have suffered traumatic experiences, such as torture, rape, and psychological, physical and sexual violence;

17. Considers that a single asylum application procedure and single standards for qualification as refugees or persons needing international protection should be established, covering all requests for 'international protection' (refugee status, subsidiary protection and temporary protection);

18. Welcomes the fact that the Commission plans to clarify the conditions for granting subsidiary protection, and above all that it is suggesting that the level of entitlements and benefits to be granted to beneficiaries of this type of protection be reviewed; this should ensure greater parity of treatment at an enhanced level;

19. Welcomes the Commission's intention to amend the Asylum Directive and stresses that the common asylum procedure should provide for clear, uniform and reasonable time limits for the authorities to decide on an asylum application, thus avoiding long and unwarranted waiting periods which could have negative consequences for asylum seekers' health and well-being; reiterates that granting of refugee or subsidiary protection status should always be subject to an individual assessment and in no way be limited to a generalised assessment (e.g. based on nationality) or conditionality (e.g. relating to the human rights situation in a country of origin);

20. Considers it desirable to pool the information on countries of origin available to the various Member States and encourages the Commission to step up its efforts to set up a common databank; emphasises that the collection and presentation of country of origin information and the management of a portal should ensure that the country reports of different established experts are included, that the information is publicly accessible and kept distinct from its application by decision-makers (and therefore remains impartial and free from political influence) and that a fair balance is struck between governmental, non-governmental and international sources when collecting country of origin information;

21. Welcomes the recast of the Dublin Regulation and the proposed provisions for a mechanism to suspend Dublin transfers if there are concerns that they could result in applicants not benefiting from adequate standards of protection in the responsible Member States, in particular in terms of reception conditions and access to asylum procedures, as well as in cases where those transfers would add to the burden on those Member States which are faced with disproportionate pressures due, in particular, to their geographical or demographic situation; stresses, however, that these provisions would ultimately be a political statement rather than an effective instrument to significantly support Member States without the introduction of a two-fold binding instrument for all Member States providing for the following:

(a) the secondment of officials from other Member States under the aegis of a European Asylum Support Office to assist those Member States which are faced with specific and problematic situations;

(b) a scheme to relocate beneficiaries of international protection from Member States which are faced with specific and problematic situations to others, in consultation with the Office of the United Nations High Commissioner for Refugees (UNHCR) and with the consent of the beneficiaries;

22. Considers that under the revised Dublin Regulation asylum seekers should be granted the right to appeal against a transfer decision, such an appeal imposing an obligation on the courts or tribunals to examine *ex-officio* the necessity of temporarily suspending the enforcement of a transfer decision;

Administrative structures

23. Firmly supports the establishment of a European Asylum Support Office, which should work in close cooperation with UNHCR and with NGOs specialised in asylum matters;

24. Considers that one of the tasks of the European Asylum Support Office should be to conduct a detailed assessment of the remaining disparities between national asylum systems so as to contribute to their improvement;

25. Considers that the activities of the European Asylum Support Office should include developing guidelines in order to facilitate more accurate assessment of asylum claims, promoting exchange of good practice, and monitoring the implementation and application of relevant EU legislation (supporting the Commission's role as guardian of the Treaties);

26. Considers that practical consideration should be given to following up the treatment of those returned to their country of origin or departure as a result of protection claims being refused;

27. Strongly encourages the Commission to pursue its efforts to establish a common European training programme on asylum, given that the quality of decisions adopted in this area is directly linked to that of the training and information provided for decision-makers at national level; takes the view that a consultation of civil society organisations specialised in this area with a view to drawing up training programmes would guarantee effectiveness in this respect;

28. Considers that all decision-makers must have equal access to professionally and objectively researched country of origin information, which is a core tool for asylum authorities and appeal instances as well as for asylum seekers, who rely on it to help verify their claim for international protection;

29. Stresses that during the waiting periods authorities should take into consideration the different needs of asylum seekers in a more fragile situation, such as children, people with disabilities and women, and provide the necessary infrastructure;

Integration of beneficiaries of international protection

30. Acknowledges the importance of the integration of beneficiaries of international protection with regard to democracy, security and economic considerations;

31. Regrets that the rules laid down by the Dublin Regulation to determine which country is responsible for consideration of an asylum request do not take account of the wishes of applicants, and considers that certain criteria relating to family, cultural and linguistic considerations should be given greater consideration in such decisions with a view to promoting the integration of asylum seekers;

32. Urges the Council to reach an agreement on the extension of the scope of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country-nationals who are long-term residents ([1]) to cover refugees and beneficiaries of subsidiary protection;

33. Welcomes the Commission's proposal in the Reception Directive to provide applicants with simplified access to the labour market, given that their integration into working life constitutes an essential condition for their integration in the host Member State and also assists in the development of skills which are of benefit both during their stay in the host Member State and, in the event of return, in their country of origin;

34. Considers that, when determining the Member State responsible, the asylum system should facilitate integration by taking into account, among other elements, social, cultural and linguistic background, and the recognition of the educational achievements, professional qualification and skills of the asylum seeker that match economic needs in the host Member State;

([1]) OJ L 16, 23.1.2004, p. 44.

35. Recommends that no distinction be made between rights granted to refugees and beneficiaries of subsidiary protection; stresses in particular the need to improve access for beneficiaries of subsidiary protection to social and economic rights, given that this is essential to their integration;

Solidarity mechanisms

36. Considers that one of the objectives of the CEAS should be to set up effective solidarity mechanisms in order to improve the situation of countries with the greatest flows of asylum seekers and experiencing difficulties in guaranteeing adequate reception conditions, processing applications within the prescribed time limits and procedures or integrating applicants who have been granted refugee status;

37. Takes the view that solidarity cannot be confined to the granting of financial resources and calls for the effective implementation of internal resettlement and relocation mechanisms on a voluntary basis as envisaged by the European Pact on Immigration and Asylum; is of the view that this would enable beneficiaries of international protection to be received by a Member State other than the country which has granted them the benefit of that protection;

38. Considers that consideration should be given to extending the scope of Directive 2001/55/EC [1] to enable, in particular, specific categories of persons requiring international protection for a provisional period to be received even where there is no mass influx;

39. Encourages the creation, under the aegis of the future European Asylum Support Office, of teams of asylum experts who can assist Member States experiencing sudden and mass influxes of asylum seekers with which they cannot cope;

40. Calls on the Commission to consider the possibility of setting up a European mechanism for transferring international protection, under the supervision of the future European Asylum Support Office, to allow the movement of refugees in Europe at their request and thus ease the burden borne by some Member States;

41. Welcomes the fact that the Commission intends to launch a study to review the means of improving financial solidarity within the EU, and looks forward with interest to the proposals that will be drawn up in this context;

42. Supports border monitoring agreements between national authorities, UNHCR and NGOs in the EU and the allocation of resources to this end under the EU External Borders Fund;

Cooperation with third countries

43. Emphasises that the CEAS should be fully coherent with the objectives and activities in the area of refugee protection of EU instruments for cooperation with developing countries (such as the European Development Fund, the Development Cooperation Instrument (DCI), the European Neighbourhood and Partnership Instrument and the European Instrument for Democracy and Human Rights) and agreements and partnerships between the EU and developing countries (such as the Cotonou Agreement and the Africa-EU Strategic Partnership);

44. Shares the Commission's view that asylum is an integral part of development cooperation with third countries rather than a crisis management tool; reiterates also that development cooperation, particularly crisis prevention, human rights monitoring, conflict transformation and peace-building, could serve as a means of preventing displacement; stresses therefore that the CEAS should be closely connected with EU development and humanitarian policies;

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[1] Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

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45. Looks forward to the assessment of the Regional Protection Programmes due to take place in 2009; stresses that the development of such programmes should be fully coherent with National and Regional Action Plans, the Thematic Programme on Migration and Asylum of the DCI and, more generally, should never be a means to remove responsibilities from Member States and the EU; calls on the Commission to improve coordination of the measures taken by its various services in this context with a view to optimising synergies between them, and to report to Parliament on steps taken in this connection;

46. Recognises the importance of strengthening the reception capacities of first-asylum countries and of setting up, at European level and in close cooperation with UNHCR, a resettlement programme laying down common criteria and coordination mechanisms;

47. Also requests that an evaluation should be made of the adequacy of the funds available for measures relating to third countries, for example, protection within the region, especially in the light of Parliament's stated view that these measures require additional funding and not a reallocation of development funds;

48. Calls on the Commission to promote greater participation by Member States in worldwide refugee resettlement efforts;

49. Notes with great interest the idea of setting up 'Protected Entry Procedures' and strongly encourages the Commission to give due consideration to the specific procedures for and the practical implications of such measures;

50. Looks forward with interest to the results of the study on the joint processing of asylum applications outside EU territory which the Commission plans to conduct in 2009, and warns against any temptation to transfer responsibility for welcoming asylum seekers and processing their requests to third countries or UNHCR;

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51. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, Frontex and the United Nations High Commissioner for Refugees.

Commission action plan towards an integrated internal control framework

P6_TA(2009)0088

European Parliament resolution of 10 March 2009 on the Commission action plan towards an integrated internal control framework (2008/2150(INI))

(2010/C 87 E/04)

The European Parliament,

— having regard to the EC Treaty,

— having regard to Opinion No 2/2004 of the Court of Auditors of the European Communities on the 'single audit' model (and a proposal for a Community internal control framework) [1],

— having regard to the Commission communication of 15 June 2005 on a roadmap to an integrated internal control framework (COM(2005)0252),

— having regard to the Commission Communication of 17 January 2006 on the action plan towards an integrated internal control framework (COM(2006)0009),

[1] OJ C 107, 30.4.2004, p. 1.

— having regard to the first half-yearly report on the scoreboard for the application of the Commission action plan towards an integrated internal control framework published on 19 July 2006 (SEC(2006)1009), pursuant to Parliament's request in its resolution of 27 April 2006 on the discharge for the financial year 2004 ([1]),

— having regard to the interim progress report of the Commission published on 7 March 2007 (COM(2007)0086), outlining progress and announcing some additional actions,

— having regard to the Commission Communication of 27 February 2008 entitled 'Report on the Commission Action Plan towards an Integrated Internal Control Framework' (COM(2008)0110) and the Commission staff working paper annexed thereto (SEC(2008)0259),

— having regard to the Commission communication of 4 June 2008 entitled 'Synthesis of the Commission's management achievements in 2007' (COM(2008)0338),

— having regard to the Commission's annual report to the discharge authority on internal audits carried out in 2007 (COM(2008)0499),

— having regard to the Commission's annual report to the discharge authority on the follow-up to the 2006 discharge decisions (COM(2008)0629 and COM(2008)0628) and the accompanying Commission staff working papers (SEC(2008)2579 and SEC(2008)2580),

— having regard to the Annual Report of the European Court of Auditors on the implementation of the budget concerning the financial year 2007, together with the institutions' replies ([2]),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Budgets (A6-0022/2009),

A. whereas under Article 274 of the EC Treaty the Commission implements the budget on its own responsibility, on the basis of the principles of sound financial management, in cooperation with the Member States,

B. whereas the principle of effective internal control is one of the budgetary principles set out in Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (Financial Regulation) ([3]) following its amendment by Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 ([4]), as proposed by the Commission in the action plan towards an integrated internal control framework (the 'Action Plan'),

C. whereas the most effective means for the Commission to demonstrate that it is genuinely committed to ensuring transparency and sound financial management is to do all it can to support measures seeking to enhance the quality of financial management, with a view to obtaining a positive statement of assurance (DAS ([5])) from the European Court of Auditors (ECA),

D. whereas in paragraph 5 of its conclusions of 8 November 2005, the ECOFIN Council took the view that it was of fundamental importance to introduce an integrated internal control system and simplify the legislation on controls and requested 'that the Commission assess the cost of controls by area of expenditure',

([1]) OJ L 340, 6.12.2006, p. 5.
([2]) OJ C 286, 10.11.2008, p. 1.
([3]) OJ L 248, 16.9.2002, p. 1.
([4]) OJ L 390, 30.12.2006, p. 1.
([5]) Abbreviation of the French term 'Déclaration d'assurance'.

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E. whereas to support the strategic objective of receiving a positive DAS from the ECA, the Commission adopted in January 2006 the Action Plan, drawing on recommendations of the ECA ([1]), Parliament's resolution of 12 April 2005 on the discharge for the financial year 2003 ([2]) and the ECOFIN conclusions of 8 November 2005,

F. whereas the Action Plan addressed 'gaps' in the Commission's control structures at the time and identified 16 areas for action by the end of 2007, taking into account that improvement of financial management in the Union must be supported by a close monitoring of controls in the Commission and the Member States,

G. whereas at paragraph 2.29 in Chapter 2 (concerning the Commission internal control system) of its Annual Report for 2007, the ECA points out that 'The Commission's summary report for 2007 provides a confident assessment of progress made in the implementation of the actions at this date, whilst indicating that the evidence of the effectiveness of the actions in terms of reducing the level of error in the underlying transactions may still be some way off',

H. whereas, according to the Commission's response to paragraph 2.30 of the ECA's Annual Report for 2007, 'the implementation of the actions is a continuing process and is being pursued vigorously. The impact of the actions is necessarily posterior to their implementation over the years 2006 and 2007 and a first impact report will be made in early 2009',

1. Welcomes the overall progress made in the development of the Action Plan and the fact that a majority of actions have been implemented and most of the gaps identified in the Action Plan filled;

2. Stresses that an effective integrated internal control framework as envisaged in the Commission's Action Plan will allow the Commission and the Member States to better implement the EU budget according to political objectives and Parliament's priorities;

3. Regrets the lack of clear language, and calls on the Commission to indicate at which stage it finds itself in the process of achieving an integrated internal control framework, and when it expects the measures taken to have visible and positive effects on the legality and regularity of transactions;

4. Takes note of the impact report adopted by the Commission on 4 February 2009 (COM(2009)0043), and will take that report into consideration in the discharge resolution for the financial year 2007;

5. Notes the efforts made by the Commission but regrets that, so far, the Commission has not been able to present complete and reliable figures on recoveries and financial corrections due to Member States' reporting problems; asks the Commission to solve these problems and expects it to present a detailed timetable for the development and application of a new reporting scheme;

6. Points out that it is the impact of the actions which will form the basis of the evaluation of the success of the Action Plan through decreasing error rates and improved ratings of control systems confirmed by the ECA;

7. Fully expects that such improvements will have a real impact on the ECA's Annual Report for 2008;

([1]) Opinion No 2/2004 (OJ C 107, 30.4.2004, p. 1) (the 'Single Audit' Opinion).
([2]) OJ L 196, 27.7.2005, p. 4.

8. Encourages the Commission to increase transparency in its impact assessment of the Action Plan and to fully supervise its implementation;

Actions 4, 10 and 10N: error index or acceptable risk of error - analysis of the existing balance between operational expenditure and the cost of the control system

9. Regrets the fact that in two of the most important actions for this Parliament there is a degree of delay with regard to the planned calendar;

10. Especially regrets the fact that Action 4 of the Action Plan concerning the launching of an inter-institutional initiative on the basic principles to be considered regarding the risks to be tolerated in the underlying transactions has not been yet implemented; agrees with the statement made by the ECA in its Opinion No 4/2006 ([1]) that even if it is a vital concept for the integrated control system, how a 'tolerable level of risk' is to be determined has not yet been clarified;

11. Points out that in paragraphs 2.9 and 2.10 of its Annual Report for 2005 ([2]), the ECA already took the view that, with respect to the establishment of an integrated internal control framework, 'one of the most important objectives approved by the Commission is represented by the proportionality and cost-effectiveness of controls';

12. Recalls, furthermore, the above-mentioned conclusions of the ECOFIN Council of 8 November 2005, that stated that 'The Council believes, in line with the Court's opinion 2/2004, that it should reach an understanding with the European Parliament regarding the risks to be tolerated in the underlying transactions, having regard to the costs and benefits of controls for the different policy areas and the value of the expenditure concerned';

13. Points out that at paragraph 2.42, point (c) of its Annual Report for 2007, the ECA recommends making progress in taking forward the concept of tolerable risk, and at paragraph 1.52, point (c) in Chapter 1 (concerning the Statement of Assurance and supporting information) of that report, it states that 'the balance between cost and residual risk for individual spending areas is of such importance that it should be approved by the political level (i.e. by the budget/discharge authorities) in the name of the citizens of the Union';

14. Urges the Commission to promptly adopt the promised communication on this issue, with the aim of re-launching the inter-institutional discussion on tolerable risk as already requested by Parliament in its discharge resolution of 24 April 2007 for the financial year 2005 ([3]) and its discharge resolution of 22 April 2008 for the financial year 2006 ([4]); invites the Commission to fully disclose to the public the methods being used for the determination of rates of error,

15. Considers, therefore, that the Commission, in line with the principles of proportionality and cost efficiency (value for money) of control systems, should evaluate the relationship between, on the one hand, the resources available for each particular policy, and, on the other, the part of those resources dedicated to the control systems broken down by area of expenditure, as requested by Parliament in its discharge resolution for the financial year 2005;

16. Reminds the Commission of the importance of carrying out the comparative analysis which alone will enable the establishment of an acceptable risk level of error, and of forwarding it to Parliament, the Council and the ECA;

([1]) OJ C 273, 9.11.2006, p. 2.
([2]) OJ C 263, 31.10.2006, p. 1.
([3]) OJ L 187, 15.7.2008, p. 25.
([4]) Texts adopted, P6_TA(2008)0133.

17. Believes that the cost-benefit ratio existing between the resources dedicated to control activities and the results obtained by controls should be a key element to be taken into account by the ECA;

18. Highlights the very important observation made by the ECA at paragraph 1.52, point (d), of its Annual Report for 2007 that 'If a scheme cannot be satisfactorily implemented at an acceptable level of cost and with tolerable risk it should be reconsidered';

19. Asks the Commission, with regard to Actions 10 and 10N, to present reliable information on the costs of the control systems and on possible means of simplification with the aim of finding a better balance between the need for controls and the aim of lessening the administrative burden for applicants and beneficiaries of EU funds;

20. Recalls its own view and the view of the Court of Auditors that complicated or unclear rules and complex legal requirements negatively impact on the legality and regularity of EU spending; considers it necessary to take up the issue of simplification as an important point in the next reform of the Financial Regulation and in the future legal basis of EU spending programmes;

Actions 1, 3, 3N, 5, 10, 10a, 11N, 13 and 15: cooperation with the Member States is needed

21. Highlights that in relation to the implementation of Actions 1, 3, 3N, 5, 10, 10a, 11N, 13, and 15, the Commission is also dependant on cooperation with the Member States; emphasises that it fully supports these actions, and therefore urges the Commission to use every available tool at its disposal to implement them fully as soon as possible;

22. Recalls the statement made by the Commission in its above-mentioned 2008 communication (COM(2008)0110) that Actions 1, 3, 3N, 5, 8 and 13 have been completed;

23. Points out nevertheless that so far it has been unaware of supporting documents or statements justifying such a declaration; is forced therefore to seriously question whether these measures have been completed and whether they have been implemented or have had an impact on the progress of the implementation of the Action Plan;

24. Calls on the Court of Auditors to report in more detail on cooperation with its national counterparts and to predict when this cooperation will show positive effects;

Actions 5 and 13: promotion of the use of annual summaries and management declarations

25. Welcomes the annual summaries of available audits and declarations at national level, presented for the first time on 15 February 2008, which are a considerable step towards the target of improving management of EU funds; regrets, however, the lack of transparency concerning these annual summaries, which the Commission had not sent to Parliament;

26. Welcomes the provision as from 2008 of annual summaries and the assessment and declarations provided in the 2006 and 2007 Annual Activity Reports of the Directorates-General dealing with Structural Funds, but is far from considering Actions 5 and 13 as having been completed as there is a lack of information to Parliament;

27. Regrets that Parliament has until now not received complete information from the Commission concerning the assessment and comparative analysis of the first annual summaries presented;

28. Points out moreover that in its Annual Report for 2007, the ECA states that due to the disparity of presentation, annual summaries do not yet provide a reliable assessment of the functioning and effectiveness of the system;

Action 11N: developing a typology of error and relationship with recoveries and financial corrections

29. Regrets the fact that, despite the considerable efforts made by the Commission, according to the ECA the Commission was unable to present complete figures or demonstrate that the figures eventually presented could be clearly reconciled with the published financial statements;

30. Encourages the Commission to complete the implementation of this important action in order to obtain a greater degree of compliance with reporting requirements and to improve the accuracy of the data provided by Member States;

Action 8N: cooperation with the National Supreme Audit Institutions and how their work can be used to provide assurance

31. Points out that, although not a part of the internal control framework, the independent Supreme Audit Institutions, as external auditors of national public spending, may be able to play a key role in the audit of public funds;

32. Fully supports the cooperation started by the Commission with some of the National Supreme Audit Institutions, and encourages continued contact with such institutions with the aim of determining how their work can be used to increase assurance as regards the execution of programmes in the Member States;

33. Welcomes the Commission's initiative to develop a structured approach to support contacts with National Supreme Audit Institutions and furthermore encourages the Commission to complete the implementation of this action in close cooperation with the ECA;

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34. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

Cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters

P6_TA(2009)0089

European Parliament resolution of 10 March 2009 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (2008/2180(INI))

(2010/C 87 E/05)

The European Parliament,

— having regard to the Commission's report on the application of the Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (COM(2007)0769),

— having regard to Council Regulation (EC) No 1206/2001 [1],

— having regard to the ongoing work of the Hague Conference on the practical operation of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters,

[1] OJ L 174, 27.6.2001, p. 1.

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— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A6-0058/2009),

A. whereas Regulation (EC) No 1206/2001 has not been enforced as effectively as it might have been, and further action is therefore needed in order to improve cooperation between the Member States' courts for the purposes of taking evidence and enhancing the efficiency of the Regulation,

B. whereas Regulation (EC) No 1206/2001 sets out to improve, simplify and accelerate cooperation between courts on the taking of evidence in civil and commercial matters,

C. whereas the Commission admittedly arranged for the distribution of a total of 50 000 copies of the practice guide to Member States in late 2006/early 2007, but this was done much too late, and other steps accordingly need to be taken in addition so as to enable those involved in proceedings, especially courts and practitioners, to be better informed about the Regulation,

D. whereas the Commission finds nevertheless that the 90-day time-limit for complying with requests for the taking of evidence laid down in Article 10(1) of the Regulation is exceeded in a 'significant number of cases' and that 'in some cases even more than 6 months are required',

E. whereas only a few Member States currently have facilities for video-conferencing, which is consequently not being sufficiently used; whereas, in addition, Member States are not doing enough to introduce modern communications technology, and nor is the Commission proposing any specific remedies on that point,

1. Condemns the late submission of the above-mentioned Commission report, which, according to Article 23 of Regulation (EC) No 1206/2001, should have been submitted by 1 January 2007 but in fact was not submitted until 5 December 2007;

2. Concurs with the Commission that greater efforts should be made by Member States to bring the Regulation sufficiently to the attention of judges and practitioners in the Member States in order to encourage direct court-to-court contacts, since the direct taking of evidence provided for in Article 17 of the Regulation has shown its potential to simplify and accelerate the taking of evidence, without causing any particular problems;

3. Considers that it is essential to bear in mind that the central bodies provided for in the Regulation still have an important role to play in overseeing the work of the courts which have responsibility for dealing with requests under the Regulation and in resolving problems when they arise; points out that the European Judicial Network can help to solve problems which have not been resolved by the central bodies and that recourse to those bodies could be reduced if requesting courts were made more aware of the Regulation; takes the view that the assistance provided by the central bodies may be critical for small local courts faced with a problem relating to the taking of evidence in a cross-border context for the first time;

4. Advocates the extensive use of information technology and video-conferencing, coupled with a secure system for sending and receiving e-mails, which should become in due course the ordinary means of transmitting requests for the taking of evidence; notes that, in their responses to a questionnaire sent out by the Hague Conference, some Member States mention problems in connection with the compatibility of video links, and considers that this should be taken up under the European e-Justice strategy;

5. Considers that the fact that in many Member States facilities for video-conferencing are not yet available, together with the Commission's finding that modern means of communication are 'still used rather rarely', confirms the wisdom of the plans for the European e-Justice strategy recently recommended by Parliament's Legal Affairs Committee; urges Member States to put more resources into installing modern communications facilities in the courts and training judges to use them, and calls on the Commission to produce specific proposals aimed at improving the current state of affairs; takes the view that the appropriate degree of EU assistance and financial support should be provided as soon as possible;

6. Takes the view that efforts should be made in the context of the e-Justice strategy to assist courts in meeting the translation and interpreting demands posed by the taking of evidence across borders in an enlarged European Union;

7. Notes with considerable concern the Commission's finding that the 90-day time-limit for complying with requests for the taking of evidence, as laid down in Article 10(1) of the Regulation, is exceeded in a 'significant number of cases' and that 'in some cases even more than 6 months are required'; calls on the Commission to submit specific proposals as quickly as possible on measures to remedy this problem, one option to consider being a complaints body or contact point within the European Judicial Network;

8. Criticises the fact that, by concluding that the taking of evidence has been improved in every respect as a result of Regulation (EC) No 1206/2001, the Commission report presents an inaccurate picture of the situation; calls on the Commission, therefore, to provide practical support, inter alia in the context of the e-Justice strategy, and to make greater efforts to realise the true potential of the Regulation for improving the operation of civil justice for citizens, businesses, practitioners and judges;

9. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

Implementation of Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts

P6_TA(2009)0090

European Parliament resolution of 10 March 2009 on implementation of Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (2008/2247(INI))

(2010/C 87 E/06)

The European Parliament,

— having regard to Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts [1],

— having regard to its resolution of 21 February 2008 on the Commission's 23rd Annual report on monitoring the application of Community law (2005) [2],

— having regard to its resolution of 21 October 2008 on monitoring the application of Community law – 24th annual report from the Commission [3],

— having regard to its resolution of 4 September 2007 on better lawmaking 2005: application of the principles of subsidiarity and proportionality – 13th report [4],

— having regard to its resolution of 4 September 2007 on better regulation in the European Union [5],

— having regard to Rule 45 of its Rules of Procedure,

[1] OJ L 157, 9.6.2006, p. 87.
[2] Texts adopted, P6_TA(2008)0060.
[3] Texts adopted, P6_TA(2008)0494.
[4] OJ C 187 E, 24.7.2008, p. 67.
[5] OJ C 187 E, 24.7.2008, p. 60.

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— having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Economic and Monetary Affairs (A6-0014/2009),

A. whereas Parliament has repeatedly stated that there is a point to EU legislation only if it is complied with in the Member States, and whereas monitoring of the transposition and application of EU legislation by Member States must therefore be stepped up; whereas Parliament has proposed that, after the transposition deadline has expired, the rapporteur should inform Parliament of the state of play,

B. whereas Directive 2006/43/EC ('the Directive') was adopted by Parliament and the Council on 17 May 2006 and the period for transposition in the Member States expired on 29 June 2008, and whereas there must be an examination as to whether transposition has proceeded correctly,

C. whereas the 'scoreboard' published by the Commission, whilst identifying which articles have been implemented by whom, provides no information on the way in which implementation has proceeded or on whether national rules meet the minimum standard set by the Directive,

D. whereas the objective of the Directive is, first, to optimise the quality of audits of annual accounts throughout the EU, thus increasing confidence in such reporting and improving the situation in the financial markets, and, second, to establish a level playing-field for the accountancy sector within the internal market,

E. whereas implementation of the Directive in Member States must be checked by reference to this twin objective,

1. Notes that the Directive was adopted in response to the crisis that followed the collapse of Enron; emphasises that the current financial crisis highlights the importance of high-quality accounting and auditing practices; deplores the fact that only 12 Member States have transposed the Directive in full; urges the Commission to ensure its immediate transposition and enforcement;

2. Notes with concern that transposition of the crucial notions of 'public-interest entity' ([1]) (PIE) and 'network' ([2]) is leading to differing interpretations among Member States; stresses in this connection that for an undertaking identified as a PIE, and also for the accountant auditing that undertaking, the Directive introduces various far-reaching obligations; notes further that the Directive also introduces various additional obligations for audit firms covered by the definition of 'network'; observes that further consideration is needed with regard to the impact of the definition of 'network' and the lack of legal clarity regarding the liability of firms for the actions of other firms that belong to the same network; fears in general that a patchwork of definitions will lead to legal uncertainty and high costs of compliance and will thus, ultimately, adversely affect attainment of the Directive's objective; therefore calls on the Commission to undertake a comprehensive review of the implementation of the definitions and the discernible effects of their introduction, and to seek clarity regarding the long-term policy priorities for the EU in this area and the way in which these may best be achieved, in consultation with the Member States;

3. Notes that many Member States have not yet implemented Article 41 of the Directive, under which Member States must require PIEs to set up an audit committee or comparable body; is of the opinion that this requirement is an important means of guaranteeing the independence of statutory audits of PIEs' annual accounts;

4. Stresses that recent experience shows the need for frequent and high-quality interaction within audit committees and between independent directors, supervisory boards and auditors, and that non-executive board members should consider carefully the possibility of having meetings without executive board members being present;

([1]) Article 2(13) of the Directive.
([2]) Article 2(7) of the Directive.

5. Concludes that certain Member States have implemented the Directive's requirement of auditor rotation within a maximum of seven years with a very short rotation period of as little as two or three years; doubts that such short rotation periods enhance the quality and continuity of statutory audits of PIEs, and points out that they hamper the auditors' and audit firms' sound understanding of the audited entity;

6. Regrets that not all Member States have introduced the system of public oversight required by the Directive; notes further that, in Member States where forms of public oversight have been introduced, there are considerable differences between them; notes that public oversight under the Directive must be organised in such a way that conflicts of interest are avoided; wonders, in the light of this, whether oversight authorities directly linked to national governments meet that requirement;

7. Considers it very important that the cooperation required under the Directive between public-oversight authorities should actually materialise, since intensive cooperation between oversight authorities fosters convergence between Member States and can prevent additional administrative burdens resulting from different national procedures and requirements;

8. Stresses that listed subsidiaries are subject to statutory audits; recommends that national law require that parent undertakings holding such subsidiaries be subject to statutory audits performed by auditors approved in accordance with the Directive;

9. Considers that there is a very significant lack of clarity in relation to the implementation of Article 47 of the Directive, which deals with the audit working papers; points out that, whilst Member States may allow the transfer to the competent authorities of a third country of audit working papers or other documents held by the statutory auditors or audit firms approved by them, there are legal and data-protection issues to be addressed in order to ensure that the information which EU auditors receive from their client companies is kept confidential and does not get into the public domain of third countries where such companies are listed or where the parent company is incorporated;

10. Calls on the Commission to make a careful evaluation of all national legislation transposing the Directive, to tackle resolutely the problems referred to in paragraphs 1 to 9 and to report to Parliament on this within two years; doubts whether the chosen method of minimum harmonisation is really the right way to realise the objectives of this and other internal-market-related directives, since the many derogations allowed by the Directive will lead to further fragmentation of the accountancy market; calls on the Commission to make use of clear concepts when harmonisation is being carried out;

11. Points out that undue delay in the approval of International Standards on Auditing (ISAs) could have an adverse effect on the regulatory environment, resulting in further fragmentation, which is contrary to the general objective of the Directive; requests the Commission, therefore, to avoid unnecessary delay in the adoption of ISAs and to launch a broad public consultation on their adoption;

12. Takes the view that careful monitoring and verification of the correct and timely implementation of EU legislation is an essential means of achieving better application of EU law and avoiding gold-plating practices that may occur on the basis of, for example, Article 40 of the Directive, which lays down a non-exhaustive list of requirements for transparency reporting;

13. Supports the Commission's guidance of, and close cooperation with, Member States, aimed at securing correct and timely implementation, for example by making use of transposition workshops as a forum for establishing consensus on the implementation of particular provisions of Community legislation; supports the use of correlation tables in the process of implementation as a means of achieving maximum convergence; is nevertheless of the opinion that still more has to be done to give clear guidance to Member States in the course of implementation and to steer Member States towards an unequivocal implementation of Community legislation;

14. Strongly emphasises that any quasi-legislative measure within the scope of the Directive can only be adopted pursuant to the application of the regulatory procedure with scrutiny, accompanied where appropriate by an evaluation of its impact;

Recommendation on quality assurance

15. Welcomes Commission Recommendation 2008/362/EC of 6 May 2008 on external quality assurance for statutory auditors and audit firms auditing public interest entities [1]; subscribes to the established view that it is important to have independent external quality assurance reviews in line with the Directive's objective of enhancing the quality of audits and the credibility of published financial information; endorses, moreover, the established view that the total independence and impartiality of inspections and inspectors are of the utmost importance;

16. Urges the Commission to promote national quality assurance structures, in close collaboration with the Member States, which ensures independent and external quality assurance for accountancy firms; stresses, in this connection, that the European legislative authority must confine itself to general framework provisions set out in the Directive and the recommendation and that it must be left to the profession to flesh out those rules;

Decision on the registration of third-country auditors

17. Takes note of Commission Decision 2008/627/EC of 29 July 2008 concerning a transitional period for audit activities of certain third country auditors and audit entities [2]; asks the Commission to communicate to Parliament its follow-up on the question of the registration of third-county auditors;

Auditors' liability

18. Notes that divergences between Member States' liability regimes might lead to regulatory arbitrage and undermine the internal market, but is aware of the differing levels of exposure linked to the size of audit firms and companies with which they deal; emphasises that liability claims often come from third countries in which such litigation is largely driven by contingency-fee arrangements; is reluctant to welcome such a litigation culture into the European Union and asks for a more fundamental resolution to the perverse effects of such fee-driven practices;

19. Notes Commission Recommendation 2008/473/EC of 5 June 2008 concerning the limitation of the civil liability of statutory auditors and audit firms [3], which calls on Member States to limit the liability of accountants, with due regard for their own national legislation and circumstances; further notes the recommendation's objective of bolstering the level playing-field for undertakings and accountancy firms through greater convergence between Member States in this area; underlines that the objective of limiting the liability of auditors and audit firms proposed by the Commission recommendation must not violate the legal principles governing civil liability in certain Member States, such as the principle of the right to compensation for victims; underlines that, within the context of the current economic and financial crisis, the recommendation should not call into question the quality of the statutory audit or the confidence placed in the function of statutory audits; calls on the Commission to inform Parliament no later than in 2010 about the impact of, and the follow-up to, the recommendation, the important issue in this connection being, in particular, whether and to what extent, in accordance with the Directive's objective, the recommendation is leading to greater convergence between Member States; emphasises that, in the event that further measures prove necessary, the Commission must undertake an impact study assessing the possible effects of limitation of civil liability of auditors and audit firms on the quality of audits, financial security and the concentration on the audit market;

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[1] OJ L 120, 7.5.2008, p. 20.
[2] OJ L 202, 31.7.2008, p. 70.
[3] OJ L 162, 21.6.2008, p. 39.

Consultation on ownership rules

20. Welcomes the consultation initiated by the Commission on ownership rights in accountancy firms and looks forward with interest to the responses of stakeholders;

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21. Instructs its President to forward this resolution to the Council and the Commission.

Equal treatment and access for men and women in the performing arts

P6_TA(2009)0091

European Parliament resolution of 10 March 2009 on equality of treatment and access for men and women in the performing arts (2008/2182(INI))

(2010/C 87 E/07)

The European Parliament,

— having regard to Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions [1],

— having regard to Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex [2],

— having regard to the Charter of Fundamental Rights of the European Union,

— having regard to its resolutions of 7 June 2007 on the Social status of artists [3] and of 3 September 2008 on Equality between women and men - 2008 [4],

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Women's Rights and Gender Equality (A6-0003/2009),

A. whereas inequalities in career prospects and opportunities between women and men in the performing arts are very much present and persistent,

B. whereas the mechanisms which produce these gender inequalities should be seriously analysed,

C. whereas the principle of equality between men and women should apply to all players in the performing arts sector, in all disciplines, all types of structure (production, broadcasting and teaching) and all activities (artistic, technical and administrative),

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[1] OJ L 269, 5.10.2002, p. 15.
[2] OJ L 14, 20.1.1998, p. 6.
[3] OJ C 125 E, 22.5.2008, p. 223.
[4] Texts adopted on that date, P6_TA(2008)0399.

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D. whereas men and women are not proportionally represented in the various jobs in the performing arts, and whereas this initial form of inequality is compounded by disparities in work and employment conditions and income,

E. whereas inequalities in access to decision-making posts, means of production and broadcast networks are apparent to varying degrees in all disciplines of the performing arts,

F. whereas the objective of equality in jobs in the performing arts presupposes the systematic opening-up of all jobs to both men and women,

G. whereas talent alone is not sufficient for the artistic quality of a performance or the success of a professional career, and whereas taking better account of the representation of men and women in jobs in the performing arts would have the effect of reinvigorating the sector,

H. whereas, therefore, the current instances of segregation that still persist in the performing arts should be changed, not only by modernising and democratising the sector, but also by setting realistic equality goals which promote social justice,

I. whereas the existing inequalities leave skills and talents unexploited and are damaging to the artistic dynamism, influence and economic development of the sector,

J. whereas persistent prejudices too often lead to discriminatory behaviour towards women in selection and appointment procedures and in work relations; whereas women often receive lower remuneration than men even if they have higher educational qualifications, a stronger interest in training and stronger networks,

K. whereas the obstacles to gender equality in this sector are particularly deep rooted and require specific steps to be taken to reduce inequalities, taking account also of the leverage effect which that may have on society as a whole,

L. whereas there are great shortcomings as regards social protection for both men and women active in the arts and whereas income, particularly that of women, is adversely affected by this,

1. Underlines the scale and persistence of the inequalities between men and women in the performing arts and the impact that the unequal way in which the sector is organised can have on society as a whole, given the particular nature of its activities;

2. Underlines the vital need to promote and encourage access for women to all the artistic professions where they are still in the minority;

3. Notes that the proportion of women employed in artistic professions and in the official culture industry is only very small and that women are under-represented in positions of responsibility in cultural institutions and in academies and universities;

4. Recognises the need to take specific action in this sector to analyse the mechanisms and behaviour that produce these inequalities;

5. Notes that behaviour is transformed only when the two sexes work alongside each other, through the input of points of view, sensibilities, methods and interests which complement each other;

6. Emphasises the need to promote access for women to all the artistic professions and all jobs in the performing arts where they are in the minority and encourages the Member States to remove all obstacles to women accessing top positions in cultural institutions and in academies and universities;

7. Stresses that discrimination against women holds back the development of the cultural sector by depriving it of talent and skills and notes that talent requires contact with the public in order to achieve recognition;

8. Calls for measures to be taken to increase the presence of women on the directors' boards of institutions, in particular by promoting equality within cultural undertakings and institutions and professional organisations;

9. Calls on the actors in the field of culture to increase the presence of female creators and their works in programming, collections, publishing and consultation;

10. Notes that the progress achieved in gender equality will progressively allow the mixing of sexes in work teams, programme planning and professional meetings, which today often function according to a system of separation of the sexes which is difficult to reconcile with the demands of our society;

11. Stresses the importance of ensuring whenever possible that applications are anonymous and emphasises the need to continue using screened-off auditions for recruiting orchestra musicians, which has helped women join orchestras;

12. Calls on the Commission and the Member States to consider ensuring, without delay and as a first realistic step in the fight against inequality in the performing arts, that at least a third of the people in all branches in the sector are of the minority sex;

13. Encourages the Member States:

(a) to consider together with their cultural institutions how best to understand the mechanisms which produce inequalities so as to avoid as far as possible any discrimination on the basis of sex;

(b) to remove all obstacles to women accessing top positions in the most prestigious cultural institutions and organisations;

(c) to introduce to the sector new ways of organising work, delegation of responsibilities and time management which take into account the personal-life constraints of women and men;

(d) to recognise that in this sector, where untypical hours, high mobility and job insecurity are the norm and are more destabilising for women, collective solutions should be found for providing childcare (e.g. opening of crèches in cultural undertakings with hours adapted to rehearsal and performance times);

14. Reminds the cultural institutions of the vital need to translate into fact the democratic notion that equal work by men and women must be matched by identical pay, which, in the arts as in many other sectors, is still not the case;

15. Encourages the Member States to produce comparative analyses of the current situation in the performing arts in the various countries of the Union, to draw up statistics in order to facilitate the design and implementation of common policies and to ensure that the progress achieved can be compared and measured;

16. Calls on the Member States to improve the social situation of persons active in the arts and culture sector, taking account of the various employment relations involved, and to ensure better social protection;

17. Instructs its President to forward this resolution to the Council and Commission and to the parliaments of the Member States.

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Integrity of online gambling

P6_TA(2009)0097

European Parliament resolution of 10 March 2009 on the integrity of online gambling (2008/2215(INI))

(2010/C 87 E/08)

The European Parliament,

— having regard to Article 49 of the EC Treaty,

— having regard to the Protocol on the application of the principles of subsidiarity and proportionality annexed to the EC Treaty,

— having regard to the case-law developed by the Court of Justice of the European Communities ([1]),

— having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ([2]) (Services Directive),

— having regard to Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ([3]) (Directive on audiovisual media services),

— having regard to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) ([4]),

— having regard to Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing ([5]),

— having regard to its resolution of 8 May 2008 on the White Paper on Sport ([6]),

— having regard to the Oral Question by the Committee on the Internal Market and Consumer Protection to the Commission of 16 October 2006 on gambling and sports betting in the Internal Market and to the following debate in the Committee on the Internal Market (O-0118/2006) and Consumer Protection on 14 November 2006, and to the answer given by the Member of the Commission,

— having regard to the briefing paper on Online gambling, focusing on integrity and a code of conduct for gambling, prepared for the European Parliament by Europe Economics Research Ltd,

— having regard to the study of Gambling Services in the Internal Market of the European Union dated 14 June 2006, prepared for the Commission by the Swiss Institute of Comparative Law (SICL),

([1]) Schindler 1994 (C-275/92), Läärä 1999 (C-124/97), Zenatti 1999 (C-67/98), Anomar 2003 (C-6/01), Gambelli 2003 (C-243/01), Lindman 2003 (C-42/02), Placanica 2007 (C-338/04), Unibet 2007 (C-432/05), UNIRE 2007 (C-260/04).
([2]) OJ L 376, 27.12.2006, p. 36.
([3]) OJ L 332, 18.12.2007, p. 27.
([4]) OJ L 178, 17.7.2000, p. 1.
([5]) OJ L 309, 25.11.2005, p. 15.
([6]) Texts adopted, P6_TA(2008)0198.

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection (A6-0064/2009),

A. whereas, at present, online gambling, worth EUR 2 to 3 billion in gross gaming revenues in 2004, accounts for roughly 5 % of the total gambling market in the EU, as noted by the above-mentioned study by SICL, and rapid growth seems inevitable,

B. whereas the revenue generated by government and government-authorised gambling activities is by far the most important source of income for sports organisations in many Member States,

C. whereas gambling activities, including online gambling, have traditionally been strictly regulated in all Member States on the basis of the principle of subsidiarity, in order to protect consumers against addiction and fraud, to prevent money-laundering and other financial crimes, as well as match-fixing, and to preserve public order; whereas the European Court of Justice accepts restrictions of the freedom of establishment and the freedom to provide services in the light of such general interest objectives, if proportionate and non-discriminatory,

D. whereas all Member States have differentiated such restrictions according to the type of gambling service concerned, such as casino games, sports betting, lotteries or betting on horse-races; whereas the majority of Member States prohibit the operation - including by local operators - of online casino games, and a significant number prohibit in the same way the operation of online sports betting and online lotteries,

E. whereas gambling activities were excluded from the scope of Directives 2006/123/EC, 2007/65/EC and 2000/31/EC, and Parliament voiced its concern at a possible deregulation of gambling in its above-mentioned resolution on the White Paper on Sport,

F. whereas Member States have regulated their traditional gambling markets in order to protect consumers against addiction, fraud, money-laundering and match-fixing; whereas these policy objectives are more difficult to achieve in the online gambling sector,

G. whereas the Commission has launched infringement proceedings against ten Member States in order to verify whether national measures limiting the cross-border supply of online gambling services, mainly sports betting, are compatible with Community law; whereas, as the Commission has highlighted, these proceedings do not touch upon the existence of monopolies or national lotteries as such, nor do they have any implication for the liberalisation of gambling markets in general,

H. whereas an increasing number of preliminary questions on gambling-related cases are being referred to the European Court of Justice, which clearly demonstrates a lack of clarity on the interpretation and application of Community law with respect to gambling,

I. whereas integrity in the context of this resolution on online gambling means a commitment to preventing not only fraud and crime but also problem gambling and under-age gambling by compliance with consumer protection and criminal laws and by protecting sporting competitions from any undue influence associated with sports betting,

J. whereas online gambling combines several risk factors related to problem gambling, such as, among others, easy access to gambling, the availability of a variety of games and fewer social constraints [1],

[1] Opinion of Advocate General Bot of 14 October 2008 in Case C-42/07; the above-mentioned study by SICL at p. 1450; Professor Gill Valentine, Literature review of children and young people's gambling (Commissioned by the UK Gambling Commission), September 2008.

K. whereas sports betting activities and other online games have developed rapidly and in an uncontrolled manner (particularly cross-border over the internet), and the ever present threat of match-fixing and the phenomenon of 'lay bets' on specific events in sports matches makes sports particularly vulnerable to illegal betting behaviour,

A transparent sector that safeguards the public and consumer interests

1. Highlights that, in accordance with the principle of subsidiarity and the case law of the European Court of Justice, Member States have an interest and right to regulate and control their gambling markets in accordance with their traditions and cultures in order to protect consumers against addiction, fraud, money-laundering and match-fixing in sports, as well as to protect the culturally-built funding structures which finance sports activities and other social causes in the Member States; highlights that all other stakeholders as well have an interest in a well-monitored and regulated gambling market; underlines that online gambling operators must comply with the legislation of the Member State in which they provide their services and the consumer resides;

2. Stresses that gambling services are to be considered as an economic activity of a very special nature due to the social and public order and health care aspects linked to it, where competition will not lead to a better allocation of resources, which is the reason why gambling requires a multi-pillar approach; emphasises that a pure Internal Market approach is not appropriate in this highly sensitive area, and requests the Commission to pay particular attention to the views of the European Court of Justice regarding this matter;

3. Endorses the work that has started in the Council under the French Presidency addressing issues in the field of online and traditional gambling and betting; calls on the Council to continue holding formal discussions about a potential political solution as to how to define and tackle problems arising from online gambling, and calls on the Commission to support this process and to carry out studies and make appropriate proposals considered desirable by the Council for the attainment of common objectives in the area of online gambling;

4. Calls on the Member States to cooperate closely in order to solve the social and public order problems arising from cross-border online gambling, such as gambling addiction and misuse of personal data or credit cards; calls on the EU institutions to cooperate closely with the Member States in the fight against all unauthorised or illegal online gambling services offered and to protect consumers and prevent fraud; stresses the need for a common position on how to do this;

5. Stresses that regulators and operators should closely cooperate with other stakeholders operating in the field of online gambling, e.g. gambling operators, regulators, consumer organisations, sports organisations, industry associations and the media, which share a joint responsibility for the integrity of online gambling and for informing consumers of the possible negative consequences of online gambling;

Tackling fraud and other forms of criminal behaviour

6. Notes that criminal activities, such as money-laundering, and black economies can be associated with gambling activities and impact on the integrity of sports events; considers that the threat to the integrity of sport and sporting competitions impacts heavily on grassroots participation, a key contributor to public health and social integration; is of the opinion that, if a sport is perceived as the subject of manipulation for the financial gain of players, officials or third parties rather than played according to its values, rules and for the enjoyment of its fans, this could result in a loss of public trust;

7. Is of the opinion that the growth of online gambling provides increased opportunities for corrupt practices such as fraud, match-fixing, illegal betting cartels and money-laundering, as online games can be set up and dismantled very rapidly and as a result of the proliferation of offshore operators; calls on the Commission, Europol and other national and international institutions to closely monitor and report on findings in this area;

8. Considers that the protection of the integrity of sports events and competitions requires cooperation between sports rights owners, online betting operators and public authorities at national as well as EU and international level;

9. Calls on the Member States to ensure that sports competition organisers, betting operators and regulators cooperate on measures to tackle the risks related to illegal betting behaviour and match-fixing in sport and explore the establishment of a workable, equitable and sustainable regulatory framework to protect the integrity of sports;

10. Highlights that sports bets are a form of commercial exploitation of sporting competitions, and recommends that Member States protect sporting competitions from any unauthorised commercial use, notably by recognition of a sport organisers right, and put in place arrangements to ensure fair financial returns for the benefit of all levels of professional and amateur sport; calls on the Commission to examine whether it is possible to give competition organisers an intellectual property right (some sort of *portrait right* ([1])) over their competitions;

Prevention of consumer detriment

11. Considers that the potential omnipresent opportunity provided by the internet to gamble online in privacy, with immediate results and with the possibility of gambling for large sums of money, creates new potential for gambling addiction; notes, however, that the full impact on consumers of the specific forms of gambling services offered online is not yet known and should be researched in a more detail;

12. Draws attention to the growing concern about young people's ability to access online gambling opportunities, both legally and illegally, and stresses the need to have more effective age checks and to prevent underage gamblers from playing free demos on websites;

13. Points out that young people in particular may have trouble differentiating between the concepts of luck, fate, chance and probability; urges Member States to address the key risk factors which may increase the likelihood of a (young) person developing a gambling problem, and to find the tools to target those factors;

14. Is concerned by the increasing cross-over between interactive television, mobile phones and internet sites in offering remote or online gambling games, particularly those aimed at minors; considers that this development will pose new regulatory and social protection challenges;

15. Is of the opinion that online gambling is likely to give rise to risks to consumers and that Member States may therefore legitimately restrict the freedom to provide online gambling services in order to protect consumers;

16. Stresses that parents have a responsibility to prevent under-age gambling and gambling addiction by minors;

17. At the same time, calls on Member States to allocate adequate funding for research into, and the prevention and treatment of, problems relating to online gambling;

18. Considers that profits from gambling should be used for the benefit of society, including rolling funding for education, health, professional and amateur sport and culture;

19. Supports the development of standards for online gambling regarding age limits, a ban on credit and bonus schemes to protect vulnerable gamblers, information about the possible consequences of gambling, information about where to obtain help in case of addiction, the potential addictiveness of certain games, and so on;

([1]) *Portretrecht*.

20. Calls on all stakeholders to address the risk of social isolation caused by online gambling addiction;

21. Considers that self-regulation regarding the advertising, promotion and provision of online games is not sufficiently effective and therefore emphasises the need for both regulation and cooperation between the industry and the authorities;

22. Urges Member States to cooperate at EU level to take measures against any aggressive advertising or marketing by any public or private operator of online gambling, including free demonstration games, to protect in particular gamblers and vulnerable consumers such as children and young people;

23. Suggests examining the possibility of introducing a maximum amount that a person can use for gambling activities per month, or of obliging online gambling operators to make use of prepaid cards for online gambling to be sold in shops;

Code of Conduct

24. Notes that a Code of Conduct may still be a useful supplementary tool for achieving some public (and private) objectives and to take account of technological developments, changes in consumer preferences or developments in market structures;

25. Stresses that a Code of Conduct ultimately remains an industry-driven, self-regulatory approach and can therefore only serve as an addition to, not a replacement of, legislation;

26. Also stresses that the effectiveness of a Code of Conduct will heavily depend on its recognition by national regulators and consumers, as well as on its enforcement;

Monitoring and research

27. Calls on the Member States to document the extent and growth of their online gambling markets, as well as the challenges which arise from online gambling;

28. Calls on the Commission to initiate research on online gambling and the risk of developing a gambling addiction, for example how advertising influences gambling addiction, whether it is possible to create a common European categorisation of games according to addictive potential, and possible preventive and curative measures;

29. Calls on the Commission to examine in particular the role of advertising and marketing (including free online demonstration games) in encouraging, directly or implicitly, under-age young people to gamble;

30. Calls on the Commission, Europol and the national authorities to collect and share information about the extent of fraud and other criminal behaviour in the online gambling sector, e.g. amongst actors involved in the sector;

31. Calls on the Commission to study, in close cooperation with national governments, the economic and non-economic effects of the provision of cross-border gambling services in relation to integrity, social responsibility, consumer protection and matters relating to taxation;

32. Stresses the importance for the Member State of the residence of the consumer to be able to effectively control, limit and supervise gambling services provided on its territory;

33. Calls on the Commission and the Member States to clarify the place of taxation of online gambling activities;

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34. Instructs its President to forward this resolution to the Council and Commission.

Ensuring food quality, including harmonisation or mutual recognition of standards

P6_TA(2009)0098

European Parliament resolution of 10 March 2009 on ensuring food quality, including harmonisation or mutual recognition of standards (2008/2220(INI))

(2010/C 87 E/09)

The European Parliament,

— having regard to Article 33 of the EC Treaty,

— having regard to the Commission's Green Paper of 15 October 2008 on agricultural product quality: product standards, farming requirements and quality schemes (COM(2008)0641),

— having regard to its resolution of 9 October 1998 on quality policy for agricultural products and agri-foodstuffs ([1]),

— having regard to the Commission working document of October 2008 on food quality certification schemes,

— having regard to the health check for the common agricultural policy (CAP),

— having regard to the mandate issued by the European Council to the Commission for the negotiations in the field of agriculture, as laid down in the Commission's Proposal for Modalities in the WTO Agriculture Negotiations of January 2003 ([2]),

— having regard to the conference organised by the Commission in Brussels on 5 and 6 February 2007 on 'Food Quality Certification – Adding Value to Farm Produce',

— having regard to the proposal for a regulation of the European Parliament and of the Council on the provision of food information to consumers (COM(2008)0040),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Agriculture and Rural Development and the opinion of the Committee on the Environment, Public Health and Food Safety (A6-0088/2009),

([1]) OJ C 328, 26.10.1998, p. 232.
([2]) Commission document 625/02.

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A. whereas the European Union has the highest quality and standards for food products in the world,

B. whereas these high standards are demanded by EU consumers and represent a means of maximising high added value,

C. whereas there is ever-increasing consumer interest not only in food safety but also in the origins and production methods of food products; whereas the European Union has already responded to this trend by introducing four food quality and origin marks, namely Protected Designation of Origin (PDO), Protected Geographical Indication (PGI), Traditional Speciality Guaranteed (TSG) and Organic Farming,

D. whereas European quality products constitute a living cultural and gastronomic heritage for the European Union, and are an essential component of economic and social activity in many EU regions, bolstering activities directly linked to local realities, especially in rural areas,

E. whereas consumers associate certification schemes with a guarantee of higher quality,

F. whereas the European Union's specific quality systems offer a specific competitive advantage for EU products,

G. whereas the big distributors now dominate EU food markets and are imposing listing fees, commercial entry charges or considerable and unjustified contributions to promotion expenses, all of these being elements which affect small producers' chances of reaching a wide public,

H. whereas new technologies can be employed for providing detailed information on the origins and characteristics of agricultural and food products,

I. whereas counterfeiting causes damage to both producers and end-consumers,

1. Welcomes the reflection process launched by the Commission on the Green Paper, and supports the criterion of promoting the quality of EU agricultural products while not generating additional costs or burdens for producers;

2. Believes that ensuring conditions of fair competition for strategic goods such as agricultural and food products should be a major EU objective of public interest; considers it vital that there should also be conditions of fair competition for imported products, which tend not to meet standards comparable to those governing Community products; believes that the EU's quality standards applicable to third-country products having access to the internal market also need to be laid down on the basis of agreement in the World Trade Organisation (WTO);

3. Considers it necessary to step up controls and coordination among the various authorities to ensure that imported food products meet EU environmental, food safety and animal welfare standards; notes the conclusions of the Agriculture Council of 19 December 2008 concerning the safety of imported agri-food products and compliance with Community standards, but points to the lack of resolute political will, in those conclusions, to strengthen Community controls in third countries;

4. Stresses that quality policy cannot be treated separately from the issue of the future of the CAP or from such challenges as climate change, the need to preserve biodiversity, energy supply and water resource management;

5. Believes that, in a context of generally high raw material prices, incentives to increase production should not be used as a pretext for reducing standards;

6. Reaffirms that the goal of higher food safety, animal welfare and environmental protection standards should be that of attaining a high level of product quality offering a strong competitive advantage to agricultural producers, and that agricultural producers must also be able to earn enough to cover the costs generated by EU food safety, animal welfare and environmental requirements; believes that, should the competitive advantage offered to agricultural producers not be sufficient to enable them to cover those costs, a key role needs to be played here by CAP funding, which farmers in Europe should use for ensuring safety, animal welfare and environmental protection in agriculture;

7. Believes that EU quality policy should be closely linked to the post-2013 reform of the CAP; is of the view that the European Union's role in this policy should be supportive (including financial support) with a view to obtaining high-quality agricultural and food production in Europe; stresses that more support should be given to producers' organisations, particularly with a view to not disadvantaging small producers;

8. Points out that the European Union has undertaken, in the International Treaty on Plant Genetic Resources for Food and Agriculture, to carry out measures to conserve genetic resources; calls, therefore, on the Commission to create specific sales promotion programmes to encourage the use of plant varieties threatened with genetic erosion; stresses that this is intended to make it more attractive for farmers and horticulturalists to grow varieties listed as plant genetic resources, and that similar sales promotion programmes should be created for endangered breeds of farm animals;

9. Recalls that the ongoing liberalisation of world agricultural markets is exposing EU producers to direct international competition, and that any additional measures that have to be complied with may be detrimental to competition but may also play to the advantage of EU farmers if they are effectively able to distinguish their products in the market place and gain premiums in return; recalls also that EU farmers can turn consumer demands to their advantage by providing consumers with locally produced high-quality products, higher animal welfare and environmental standards, among others;

10. Emphasises that in the WTO negotiations the Commission must seek to secure an agreement on the 'non-trade concerns' which ensures that as many imported products as possible meet the same requirements as those imposed on EU farmers, so that the quality of agricultural products which meet EU requirements in the areas of food safety, animal welfare and environmental protection offers agricultural producers a strong competitive advantage;

11. Is concerned at the influence of the big retail chains on the general quality level of EU food products, as well as at the trend on those markets characterised by a high levels of concentration of distribution towards standardisation and reduction of variety of agricultural and food products, in the wake of the declining presence of traditional products and a greater stress on processed products; suggests that the Commission take note of the need to regulate the reverse tendering practices imposed by a small number of bulk buyers, in view of their disastrous consequences for quality products;

Requirements concerning production and marketing standards

12. Is concerned at the complexity of the EU system of basic standards and at the multiplicity of rules which farmers in the European Union have to comply with; favours a simplified system and calls for each new rule to be assessed in accordance with the criteria of suitability, necessity and proportionality;

13. Calls for further simplification of marketing standards by clarifying the main criteria to be applied; calls for the development of EU guidelines on the use of general reserved terms, such as 'low in sugar', 'low carbon', 'dietary' and 'natural', in order to avoid misleading practices;

14. Is concerned at the fact that the majority of EU consumers are not sufficiently well-informed concerning the food chain, especially as regards products' and raw materials' origins; advocates mandatory indication of place of production of primary products based on a country of origin label, reflecting consumer desire to know more about the origins of the product they are buying; believes such a system should also apply to processed food products and should provide information on the origins of the main ingredients and raw materials, specifying their place of origin as well as the place of final processing;

15. Considers the Australian model to be an excellent example for such a system of labelling of the country of origin, while bearing in mind the specific characteristics of the European Union's various production sectors, in its defining of various different levels such as 'produced in' (for food products produced locally with local ingredients), 'made in' (for food products which have undergone substantial processing locally), or 'made in country X using local or imported ingredients'; recalls that similar labelling systems are used by other major trading partners such as the US and New Zealand;

16. Considers that, provided food safety requirements are complied with, marketing standards should not have the effect of blocking market access for products on grounds of their appearance, shape or size;

17. Takes the view that the use of the general EU quality label, bearing the words 'produced in the European Union', must ultimately ensure that EU products stand out on the market, on the basis of the high quality standards governing their production;

18. Considers that the optional reserved terms should be promoted as an alternative to compulsory marketing standards; considers, however, that the introduction of these uniform definitions satisfying all interested parties may encounter difficulties, bearing in mind the differences in dietary habits and traditions, with an increase in the amount of consumer information provided and the need to develop a system to monitor the use of these terms;

19. Advocates taking measures to simplify the EU rules, without this resulting in their dismantling, and to limit the scope for self-regulation; believes that common marketing standards are necessary and can be established in a more efficient manner; considers, in this connection, that joint regulation should be promoted as the usual means of adopting Community legislation in the field; calls for municipal authorities, food industry representatives and farmers' representatives to be involved in the process;

Specific quality systems in the European Union

20. Underlines that food quality systems should provide information and offer a guarantee for consumers of the authenticity of local ingredients and production techniques; considers, therefore, that such schemes must be implemented and operated with reinforced controls and traceability systems;

21. Believes that there needs to be a more transparent labelling system enjoying broad consumer recognition, and that, in the interests of transparent labelling of origin, the provenance of essential product-defining agricultural ingredients should be shown both on EU products and on those imported from third countries;

22. Considers that the need to ensure the exclusive use of authentic PDO products as raw materials applies only where protected nomenclature is used for labelling and advertising a processed product; points out that this prevents consumers from being misled on the one hand, and stimulates demand for PDO products on the other;

23. Advocates the adoption of rules concerning the use of the terms 'mountain' and 'island' given the significant resulting added value for agricultural products and foodstuffs from these less-favoured areas; believes that use of the terms 'mountain' and 'island' must be accompanied by compulsory indication of the country of origin of the product;

24. Points out in this connection that, for the average consumer, the difference between PDO and PGI is not clear, and that an information campaign is needed to make consumers aware of that difference;

25. Opposes the adoption of stricter assessment criteria, such as exportability and sustainability; points out that there are a number of examples of products which, while not exportable, are of major importance in shaping the local economy and ensuring continued social cohesion;

26. Stresses that designations of origin constitute a crucial part of the European heritage which needs to be preserved because of its crucial economic power and because it has a key socio-economic impact on many EU regions; believes that they offer a guarantee of quality, which must be reinforced, particularly by stricter control over the management of designations of origin by the applicant groups representing them; considers that they help consumers in making their choice from the range of goods on offer;

27. Considers that there is a need to better explain the differences between trademarks and designation of origin and to take measures to enable the existing Community rules preventing registration of a trademark containing or referring to PDOs/PGIs by operators who do not represent the producer organisations of those PDOs/PGIs to be applied in practice; considers it vitally important to launch promotional campaigns, with their own budgets, to inform consumers on the benefits of those public sector certification systems;

28. Believes that, in the interests of preserving quality and maintaining the reputation of the geographical indications, producers of products bearing geographical indications should have instruments at their disposal to enable them to manage the volumes produced in a proper manner;

29. Considers that, where a product with a PGI is used in a compound cooked product and the characteristics of the PGI product are altered, the protecting bodies or competent authorities must be allowed to conduct specific checks aimed at ascertaining whether or not the characteristics of the PGI product have been altered excessively;

30. Advocates greater protection for registered nomenclature, in particular at certain stages of packaging and marketing outside the production area wherever there is a danger of such nomenclature being improperly used; calls for the Community rules prohibiting the registration of marks with a designation similar to that of a PDO or PGI that has already been registered to be enforced;

31. Advocates the introduction of common rules to enable producers of products bearing geographical indications to determine the conditions for applying those indications, also in relation to their use in the designation of processed products;

32. Favours simplifying the procedure for registering designations of origin and reducing the time required for obtaining them;

33. Stresses that the degree of protection of designations of origin varies between Member States; advocates legislative and procedural harmonisation in this field, especially for the rules on *ex officio* protection;

34. Believes that the international protection of designations of origin should be strengthened; calls on the Commission to step up its efforts, particularly at political level, to bring about an improvement in PGI protection in the course of the WTO talks (either by extending the protection under Article 23 of the Agreement on Trade-Related Aspects of Intellectual Property Rights to all products, or by establishing a multilateral register of PGIs), and also in the accession negotiations for new member countries joining the WTO and bilateral agreements currently being negotiated;

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35. Takes the view that both exporting and non-exporting producers should be covered by that international protection on the part of the EU, which might differ on the basis of the risk of the actual counterfeiting of products, in such a way that products at high risk of counterfeiting, and which are exported, enjoy international protection at the WTO, while for products running a more moderate risk of counterfeiting, on markets at local level, a simplified procedure could be proposed, which, once recognised by the Member States, shall be notified to the Commission (comparable to the level of the current temporary protection) and enjoy Community legal protection;

36. Points out that certain nomenclatures are being systematically usurped on the territory of third countries, thereby misleading consumers and undermining the reputation of authentic products; points out that measures to ensure the protection of a nomenclature in a third country is a particularly time-consuming process which cannot easily be achieved by isolated producer groups given that specific protection arrangements and procedures exist in each country; urges the Commission to play an advisory role, providing producer groups with know-how and legal support regarding the conclusion of agreements with third countries;

37. Takes the view that Community and national checks are essential with regard to protected designations of origin and protected geographical indications, and advocates severe penalties to deter unauthorised use of those instruments, in such a way that Member States are required to apply these automatically in the event of counterfeiting or imitation of protected designations; suggests bringing forward a specific clause in Article 13 of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ([1]) in that respect; favours simplifying the procedures for obtaining PDOs, as well as stringent checks by Member State authorities when certifying that all stages of the production process have taken placed in the geographical area concerned;

38. Considers that market monitoring for the enforcement of all PDO and PGI provisions will increase administrative costs for the Member States but will greatly contribute to more effective protection; favours Community technical assistance for monitoring by the Member States so as to ensure that PDO and PGI protection arrangements are implemented as uniformly as possible on the territory of the EU;

39. Advocates further action to disseminate information on these systems and popularise them, with Community financial support, both within the internal market and in third countries; believes that the Community cofinancing rate for EU information and promotion programmes on quality EU products needs to be increased; hopes that the Commission will continue to promote the concept of PGI with non-member States, particularly by undertaking more technical assistance missions in conjunction with PGI producer groups;

40. Suggests setting up a European Agency for Product Quality, which would work closely with the European Food Safety Authority and the Commission's units responsible for food quality, and which would also adjudicate on the increasing number of requests from third countries in relation to PDO, PGI and traditional speciality guaranteed products;

41. Stresses the importance for consumer choice of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ([2]); calls on the Commission to submit a legislative proposal whereby a labelling requirement would also be introduced for animal products such as milk, meat and eggs produced by feeding animals with genetically modified feed;

42. Favours preserving and simplifying the TSG system; expresses disappointment at the performance of this instrument, under which so far only a small number of TSGs have been registered (20, with 30 applications pending); stresses that the register of TSGs mentioned second in Article 3(2) of Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed ([3]) – the register in which the name of the product or foodstuff is not reserved to the producers – should be abolished since this weakens TSG protection; recalls that the TSG system remains a useful instrument for protection of the networks and that it offers substantial room for development provided certain conditions are met;

([1]) OJ L 93, 31.3.2006, p. 12.
([2]) OJ L 268, 18.10.2003, p. 1.
([3]) OJ L 93, 31.3.2006, p. 1.

43. Considers the definition of 'traditional' products contained in Regulation (EC) No 509/2006 to be inadequate; considers that association of a traditional product with the country in which the tradition exists or the exclusive use of the designation by producers complying with traditional requirements will make TSG status more attractive;

44. Believes that organic farming offers EU farmers a major growth opportunity and that a programme of measures should be launched to enhance the credibility of the EU logo; notes, however, that the Community regulation on the subject lays down a single standard, even though the Member States apply the certification procedure differently, some of them choosing to delegate expensive inspection tasks to inspection authorities and others to state-accredited bodies; notes that the certification procedure varies between Member States and is expensive; calls for the harmonisation of legislation concerning upper detection limits of banned pesticides in organic products; supports, in principle, the proposal for an EU organic label;

45. Takes the view that greater standardisation is needed in the typology of control and certification bodies and procedures for ecological products, so that consumers are provided with an assurance of safety and reliability in the form of a new EU logo for ecological agriculture, guaranteeing identical production, control and certification criteria at EU level and helping to resolve problems and further promote the internal market in ecological products;

46. Considers that the appearance of non-organic products labelled in such a way as to suggest that they are products of organic farming may harm the development of a single EU market in organic products, expresses concern in this connection at attempts to extend the scope of the Ecolabel to food products not produced in accordance with organic farming principles;

47. Advocates the compulsory indication of country of origin in the case of fresh and processed organic products imported from third countries independently of whether they bear EU organic production certification;

48. Considers that, in order to improve the functioning of the internal market in organic products, it will be necessary to:

— register the country of origin in the case of fresh and processed organic products imported from third countries independently of whether the EU organic product logo is used,

— enhance the credibility of EU logo by means of a programme to promote organic products,

— establish upper detection limits for banned pesticides in organic agricultural products,

— examine the question of dual certification required in many cases by major distributors, since this is resulting in a shortage of organic products on the EU market,

— the designation of non-agricultural products referred to in connection with organic production methods must be distinct from that of organic agricultural products;

49. Welcomes the creation at Member State level of offices for traditional and organic products; believes that every Member State should have bodies, whether public or private, that are universally recognised by producers and consumers for purposes of promoting and validating local organic and quality production;

50. Recognises that consumers have ever growing demands concerning the quality of food and food products, not only in terms of safety, but also in terms of ethical concerns, such as environmental sustainability, animal welfare protection and genetically modified organisms (GMO) technologies; calls on the Commission to provide criteria for quality initiatives such as voluntary GMO-free labelling schemes which will provide consumers with a clear choice;

51. Considers it necessary to promote environment-friendly production systems; regrets, therefore, the lack of Community rules on integrated production, enabling the efforts of EU producers to be highlighted, by means of suitable promotion and marketing campaigns designed to publicise the added value of those types of production;

Certification systems

52. Takes the view that EU rules on the harmonisation of standards are unnecessary; considers that there is no need to introduce new certification schemes for foodstuffs at EU level, as this would undermine existing schemes and mislead consumers;

53. Stresses that the development of quality marks, as well as the related communication activities, must not result in more red tape for producers; believes, therefore, that producers should be able to take the initiative regarding the use of such marks, and that the intervention of Community bodies should be confined to ensuring the protection of those marks with a view to guaranteeing producers a fair price for their efforts and protecting the consumer from counterfeiting or other forms of fraud;

54. Stresses that existing certification systems, as well as ensuring compliance with legal rules by close monitoring, should also guarantee other important food safety factors such as traceability; stresses that certification requirements should reflect the demands of society and that there should therefore be state support for the costs incurred by farmers; advocates the promotion of more active cooperation by producers' associations, since individual farmers are unable to challenge obsolete trade certification rules;

55. Points out that, as things stand, private certification systems do not fulfil the objective of helping producers to communicate the characteristics of their products to consumers, and are in fact becoming an exclusive means of access to the market, increasing red tape for farmers and becoming a business for many food distribution companies; sees a need to refrain from promoting the proliferation of such systems, which limit access to the market to a section of the production sector;

56. Stresses that the current proliferation of private certification systems is hindering access to the market for some in the sector, and that those systems are not helping to improve the communication of product characteristics to consumers; calls on the Commission to promote the mutual recognition of private certification systems in order to limit that proliferation and exclusion from the market of quality products; sees a need for Community guidelines to be drawn up that contain aspects those systems cannot regulate, such 'status-enhancing' references, which should be defined on the basis of objective, scales and circumstances;

57. Points out that regional products are highly significant for local economies and communities and that therefore any proposals to limit the number of geographical indications which may be registered should be opposed;

58. Considers that there is no need to develop new initiatives for promoting traditional products, as this may undermine the TSG scheme;

59. Calls for closer cooperation with the International Organisation for Standardisation and the implementation on as large a scale as possible of alternative systems such as HACCP (Hazard Analysis Critical Control Points);

60. Notes, with regard to the international dimension, the existence of a number of problems relating to competitiveness vis-à-vis the European Union's main trading partners; is concerned at pressure from products from emerging countries which do not meet the same security and quality standards and often benefit from lax controls; reiterates, in this connection, the need to implement the concept of 'qualified market access', as affirmed in numerous resolutions of Parliament;

61. Calls for the generalisation of bilateral agreements with key markets, as well as for agreements on fighting counterfeiting; believes that the Commission should work for clarification of the issues facing international trademark protection, including protection of PGIs, PDOs and TSGs;

Additional aspects

62. Supports action to communicate, as extensively as possible, the benefits of the European Union's policies for food quality and safety; regrets the lack of full information and the difficulties of access for the public regarding the European Union's work in this field; recommends that the Commission and the Member States step up their information and promotion efforts regarding quality and food safety standards for EU products;

63. Emphasises the potential role of EU funding in this area; notes that in the 'convergence Member States' Community participation in the quality programmes is as high as 75 %; nonetheless stresses that credit requirements have now become tighter for small producers in the wake of the world financial crisis, and that this will drastically limit their access to cofinancing;

64. Considers that farmers' markets, as outlets for local, seasonal produce run directly by farmers, should be encouraged because they ensure that a fair price is paid for high-quality produce, strengthen the link between product and place of production and encourage consumers to make informed, quality-based choices; considers that Member States should encourage the creation of marketing spaces in which producers can present their products direct to the consumer;

65. Calls for the creation of sales promotion programmes for local markets, to promote local and regional processing and marketing initiatives; takes the view that this could for example be done by producer cooperatives, which boost added value in rural areas and which by avoiding long transport routes set a good example for combating climate change;

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66. Instructs its President to forward this resolution to the Council and the Commission.

Commission Reports on Competition Policy 2006 and 2007

P6_TA(2009)0099

European Parliament resolution of 10 March 2009 on the Reports on competition policy 2006 and 2007 (2008/2243(INI))

(2010/C 87 E/10)

The European Parliament,

— having regard to the Commission Report on Competition Policy 2006 of 25 June 2007 (COM(2007)0358) and its Report on Competition Policy 2007 of 16 June 2008 (COM(2008)0368),

— having regard to the Commission State Aid Action Plan of 7 June 2005 on Less and better targeted state aid: a roadmap for state aid reform 2005-2009 (COM(2005)0107),

— having regard to its resolution of 14 February 2006 on State aid reform 2005-2009 ([1]),

([1]) OJ C 290 E, 29.11.2006, p. 97.

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— having regard to the Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid ([1]),

— having regard to Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) ([2]),

— having regard to Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector ([3]) (Motor Vehicle Block Exemption Regulation),

— having regard to the Guidelines on national regional aid for 2007-2013 ([4]),

— having regard to Commission Regulation (EC) No 1627/2006 of 24 October 2006 amending Regulation (EC) No 794/2004 as regards the standard forms for notification of aid ([5]),

— having regard to Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid ([6]),

— having regard to the Community Framework for State aid for Research and Development and Innovation ([7]),

— having regard to its resolution of 27 April 2006 on sectoral aspects of the State Aid Action Plan: aid for innovation ([8]),

— having regard to the Community Guidelines on state aid for environmental protection ([9]),

— having regard to the Community Guidelines on State aid to promote risk capital investments in small and medium-sized enterprises ([10]),

— having regard to the Commission Communication concerning the prolongation of the Framework on State aid to shipbuilding ([11]),

— having regard to the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees ([12]),

— having regard to the Commission Communication on the revision of the method for setting the reference and discount rates ([13]),

— having regard to Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings ([14]),

([1]) OJ L 379, 28.12.2006, p. 5.
([2]) OJ L 214, 9.8.2008, p. 3.
([3]) OJ L 203, 1.8.2002, p. 30.
([4]) OJ C 54, 4.3.2006, p. 13.
([5]) OJ L 302, 1.11.2006, p. 10.
([6]) OJ L 302, 1.11.2006, p. 29.
([7]) OJ C 323, 30.12.2006, p. 1.
([8]) OJ C 296 E, 6.12.2006, p. 263.
([9]) OJ C 82, 1.4.2008, p. 1.
([10]) OJ C 194, 18.8.2006, p. 2.
([11]) OJ C 173, 8.7.2008, p. 3.
([12]) OJ C 155, 20.6.2008, p. 10.
([13]) OJ C 14, 19.1.2008, p. 6.
([14]) OJ L 318, 17.11.2006, p. 17.

— having regard to its declaration of 19 February 2008 on investigating and remedying the abuse of power by large supermarkets operating in the European Union ([1]),

— having regard to the Commission's sector inquiries in the energy and retail banking sectors,

— having regard to the Commission Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003 ([2]),

— having regard to the Commission Notice on Immunity from fines and reduction of fines in cartel cases ([3]),

— having regard to the Commission White Paper of 2 April 2008 on Damages actions for breach of the EC antitrust rules (COM(2008)0165),

— having regard to the Commission White Paper of 11 July 2007 on Sport (COM(2007)0391),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A6–0011/2009),

1. Welcomes publication of the Commission's Competition Policy Reports for 2006 and 2007;

2. Continues to support a more proactive role for Parliament in the development of competition policy through the introduction of the co-decision procedure;

3. Congratulates the Commission on its effective challenging of the operation of unlawful hardcore cartels and the record fines imposed on offenders;

4. Calls upon the Commission and Council, with regard to the Commission's review of the functioning of Regulation (EC) No 1/2003 ([4]), to incorporate the fining principles into Regulation (EC) No 1/2003 and further improve and specify those principles in order to comply with the requirements of general legal principles;

5. Supports the use of the revised leniency notice and procedure to encourage the provision of information about the operation of unlawful hardcore cartels;

6. Welcomes the publication of the White Paper on damages actions for breach of the EC anti-trust rules but urges that reform be pursued in such a way as to ensure that the negative effects of the US system are not repeated in the European Union;

7. Requests that the Commission provide better information in its future reports on the role and involvement in competition cases of the Commission Consumer Liaison Officer;

8. Expresses its concern to avoid the abuse of market power by major corporations, and calls upon the Commission to undertake an analysis of the effects on competition of unequal relationships between suppliers, namely food producers, and retailers, in view of possible abuses of dominant position; looks forward to the reporting by the Commission's working group on buyer power;

([1]) Texts adopted, P6_TA(2008)0054.
([2]) OJ C 210, 1.9.2006, p. 2.
([3]) OJ C 298, 8.12.2006, p. 17.
([4]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

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9. Calls on the Commission to consider reviewing the operation of abusive practices in the services sector, which may prevent small businesses from being able to tender for work; notes the problem that self-employed people and freelancers are sometimes denied the possibility of applying standard tariffs in cases where they are almost exclusively economically dependent on one or a few large users of their resources and calls upon the Commission to examine how they may organise negotiate and conclude collective agreements consistent with competition law principles;

10. Invites the Commission to review its internal procedures for choosing topics for sector inquiries;

11. Calls on the Commission to consider conducting a sector inquiry into on-line advertising;

12. Calls on the Commission to undertake an analysis of possible national differences in the application of public procurement rules and possible distortions of competition as a result of these;

13. Notes that the Commission reports record activity in respect of the following three sectors: antitrust fines for cartels, the number of merger cases notified to the Commission, and the number of State aid notifications to the Commission; urges the Commission, therefore, to undertake an urgent review of staff resources in order to ensure that its Directorate General for Competition has appropriate staff numbers to deal with its increasing workload;

14. Underlines that the application of competition rules to mergers and acquisitions must be evaluated from the perspective of the entire internal market, and not just parts thereof;

15. Welcomes the evidence in the Commission's Competition Policy Reports for 2006 and 2007 of the effectiveness of the restructuring of the Merger Control unit in the Directorate General for Competition along sectoral lines with strengthened economic analysis, and peer review;

16. Welcomes the announcement of the launch of a review of the Merger Regulation [1]; reiterates that it considers the current provisions to be insufficient in view of increasingly integrated and complex EU markets and that a review should be undertaken with a view to seeking a consistent approach in the evaluation of comparable merger operations;

17. Notes the record level of State aid notifications, and welcomes the publication of the General block exemption Regulation to cover small and medium-sized enterprises (SMEs), research and development aid in favour of SMEs, aid for employment, training aid, and regional aid;

18. Welcomes, in particular, the possibility of subsidising employers as regards costs incurred by their employees relating to the care of children and parents;

19. Is worried about the increase in market concentration and conflicts of interest within the banking sector; warns against possible global systemic risks that arise from conflicts of interest and concentration;

20. Welcomes a review of the State aid scoreboard but urges the Commission to undertake analyses of the effectiveness of State aid and urges that a revision of the scoreboard identify those Member States that have failed adequately to pursue the recovery of illegal State aid;

21. Welcomes the publication of the revised Community guidelines on State aid for environmental protection, guaranteeing that Member States may support the production of renewable energy and energy efficient cogeneration by granting operating aid that covers in full the difference between production costs and market price;

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[1] Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

22. Renews its call for further progress in relation to both the clarification of the existing competition rules and their practical application in relation to services of general economic interest, given the considerable differences in policies prevailing across the Member States;

23. Regrets that energy consumers in the European Union continue to suffer from disproportionate price increases and a distorted energy market, which was recognised as a result of the Commission's sector inquiry as not functioning properly; stresses again the importance of a fully completed and well-functioning internal market for energy;

24. Supports the Commission in its endeavours to develop the EU gas and electricity markets further, with a crucial element being the separation of the transmission networks on the one hand, and the production and supply activities on the other (unbundling);

25. Expresses concern at the lack of transparency in the formation of fuel prices in EU markets; asks the Commission to ensure proper vigilance over competitive behaviour in those markets;

26. Calls for mechanisms to be put in place to ensure that the adoption of the Emissions Trading Scheme does not cause distortions in competition both internally and as regards external competitors;

27. Notes that as long ago as 9 October 2007 the Council invited the Commission to consider streamlining procedures to focus on how State aid enquiries under critical circumstances could be dealt with rapidly;

28. Welcomes the urgent responses and clarification from the side of the Commission regarding the management of the financial and economic crisis and the use of State aid; notes the increasing amount of State aid and welcomes the further detailed guidelines aiming for better-targeted State aid;

29. Recognises the applicability of Article 87(3)(b) of the Treaty to the circumstances currently facing Member States' economies as a result of the turbulence on the financial markets; considers it necessary, however, that the Commission remain strongly vigilant as regards financial rescue packages to ensure the compatibility of emergency actions with principles of fair competition;

30. Warns against the effective suspension of the competition rules; stresses the need to scrutinise rescue operations in detail and ensure they are in conformity with Treaty provisions; requests the Commission to give a comprehensive ex post report to Parliament and to Member States' parliaments on the application of competition rules in each individual case in its next annual Competition Policy Report;

31. Expresses concern at the ongoing contraction in economic activity in the European Union, which is forecast to extend into 2009; considers it appropriate that, in the framework of the competition rules, adequate response mechanisms, such as restructuring aid or the globalisation adjustment fund, are deployed to combat the growth and employment impact from the credit crisis;

32. Urges the Commission to recognise the need to put in place mechanisms which minimise distortions of competition and the potential abuse of the preferential situations of beneficiaries brought about by State guarantees;

33. Urges the Commission to enforce behavioural constraints on financial institutions in receipt of State aid in order to ensure that such institutions do not engage in aggressive expansion against the background of the guarantee to the detriment of competitors;

34. Welcomes the significant reduction in the disparity of new car prices across the European Union which have come about since the implementation of the Motor Vehicle Block Exemption Regulation and looks forward to the Commission's evaluation of the effectiveness of that regulation;

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35. Welcomes the Commission's action in reducing telecoms roaming charges; notes, however, that prices are remaining just below the regulated price cap; calls for measures supporting pricing competition rather than regulating retail prices;

36. Welcomes the contribution of the Commission's Directorate General for Competition to the White Paper on Sport, which, inter alia, draws attention to the established case law of the Court of Justice of the European Communities, and the decision-making practice of the Commission with respect to the application of Articles 81 and 82 of the EC Treaty to the sports sector;

37. Invites the Commission to take greater account of the international dimension of its policies as regards the European Union's competitiveness on the global level and to demand respect for and the application of the reciprocity principle in trade negotiations;

38. Considers it crucial that competition policy is adequately addressed in the framework of the negotiation of bilateral trade agreements; calls for the Directorate General for Competition to be actively involved in those negotiations in order to secure mutual recognition of competitive practices, particularly in the areas of State aid, public procurement, services, investment and trade facilitation;

39. Urges the Commission to review the structure of its participation in the International Competition Network and at the European Competition Day in order to ensure that the public is more widely and better informed about the key importance of competition policy in underpinning economic growth and employment;

40. Instructs its President to forward this resolution to the Council and the Commission.

Small Business Act

P6_TA(2009)0100

European Parliament resolution of 10 March 2009 on the Small Business Act (2008/2237(INI))

(2010/C 87 E/11)

The European Parliament,

— having regard to the Commission Communication of 25 June 2008 entitled 'Think Small First' - A 'Small Business Act' for Europe (COM(2008)0394) and the accompanying Commission staff working document on impact assessment (SEC(2008)2102),

— having regard to its resolutions of 30 November 2006 on Time to move up a gear - Creating a Europe of entrepreneurship and growth [1] and of 19 January 2006 on implementing the European Charter for Small Enterprises [2],

— having regard to the 2 715th Competitiveness Council Conclusions of 13 March 2006 on SME policy for growth and employment, and to the 2 891st Competitiveness Council conclusions of 1 and 2 December 2008,

— having regard to the opinion of the Committee of the Regions of 12 February 2009,

— having regard to the opinion of the European Economic and Social Committee of 14 January 2009,

[1] OJ C 316 E, 22.12.2006, p. 378.
[2] OJ C 287 E, 24.11.2006, p. 258.

— having regard to the 2008 good practice selection of the European Charter for Small Enterprises,

— having regard to the Commission staff working document of 25 June 2008 entitled European code of best practices facilitating access by SMEs to public procurement contracts (SEC(2008)2193),

— having regard to the Commission Communication of 8 October 2007 entitled Small, clean and competitive - A programme to help small and medium-sized enterprises comply with environmental legislation (COM(2007)0379),

— having regard to the Commission Communication of 16 July 2008 on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan (COM(2008)0397),

— having regard to the Commission Communication of 16 July 2008 entitled An Industrial Property Rights Strategy for Europe (COM(2008)0465),

— having regard to the opinions of the High Level Group of Independent Stakeholders on Administrative Burdens of 10 July 2008 on administrative burden reduction in the priority area of company law, and of 22 October 2008 on the reform of the rules on invoicing and electronic invoicing in Directive 2006/112/EC (VAT Directive),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Economic and Monetary Affairs, the Committee on the Internal Market and Consumer Protection, the Committee on Employment and Social Affairs, the Committee on Culture and Education, the Committee on Legal Affairs and the Committee on Women's Rights and Gender Equality (A6-0074/2009),

A. whereas the 23 million small and medium-sized enterprises (SMEs) in the EU, accounting for around 99 % of all enterprises and providing over 100 million jobs, play a fundamental role in contributing to economic growth, social cohesion and job creation, are a major source of innovation and are vital for sustaining and expanding employment,

B. whereas SMEs have to be placed at the heart of all Community policies to enable them to develop and adapt to the demands of globalisation, to participate in the knowledge triangle and to adapt to environmental and energy challenges,

C. whereas despite previous European Union initiatives, there has been little or no tangible improvement in the business environment for SMEs since 2000,

D. whereas the overwhelming majority of SMEs are micro enterprises, craft businesses, family businesses and cooperatives which are the natural incubators of entrepreneurial culture and therefore play an important role in enhancing social inclusion and self-employment,

E. whereas SMEs are not provided with sufficient support to defend themselves against unfair commercial practices that are conducted cross-border, such as those of misleading business directory companies,

F. whereas, despite their differences, Europe's SMEs face many of the same challenges in realising their full potential, in areas such as relatively higher administration and compliance costs than larger enterprises, access to finance and markets, innovation and the environment,

G. whereas, as a key contribution to achieving an SME-friendly environment, the perception of the role of entrepreneurs and risk-taking has to change: entrepreneurship and the associated willingness to take risk should be applauded by political leaders and the media, and supported by administrations,

H. whereas SMEs, when initiating their processes of internationalisation, have to deal with specific problems, such as lack of international experience, scarcity of experienced human resources, a highly complex international regulatory framework, and the need to introduce changes in organisation and business culture,

I. whereas Parliament has frequently noted with regret the lack of binding legal force of the European Charter for Small Enterprises which has undermined its genuine implementation and that of its 10 recommendations which have, for the most part, gone unheeded; whereas it consequently requested the Council to look into that matter, in its above-mentioned resolution of 19 January 2006,

General

1. Supports warmly the above-mentioned Commission Communication of 25 June 2008, which aims to drive an ambitious policy agenda to promote SMEs' growth through the 10 guiding principles and to anchor the 'Think Small First' approach in policy-making at all levels;

2. Regrets, however, that the Small Business Act (SBA) is not a legally binding instrument; considers that its truly innovative aspect is its intention to place the 'Think Small First' principle at the heart of Community policies; calls on the Council and the Commission to join Parliament in the effort to establish this principle as a binding rule, in a form to be determined, in order to ensure that it is properly applied in all future Community legislation;

3. Emphasises the absolute necessity of implementing the 10 guiding principles at European, national and regional level; calls therefore on the Council and the Commission to make a strong political commitment to ensure proper implementation; urges the Commission and the Member States and to work in close cooperation with all relevant stakeholders to define the priorities and urgently implement, in particular at national level, the SBA Action Plan adopted by the Competitiveness Council on 1 December 2008, ensuring that all parties involved gain effective ownership of the guiding principles;

4. Calls on the Commission to further enhance the visibility and awareness of SME-related policy actions through the bundling of existing Community instruments and funds for SMEs under a separate heading in the EU budget;

5. Is strongly convinced that it is vital to introduce a follow-up mechanism to monitor the proper and speedy implementation of those policy initiatives which have already been launched; therefore calls on the Council to embed the actions to be taken at the level of Member States in the Lisbon process and to inform Parliament annually on the progress made;

6. Calls on the Commission to set up a screening system for the monitoring of the progress achieved following implementation of the 10 guiding principles by the Commission and Member States; calls on the Commission to establish standard evaluation criteria for assessing the progress made; calls on the Member States to incorporate their first progress reports in their upcoming annual reports on the national reform programmes;

7. Stresses the need to place particular emphasis on craft, family, micro- and individual enterprises at EU, national and regional level and urges the Commission and the Member States to take regulatory, administrative, fiscal and life-long learning measures specifically targeted at these enterprises; also calls for the acknowledgement of the specific characteristics of the liberal professions and the need to treat them in the same way as other SMEs except where this contradicts the existing law governing these professions; highlights the important role of SME associations for traders, craft businesses and other professions; calls on the Commission and the Member States to work together to improve the business environment for these industries and the legal framework for their professional and industry associations;

8. Considers that the Commission's proposals lack a clear strategy for self-employed persons to improve their legal status and rights, particularly if their position is comparable with salaried employees; calls on the Commission to guarantee self-employed persons the right to agree standard tariffs, to organise themselves, and to conclude collective agreements, if their counterpart is a large principal with a dominant position, provided that this does not harm less powerful potential clients and does not cause market distortions;

9. Urges the Commission and the Member States to provide targeted promotion measures and individual support such as information, advice and opportunities to access venture capital for business start-ups in the SME sector;

10. Emphasises the need to develop a social and economic model that creates an appropriate security network for small and medium-sized entrepreneurs in the creative sector, where unstable working conditions are often encountered.

11. Notes with regret that women face difficulties in establishing and maintaining businesses owing to factors such as information gaps, lack of contacts and access to networking, gender discrimination and stereotyping, weak and inflexible supply of childcare facilities, difficulties in reconciling business and family obligations, as well as differences in the way women and men approach entrepreneurship;

12. Applauds the proposed introduction of a network of female entrepreneur ambassadors, mentoring schemes for women to set up their own businesses, and the promotion of entrepreneurship among female graduates; draws, however, attention to the fact that many enterprises are still gender-segregated, which is, and will for a long time be, a very serious problem, since as long as women are discriminated against in the labour market, the European Union loses able workers and entrepreneurs and as a consequence loses money; therefore believes that even more money should be invested in projects to endorse female entrepreneurs;

13. Stresses that female entrepreneurship helps to attract women into the labour market and to improve their economic and social status; regrets, nonetheless, that there is a continuing gender gap in this area, in particular as regards pay, despite the strong interest shown for women, and that the percentage of female entrepreneurs in the European Union still remains low, partly as a result of the unacknowledged (for example, unpaid) and yet important contribution made by women in the day-to-day running of family SMEs;

14. Urges the Commission and Member States to take into account the creative and cultural sector as a driver of economic and social development in the European Union – with a share of 2.6 % of the GDP and 2.5 % of the EU workforce; emphasises the importance of SMEs in stimulating the ICT sector and the creative industry;

15. Emphasises that the creative sector is dominated by SMEs and is especially important in terms of safeguarding sustainable regional employment;

16. Welcomes the Commission's planned introduction of a directive on reduced VAT rates for labour-intensive and locally supplied services, which are primarily provided by SMEs; stresses however that it must not lead to a distortion of competition and must not be ambiguous as to the services which are covered;

17. Notes the need to ensure that SMEs have the ability to buy small, buy green and buy local, thus becoming more climate friendly and efficient;

18. Welcomes the swift adoption of the general block exemption in respect of state aids, and of measures on the statute for a European private company and on reduced VAT rates;

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19. Welcomes the Commission proposal to reduce VAT rates for locally supplied services; calls on the Commission to take further action to relax state aid rules to encourage the provision of public procurement opportunities to local companies, in particular to local SMEs;

20. Supports the idea to extend until 2012 the current exemption from the EC competition rules on state aid of film production and considers this as a great support to creative SMEs;

21. Supports the new state aid rules laid down in Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) [1] for exempting, under certain conditions, SMEs from notification rules;

22. Notes that, despite the clear commitment made in the European Charter for Small Enterprises, the voice of SMEs remain muted within the context of the social dialogue; urges that this deficit is formally corrected by appropriate proposals within the context of the SBA;

23. Sees a need, in the framework of the SBA, for greater emphasis to be given to the area of labour law, especially in view of the concept of flexicurity, which enables SMEs in particular to respond more quickly to changes in the market and therefore to guarantee a higher level of employment and the competitiveness of the company, including its international competitiveness, while taking into account the necessary social protection; in this connection refers to its resolution of 29 November 2007 on common principles of flexicurity [2];

24. Furthermore, stresses the importance of labour law, and especially how its application to SMEs can be optimised, for example through better advice or the simplification of administrative procedures, and calls on the Member States to devote special attention to SMEs in connection with the specific approaches they adopt to flexicurity, including through active labour market policies, since SMEs have scope for greater internal and external flexibility owing to their low staffing levels but also need greater security for themselves and their workers; considers it essential that labour law, as one of the main pillars of flexicurity, provides a reliable legal basis for SMEs given the fact that these businesses often cannot afford a legal or human resources management department; points out that, according to Eurostat, 91.5 % of European companies employed fewer than 10 people in 2003;

25. Considers it necessary to introduce measures to combat undeclared work, which is indisputably a source of unfair competition for highly labour-intensive SMEs;

26. Invites Member States to increase in the mainstream economy the inclusion of SMEs owned by underrepresented ethnic minorities, by developing supplier diversity programmes which aim to provide equal opportunities to underrepresented businesses competing with larger undertakings for contracts;

27. Underlines the importance of a statute for a European Private Company as a new, additional legal form, provided that it is focused on SMEs that intend to engage in cross-border activities and cannot be abused by larger companies, to undermine and circumvent legal provisions in the Member States that foster a system of corporate governance that takes into account the interests of all stakeholders;

28. Calls on public authorities, on the basis of the principle that access to information is a precondition for obtaining information itself, and considering the importance of the Internet as a vehicle in this regard, to simplify institutional websites as far as possible to enable users to pinpoint and better understand the support mechanisms being offered;

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[1] OJ L 214, 9.8.2008, p. 3.
[2] OJ C 297 E, 20.11.2008, p. 174.

Boosting R&D and innovation

29. Stresses the importance of innovation for SMEs and the difficulties in taking advantage of research opportunities; considers that national academies of science and research institutes could play a role in driving innovation and reducing barriers to research for SMEs; believes that the focus should not only be on high-tech innovation, but that low and middle level of technology and informal innovation should also be considered; considers that the European Institute for Innovation and Technology could have an important role in boosting R&D and innovation for SMEs; calls upon Member States to multiply initiatives that lower the threshold for SMEs to have access to research; is convinced that all Community research and technological programmes should be designed in a way that facilitates the cross-border participation of SMEs;

30. Supports the Commission's initiative to improve access to the Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) ([1]);

31. Calls on the Commission and the Member States to put in place better framework conditions aimed at creating an environment favourable to innovation by SMEs, in particular by introducing ways to improve the protection of intellectual property rights (IPR) and to fight against counterfeiting more effectively throughout the European Union; believes that well-balanced rules on IPR can offer protection whilst ensuring the flow and exchange of information and ideas; emphasises that SMEs need support to access IPR protection, to uphold these rights with the assistance of the relevant IPR authorities and also to use their IPR to attract finance;

32. Calls on the Commission and the Member States to demand that their commercial partners apply the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) more strictly and to make whatever efforts may be necessary for the adoption of bilateral, regional or multilateral agreements to combat counterfeiting and piracy, such as the Anti-Counterfeiting Trade Agreement (ACTA);

33. Takes the view that the full potential of e-commerce for SMEs is not yet fully exploited and that there is still much to be done to achieve a Single European Electronic Market for products and services where SMEs could play a leading role in the further integration of the EU markets;

34. Considers that the participation of SMEs in clusters must be promoted in order to boost innovation and increase the competitiveness of the EU economy; calls therefore on the Commission to support the improvement of cluster management, notably through the exchange of best practices and training programmes, to design and disseminate tools to assess the performance of clusters, to promote inter-cluster cooperation, and to further simplify administrative procedures for the participation of clusters in EU programmes;

35. Calls for the SBA to take account of cooperative arrangements among SMEs (buying and marketing groups), since such groups have been shown to be less at risk of insolvency than individual enterprises;

36. Is strongly convinced that patents play an important role in innovation and economic performance, since they enable innovators to capture the returns from innovative investments and provide the necessary security for investment, equity and loans; is therefore of the opinion that a swift agreement should be reached on a Community Patent ensuring low-cost, efficient, flexible and high-quality legal protection, adapted to the needs of SMEs, as well as on a harmonised European patent litigation system;

37. Stresses the need to promote innovative and pre-commercial public procurement, since it leads to added value for contracting authorities, citizens, and participating undertakings; calls on Member States to increase the share of innovative public procurement and the participation of innovative SMEs in public procurement procedures; calls on the Commission to facilitate the dissemination of best practices in this field, for example regarding tender criteria and procedure and arrangements for risk and knowledge sharing;

([1]) OJ L 412, 30.12.2006, p. 1.

38. Takes the view that for international public procurement, where new technologies allow for cross-border e-commerce, new forms of, for example, combinatorial auctions for SME-consortia and online publication and advertising tenders allow for significant increases of procurement trade not only within the European Union but globally to encourage cross-border e-commerce;

39. Draws attention to the need for sufficient technical and skilled personnel; therefore, believes that more investment is needed in education and that the links between educational institutions and SMEs should be strengthened, so that the promotion of self-employment, entrepreneurship culture and business awareness is included in the national education curricula; encourages the further extension of individual mobility schemes such as 'Erasmus for young entrepreneurs' and 'Erasmus for apprentices', in particular in relation to female participation; supports the envisaged extension of the scope of the Leonardo da Vinci programme and the creation of a European Credit System for Vocational Education and Training; urges the Member States, in collaboration with social partners and training providers, to set up work-based vocational and occupational (re)training and lifelong learning programmes specifically tailored to SMEs' needs that will be co-financed by the European Social Fund; calls on the Commission to facilitate exchange of best practices in innovative training and measures to reconcile work and family life and to promote gender equality;

40. Stresses the importance of encouraging young entrepreneurs and female entrepreneurs through, amongst other things, the introduction of tutoring and mentoring programmes; points out that an increasing number of women and young entrepreneurs work in SMEs, albeit primarily still in the smallest businesses (micro-businesses), and remain vulnerable to the adverse effects of stereotyping and prejudice in connection with business transfers and successions, especially in the case of family businesses; calls therefore on Member States, taking account of the impact of the ageing population, to implement suitable policies and mechanisms, in particular by introducing diagnostic, information, advisory and support tools for business transfers;

41. Points out that the Seventh Framework Programme contains a financial risk sharing mechanism which should enable access to be facilitated to loans from the European Investment Bank (EIB) for large-scale projects; calls on the Commission to assess SME recourse to that mechanism, and consequently to introduce any necessary proposals;

42. Welcomes the launching of a single European network integrating the services currently provided by Euro Info Centres and Innovation Relay Centres in order to support SMEs in all their innovation and competitiveness efforts through a wide range of services;

43. Calls on the Commission to assess SME participation in the Competitiveness and Innovation Framework Programme [1] and to bring forward any necessary proposals;

Ensure funding and access to finance

44. Points out that the main source of funding for SMEs in Europe comes from their own activity and from credits and loans from financial institutions; notes that SMEs are perceived as higher-risk which hampers their access to finance; calls for a combined effort on the part of financial institutions, the Commission and the Member States to ensure SMEs' access to finance and to offer them the possibility of consolidating their capital by reinvesting their profit in the company; believes that payment of charges prior to SMEs commencing activities should not be required in order to ensure that they are able to build up their own funds and resources; in this respect, points to the urgency of the current financial situation and the need for immediate action;

45. Calls on the Commission and Member States to step up their efforts to promote and provide information on the existence of European funds and state aids intended for SMEs, and to make these two instruments both more accessible and more easily understandable;

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[1] Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15).

46. Calls on the Member States to create better conditions allowing SMEs to invest in skills training, not least through direct tax cuts and compensation arrangements between tax authorities and the European Union;

47. Recognises that the Member States' taxation system can be a deterrent to the transfer of businesses, in particular family businesses, increasing the risk of liquidation or closure of the company; calls, therefore, on Member States to review carefully their legal and fiscal framework to improve the conditions for transfer of businesses, especially in cases of owner retirement or illness; is convinced that such improvement will facilitate the continuation of the activities of businesses, in particular family businesses, preservation of jobs and reinvestment of profit;

48. Is very satisfied with the recent alignment between the cohesion policy and the Lisbon Strategy; believes that by directing regional funds more towards entrepreneurship, research and innovation, considerable funds could become available at local level to enhance business potential;

49. Stresses that dynamic financial markets are essential for the financing of SMEs and underlines the need to open up European risk capital markets by improving the availability of and access to venture capital, mezzanine finance and micro-credit; for this reason considers that, in normal circumstances, SMEs should have access to credit provided by actors on the capital markets that can assess their prospects and cover their needs more effectively;

50. Supports the decision taken by the Council and the EIB to adopt a series of reforms to broaden SME finance products by the EIB group as well as offer a substantial development of its global loans to its banking partners, both in quantitative and qualitative terms;

51. Stresses that SMEs' limited ability to access finance is a major impediment to their creation and growth; welcomes, in this respect, the EIB's decision to boost by an additional EUR 30 000 million the funding available for guarantees and other financial instruments for SMEs; calls on the EIB to devise new forms of financial instruments and tangible new solutions to tackle the obstacles that collateral presents to accessing credit; also calls on the Member States, in the light of the current economic crisis, to encourage banks to guarantee SMEs access to credit on reasonable terms;

52. Applauds the recent initiative for a Joint Action to Support Micro-finance Institutions in Europe (JASMINE), which will be beneficial for business start-ups, and in particular will promote youth and female entrepreneurship; calls on Member States, in cooperation with SME organisations and lending institutions to take a proactive role in providing information on access to and application for microcredits and alternative forms of finance;

53. Emphasises the important role of the EIB and the European Investment Fund (EIF) in improving financing available to SMEs, particularly given the current financial turmoil and its repercussions on the credit market; invites the Commission and Member States to investigate further how current banking rules and other financial regulations, including the transparency of credit ratings, could be improved to ease access to finance for SMEs; calls on the Commission in cooperation with Member States and the EIB to establish the right framework conditions for the development of a pan-European venture capital market;

54. Points out that one in four cases of failure of SMEs is due to late payments, in most cases on the part of public administrations; emphasises that the present 'credit crunch' may disproportionally affect SMEs as larger customers put pressure on smaller suppliers to grant extended payment terms; in this respect, welcomes the Commission's proposal to review Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions [1] and calls on the Member States to improve the payment culture in their public administrations; urges the creation at Community level of a harmonised time limit for payments, possibly shortened for payments to SMEs, and penalties for exceeding this limit;

[1] OJ L 200, 8.8.2000, p. 35.

55. Welcomes the measures proposed in the SBA seeking to improve the supply of capital to SMEs; calls in particular, in the light of the financial crisis, for tried and tested state SME support programmes to be expanded and/or continued and for their support to be extended to financial intermediaries;

56. Notes the enormous potential of the EU Competitiveness and Innovation Framework Programme in correcting market failures in SME financing, in promoting eco-innovation and in supporting entrepreneurial culture;

Improving market access

57. Points out that standardisation can lead to innovation and competitiveness by facilitating access to markets and by enabling interoperability; calls on the Commission to improve access to standards for SMEs and their participation in the standardisation process; encourages the Commission to further promote Community standards internationally;

58. Stresses the importance of involving, as fully as possible, the Enterprise Europe Network, the national project management authorities, the chambers of commerce and industry and the public authorities in the promotion at local level of the opportunities offered by the EU programmes for research, development and innovation and by the EU Structural Funds, including the Community initiative on Joint European Resources for Micro to Medium Enterprises (JEREMIE);

59. Notes that public procurement covers around 17 % of EU GDP; calls on the Commission and Member States to strengthen SME access to and participation in public procurement by using the opportunities presented in the above-mentioned European code of best practices facilitating access by SMEs to public procurement contracts through inter alia:

— making more use of e-procurement,

— adapting the size of contracts,

— alleviating the administrative and financial burden in tendering,

— providing relevant and proportionate qualification criteria in specific tenders,

— enhancing access to information on public tenders for SMEs,

— harmonising required documents;

60. Encourages, furthermore, Member States to take the following steps:

— to require contracting authorities to justify the non-splitting of contracts,

— to extend the possibility of responding as a consortium to public calls for tender,

— to make the requirement to pay advances general practice for all public procurement contracts;

61. Notes that there is a need for a system consultancy service that would assist the everyday operation of SMEs during their whole lifecycle with the aim of optimising their investments;

62. Considers that advanced e-business applications, based on the implementation of interoperable electronic signatures and authentication certificates, is a crucial driver of SME competitiveness and should be encouraged by the Commission and the Member States;

63. Underlines the importance of the internal market for SMEs, and notes that promoting SME access to the internal market should be a priority;

64. Recognises that there are still certain restrictions on the ability of SMEs to fully exploit advantages offered by the internal market; therefore notes that both the legal and political framework of the internal market should be improved to facilitate cross-border operation by SMEs; also notes that a clear regulatory environment would offer SMEs increased incentives to trade in the internal market; considers that Member States should set up single points of contact and web portals;

65. Underlines that improved information on market access and export opportunities within the Single Market is essential at both national and EU levels; calls therefore on the Commission and the Member States and to strengthen information and advisory services, in particular the SOLVIT problem-solving network;

66. Supports calls for the provision of advisory services by Member States to help SMEs defend themselves against unfair commercial practices, such as those of misleading business directory companies, which should strengthen SMEs' confidence to operate cross-border; emphasises the importance of the Commission's role both in facilitating the coordination of, and in cooperating with, such advisory services to ensure the appropriate and efficient handling of cross-border complaints; insists, however, that in the event that such soft measures do not produce results, the Commission should be ready to initiate the appropriate legislative changes which would provide SMEs with similar protection to consumers where they are the weaker party in such transactions;

67. Points out that only 8 % of all SMEs are involved in cross-border activities, which curtails possibilities for growth; considers that it is essential to boost the internal market; believes that Member States should cooperate in harmonising administrative requirements that affect intra-Community activities; calls on the Member States swiftly to transpose and implement the Services Directive ([1]) paying special attention to the interests of SMEs and also encourages the swift adoption of the statute for a European Private Company;

68. Believes that there should be a common consolidated basis for company taxation; calls for the establishment of a 'one-stop-shop' for VAT in order to make it possible for entrepreneurs to fulfil their responsibilities in the business country of origin;

69. Calls on the Commission to continuously enhance the framework requirements for the access of SMEs to foreign markets and to support the provision of information; encourages the setting up of European business support centres in China and India, and in all emerging markets, in close cooperation with national business support centres already operating there; because poor SME participation in cross border activities can also be explained by the lack of language skills and multicultural competences, greater means of action are needed in order to achieve this challenge; recalls nevertheless that SMEs need better access to information and qualified advice in their home country;

70. Stresses the importance of progress in trade negotiations which would further reduce regulatory barriers to trade, which effect SMEs disproportionately;

71. Calls on the Commission to include in its work programme the incorporation of equal treatment for SMEs in the rules of the WTO on access to public procurement contracts; calls on the Commission to pay particular attention to the problems encountered by SMEs with customs formalities, in particular by facilitating the adaptation of their computer systems as cheaply as possible to those used by national customs authorities, and by simplifying the arrangements for access to the status of economic operator;

([1]) Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

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Fighting bureaucracy and red-tape

72. Believes that there is an imperative need to cut red tape by at least 25 % where possible and to put in place a modern administration adapted to the needs of SMEs; therefore, encourages the promotion of ICT knowledge among SMEs, in particular among young and female entrepreneurs, and the better use of digital technology to enable them to save time and money and to devote the resulting resources to their development; calls on the Commission and the Member States to take initiatives in order to exchange and promote best practices, set benchmarks, and elaborate and promote guidelines and standards for SME-friendly administrative practices; is convinced that it is also imperative in the near future to implement the proposals of the High Level Group of Independent Stakeholders on Administrative Burdens with a view to achieving the reduction target without risking access to finance for SMEs;

73. Believes that SMEs, and in particular micro-enterprises, should be taxed in a way that reduces administrative efforts as far as possible, in such a way as to facilitate the start-up phase and encourage innovation and investment throughout their lives;

74. Emphasises the fundamental importance of evaluating the impact of future legislative initiatives on SMEs; therefore calls for mandatory, systematic and targeted impact assessments for SMEs, a so called 'SME test', the results of which should be subject to an independent evaluation that should be made available to the EU legislative bodies; believes that specific attention should be paid to the impact, including the administrative burden, on small and micro enterprises; urges the Commission to apply the SME test to all new proposals for EU legislation affecting business including simplification of existing legislation and withdrawals of pending proposals; encourages Member States to introduce similar SME tests at national level;

75. Is of the opinion that any new legislation, for example to avoid delays in the field of payments, copyright, company law or competition law (such as the rules adopted to facilitate obtaining data litigation concerning anti-competitive behaviour or that arising from the State aid General block exemption Regulation), should be formulated in such a way so as not to discriminate against SMEs but, rather, to support them and the provision of their services across the internal market;

76. Stresses the need for proper and timely involvement of SMEs in policy making; therefore, believes that the Commission's consultation period should be extended to at least 12 weeks from the date on which the consultation is available in all Community languages; recognises the essential and valuable role of representative business organisations, therefore, calls on the Commission wherever relevant, to integrate SMEs and their representative organisations directly into advisory expert committees and high level groups;

77. Calls on the Commission to stimulate simplification and harmonisation of company law and, in particular, accounting rules within the internal market in order to reduce the administrative burden for SMEs and increase the transparency for all relevant stakeholders; urges the Commission to promote strongly the use of new technology such as eXtensible Business Reporting Language (XBRL) by presenting a roadmap for introducing XBRL reporting in the European Union with a view to making it mandatory within a reasonable time frame and to promote and support wide use of this open standard;

78. Encourages the setting up of a 'statistics holiday' for micro enterprises, granting them temporary exemptions from mandatory statistical surveys, the broad application of the 'only once' principal with regard to information provided by undertakings to public authorities, and the further development of e-government;

79. Stresses the need for the introduction of common commencement dates for new Community legislation affecting SMEs; calls on the Member States and SME associations to inform SMEs concisely and comprehensibly of changes to legislation affecting them;

80. Encourages Member States in co-operation with SME organisations to set up, building on existing structures such as the Enterprise Europe Network and Europe Direct offices, national dedicated physical or electronic information contact points and support agencies for SMEs in line with the 'one-stop shop' principle, offering access to various sources of information and support services, structured according to the life cycle of a business;

81. Recognises the difficulty of setting up a new business as a result of the diversity of systems established in the various Member States; therefore considers it necessary to establish a unified system for setting up businesses in which the process is carried out step-by-step and it is possible for a business to be created in 48 hours;

82. Reiterates that the financial rules governing Community programmes often still lead to unnecessarily bureaucratic, long and costly procedures particularly for SMEs; calls on the Commission to revitalise the Observatory of European SMEs, to publish data on their participation in each Community programme, accompanied by a benefit analysis, and consequently submit proposals on increasing their participation; calls on the Commission to enhance the role and visibility of the respective SME designates in the different policy areas; furthermore, encourages all initiatives allowing the development of an 'SME spirit' in policy making within public authorities, such as the Commission's 'Enterprise Experience Programme' which allows European civil servants to familiarise themselves with SMEs;

83. Deplores Member States' practice of 'gold plating', which is particularly harmful for SMEs, and calls upon the Commission to investigate what further measures might be taken to prevent it; calls for follow-up impact assessments, analysing how decisions are in fact implemented in Member States and at local level;

84. Calls for a special EU website for SMEs which shall contain information and application forms for EU projects, national telephone numbers, links to partners, trade information, information on research projects as well as internet consultation, briefings and information about new regulation;

85. Calls on the Commission to undertake, with Member States, work on the harmonisation of the application forms which must be completed by enterprises in application and tendering processes;

86. Welcomes the Best Idea for Red Tape Reduction Award for the public authorities that have delivered innovative red tape reduction measures at a local, regional or national level;

87. Calls for 30 days payment from EU cohesion funds to those projects which have already been approved, so as to ensure the continued progress, survival and effect of those projects;

Turning sustainability into business

88. Recognises that efforts to improve sustainability could become an important source of (eco-) innovation and a key asset for industry's competitiveness; draws attention to the fact that SMEs are often not sufficiently aware of new energy efficient and environmentally friendly solutions or do not have the necessary financial resources to acquire them; therefore, invites the Commission to investigate how the Community could help SMEs to become more resource and energy efficient;

89. Reiterates the importance accorded to the corporate social responsibility of small-scale businesses, which necessitates horizontal links, networks and services; considers it ineffective to refer to the European Environmental Management and Audit system certification, both because this will detract from existing certificates, and because it links in solely with the environmental challenge;

90. Welcomes recent initiatives to assist SMEs in coping with environmental legislation, by inter alia granting them reduced agency fees, ensuring their access to information on environmental standards or introducing specific exemptions from Community legislation;

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91. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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The social situation of the Roma and their improved access to the labour market in the EU

P6_TA(2009)0117

European Parliament resolution of 11 March 2009 on the social situation of the Roma and their improved access to the labour market in the EU (2008/2137(INI))

(2010/C 87 E/12)

The European Parliament,

— having regard to Articles 3, 6, 7, 29 and 149 of the EC Treaty, in particular the requirement that Member States ensure equal opportunities for all citizens of the Union,

— having regard to Article 13 of the EC Treaty, which enables the Community to take appropriate action to combat discrimination based, inter alia, on racial or ethnic origin,

— having regard to its resolutions of 28 April 2005 on the situation of the Roma in the European Union ([1]), of 1 June 2006 on the situation of Roma women in the European Union ([2]), of 31 January 2008 on a European strategy on the Roma ([3]) and of 10 July 2008 on the census of the Roma on the basis of ethnicity in Italy ([4]),

— having regard to its resolution of 9 October 2008 on promoting social inclusion and combating poverty, including child poverty, in the EU ([5]),

— having regard to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ([6]) and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ([7]),

— having regard to the Commission communication of 2 July 2008 on a Renewed social agenda: opportunities, access and solidarity in 21st century Europe (COM(2008)0412) (Commission Communication on a Renewed Social Agenda),

— having regard to the Commission proposal of 2 July 2008 for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426),

— having regard to its position of 17 June 2008 on the proposal for a decision of the European Parliament and of the Council on the European Year for Combating Poverty and Social Exclusion (2010) ([8]),

— having regard to its resolution of 23 May 2007 on promoting decent work for all ([9]),

— having regard to the Council of Europe Framework Convention for the Protection of National Minorities of 1 February 1995 and the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950,

([1]) OJ C 45 E, 23.2.2006, p. 129.
([2]) OJ C 298 E, 8.12.2006, p. 283.
([3]) Texts adopted, P6_TA(2008)0035.
([4]) Texts adopted, P6_TA(2008)0361.
([5]) Texts adopted, P6_TA(2008)0467.
([6]) OJ L 180, 19.7.2000, p. 22.
([7]) OJ L 303, 2.12.2000, p. 16.
([8]) Texts adopted, P6_TA(2008)0286.
([9]) OJ C 102 E, 24.4.2008, p. 321.

— having regard to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984,

— having regard to the Organization for Security and Co-operation in Europe (OSCE) Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area of 27 November 2003,

— having regard to the European Union Agency for Fundamental Rights 2007 annual report on racism and xenophobia in the Member States,

— having regard to the Declaration of the Decade of Roma Inclusion of the 2 February 2005 and the establishment of the Roma Education Fund on 12 May 2005,

— having regard to the Commission report on The Situation of Roma in an Enlarged European Union of 2005,

— having regard to the High Level Advisory Group of Experts on the Social Integration of Ethnic Minorities and their Full Participation in the Labour Market report on Ethnic Minorities in the Labour Market: An Urgent Call for Better Social Inclusion of the of April 2007,

— having regard to the Council of Europe Commissioner for Human Rights Final Report on the Human Rights Situation of the Roma, Sinti and Travellers in Europe of 2006,

— having regard to the European Economic and Social Committee opinion on the 'Integration of minorities – Roma' [1] (EESC Opinion),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Women's Rights and Gender Equality (A6-0038/2009),

A. whereas following recent enlargements of the European Union, the need for social integration has created new challenges, which must be dealt with in the context of new demographic and economic circumstances and whereas although those challenges must be tackled in all Member States, the Member States in central and eastern Europe are more affected because of their structural, economic and social transformation over the last twenty years; notes, therefore, that vulnerable social groups, such as Roma, are in the most endangered situation,

B. whereas in Member States where industrial sectors have collapsed, regions have seen their prospects of development decline and, as a result, many Roma in particular have been forced to the margins of society through the rapid escalation of poverty; whereas Parliament notes and reiterates that, during the course of this process, the Roma's right to national and EU citizenship has become devalued and the benefits flowing from enlargement have not reached them in an appropriate way, causing a deepening of their marginalisation in several ways and increasing the risk they face of multiple discrimination,

C. whereas the strategic political offensive to promote equal opportunities for Roma must contend with an extremely complex social situation because the Roma, Europe's largest ethnic minority, share the disadvantages of other groups, and whereas that struggle could most effectively be assisted by a comprehensive Roma strategy and a coordinated set of instruments extending to a range of sectoral policies and with the aid of financing for them,

[1] OJ C 27, 3.2.2009, p. 88.

D. whereas travellers constitute a separate ethnic phenomenon, which could justifiably be discussed as a separate issue from the point of view both of human rights and of social and labour-market issues,

E. whereas the process of integrating the Roma population into society is not unilateral but multilateral and there is a need for the Roma to be actively involved in the decision-making process when social inclusion policies are drawn up,

F. whereas the living conditions of Roma, their health status and the level of their schooling determine their social and labour-market situation and often serve as pretexts for their exclusion from majority societies and for racism, and hamper improvements to their quality of life, thus preventing the exercise of the most fundamental human and civil rights,

G. whereas poor transport infrastructure, a dearth of public administrative bodies and services, in particular high-quality educational institutions and health provision and the relocation of businesses compel young people to move away from home for economic reasons, aggravating regional disparities and ghettoisation,

H. whereas it is very important, just before the end of the second part of the Lisbon process, to evaluate the social situation and employment prospects of the Roma and to decide what should be done,

I. acknowledging the importance of the Structural and Cohesion Funds in promoting integration and noting that, because of the complexity of social problems facing the Roma, it is not conceivable that they can be solved purely by means of the project system characteristic of the Structural and Cohesion Funds,

J. whereas it is unquestionably important to acknowledge previous good practices, but whereas their validity is limited in time and place,

K. whereas many Roma communities currently tend to remain immobile rather than moving to areas where greater job opportunities may exist,

Roma on the labour market: access or exclusion?

1. Considers that there is a need for a coordinated approach to improving the working and living conditions of the Roma community that aims at the following three objectives:

— increasing economic opportunities for the Roma;

— building human capital, and;

— strengthening social capital and community development;

2. Points to the fact that policies targeting the Roma have, in a number of cases, not improved their situation; requests that, in all EU and Member State actions which particularly affect the Roma, the stakeholders of the Roma community participate as decision-makers, so that their capacity and responsibility for organising themselves is respected;

3. Notes that the unequal access to services and the socioeconomic disadvantages facing Roma children put early development and high-quality education out of their reach in practice; notes that those disadvantages in turn negatively effect their emotional, social, physical and personal development as well as their subsequent chances on the labour market and hence their integration into the mainstream society;

4. Notes that education systems are selective and that despite the efforts of the Member States to overcome segregation, the many and varied systems ostensibly designed to tackle segregation in fact often serve to accentuate disparities between social groups and profoundly disadvantage the poor, in particular the Roma, who find themselves on a downward spiral; stresses, therefore, the need for targeted education policies which address Roma families and encourage active participation;

5. Stresses that, although the proportion of Roma young people in secondary and higher education has increased in certain Member States, their level of qualifications still remains far below the EU average; points to the gap between labour shortages on the one hand and a high unemployment rate linked with low skill levels among Roma on the other; demands, therefore, that the Member States and the EU support the Roma to increase their qualifications as a priority; draws attention to the fact that, in the absence of formal qualifications, the position of Roma on the labour market can also be improved by devising a system for acknowledging practical skills;

6. Urges the Member States to guarantee that Roma women and girls have access on equal terms to high-quality education and to introduce incentives (e.g. professional development opportunities) to attract high-quality teachers to schools in more deprived socio-economic areas, especially in rural communities with a large proportion of Roma inhabitants;

7. Calls on the Member States to improve access for Roma women to vocational training, and adjust vocational training to the needs of local labour markets in order to provide Roma women with marketable skills;

8. Notes that the vast majority of Roma graduates do not return to their communities after leaving university and that some of them either deny their origins or are no longer accepted in their community when they attempt to return;

9. Recommends that a comprehensive programme package be planned which promotes and motivates the return of Roma graduates to their communities and the employment of the Roma within their communities and in the interests of those communities;

10. Considers that the Roma citizens in some Member States influence the population pyramid in a specific way; notes that the proportion of Roma children in the population is high, while their life expectancy at birth is a full 10 years less than that of people belonging to the majority population;

11. Considers that although the Member States have used substantial EU and Member-State resources to help the long-term unemployed to find work, no coherent solution has yet been found at EU level: Member States are tackling the situation in very different ways and to very different extents, and have not provided opportunities to return to the labour market long-term, while their measures, such as public employment programmes, have further aggravated the stigmatisation of the Roma; requests, therefore, that both the EU and the Member States change their policy to an integrated approach that addresses all aspects of their deprivation;

12. Calls on the Member States to adjust vocational training programmes to the needs of local labour markets and to provide incentives to employers who provide unskilled people (including the Roma) with work and offer them training and opportunities to acquire practical experience directly in the workplace;

13. Calls on Member State and local authorities to deliver annual gender disaggregated assessments of the rate of re-employment among the long-term unemployed (including the Roma) who have completed labour market training and, based on the experience gained, to draw up new methodologies and launch training programmes adapted to local abilities and economic needs;

14. Calls on the Member States to use EU funds to preserve and protect traditional Roma activities;

15. Endorses the Commission view that Roma adults, due to their multiple disadvantages, are under-represented in the working population and in lifelong learning, often have no access to ICT, and are over-represented among the long-term unemployed and those working in low-prestige occupations, which create the greatest barriers of their reintegration into the labour market; calls, therefore, for the effective implementation of Directive 2000/78/EC, which prohibits discrimination in employment and occupation on the grounds of religion or belief, disability, age or sexual orientation;

16. Considers it important to provide for specific Community action to promote access to professional training programmes by the Roma;

17. Draws it to the attention of the Member States that this social dichotomy may compel many Roma job-seekers to transfer from the legal to the informal economy, and that a coordinated effort is needed at EU and Member State level to entice those people back into legal employment with work-related and social security rights;

18. Considers that steps should be taken to promote an inclusive social and economic policy, including through ad hoc measures to provide decent housing;

19. Draws particular attention to the fact that encouraging unqualified and unskilled labour mobility may lead to worse discrimination against Roma women who are already extremely vulnerable to multiple discrimination, and may hinder their further progress in the labour market;

20. Calls on the governments of the Member States to improve Roma women's economic independence by promoting easy self-employment and start-up measures for small and medium-sized enterprises and access to micro-credits and by stimulating a service economy within their own settlements in order to expand Roma women's knowledge and expertise;

21. Calls on the governments of the Member States, inter alia, to generate incentive systems through fiscal advantages, for undertakings that employ Roma women;

22. Considers it necessary to take account of the fact that, in practice, the elimination of Roma settlements is difficult to achieve using EU resources under the rules which currently apply to the European Regional Development Fund, as, in the case of Member States which acceded after 2004, the minimum population figure for the eligibility of settlements for financing from housing budgets is such that it is precisely those living under the worst conditions, in the smallest settlements, who cannot be reached;

23. Stresses the fact that the solution to the social and economic problems of the the Roma calls for a comprehensive approach and a long-term, coordinated solution, involving housing, education, health-care and labour market policies; therefore suggests to the Commission and the Member States that all measures intended to improve the situation of the Roma should be considered as an inseparable part of the measures designed to support regional development and social inclusion;

24. Considers that the Member States should exploit the revision of the rules governing the Structural and Cohesion Funds which affords more scope for complex programmes by allowing more than 10 % to be transferred between different funds;

25. Notes the proposal for a comprehensive new directive to combat discrimination outside employment on the grounds of age, disability, sexual orientation, religion or belief and calls for the effective implementation of Directive 2000/43/EC; considers that, in the spirit of the Social Agenda, the Commission should identify specific objectives and draw up well-balanced programmes with the aim of eliminating discrimination against and stigmatisation of the Roma, and criminalisation of Roma communities;

26. Stresses that the basic prerequisite for promoting social inclusion and access to the labour market for the Roma is that they be given equal social and political rights; calls on the Member States and candidate countries, in this connection, to establish a strategy to improve the participation of the Roma in elections as voters and candidates at all levels;

27. Endorses the importance of micro-credits, which are recommended from various points of view in the Commission Communication on a Renewed Social Agenda and the EESC Opinion and which, by providing a minimal resource, can set the poorest people on the road to achieving personal responsibility and business skills and developing their creative powers, including by providing credit to cover the cost of self-employment;

28. Supports the proposal by the EU institutions that, with request to the principle of equal treatment, the number of Roma working in public services should be increased; points out, however, that in order to make this possible it is necessary not only for governments to pursue personnel and labour-force training policies which promote it but also to make special efforts and provide active support to facilitate public acceptance of the principle;

29. Stresses that, inter alia, the social market, health care, domestic help, the public catering and the provision of services in support of child care may create new jobs for the Roma who are unemployed, particularly women; reaffirms, however, that the social market requires a permanent link between the provider and the user of services and that, therefore, an increase in the employment of the Roma in those fields is possible only in a context of social acceptance, but that such employment also promotes social acceptance;

30. Calls on the Member States to take appropriate measures to eliminate racial hatred and incitement to discrimination and violence against the Roma in the media and in every form of communication technology, and urges the mass media to establish good practices with respect to staff recruitment in such a way as to reflect the make-up of the population as a whole;

31. Observes that Roma women are often actors in the informal economy and have a very low employment rate and considers that, to overcome multiple discrimination, high unemployment and poverty, targeted policies should focus on creating real access to the labour market for Roma women, which is a prerequisite for improving their social and family status;

32. Considers that the employment of Roma women should also be promoted by means of employment-friendly operation of social support systems and appropriate training and specialisation opportunities, to prepare them in the long term for work from which they can earn a living and make it possible to reconcile family life and work; calls on Member States to adopt measures which help to increase child-care opportunities for Roma children even if their mother is at home with her other children;

33. Stresses that better housing and health-care services could improve Roma women's access to the labour market and increase their chances of keeping their jobs for longer;

34. Points out that social and employment policies should contribute to the individual potentials and needs of citizens and create more opportunities for the largest pool of labour such as older people, people with disabilities and poor, unskilled people, including the Roma;

35. Points out that the multiple discrimination faced by Roma women should also be recognised and specifically addressed in policies targeting Roma women that could have a double, long-term positive impact on them and other family members, in particular children;

36. Opposes the view that subsidies designed to help the long-term unemployed (including many Roma) to find work, whether paid to employers or employees, violate the principle of competitive neutrality, as the reintegration of the Roma is a social policy objective, the pursuit of which requires that subsidised market positions be created; expresses the view that subsidising jobs on the labour market in order to reintegrate Roma workers is preferable to subsidising the long-term unemployed;

37. Recognises that some traditional Roma occupations, such as arts and crafts, can help both to preserve this community's specific characteristics and improve its material situation and level of social integration, and considers it desirable to support some specific professional activities;

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The struggle to survive on the margins of society

38. Notes that among the European Union's cultures, that of the Roma is marked by a strong family tradition; observes that the image of Roma families in public opinion features an emphasis on traditional gender roles, large numbers of children, cohabitation of several generations, the tendency of relatives to live in close proximity, and the extensive cultivation of relationships; considers, therefore, that in EU and Member State programmes for Roma families, it is necessary to build on the strengths of that natural support network;

39. Highlights the importance of conserving and affirming the specific cultural characteristics of the Roma in order to protect their identity and reduce prejudice against them, and therefore considers it necessary for the Member States and the Commission to play a more active part in supporting the spiritual life of the Roma minority;

40. Endorses the view in the EESC Opinion that Roma women have a low status in family hierarchy, marry early, often suffer domestic violence, and are often victims of prostitution and human trafficking;

41. Considers, therefore, that EU and Member State programmes for the Roma should aim at individual emancipation from traditional hierarchies and the socioeconomic independence of members of Roma communities, in particular women;

42. Points out that Roma children's tendency to leave school early damages their personal education, their ability to integrate socially, and their opportunities on the labour market, whilst in the case of Roma women, their physical and psychological health and the fact that they leave school early also affects the health and schooling of their children, facilitating their social exclusion; therefore stresses the importance of services which increase awareness in the provision of information to Roma women;

43. Urges the Member States to guarantee that existing and future legal frameworks include provisions for preventing and addressing the multiple forms of discrimination faced by Roma women in order to improve their socio-economic status and to ensure their access to high-quality health care, child care and education as preconditions for employment;

44. Considers that the process of integration must be initiated at an early stage in life, in order effectively to provide alternatives to poverty and social exclusion; considers, therefore, that it is necessary to provide an institutional framework for community-based social and educational services for children and families which meet regional and personal needs, guaranteeing equal access to high-quality services; calls on the Commission, therefore, to provide particular support for programmes for the early integration of Roma children in all countries where EU resources such as the Instrument for Pre-Accession Assistance or the Structural and Cohesion Funds, can be accessed;

45. Notes that Roma children are over-represented in special schools and that a large proportion of them are assigned to such schools without justification, mostly on account of discrimination; points out that forcing children who have been unlawfully classed as 'mentally disabled' to attend special schools is discriminatory and seriously violates their fundamental right to high-quality education and gives rise to difficulties in further study and in finding work and to a greater likelihood of inactivity on the labour market, at the same time forming a burden on budgets;

46. Endorses the suggestion in the EESC Opinion that, in the interests of the development of young children, complex forms of aid are required which are aimed at the whole family and which, while geared to the needs of the family, provide tailor-made practical assistance, such as the 'sure start' programme;

47. Endorses the view expressed in the EESC Opinion that, due to its demographic characteristics, the Roma community has asymmetrical access to social benefits; stresses that social benefits are intended to counterbalance the burdens or lacks arising from individual life situation, the commitment of looking after children and other socially useful commitments;

48. Endorses the recommendation in the EESC Opinion that in order to promote participation in the official labour market supplementary support should be provided to those changing jobs; stresses that declared work must be rendered desirable to both employees and employers;

49. Stresses that the part of their active lives which Roma have spent in a state of exclusion hinders their access to health-care services and is responsible for their situation in old age; stresses also that starting work at an early age, frequent unemployment, a lack of employment protection, invisible work performed in the informal economy, which is often physically onerous, while there is no pension cover arising from such periods of employment, all act to prevent Roma from drawing proper pensions and from leading a dignified old age;

50. Recommends that the Commission take the initiative to identify the most efficient ways of supporting the social, economic and cultural integration of the largest minority in the European Union, and stresses the need for cooperation between the Commission and the Member State governments in order to take specific action aimed at resolving the complex transnational problems of the Roma;

Conclusions

51. Considers that preserving the Roma language and culture is a Community value; does not, however, endorse the idea that the Roma should be members of a stateless 'European nation' because this would absolve Member States of their responsibility and call into question the possibility of integration;

52. Draws the attention of Member States to the risk that adopting excessive measures as regards Roma communities could lead to a worsening of the minority's already dramatic situation and could jeopardise their chances of integration;

53. Calls on the Commission and the Member States to work with non-governmental organisations (NGOs), Roma communities and leaders in order to develop a jointly acceptable plan for the social inclusion of the Roma, to be implemented in close partnership;

54. Calls on the Member States to design and implement projects intended to combat negative stereotypes of the Roma at all levels which can be supported by the Structural and Cohesion Funds and also by specific programmes such as Progress and initiatives such as the 2008 European Year of Intercultural Dialogues and the forthcoming 2010 European Year for Combating Poverty and Social Exclusion;

55. Observes that whereas the improvement of the social and economic situation of the Roma was a significant consideration in the enlargement process, progress has generally been limited; calls on the Member States and the Commission to review previous and existing programmes and initiatives and evaluate their results; considers that the European Union has a duty to coordinate instruments of social inclusion better and more closely and that such coordination should help combat poverty, promote Roma access to better, longer-lasting and more stable employment, pave the way for efforts to render social inclusion and protection systems more effective, and be a means of analysing political experience and mutual learning and create a system for coherent analysis of best practices;

56. Calls on the Commission to assess specifically the impact of the objectives and instruments of each of its sectoral policies on the Roma, along with developing a coherent political strategy and achieving a high level of coordination; calls on the Commission to ask Member States, in reports on integrated indicators and on the open method of coordination for social inclusion, to devote attention to changing the situation of the Roma; calls on the Commission to monitor the extent of discrimination, regularly assess the situation of the Roma with regard to the changes in the education, employment, social, health and housing in the Member States and in the candidate countries;

57. Calls on the Commission to ask the Member States to adopt clear employment policies for disadvantaged groups, including the active Roma population, as soon as possible, with support measures to facilitate their phased integration into the labour market, measures that will combat the effects of dependence created by the social security system;

58. Calls on the Commission to cooperate with the various international organisations and support the development of an academic network of Roma experts which would provide scientific data and support, through research, analysis, the accumulation of evidence and the drafting of recommendations, in order to analyse the issues related to the integration of the Roma question, decide agendas, describe Roma issues with due seriousness on the basis of the summary reports drawn up by those organisations, and draw up an overall EU assessment at least every two years;

59. Criticises the Member States that have not yet ratified the Council of Europe Framework Convention for the Protection of National Minorities; calls on those Member States to ratify the Convention urgently; calls on the Member States that have issued restrictive declarations under the Framework Convention affecting the recognition of the Roma as a national minority to withdraw those declarations;

60. Recommends that Member States

(a) create an EU-level expert group including representatives of the Roma to coordinate Member States' Roma strategy and the use of EU funds for its promotion;

(b) establish partnerships between the various organisations representing Roma interests and the appropriate institutions of the Member States; and

(c) devise instruments such as concessionary credit or public grants and that, in the planning of farm subsidies, make it an important objective to enable Roma citizens to attain conditions in which they can earn a living from farming; so that, in addition to or instead of seeking paid employment in farming, they would be open to the idea of seeking innovative forms of agricultural work, including social cooperatives, thus justifying the provision of the necessary resources;

61. Considers that in some Member States the target groups (in Roma settlements or parts of settlements) can be reached effectively by using the 'multiple disadvantages' definition, but that it is difficult to reach smaller units such as the family and the individual through those target groups;

62. Considers, however, that the legal conditions should be established for the initiation of voluntary and anonymous data collection and the creation of a comparable database, with due regard for data protection and human rights protection rules and without resorting to methods which violate human dignity; considers that the Commission should propose the requisite amendments to legislation;

63. Calls on the Commission to facilitate the drawing-up, verification and confirmation of a portfolio of best practices in programmes for the Roma, as regards, inter alia, housing, education and employment, following analyses carried out by an independent body;

64. Considers that creating the database is not an alternative but a precondition for a system of assessment and evaluation which can balance the impact of exchanges of best experiences and of the use of resources; believes that, to this end, an indicator system is needed which extends to all areas of life and can be used by everybody, which, in addition to output and input indicators for programmes, also concerns the use of social result and impact indicators, including as a condition for financing; recommends, therefore, that the Commission establish such a system of indicators in the Framework Regulation on Structural Funds and in the regulations relating to other types of public grant;

65. Recommends that the Commission adopt more consistent and uniform expectations of all development programmes financed from EU resources from which it is possible to demand an account of the prevention or reversal of social exclusion of the Roma; considers that Member State and EU bodies should examine all development which is financed from the Structural and Cohesion Funds from the point of view of the impact which the programme has on the social integration of the Roma; recommends further that in the case of every programme at the selection stage priority should be assigned to those developments which are also designed to improve the situation of the Roma living in particularly disadvantaged settlements and those who are poor and unemployed;

66. Calls the Commission, in cooperation with each Member State, to develop and implement a wide-reaching information campaign addressed to the general public and the Roma about Member State programmes for improving the living conditions of the Roma and their implementation on an ongoing basis;

67. Calls on the Commission to monitor, on an ongoing basis, measures and activities and their impacts on the improvement of the position of the Roma in the labour market;

68. Would like resources on which decisions are taken at EU level to be used, inter alia, for targeted programmes that also involve experts from organisations with experience in this area who would provide support and advice, to counterbalance Roma disadvantages in education and qualifications; considers that the Member States, in allocating EU funds and their own funds, should, when deciding on the funding of fields other than early development and public education, give consideration to whether local government bodies, organisations, etc., which have applied for support, have complied with their obligations to eliminate segregation;

69. Calls the Commission to encourage national authorities to cease the discriminatory practice of evicting occupants of Roma slums and instead develop concrete housing projects with the support of the technical expertise and monitoring mechanisms of, inter alia, the Commission, the World Bank and NGOs focusing on the Roma; believes that solving the housing problems of Roma living in rural areas must be a priority and should become a matter of special concern and an area for action;

70. Calls on the Commission to devote particular attention not only to civil society organisations but also to the Roma's capacity for organising themselves and providing support for integration policy, to support the development of communities particularly by means of projects which increase Roma participation in the decision-making process and their responsibility for decisions taken in concert with them;

71. Calls on the Commission and the Member States in cooperation with NGOs focusing on the Roma to examine existing policies and programmes in order to draw lessons from the failed projects of the past;

72. Calls on the Commission to support NGOs focusing on Roma at EU, national or local level, in order to monitor the implementation of policies and programmes targeting the Roma, as well as Community education for democracy and human rights;

73. Proposes that the Commission and the Member States establish an EU-wide forum in which social movements, trade unions and NGOs representing the Roma and their interests can consult one another on an on-going basis in order to draw up guidelines and exchange best practices, with a view to promoting a coordinated approach at EU level;

74. Calls on the Member States to be more proactive in encouraging the transfer of jobs to where the Roma communities are situated and in encouraging Roma to move to where the jobs are situated;

75. Reminds Member States and the Commission that while social welfare has a key role to play in supporting and strengthening disadvantaged communities such as the Roma, the promotion of self help is also important; considers that a culture of independence, rather than dependence, should be the long-term aim;

76. Considers that much greater priority should be given to the provision of local jobs and the encouragement of entrepreneurship and local artisans, as well as the development of the basic skills to fulfil them, so that greater wealth as well as greater self-worth may develop;

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77. Instructs its President to forward this resolution to the Council, the Commission, the governments and the parliaments of the Member States and the candidate countries.

Wednesday 11 March 2009

Facing oil challenges

P6_TA(2009)0118

European Parliament resolution of 11 March 2009 on possible solutions to the challenges in relation to oil supply (2008/2212(INI))

(2010/C 87 E/13)

The European Parliament,

— having regard to the Commission Communication of 10 January 2007 entitled An energy policy for Europe (COM(2007)0001),

— having regard to the Commission Communication of 13 June 2008 entitled Facing the challenge of higher oil prices (COM(2008)0384),

— having regard to Council Directive 73/238/EEC of 24 July 1973 on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products [1],

— having regard to Council Decision 77/706/EEC of 7 November 1977 on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products [2],

— having regard to Council Directive 2006/67/EC of 24 July 2006 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products [3],

— having regard to the Commission proposal of 13 November 2008 for a Council directive imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products (COM(2008)0775),

— having regard to the Commission Communication of 13 November 2008 on the Second Strategic Energy Review: an EU energy security and solidarity action plan (COM(2008)0781),

— having regard to the Green Paper of 12 November 2008 'Towards a secure, sustainable and competitive European energy network' (COM(2008)0782),

— having regard to its resolution of 15 February 2007 on the macro-economic impact of the increase in the price of energy [4],

— having regard to its resolution of 29 September 2005 on oil dependency [5],

— having regard to its resolution of 19 June 2008 on the crisis in the fisheries sector caused by rising fuel prices [6],

— having regard to the Presidency Conclusions on energy security of the European Council of 15 and 16 October 2008,

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[1] OJ L 228, 16.8.1973, p. 1.
[2] OJ L 292, 16.11.1977, p. 9.
[3] OJ L 217, 8.8.2006, p. 8.
[4] OJ C 287 E, 29.11.2007, p. 548.
[5] OJ C 227 E, 21.9.2006, p. 580.
[6] Texts adopted, P6_TA(2008)0308.

— having regard to the Presidency Conclusions on the policy implications of high food and oil prices of the European Council of 19 and 20 June 2008,

— having regard to the World Energy Outlook 2008 of the International Energy Agency (IEA),

— having regard to exploratory opinion of the European Economic and Social Committee of 14 January 2009 on possible solutions to the challenges in relation to oil supply [1],

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Foreign Affairs, the Committee on Economic and Monetary Affairs and the Committee on the Internal Market and Consumer Protection (A6-0035/2009),

A. whereas increasing attention will have to be paid at European level to the diversification of energy supply routes and sources, energy savings and energy efficiency in order to guarantee the security of energy supply in the coming decades,

B. whereas it is becoming ever more urgent to develop a coherent and comprehensive Community energy policy in order to ensure security of supply at a time when the European Union is becoming increasingly dependent on imports,

C. whereas oil is a finite resource,

D. whereas oil production by the European Union and Norway still made a contribution towards meeting domestic demand of more than 30 % in 2007,

E. whereas many oil resources, some of them easily extractable, are at present not fully accessible in many countries of the world owing to environmental measures or in the context of resource management and the costs of oil extraction have doubled since 2005 owing to the general rise in the cost of raw materials and equipment,

F. whereas according to calculations by the United States Energy Information Administration, worldwide demand for oil will be more than a third higher in 2030 than it was in 2006 and demand in the European Union will rise by an average of 0.25 % per year between 2005 and 2030, chiefly due to increased demand in the transport sector, which means that oil's share of primary energy demand in the European Union in 2030 will stand at 35 %,

G. whereas the European Union's dependence on oil imports will rise to 95 % by 2030, whilst at the same time conventional oil reserves will be increasingly concentrated in the countries in the strategic ellipse,and growing competition in demand could create uncertainties in supply,

H. whereas rising oil prices are to be expected in the long term,

I. whereas the rise of inflation, triggered by hikes in the price of oil and basic commodities has provoked an erosion of purchasing power,

J. whereas the price fluctuations in 2008 cannot be attributed solely to supply and demand at that particular point in time and are having negative effects on the economy,

[1] OJ C 182, 4.8.2009, p. 60.

K. whereas the development of new investment vehicles on the market for oil and other basic commodities has amplified the price volatility of those commodities; and whereas there is a need to ensure greater transparency in energy markets,

1. Notes that the question of security of energy supply has again become the central issue in the above-mentioned Commission Communication on the Second Strategic Energy Review; regrets, however, that the Commission has not learnt lessons from the economic crisis, which has shown that only a complete shift in EU energy policy will lead to a solution as regards security of supply, and solidarity among Member States, and to employment, and in social, environmental and economic issues; regrets further the lack to date of a clear commitment to further change in energy policy and structure;

2. Stresses that, in addition to short-term measures to secure supply, account should also be taken of the long-term outlook;

3. Calls on the Commission to focus more on analysing the indirect as well as the direct impact of proposed measures on security of supply and costs when preparing legislative proposals;

Exploitation of existing resources

4. Notes that, according to various estimates, it will still be possible to extract sufficient oil to meet demand in the coming decades, even though new extraction methods are likely to lead to higher oil prices; notes that this in turn will stimulate energy efficiency behaviour and will promote alternative fuels such as second generation biofuels and hydrogen, and the use of electric cars; notes also that the conditions of investment must be improved, and stresses further in this regard that the sustained demand for oil has increasingly pushed supply to capacity limits;

5. Points to the uncertainty surrounding the question of when and to what extent a gap will develop between mounting demand and falling supply; is concerned that this uncertainty will increasingly be reflected in growing oil price volatility; is therefore convinced that all measures that could reduce demand for fossil energy sources should be vigorously pursued;

6. Supports the Commission's proposal for short-term measures to be taken if necessary to mitigate future oil price spikes; calls on Member States to provide financial support for investments in alternative energy sources such as renewable energy, and to prioritise consumer awareness measures promoting the purchase of energy-efficient goods and services in order to minimise long-term expense as well as to mitigate a future decrease in oil supply;

7. Calls for an intensification of efforts to make unconventional oil resources commercially viable, and in this way to contribute to diversification, provided that environmentally friendly extraction processes are developed and then used; stresses that a life-cycle approach concerning greenhouse gas emissions from fuels placed on the EU market, as introduced in the proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions from the use of road transport fuels and amending Council Directive 1999/32/EC as regards the specifications of fuels used by inland waterway vessels and repealing Directive 93/12/EEC (COM(2007)0018), will provide a real incentive for the oil industry to reduce its share of the impact on climate change by improving its production processes;

8. Believes that the use of oil and other carbon-intensive energy sources should be reduced, both through increased energy efficiency and by a shift to more carbon-neutral solutions, such as nuclear energy and energy derived from renewable sources;

9. Takes the view that the extraction of existing resources is increasingly being hampered by political factors, including political instability, insufficient legal protection, but also environmental measures and resource management; calls, therefore, on the Commission to step up the dialogue with producing countries at all levels and to seek pragmatic solutions to disputes in the interests of both parties;

10. Calls on the Commission, in dialogue with the oil companies and producer countries, to seek ways in which steady investment can be secured despite fluctuating prices and profits;

11. Expects petroleum companies to reinvest their substantial recent profits in exploration and development of new oil reserves and in promoting energy saving technology and research into oil substitutes (notably for transport applications);

12. Urges a more dynamic relationship between the European Union and the oil-producing countries involving a willingness to give as well as take on both sides and aiming towards a more stable and steady supply and pricing environment for oil, which would be in the interests of all parties concerned and the world economy at large;

13. Welcomes the Commission's initiative to have a global political dialogue in the form of a high-level summit between oil-consuming and oil-producing countries in order to establish a fair balance between supply and demand on the oil market and to prevent oil-producing countries from maintaining oil prices at artificially high levels;

Market transparency and pricing

14. Is concerned at the increasing oil price volatility, which was a striking feature in 2008 and has a negative effect on the whole European Union economy and its consumers;

15. Takes the view that fluctuations in the price of oil reflect an increased demand for oil, progressive depletion of oil reserves, changes in demographic and urbanisation trends, especially in emerging economies, where the rise in average income is causing an increase in demand, speculation on the commodity markets, and global economic cycles; stresses also that oil and other commodities have been increasingly used for portfolio diversification as a result of the depreciation of the US dollar;

16. Expresses its concern at the volatility of oil prices and its impact on economic and financial stability; while recognising the benefits of active markets in oil and other energy products, urges the Commission and the Member States to ensure the highest practicable level of transparency in energy markets;

17. Recognises that the economies of oil exporters are also damaged by such volatility and a stabilisation of oil prices is therefore in the interest of both sides;

18. Welcomes the Commission's Communication of 13 June 2008 on facing the challenge of higher oil prices and echoes its concern over the recent oil price volatility and the negative effects thereof on inflation, competitiveness, trade and economic growth;

19. Considers that the main reason for the oil price rise in the past eight years lies with a strong growth in demand that has led to bottlenecks in the extraction, transport and refining of oil and to large windfall profits made by a few big oil oligopolies; recognises that the marked rise in prices for raw materials and speculative transactions on the financial markets have heightened the trend in oil prices;

20. Highlights the need to prioritise the monitoring of competition in the processing and sale of oil and petroleum products and to increase the transparency of data on commercial oil stocks;

21. Considers it vital to improve market transparency in order to stabilise oil prices; calls on the Commission to submit corresponding proposals to Parliament and the Council; points out that transparency must urgently be increased in the producer countries as well, and volumes of production and the level of reserves in particular must also be published in a transparent way; calls on the Commission and Member States to work towards greater transparency within the framework of their dialogues with producer countries;

22. Welcomes, in this context, the proposal for a study on the usefulness and cost of a weekly publication of the level of oil stocks; calls on the Commission to incorporate the results of the study in its future legislative proposals for minimum oil stocks; stresses at the same time that transparency in this regard must be achieved worldwide;

23. Points out that differing technical specifications for oil products in the main importing countries lead to market fragmentation that may play a key part in pushing up prices in the event of supply shortages; calls on the Commission to submit proposals outlining ways in which such constraints on market access can be removed;

24. Takes the view that the function of strategic reserves is to respond to physical bottlenecks arising from supply shortages; for this reason and for reasons of sustainable budgetary policy, rejects all attempts to counter oil price volatility by using these reserves;

25. Stresses the importance of actively working to make new alternative energy accessible to small businesses in order to make them less dependent on oil price fluctuations; recognises the importance of small and medium-sized enterprises in the production of biofuels and other forms of renewable energy; is concerned about the technical and regulatory barriers which still exist in the production and commercialisation of those products and calls upon the Commission to work towards facilitating market access for those fuels;

26. Stresses that an effective emissions trading system and the adoption of a wide range of other energy saving measures should be important tools for stimulating the development of a wide-ranging, cutting-edge market for energy-efficient technologies and products; also underlines the importance of the application of the 'polluter pays' principle; recalls that the greater the number of countries that put similar policies in place, the more limited their impact on the sectoral competitiveness of those policies;

Investments in oil extraction and processing

27. Notes that, according to the IEA, annual investments amounting to USD 350 billion are necessary in the oil industry by 2020 in order to guarantee security of supply; calls on the Commission and the Member States to provide incentives for investment in their corresponding policies, also and in particular within the European Union; highlights the role of long-term investment security in this connection; rejects, however, the notion of public money being substituted for private investments and capital;

28. Is concerned at the effects of the current credit crisis on investment possibilities in the oil industry and calls on the Commission and Member States closely to coordinate their efforts to overcome the crisis;

29. Welcomes the contribution that could be made by the increased use of biofuels in the transport sector, particularly in increasing security of supply; notes that this will lead to consolidation and restructuring in the oil-processing industry; notes further that structural measures must also be taken in the transport sector in order to minimise the demand for oil;

30. Calls on the Member States and operators to ensure that, despite these developments, sufficient reserve capacities remain available in the European Union to offset bottlenecks arising from natural disasters, for example;

31. Calls on the Member States, the Commission and oil companies to ensure adequate training for the specialists who are required for research into oil reserves and for oil production;

Transport routes

32. Welcomes the results achieved within the framework of the INOGATE Programme, particularly in the field of confidence-building measures; calls on the Commission to draw up a strategy outlining how such projects can be supported through flanking measures and how coordination can be improved;

33. Points to the crucial importance of good neighbourly relations among transit states and between them and their neighbouring countries and urges the Member States and the Commission to step up their efforts in this connection;

34. Notes that oil pipelines have been excluded from the trans-European energy networks and calls on the Member States and the Commission to consider including oil infrastructure in the trans-European energy networks (TEN-E) in view of current developments, in particular falling domestic production and the simultaneous rise in dependence on imports and the need for new transport capacities;

35. Calls on the Commission and Member States to work towards stabilisation, in particular in producer countries threatened by political instability, within the framework of the common foreign, trade and security policy, since stability provides the basis for investment and prosperity;

36. Emphasises that new oil infrastructure projects such as the Odessa-Gdansk and Constanța-Trieste pipelines should continue to be high-priority projects of European interest;

37. Is concerned at the growing piracy that threatens international shipping and hence oil transport, and welcomes the Council's Joint Action [1] in this regard;

38. Is also concerned at the threat to transport routes and strategic infrastructure posed by terrorism and calls on the Commission and Member States to step up the dialogue with key players;

Transport and buildings

39. Points to the potential for energy savings in the buildings sector, which could reduce demand for fossil energy sources such as oil and gas, and welcomes the efforts currently being made by the Commission and the Member States to make even better use of this potential;

40. Welcomes the European Union's efforts to diversify energy sources in the transport sector; favours market-based approaches to the introduction of new technologies; recognises that price represents the best indicator for the competitiveness of new technologies; views as regrettable, however, the unambitious approach to exploiting the potential of energy-efficient, better-built, lighter vehicles;

41. Expresses doubts regarding the medium- and long-term suitability of first-generation biofuels as a substitute for oil; calls for increased efforts in researching synthetic fuels;

42. Is convinced that in the medium and long term the growth in oil consumption in the transport sector can be reduced only if the European Union and Member States take additional measures to shift transport and mobility towards more sustainable modes that consume little or no oil, such as rail, waterborne transport and intermodal mobility chains in urban areas (walking, cycling, public transport, vehicle sharing); is convinced, also, that considerable energy savings can be achieved through the more efficient use of modern traffic management systems to reduce delays and circuitous routes in road and air transport and shipping, and by intensifying efforts to promote green logistics;

Relations with countries with rising oil consumption

43. Takes the view that increased account must be taken of energy policy matters in the European Union's common external relations with countries whose energy consumption is rising sharply, and that the European Union must work towards cutting state subsidies for oil products;

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[1] Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (OJ L 301, 12.11.2008, p. 33).

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44. Calls on the Commission to include in its common foreign, trade and neighbourhood policy measures that can contribute towards progress being made worldwide in removing the link between economic growth and oil consumption;

45. Points out, in particular, that the geopolitical impact of the changes in global conditions for international energy security and the consequences for future international governance policy have not yet been adequately considered and debated by the European Union; takes the view that a continued reliance on national solutions must give way to new and close forms of political and economic cooperation between the European Union, the United States, Russia and China, which must also be given institutional form in the medium term;

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46. Instructs its President to forward this resolution to the Council and the Commission and to the governments and parliaments of the Member States.

Greening of transport and internalisation of external costs

P6_TA(2009)0119

European Parliament resolution of 11 March 2009 on the greening of transport and the internalisation of external costs (2008/2240(INI))

(2010/C 87 E/14)

The European Parliament,

— having regard to the Commission communication of 8 July 2008 entitled 'Greening Transport' (COM(2008)0433),

— having regard to the Commission communication of 8 July 2008 entitled 'Strategy for the internalisation of external costs' (COM(2008)0435),

— having regard to the Commission communication of 8 July 2008 entitled 'Rail noise abatement measures addressing the existing fleet' (COM(2008)0432),

— having regard to its resolution of 12 July 2007 on keeping Europe moving – Sustainable mobility for our continent ([1]),

— having regard to its resolution of 11 March 2008 on sustainable European transport policy, taking into account European energy and environment policies ([2]),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism (A6-0055/2009),

([1]) OJ C 175 E, 10.7.2008, p. 556.
([2]) Texts Adopted, P6_TA(2008)0087.

A. whereas the European Union's objectives are to reduce greenhouse gases by 20 %, increase the use of renewable energy sources to 20 % and reduce energy consumption by 20 %, all by 2020,

B. whereas, as far as greening transport is concerned, the Commission has put forward a number of suggestions aimed at combating climate change, a communication on the internalisation of external costs for all modes of transport, a communication on rail noise abatement, and one specific legislative proposal revising the tolls applicable to heavy goods vehicles,

C. whereas Article 11, third and fourth paragraphs, of the Eurovignette Directive [1] as amended in 2006 stipulated that: 'No later than 10 June 2008, the Commission shall present, after examining all options including environment, noise, congestion and health-related costs, a generally applicable, transparent and comprehensible model for the assessment of all external costs to serve as the basis for future calculations of infrastructure charges. This model shall be accompanied by an impact analysis of the internalisation of external costs for all modes of transport and a strategy for a stepwise implementation of the model for all modes of transport. The report and the model shall be accompanied, if appropriate, by proposals to the European Parliament and the Council for further revision of this Directive',

D. whereas internalisation must be integrated into a more comprehensive policy to promote co-modality and a sustainable transport system and this policy must also include the promotion of research, funding of infrastructure, opening of markets and standardisation; whereas, nevertheless, these price signals will not in themselves be sufficient to change the behaviour of users unless the necessary alternatives are available to them (cleaner cars, alternative forms of transport, etc.),

E. whereas the Commission has convincingly described the public health nuisance caused by rail noise; however as a cornerstone to its rail noise abatement initiative, it is merely setting out a requirement for freight wagons to be retrofitted with low-noise brakes,

Greening of transport

1. Welcomes the Commission communication on greening transport as an important first partial step towards a more comprehensive approach making for more environmentally friendly transport in its many and varied modes as well as recognition of the importance and necessity of making transport more efficient in the context of combating climate change;

2. Points out that mobility greatly benefits personal quality of life, growth and employment in the EU, socio-economic and territorial cohesion, trade with non-EU countries, and the firms and employees involved directly or indirectly in the transport sector and logistics;

3. Recognises that, as well as having positive effects and being indispensable for the European Union's economic development and socio-economic and territorial cohesion, mobility also entails adverse consequences for the natural environment and for people, and therefore maintains that European transport policy – without disregarding the legitimate interests of individuals and industry where mobility is concerned – should continue to aim to green the transport sector so as to cancel out, or at any rate reduce, the harmful effects of transport, in line with the Union's objectives on combating global warming by 2020;

4. Welcomes the fact that the Commission, in its communication, has compiled an 'inventory' of EU measures to date to promote a sustainable transport policy;

5. Regrets that the Commission has failed to produce an integrated plan to green transport, that is to say, covering every transport sector; observes that the Commission has already taken preliminary initiatives which should ultimately lead to a comprehensive strategy for the internalisation of external costs in all modes of transport; but has so far instead:

[1] Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L 187, 20.7.1999, p. 42).

— adopted a piecemeal approach drawn up in a Handbook for estimating the external costs of transport and for their internalisation in individual sectors (see the 'Handbook on estimation of external costs in the transport sector'),

— has submitted a proposal to amend Directive 1999/62/EC (the Eurovignette Directive), which is intended to permit Member States to charge for the external costs arising from heavy goods vehicles, in line with Article 11 of that Directive,

— proposed taxing the external costs caused by rail noise via noise-differentiated infrastructure charges;

6. Calls on the Commission, therefore, where every mode of transport is concerned, to provide for the measures and instruments required to make transport greener, taking into account the international conventions in force and the measures already implemented in the various transport sectors; with reference to those proposals, to conduct scientifically sound assessments of the impact of the individual measures and their competition implications in terms of modes as well as their impact on the costs of mobility and competitiveness; and, proceeding from that basis, to submit an integrated plan for the greening of transport, together with specific legislative proposals;

Internalisation of external costs

7. Notes that in its communication on the strategy for the internalisation of external costs, the Commission has failed to fulfil the obligation imposed on it by the Parliament and the Council, under the Article 11 of the amended Eurovignette Directive, since it has not – by its own admission – devised and put forward a generally applicable, transparent, and comprehensible model for the assessment of external costs as a whole, given that it has not analysed the impact on every mode of transport and, at the practical level, has produced only for heavy goods vehicles a first step for a strategy for the stepwise implementation of the model for all modes of transport;

8. Notes that the Commission communication makes copious references to the Handbook published in January 2008 regarding the calculation of external costs, which brings together the most recent scientific knowledge concerning the calculation of external costs in the transport sector;

9. Notes that the Commission, in its communication, has put forward scientifically coherent justifications for the charging of individual external costs to various modes of transport, and has adopted what it terms a 'pragmatic approach based on the average cost'; generally supports the Commission's basis of marginal social cost pricing, in line with the White Paper on Transport of 2001;

10. Notes that in its communication and in the proposal for a directive amending Directive 1999/62/EC (the Eurovignette Directive), the Commission explicitly takes account of the 'polluter pays' principle laid down in Article 175(5) of the Treaty; calls on the Commission, however, in further steps with regard to the internalisation of external costs, to take account of all forms of internalisation of external costs which already exist, such as oil taxes and road tolls;

11. Calls on the Commission, when putting forward further proposals to green the transport sector, to include assessments of the impact of competition between transport modes and associated social and environmental impacts, as was done with the proposal to amend Directive 1999/62/EC (the Eurovignette Directive), and to include the costs of mobility and competitiveness;

12. Regrets the fact that the Commission has not proposed measures to mitigate the effects of increased remoteness arising from EU enlargement and has not made any forecasts regarding the consequences of its application, in particular in those Member States with geographical barriers and for those which do not as yet have multimodal alternatives; calls, therefore, on the Commission to remedy these shortcomings as part of the forthcoming review of the trans-European transport networks (TEN-T);

13. Encourages the Commission, to this end, to submit a supplementary proposal for multimodal mobility corridors ('green corridors') as part of the review of the TEN-T, offsetting the burdens imposed by the present proposal by enabling accessibility and mobility without obstacles;

14. Calls on the Commission to take steps without delay firstly, to produce specific proposals for all modes of transport and secondly, to perform the task deriving from Article 11 of the amended Eurovignette Directive by submitting a comprehensive plan for calculating and charging external costs and assessing their impact on the basis of a comprehensible model;

Rail noise abatement

15. Recognises that in its communication on rail noise abatement measures for the existing fleet, the Commission has responded to the need to reduce the noise nuisance, from freight wagons in particular, for persons living by the side of railway lines;

16. Underlines that the retrofitting of wagons at a reasonable cost presupposes the resolution of the existing technical obstacles, as well as the elimination of administrative burdens in the relevant certificates, as soon as possible and before the adoption of any binding legislative measure;

17. Calls on the Commission to draw up a proposal for a directive with a view to introducing noise-related track access charges for locomotives and wagons in order to provide incentives as quickly as possible for railway undertakings to re-equip their fleets rapidly with low-noise vehicles by replacing brake blocks; considers that, if and wherever necessary, short-term measures may also be considered and that no legislative measure should have a negative impact on the rail sector in intermodal competition;

18. Looks to the Commission to provide in its proposal for a practicable way of ensuring, through earmarking of revenue, that upgrading of this kind will not be confined to wagons belonging to railway undertakings, but will also extend to wagons of other companies carried by railway undertakings;

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19. Instructs its President to forward this resolution to the Council and the Commission, and the governments and parliaments of the Member States.

Input to Spring 2009 European Council on the Lisbon Strategy

P6_TA(2009)0120

European Parliament resolution of 11 March 2009 on the input to the Spring 2009 European Council in relation to the Lisbon Strategy

(2010/C 87 E/15)

The European Parliament,

— having regard to the Commission communication of 16 December 2008 entitled 'Implementation report for the Community Lisbon Programme 2008-2010' (COM(2008)0881) and the Commission Recommendation of 28 January 2009 for a Council recommendation on the 2009 up-date of the broad guidelines for the economic policies of the Member States and the Community and on the implementation of Member States' employment policies (COM(2009)0034),

— having regard to the 27 National Lisbon Reform Programmes, as presented by the Member States,

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— having regard to the Commission communication of 3 October 2007 entitled 'The European Interest: Succeeding in the age of globalisation - Contribution of the Commission to the October Meeting of Heads of State and Government' (COM(2007)0581),

— having regard to the Commission communication of 20 November 2007 a single market for 21st century Europe (COM(2007)0724),

— having regard to the Commission communication of 16 December 2008 on the external dimension of the Lisbon Strategy for growth and jobs - Reporting on market access and setting the framework for more effective international regulatory cooperation (COM(2008)0874),

— having regard to the Commission communication of 16 December 2008 entitled 'An updated strategic framework for European cooperation in education and training' (COM(2008)0865),

— having regard to the Commission communication of 16 December 2008 entitled 'New Skills for New Jobs – Anticipating and matching labour market and skills needs' (COM(2008)0868),

— having regard to the Commission communication of 16 December 2008 entitled 'Cohesion policy: investing in the real economy' (COM(2008)0876),

— having regard to the Commission communication of 26 November 2008 entitled 'A European Economic Recovery Plan' (COM(2008)0800),

— having regard to the Commission proposal of 16 December 2008 for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1927/2006 on establishing the Globalisation Adjustment Fund (COM(2008)0867),

— having regard to the European Council's conclusions of 23 and 24 March 2000, 23 and 24 March 2001, 22 and 23 March 2005, 27 and 28 October 2005, 23 and 24 March 2006, 8 and 9 March 2007 and 13 and 14 March 2008,

— having regard to its resolution of 15 November 2007 on the European Interest: succeeding in the age of globalisation ([1]),

— having regard to its resolution of 20 February 2008 on the Integrated Guidelines for Growth and Jobs (Part: broad guidelines for the economic policies of the Member States and the Community): Launching the new cycle (2008-2010) ([2]),

— having regard to its resolution of 18 November 2008 on the EMU@10: The first ten years of Economic and Monetary Union and future challenges ([3]),

— having regard to Rule 103(2) of its Rules of Procedure,

Financial crisis and economic and social impacts

1. Notes that the global financial crisis stemming from global macro-economic imbalances and a worldwide credit crisis has inflicted serious damage on financial systems all over the world, including the European Union; notes also that the global financial crisis has brought massive destruction of equity market capitalisation all over the world, that its negative effects on 'real economies' are profound and, in particular, that the implications for employment and the social situation are far-reaching; underlines that financial markets are of crucial importance to the 'real economy' and that one of the priorities – besides safeguarding employment – for growth and employment is to get capital flowing again, providing credits and financing to investments, which calls for renewed confidence and trust, through clear commitments and government guarantees, as well as better implemented supervision, covering all financial markets in a global perspective, and regulations supporting responsible provision of credits to the markets;

([1]) OJ C 282 E, 6.11.2008, p. 422.
([2]) Texts adopted, P6_TA(2008)0058.
([3]) Texts adopted, P6_TA(2008)0543.

2. Recommends that the short-term measures applied to counterbalance the immediate direct consequences of the crisis and minimise the negative effects on the real economy, and the recovery packages must be followed by a coordinated short- and long-term action plan that would bring the EU economies to a stable growth path and protect against similar crises in the future;

3. Recalls that, in its resolution of 20 February 2008 on the input for the 2008 Spring Council as regards the Lisbon Strategy ([1]), Parliament already pointed to the overriding importance of safeguarding the stability of financial markets, noted that the recent subprime crisis shows the need for the European Union to develop oversight measures in order to strengthen the transparency and stability of the financial markets and better protect customers, requested an evaluation of the current systems and instruments of prudential supervision in Europe and insisted on close consultation with Parliament, leading to clear recommendations on how to improve the stability of the financial system and its ability to provide secure long-term finance for European business;

4. Stresses that financial markets are, and will remain, at the core of functioning social market economies, that they are meant to provide financing for the 'real economy' and also to infuse efficiency in resource allocation and that they are also meant to provide economies with the means to prosper, which in turn have made it possible for citizens to make sustained gains in their living standards in the past decades; stresses that fully reliable, efficient and transparent financial markets are prerequisites for a healthy and innovative growth-and-jobs-creating European economy;

5. Stresses that the financial crisis has created an opportunity where the need for innovation as a motor for the economy can no longer be ignored; the time is right to create the dynamic knowledge-based economy Europe set out to build some eight years ago; it is time to create the most energy-efficient economy that has the potential to transform the world and ensure European prosperity and international competitiveness for decades to come. It is time to stimulate innovative industries, with the capacity to bring new growth to Europe;

6. Recognises the positive results of rescue measures adopted to avoid additional damage to the fiscal system; calls, nevertheless, for a new financial architecture through the establishment of transparent and effective regulation which is in the best interest of consumers, enterprises and employees; calls for further legislative proposals as well as international agreements that can tackle excessive risk-taking, leveraging and economic short-termism as basic sources of the crisis; reminds the Commission of its obligation to respond to Parliament's requests concerning the regulation of hedge funds and private equity and expects legislative proposals in the short term;

7. Stresses the urgent need to ensure that the financial sector, which benefited from public support, provides companies, in particular small and medium-sized enterprises (SMEs), and households with sufficient credit; insists that rescue plans must contain binding conditions with regard to dividend distribution as well as lending practices;

8. Warns against a vicious circle of lower investments and lower consumer spending, leading to job cuts, downsized business plans and less innovation, which is likely to push the EU into a deep and longer-lasting recession; stresses that a coordinated European response is crucial in this context to avoid the crisis leading to a sum of conflicting national plans for financial stability and economic recovery, with potential conflicts and costs, undermining the internal market, economic stability and the Economic and Monetary Union, as well as the European Union's role as global economic actor;

([1]) Texts adopted, P6_TA(2008)0057.

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9. Expects joint action to overcome the effects of the financial crisis on the real economy; calls for the setting of benchmarks with regard to future employment and growth rates, which should then help to determine the size and components of the European Economic Recovery Plan; calls, in this context, for the development – in the framework of the growth and stability pact and its rules of flexibility – of a coherent European strategy for future investments (e.g. in qualified and skilled human capital to allow technological breakthroughs and development, innovation, energy efficiency, sustainable infrastructures, communication technologies, interconnection and services including health services, and opportunities for business life, not least for SMEs to invest in new products and markets), the safeguarding of jobs and income, as well as better coordination of economic and social policies;

10. Takes the view that energy from renewable sources, energy efficiency and the environment can act as a strategic focus for stimulus measures, which will create high quality green jobs and give Europe's industry a first-mover advantage over other regions of the world that have yet to seize the initiative;

11. Takes the view that only a policy which combines the fight against growing unemployment and poverty in the short term with preparing the ground for the transition of our economy towards sustainability in the longer term can bring about a longer-lasting solution which takes its inspiration from the sustainability strategy agreed in Gothenburg, which has been declared part of the Lisbon Strategy;

12. Stresses that the European Union's top priority must be to protect its citizens from the effects of the financial crisis as they are most strongly affected whether as workers, members of households, or entrepreneurs; takes the view that many workers and their families are or will be hit by the crisis and that action needs to be taken to help stem the loss of jobs and to help people return rapidly to the labour market, rather than face long-term unemployment; expects the 2009 Spring European Council to agree on clear guidance and concrete measures to safeguard employment and create job opportunities;

13. Considers that among the impacts of the economic crisis the rise of poverty in the European Union is the greatest concern; considers it essential to halt the current rise in unemployment in the European Union; points out that the most efficient way of reducing and preventing poverty is through a strategy based on the goals of full employment, high-quality jobs, social inclusion, measures to encourage entrepreneurship, and activities to boost the role of SMEs and investments; recalls that a strategy to address exclusion from the labour market should be based on adequate living standards and income support, inclusive labour markets as well as access to high-quality services and education; considers, therefore, that employment must be supported by actions for entrepreneurs, SMEs and investments, as well as initiatives to help people in re-entering the labour market; considers that a special priority in this respect should be retraining the unemployed and providing education aimed at creating a skilled and specialised workforce; considers that the principle of solidarity is fundamental to the European construction process, that Community financing should be made available to Member States in respect of schemes aimed at preventing the excessive loss of jobs, retraining workers and endowing non-skilled people with skills; considers that labour regulation needs to be developed in order to achieve a higher degree of flexibility and security within the labour market as well as in getting a new job; considers that Community financial instruments, such as the European Globalisation Adjustment Fund, must be revamped so that they can be deployed efficiently and in a timely manner, in relation to large sectors of the economy that are shedding jobs; welcomes the Commission's proposal to simplify the criteria for the European Social Fund and refocus activities towards the most vulnerable;

14. Points out that SMEs, which form the keystone of Europe's economy, are particularly hard hit by the current economic downturn; stresses that the credit squeeze has hit the SME sector hardest, since it is the part of the economy that relies most on short-term working capital, usually provided through credits; points out that lack of capital, coupled with a generalised slump in demand is forcing SMEs to retreat on all fronts; points out that the current hardships of SMEs, as the largest contributors to GDP and the largest employer in the European Union, have the furtherst-reaching consequences as regards the European Union as a whole, and, in particular, as regards the most vulnerable and affected regions; stresses, furthermore, the importance of rapidly implementing the Small Business Act in general and, in particular, provisions for credits to SMEs through European Investment Bank (EIB) action;

15. Stresses that sufficient, affordable and reasonably secure access to finance is a decisive precondition for investment and growth; believes that, in the current economic climate, the Small Business Act and its objectives are now more important than ever, as SMEs offer untapped potential for economic growth and for creating and sustaining jobs, and provide an opportunity for political leadership and the underpinning of confidence in Europe's enterprise sector;

16. Points out that, for sustained growth, Europe needs a healthy, dynamic and skilled labour force; and that this is unfortunately undermined, inter alia, by negative population growth in most Member States; considers that an effective childcare infrastructure, as agreed at the European Council of 15 and 16 March 2002, is an important catalyst for reconciling work and family life; considers that the development of child care, based on families, makes it easier for women as well as men to take part in working life and raise families; points out that increasing women's employment not only leads to the growth of the economy as a whole but also contributes to alleviating the demographic challenges that are facing Europe today; considers that solidarity between generations must be stimulated to gain more potential from existing labour force;

17. Insists nonetheless, that Member States must revamp their immigration policies, so as to aim to specifically attract, in a targeted manner, highly skilled immigrants who meet the demands of the European labour market, building on the United States' experience in this area, and taking care to cooperate with the countries of origin in order to avoid a brain drain; considers that education policy should be aimed more at attracting foreign researchers and students, who stay in the European Union for longer periods of time (e.g. the Erasmus Mundus programme, 2007-2012); considers that one of the crucial prerequisites for creating the world's leading knowledge-based economy is that all Member States guarantee and protect the basic rights of legal migrants and provide them access to common European values and respect for cultural diversity;

Citizens' needs and necessary responses

18. Notes that, owing to the current crisis, there are a number of key priorities of the Lisbon Strategy, the implementation of which should be pursued by the European institutions with increased urgency: promoting regional and local competitiveness and adhering to the competition rules, as well as promoting consumer policies to make markets more efficient and equitable, taking advantage of the internal market, particularly in retailing and services; frontloading the implementation of the Small Business Act, in particular the rapid implementation of Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions [1] and the rapid adoption and implementation of the Commission proposal of 25 June 2008 for a Council regulation on the Statute for a European private company (COM(2008)0396), moving forward quickly with the implementation of the European Research Area and the 'fifth freedom' proposals to improve the free circulation of knowledge and innovation by boosting knowledge transfer within the scope of education, research and development (R&D) and industrial production; the adoption of the cost-effective Community Patent and EU-wide Patent Court system, which would significantly improve the competitiveness of European businesses, facilitating companies' access to financing and stimulating innovation;

19. Takes the view that the European Union should pursue a common fundamental goal to create employment opportunities and thus prevent mass unemployment; considers that that goal should therefore determine the magnitude and components of the European Economic Recovery Plan; considers that solidarity is indispensable with a view to ensuring that the European Economic Recovery Plan and accompanying measures have the most positive impact on labour markets in Europe; stresses the need for additional efforts to support the most vulnerable groups in society;

20. Strongly advocates a labour market policy that encourages labour market access for all and promotes lifelong learning; calls on the Member States and the social partners to reach innovative agreements to keep people employed; supports, inter alia, the reduction of social charges on lower incomes to promote the employability of lower-skilled workers and the introduction of innovative solutions (e.g. service cheques for household and child care, hire subsidies for vulnerable groups), which have already been successfully pioneered in some Member States; expects exchanges of best practices in this respect;

[1] OJ L 200, 8.8.2000, p. 35.

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21. Stresses the need to strengthen the effectiveness of consumer protection rules in order to respond to the strong expectations of citizens of the Union, in particular with regard to financial products; encourages Member States to establish policies which support the most severely hit victims of the financial crisis;

22. Stresses the importance of ensuring free movement and mobility on the labour market without delay, while insisting on the need to guarantee equal pay for equal work and full respect for collective bargaining and the role of trade unions, including their right to collective action; stresses that the removal of barriers to mobility on the European labour market allows greater protection for the European workforce; notes that the European Union must make an effort to explain to citizens the benefits of an approach that effectively combines enlargement, integration, solidarity and labour mobility;

23. Notes that some Member States have introduced the concept of a minimum wage; suggests that other Member States might benefit from studying their experience; calls on the Member States to safeguard the preconditions for social and economic participation for all and, in particular, to provide for regulations on such matters as minimum wages or other legal and generally binding arrangements or through collective agreements in accordance with national traditions that enable full-time workers to make a decent living from their earnings;

24. Believes the financial crisis provides the opportunity for necessary reforms, with an emphasis on sound economic fundamentals, ranging from appropriate investment in education and skills to quality in public finances and an environment that nurtures innovation and job creation; considers that sustainable growth and job creation in the European Union increasingly depends on excellence and innovation as the main drivers of European competitiveness;

25. Calls on the European Union and its Member States to take swift action to promote growth and jobs and to strengthen demand and consumer confidence; considers a smart growth initiative focusing on the Lisbon Strategy goals such as investments in the 'knowledge triangle' (comprising education, research and innovation), green technologies, energy efficiency, sustainable infrastructures and communication technologies to be essential in this context; underlines the synergy effects of such an initiative with regard to future competitiveness, the labour market and the protection of the environment and resources;

26. Stresses that Member States should continue the reform of labour markets to create more jobs and education systems in order to help raise skill levels, considers that Member States should also continue efforts to encourage productivity growth through more investment in education; stresses also that meeting the challenges of innovation and its dissemination as well as ensuring the labour force's employability and flexibility requires improved education and training, as well as lifelong learning; points out, however, that the current investment in human capital in Europe is still clearly inadequate for a 'knowledge-intensive' economy;

27. Stresses that the current crisis must not be used as a pretext to delay a much needed reorientation of spending towards 'green' investments, but should rather be understood as an extra incentive to press ahead with the much needed ecological conversion of the industry; is convinced that the economic case for tackling climate change is clear and every step to delay the necessary action will ultimately lead to greater costs;

28. Calls on the Member States to revise their budgets and to invest in smart growth projects, thereby making full use of the revised Stability and Growth Pact;

29. Stresses that Member States' economies are highly interdependent; stresses, therefore, the need for more effective coordination and improved governance, which is even more pressing in times of crisis; points out that the argument for more cooperation is strongest in the euro area; refers to its recommendations in the framework of the EMU@10 resolution in this context; expects from the Commission clear and strong guidance towards an improved coordinated approach amongst all Member States;

30. Believes that ditching the fight against climate change and putting environmental investments on hold would be a devastating mistake which would have both an immediate and an inter-generational impact;

Europe's scope for action

31. Stresses the need to strengthen the social dimension of the European and national recovery plans; calls on the Commission to monitor and make proposals on the social impact of the financial crisis, especially on social exclusion, poverty and pensions, up to the 2009 Spring European Council;

32. Calls on the Commission and the Member States to ensure that the European Social Fund's main funding scheme is mainly directed towards retraining and increased employability as well as social inclusion activities in order to overcome the negative social effects of the crisis; recalls that the focus should be on those most remote from the labour market;

33. Points out that we need a Green New Deal for Europe, which tackles the economic, environmental and social crisis: job creation in the sector of manufacturing and industry-related need to be complemented by massive investment in social services, in particular education and health, by creating better conditions for teaching our children and students, and by massively increasing the number of teachers and improving the physical conditions for learning, all of which is an investment that will pay back in the future;

34. Points out that such a Green New Deal investment should also aim for efficiency gains and substitution for resources other than oil ('critical materials'), which are likely to become scarce in the short to medium term and will hamper the development of certain sectors, e.g. the information, communication and entertainment industry; notes that, according to recent studies, huge efficiency gains can be made on such materials, which would reduce waste, costs and resource dependency;

35. Points out, with regard to energy, that Europe is currently dependent on fossil fuels as its main source of energy; considers that, while dependency on fossil fuels must be reduced, it is also imperative to achieve energy security for Europe; believes that this means diversifying its sources of fossil fuels, while trying to maintain energy at affordable prices; considers that energy sectors in Member States must be opened up and real competition must be achieved; considers that energy efficiency must be improved through R&D and the mainstreaming of 'best practices'; considers that, with high oil and gas prices in the long run, Europe must be able to reduce its exposure in this area; considers it of utmost importance that the European Union should consider moving towards an internal energy market, to distribute its energy more efficiently between Member States, and to counter its dependence on energy from third countries; considers that the European Union's share of energy from renewable sources must be increased in order to reduce its dependence on fossil fuels; considers that R&D in this area should be intensified and diverse local solutions should be favoured in order to make best use of available energy from renewable sources;

36. Notes that the European Union is still lagging behind the speed of innovations in the US economy; points out that innovation can ensure a speedy recovery of European economies by providing comparative advantage on global markets; points out that, in times of economic downturn, it is common practice to cut back on R&D spending, but that this is the wrong approach, since it is exactly the opposite that needs to be done; believes that increased investment in R&D and education enhances productivity and thus growth; calls for investments in research and science with a view to achieving the goal of 3 % of GDP; stresses that the EU budget must allow for a bigger share of spending for research; considers that Member States should increase, or at least meet, their R&D investment targets and should provide support for private-sector R&D investments, through fiscal measures, loan guarantees and regional clusters and centres of excellence, and any other instruments that can contribute to this objective; considers that adult education and lifelong learning should be priorities at all policy levels, as they increase productivity, while providing the necessary skills for entering the labour market and staying employable within a highly competitive working area;

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37. Points out that, since the beginning of the 21st century, technology and telecommunications tools have unleashed the forces of globalisation on a previously unimagined scale, have 'flattened' communications and labour markets and have contributed to a period of unprecedented innovation, making economies more productive and also connecting global citizens; believes, therefore, that by maximising the power and impact of technology on the economy, further open up the internal market in telecommunications, energy and research and the industrial sector in particular, the European Union can emerge stronger from the current economic turmoil, strengthen the quality and affordability of its health care, advance climate-friendly energy development and deployment, improve education throughout its Member States and promote the prospects of the European Union becoming the world's leader in technology and applied technological innovation; points out that the knowledge-based economy needs the development of high-quality services and a broadband strategy able to accelerate the upgrading and extension of networks; takes the view that the Commission proposal within the European Economic Recovery Plan aiming to achieve full coverage with broadband communication networks by 2010 is a necessary step forward that will allow the European Union to maintain its competitiveness;

38. Asks for more attention to be focused on the Commission's White Paper of 21 November 2001 on Youth (COM(2001)0681) and on the European Council's European Youth Pact adopted on 22 and 23 March 2005 as one of the instruments contributing to the Lisbon Strategy goals; is of the opinion that the Commission should consider and incorporate the impact on youth and the results of the structures dialogue with youth organisations when preparing legislative proposals and that Member States should focus on youth when implementing the Lisbon National Reform Programmes and take youth into account in the relevant policy fields; considers that an increase in student mobility and the quality of the different educational systems should be a priority in the context of redefining the major goals of the Bologna Process beyond 2010 and action must be taken across different policy areas; points out that various aspects of mobility go beyond the scope of higher education and concern the scope of social affairs, finance, and immigration and visa policies to develop a real European Area for Higher Education;

39. Considers a 'Europeanisation' of the financial supervision structure, effective competition rules, appropriate regulation and improved transparency of the financial markets to be essential in the medium term to avoid a repetition of the current crisis; takes the view that an integrated, comprehensive (covering all financial sectors) and coherent supervisory framework, starting with a balanced approach in regulating the cross-border spread of financial risk on the basis of harmonised legislation, would decrease compliance costs in the case of multi-jurisdiction activities; calls on the Commission to put forward proposals for revising the existing supervisory architecture along those principles; calls on the Member States, notwithstanding the measures set out in this paragraph, to return in the medium term to balanced public financing, and therefore calls on the Member States to clarify how they will be able to achieve that objective;

40. Supports the decision of the European members of the G20 at the end of February 2009 in Berlin to take 'definitive actions against tax havens and uncooperative jurisdictions', by agreeing on a toolbox of sanctions as soon as possible, which has to be endorsed at the London summit; recommends that the EU adopt at its own level the adequate legislative framework with appropriate incentives towards market players to refrain from doing business with these jurisdictions; underlines how convergent approaches globally are essential to tackle this issue;

41 Calls on the Member States and the European Union to amend the EU budget with a view to allowing for the use of unused financial resources in order to support the policy goals of the European Union;

42. Is concerned by the increasing regional differences with regard to the effects of the financial crisis, reflected, inter alia, in the increasing spread between the creditworthiness of Member States, leading to higher costs for loans for those with lower ratings; calls for the development of new innovative financial instruments in order to mitigate these effects and to attract fresh capital;

43. Underlines that the crisis is having extremely negative economic and social consequences in many of the new Member States, substantially slowing their convergence with the EU-15; expects, furthermore, spill-over effects, affecting the euro and the economies of the euro-zone; calls, therefore, for strong European solidarity measures to protect the eurozone and strengthen the internal consistency of the European Union, in particular with a view to stronger support for the economies of Central and Eastern Europe, especially by adapting the structural funds and the Globalisation Fund for these countries, as well as special support from the EIB with regard to new innovative financial instruments; points to the importance of European unity in times of economic crisis when the economic downturn also threatens European common values; calls, therefore, for more attentive and careful action on the part of the Commission with regard to the new Member States;

44. Notes that EU funding instruments should be used to support public spending; points out that, in order to contribute to the economic recovery of the European Union, the implementation rate and speed of these funding instruments needs to be accelerated; considers that the European Union's cohesion policy is an excellent instrument of territorial solidarity, especially the trans-border components thereof; is very satisfied with the recent 'Lisbonisation' of the cohesion policy; considers that, through steps to direct regional funds more towards entrepreneurship, research, innovation, employment and new skills, considerable funds should become available at local level to enhance business potential and support the most vulnerable;

45. Points out that the programmes relating to the Trans-European Transport Network (TENs-T) and the Trans-European Energy Networks (TENs-E) should also make their full contribution both to the European Economic Recovery Plan and to the Lisbon Strategy goals; considers that the positive efforts of the coordinators as well as the setting-up of the Trans-European Transport Network Executive Agency, together with the implementing legislation to improve the efficiency of co-modality, have resulted in a substantial number of fully completed TEN-T projects all over the European Union to boost sustainable growth and better mobility;

46. Notes the essential role of the EIB with regard to the European Economic Recovery Plan; welcomes the increase in capital for the EIB from the Member States in order to issue more loans to SMEs; insists that loans are accessible to SMEs from all Member States, in a transparent and equitable manner; calls for a further strengthening of the role of the EIB with regard to new innovative financial instruments;

47. Considers, with regard to economic governance, that the current economic crisis requires firm, coordinated and timely government intervention by all Member States, as well as regulatory measures in order to shore up financial markets and restore confidence; considers that new legislative measures should be based on the principles of transparency and accountability and that effective monitoring needs to be implemented so as to safeguard consumer rights; considers that new regulation should include requirements against excessive leveraging and for higher capital reserves for banks; points, moreover, in this connection, to the present problems relating to valuation rules and risk assessment; considers that controls need to keep up with financial innovations and that the European Union should enhance the know-how of its regulatory bodies in this respect; considers that more regulation is not necessarily better regulation; considers that Member States must coordinate their regulatory actions; considers that stabilisation standards and regulation of the financial supervision in the euro area must be safeguarded;

48. Recalls that credit rating agencies bear their share of responsibility for the financial crisis; welcomes the call by the European Council to speed up the adoption of the Commission proposal of 12 November 2008 for a regulation of the European Parliament and of the Council on Credit Rating Agencies (COM(2008)0704) to tighten up the rules on rating agencies;

49. Calls on the Commission to bring forward a legislative proposal to exempt so-called micro-entities from the scope of the Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies [1];

[1] OJ L 222, 14.8.1978, p. 11.

50. Believes that it is very urgent to enhance global regulation of the financial sector, which has to reach far beyond the classic banking sector, to undertake bold measures to establish binding rules for prudential supervision, transparency and good practices, and to apply sanctions to all states and territories which do not cooperate; calls on the Commission to put forward appropriate proposals in this regard and urges the Council to prepare the political field in international negotiations for a swift acceptance of such an approach; notes that global financial stability is a public good, and that responsibility for safeguarding this lies with political leaders;

51. Urges the Council to settle, by March 2009, the review of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [1] in order to allow for reduced VAT levels on labour-intensive and staff-intensive services and other appropriate measures to stimulate domestic demand; calls for coordinated action and solidarity by the Member States in this respect by allowing for the differentiated options in sectoral VAT reduction provided for in the VAT Directive which Member States may or may not choose to implement, according to their respective priorities; considers that selective tax incentives should stimulate domestic demand as well as the economy;

52. Warmly welcomes the fact that the Commission has called for a High-Level Group on Debureaucratisation and asks that the proposals agreed by that Group be implemented as soon as possible; stresses that the Lisbon Strategy should provide for the reduction of regulatory burdens on companies, while furthering productivity and thus higher growth rates across the board; believes that the European Union must examine alternatives for regulation, consult with stakeholders on new regulation and focus on the ratios between the costs and benefits of regulation;

Lisbon Strategy evaluation, next steps and the way ahead

53. Welcomes the progress made under the Lisbon Strategy during recent years but notes that a number of important legislative initiatives are still pending and should be adopted as a matter of priority; underlines the unbalanced situation regarding the quality and quantity of initiatives under the different European guidelines; calls for a more balanced approach in the interests of a real multi-supportive EU policy mix reform programme; supports the strengthening of the external dimension of the European reform agenda, providing for high standards, appropriate regulatory framework and cooperative working methods in order to collaborate with other international economic players and to meet global challenges; welcomes, in this context, the work undertaken by various Commission directorates-general in developing new qualitative indicators; urges the Council to ask the Commission to ensure that such indicators be used in the upcoming evaluations of the NRPs and be incorporated in the Commission's monitoring, thereby creating a more comprehensive and adequate picture of the successes of the Lisbon-Gothenburg Strategy;

54. Emphasises that greater delivery within the Lisbon Strategy requires effective peer pressure on the part of the Council within the framework of multilateral surveillance;

55. Points out that the open method of coordination, on which the Lisbon Strategy has been based for nine years, has revealed these limitations in the face of new internal and external challenges confronting the European Union; urges, therefore, that the post-Lisbon Strategy period be based on a more proactive, more global policy, i.e. on the updating of existing common policies (for trade, internal market, economic and monetary union, etc.) and on new common external policies (energy, climate, development, migration, etc.);

56. Regrets that, with only one year left on the timescale of the Lisbon strategy, clearly defined goals have not been met and progress in programme areas has been insufficient; takes the view that Member States' efforts have been lacking in implementing measures to bring the goals of the Lisbon strategy closer; believes that the Lisbon Strategy must be seen as an important guideline for future-shaping policies, aimed at a strong, competitive and growth-fostering EU; considers, therefore, that it deserves to be taken more seriously by Member States and should not be seen merely as a set of distant goals, but as an action plan for the further development of Europe;

[1] OJ L 347, 11.12.2006, p. 1.

57. Proposes that further reflection on a 'Lisbon Plus-Agenda' (which must start in 2010) should be based on the general architecture of the present Lisbon Strategy (competitiveness and greening of European industries, more and better jobs, social inclusion, sustainability), but stresses the need to present a more homogenous and mutually supportive approach capable of decisively enlarging the European Lisbon governance capacity; ***c.*** asks the Commission for a thorough evaluation of the past nine years of the Lisbon Strategy and of the achievement of and commitment to the goals of the Lisbon strategy by the Member States to be presented before the end of 2009;

58. Asks the Commission to analyse the usefulness of a post-Lisbon strategy with new aims and goals, and especially to assess the readiness of Member States to implement such a new programme, and its viability; stresses the need to refocus the IPGs against the background of the economic downturn and urges the Council to agree on short-term measures to safeguard the 2008 employment rate, to invest in the fight against climate change and to ensure sufficient incomes, especially with regard to the most vulnerable groups of society; expects the Commission to launch initiatives and present proposals with respect to these goals in good time for the Spring Lisbon Council in 2010;

59. Stresses that the 'Lisbonisation' of public expenditure in all Member States and of the EU budget must become a reality, as it would mainstream the Lisbon Strategy itself and radically enhance effectiveness in the quest for achieving the goals of growth and job creation;

60. Notes that the tools needed by the European Union to foster the goals of the Lisbon Strategy are essentially the streamlining of all related policies, all financial instruments and funds, as well as the EU budget in such a way as to induce an acceleration and deepening of efforts for growth and job creation; considers that, in the short run, stronger fiscal stimuli are needed for swift recovery from the economic crisis provided that it reorientates private expenses and behaviour in consistency with the objectives set by the Lisbon-Gothenburg Strategy and the climate-energy package; warns, in this context, against indiscriminate tax cuts; takes the view that fiscal stimuli must be targeted towards social and environmental objectives; considers that possible means are reductions in value-added tax levels, for labour-intensive services and locally supplied services, considers also that funding can be provided for green initiatives in, inter alia, the energy sector, as well as the automobile and the construction sector, especially since those sectors are experiencing a collapse in demand for their products; considers that consumers can, for example, be supported in buying greener cars and environmentally friendly housing through tax exemptions;

61. Regrets the still weak visibility of the Lisbon Strategy in the national policies of many Member States; takes the view that the mobilisation of all economic stakeholders is essential to ensure its effective implementation; believes, in particular, that the closer involvement of social partners, national parliaments, regional and local authorities as well as civil society will improve the achievements of the Lisbon Strategy and enhance the public debate on appropriate reforms; believes that the mobilisation of all stakeholders can be ensured through proper implementation of the principle of multi-level governance;

62. Regrets, once again, that a clear plan and code of practice has still not been agreed between Parliament, the Council and the Commission in consultation with the European Economic and Social Committee and the Committee of the Regions, which would guarantee appropriate cooperation and the full involvement of all relevant EU institutions concerned in the appropriate further handling of the follow-up of the Lisbon Strategy; calls, in this connection, on the Council and the Commission to submit forthwith proposals for the close cooperation of the relevant EU institutions with a view to the impending revision of the integrated policy guidelines as well as the reflection and set-up of the forthcoming Lisbon II agenda;

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63. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the candidate countries, the Committee of the Regions and the European Economic and Social Committee.

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Combating climate change

P6_TA(2009)0121

European Parliament resolution of 11 March 2009 on an EU strategy for a comprehensive climate change agreement in Copenhagen and the adequate provision of financing for climate change policy

(2010/C 87 E/16)

The European Parliament,

— having regard to Article 175 of the EC Treaty,

— having regard to the climate and energy package adopted by Parliament on 17 December 2008, in particular its positions on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community ([1]) and on the proposal for a decision of the European Parliament and of the Council on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 ([2]),

— having regard to the Presidency Conclusions of the European Council of 19 and 20 June 2008 and 11 and 12 December 2008,

— having regard to its resolution of 4 February 2009 on '2050: The future begins today – Recommendations for the EU's future integrated policy on climate change' ([3]),

— having regard to the 14th Conference of Parties to the UN Framework Convention on Climate Change (UNFCCC) (COP 14) and the Fourth Conference of Parties serving as a meeting of the parties to the Kyoto Protocol (COP/MOP 4), held between 1 and 12 December 2008 in Poznań (Poland),

— having regard to the Commission Communication of 28 January 2009 entitled 'Towards a comprehensive climate change agreement in Copenhagen' (COM(2009)0039),

— having regard to the Commission Communication of 26 November 2008 entitled 'A European Economic Recovery Plan' (COM(2008)0800),

— having regard to the Commission Communication of 22 November 2007 entitled 'A European strategic energy technology plan (SET-Plan) – Towards a low-carbon future' (COM(2007)0723),

— having regard to Rule 103 of its Rules of Procedure,

A. whereas negotiations on a comprehensive international agreement on climate change consistent with the objective of limiting global temperature increases to below 2 °C are due to be concluded in Copenhagen in December 2009,

B. whereas recent studies show that there is potential for reducing global greenhouse emissions by 40 % by 2030 and that, at a cost of less than half of one percent of global GDP, wind, solar and other sustainable renewable energies could provide almost a third of total global power needs; whereas energy efficiency could reduce greenhouse gas emissions by more than a quarter and whereas deforestation could be almost halted,

([1]) Texts adopted, P6_TA(2008)0610.
([2]) Texts adopted, P6_TA(2008)0611.
([3]) Texts adopted, P6_TA(2009)0042.

C. whereas an increasing number of scientists are recognising that avoiding dangerous climate change will require a stabilisation of the level of greenhouse gases in the atmosphere at 350 ppmv CO_2 equivalent, a level significantly lower than previously recommended,

D. whereas the European Union will agree on its negotiating position at the Spring 2009 European Council,

E. whereas the EU has striven to play a leading role in the fight against global warming and is fully supportive of the UNFCCC negotiation process,

F. whereas the EU has adopted the above-mentioned climate and energy package consisting of legislative measures to implement a unilateral 20 % reduction in greenhouse gas emissions compared to 1990 levels by 2020, with the commitment to move to a 30 % reduction if a sufficiently ambitious international agreement is reached in Copenhagen,

G. whereas emissions are growing rapidly in developing countries, which cannot reduce them without considerable technical and financial support,

H. whereas deforestation and forest degradation account for some 20 % of global carbon dioxide (CO_2) emissions, and also pose a major threat in the context of climate change since they jeopardise the important function of forests as a carbon sink; whereas deforestation occurs at an alarming rate of 13 million hectares per year, most of it in tropical regions in developing countries,

I. whereas the EU emission trading scheme (EU ETS) may work as a template for the development of emission trading in other developed countries and regions,

J. whereas half of the global mitigation efforts could be met through low-cost 'win-win' measures, i.e. by improving energy efficiency,

K. whereas auctioning in emissions trading has the potential to generate a considerable amount of revenue in the future which could be used to finance mitigation and adaptation measures in developing countries,

L. whereas the facilitation of financing for high-quality projects in developing countries, especially as regards small and medium-sized enterprises (SMEs), is dependent on a comprehensive, transparent and continuous flow of information regarding the availability of, and the means to apply for, funding; whereas this must be the responsibility of the international community, with the EU taking a leading role and setting a good example,

M. whereas, according to recent estimates, new investment needed in emission reduction globally amounts to EUR 175 000 million by 2020, of which more than half should be invested in developing countries,

N. whereas the Commission has estimated that halving deforestation by 2020 will cost EUR 15-25 000 million annually by that year, and that halting deforestation will require even larger amounts,

O. whereas various studies by international organisations have estimated the cost of adaptation to climate change in developing countries to be in the range of tens of billions of euros annually,

1. Underlines that the EU must maintain a leading role in international climate policy; stresses the importance of the EU speaking with one voice in order to maintain its credibility in this role;

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2. Calls for the EU to actively pursue a Copenhagen agreement which takes into account the most recent scientific reports on climate change, commits the parties to stabilisation levels and temperature targets that provide a strong probability of avoiding dangerous climate change, and allows for regular reviews to ensure that targets are in line with the latest science; welcomes the Commission's proposals in this area;

3. Recalls that, in order to limit the global average temperature increase to not more than 2 °C above pre-industrial levels, it is necessary not only that developed countries significantly reduce their emissions but also that developing countries should contribute to the attainment of this objective;

4. Points out that the reduction of emissions in developing countries below 'business as usual' levels will be instrumental in limiting the average global temperature increase to well below 2 °C and requires broad support from industrialised countries;

5. Underlines that, in order to allow the necessary mitigation action in developing countries, significantly increased financial resources are needed;

6. Emphasises the responsibility of industrialised countries for providing sufficient, sustainable and predictable financial and technical support to the developing countries to give them incentives to commit themselves to the reduction of their greenhouse gas emissions, to adapt to the consequences of climate change and to reduce emissions from deforestation and forest degradation, as well as to enhance capacity-building in order to comply with obligations under the future international agreement on climate change; stresses that a majority of such funds must be new and additional to Official Development Assistance (ODA);

7. Recalls its above-mentioned resolution of 4 February 2009 and in particular those parts devoted to the international dimension and to financing and budgetary matters, including the importance of setting for the EU and the other industrialised countries as a group a long-term reduction target of at least 80 % by 2050 compared to 1990;

8. Furthermore recalls its recommendation that certain principles adopted in the climate and energy package be used as blueprint for the international agreement, in particular the binding linear pathway for industrialised country commitments, differentiation on the basis of verified emissions, and a strengthened compliance regime with an annual abatement factor;

9. Emphasises that, in the current financial and economic crisis, the EU's objective of fighting climate change can be combined with major new economic opportunities to develop new technologies, to create jobs and to enhance energy security; underlines that an agreement in Copenhagen could provide the necessary stimulus for such a 'Green New Deal' boosting economic growth, promoting green technologies and securing these new jobs in the EU and in developing countries;

10. Calls for the European Council to aim for an international agreement with industrialised countries achieving collective greenhouse gas emissions reductions at the high end of the 25-40 % range as recommended by the Fourth Assessment Report by the International Panel on Climate Change (IPCC 4AR), and for those reductions to be domestic;

11. Is concerned about the lack of precision regarding the level of the EU's financial responsibility in the above-mentioned Commission Communication of 28 January 2009; calls on the European Council, when adopting a negotiating mandate for the Copenhagen conference, to make tangible commitments on financing that are consistent with the global efforts needed in order to limit the average temperature increase to well below 2 °C;

12. Believes that such commitments on financing should include, as provided for by the European Council in December 2008, a pledge by Member States to use a significant part of the auctioning revenues generated by the EU ETS to finance actions to mitigate and adapt to climate change in developing countries which will have ratified the international agreement on climate change, but stresses that as less than 50 % of EU emissions are covered by emission trading it is necessary to include other sectors of the economy in the Member States when it comes to the effort of financing these important actions;

13. Insists that such commitments must provide for predictable financing for mechanisms set up in the UNFCCC context which are additional to ODA and independent from annual budgetary procedures in the Member States;

14. Welcomes the two alternatives for innovative funding outlined in the above-mentioned Commission Communication of 28 January 2009, as long as they are designed in a manner that guarantees sufficiently predictable levels of funding; furthermore agrees with the suggestion that this be combined with funding from auctioning for aviation and maritime transport under cap and trade systems;

15. Welcomes the Commission's idea that part of the finance should be given in the form of loans because some activities can create a 'win-win' situation also in developing countries;

16. Underlines that binding targets would enable investors to better assess the risks and opportunities associated with climate change and would involve investors in projects that would meet mitigation as well as adaptation targets; underlines, moreover, the need for clarity regarding the role of private capital in the investment necessary in order to reach the targets;

17. However, considers it of the utmost importance to adopt a more comprehensive action plan on the future financing of climate policy, which would cover all relevant areas and sources of financing; regards the above-mentioned Commission Communication of 28 January 2009 as a good starting point for that work, but stresses that it must be strengthened with clearly defined measures; calls on the European Council to mandate the Commission to urgently develop such an action plan with a view to the Copenhagen negotiations;

18. Believes that a large part of the collective contribution towards the mitigation efforts and adaptation needs of developing countries must be dedicated to projects which strive to halt deforestation and forest degradation, and to reforestation and afforestation projects in such countries;

19. Welcomes the Kyoto Protocol's Clean Development Mechanism (CDM) as a possible way to enable developing countries to participate in the carbon market; underlines that the use of offsets to meet emission reduction targets by industrialised countries cannot be part of the responsibility of developing countries to mitigate their greenhouse gas emissions in an international agreement on climate change; insists, therefore, that stringent project quality criteria must be part of future offsetting mechanisms, in order to avoid industrialised countries taking away the low-cost reduction options from developing countries, and in addition to guarantee the high standard of such projects, with reliable, verifiable and real emission reductions that also provide for sustainable development in such countries;

20. Considers that the collective contribution by the EU towards developing countries' mitigation efforts and adaptation needs should not be less than EUR 30 000 million per annum by 2020, a figure that may increase as new knowledge is acquired concerning the severity of climate change and the scale of its costs;

21. Underlines that large financial flows for mitigation efforts and adaptation needs in developing countries are only part of the solution; insists that the funds should be spent in a sustainable way, avoiding bureaucracy, in particular for SMEs, and corruption; stresses that the funding must be predictable, coordinated and transparent, building capacity within developing countries at both central and local level, giving priority to the people that face problems with climate change and not only the governments; stresses in this context the importance of continuous and easily accessible information on the funding available; calls on the Council and the upcoming Swedish Presidency to actively promote these principles during the UNFCCC COP15 negotiations in Copenhagen in December 2009;

22. Calls on the Commission to abandon its previous resistance to the inclusion of forestry in emissions trading schemes; believes that both market and non-market based finance will be required to fund future 'Reducing Emissions from Deforestation and Degradation' (REDD) mechanisms under a post-2012 agreement; in this context, calls on the Commission and the Council to take the lead in developing pilot carbon markets for REDD; further calls on the Commission and the Council to elaborate on how market and non-market based forestry funds could complement each other;

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23. Believes that, with the EU leading the way in the provision of financial and technical support for developing countries, the chances of success in the Copenhagen negotiations will improve considerably; believes that it is necessary for the EU to show leadership in the area of finance by providing concrete negotiating figures at an early stage, in order to mobilise sufficient domestic public support, to encourage developing countries to adopt ambitious binding reduction targets, and to encourage other Organisation for Economic Co-operation and Development (OECD) member countries to contribute in a similar manner;

24. Acknowledges the fact that the EU as a whole is on track to meet the Kyoto target but points out that some Member States are far away from their Kyoto target, and that this could undermine the credibility of the EU in the Copenhagen process; insists, therefore, that those Member States that are not already on track to meet the Kyoto target should intensify their efforts;

25. Instructs its President to forward this resolution to the European Council, the Council, the Commission, the governments and parliaments of the Member States and the Secretariat of the UNFCCC, with a request to the latter that it be forwarded to all contracting parties which are not EU Member States.

Employment policy guidelines

P6_TA(2009)0122

European Parliament resolution of 11 March 2009 on implementation of the guidelines for the employment policies of the Member States 2008-2010

(2010/C 87 E/17)

The European Parliament,

— having regard to its position of 20 May 2008 on Employment Guidelines 2008-2010 ([1]),

— having regard to the Commission's Communication of 26 November 2008 on A European Economic Recovery Plan (COM(2008)0800),

— having regard to the Council Decision 2008/618/EC of 15 July 2008 on guidelines for the employment policies of the Member States ([2]),

— having regard to the Commission proposal for a Council decision on guidelines for the employment policies of the Member States of 28 January 2009 (COM(2008)0869),

— having regard to the conclusions of the European Council of 11 and 12 December 2008, which set out the EU framework of action to avoid recession and sustain economic activity and employment,

— having regard to its resolution of 9 October 2008 on promoting social inclusion and combating poverty, including child poverty, in the EU ([3]),

— having regard to Rule 103(2) of its Rules of Procedure,

A. whereas there is a strong interrelationship between economic growth, employment, the fight against poverty and social inclusion,

([1]) Texts adopted, P6_TA(2008)0207.
([2]) OJ L 198, 26.7.2008, p. 47.
([3]) Texts adopted, P6_TA(2008)0467.

B. whereas the current economic crisis presents the unprecedented challenges of increasing unemployment and social exclusion, and whereas the European Union's economic situation is forecast to deteriorate even further, generating decreased or even negative employment growth and increased unemployment in the Union in 2009,

C. whereas the European Employment Strategy and the Employment Guidelines are the main instruments within the framework of the Lisbon Strategy aimed at addressing labour market challenges,

D. whereas the Union and the Member States have a shared responsibility for addressing the challenges, opportunities and uncertainties of citizens in respect of globalisation,

E. whereas the global financial and economic crisis requires the Union to respond in a decisive and coordinated way in order to prevent job losses, support adequate income of citizens and avoid recession, and to turn the present economic and employment challenges into opportunities,

F. whereas it is therefore urgent to step up efforts at all levels of governance, with the involvement of social partners and other relevant actors, to invest in people and modernise European labour markets, in particular by applying flexicurity approaches, in consultation with the social partners in accordance with national custom and practice,

General: economic recovery and employment policy guidance

1. Believes that, in the face of a severe worldwide recession and a forecast increase in unemployment of at least 3,5 million in the EU by the end of 2009, the central goals of employment policy for the Union and its Member States must be: to preserve as many viable jobs as possible from the short-term failure of demand; to assist employment creation; and to support both the purchasing power of unemployed workers and their ability rapidly to re-gain employment; calls on the Commission to give a clear signal to Member States that the Employment Guidelines should be implemented in this spirit, and to tackle employment as a priority issue by putting proposals to the 2009 Spring European Council for a European Employment Initiative, with coordinated action by Member States to safeguard employment and create new jobs;

2. Welcomes the Commission's Communication on a European Economic Recovery Plan and its emphasis on the connection between short-term fiscal stimulus and the long-term Lisbon Strategy and the Integrated Guidelines; underlines in this respect the importance of ensuring that any short-term measures taken by Member States to recover the economy contribute towards achieving the commonly agreed objectives;

3. Notes as a central dilemma in the current crisis that European economic policy instruments are not yet developed enough to successfully meet the challenges ahead; requires, therefore, a review and an update of the essential policy tools, in particular the Integrated Guidelines, the Stability and Growth Pact, as well as the Sustainable Development Strategy, in order to integrate them under the umbrella of a New Deal for Smart Growth in the European Union;

4. Stresses the necessity to refocus the Integrated Guidelines against the background of the economic downturn and urges the Council to agree on short-term measures to safeguard the 2008 employment rate and to invest in the fight against climate change, and to call on the Member States and the social partners, in accordance with national practice, to ensure sufficient incomes with special regard to the most vulnerable groups of society; expects the Commission to launch initiatives and present proposals with respect to these goals in time for the forthcoming Spring European Council;

5. Recalls that coordinated investment by the Member States in the five core Lisbon goals – research, education, active labour market policies, childcare and incentives for private investment – must be a key element in employment policy, and that childcare infrastructure is to be regarded as one of the preconditions for increasing participation, particularly by women in the labour market; encourages the Member States to mainstream these common principles in consultation with the social partners regarding their national reform programmes;

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Employment Guidelines 2008-2010: urgent need for a rigorous implementation

6. Considers that, in implementing the guidelines, the Member States must:

— take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health, and

— aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation;

7. Considers that the Member States must ensure strengthened interaction between the guidelines and the open method of coordination on the Social Protection and Social Inclusion Process;

8. Considers that the Member States, in cooperation with the social partners and in accordance with their national traditions, must examine and report in their National Reform Plans on how to improve compliance with and implementation of the principles and rules of European social legislation, agreements between the social partners and the fundamental principles of equal treatment and non-discrimination;

9. Reiterates the importance of using the flexicurity concept in guideline 21 to create a bridge between jobs, and emphasises that this demands a high level of protection in the social security schemes as well as active labour market policies;

10. Welcomes in this regard the Commission's statement that it is essential: to reinforce activation schemes, in particular the low-skilled workers; to enhance job subsidies and short training courses for vulnerable groups and those most at risk of long-term unemployment; to provide (re)training and new skills needed in less badly affected sectors; to ensure adequate social protection that provides income security, as well as to make a crucial commitment to the social dialogue and the involvement of the social partners;

11. Underlines the importance of targeted actions for vulnerable groups in times of high unemployment, and in particular of targeted actions for groups of long-term unemployed people, people with disabilities and immigrant groups;

12. Believes that, in view of the severity of the economic crisis, the Commission must be prepared to take exceptional measures, including a widening of access to the European Globalisation Adjustment Fund (EGF), which must be able to support workers in a wider range of situations, including temporary workers who have lost their jobs, and a temporary opening of the European Social Fund (ESF) to support employment preservation measures via training schemes;

13. Believes that the economic crisis requires the strengthening of EU measures to deal with restructuring, in particular the strengthening of information and consultation rights;

14. Believes that the next reform of the EU Structural Funds should seek to focus the Funds' objectives more closely on the creation of sustainable, high-quality employment;

15. Stresses, moreover, the importance of education not only to increasing workers' employability but also to improving their mobility, which is important for the functioning of the internal market; emphasises, therefore, the importance of validation of formally and non-formally obtained skills;

16. Underlines the importance of guideline 23 and of substantial investments in lifelong learning in order to lower the unemployment rate as well as achieve the goal of creating better jobs in Europe; stresses in this context the need for all citizens to have equal access to, and opportunity to take part in, lifelong learning programmes while paying special attention to vulnerable groups; stresses that the ESF and the EGF should be used to finance such actions immediately;

17. Regrets the fact that those with the lowest levels of initial education, older people, people in rural areas, and people with disabilities are the least likely to participate in education, training and lifelong learning in all countries;

18. Stresses that improving the delivery of adult learning is essential to raise participation, and that measures to promote effective delivery include availability of learning sites and childcare facilities locally, open and distance learning services for those in remote areas, information and guidance, tailored programmes and flexible teaching arrangements;

19. Recalls the fact that the unemployment rates among young people in Europe are still too high; recalls also that experience from earlier economic crises shows that young adults who become unemployed on leaving education are substantially less able to enter the labour market; stresses, therefore, the importance of all Member States fulfilling the objective of guideline 18, that every young person who has left school should be offered, within four months, a job, apprenticeship, additional training or other employability measure;

20. Calls for decisive action to combat the problem of low participation of women in the labour market; recalls that women's employment rates are generally lower, and that it is more common for women than for men to have a part-time job; underlines, therefore, the importance of a policy in which men and women take equal responsibility; in order to achieve this, calls on Member States to urgently fulfil their obligations according to the Barcelona targets;

21. Notes with concern that part-time employment, in which the majority of workers are women, is proving to be particularly susceptible to the economic crisis;

22. Considers that in times of high unemployment, there is an obvious risk that regional and social cohesion will suffer, and therefore underlines the importance of guideline 17 concerning the implementation of social and territorial cohesion to prevent deficiencies in this area; calls therefore on the Member States to promote active social integration for all in order to combat poverty and social exclusion by ensuring a decent income and high-quality social services together with access to the employment market through opportunities for recruitment and initial or ongoing vocational training;

23. Emphasises the importance, especially in the economic crisis, of investments in the welfare sector; considers this to be a sector that is performing a wide range of important community services, as well as employing a large proportion of the population; stresses that the welfare sector therefore needs to be maintained in order to prevent a decline in quality of community services and a rise in unemployment rates;

24. Notes with regret that it is possible that during this time of economic crisis there may be some pressure on wages in some companies as a voluntary alternative to selective redundancies; emphasises, however, the importance of not letting the crisis put downward pressure on wages in general; considers it important that:

— each Member State, in accordance with national tradition and practices, establish a policy of taking competition on the basis of poverty wages out of the market,

— collectively bargained agreements have a wide coverage,

— the hierarchy of collective agreements be respected,

— wages and working conditions, as laid out in collective agreements and/or labour law, be respected and implemented in practice;

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Need for coordinated action in response to the economic crisis

25. Underlines the importance of proactive and coordinated investments across Member States, including in productive infrastructure, education and climate change, to achieve the goal of raising employment levels, contribute to the creation of quality jobs and ensure social cohesion; emphasises in this context the importance of EU support to the development of modern and sustainable industry;

26. Underlines the importance of not only creating additional jobs but also of retaining and improving the quality of jobs available today;

27. Calls on Member States to continue promoting ownership and improving the involvement of all actors concerned, including social partners and other stakeholders, where appropriate, in order to implement the Employment Guidelines effectively;

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28. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Committee of the Regions and the European Economic and Social Committee.

European Economic Recovery Plan

P6_TA(2009)0123

European Parliament resolution of 11 March 2009 on a European Economic Recovery Plan (2008/2334(INI))

(2010/C 87 E/18)

The European Parliament,

— having regard to the Commission communication of 4 March 2009 for the Spring European Council on Driving European recovery (COM(2009)0114),

— having regard to the Commission communication of 26 November 2008 on a European Economic Recovery Plan (COM(2008)0800),

— having regard to the Commission communication of 29 October 2008 entitled 'From financial crisis to recovery: A European framework for action' (COM(2008)0706),

— having regard to the Commission Recommendation of 28 January 2009 for a Council recommendation on the 2009 up-date of the broad guidelines for the economic policies of the Member States and the Community and on the implementation of Member States' employment policies (COM(2009)0034),

— having regard to the Commission communication of 17 December 2008 on a Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis ([1]),

([1]) OJ C 16, 22.1.2009, p. 1.

— having regard to the Commission communication of 16 December 2008 on the Implementation Report for the Community Lisbon Programme 2008 – 2010 (COM(2008)0881),

— having regard to the Commission communication of 16 December 2008 on Cohesion Policy: investing in the real economy (COM(2008)0876),

— having regard to the Commission staff working document of 16 December 2008 on the Single Market Review: one year on (SEC(2008)3064),

— having regard to the Commission communication 16 December 2008 on the external dimension of the Lisbon Strategy for Growth and Jobs: Reporting on market access and setting the framework for more effective international regulatory cooperation (COM(2008)0874),

— having regard to the Commission proposal of 16 December 2008 for a Regulation amending Regulation (EC) No 1927/2006 on establishing the European Globalisation Adjustment Fund (COM(2008)0867),

— having regard to the Commission communication of 11 December 2007 on the Integrated Guidelines for Growth and Jobs (2008-2010) including a Commission recommendation on the broad guidelines for the economic policies of the Member States and the Community (under Article 99 of the EC Treaty) and a proposal for a Council Decision on guidelines for the employment policies of the Member States (under Article 128 of the EC Treaty) (COM(2007)0803),

— having regard to the Commission communication of 7 May 2008 on EMU@10: successes and challenges after 10 years of Economic and Monetary Union (COM(2008)0238) (Communication on EMU@10),

— having regard to Member States' Action plans and updated National Reform Programmes for the period 2008-2010,

— having regard to the composition of the High Level Expert Group on EU financial supervision, chaired by Mr Jacques de Larosière, and to its report to the Commission of 25 February 2009 in view of the European Council of Spring 2009,

— having regard to the conclusions of the Presidency of the European Council meeting of 11 and 12 December 2008 as concerns economic and financial questions,

— having regard to the meeting of the Heads of State and Government of the Eurogroup, held on 12 October 2008, with a view to adopting a coordinated rescue plan to combat the economic crisis,

— having regard to the conclusions of the Presidency of the European Council of 13 and 14 March 2008 as concerns launching the new cycle of the renewed Lisbon Strategy for Growth and Jobs (2008-2010),

— having regard to the conclusions of the Ecofin Council meeting of 7 October 2008 as concerns immediate responses to the financial turmoil,

— having regard to the conclusions of the Ecofin Council meeting of 4 November 2008 as regards international initiatives in response to the financial crisis and preparations for the international summit on the crisis,

— having regard to the Ecofin Council contribution of 2 December 2008 to the proceedings of the European Council on 11 and 12 December 2008,

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— having regard to the Memorandum of Understanding of 1 June 2008 on Cooperation Between the Financial Supervisory Authorities, Central Banks and Finance Ministries of the European Union on Cross-Border Financial Stability,

— having regard to its resolution of 22 October 2008 on the European Council meeting on 15 and 16 October 2008 ([1]),

— having regard to its resolution of 20 February 2008 on the Integrated Policy Guidelines for Growth and Jobs (Part: broad guidelines for the economic policies of the Member States and the Community): Launching the new cycle (2008-2010) ([2]),

— having regard to its resolution of 18 November 2008 on the EMU@10: The first ten years of Economic and Monetary Union and future challenges ([3]), (resolution on the EMU@10)

— having regard to its resolution of 23 September 2008 with recommendations to the Commission on hedge funds and private equity ([4]),

— having regard to its resolution of 9 October 2008 with recommendations to the Commission on the Lamfalussy follow-up: future structure of supervision ([5]),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Budgets, Committee on Development, the Committee on Employment and Social Affairs, the Committee on Industry, Research and Energy and the Committee on Regional Development (A6-0063/2009),

A. whereas the international economy and global markets have been able to deliver an unprecedented and historically unique growth the last 25 years, with a capacity of production that has established prosperity for more people than ever before, a capacity that needs to be readjusted in an economic slowdown followed by decreasing demand,

B. whereas the financial and economic crisis is worsening day by day, bringing the European Union and its neighbouring countries, in the absence of far stronger and effective public action than has been seen so far, closer and closer to a profound social and political crisis challenging European solidarity,

C. whereas the main challenges for countering the downturn of the international and the European economy now is the lack of confidence on the financial and capital markets as well as rising unemployment,

D. whereas the unprecedented dimension of the current financial crisis and the depth of the ensuing downturn requires a considered overhaul of the regulatory and governance framework of financial markets, at EU and international level, in order both to prevent future problems in the international economy create problems of the same kind on the financial markets and to make the EU economy more robust to changes,

E. whereas the failure of crucial financial institutions undermines credit markets, hinders capital flow, investments and trade, and pushes down prices and values, thereby eroding the stability and the capital assets needed for financial institutions to lend and for companies to secure their own financing,

([1]) Texts adopted, P6_TA(2008)0506.
([2]) Texts adopted, P6_TA(2008)0058.
([3]) Texts adopted, P6_TA(2008)0543.
([4]) Texts adopted, P6_TA(2008)0425.
([5]) Texts adopted, P6_TA(2008)0476.

F. whereas the causes of and reasons for the current financial crisis have proved to be lax monetary policies and politically enforced increased credits for housing, and as macro-economical imbalances mainly between the US and emerging economies such as China in the past; stresses the need to develop further EU competitiveness and investments in infrastructure and research as well as in new companies and new markets,

G. whereas the main priorities for EU policy makers in securing economic recovery should be to re-establish the functioning of financial and capital markets, and to safeguard employment, thereby making it possible to help the EU economy to return to growth, investments and new jobs,

H. whereas the current recession should be used as an opportunity to promote 'green' investments and create 'green' jobs in line with the achievement of the long-term Lisbon-Göteborg goals and the climate and energy package,

I. whereas securing the economic recovery requires coordinated action in the framework of EU legislation regarding competition and State aid as well as stability for financial and labour markets, thereby not distorting competition between companies or creating an imbalance between the Member States, in the interest of securing the stability and competitiveness of the EU economy,

J. whereas the consequences of the financial crisis on the real economy have resulted in exceptional economic circumstances that require timely, targeted, temporary and proportional measures and decisions in the interests of finding solutions to an unprecedented global economic and employment situation and whereas public intervention, although inevitable, distorts what are the appropriate roles of the private and public sectors in more normal times,

K. whereas the shortcomings of the current financial regulatory framework have already been addressed by Parliament in its positions relating to legislative proposals and in its resolutions,

L. whereas the most recent data provided by the Community on 2009 prospects indicates a rapid deterioration of economic conditions throughout the European Union and whereas the European Union and the Member States have now the ultimate responsibility for guaranteeing macro-economic stability, sustainable growth and employment;

M. whereas the financial crisis has revealed the dilemma between the need to tackle regulatory competence for economic policy at the EU level on the one hand and the fact that economic stimulus plans are within the competence of Member State authorities on the other,

N. whereas the short-term actions initiated by individual Member States require comprehensive EU coordination to guarantee a joint-multiplier effect on the one hand and to avoid spill-over effects, distorted markets and wasteful duplication of efforts on the other,

O. whereas short-term actions must fit in with and support the long-term objectives of making the European Union the most competitive knowledge economy, not undermining future trust and confidence, and ensuring macro-economic stability,

P. whereas Member States' different capacities to engage in recovery programmes should be recognised; whereas a sizeable complementary EU approach with strong focus on a mutually supportive mix of policy measures in the fields of economic, environment, employment and social policies should be developed,

Q. whereas membership of the euro area has proved to enhance economic stability in the relevant Member States; whereas, apart from responsible government intervention to counter the economic downturn, citizens expecting such a time of economic recession, a strong response by the European Union's provisions and social and regional cohesion, whilst preserving the rules and principles that guarantee a strong and stable currency,

R. whereas it is of the utmost importance that confidence is restored in order to allow for the orderly functioning of the financial markets and thereby to limit the negative effects of the financial crisis on the real economy,

S. whereas Member States that have recently acceded to the European Union and that are not in the euro area are badly affected by speculation against their currencies, capital flight and the freezing of international credit markets,

General

1. Welcomes the Commission initiative to launch a European economic recovery plan (Recovery Plan) as a reaction to the serious ongoing economic downturn; notes, that the Community dimension of that proposal amounts to 15 % of the budget for the recovery programme, which still needs to be implemented urgently;

2. Stresses that the top priority of the Recovery Plan must be to stimulate the economy and competitiveness of the European Union in order to safeguard citizens' opportunities and security, and to avoid increased unemployment; considers that the Recovery Plan must reverse the economic decline by enabling financial markets to function properly again, facilitate investments, and improve opportunities for growth and jobs while strengthening the EU economy and labour market and improving the framework conditions for growth and the creation of jobs;

3. Expects from the Commission clear and strong guidance towards an improved coordinated approach amongst all Member States in managing this deep economic crisis in order to safeguard as many jobs and as much employment in Europe as possible;

4. Insists that all financial aid be timely, targeted and temporary; warns of possible crowding-out effects and dissolution of EU competition policy; urges to restore, as soon as practicable, fair competitive markets as defined in the Treaties; notes with concern the rapid rise in public debt and budget deficits; moreover, calls for a return to sound state finance as soon as possible, as provided for in the revised Stability and Growth Pact (revised SGP), in order to avoid putting too much burden on future generations;

5. Stresses that temporary exceptions and deviations from Community competition policy must be reversed, and normality restored, in clearly defined time perspectives;

6. Stresses that the Recovery Plan must serve the purpose of delivering a fair and equitable international agreement to succeed the Kyoto Protocol in 2012 and that such an agreement must, inter alia, give poorer countries the opportunity to escape poverty without fuelling global warming by helping to finance massive investment into adapting to climate change and into renewable energy and energy efficiency;

7. Notes with concern the rapid rise of public debt and budget deficits; is concerned that public debts may become an excessive burden for future generations;

8. While accepting the need to adjust to a globally competitive environment and turning the European economy back to growth as very important common goals, calls for the European Union to step up its efforts to invest in skills, training and sustainable job creation, the safeguarding of employment, and the prevention of mass unemployment while ensuring constructive tax policies, which should help determine the size and components of the Recovery Plan; expects agreement at the 2009 Spring European Council on clear guidance and concrete measures towards safeguarding employment and creating job opportunities;

9. Recommends, as an essential requirement for effectiveness, that the coordination of national recovery plans allows for each programme to be tailored to each country's specific needs, but taking into account the common interest, the common strategies defined in terms of fight against climate change, and the assurance of the strongest possible multiplier effect, in particular as regards employment;

10. Recommends new horizontal initiatives at EU level, given that different national capacities and margins of budgetary manoeuvre may generate very asymmetric outcomes across the European Union; recalls, however, the responsibility of each Member State to exercise fiscal discipline, investments and structural reforms;

11. Strongly advises against the risk that the solutions implemented become the sum of all the national policies, with potential conflicts and costs, undermining the single market, the economic and monetary union and weakening the European Union's role as a global actor;

12. Supports the Commission's commitment to the revised SGP and notes its willingness to use all the flexibility as a way to conduct anti-cyclical policies to address the economic recession which is foreseen by the pact in order to allow Member States to respond adequately to the economic crisis, namely to assess whether short-term investment decisions are compatible with medium-term budgetary targets and conducive to sustainable growth and long-term Lisbon Strategy goals;

13. Emphasises that it is imperative that Member States continue to follow the revised SGP with a view to tackling the present exceptional circumstances effectively on the one hand and to guaranteeing a firm commitment to bringing normal budget discipline back on track as soon as the economy recovers, whilst reinforcing the counter-cyclicality of the revised SGP on the other;

Financial markets: from controlling the crisis to sound markets in the future

Returning to confidence in the financial sector

14. Welcomes the short-term measures adopted to restore confidence to the financial system; recalls that those emergency measures are insufficient to tackle some of the fundamental problems at the source of the crisis, namely global imbalances, extreme risk-taking, leveraging and rewarding short-termism; recalls the necessity to review remuneration schemes as possible sources of financial instability;

15. Calls for coordinated action between Member States allowing for general and explicit national bank guarantees covering liabilities, but excluding equity capital, in order to reduce uncertainty in the credit markets and facilitate the functioning of those markets;

16. Invites the Member States, and in particular those belonging to the euro area, to examine the possibility of a major European loan guaranteed jointly by the Member States;

17. Restates that safeguarding the savings of, and credit provision for, individuals and undertakings, including small and medium-sized enterprises (SMEs), is the overriding justification for the current exceptional public intervention in the financial system; reminds Member State governments of their responsibility for and accountability to their parliaments in the use of public money in rescue plans and strongly recommends that a set of adequate surveillance and, as necessary, sanctions, be introduced and coordinated at EU level to ensure the achievement of such goals;

18. Stresses the importance of ensuring that central interest rate cuts are passed on to borrowers;

19. Recalls the necessity for regulators and the relevant Member State authorities to scrutinise in depth the activities of the banks and the bankers over the last months, and also to determine whether reprehensible and even criminal behaviour might have contributed to the banking meltdown and to ensure that the public intervention and monetary policy decisions, in terms of interest rates, has been able to reverse the credit squeeze;

20. Considers that strict monitoring of the rescue packages to financial institutions must be implemented in order to ensure a level playing field, including: the solvency level, the expected benefits, the liquidity on the interbank market, the evolution of human resources and the confidence of clients, whether private clients or entrepreneurs;

21. Considers that conditionality should be attached to the banking sector rescue plans in terms of monetary incentives, provision of credit, lending conditions, restructuring of the sector and protection of social policy terms;

22. Believes that the development of microcredit, which is recognised as an efficient tool with a strong multiplier effect, should be encouraged, in particular by making it a requirement for commercial banks that have benefited from public support;

23. Insists that prime consideration must be given to recovering to normal levels of credit extension by banks when considering any new regulatory environment particularly in the interests of reviving the securitisation process as essential to the recovery of finance for mortgages, car finance and credit card funding;

24. Calls on the Commission to produce a clear analysis of the impact of the rescue package on the competitiveness of the financial sector and the functioning of the interbank market; calls on the Commission to establish interdisciplinary teams, including expertise from the Commission Directorates General for Competition, Economic and Financial Affairs, and Internal Market and Services, the three Level 3 supervisory committees, and the European System of Central Banks, in order to pool knowledge and know how and to ensure that there will be balanced impartial high-quality and timely judgements across the Member States;

More effective regulatory and supervisory structures

25. Considers that although the European Central Bank (ECB) has no official supervisory mandate, there is a need to enhance its role as regards monitoring financial stability in the euro area, notably in terms of supervision of the EU-wide banking sector; recommends, therefore, that the ECB should be involved in EU-wide macro-prudential supervision of systemically important financial institutions on the basis of Article 105 (6) of the Treaty;

26. Regrets the absence of clear EU instruments and policies by which to address, in a thorough and timely manner, the asymmetric impacts of the financial crisis among Member States inside and outside the euro area;

27. Reiterates its call for the Commission to analyse the effects of the behaviour of banks that moved their assets from the more recently acceded Member States after adoption of rescue plans by other Member States and to examine carefully the speculative action (short-selling) in relation to the currencies of the more recently acceded Member States; invites the Commission to communicate the results of that analysis to the de Larosière group and to Parliament's responsible committee;

28. Encourages the Commission and the Member States to tackle the problem of banking guarantees urgently, in order to ensure that similarly designed schemes would prevent banks from failing across the European Union, thus allowing interbank lending to be revived, such revival being a necessary condition for ending to the banking crisis and allowing new credit to be given to the real economy, increasing investment and consumption and so leading the way out of the economic crisis;

29. Strongly urges the de Larosière Group to take on board the recommendations put forward in Parliament's previous resolutions, relating to financial market supervision; urges the Commission to endorse its contributions to create a stable and efficient structure of regulation and supervision, which may prevent or limit the adverse impacts of future crises; calls on the Council duly to take into consideration the position that Parliament may express on those conclusions before endorsing them;

30. Acknowledges the recommendations of the de Larosière group and stresses that many of them have been called for by Parliament in recent years; welcomes the Commission's intention to use its power of initiative and take action to tackle the most urgent problems in relation to the financial crisis, and urges the Commission to start the process as soon as possible; calls on the 2009 Spring European Council to give a strong political impetus and to establish a road map for all legal initiatives in order to ensure their timely adoption together with Parliament;

31. Reaffirms that more transparency and better risk-management as well as coordinated supervision provide most of the solutions to further crisis prevention and that the regulatory reform must be all-encompassing, applying to all actors and transactions in the financial markets; points to the fact that the global nature of financial markets necessitates an international coordination of reforms; stresses that regulatory initiatives must aim to create transparency, sustainability, stability and increased responsibility of financial actors in the market; reminds the Commission of its obligation to respond to Parliament's requests regarding hedge funds and private equity;

32. Considers that credit rating agencies should close information gaps and reveal uncertainties as well as conflicts of interests; insists on the need for a revision and improvement of accounting policies in order to avoid pro-cycle effects;

33. Proposes to assess carefully whether or not future steps towards the sound regulation of the financial sector, notably the macro-prudential supervision of the regulatory framework, may render economic recovery and innovation in the field of financial products difficult or impossible and reduce the attractiveness of EU financial markets, diverting financial flows and enterprises towards third markets; recalls its best interest to remain the first financial market place in the world;

The real economy: the crisis as an opportunity to achieve sustainable growth

Safeguarding employment and boosting demand

34. Calls on the Commission and the Member States to use all means at their disposal to support EU undertakings, in particular SMEs, to promote job creation and boost the confidence of EU investors, employers, workers and consumers;

35. Strongly recommends that sufficient, affordable and reasonably secure access to credit is urgently guaranteed across the European Union to SMEs, citizens and those sectors in which a sustainable future is endangered due to the crisis, in particular due to the lack of credit; calls on the Commission to ensure exchanges of best practices in this respect;

36. Stresses that, in the current climate where SMEs face severe cash-flow problems and restricted credit access, public authorities and private clients should respect a maximum 30-day period for payments to SMEs; urges the Commission to take over this issue when revising the late payments directive ([1]);

37. Calls for full enforcement and accelerated implementation, at both EU and national level, of Parliament's recommendations in relation to the Commission communication on 'Think Small First' - A 'Small Business Act' for Europe (COM(2008)0394);

38. Calls for the effective launch of a comprehensive European employment initiative, by ensuring that an undertaking can be set up free of charge anywhere in the European Union within three days, and that the formalities for the hiring of first employees can be fulfilled via a single access point on the one hand, and, by reinforcing activation schemes, particularly for the low-skilled, through personalised advice, intensive training or retraining and up-skilling of workers, apprenticeships, subsidised employment and start up grants for the self-employed and businesses on the other; in addition, is supportive of the allocation of the European Social Fund payments by the Commission to promote the development and matching of skills;

39. Strongly recommends that the EU employment initiative include an early intervention at the time at which jobs are in fact lost, not least in order to reduce the risk of people becoming excluded from the labour market; considers that such interventions will require significant investment in training, including an increase in training providers while concentrating on the better coordination of training and labour reintegration programmes, and should use not only short-term measures but should also endeavour to make high-level qualifications possible in order to increase the overall skill levels within the European Union and to respond to the changing needs of the current economy;

([1]) Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions (OJ L 200, 8.8.2000, p. 35).

40. Welcomes the proposals of the Commission and calls on the Member States to adapt new provisions of the regulations of the European Social Fund, the European Globalisation Adjustment Fund and the European Regional Development Fund, including the simplification of the procedures and the widening of eligible costs to serve employment and social inclusion goals even more efficiently, continuing to support employment in key sectors of the economy and ensuring that when providing such assistance strengthening of social and territorial cohesion remain a priority in order to avoid asymmetrical development within the European Union; hopes for the speedier release of funding targeted at employment support, and for EU support programmes to be geared to helping the most vulnerable groups in society including programmes to guarantee decent living conditions and access to high-quality services of general interest;

41. Calls on the Member States to invest in the social economy, which can contribute to growth since it has considerable potential for creating high-quality jobs and strengthening social and territorial cohesion;

42. Stresses the importance of implementing common principles of flexicurity while guaranteeing adequate social protection for all, in particular social security systems that provide appropriate protection with respect to national traditions;

43. Calls on the Commission, in cooperation with the Member States, to continue to monitor regularly the development of the situation on the EU labour market and the impact of the crisis on that market, and to take appropriate measures to set the economies of the European Union on the road towards sustainable development;

44. Stresses the need to guarantee adequate living standards for all citizens of the Union and calls for adequate emergency measures to be taken; calls for social policies to be adapted to cope with the recession, supporting active labour market and social inclusive policies and paying special attention to the most vulnerable members of society;

45. Calls on the Commission to assess urgently the recession risks affecting industrial sectors across Europe in order to intervene at EU level, if needed; stresses, however, that some of the problems of EU industries may not be caused only by the financial crisis; is of the view, therefore, that State aid measures should be carefully targeted so as to not go beyond offsetting the effects of the financial crisis, and that they must be accompanied by the strictest conditions of restructuring, investment in innovation and sustainability;

46. Warns against the undue loosening of the EU competition rules, as this might weaken the internal market; is concerned that national responses to the economic downturn may lead to protectionism and distortion of competition, which, in the long term, would seriously undermine the economic prosperity of the citizens of the Union;

47. Calls for an assessment of the measures contained in the national recovery plans as regards their immediate impact on purchasing power;

48. Calls for the Council to approve the proposal to give all Member States the option to apply a reduced VAT rate for energy-efficient goods and services, labour-intensive and locally supplied services; considering their potential employment and demand-boosting effect;

49. Stresses the added value of the trans-European transport network programme (TEN-T) for the achievement of the Lisbon Strategy, the European Union's climate change goals and for greater social, economic and territorial cohesion, while providing timely support for sustaining aggregate demand in the European Union; stresses the importance of the 30 TEN-T priority projects - in particular the cross-borders corridors - for re-launching the economy and for enabling the increasing demand for a better, environmentally friendly, co-modality; calls on the Commission and the Member States to develop new methods of financing transport infrastructures and to increase substantially the budget for the TEN-T projects in future financial frameworks and in the Recovery Plan;

50. Asks Member States to consider the possibility of reducing labour taxation in lower incomes in order to increase the purchasing power and stimulate demand for retail products;

Greater cohesion and less economic divergence

51. Stresses the importance of territorial cohesion goals within the framework of proposed stimulus arrangements, given the clear asymmetric impact of the crisis across the European territory;

52. Calls for the Commission duly to address, particularly in light of the present crisis, the impact of horizontal policies on regional divergent performances in the euro area, as highlighted in its Communication on EMU@10;

53. Calls for the development of adequate mechanisms to guarantee that accelerated convergence of the less dynamic regions is structured upon strategic objectives such as, the greening of the economy and an adequate participation in the Lisbon Strategy namely by supporting innovation, SMEs and micro-level initiatives;

54. Welcomes all the Commission proposals that simplify and accelerate access to the available cohesion instruments, and speed up project implementation, namely through front-loading funds, temporarily increasing community support rates, improving technical assistance, and accelerating payment procedures;

Smart and sustainable structural reforms and investments

55. Calls for the refinement of the recovery instruments and policies at both EU and Member State level, capable of boosting demand and confidence across the European Union, in accordance with a common set of priorities within the Lisbon Strategy, such as: investing in education, infrastructure, research and development, skills and lifelong learning, energy efficiency and green technologies, broadband networks, urban transport, creative industries and services, health services, and services for children and older people;

56. Welcomes the Commission's proposal to bring forward from 2010 to 2009, EUR 500 million in investment in transport infrastructure; nevertheless stresses the need for the Commission and the Member States to include urban transport and TEN-T priority projects among those for the additional EUR 5 billion fund to be mobilised in accordance with the Recovery Plan; considers that those TEN-T projects at an advanced stage of implementation should, in particular, benefit from the greater availability of appropriations;

57. Stresses that in the current, very dire, circumstances, access to EU funds is necessary for Member States that have more recently acceded to the European Union and that are not members of the euro area; those funds would be the required budget stimulus for countries which do not have the room for manoeuvre of the Member States in the euro area, or because they are running large budget and current account deficits;

58. Stresses that the crisis has extremely negative economic and social consequences in many of the new Member States, posing a substantial risk to reduced growth and stability and increased poverty; furthermore, expects there to be spill-over effects affecting the euro and the economies of the euro area; therefore, calls for a Community-wide and coordinated approach for the purposes of Community solidarity and the realisation of collective responsibility in this respect; calls on the Commission to review and tighten all instruments for the stabilisation of affected Member States, including the stabilisation of exchange rates, so that quick and efficient safety net provisions and response packages can be implemented;

59. Calls on the Commission to consider possible measures for the improvement of the energy security through the accelerated development of an internal gas transmission network of the European Union that would ensure the security of supply;

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60. Believes that a strong public investment policy, aiming at creating a 'low-carbon economy' is of utmost importance to face the economic recession;

61. In this respect, calls on Member States to undertake reforms in their fiscal regimes for ensuring that certain sectors like agriculture, transport and energy, which impact so heavily on the environment, perform sustainably;

62. Strongly supports the launching of a set of urban policies combining energy efficiency in transport and buildings with job creation;

63. Stresses the need for an unprecedented coordinated effort to make major investments in the fields of energy, the environment and infrastructure to support sustainable development, help the creation of high-quality jobs and ensure social cohesion; considers, therefore, that people are more likely to accept the efforts required of them if those efforts are perceived to be fair and on the one hand and to guarantee employment and social integration on the other;

64. Calls for EU initiatives in the field of education and training, and access to risk capital, credit and microcredit facilities in order to boost growth and convergence throughout the European Union;

65. Stresses the need to reduce the bureaucratic burden on investment projects co-financed by private companies; calls on the Commission and the Member States, therefore, to take measures that accelerate and facilitate investments;

66. Stresses that in tackling the acute problems resulting from the economic crisis, sight should not be lost of the long-term strategy and the possibility of achieving some long-overdue goals, notably to:

— intensify the elimination of barriers to the freedom to provide services, as provided for in the Services Directive ([1]), the implementation of which has been delayed, because of the enormous job-creation potential in the services sector;

— enhance the implementation of the Postal Services Directive ([2]);

— complete the internal market for energy;

— urgently enhance investment in R&D, including by requiring substantial investment in R&D and innovation as a pre-condition for any support to industry, because the - fairly modest - Lisbon target of 3 % GDP has not been met to date, mainly because the private sector has failed to deliver on its 2 % share, and because, despite the stated objective of becoming the most dynamic knowledge economy in the world, the gap in R&D investment between the European Union and other regions is widening;

— urgently finalise the EU patent regime;

— remove any remaining obstacles to the freedom of movement for workers;

— complete the TEN-T priority networks;

([1]) Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

([2]) Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 with regard to the full accomplishment of the internal market of Community postal workers (OJ L 52, 27.2.2008, p. 3).

European economic instruments: the European Union acting in unison

Economic coordination

67. Calls for improved coherence between the present recovery plan at Member State level, the Lisbon Strategy goals and priorities, the integrated policy guidelines and the National Reform Programmes as well as the use of the flexibility facilities granted by the revised SGP;

68. Notes as a central dilemma in the current crisis that European economic policy instruments are not yet developed enough in order successfully to meet the challenges ahead; requires, therefore, a review and an update of the essential policy tools towards the 2010 Spring European Council, in particular the integrated policy guidelines;

69. Calls for guidance by the Commission on the National Reform Programmes in light of its growth forecasts;

70. Calls for adequate detailed criteria and standards to be developed for the close monitoring and regular reassessment of the effectiveness of the recovery plans by the Commission, in particular as regards the reality of the announced investments, bearing in mind that the full extent of the crisis and the requisite remedies cannot yet be totally assessed;

71. Calls upon all relevant parties - Parliament, Council, the Commission and the social partners at EU and national level - to work together on the basis of the following suggestions during the Spring European Council in March 2009:

— the development of mutual reinforcement of stability, and growth-oriented macro-economic policies by making stability policy and investment a matter of common and mutually supportive concern;

— the establishment of a binding framework for Member States within which they consult each other and the Commission before taking major economic policy decisions, based on a common understanding of problems, priorities and the remedial measures which are necessary and appropriate;

— the adoption of ambitious and tailored national recovery plans, updated stability and convergence programmes and a review of national budgets to react to the latest economic forecasts, as well as a commitment to their urgent implementation;

— the formulation of a coherent EU strategy of short and long-term measures, based on common priorities and targets;

— the strengthening of the economic governance of the euro area in line with the recommendations set out in Parliament's resolution of 18 November 2008 on the EMU@10;

72. Calls for an urgent examination by the Parliament, the Council, the Commission and the European Investment Bank of the benefits that would derive from the feasibility of a European sovereign debt fund, the debt servicing cost of which would be lower than for the equivalent aggregate of national debts and which would be temporary in nature and would be transferred after a period of time to national debts;

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European Investment Bank

73. Considers that involvement of the European Investment Bank (EIB) is crucial and that a large share of lending referred to in the Recovery Plan is within its competence; welcomes the Member States' agreement on a capital increase for the EIB; recalls that some of the EIB interventions also require support from the EU budget, but that this is not currently provided for in the Recovery Plan; considers that this could be done either through blending grants and loans or in the form of equity or joint-risk sharing instruments such as the Risk Sharing Finance Facility (RSFF) and the Loan Guarantee Instrument for Trans-European Transport Network projects (LGTT); in the latter case, the EIB could be requested to contribute with its own reserves, which would multiply the leverage effect; emphasises the EIB role in refinancing SMEs, commercial banks, including existing private-public partnership structures; recalls, in this respect, that there is a need to develop environmentally friendly funding criteria;

EU Budget

74. Recalls that the Economic Recovery Plan and the subsequent measures proposed on 28 January 2009 by the Commission contain a Community contribution estimated at EUR 30 000 000 000, to be distributed among the following sectors: EUR 5 000 000 000 for energy interconnections and high-speed internet through a revision of the 2007-2013 multiannual financial framework (MFF) and measures related to the CAP 'Health Check'; advanced payments under the Structural and Cohesion Funds; several initiatives in the area of research and innovation such as the European green cars initiative, factories of the future initiative and energy-efficient buildings initiative; an increase in the pre-financing for the most advanced trans-European transport projects as well as for initiatives in favour of SMEs or the Community innovation programme (CIP) and for funding already granted by existing or new loans and funds from the EIB;

75. Stresses that the current crisis should not be used as a pretext to delay a much needed reorientation of spending towards 'green' investments, but should, rather, be used as an additional incentive to press ahead with such reorientation, and reiterates, in this context, the importance of the budgetary review planned for 2009, which should not be limited to a theoretical vision of what the budget could look like after 2013, but which should include bold proposals for a shift in programming at the time of the mid-term review of the multi-annual programmes to respond to the current crisis, promoting sustainable development and taking into account the challenges posed by climate change;

76. Stresses that some elements proposed in the Recovery Plan are too vaguely formulated; asks the Commission to supply the two branches of the budgetary authority without delay with all the detailed information they need to take a decision; also stresses that several elements included in the Recovery Plan require the modification of the existing multi-annual programmes; recalls, in this regard, that these changes must be made in full compliance with the powers of Parliament;

77. Stresses that, as a result, there is a risk that the implementation of the Recovery Plan as proposed by the Commission will take a considerable time and urges all the institutions concerned to adopt the necessary decisions as quickly as possible, given the very difficult current economic situation of the European Union;

78. Stresses that most of the Community measures proposed by the Commission are based on a budgetary redeployment of allocations already programmed and not on the mobilisation of new budget resources; calls on the Commission to draw all the necessary conclusions from the very bad economic forecast it published in January 2009 and to reassess it budget proposals in the light of these new forecasts;

79. Welcomes the Recovery Plan and related initiatives and recalls that any new expenditure that is not foreseen in the 2009 Budget must be financed with fresh money, in order not to compromise the 2007-2013 MFF negotiated between the two branches of the budgetary authority; recalls, in this context, the possibilities offered by the provisions of the Interinstitutional Agreement of 17 May 2006 (IIA), in particular points 21 to 23 thereof;

80. Emphasises that the Recovery Plan proposes multi-layered coordinated action to strengthen Europe's economies; reiterates Parliament's readiness to enter into negotiations with the Council for the EUR 5 000 000 000 revision of the 2007-2013 MFF proposed by Commission and any other modification of instruments that would have a budgetary impact; considers that negotiations should concentrate on extending the area of projects supported within this budgetary revision, in accordance with Member States' priorities;

81. Acknowledges the predominant role of the EIB and the European Bank for Reconstruction and Development (EBRD) in contributing to financing investments and enhancing access to financing for business, in particular for SMEs; points out that contributions by the EU budget to EIB operations have the potential to create a substantial leverage effect on investment and wishes to examine how the EU budget could contribute further to bringing about such effects, and that, in any event, they should be accompanied by a Memorandum of Understanding between the Parliament, the Council, the Commission and the EIB on the priorities for investment, ensuring that these are geared towards truly sustainable projects; expresses concern at the growing tendency in the Council and the Commission to confer on the EIB and the EBRD many extra duties without having first provided all the necessary economic and financial guarantees that the EIB and EBRD will be able to carry out these duties successfully; notes that the Commission proposes to increase the financial instruments put in place by the EIB under the 2007-2013 MFF; asks the Commission to supply a first evaluation of the activities already undertaken in this context and to propose solutions regarding the budgetary and regulatory difficulties in the implementation of actions such as JASMINE, JASPERS and JEREMIE;

82. Expects the Commission to clarify its intentions regarding the future actions, in particular regarding a possible contribution from the EU budget to reinforcing these instruments; calls on the Commission to indicate to the two branches of the budgetary authority the extent to which new instruments made available to the EIB for future initiatives will require intervention from the EU budget; further notes that the increase in the tasks conferred on the EIB and the EBRD poses significant questions with regard to the democratic scrutiny of the projects being financed, when funds from the EU budget are at stake;

83. Regrets that the Commission proposal to invest in trans-European energy interconnections and broadband infrastructure projects remains in vain because of a lack of agreement within the Council, contrary to the will of the European Council, as expressed in December 2008; considers that the EU budget should be used to contribute in facing the economic crisis by means of the appropriate instruments provided for in the IIA and invites Council to enter into discussions with Parliament as soon as possible; considers that use can be made only of those margins that have been confirmed and not on the basis of estimated needs in future budget years; recalls that the exercise of redeployment could hinder existing policies; considers the mid-term review to be an ultimate and late opportunity for reacting to the economic crisis; points out that the Recovery Plan, if approved, will have a significant impact on the 2009 Budget; reminds the Commission that its proposal is indicative and dependent on the approval of the legislator; requests further details on the development stage of each project to guarantee a speedy implementation as well as an assessment of their effects in the short term on employment and growth of the whole EU economy and asks for concrete figures relating to implementation, particularly in respect of the financial programming; points out that EU spending on energy projects, which under the current EU financial framework must be limited, should focus on projects that can be started swiftly and which help to reach the European Union's 2020 targets on climate change policies, notably energy savings and energy efficiency projects as well as investments in renewable energy networks;

84. Recalls the joint declaration agreed at the conciliation meeting on 21 November 2008 on 'Implementation of the cohesion policy' highlighting the benefits for the economy of accelerating the implementation of structural and cohesion funds and on 'payment appropriations' supporting the financing of new initiatives particularly regarding the economic crisis; notes that the amount of additional advance payments foreseen in 2009 on the basis of the Commission proposal on the financial management of the ESF, ERDF and the Cohesion Fund is EUR 6 300 000 000 and that other proposed modifications to the financial management of the funds may increase the speed of interim payments;

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85. Asks the Commission to keep the budgetary authority informed and clarify whether anticipating payments in the framework of the financial management of the Funds will be in line with the schedule of payments foreseen for 2009 by the budgetary authority, namely if the level of payments agreed by Parliament and the Council will be enough to finance current or future initiatives;

86. Recalls that any change in the level of payments that the Commission will propose must be included in an amending budget to be adopted by the two arms of the budgetary authority;

87. Stresses the added value of the trans-European transport network programme (TEN-T) for the achievement of the Lisbon Strategy, the European Union's climate change goals and for a greater social, economic and territorial cohesion, while also providing timely support for sustaining aggregate demand in the Europe Union; therefore welcomes the Commission's proposal to bring forward from 2010 to 2009 EUR 500 000 000 in investment in transport infrastructure;

88. Asks the Commission when presenting the list of specific projects applying for EU budget financing, and as requested by the December 2008 European Council, to take into account the need to increase the competitiveness of the EU economy with a long-term perspective, advancing infrastructure projects already decided and planned;

89. Recommends a flexible approach to the European budget spending structure and the allocation of uncommitted appropriations or non-annually budgeted appropriations to priorities identified under a cohesion framework; calls once again for the urgent strengthening of the European budget, reassessing its size and its expenditure structure;

European Union and global governance

90. Strongly encourages the European Union to play a leading role in international fora, notably in the Financial Stability Forum (FSF) and International Monetary Fund (IMF), and at the coming meetings of the G20; considers it especially important to strengthen the multilateral surveillance of currency areas and financial markets; recalls that, in times of free global capital flows, convergence is at the heart of a true level playing field and of a comprehensive regulatory and supervisory framework;

91. Recalls the importance of the next G20 Summit to be held in London on 2 April 2009, when it is anticipated that statements will be converted into decisions; recalls the importance of agreeing on a clear timetable for action so as to make the process output-oriented; insists on the fact that not only financial considerations should be agreed upon but that Member States' Heads of State or government should also reflect on how to correct global imbalances and agree to coordinate the various, recently adopted recovery plans, bearing in mind the unemployment issue; supports the use of the recommendations of the de Larosière group as a basis for shaping the EU position on future financial architecture; calls on the Council and the Commission to seek Parliament's views before agreeing on a negotiating position for the Summit;

92. Strongly supports the decision of the European members of the G20 to take definitive action against tax havens and uncooperative jurisdictions by agreeing on a toolbox of sanctions as soon as possible, to be endorsed at the London summit; recommends that the EU should adopt at its own level the adequate legislative framework to restrict business with those jurisdictions; stresses that global convergent approaches are essential in order to tackle this issue;

93. Strongly recommends that the impact of international transactions on the real economy across the European Union, particularly as regards trade, climate change and finance, be duly assessed; supports enhanced international dialogue with the most important currency blocks to avoid the consequences of currency manipulation and volatility on the real economy;

94. Calls on the Council and the Commission to intensify consultation and foster cooperative relations with the European Union's commercial partners, and, in particular, with the newly appointed US administration;

95. Considers that the present crisis must not preclude the European Union's responsibilities as regards promoting international development and combating world poverty; warns that the risk of a fallback to protectionist policies must be avoided; stresses that the worldwide recovery effort could be greatly enhanced by the timely conclusion of the Doha Round of trade negotiations;

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96. Instructs its President to forward this resolution to the Council, the Commission, the European Central Bank, the European Investment Bank, the European Economic and Social Committee and the president of the Eurogroup.

Cohesion Policy: investing in the real economy

P6_TA(2009)0124

European Parliament resolution of 11 March 2009 on Cohesion Policy: Investing in the real economy (2009/2009(INI))

(2010/C 87 E/19)

The European Parliament,

— having regard to the Communication of the Commission of 26 November 2008 'A European Economic Recovery Plan' (COM(2008)0800),

— having regard to the Communication of the Commission of 16 December 2008 'Cohesion Policy: Investing in the real economy' (COM(2008)0876),

— having regard to the Commission staff working document of 14 November 2008 'Regions 2020 - an assessment of future challenges for EU regions' (SEC(2008)2868),

— having regard to the conclusions of the Presidency of the European Council of 11 and 12 December 2008,

— having regard to the proposal of the Commission for a Council regulation amending Regulation (EC) No 1083/2006 on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management (COM(2008)0803),

— having regard to the proposal of the Commission for a regulation of the European Parliament and Council amending Regulation (EC) No 1081/2006 on the European Social Fund to extend the types of costs eligible for a contribution from the ESF (COM(2008)0813),

— having regard to the proposal of the Commission for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of energy efficiency and renewable energy investments in housing (COM(2008)0838),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Regional Development (A6-0075/2009),

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A. whereas the European economy is suffering from the consequences of the global financial crisis and from the most widespread and serious downturn for 60 years,

B. whereas the EU's cohesion policy makes an important contribution to the European Economic Recovery Plan and is the Community's largest source of investment in the real economy, providing targeted assistance for addressing priority needs and areas with growth potential both in public and private sectors,

C. whereas the more than 65 % of the total financial allocation of the EU cohesion policy for the period 2007-2013 that has been 'earmarked' for investment in the four priority areas of the Union's renewed Lisbon Strategy for growth and jobs - namely people, business, infrastructure, and energy, research and innovation - represents a significant tool, and whereas these kinds of investments are essential in order to provide an effective response to the current financial crisis,

D. whereas the current recession should be used as an opportunity to promote green investments and create green jobs,

E. whereas success in mitigating the economic slow-down depends on the willingness of Member States and regions to rapidly implement their programmes' objectives,

1. Strongly welcomes the adoption of the European Economic Recovery Plan outlining coordinated action by Member States and the Commission to tackle the economic crisis; considers that the Plan is based on the principle of solidarity and social justice and should not conflict with the Lisbon Strategy, and that its proposed measures will contribute to deeper and long-term structural reforms;

2. Considers that the EU cohesion policy, being a policy aimed at ensuring economic growth and social development, and at truly stimulating the economy in the short, medium, and long term, can make an important contribution to overcoming the current financial crisis and to working towards the recovery of Member States and regions, including those with permanent handicaps;

3. Stresses that the Structural Funds are powerful tools, designed to help regions in their economic and social restructuring and thus to implement the actions under the Plan's four priority areas in order to boost the economy, and endorses their use, in preference to precipitating the invention of new economic tools; notes that these actions complement those undertaken at national level; believes that due to the significant pressure on national budgets, EU cohesion policy funds and interventions should be accelerated, in order to give a timely boost to the economy and provide support especially to people hit by the crisis;

4. Supports the Commission's legislative proposals, which are parallel and complementary to the European Economic Recovery Plan, to amend three of the existing Structural Funds Regulations 2007-2013 (Regulations (EC) No 1083/2006, No 1080/2006 and No 1081/2006); fully endorses the proposed changes that aim to improve cash flow and liquidity in the Member States, facilitate the use of financial engineering instruments, expand the possibilities for support to investments in energy efficiency and renewable energy in housing and increase the flexibility of the Structural Funds to adapt them to meet the needs of the extraordinary economic circumstances with a long-term perspective;

5. Requests the Commission to closely monitor the economic measures taken by Member States, so as to ensure that these do not violate free market competition, and social standards which have been essential pillars of European integration since its foundation, as well as the implementation of requirements of Community legislation on the environment and on climate protection;

6. Urges the Commission and Member States to ensure that the measures adopted to accelerate, simplify and make more flexible the implementation of the Structural and Cohesion Funds do not diminish their responsibility to monitor their implementation;

7. Welcomes the establishment by the Commission of the expert group ('task force on simplification') working on further possible simplification of procedures for the implementation of Structural Funds; eagerly awaits further simplification proposals from the Commission scheduled for the beginning of 2009;

8. Calls on the Member States and the regions to guarantee that the partnership principle laid down in Article 11 of the general Regulation on the Structural Funds (Regulation (EC) No. 1083/2006) is fully applied and that the requirement of full involvement of partners is complied with;

9. Highlights the important role that grass-roots organisations, NGOs and the social economy play in promoting social cohesion and inclusion particularly during times of an economic crisis; calls on the Commission to ensure that any simplification of the Structural Funds will reduce administrative burdens on such organisations;

10. Is particularly concerned by the asymmetric territorial impact of the crisis across the European territory and its harder impact on the Member States that already have a lower quality of life than the EU average, and urges the Commission and the Member States to take due account of the territorial cohesion objective in planning and implementing concrete measures to combat the economic crisis; asks, in particular, the Commission to ensure a suitable geographical balance when presenting the list of specific projects, requested by the European Council for strengthening investment in infrastructure and in energy efficiency;

11. Considers that measures, such as flexibility and acceleration of payments, the use of lump sum payments and flat rates will stimulate and accelerate policy implementation especially in infrastructure, energy and environmental sectors and in ESF projects; considers that, in this regard, the Commission should provide Member States with clear guidance; regrets, nonetheless, that other important measures have not been taken into account, such as proposals for the actual and immediate increase of liquidity on the ground by intervening to a greater extent in the coming years on interim payments;

12. Welcomes the Commission's proposal to increase advance payments, so as to facilitate the implementation of projects by providing financial resources at an early stage of project implementation thus reducing the need for bank loans; nevertheless urges banks and financial institutions to make full use of the facilities granted to them to maintain and support lending to the economy and pass on key interest rates reductions to borrowers;

13. Strongly highlights the positive role that cohesion policy can play in strengthening solidarity and restoring confidence by introducing measures to provide public investment to boost internal demand;

14. Calls on the Member States and regional and local authorities to secure their contribution as required by the co-financing rules, so that the funds allocated by the Structural Funds can be fully exploited;

15. Underlines the importance of measures in support of people and business but above all employment, for a successful economic recovery; calls for decisive action to support the demand side of the economy, as well as measures to assist small and medium-sized enterprises (SMEs), social economy enterprises, and local and regional authorities in order to maintain cohesion and to safeguard key investment and infrastructural projects; calls on Member States to make wide use of Structural Funds to secure job creation, to promote SMEs, entrepreneurship and professional training;

16. Welcomes the proposal that investments in energy efficiency, and the use of renewable energies in the housing sector should be eligible for ERDF funding throughout the Union; urges the Member States and the regions to make comprehensive use of this new possibility and to adapt their operational programmes accordingly, in order to reinforce their sustainable development path and to invest in climate-friendly infrastructures and innovations; stresses, in general, the importance of investment on energy infrastructure, which became apparent, for example, during the recent gas crisis;

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17. Encourages Member States to explore synergies between cohesion policy financing and the other sources of Community funding (TEN-T, TEN-E, the Seventh Research and Technological Development Framework Programme, the Competitiveness and Innovation Framework Programme) as well as the financing provided by the European Investment Bank and the European Bank for Reconstruction and Development; urges Member States to simplify and improve access to the funds' allocation made available by the financial instruments JESSICA, JASMINE and JEREMIE in order to stimulate more frequent use of them by SMEs and interested beneficiaries;

18. Encourages the Commission to elaborate on measures to improve cash flow to the responsible authorities and to increase technical assistance to Member States and the exchange of best practices between regions, in order to improve project quality and efficiency of project implementation; underlines the importance of JASPERS for project preparation; calls on the Commission to support Member States in revising, if necessary, their operational programmes; stresses the need, however, for immediate dissemination of information to local and regional authorities on these modifications;

19. Considers the approval of the established national management and control systems by the Commission as crucial for speeding up programme implementation and calls on Member States to finalise the process of informing the Commission as soon as possible;

20. Highlights the role of education and training in ensuring long-term economic recovery and demands that the measures available under the ESF be updated, both in terms of ensuring a higher availability of resources and reaching a higher level of flexibility;

21. Calls on the Commission to develop adequate detailed criteria and standards for close monitoring and permanent reassessment of the effectiveness of the recovery plans at national and regional levels particularly with regard to compliance with transparency requirements; requests an evaluation in 2010 of the effectiveness of the reforms following the adoption of the revised Structural Fund Regulations, in order to further improve the efficiency of those measures, as well as to analyse the reasons for problems and delays in their implementation; urges the Commission to take these observations into account in its proposals for the next generation of Structural Funds programmes;

22. Instructs its President to forward this resolution to the Council, the Commission and the governments of the Member States.

Better careers and more mobility: a European partnership for researchers

P6_TA(2009)0125

European Parliament resolution of 12 March 2009 on better careers and more mobility: a European partnership for researchers (2008/2213(INI))

(2010/C 87 E/20)

The European Parliament,

— having regard to the Commission Communication of 23 May 2008 entitled Better careers and more mobility: a European partnership for researchers (COM (2008)0317) and the accompanying Commission staff working documents, namely the impact assessment (SEC(2008)1911) and the executive summary thereof (SEC(2008)1912),

— having regard to Council Decision 2006/973/EC of 19 December 2006 concerning the specific programme 'People' implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) ([1]),

([1]) OJ L 400, 30.12.2006, p. 272.

— having regard to the opinion of the European Economic and Social Committee of 3 December 2008 ([1]),

— having regard to the Commission Communications of 20 June 2001 entitled A mobility strategy for the European Research Area (COM(2001)0331), and of 18 July 2003 entitled Researchers in the European Research Area: one profession, multiple careers (COM(2003)0436), and the Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers ([2]),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Employment and Social Affairs and the Committee on Culture and Education (A6-0067/2009),

A. whereas Europe needs more researchers with, inter alia, capacity to develop frontier research, as they are indispensable for its increased productivity and competitiveness, and contribute to the achievement of the Lisbon strategy goals,

B. whereas in order to help make up the shortfall in researchers there is a need to encourage the return of European scientists working outside the European Union and to facilitate the entry of scientists from third countries who want to work in the European Union,

C. whereas facilitating attractive careers for researchers within the European Union is of the utmost importance in order to ensure the availability of highly skilled human resources and to attract such resources from third countries,

D. whereas there is a need for the European Union to combat negative economic trends by focusing on education and research and to do everything possible to ensure employment, security and mobility for researchers, so that they stay in the European Union,

E. whereas researcher mobility is one of the main factors in ensuring full implementation of the European Research Area (ERA),

F. whereas, in order for Europe to be able to ensure satisfactory development of the research sector, free movement of researchers must be guaranteed; whereas harmonised cooperation in this regard between Member States, as well as among the public and private sectors, is therefore crucial,

G. whereas the availability of information about employment opportunities for researchers is in many cases limited as many competitions take place internally within research institutes,

H. whereas the research workforce in Europe is ageing and initiatives for making research careers available and attractive to young people, especially women, are therefore urgently needed,

I. whereas the system of scientific promotion in many research institutes is still rigid and based on seniority rather than on the achievements of the researchers,

J. whereas complicated application procedures and a lack of administrative skills, in connection with matters such as filling in forms in a foreign language and registering patents, discourage researchers from participating in mobility projects,

([1]) OJ C 175, 28.7.2009, p. 81.
([2]) OJ L 75, 22.3.2005, p. 67.

K. whereas the importance of sharing knowledge with industry, the business community and society is not yet recognised by many universities, which leads to a lack of connections with the business world and weakens competitiveness in the European Union,

L. whereas language skills play an important role in researcher mobility, encouraging mobility towards countries with more widely spoken languages, and thus leaving other countries fewer opportunities to benefit from the work of mobile researchers,

M. whereas mobility is an essential part of doctoral education since it allows for wider research experiences and career development opportunities,

N. whereas mobility is important in enabling some Member States to overcome their difficulties in training their own young researchers in areas without a critical mass of doctoral students or adequate research infrastructure,

O. whereas cooperation among research institutes, businesses and industry should be improved in order to ensure exchanges of knowledge, improved innovation and more efficient use of funding,

P. whereas participation in EU research programmes is an excellent way to promote researchers' careers, because it allows competition at international level, access to multinational research networks and increased funding for the improvement of their own research facilities,

Q. whereas women are still under-represented in most scientific and engineering spheres and in managerial positions,

Open recruitment and portability of grants

1. Welcomes and supports the Commission's initiative for a European Partnership for Researchers and considers that the measures proposed should be effective in removing the main obstacles to the creation of an ERA;

2. Emphasises that in order to have a world class European research system through an inclusive partnership between the Commission and the Member States, all partners at regional, national and European levels need to contribute fully;

3. Emphasises the need to make a commitment to the proposed initiative by adopting concrete proposals, and to ensure the rapid continuation of the objectives of the above-mentioned specific programme 'People';

4. Calls for improved availability and transparency of information on recruitment opportunities for researchers and more openness in recruitment procedures by public institutions; considers that recruitment information should be published on the website of the respective research institutes and on the EURAXESS website;

5. Points to the need in the future to define and establish a single EU career model in the field of research and to introduce an integrated system for information on offers of employment and trainee contracts in the field of research in the European Union, considering this to be key to the creation of a single employment market for researchers;

6. Stresses furthermore, and in the context of the need for a contribution by all partners, the importance on the one hand of the determination of Member States to participate in the process, and on the other of the responsibility of the Commission to assist the process and action between all partners, by producing and disseminating support material, accurate information and enabling the exchange of best practices;

7. Urges the Commission and the Member States to develop standards for mutual recognition of research qualifications and, in particular, non-formal qualifications;

8. Reiterates the importance of the Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning [1] (EQF), and calls on the Commission to encourage and assist Member States in drawing up their own National Qualifications Frameworks in order to relate to the EQF by 2010;

9. Urges the Member States to renew their efforts to implement the principles set out in the above-mentioned European Charter for Researchers and Code of Conduct for the Recruitment of Researchers;

10. Encourages the Member States and public research institutions to provide the necessary support services for researchers by simplifying application procedures and facilitating researchers' access to funding, inter alia by means of individual grants which promote freedom of researchers to pursue research topics of their choice; calls, in this respect, for the Member States and the Commission to guarantee uniform researchers' mobility application forms;

11. Calls on the Council, the Commission and the Member States to take account of the mobility and partnership programmes with third countries, such as Erasmus Mundus, in the context of the career interaction and mobility requirements of all participating researchers;

12. Encourages the Member States and the Commission to review the necessary conditions for introducing portability of individual research grants when this enables funding bodies to better meet their research needs and researchers to access research facilities not available in their home institutions; considers that the review should, in particular, address the consequences of portability for research institutions in Member States and the threat of the unequal allocation of researchers within the European Union, and from and to third countries;

13. Considers that increasing the mobility of researchers and strengthening the resources of those institutions which attract researchers from other Member States will encourage centres of excellence and will also spread that excellence around the European Union.

14. Highlights the importance of making the processes for the selection and promotion of male and female researchers completely open and transparent; calls on the Member States to ensure a better balance between men and women within the bodies responsible for hiring and promoting researchers;

15. Considers that the mobility of researchers in Europe should be given priority in order to ensure that knowledge is diffused and that innovative frontier research in various disciplines attracts dedicated and competent researchers and increased financial resources;

16. Calls for exchanges to be facilitated with scientists and researchers from third countries, and through the introduction of arrangements such as special visas for researchers;

17. Considers that increased mobility should be achieved by strengthening the interests and benefits for research institutions and universities to host researchers from other Member States by means of a 'research voucher' scheme; considers that these research vouchers should transfer money for researchers and follow those participating in research institutions in Member States other than their own; considers further that this added support for mobility of researchers should be additional to current funding schemes and that the research voucher will be an incentive for Member States and for research establishments to compete in attracting the most talented scientists;

[1] OJ C 111, 6.5.2008, p. 1.

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Meeting the social security and supplementary pension needs of mobile researchers

18. Urges the Commission and the Member States to explore the possibility of creating a European Pension Fund for researchers, regardless of the duration of the research contract;

19. Recalls that only by including the views of researchers, national research institutions and stakeholders in research policy can a Member State draw up a comprehensive National Action Plan leading to a comprehensive European partnership;

Attractive employment and working conditions

20. Calls for Member States and public research institutions to provide the necessary support services for researchers from other countries, including access to lodging, schools and childcare facilities; considers that these services should be advertised in all researchers' recruitment websites;

21. Calls for more flexibility in working conditions both for female and male researchers in order to allow them to combine work with family life, and calls for elimination of the gender pay gap for researchers;

22. Calls on Member States to take measures to facilitate the reunification of families when both spouses are researchers;

23. Urges the Member States, in order to avoid a 'brain drain' within the EU, to better exploit the opportunities offered by the funding schemes of the above-mentioned specific programme 'People'; calls on the Member States to make returning to their home institutions more attractive for researchers by increasing their salaries or offering additional benefits to ensure that economic conditions are comparable to those enjoyed during the mobility period;

24. Calls on the Member States and public research institutions to improve researchers' careers by promoting reforms to make the researchers' labour market more competitive and less constrained by institutional affiliations; considers that, upon appointment, researchers should be able to obtain recognition of their period of research at the foreign educational establishment;

25. Expresses its concern at the lack of flexible contracts for experienced researchers and researchers at the end of their careers, a circumstance which obstructs their mobility and inhibits the proper exchange of knowledge and experience; regrets that the private sector sometimes lacks arrangements similar to those in the public sector for the treatment and management of personnel;

26. Calls for the Member States to facilitate participation in the Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) [1] by ensuring efficient support services, in particular national contact points, in order to make better use of co-financing opportunities;

27. Calls for the Member States and public research institutions to provide incentives for mobility such as mobility being regarded as a strong recommendation upon appointment and career advancements for researchers after their return from stays in other Member States;

28. Considers that the Member States must continue to increase the budgetary resources allocated to research, as a means of creating quality jobs that comply with basic ethical principles and the Charter of Fundamental Rights of the European Union;

[1] OJ L 412, 30.12.2006, p. 1.

Enhancing the training skills and experience of European researchers

29. Encourages the Member States to recognise the experience of researchers in the industrial sector as a valuable asset for their career advancement in order to improve mobility between the private and public sectors;

30. Calls on the Member States to invest in applied research, in such a way as to ensure closer collaboration between universities, research establishments and the private sector;

31. Urges the Member States to improve career opportunities for young researchers, for example in terms of increased funding and allowing career advancement on the basis of achievements rather than seniority, such as innovation capacity and internships in enterprises;

32. Urges the Commission and the Member States to review the legal status of PhD students in Member States in order to explore the possibility of introducing uniform PhD student status under Member States' employment legislation;

33. Urges Member States to promote the enhancement of the career prospects of young researchers by inter alia supporting interdisciplinary training as well as recognising the value of interdisciplinary mobility;

34. Calls on Member States to facilitate innovation by promoting the interdisciplinary, multidisciplinary and international mobility of senior researchers, inter alia as a way of contributing to progress in the teaching of young researchers;

35. Strongly recommends better training for researchers throughout their careers so as to improve their employability and chances of promotion;

36. Stresses that the foundations for outstanding research in a knowledge-based society are laid at school; calls on Member States therefore to honour their budgetary promises in the field of education;

37. Calls on the Council, the Commission and the Member States to raise the profile of scientific research in the general budget, in accordance with the undertaking given to achieve 3 % growth and to train 600 000 more researchers, on average, by 2010;

38. Stresses that particular attention should be paid to PhD students as in general this represents the starting point of research careers; considers that the mobility of young researchers, especially in networks of excellence, would increase their potential to contribute to the development of European research;

39. Urges the Member States to support better links and mobility of researchers and managers between the academic community and industry by promoting dedicated schemes such as the 'Conventions Industrielles de Formation par la Recherche' (CIFRE) scheme in France;

40. Takes the view that an intensification of exchanges within the framework of the relevant EU higher education programmes, with the focus on research, will prepare generations of future European researchers and make the research sector more dynamic;

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41. Instructs its President to forward this resolution to the Council and the Commission and to the governments and parliaments of the Member States.

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The protection of consumers, in particular minors, in respect of the use of video games

P6_TA(2009)0126

European Parliament resolution of 12 March 2009 on the protection of consumers, in particular minors, in respect of the use of video games (2008/2173(INI))

(2010/C 87 E/21)

The European Parliament,

— having regard to the Communication from the Commission of 22 April 2008 on the protection of consumers, in particular minors, in respect of the use of video games (COM(2008)0207),

— having regard to the Council Resolution of 1 March 2002 on the protection of consumers, in particular young people, through the labelling of certain video games and computer games according to age group ([1]),

— having regard to Recommendation 2006/952/EC of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry ([2]),

— having regard to the Communication from the Commission of 20 December 2007 on a European approach to media literacy in the digital environment (COM(2007)0833),

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Culture and Education and of the Committee on Civil Liberties, Justice and Home Affairs (A6-0051/2009),

A. whereas video games are widely and increasingly popular in Europe and the market for video games is growing rapidly,

B. whereas video games are predominantly non-violent and provide their users with entertainment which often contributes to the development of various skills and knowledge,

C. whereas video games used to be mainly focussed on minors in the past, but more video games are nowadays especially developed for adults,

D. whereas the market for video games is global,

E. whereas it falls within the competence of the Member States to decide on measures to restrict the sale of video games or to ban them,

F. whereas the protection of children's mental health requires zero tolerance and resolute action against violations of child protection provisions connected with videogames,

([1]) OJ C 65, 14.3.2002, p. 2.
([2]) OJ L 378, 27.12.2006, p. 72.

1. Welcomes the above-mentioned Commission Communication on the protection of consumers, in particular minors, in respect of the use of video games;

2. Underlines the contribution of the gaming sector to the achievement of the objectives of the Lisbon agenda, and stresses the multi-cultural facets of many games;

3. Emphasises that video games are a great stimulant which in addition to entertainment can also be used for educational purposes; takes the view that schools should pay attention to video games and informing children and parents about benefits and disadvantages that video games can have;

4. Stresses that video games are one of the favourite recreational activities of citizens of all ages and social origins; acknowledges the educational value of video games, including in helping to familiarise minors with new technologies; shares, however, the concern expressed by the Commission concerning the potential dangers of incorrect use of video games by minors;

5. Takes the view that video games can stimulate learning of facts and skills such as strategic thinking, creativity, cooperation and innovative thinking, which are important skills in the information society;

6. Underlines the benefits of videogames in medicine and, in particular, that so-called 'videogame therapy' has proven to be effective for the rehabilitation of stroke patients, people with traumatic brain injuries, people with muscular problems and autistic children;

7. Takes the view that harmonised labelling rules for video games ensure improved knowledge of the labelling systems and at the same time promote the effective functioning of the internal market; therefore welcomes the work of the Council and the Commission to promote the adoption of EU-wide labelling rules for video games and create a voluntary code of conduct on interactive games targeted at children;

8. Notes that market conditions have changed significantly from a situation where video games were predominantly bought in shops and played on a computer or console to the present situation where games can be bought and downloaded from the internet;

9. Notes that video games can be played on different platforms such as game consoles and personal computers, but also increasingly on mobile devices such as a mobile phone;

10. Recalls that video games are becoming more interactive or even have a dynamic content that allows users to develop parts of the game themselves; notes that users can increasingly take part in forum discussions, textual as well as voice chat, and in communities which are integrated into certain video games; recalls the differentiation in the market with more games designed especially for adults;

11. Takes the view that recent trends accentuate the importance of ensuring adequate protection of minors, *inter alia* by preventing them from possibly gaining access to harmful content;

12. Recalls that parental control is increasingly difficult as online video games are not distributed in a physical package with a clear and easily legible label and due to the fact that children can, without their parents' knowledge or consent, download video games that are not suitable for their age;

13. Notes that, whilst violence in video games does not automatically lead to violent behaviour, some experts are however of the opinion that long-term exposure to scenes of brutality in video games may have a negative impact on people playing these games, potentially leading to violent behaviour; notes, therefore, that a precautionary approach should be taken when considering the impact of games on behaviour, and especially on that of young children;

14. Emphasises that addiction is a problem for some gamers; calls on producers, retailers, parents and other stakeholders to take steps to avoid any negative effects;

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15. Underlines that current developments increase the need for effective working age verification systems for games and particularly for online games;

16. Takes the view that different approaches to strengthening the control of video games should be explored, while at the same time acknowledging that none of these systems is likely to provide an absolute guarantee that children will not gain access to inappropriate video games;

17. Calls on the Commission and Member States, in cooperation with the industry, to explore the merit of developing a 'red button' which can be included on (mobile) consoles or game devices and computers and which disables a certain game or which can control access to a game during certain hours or certain parts of the game;

18. Calls for additional efforts in this respect, including the possibility of integrating an acoustic warning into the Pan-European Game Information (PEGI) age rating system, and counts on the professional game sector to systematically integrate access models for online games in order to ensure that minors are not exposed to harmful content online;

19. Underlines the importance of adequate control measures for online purchases relating to video games, including purchases using credit cards or vouchers;

20. Takes the view that developments relating to video games, and in particular online video games, call for more public awareness of the content of video games, parental control and instruments such as the PEGI system; welcomes the work done by the industry to implement self-regulation;

21. Welcomes the PEGI Online system, which is a logical development of PEGI and which deals with video games made available over the internet, such as downloaded or online games; supports its continued co-financing by the Commission under the Safer Internet programme, the aim of which is to tackle issues relating to the safe use of the internet by children and to new online technologies; calls on the Commission, in connection with the Safer Internet programme, to promote a systematic study of the effects of video games on minors;

22. Welcomes the work by the Council of Europe to establish guidelines for video games as well as to promote knowledge among children on internet safety in general;

23. Considers that national information and awareness campaigns for consumers, particularly parents, should be organised in order to help them choose video games which are suitable for the age and knowledge requirements of their children and to avoid products which are not appropriately labelled; encourages the Member States to share best practices in this respect;

24. Takes the view that the PEGI system for rating games is an important tool which has improved transparency for consumers, especially parents, when buying games by enabling them to make a considered choice as to whether a game is suitable for children; regrets, however, that many consumers and especially parents do not seem to have a sufficient knowledge of video games and the possible effects of them on children;

25. Calls on the Commission to propose measures which contribute to a safer playing environment for online video games, including innovative methods of preventing minors from accessing online video games with content which is unsuitable for them;

26. Calls on the Member States to continue to work closely together to promote the protection of minors; calls on the video game and console industries to further improve the PEGI and PEGI Online systems and, in particular, to update regularly the criteria for age rating and labelling, to advertise PEGI more actively and to increase the list of signatories; urges the Member States to ensure that any national rating system is not developed in a way that leads to market fragmentation;

27. Calls on the Commission and the Member States to work with consumer organisations and other stakeholders to raise, by means of information campaigns, awareness among consumers, especially young consumers and their parents, of the classification systems in place and in particular the PEGI system; underlines the importance of providing this information in schools;

28. Urges the Member States to conduct information campaigns for parents and schoolteachers aimed at bridging the technological generation gap and at promoting the PEGI and PEGI Online systems and promoting safer, more aware use of new technologies, including video games;

29. Calls on the Commission to facilitate the exchange of best practice among competent national educational authorities in the short-term with a view to integrating gaming literacy within the educational objectives of primary and secondary schools; calls for a regular exchange of experience and information by all parties concerned with a view to developing best practices regarding video games;

30. Underlines that currently not all Member States have rules ensuring that retailers restrict the sale of violent games to adults, and calls for internet cafe owners to prevent children playing games which are rated for a higher age level in their cafes; refers to the Eurobarometer survey 'Towards a safer use of the Internet for children in the EU - a parents' perspective' ([1]), published on 9 December 2008, that found that 3,2 % of children aged between 6 and 17 access the internet in internet cafes without adult supervision; takes the view that a common approach towards severe sanctions for retailers and internet cafe owners is required; therefore calls on the Member States to put in place adequate measures to prevent children buying and playing games which are rated for a higher age level, for example through identity checks; supports the Commission's proposal to introduce a pan-European code of conduct for retailers and producers of video games in order to prevent the sale of violent and harmful video games to minors;

31. Calls on the Member States to frame specific civil and criminal legislation on the retailing of violent TV, video and computer games; considers that special attention should be paid to online games aimed primarily at children and young people whose purpose is to generate profit;

32. Calls on the Commission to discourage, through specific legislative measures, the misuse of online games for dishonest commercial activities, such as those which dishonestly induce underage users to enter into legal commitments (e.g. through automated subscriptions or malicious dialler programmes which dial expensive toll lines) and which send anti-competitive promotional messages (e.g. product placement or other stealth marketing techniques);

33. Calls on the Commission and the Member States to work with authorities in other parts of the world to encourage the adoption of international guidelines, labelling systems and codes of conduct to promote global classification systems for video games and online games;

34. Holds the view that the industry should be encouraged to further develop and improve self-regulatory systems and that there is currently no need for EU-wide legislation in this field;

35. Recalls the importance of the media promoting responsibility among parents and restricting the advertisement of adult videogames to times when TV is less watched by children;

36. Takes the view that the public authorities responsible for banning videogames should inform their counterparts in other Member States and publish the ban on the PEGI system by sending an automatic alert message;

37. Calls on the Commission to support, in the framework of the MEDIA programme and national tax exemption mechanisms, new developments in this fast-growing sector of the creative knowledge economy, in particular by promoting the educational, multimedia and cultural elements of videogames and by means of corresponding training opportunities and courses of study;

([1]) http://ec.europa.eu/public_opinion/flash/fl_248_en.pdf.

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38. Calls on the Commission to develop guidelines in order to prevent possible conflicts of interest within rating institutions and to safeguard the independence of such organisations from industry-related interest groups;

39. Instructs its President to forward this resolution to the Council and Commission and the governments and parliaments of the Member States.

Developing a Common Aviation Area with Israel

P6_TA(2009)0127

European Parliament resolution of 12 March 2009 on developing a Common Aviation Area with Israel (2008/2136(INI))

(2010/C 87 E/22)

The European Parliament,

— having regard to the Commission communication of 9 November 2007 entitled 'Developing a Common Aviation Area with Israel' (COM(2007)0691),

— having regard to its resolution of 17 January 2006 on developing the agenda for the Community's external aviation policy [1],

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism (A6-0090/2009),

A. whereas convergence of regulations is a precondition for the successful conclusion of comprehensive air agreements, especially in relation to regulations on safety, security, competition, State aid, the environment and the employment rights of workers,

B. whereas, when negotiating a comprehensive air transport agreement with Israel, the Commission has to draw on the expertise and information of Member States and other interested parties and has to involve them before, during and after negotiations,

C. whereas Israel is the most important aviation market in the Middle East with a strong growth potential, and whereas it has a strategic position as a bridge between Europe and the Middle East and towards regions which are further away,

1. Welcomes the commencement of the negotiations with Israel on a comprehensive air transport agreement;

2. Stresses the importance of the agreement in terms of creating the conditions for extending the Common Aviation Area;

3. Emphasises that the agreement should not limit the level of market access already achieved in the existing bilateral agreements;

[1] OJ C 287 E, 24.11.2006, p. 84.

4. Stresses that the agreement should be balanced in terms of market access; furthermore market opening needs to be phased, reciprocal and sustainable;

5. Emphasises that the opening-up of markets must always follow regulatory convergence with regard to safety, security, environmental, State aid and competition law aspects, and also the employment rights of the workers, and that the degree of liberalisation has to be linked to the degree to which a level playing field is achieved in these areas;

6. Recognises that for long and medium haul air routes, the aviation sector is the fastest way to connect countries, places and people and will continue to be the most attractive means of transport in terms of speed and cost in the future;

7. Recognises the important contribution of the aviation sector in creating work, both directly and indirectly, particularly linking places of the world where no other competitive means of transport is now available; nonetheless encourages the use and development of intermodality and other means of transport;

8. Recognises that the aviation sector has certain negative environmental effects, in particular as a source of noise and as a significant contributor to pollutant emissions; therefore considers it essential that the agreement allows for the possibility to take action within the European Union with respect to environmental issues in order to mitigate the impact of aviation on water, air quality and noise levels;

9. Underlines that the agreement should provide for stringent air safety and security rules;

10. Stresses that negotiations should be carried out in close cooperation with the Member States, given that they have the necessary expertise and experience to assist with such negotiations;

11. Calls on the Commission to ensure that the Parliament and all relevant stakeholders are fully informed and consulted throughout the negotiations;

12. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the government and parliament of the State of Israel.

Sri Lanka

P6_TA(2009)0129

European Parliament resolution of 12 March 2009 on the deteriorating humanitarian situation in Sri Lanka

(2010/C 87 E/23)

The European Parliament,

— having regard to Rules 91 and 90(4) of its Rules of Procedure,

A. whereas an estimated 170 000 civilians find themselves in an emergency situation, trapped in the battle zone between the Sri Lankan army and the forces of the Liberation Tamil Tigers of Eelam (LTTE) without access to the most basic aid,

B. whereas UN agencies have documented more than 2 300 civilian deaths and at least 6 500 injuries since late January 2009,

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1. Calls for an immediate ceasefire by the Sri Lankan army and the LTTE in order to allow the civilian population to leave the combat zone; condemns all acts of violence and intimidation which are preventing civilians from leaving the conflict area;

2. Condemns the attacks on civilians as documented by the International Crisis Group;

3. Calls on both sides to respect international humanitarian law and to protect and assist the civilian population in the combat zone, as well as in the safe zone;

4. Is concerned about reports of serious overcrowding and poor conditions in the refugee camps established by the Sri Lankan Government;

5. Demands that international and national humanitarian organisations, as well as journalists, be granted full and unhindered access to the combat zone and to the refugee camps;

6. Calls on the Sri Lankan Government to cooperate with countries and aid organisations that are willing and able to evacuate civilians;

7. Instructs its President to forward this resolution to the Council, to the Government of Sri Lanka, to the Secretary-General of the United Nations and, for information, to the Commission.

Deterioration of agricultural land in the EU

P6_TA(2009)0130

European Parliament resolution of 12 March 2009 on the challenge of deterioration of agricultural land in the EU and in particular in southern Europe: the response through EU agricultural policy instruments (2008/2219(INI))

(2010/C 87 E/24)

The European Parliament,

— having regard to the UN Convention to Combat Desertification Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, adopted in 1994, and the UN Convention on Biological Diversity, adopted in 1992,

— having regard to its position, adopted at first reading on 14 November 2007 with a view to the adoption of a Directive of the European Parliament and of the Council establishing a framework for the protection of soil [1],

— having regard to its resolution of 9 October 2008 on addressing the challenge of water scarcity and droughts in the European Union [2],

— having regard to Rule 45 of its Rules of Procedure,

— having regard to the report of the Committee on Agriculture and Rural Development and the opinion of the Committee on the Environment, Public Health and Food Safety (A6-0086/2009),

A. whereas farming is an economic sector that is heavily dependent on natural phenomena and which, at the same time, offers extensive scope for intervention,

[1] OJ C 282 E, 6.11.2008, p. 281.
[2] *Texts adopted*, P6_TA(2008)0473.

B. whereas agriculture is the best means of preventing soil deterioration, and whereas this calls for a reasoned strategy that will help maintain this activity,

C. having regard to the role EU of farmers in fighting desertification, to the key role of EU producers in preserving surface vegetation in areas affected by persistent drought, and to the particular benefits afforded by permanent crops, meadows and woodlands for the capturing of water,

D. whereas, in particular, agricultural soils in southern Europe and other regions of the Member States are at the centre of a process of environmental degradation brought about by negative interactions between human activity and climate events,

E. whereas over-intensive farming can contribute to soil erosion, rendering it non-productive,

F. whereas desertification is now considered to be one of the most significant threats in terms of land deterioration in the Mediterranean countries,

G. whereas soil is the basis for the production of human foodstuffs, fodder, textiles and fuels, and whereas it plays an important role in CO_2 capture; whereas, however, soil is now more than ever at risk of irreversible damage caused by wind and laminar erosion, pollution, salinisation, sealing, depletion of organic substances and the loss of soil biodiversity,

H. whereas the adverse effects identified to date are disruption of the hydrogeological balance, the infiltration of seawater into coastal aquifers, soil salinisation, agricultural land loss, a reduction in biodiversity, as well as greater vulnerability to fire, plant disease and animal disease,

I. whereas the above changes in the interaction between the natural/human environment and agricultural production are having a major impact on arable and livestock farming systems, agricultural land use and the supply of foodstuffs, with obvious repercussions for food security, and the social, cultural and economic structures of the areas concerned as a result of population exodus, as well as hydro-geological consequences,

J. whereas irrigation also serves to maintain soil humidity and to recharge aquifers, and whereas these factors should be taken into account when shaping the common agricultural policy (CAP),

K. whereas water shortages and drought result in even higher prices for agricultural raw materials, and aware of the need to ensure secure food supplies for the population,

L. whereas farming and forestry management provides opportunities for action to affect the overall carbon balance that can help to reduce greenhouse gas emissions,

M. recalling the existence of the above-mentioned United Nations Convention to Combat Desertification, whose objective is to combat the deterioration of arable land and drought, and recalls Parliament's support for this convention,

N. recognising the role of the Water Framework Directive (Directive 2000/60/EC [1]) as a regulatory framework and a basic instrument for soil protection, promoting interregional cooperation, the sustainable use of water and the protection of available water resources whilst at the same time helping to mitigate the effects of floods and drought,

O. whereas an integrated, multidisciplinary approach is required in order to avoid being forced to look for emergency solutions, which can generate further adverse impacts and damaging chain reactions,

[1] OJ L 327, 22.12.2000, p. 1.

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P. whereas the situation needs to be monitored to identify changes in existing phenomena and the emergence of new risk situations, making specialised use of satellite readings and geological and biochemical models (mapping),

Q. whereas extreme weather conditions have become more common, with an alternation between periods of drought and extreme rainfall events, which speed up lithosphere degradation processes, in particular in areas where soils are structurally more vulnerable in both northern and southern Europe,

R. whereas there has been a worldwide increase in food demand and prices,

1. Considers that CAP guidelines and management methods should explicitly include principles and instruments for climate protection in general and reduction of damage resulting from soil degradation in particular;

2. Stresses that Community funding for measures to adjust the agricultural sector to climate change must be based on a territorial approach which takes account of the level of vulnerability of the EU regions; points out that, according to reliable assessments at international and European level, the agricultural soils of southern Europe are more susceptible to climate change;

3. Regrets the short-sighted attitude of the heads of State and government in deciding to reduce funding for rural development; notes that the resources provided for under the second pillar are too limited for tackling the new challenges arising from climate change;

4. Considers that the present problems, including food shortages, water scarcity, the rise in temperatures and evapotranspiration and the risk of soil degradation, require new, integral and scientific agricultural policies applicable to Mediterranean climatic conditions, and that, with the help of European Union and national institutions, these policies need to reflect research and development on crops locally adapted to the new environmental challenges, in areas including water saving, while giving enough revenue to farmers to maintain a European standard of living;

5. Takes the view that, within the context of soil conservation strategy, the 'good agricultural and environmental condition' principles established under the CAP should lay greater emphasis on measures to check and improve the operability and ecological sustainability of existing drainage systems by drawing up ecologically sustainable water management plans geared to local conditions and advising farmers in drought-threatened areas on the successful cultivation of water-saving crops suited to local conditions;

6. Believes that the EU should provide greater support for improving water management in respect of agricultural land; stresses that this will necessitate creating incentives for introducing more efficient irrigation systems adapted to different crops, promoting appropriate research, and encouraging ways of building on advances in biotechnology;

7. Considers that 'micro' reservoirs for irrigation (hill reservoirs) and for firefighting, to be managed by the relevant local agencies, should be built above areas requiring irrigation, thus enabling gravity to be used so as to keep operating costs to a minimum, with use being made, wherever possible, of urban waste water treated using plant-based and surface impoundment techniques;

8. Notes the importance of terraces in combating erosion and increasing the water-storage capacity of soil and considers that measures should be taken to maintain, restore and build them;

9. Takes the view that agricultural and forestry systems should include programmes for the forestation of marginal and/or polluted farm land, given that shrub roots can anchor the unstable upper layer to the stable underlying rock, which acts as a purifying substrate;

10. Advocates a Community forestry policy grounded primarily in the need to tackle climate change;

11. Believes it is also necessary to encourage agricultural measures aimed at ensuring the preservation of surface vegetation, so as to prevent salinisation of groundwaters arising from erosion;

12. Points out that many Mediterranean shrub species have good fire resistance properties and excellent vegetal recovery capacities and should therefore be promoted, particularly since their root systems are well-suited to the task of combating soil erosion;

13. Takes the view that, to this end, the aim should be to cultivate varieties which require less water or, in certain circumstances, to replace spring crops with winter crops, which not only require less irrigation but also effectively protect the soil by means of vegetative cover during the critical erosion period of winter;

14. Takes the view that local nurseries are able to produce ecotypes that are better suited to the local environment, and that specific measures should be taken to encourage them to do so;

15. Calls for the promotion of the preservation and planting of hedgerows, particularly in areas where these have been lost over recent years;

16. Acknowledges the important role which plant genetic resources can play in helping land management adjust to changing climatic conditions; calls on the Commission and the Member States, therefore, to draw up programmes to foster the conservation and further development of plant genetic resources by farmers and gardeners and by small- and medium-sized nurseries;

17. Points to the importance of set-aside areas for the recovery of agricultural land and for water retention; calls on the Commission and the Member States concerned to encourage agricultural systems that are adapted to the land in Mediterranean ecosystems;

18. Considers that, among the criteria for retaining organic matter in soil, the CAP 'good agricultural and environmental condition' principles should provide incentives for carbon absorption and fixation based on optimum use of dryland farming techniques (minimum tilling, crop rotation, genotypes suited to the local environment, evapotranspiration control, targeted fertilisation, integrated control, etc.);

19. Calls on the relevant bodies at territorial level to gear irrigation water management plans and usage techniques to the new environmental requirements and conditions, to ensure that targeted, quality-based use is made of water resources and to take steps to ensure that irrigation water management bodies optimise the management of available water resources, taking account of the need to reduce waste in water distribution systems;

20. Advocates the creation of a Community drought monitoring centre, as a special department within the European Environment Agency in Copenhagen, and the reinforcement of the Union's coordinated reaction capacity in facing forest fires, given that both phenomena are major causes of desertification and the deterioration of agricultural land, especially in the Mediterranean regions;

21. Underlines the need to improve the effectiveness of information supplied by Member States and the coordination between them;

22. Recommends the development of a rapid alert and continuous surveillance system for soil conditions so that timely action can be taken to combat erosion, the depletion of organic matter resulting in greenhouse gas emissions and the loss of arable land and biodiversity;

23. Calls on the Commission, in connection with the proposal for a new definition of mountain areas and other areas with natural handicaps it is to submit in 2009, to include among the priority evaluation criteria the level of risk of soil degradation and desertification in the areas subject to monitoring;

24. Considers it necessary to strengthen research, development and innovation, paying particular attention to the areas most affected by water scarcity and drought and taking account of biotechnological progress;

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25. Calls on the Commission to look into, during the mid-term review of the Seventh Framework Programme for research, technological development and demonstration activities, scheduled for 2009, the provision of greater incentives to support research and development programmes conducted by more and more Member States and aimed at improving knowledge with a view to ensuring more sustainable management of soils and areas affected by degradation;

26. Asks the Commission to consider the need to create a framework to combat the causes and effects of climatic change, in particular soil deterioration.

27. Considers that appropriate training and refresher programmes should be provided for both those working in the sector and the general public, with the dual aim of seeking specific solutions and raising user awareness of the shared responsibility for environmental resource use;

28. Calls on the Union to implement information and training measures aimed in particular at young farmers with a view to promoting the introduction of agricultural techniques favourable to soil conservation, especially regarding the impact of climate change and the role played by farming in climate;

29. Recalls, in line with its resolution of 5 June 2008 on the future for young farmers under the ongoing reform of the CAP [1], that priority should be given, in the allocation of project funding, to activities that can encourage young people to set up in farming;

30. Considers that the Union should strengthen and improve feed and food autonomy and self-sufficiency, including by ensuring better protection for agricultural soils and their productivity and, in particular, by fostering the sustainable use of grassland for stock farming (by means of free-range meat programmes, premiums to reward grazing practices consistent with nature conservation, etc.) in order to achieve a greater degree of feed autonomy; takes the view that, with a view to contributing to food security and sustainability throughout the world, the CAP must seek to strike a balance between plant production, animal production and energy production in the EU farming industry;

31. Calls, in the framework of a global CO_2 market, for the promotion of the preservation and regeneration of forests and reafforestation using mixed species, primarily in Member States which have lost their natural forest heritage, and underlines the need to launch an integrated, sustainable forest management system in the European Union;

32. Underlines the role of forests in the water cycle and the importance of a balanced mix of forests, grassland, pasture and crop land for sustainable water management; highlights, in particular, the role of soils with high organic content and adapted crop rotation; warns that the increasing exploitation of land is a threat to agriculture, food security and sustainable water management;

33. Calls, with reference to farming activities relating to the maintenance of fields, permanent grazing land and wooded areas, for it to be made possible for the issue of green certificates to be tied to the production of public goods (carbon dioxide storage, biodiversity, soil conservation);

34. Calls on the Member States to use the second pillar of the CAP in order to award premiums for farming activities relating to the maintenance of fields, permanent grazing land and wooded areas and, in this way, to contribute to the production of public goods (carbon dioxide storage, biodiversity, soil conservation); calls on the Commission to treat the maintenance of grassland as a priority;

35. Calls on the Council and Commission to explore strategies for the recovery of damaged soil on the basis of incentive measures to limit soil deterioration;

36. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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[1] *Texts adopted*, P6_TA(2008)0258.

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Employee participation in companies with a European Statute

P6_TA(2009)0131

European Parliament resolution of 12 March 2009 on employees' participation in companies with a European statute and other accompanying measures

(2010/C 87 E/25)

The European Parliament,

— having regard to the Commission Communication of 25 June 2008 entitled 'Think Small First' - A 'Small Business Act' for Europe (COM(2008)0394) and the Commission's 2008 and 2009 Work Programmes,

— having regard to Rule 103(2) of its Rules of Procedure,

A. whereas a Statute for a European Private Company (SPE) will facilitate SME business in the internal market, but will also be accessible for larger companies,

1. Calls on the Commission, on the basis of Article 138 of the EC Treaty, to initiate a consultation with the social partners, with a view to evaluating and where necessary streamlining, creating or reinforcing the provisions for employees' participation in the internal market;

2. Calls on the Commission to assess the impact of the existing European company statutes and relevant rulings of the European Court of Justice (for example, the 'Daily Mail and General Trust', 'Sevic Systems', 'Inspire Art', 'Überseering', and 'Cartesio' cases) as regards employees' participation in boards of companies and possible avoidance or circumvention of the relevant national provisions;

3. Calls on the Commission to assess crossborder problems with regard to corporate governance, tax law and employees' financial participation in shareholding programmes related to the above-mentioned proposed consultation; calls for a possible review and/or new proposals to be discussed with the Council and Parliament;

4. Calls on the Commission to assess whether to introduce a rule for the SPE statute according to which the reimbursement of a loan or other contribution by a shareholder should be subordinated where a contribution to the share capital would have been more appropriate (that is, in the case of over-indebtedness of the company itself); believes that consideration should be given to the introduction of a rule whereby the shareholder has to return the reimbursement received if it was paid within a period close to the insolvency of the company;

5. Instructs its President to forward this resolution to the Council and the Commission.

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Children of Migrants

P6_TA(2009)0132

European Parliament resolution of 12 March 2009 on migrant children left behind in the country of origin

(2010/C 87 E/26)

The European Parliament,

— having regard to the United Nations Convention of 20 November 1989 on the Rights of the Child, in particular Articles 3 and 20 thereof,

— having regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, in particular Articles 38, 42 and 45 thereof,

— having regard to the Charter of Fundamental Rights of the European Union, in particular Article 24 thereof,

— having regard to Rule 108(5) of its Rules of Procedure,

A. whereas the free movement of workers is beneficial for the economies of all Member States and offers to EU citizens the opportunity for economic and personal development,

B. whereas these positive effects may be reduced by undesired side-effects of migration, among them the poor living conditions of the children that remain in the country of origin when their parents migrate to another Member State,

C. whereas labour migration has steadily increased over the past decades and nowadays most of the world's international migrants – 64 million – reside in the European Union,

D. whereas migration has a huge potential to enhance development but also leads to problems, as yet unresolved, in both the country of origin and the country of destination,

E. whereas, according to a study made by UNICEF and Social Alternatives in Romania, in 2008 almost 350 000 children had at least one parent who was working abroad, and nearly 126 000 were affected by the migration of both parents,

F. whereas migration can have a positive impact on households in the country of origin, because through remittances and other channels it reduces poverty and increases investment in human capital,

G. whereas, however, for the children that are left behind by parents working in another Member State, there are also possible negative aspects including the risk of general lack of care as regards physical and mental health, and mental-health related effects of depression, the loss of free time to play and develop, lack of school participation and general participation in education and training, malnutrition and child abuse,

H. whereas, while there is a comprehensive policy in place to improve the living conditions and education of migrant children who move with their parents to the country of destination, the phenomenon of children left behind in the country of origin has received little attention,

I. whereas children are often left behind in the country of origin due to lack of information on opportunities and benefits offered by the countries of destination,

1. Calls on the Commission to undertake a study to assess the extent, at EU level, of the phenomenon of migrants' children left behind in the country of origin and to collect EU-wide data on this phenomenon;

2. Calls on the Member States to take steps to improve the situation of the children left by their parents in the country of origin and to ensure their normal educational and social development;

3. Calls on the Member States to set up cooperation mechanisms to prevent the detrimental effects on families (and especially children), of living apart and of the distances they have to bridge;

4. Calls on the Member States to inform migrants better about their rights and the rights of their family members concerning free movement and about the information available at national and European level on living abroad and the terms and conditions of working in another Member State;

5. Calls on the Commission to propose to all interested parties the adequate application of the already existing means to help migrants and their children who remain in the country of origin;

6. Calls on the Commission and the Member States to actively involve the social partners and NGOs in actions targeting the improvement of migrants' children;

7. Instructs its President to forward this resolution to the Commission, the Council, the Committee of the Regions, the European Economic and Social Committee, the governments and parliaments of Member States and the social partners.

Croatia: progress report 2008

P6_TA(2009)0133

European Parliament resolution of 12 March 2009 on the Croatia 2008 progress report

(2010/C 87 E/27)

The European Parliament,

— having regard to the decision adopted by the Council on 3 October 2005 to open accession negotiations with Croatia,

— having regard to its resolution of 10 April 2008 on Croatia's 2007 progress report [1],

— having regard to the Croatia 2008 Progress Report, published by the Commission on 5 November 2008 (SEC(2008)2694),

— having regard to Rule 103(2) of its Rules of Procedure,

A. whereas Croatia has made substantial progress across the board in all three areas covered by the Copenhagen criteria,

B. whereas these considerable achievements need to be consolidated and matched by sustained efforts to adopt and implement the reforms addressed in the Commission's report and in this resolution,

C. whereas the EU has taken steps to enhance the quality of the enlargement process,

[1] Texts adopted, P6_TA(2008)0120.

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D. whereas the Commission Communication of 6 November 2007 entitled 'Enlargement Strategy and Main Challenges 2007-2008' (COM(2007)0663) lays great emphasis – from the early stages of the accession negotiations – on the rule of law and good governance, with particular reference to combating corruption and organised crime, to administrative and judicial reform and to the development of civil society,

E. whereas the conclusion by 2009 of accession negotiations with Croatia must remain the common objective of all the parties involved,

F. whereas the killings and attacks that took place in 2008 have highlighted the need to tackle seriously and expeditiously corruption and organised crime in Croatia,

G. whereas a new Minister of the Interior, a new Minister of Justice and a new Head of the Police have been appointed and entrusted with the task of addressing these issues,

General remarks

1. Commends Croatia for the good results it has achieved during 2008 in adopting the legislation and carrying out the reforms required to qualify for EU membership;

2. Is particularly pleased to note that legislative and regulatory work has finally been matched by efforts to strengthen and improve the administrative capacity required to implement such reforms;

3. Is confident that the goal of concluding negotiations in 2009, in accordance with the indicative road map published by the Commission, can be achieved, provided the Government of Croatia steps up its efforts to address particularly the more sensitive issues linked to the accession process, including fighting organised crime and corruption, and finally meets the benchmarks in these areas, and also provided the Council is willing and able to open all negotiation chapters without further delay;

4. Welcomes the Commission's recommendation that the Council should set up the ad hoc technical working party in charge of drafting the Accession Treaty; also recommends that this group should work in parallel with the negotiations and therefore start its work during the first half of 2009; in addition, welcomes the Commission's intention to present a communication in the course of 2009 detailing the financial impact of the accession of Croatia to the EU;

Political criteria

5. Is satisfied with the progress achieved as regards the adoption of key documents and key legislation in certain areas, notably anti-discrimination, women's rights, minority rights and return of refugees; points out that swift and effective implementation is now crucial;

6. Points, however, at the need to pursue the reform of public administration with the introduction of a new salary system and a comprehensive overhaul of administrative procedures in order to increase transparency, accountability and de-politicisation of the Croatian civil service; calls for specific attention to be paid to the regional and local administrations since their ability to take on new responsibilities is crucial to the success of the decentralisation process;

7. Underlines the importance of providing legal certainty and equality before the law to foreign investors, and in this context urges the Croatian authorities to address promptly the outstanding cases concerning property restitution, in line with the relevant rulings of the Croatian Constitutional Court;

8. Believes that more earnest efforts need to be made in the judicial sector in order to address the root causes of the backlog and of the excessively long judicial procedures, to kick-start a serious and comprehensive court rationalisation, covering all types of courts, to introduce an objective and transparent selection procedure as well as individual evaluation and promotion criteria for judges, to ensure that war crimes are treated in accordance with common standards, irrespective of ethnicity, and, finally, to find ways of addressing the problem of *in absentia* verdicts and trials, notably by means of strengthened regional cooperation;

9. Takes note of the statement made by the Prosecutor of the International Criminal Tribunal for the former Yugoslavia before the United Nations Security Council on 12 December 2008, in which he indicates that Croatia has responded to most requests for assistance made by the Office of the Prosecutor, whilst pointing out that certain key military documents relating to the Gotovina case remain unaccounted for; urges the Government of Croatia to step up its efforts to make these key documents available immediately to the Tribunal;

10. Welcomes the fact that the Croatian Government has finally taken additional measures to tackle corruption and organised crime; emphasises that the increased investigative and prosecutorial activities of the Office for the Fight against Corruption and Organised Crime (USKOK) must be matched by equal police and judicial efforts if these activities are to produce results; is of the opinion that zero tolerance must be shown at all levels and that verdicts must be reached and enforced, including the seizure of assets; welcomes in this regard the adoption of legislation relating to the temporary freezing of assets of all individuals accused of corruption and organised crime;

11. Is pleased to note the official opening in four different courts of departments dealing specifically with the fight against corruption and organised crime, and that the sixty judges assigned to these departments have been vetted and will receive substantial financial incentives to reflect the complexity and sensitivity of the tasks they have to carry out;

12. Calls in this context on the Croatian Government to ensure that the police and the judiciary are granted the freedom and independence of action as well as the human and financial resources needed in order to accomplish their mandate in the fight against corruption and organised crime;

13. Is satisfied with the freedom of the press in Croatia but draws attention to recent cases of intimidation and even killings of journalists investigating cases of corruption and organised crime; calls on the police and the judiciary to take resolute action to investigate and prosecute these cases so as to re-establish a positive climate in the country and to ensure continuing compliance with the political criteria for accession; stresses in this regard the need for full protection of human rights, which are not politically negotiable;

14. Is pleased with the Croatian Government's adoption of an action plan for the implementation of the constitutional law on national minorities and with the increase in funding; urges the Croatian authorities to implement the plan in close consultation with non-governmental organisations representing the minority communities; emphasises, moreover, the need to concentrate on the economic and social rights of minorities, in particular their access to employment, and to devise a long-term strategy for employment of members of minorities in public administration and the judiciary; calls, furthermore, for the Councils on National Minorities to enjoy budgetary autonomy from the local authorities they are expected to advise, so that they can exercise their mandate in full independence;

15. Welcomes the achievements made in the area of the policy on minorities in Croatia, in particular the fact that both educational opportunities and parliamentary representation have been secured for the minorities in the country;

16. Welcomes the continuing progress as regards the education of minorities; is concerned, however, that current structures maintain segregation rather than aiming at integration of different ethnic groups (e.g. by means of shared classes); is also concerned, particularly in the case of Roma, that these arrangements might lead to a quality of education inferior to that in mainstream classes;

17. Takes note that, whilst tangible results have been achieved in providing the conditions for refugee returns, much remains to be done in order to make these returns sustainable in terms of housing, particularly for former holders of tenancy rights in urban areas, of integration, and of access to the labour market; stresses the need to implement the return programmes in a manner coherent with other social and employment programmes;

18. Welcomes, furthermore, the adoption of comprehensive anti-discrimination legislation and attaches great importance to the implementation of its provisions in fact; calls on the authorities, at national and local level, to show zero tolerance towards episodes of racial hatred and any other form of hatred and ensure that such episodes are duly prosecuted; invites the national authorities, furthermore, to protect the rights of sexual minorities;

Economic criteria

19. Is encouraged by the increase in employment and the sustained economic growth recorded by Croatia; points, nevertheless, to persisting high unemployment rates amongst young people and minorities and to the impact which higher food prices and, more generally, inflation are having on the livelihood of ordinary citizens;

20. Points to the need to tackle the growing trade and current-account deficits, as well as external debt, which make the Croatian economy more vulnerable and exposed to risks; emphasises that, in order to maintain the current economic growth level and enable Croatia to catch up with EU Member States, it will be necessary to accelerate the pace of structural reforms;

21. Draws attention to the need to promote, in close consultation with all stakeholders, a policy reconciling energy security with sustainable development; calls on the Croatian authorities to comply with the goals laid down in the EU climate package and give adequate priority to energy efficiency and renewable sources of energy, particularly in coastal areas; reminds Croatia of the financing opportunities offered by the EU for the Mediterranean in this respect; welcomes the adoption of an action plan for implementing the Kyoto Protocol and calls on the authorities to take all appropriate steps effectively to reduce industrial emissions;

Ability to assume the obligations of membership

22. Is generally pleased with the overall pace of legislative alignment; believes, however, that greater attention should be paid to the quality of legislation; encourages the Croatian authorities to pursue their efforts to develop the administrative capacity required to implement the *acquis*;

23. Welcomes the progress in the privatisation process underway in the steel and telecommunications industries and the decision by the Croatian authorities to proceed with tenders for the privatisation of the Croatian shipyards, which should be completed in 2009, and emphasises that the sale of shipyards must take place in full transparency and in compliance with EU competition standards; calls on the Croatian Government, with the support of the Commission, to adopt specific measures to offset the social costs of the restructuring; invites the Commission and the Council to take into account the current economic and financial crisis when reviewing progress by Croatia in implementing the necessary reforms;

24. Notes that progress in the agricultural sector has been uneven, with the situation in the areas of quality policy and organic farming being well advanced while the capacity to absorb rural development funds needs to be improved; stresses that increased administrative capacity and reform of the agricultural support systems are necessary in order to achieve a smooth transition to the EU Common Agricultural Policy regime and to minimise the social impact of such a transition;

25. Invites the Croatian authorities to show good absorption of EU pre-accession funds and to prepare at all levels – central, regional and local – the structures and know-how required for the EU Structural and Cohesion Funds;

Regional Cooperation

26. Deeply regrets that accession negotiations have been effectively blocked for a considerable time because of bilateral issues;

27. Underlines that bilateral issues should not be an obstacle to progress in accession negotiations, provided these negotiations are not used to pre-empt the final settlement of such issues; urges, nevertheless, the Croatian Government and the governments of the neighbouring countries to solve expeditiously all their outstanding issues;

28. Stresses that good neighbourly relations remain a key element of the European integration process, and invites Croatia and its neighbours actively to promote cooperation in the region and to invest more in cross-border cooperation projects;

29. Recalls the informal agreement reached on 26 August 2007 by the Prime Ministers of Croatia and Slovenia on the submission of their border dispute to an international body; welcomes the readiness of Croatia and Slovenia to accept the mediation offer made by the Commission and takes the view that this mediation should be based on international law; in this context, looks forward to a rapid advancement of the accession negotiations;

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30. Instructs its President to forward this resolution to the Council, the Commission and the Government and Parliament of Croatia.

Turkey: progress report 2008

P6_TA(2009)0134

European Parliament resolution of 12 March 2009 on Turkey's progress report 2008

(2010/C 87 E/28)

The European Parliament,

— having regard to the Turkey 2008 Progress Report published by the Commission on 5 November 2008 (SEC(2008)2699),

— having regard to its previous resolutions of 27 September 2006 on Turkey's progress towards accession ([1]), of 24 October 2007 on EU-Turkey relations ([2]) and of 21 May 2008 on Turkey's 2007 progress report ([3]),

([1]) OJ C 306 E, 15.12.2006, p. 284.
([2]) OJ C 263 E, 16.10.2008, p. 452.
([3]) Texts adopted, P6_TA(2008)0224.

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— having regard to the Negotiating Framework for Turkey, approved on 3 October 2005,

— having regard to Council Decision 2008/157/EC of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey [1] ('the Accession Partnership'), as well as to the previous Council decisions on the Accession Partnership of 2001, 2003 and 2006,

— having regard to Rule 103(2) of its Rules of Procedure,

A. whereas accession negotiations with Turkey were opened on 3 October 2005 after approval by the Council of the Negotiating Framework, and whereas the opening of those negotiations was the starting-point for a long-lasting and open-ended process,

B. whereas Turkey has committed itself to reforms, good neighbourly relations and progressive alignment with the EU, and whereas these efforts should be viewed as an opportunity for Turkey itself to further modernise,

C. whereas full compliance with all the Copenhagen criteria and EU integration capacity, in accordance with the conclusions of the December 2006 European Council meeting, remain the basis for accession to the EU, which is a community based on shared values,

D. whereas the Commission concluded that 2008 had been marked by strong political tensions, and that the Turkish government had not, despite its strong mandate, put forward a consistent and comprehensive programme of political reforms,

E. whereas Turkey has still not implemented the provisions stemming from the EC-Turkey Association Agreement and the Additional Protocol thereto,

F. whereas four negotiating chapters were opened in 2008,

1. Is concerned to see in Turkey, for the third consecutive year, a continuous slowdown of the reform process, and calls on the Turkish government to prove its political will to continue the reform process to which it committed itself in 2005; stresses that such modernisation is first and foremost in Turkey's own interest and for the benefit of Turkish society as a whole;

2. Is concerned by the ongoing polarisation within Turkish society and between the main political parties, which has deepened in the course of 2008 and has negatively affected the functioning of the political institutions and the process of reforms;

3. Stresses that political reforms are at the heart of the reform process, and welcomes the fact that the Turkish government prepared and approved the National Programme for the Adoption of the Acquis;

4. Urges the leaders of the political parties to seriously seek dialogue and to agree, in a spirit of compromise, on a reform agenda for the modernisation of Turkey towards a stable, democratic, pluralist, secular and prosperous society, guided by respect for human rights and fundamental freedoms, and based on the rule of law;

[1] OJ L 51, 26.02.2008, p. 4.

I. Fulfilling the Copenhagen Criteria

Democracy and the rule of law

5. Regrets that the initial effort to reform comprehensively the constitution resulted in dispute over the headscarf issue and generated further polarisation of society; calls on the Turkish government to resume its work on a new, civilian constitution which would place the protection of human rights and fundamental freedoms at its core, and urges the government to ensure that political parties and civil society, as well as ethnic and religious minorities, are closely involved in this constitutive process;

6. Is concerned by the closure cases opened in 2008 against two parliamentary parties, especially the case still pending against the Democratic Society Party (DTP); emphasises the need to amend, as a matter of priority, the legislation on political parties so as to bring it fully into line with the case-law of the European Court of Human Rights (ECtHR)and the recommendations of the Council of Europe's Venice Commission;

7. Calls on the Turkish authorities to take all necessary steps to allow all parties taking part in elections to be represented within the electoral commission;

8. Regrets that no progress has been made on establishing full systematic civilian supervisory functions over the military and on strengthening the parliamentary oversight of military and defence policy;

9. Notes the progress made with regard to the development of a judicial reform strategy; points out, however, the urgent need for further systematic efforts to enhance the impartiality and professionalism of the judiciary, and to ensure that members of the judiciary refrain from interfering in political debate and that they respect the standards of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR);

10. Regrets that no progress has been made on establishing the Ombudsman's office; takes note of the negative decision of the Constitutional Court on the Ombudsman Law, and urges the Turkish government to reintroduce as soon as possible the necessary legislation to establish this office, as supported by both the government and the parliament in the past;

11. Regrets that the Turkish government has not presented any comprehensive anti-corruption strategy; underlines the need to strengthen parliamentary oversight over public expenditure and the need for new legislation in respect of the Court of Auditors;

12. Welcomes the beginning of the trial against those accused of being members of the Ergenekon criminal organisation; encourages the authorities to continue investigations and to fully uncover the organisation's networks which reach into the state structures; is concerned about reports regarding the treatment of defendants in this case; urges the Turkish authorities to provide them with a fair trial and to adhere strictly to the principles of the rule of law;

Human rights and respect for, and protection of, minorities

13. Regrets that freedom of expression and freedom of the press are still not fully protected in Turkey; is of the view that freedom of the press in a democratic, pluralistic society is served neither by frequent website bans nor by pressures on and lawsuits against critical press; is also of the opinion that the amendment to Article 301 of the Penal Code, adopted in April 2008, was not sufficient, as people continue to be prosecuted for expressing non-violent opinions on the basis of this as well as of other articles of the Penal Code, the Anti-Terror Law or the Press Law, such as the 1995 Sakharov Prize for Freedom of Thought laureate Leyla Zana; reiterates that the repeal of Article 301 as well as a fundamental reform of the Penal Code and of other laws used to arbitrarily restrict non-violent opinions is needed, so as to ensure that freedom of expression is fully respected in line with ECHR standards;

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14. Welcomes the apologies offered by the Minister of Justice, Mehmet Ali Sahin, on behalf of the government to the family of Engin Ceber, who died in prison as a consequence of abuse; joins the Human Rights Committee of the Turkish Parliament in its concern over the failure of the judiciary to prosecute cases of torture and ill-treatment, the number of which is growing; calls on the Turkish government to undertake further systematic efforts to eliminate torture and ill-treatment, inside and outside official places of detention, and to end the culture of impunity; stresses in this regard that ratification and implementation of the Optional Protocol of the UN Convention against Torture would increase considerably the credibility of these efforts; is also concerned about excessive use of police force in dealing with public demonstrations;

15. Welcomes the work done by the Human Rights Investigation Committee of the Turkish Grand National Assembly in its investigation of torture and ill-treatment in prisons and of the murder of journalist Hrant Dink; urges the Turkish authorities to follow up fully the findings of the Committee's reports, as well as the findings of the report of the Prime Ministerial Inspection Board; also takes the view that the hypothesis of Ergenekon's involvement should be taken more seriously when considering other unsolved cases, such as the murder of Hrant Dink;

16. Welcomes the adoption in February 2008 of the Law on Foundations and appreciates the Commission's assessment that the Law on Foundations addresses a number of outstanding property-related issues concerning non-Muslim communities; urges the Turkish government to ensure that the law is implemented in line with ECtHR case-law, and to tackle the so far unresolved issue of properties seized and sold to third parties as well as that of properties of foundations fused before the adoption of the new legislation;

17. Reiterates that a legal framework developed in line with ECtHR case-law is still needed so as to enable all religious communities to function without undue constraints, in particular as regards their legal status, training of clergy, election of their hierarchy, religious education and the construction of places of worship; encourages Turkish authorities, all political parties, civil society and the communities concerned to engage in creating an environment conducive to full respect for freedom of religion in practice; reiterates its call for the immediate re-opening of the Greek Orthodox Halki Seminary and the public use of the ecclesiastical title of the Ecumenical Patriarch; welcomes the recent initiatives by the government and its ongoing talks between the government and Alevi leaders on long-standing issues, such as Alevi places of worship and the setting-up of a memorial commemorating the Sivas massacre, and calls on the Turkish government to address their concerns without delay and to make state-run courses on religion non-compulsory; regrets the planned expropriation of the Syriac Orthodox Monastery of St Gabriel in Tur Abdin and the court procedures against representatives of the monastery;

18. Calls on the Turkish government to launch as a matter of priority a political initiative favouring a lasting settlement of the Kurdish issue, which initiative needs to address the economic and social opportunities of citizens of Kurdish origin, and to tangibly improve their cultural rights, including real possibilities to learn Kurdish within the public and private schooling system and to use it in broadcasting and in access to public services, and to allow elected officials to use a second language apart from Turkish in communicating with their constituents; welcomes the start of a 24-hour public television channel in the Kurdish language from 1 January 2009;

19. Condemns the violence perpetrated by the Kurdistan Workers' Party (PKK) and other terrorist groups on Turkish soil; reiterates its solidarity with Turkey in the fight against terrorism and once again calls on the PKK to declare and respect an immediate and unconditional ceasefire;

20. Urges the DTP and all its elected members to distance themselves clearly from the terrorist PKK and from its use of violence, and appeals to all parties to contribute to a solution that enhances the stability, prosperity and integrity of the Turkish state;

21. Notes that the Turkish government has decided to complete the Southeast Anatolia Project (GAP) for the development of the south-east of Turkey; points, however, to its social, ecological, cultural and geopolitical consequences, including those on the water supplies of the neighbouring countries, Iraq and Syria, and calls on the government to take these issues fully into consideration, to protect the rights of the population affected and to ensure close cooperation with local and regional authorities as it continues its work on the plan; calls on the Commission to present a study on the GAP and its consequences;

22. Reiterates that European values of pluralism and diversity incorporate respect for a far wider definition of minorities, on the basis of the Treaty of Lausanne (1923), than that adopted by Turkey; is concerned about continuing hostility and violence against minorities; is concerned that Turkey has made no progress on ensuring cultural diversity and promoting respect for, and protection of, minorities in accordance with ECHR standards; urges the Turkish government to start the overdue dialogue with the OSCE High Commissioner on National Minorities on issues such as the participation of minorities in public life and broadcasting in minority languages;

23. Calls on the Turkish government to take action against organisations and groups which stir up hostility against minorities and to protect all those who are threatened and fear for their lives, while making sustained efforts to create an environment conducive to full respect of fundamental human rights and freedoms;

24. Calls on the Turkish government to seek solutions to preserve the bicultural character of the Turkish islands Gökçeada (Imvros) and Bozcaada (Tenedos), and to address the problems encountered by members of the Greek minority with regard to their education and property rights;

25. Welcomes the establishment of the 'Women-Men Equal Opportunities Commission' in the Turkish Parliament; welcomes the Commission's assessment that the legal framework guaranteeing women's rights and gender equality is broadly in place; urges, however, the Turkish government to ensure that it is implemented so as to have a positive effect on the situation of women in Turkey; points to upcoming local elections as an opportunity to remedy the low representation of women in politics;

26. Is concerned that the number of reported so-called 'honour killings' is increasing in Turkey, and calls on the Turkish authorities and civil society to intensify their efforts to prevent these killings, domestic violence and forced marriages; welcomes the increase in the number of shelters, but calls urgently for effective and sustainable policies on budgetary and staffing matters, and for support for women and their children after they leave the shelters; asks the Turkish government to combat the trafficking of women in close cooperation with the Member States;

27. Welcomes the decision of the Supreme Court of Appeals not to uphold the decision banning the interest group Lambda Istanbul; urges the government to ensure that equality regardless of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation is guaranteed;

Existence of a functioning market economy

28. Welcomes the Commission's assessment classifying Turkey as a functioning market economy;

29. Notes that although economic growth in Turkey slowed in 2008, its overall economic performance demonstrated that the foundations and resilience of the Turkish economy are substantially stronger than some years ago; notes that the impact of the global financial crisis on the Turkish banking system has remained limited so far, but is concerned about the effect of the crisis on economic growth; asks the Commission to report specifically on the consequences of the crisis for the Turkish economy; encourages the Turkish government to continue its close cooperation with the International Monetary Fund and other international and European financial institutions;

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Ability to take on the obligations of membership

30. Regrets that a number of commitments made by Turkey within the EC-Turkey customs union remain unfulfilled, distorting bilateral trade relations;

31. Notes that the customs union obliges Turkey to negotiate and conclude free trade agreements (FTAs) with third countries with which the EU has concluded FTAs; calls on the Council and the Commission to include Turkey in the impact assessment studies of prospective FTAs between the EU and third countries and to further strengthen the transmission of information on the EU's position and the state of play of the FTA negotiations;

32. Regrets that the EC-Turkey Association Agreement and the Additional Protocol thereto have not yet been implemented fully by the Turkish government; recalls that the non-fulfilment of Turkey's commitments by December 2009 may further seriously affect the process of negotiations; invites the Council to continue to follow up and review progress made on the issues covered by the declaration of the Community and its Member States of 21 September 2005 in accordance with its conclusions of 11 December 2006;

33. Commends Turkey on its progress in the field of education and culture; reiterates that providing access to education for all is not just a good strategy for the inclusion of minorities but also the basis for a prosperous and modern society; views the plan to open departments for Armenian and Kurdish studies at Turkish universities as a sign of goodwill that needs to be followed up by concrete action;

II. Enhancing prosperity

Enhancing social cohesion and prosperity

34. Points out that a socially oriented market economy is the basis for a socially coherent society and one of the keys to stability and prosperity; welcomes in this regard the adoption of the Social Insurance and General Health Insurance Law as a contribution to strengthening the social cohesion of Turkish society;

35. Also welcomes the adoption of the employment package in May 2008 by the Turkish Parliament, aimed at promoting job opportunities for women, young people and people with disabilities; is concerned, however, about the ongoing weakness of the employment market, which engages only 43 % of the working-age population, and is particularly worried about the decreasing overall rate of employment of women; encourages the Turkish government to take further action to tackle the problem of the informal economy;

36. Reiterates its calls for the Turkish government to take further tangible steps to empower women in the political, economic and social sector, through, for instance, temporary measures to increase their active involvement in politics; points out the need to take effective measures to increase women's access to education, which regrettably still remains the lowest among OECD countries;

37. Takes note of the progress made in the area of health protection; is concerned, however, that no progress can be reported on mental health; urges the Turkish authorities to make more resources available for mental health care, and to find a solution to the problem of inadequate general medical care and treatment of people with mental disabilities in mental health hospitals and rehabilitation centres; calls for the treatment of children and adults with disabilities in institutions to fully respect their rights;

38. Regrets that no progress has been made on amending the legislation on trade union rights, and calls on the Turkish Parliament to adopt a new law on trade unions that is in line with the International Labour Organization conventions; regrets that, despite the fact that regulations on union formation and membership were eased in 2004, trade union activities remain subject to constraints; calls on the Turkish authorities to find a solution, together with the trade unions, that enables peaceful demonstrations to take place on 1 May on Taksim Square in Istanbul, respecting the freedom of association;

39. Points, once again, to the need to address the problem of development disparities among Turkish regions and between rural and urban areas, which is a major obstacle to the prosperity of Turkish society; regrets, therefore, that no comprehensive strategy has so far been presented by the Turkish government to tackle this problem, and is disappointed that the Commission has not presented any information about the EU's contribution under the Instrument for Pre-Accession Assistance to this strategic planning, as requested by Parliament in its above-mentioned resolution of 21 May 2008;

III. Building good neighbourly relations

40. Stresses the need for a comprehensive settlement of the Cyprus question based on UN Security Council resolutions and on the principles on which the European Union is founded; welcomes the renewed commitment of both political leaders on both sides to a negotiated solution and supports the ongoing direct negotiations by the leaders of the two communities in Cyprus and will accept any agreement reached by them provided that it is in conformity with the principles on which the EU is founded, including the four fundamental freedoms, except for temporary transitional derogations, and that it is accepted after a referendum; calls on Turkey to facilitate a suitable climate for negotiations by withdrawing Turkish forces and allowing the two leaders to negotiate freely their country's future;

41. Calls on Turkey to comply with its obligations under international law, the relevant UN Security Council resolutions and the ruling of the European Court of Human Rights on the Fourth Interstate Application by Cyprus against Turkey regarding investigations into the fate of missing persons; urges all the EU Member States to call on Turkey to take appropriate action on what is mainly a humanitarian issue;

42. Encourages greater trans-border cooperation between local authorities, business people and other local partners with the neighbouring EU members Greece and Bulgaria;

43. Welcomes the communication and cooperation developed over the last year between Turkish and Iraqi authorities, including the contacts between Turkey and the Kurdish regional government in Northern Iraq; encourages those authorities to further intensify their cooperation, so as to ensure that terrorist attacks from Iraqi territory are prevented under Iraqi responsibility, to guarantee stability and to contribute to the economic development of the whole Turkish-Iraqi neighbourhood area; recalls its earlier appeals to the Turkish government to respect, when conducting anti-terrorist operations, Iraq's territorial integrity, human rights and the rule of law, and to make sure that civilian casualties are avoided;

44. Welcomes the visit of President Gül to Armenia in September 2008 following an invitation from President Sarkisian, and hopes that it will indeed foster a climate favourable to the normalisation of relations between their countries; calls on the Turkish government to re-open its border with Armenia and to restore full economic and political relations with Armenia; once again calls on the Turkish and Armenian governments to start a process of reconciliation, in respect of the present and the past, allowing for a frank and open discussion of past events; calls on the Commission to facilitate this reconciliation process;

45. Appreciates the continued efforts of the Turkish and Greek governments to improve bilateral relations; reiterates that the repeal of the *casus belli* declared by the Turkish Grand National Assembly in 1995 would provide important impetus for further improvement of those relations; recalls that Turkey has committed itself to good neighbourly relations and calls on the Turkish government to make serious and intensive efforts to resolve any outstanding dispute peacefully and in accordance with the UN Charter, other relevant international conventions and bilateral agreements and obligations;

IV. Strengthening EU-Turkey bilateral cooperation

46. Calls upon the Council to consider making progress on opening of negotiations on chapters in which Turkey, according to the Commission's assessment, has fulfilled the conditions for opening;

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47. Recognises Turkey's ambition of becoming a Eurasian energy hub and the role it can play in contributing to Europe's energy security; commends the progress achieved by Turkey in the field of energy; recalls its above-mentioned resolution of 24 October 2007 supporting the opening of negotiations on this chapter and regrets that no agreement has been reached on this in the Council; encourages Turkey to join the European Energy Community as a full member, so as to strengthen energy cooperation between the EU and Turkey, which can benefit all parties involved; calls on Turkey to fully support the Nabucco pipeline project, which is a European priority project, and expects that an inter-governmental agreement aimed at bringing the pipeline into operation will be concluded soon;

48. Takes note of the progress made in the area of migration and asylum; regrets, however, that Turkey has not, since December 2006, resumed the negotiations on a readmission agreement with the EC, the signing of which is a condition for a visa facilitation agreement; and calls on the Turkish government to intensify its cooperation with the EU on migration management, including through proper implementation of the existing bilateral readmission agreements and protocols with Member States; notes that no development can be reported on alignment with EU visa lists; calls on the Commission and the Turkish government to start negotiations on a visa facilitation agreement; urges the Member States to ease visa restrictions for bona fide travellers such as students, academics or businesspeople; calls for full respect of the human rights of asylum-seekers and refugees, including open and unrestricted access to all detention centres by the UN High Commission for Refugees;

49. Welcomes the launch in September 2008 of a new generation of projects aimed at enhancing the dialogue between civil society in Turkey and in the EU; asks the Commission to report on activities carried out within the framework of the EU-Turkey Civil Society Dialogue; reiterates its call on the Turkish government to involve civil society more closely in the reform process;

50. Notes that the Commission intends to provide impact assessments on only certain policy areas ([1]); urges the Commission to issue a more comprehensive impact study as a follow-up to the one presented in 2004, and to present it to Parliament without delay;

51. Asks the Turkish government and judicial authorities to cooperate better with EU Member States and authorities in criminal cases in which EU citizens and residents have been the victims of fraud, as in the case of the so-called 'Green Funds' (Islamic investment funds based in Turkey) and in the case of 'Deniz Feneri', a charity based in Germany;

Cooperation on international and global issues

52. Appreciates Turkey's efforts to contribute to a solution for many of the world's crisis regions, in particular in the Middle East and the South Caucasus, and also with regard to relations between Afghanistan and Pakistan; in particular, welcomes Turkey's active and constructive involvement, following the conflict between Russia and Georgia, aimed at promoting peace and stability in the South Caucasus, notably through its proposal for a Caucasus Stability and Cooperation Platform; calls on the Council and the Commission to intensify cooperation with Turkey and to look for synergies in the EU's and Turkey's approach to these regions;

53. Congratulates Turkey on its election to the UN Security Council, and encourages the Turkish government to adopt an approach within the UN that is closely coordinated with the EU's position;

54. Welcomes the ratification of the Kyoto Protocol by the Turkish parliament;

([1]) European Commission: Action taken on Parliament's non-legislative resolutions – May II 2008.

55. Welcomes Turkey's continuous contribution to European Security and Defence Policy and NATO operations; regrets, however, that the NATO-EU strategic cooperation extending beyond the 'Berlin Plus' arrangements continues to be blocked by Turkey's objections, which has negative consequences for the protection of the EU personnel deployed, and urges Turkey to set aside these objections as soon as possible; calls on the Council to consult Turkey, as one of the biggest suppliers of troops, in the planning and decision-making stages of the European Security and Defence Policy;

56. Calls on the Turkish government to sign and submit for ratification the Statute of the International Criminal Court, thus further increasing Turkey's contribution to, and engagement in, the global multilateral system;

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57. Instructs its President to forward this resolution to the Council, the Commission, the Secretary General of the Council of Europe, the President of the European Court of Human Rights, the governments and parliaments of the Member States and the Government and Parliament of the Republic of Turkey.

Former Yugoslav Republic of Macedonia: progress report 2008

P6_TA(2009)0135

European Parliament resolution of 12 March 2009 on the 2008 progress report on the former Yugoslav Republic of Macedonia

(2010/C 87 E/29)

The European Parliament,

— having regard to the Presidency Conclusions of the Thessaloniki European Council of 19-20 June 2003, at which the promise was made to all Western Balkan states that they would join the European Union,

— having regard to UN Security Council Resolutions S/RES/817 of 7 April 1993 and S/RES/845 of 18 June 1993,

— having regard to the European Council decision of 16 December 2005 to grant the former Yugoslav Republic of Macedonia the status of candidate country for EU membership and to the Presidency Conclusions of the European Councils of 15-16 June 2006 and 14-15 December 2006,

— having regard to the 1995 interim agreement between the Hellenic Republic and the former Yugoslav Republic of Macedonia,

— having regard to the EU/Western Balkans Declaration, which was unanimously approved by the Foreign Ministers of all the EU Member States and by the Foreign Ministers of the Western Balkan states in Salzburg on 11 March 2006,

— having regard to the conclusions of the Fourth Meeting of the EU-former Yugoslav Republic of Macedonia Stabilisation and Association Council of 24 July 2007,

Thursday 12 March 2009

— having regard to the EU-former Yugoslav Republic of Macedonia visa facilitation and readmission agreements of 18 September 2007,

— having regard to Council Decision 2008/212/EC of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the former Yugoslav Republic of Macedonia ([1]),

— having regard to the Brdo Statement: New focus on the Western Balkans, made by the EU Presidency on 29 March 2008, underlining the need for a fresh impetus to the Thessaloniki agenda and the Salzburg declaration,

— having regard to the Commission's 2008 Progress Report on the former Yugoslav Republic of Macedonia (SEC(2008)2695),

— having regard to its resolution of 10 July 2008 on the Commission's 2007 enlargement strategy paper ([2]),

— having regard to its resolution of 23 April 2008 on the 2007 Progress Report on the former Yugoslav Republic of Macedonia ([3]),

— having regard to the recommendations of the EU-former Yugoslav Republic of Macedonia Joint Parliamentary Committee of 29-30 January 2007 and 26-27 November 2007,

— having regard to its position of 24 October 2007 on the proposal for a Council decision concerning the conclusion of the Agreement between the European Community and the former Yugoslav Republic of Macedonia on the facilitation of issuance of short-stay visas ([4]),

— having regard to its position of 24 October 2007 on the proposal for a Council decision concerning the conclusion of the Agreement between the European Community and the former Yugoslav Republic of Macedonia on readmission ([5]),

— having regard to Council Decision 2007/824/EC of 8 November 2007 on the conclusion of the Agreement between the European Community and the former Yugoslav Republic of Macedonia on the facilitation of the issuance of visas ([6]),

— having regard to Council Decision 2007/817/EC of 8 November 2007 on the conclusion of the Agreement between the European Community and the former Yugoslav Republic of Macedonia on the readmission of persons residing without authorisation ([7]),

— having regard to the final declaration of the Fifth EU-former Yugoslav Republic of Macedonia Joint Parliamentary Committee, adopted on 28 November 2008,

— having regard to the Commission Communication of 5 November 2008 entitled Enlargement Strategy and Main Challenges 2008-2009 (COM(2008)0674) and to the conclusions of the General Affairs and External Relations Council held on 9 December 2008,

— having regard to Rule 103(2) of its Rules of Procedure,

A. whereas the Commission's 2007 enlargement strategy paper attaches great importance – from the initial stages of that strategy onwards – to the rule of law and good governance, particularly in relation to the fight against corruption and organised crime, administrative and judicial reform and civil society development,

([1]) OJ L 80, 19.3.2008, p. 32.
([2]) Texts adopted, P6_TA(2008)0363.
([3]) Texts adopted, P6_TA(2008)0172.
([4]) OJ C 263 E, 16.10.2008, p. 402.
([5]) OJ C 263 E, 16.10.2008, p. 402.
([6]) OJ L 334, 19.12.2007, p. 120.
([7]) OJ L 334, 19.12.2007, p. 1.

B. whereas the EU has taken steps to improve the quality of the enlargement process,

C. whereas an EU Member State, namely Greece, and the former Yugoslav Republic of Macedonia are in the midst of a negotiation process taking place under the aegis of the United Nations aimed at reaching a mutually acceptable solution to the issue of the name of the candidate state; whereas ensuring good neighbourly relations and finding negotiated and mutually acceptable solutions to unresolved issues with neighbours, in line with the Salzburg declaration of 11 March 2006, remain essential,

1. Welcomes the fact that the parties in government and the opposition in the former Yugoslav Republic of Macedonia, with the widespread support of civil society and public opinion, are united in their desire to fulfil the Copenhagen criteria for EU membership and for the earliest possible accession to the EU; in which connection emphasises that it is not primarily a matter of complying with externally imposed requirements but rather of improving the candidate country's own future;

2. Reaffirms its full support for the European perspective of the former Yugoslav Republic of Macedonia and of all the Western Balkan countries, which is essential for the stability, reconciliation and peaceful future of the region;

3. Welcomes the fact that, seven years after the Ohrid Agreement, the country's Parliament adopted the law on the use of languages in administration and education; welcomes in particular the extended possibilities for higher education afforded by the opening of new faculties in various towns, including those with curricula in different languages; notes the improvement of the equitable representation of members of non-majority communities, notably in the public administration, the police and the military forces;

4. Commends the progress made by the country in the dialogue on visa liberalisation, notably the high number of biometric travel and identity documents issued, the implementation of the integrated border management scheme and the establishment of a national visa information system; notes with satisfaction the progress made in the fight against trafficking in human beings, illegal migration and corruption, and calls on the government to continue the efforts in this field; welcomes the implementation of the readmission agreement with the EU and calls for closer cooperation with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), the European Police Office (Europol) and the European Union's Judicial Cooperation Unit (Eurojust); takes note of the difficulties faced by the citizens of the former Yugoslav Republic of Macedonia due to the non-recognition of its passports by one EU Member State; and calls on the Commission, given the progress achieved, to recommend to the Council as soon as possible visa liberalisation for citizens of the former Yugoslav Republic of Macedonia, and the abolition of visa requirements;

5. Commends the efforts made by the government of the former Yugoslav Republic of Macedonia in the economic field, which have resulted in significant progress in fulfilling the economic criteria, thus bringing the country closer to a functional market economy; welcomes in particular the facilitation of the tax payment procedures, reform of one-stop-shop registration, foreign trade facilitation and the cutting of red tape; encourages the government to continue its policies aimed at stable GDP growth, a low inflation rate, fiscal discipline and a strengthening of the overall business climate;

6. Observes that, after a series of attempts to disrupt the parliamentary elections on 1 June 2008, particularly in the north-west of the country, the government took effective measures, by means of a partial repeat of elections and effective monitoring of procedures, to arrive at correct election results; welcomes the opening of court proceedings aimed at penalising the perpetrators of the election improprieties; commends the adoption of amendments to the Electoral Code broadly in accordance with the recommendations of the Organisation for Security and Cooperation in Europe and the Office for Democratic Institutions and Human Rights, and trusts that everything possible will be done to prevent any attempts to disrupt future elections, such as the presidential and local elections in March 2009;

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7. Welcomes the progress achieved in the establishment of necessary structures for decentralised management of Pre-accession Assistance (IPA); supports the efforts made by the government to build up administrative capacities that will permit implementation of the Commission's decision to entrust the management of IPA to the national authorities;

8. Observes that, like most EU Member States, the former Yugoslav Republic of Macedonia, following a widely supported decision by its Parliament, recognised, at the same time as Montenegro, the independence of the country's neighbour Kosovo, despite the difficulties which this might cause in the short term to the desired preservation of good relations with another neighbouring country, Serbia; welcomes the agreement reached with the Kosovo authorities concerning the demarcation of the border;

9. Notes that the increased interest in Serbia, which in 2009 could result in the status of candidate for membership of the EU being conferred on it, must not result in any slackening of interest in the former Yugoslav Republic of Macedonia within the EU or in a further slowing of the progress of the accession process;

10. Observes that the former Yugoslav Republic of Macedonia is taking steps to meet the criteria for membership of the EU, and takes account of the progress made in the implementation of the Stabilisation and Association Agreement signed in 2001, and of the Ohrid Framework Agreement and the recent progress in the implementation of the Commission's benchmarks; regrets however that, three years after it was granted the status of candidate for membership of the EU, accession negotiations have not yet started, which is an unsustainable situation having demotivating effects for the country, and risks destabilising the region; considers it desirable that this exceptional situation should end; urges that the process be accelerated, and recalls that Parliament in its above-mentioned resolution of 23 April 2008 expressed the hope that a decision would be taken in 2008 concerning the commencement of accession negotiations, recognising that any remaining obstacles to an early accession will have to be eliminated during the years in which the forthcoming negotiations take place; urges the Council to accelerate this process by deciding on a date for the beginning of accession negotiations, during the current year, pending full implementation of the key priorities of the Accession Partnership;

11. Reiterates, in accordance with the conclusions of the European Council held on 19 and 20 June 2008 and those of the General Affairs and External Relations Council held on 8 and 9 December 2008, the importance for the former Yugoslav Republic of Macedonia, as an EU candidate country, to continue to foster good neighbourly relations and to seek to resolve outstanding issues with its neighbours, including a negotiated and mutually acceptable solution on the name issue, on the basis of its international undertakings and its bilateral and multilateral commitments and obligations;

12. Supports the efforts of mediator Matthew Nimetz within the UN, as envisaged by the above-mentioned UN Security Council resolutions S/RES/817 and S/RES/845 of 1993, aimed at resolving the differences that have arisen over the constitutional name of the state in order to reach final agreement between the former Yugoslav Republic of Macedonia and Greece as soon as possible, on the basis of his proposal of 6 October 2008 as to how the distinction between the various areas which belong to different states but have in common the fact that they are called Macedonia can be clarified internationally; realises that this proposal is viewed with hesitation by both parties; takes note of the appointment of the new negotiator for the former Yugoslav Republic of Macedonia; requests both parties to remain committed to the talks under the auspices of the UN and to reach a compromise solution, so that the issue does not continue to represent an obstacle to the former Yugoslav Republic of Macedonia's membership of international organisations, as provided for in the above-mentioned Interim Accord of 1995, which is still in force; warns that unless agreement is reached quickly between the two states, this could result in a long delay in the former Yugoslav Republic of Macedonia joining the EU; takes the view that such outstanding bilateral issues in the Balkans should not obstruct accession or take precedence over the process of European integration;

13. Takes note of the application filed by the former Yugoslav Republic of Macedonia with the International Court of Justice concerning Article 11 of the Interim Accord; expresses the hope that the former Yugoslav Republic of Macedonia and Greece remain committed to continuing the negotiations despite the legal proceedings instituted before the International Court of Justice concerning the application of the Interim Accord; in view of the new round of negotiations announced under the 'Nimetz process', expresses the hope that all governments in the neighbourhood will support the integration of this country in the EU, thus contributing to the stability and prosperity of the region;

14. Welcomes the efforts of the authorities of the former Yugoslav Republic of Macedonia to work together with neighbouring EU Member States with a view to reviewing possible discrepancies and misinterpretations of history that may cause disagreements, and urges promotion of the joint celebration of the common cultural and historic heritage shared between the country and its neighbours; is concerned about the lack of progress in countering the resurgence of 'hate speech', particularly in the media and the education system, against neighbouring states, and continues to urge the government to ensure public compliance with relevant EU and Council of Europe standards;

15. Observes that, in a democracy, interaction occurs between the government and the opposition in which there is always room for conflicting opinions, attention is paid to alternative solutions and there is scope for establishing majorities in favour of a change of policy, and that it is important to ensure that sections of the population do not become afraid that this tolerance will decline if one party has a parliamentary majority, which has been the case in the former Yugoslav Republic of Macedonia since the last parliamentary elections;

16. Urges that members of the public who submit complaints about abuses of power and/or corruption be issued with a document clearly certifying that they have done so; welcomes the existing practice of informing citizens of the action taken on their complaint and of the ultimate result, and the fact that these complaints are registered in a clear and uniform manner by the police and judicial authorities;

17. Calls on the Government of the former Yugoslav Republic of Macedonia to step up the fight against the links between organised crime in the former Yugoslav Republic of Macedonia, Montenegro, Kosovo and Albania;

18. Deplores the fact that the new law of 20 September 2007 on the legal status of a church, a religious community and a religious group, has not yet resulted in adherents of different faiths feeling that they have the same opportunities to confess and propagate their faith and to own, use and establish buildings for these purposes as do the two denominations which have traditionally been the largest in the country, namely the 'Macedonian' Orthodox Church and Islam; recalls that the authorities have a duty to protect tolerance towards those whose convictions are different and the right to religious diversity;

19. Regrets the increasing pressure placed on the media by the government forces, in particular during the election campaign; calls for preservation of independent and diverse information by radio and television, in which connection the various opinions which exist within society should remain visible, both by preserving the editorial freedom of those who purvey information and by avoiding the establishment of close links between commercial broadcasters and particular parties or politicians; is also concerned about the great financial dependency of newspapers and TV channels on government advertising and the income that it generates, which may detract from a critical journalistic approach;

20. Observes that, even since the adoption of amendments to the Employment Law of 2005, it is still not clear how the various co-existing trade unions can conclude legally valid contracts with the government and entrepreneurs, in particular given the current obligation for trade unions to represent 33 % of the employees concerned before they can become contracting partners, which is an obstacle to diversity and leads interested parties constantly to call into question the membership levels of these trade unions;

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21. Calls on the Government of the former Yugoslav Republic of Macedonia rapidly to develop new refuse disposal sites, to close and clear old refuse disposal sites, in the meantime developing practical measures to update the integrated waste cycle, including differentiated waste collection, inter alia by syndicates, and to establish waste-to-energy plants and waste-to-fuel plants;

22. Calls for the quality and level of the water in the border lakes Ohrid, Prespa and Dojran to be improved and preserved and for effective agreements on the matter with neighbours Albania and Greece; also welcomes the proposed draft law on water management and urges that it be considered by its Parliament without delay;

23. Has noted with alarm the negative effects on human beings and the environment of the OKTA oil refinery that is in operation in the town of Ilinden near Skopje and is regarded as the country's biggest polluter;

24. Warns that, without new investment in storage, treatment and transport of water, the continuity of the urban drinking water supply may be jeopardised;

25. Asks the Government of the former Yugoslav Republic of Macedonia to relaunch the process of liberalisation and privatisation of local public services, paying particular attention to the electricity production, transport and distribution industries;

26. Regrets that the functioning of the railway network has deteriorated over recent years; notes, in particular, that both the frequency of domestic rail passenger services and connections to neighbouring countries have been reduced to a minimum and that the rolling stock in use is less suitable for passenger services over relatively short distances, so that new investment will be necessary if rail passenger services are to survive in future; regrets the lack of progress with regard to the construction of the railway connection between the former Yugoslav Republic of Macedonia and Bulgaria, which would contribute to the economic development and stability of the region as a whole;

27. Encourages the Government to accelerate planning and production from renewable sources with regard, in particular, to solar and wind energy; in this regard, calls on the Skopje authorities to make every effort to develop an energy policy in line with the targets of the EU and to support the EU's position at the forthcoming conference in Copenhagen on a post-Kyoto treaty;

28. Is concerned about the rise in the large number of reports of victims of domestic violence and urges that a separate law be passed against such violence in addition to the Family Law which already exists, to make it possible for the public prosecutor to prosecute perpetrators of domestic violence;

29. Is alarmed at the disadvantaged position of the Roma minority in the country, in the light inter alia of the most recent report by Amnesty International, according to which 39 % of Roma women receive little or no schooling, 83 % have never been in official paid employment and 31 % suffer from chronic illnesses – percentages which are structurally higher than the average for non-Roma women;

30. Welcomes the progress made so far in the political representation of the Roma; at the same time, urges the government to accelerate, and to provide adequate resources for, the implementation of the existing Roma policies;

31. Joins the United Nations High Commissioner for Refugees (UNHCR) in welcoming the fact that so far none of the minorities who have fled from Kosovo whose members have not acquired permanent resident status have been compelled to leave, and hopes that agreement will soon be reached between the government and the UNHCR on responsibility for financially supporting this group;

32. Given that the international financial crisis has reached Europe and may have an indirect effect on trade and foreign investment in the Western Balkans, calls on the Commission to be vigilant and, if necessary, to adopt adequate measures in order to guarantee the smooth continuation of the Stabilisation and Association Process concerning the former Yugoslav Republic of Macedonia, as well as the other Western Balkan countries, which is an important factor for stability in the region and in the best interests of the EU itself;

33. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the Government and Parliament of the former Yugoslav Republic of Macedonia.

The mandate of the International Criminal Tribunal for the former Yugoslavia

P6_TA(2009)0136

European Parliament recommendation to the Council of 12 March 2009 on the mandate of the International Criminal Tribunal for the former Yugoslavia (2008/2290(INI))

(2010/C 87 E/30)

The European Parliament,

— having regard to the proposal for a recommendation to the Council, submitted by Annemie Neyts-Uyttebroeck and others on behalf of the ALDE Group, on the mandate of the International Criminal Tribunal for the former Yugoslavia ('the Tribunal') (B6-0417/2008), covering the republics that make up the territory that was, until 25 June 1991, the Socialist Federal Republic of Yugoslavia, i.e. Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Kosovo and Slovenia,

— having regard to the fact that the Tribunal is a United Nations court of law, operating in Europe and dealing with European issues, set up in 1993 as a temporary institution specifically to investigate serious violations of international humanitarian law committed in the former Yugoslavia since 1991 and to prosecute those responsible,

— having regard to the fact that, at the time, the domestic judicial systems in the former Yugoslavia were not able or willing to investigate and prosecute those most responsible,

— having regard to the fact that the Tribunal has indicted 161 individuals, that it has completed proceedings against 116 accused, that currently numerous accused are at different stages of proceedings before the Tribunal, that only five accused remain in the pre-trial stage, awaiting the commencement of their trials, and that out of the indicted individuals only two of them, Ratko Mladić and Goran Hadžić, still remain at large ([1]),

— having regard to resolutions S/RES/1503 (2003) and S/RES/1534 (2004) of the UN Security Council calling upon the Tribunal to take all possible measures to complete all its work by the end of 2010 ('the completion strategy'),

— having regard to the fact that the dates envisaged in the completion strategy are target dates and not absolute deadlines,

([1]) Letter from the President of the International Tribunal to the UN Security Council, S/2008/729, 24 November 2008.

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— having regard to the six-monthly assessments submitted by the President and Prosecutor of the Tribunal, pursuant to paragraph 6 of UN Security Council resolution S/RES/1534 (2004), on the progress made towards implementation of the completion strategy,

— having regard to resolution A/RES/63/256 of the UN General Assembly, on a comprehensive proposal on appropriate incentives to retain staff of the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia, adopted by consensus on 23 December 2008,

— having regard to the considerable and consistent support for the Tribunal and its work from the EU and its Member States,

— having regard to the fact that full cooperation with the Tribunal has become a central benchmark in the EU's policy towards the countries of the Western Balkans,

— having regard to its resolution of 15 January 2009 on Srebrenica [1],

— having regard to Rules 114(3) and 83(5) of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs (A6-0112/2009),

A. whereas the Tribunal, situated in The Hague, and its work deserve the continuing full support of the EU and its Member States,

B. whereas the Tribunal has delivered precedent-setting judgments on genocide, war crimes and crimes against humanity, and whereas it has already made a significant contribution to the process of reconciliation in the Western Balkans, thus contributing to the restoration and maintenance of peace in the region,

C. whereas full cooperation with the Tribunal has been one of the strict conditions set by the EU in its contractual engagement with countries in the region,

D. whereas the Tribunal has contributed to laying the foundations for new norms in conflict resolution and post-conflict development worldwide, has provided lessons for potential future ad hoc tribunals, and has shown that efficient and transparent international justice is possible, and whereas its contribution to the development of international criminal law is widely recognised,

E. whereas some of the indictments, decisions and judgments issued by the Tribunal have been regarded as controversial in, and beyond, different parts of the Western Balkans; whereas valuable lessons can be learned from these reactions, which will form part of the legacy of the Tribunal, but whereas they also underscore the need for an Appeals Chamber as well as an outreach programme,

F. whereas the Tribunal continues to conduct a wide range of outreach activities with the aim of bringing its work closer to the countries concerned, including facilitating the coverage of trials by the local media, direct community outreach by its officials on the ground and capacity-building efforts with national judicial institutions dealing with war crimes, as well as a number of projects that seek to identify best practices,

[1] Texts adopted, P6_TA(2009)0028.

G. whereas the above-mentioned UN Security Council resolutions S/RES/1503 (2003) and S/RES/1534 (2004) called on the Tribunal and the International Criminal Tribunal for Rwanda to complete all investigations by the end of 2004, all first-instance trials by the end of 2008, and all work by 2010; whereas, however, the Tribunal has indicated that it will be unable to complete the first-instance trials before late 2009, also because of the great number of appeals; whereas, therefore, a new decision of the UN Security Council is needed in order to extend the mandate of the Tribunal,

H. whereas the Tribunal has taken the initiative of devising a plan which was endorsed by the UN Security Council in the above-mentioned resolutions and has become known as the 'completion strategy', the purpose of which is to ensure that it concludes its mission successfully, in a timely way and in coordination with domestic legal systems in the countries concerned,

I. whereas the plan consists of three phases and target dates for the completion of the Tribunal's mandate, and whereas the current goal is to complete all proceedings (trials and appeals) by 2011, with a slight spill-over into 2012; whereas, in order to achieve these results, the Tribunal is focussing on the most senior leaders suspected of being responsible for crimes committed within its jurisdiction, has transferred cases brought against intermediate and low-level accused to competent national jurisdictions, and has pursued joint trials of defendants, although care must be taken to ensure that joinder does not impinge on the rights of the accused; whereas national prosecutors and courts can and are also initiating and handling numerous cases themselves, but some national courts may be unable or unwilling to conduct criminal proceedings in accordance with international standards and norms of fair trial, and transfer to national courts has in some cases been met with resistance from victims and witnesses directly involved,

J. whereas the three Trial Chambers and the Appeals Chamber of the Tribunal have maintained full productivity and are hearing multi-accused cases; whereas the referral of cases to competent national jurisdictions has had a substantial impact on the overall workload of the Tribunal, but whereas factors beyond its control have caused certain delays and further unforeseen delays cannot be ruled out,

K. whereas, too, the two remaining indictees, Ratko Mladić and Goran Hadžić, must be brought to justice, and whereas their apprehension will depend on the mandatory cooperation of States, pursuant to Article 29 of the Statute of the Tribunal, including in the search for and arrest and transfer of fugitives as well as the production of evidence located in, for example, domestic archives, and whereas the arrest and transfer of fugitive indictees and the production of evidence have not always been forthcoming,

L. whereas Article 21 of the Statute of the Tribunal provides for the right of any accused person to be tried in his presence and whereas the Tribunal thus would not be able, even if it were in possession of abundant evidence, to proceed *in absentia*,

M. whereas the commitment of the Tribunal to the expeditious completion of its mandate is recognised, but whereas the outstanding cases must be tried without being subject to unrealistic time pressures, since such pressures might prejudice the right of the accused to a fair trial; whereas no shortcuts can be taken that might further jeopardise the safety and wellbeing of victims and witnesses testifying before the Tribunal, and whereas the target date envisaged for the Tribunal's completion strategy cannot mean impunity for the two remaining fugitives or undue time pressures for the ongoing trials,

1. Addresses the following recommendations to the Council:

(a) recalls the fact that one of the fundamental values reflected in the international community's decision to create the Tribunal was the quest for justice and the fight against impunity; while fully supportive of the work the Tribunal is doing, points out that this will not be fully achieved unless ongoing trials can be concluded without undue haste and the two remaining indictees, Ratko Mladić and Goran Hadžić, are brought to justice and tried;

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(b) stresses that the quest for increased speed of proceedings should not be pursued at the expense of due process, and reiterates the now commonly shared view that the legacy of the Tribunal will be measured not only by whether it succeeds in judging those responsible for the most serious crimes falling under its jurisdiction but also by whether it does so in accordance with the strictest standards of fairness;

(c) stresses that the retention of highly qualified staff in the Tribunal is a critical factor for the successful completion of trials and appeals, and that the loss of the institutional specialised knowledge needed in order to complete remaining trials could be exacerbated by the timetable envisaged in the completion strategy; in this regard, welcomes the above-mentioned UN General Assembly resolution A/RES/63/256 allowing the Tribunal to offer contracts to staff in line with the completion strategy timescales and to explore non-monetary incentives designed to retain key staff;

(d) underlines the fact that, on the one hand, the date fixed for achievement of the completion strategy contributes to the productivity of the Tribunal, but that, on the other hand, if justice is to be done and the trial of Ratko Mladić and Goran Hadžić is to proceed, that date cannot in any way constitute a deadline for the activities of the Tribunal;

(e) therefore calls on the Council to examine as a matter of urgency whether a two-year extension of the mandate of the Tribunal should be envisaged and whether this would be sufficient, bearing in mind that any extension should be measured not solely in terms of time but against results, and to advance examination of these issues within the appropriate UN structures;

(f) calls on the Council to encourage the UN Security Council to commit itself to providing sufficient resources and support to the Tribunal through the general budget of the UN until the end of the Tribunal's mandate;

(g) urges the Council to continue to support the Tribunal's efforts to get the countries in question to enhance cooperation and expedite efforts to capture the two remaining indictees, thereby allowing the Tribunal to fulfil its mandate, as well as to clarify with the UN that it must be made very clear that the two remaining fugitives must be tried either by the Tribunal or by the residual mechanisms, therefore avoiding any suggestion of impunity;

(h) stresses that the key documents vital for the prosecution of General Ante Gotovina, Mladen Markać and Ivan Čermak should be handed over by the responsible authorities; stresses that recent calls made by the Tribunal's Chief Prosecutor Serge Brammertz for relevant missing documentation to be located and made available to the Tribunal should be complied with;

(i) points out that the EU should continue to stress that compliance with the Copenhagen criteria includes having in place a fully functioning judiciary, capable of prosecuting trials for breaches of humanitarian law, even when the framework of the Tribunal is no longer operational; calls on the Council to set forth clear norms for evaluating the performance of the judiciary in the countries of the Western Balkans after the Tribunal's term comes to an end, inter alia so as to ensure that conditions of imprisonment meet international standards and that sentences handed down by the Tribunal are adhered to, and calls on the EU to increase its support for domestic war crime investigations and trials, for example through the provision of assistance to law enforcement, judicial and prosecutorial authorities, including funding for training and witness protection;

(j) recognises that the pre-eminence of states remains a cornerstone of the international system, and points out that it is essential that the international community, too, support the development of domestic capacity in the Balkans so that the local courts can continue the work the Tribunal has started; supports the existing financing by the EU of, for example, outreach programmes under the European Instrument for Democracy and Human Rights; in this context, calls on the Council to consider an increase in its support for the continuation strategy of the Tribunal, and calls for increased cooperation between the judicial and prosecutorial bodies in the Western Balkans, in particular in cases involving extradition and mutual legal assistance;

(k) notes that having a clear mechanism in place to deal with the Tribunal's residual functions once it has been wound down will be central to ensuring that its legacy is one which reinforces the principles that inspired its establishment;

(l) invites the Council to pursue without delay, within the appropriate UN structures, the procedures envisaged for a mechanism for dealing with the immediate and longer-term residual functions, concerning for example witness protection, protection from witness intimidation, contempt of court issues, reviews in the event of exculpatory evidence being received, monitoring of trials referred to the region (currently monitored by the Tribunal's Prosecution Service through the Organisation for Security and Co-operation in Europe (OSCE)), conditions of imprisonment and issues relating to pardon or commutation of sentences, etc; suggests that a proposal be put to the UN Security Council for the possible setting-up of a joint office to deal with the future residual functions of the Tribunal and of the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone;

(m) reminds the Council that the EU should take a particular interest in securing the legacy of the Tribunal by ensuring that its archives are safely stored in a suitable secure location, possibly in the region of the Western Balkans, that they are as complete and as accessible as possible, and that documentation is accessible on the world-wide web; suggests that suitable guarantees of free access should also be given to all prosecutors and defence counsel and, after a suitable period of time, to historians and researchers;

(n) stresses that the legacy of the Tribunal should also be linked to the overall reconciliation process; in this context, calls on the Western Balkan states and the EU to support the work of non-governmental organisations and other institutions that aid victims, promote inter-ethnic dialogue and understanding, and aid the pursuit of truth and reconciliation;

2. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, the governments and parliaments of the Member States, the United Nations Security Council and the President of the International Criminal Tribunal for the former Yugoslavia.

5th World Water Forum in Istanbul, 16-22 March 2009

P6_TA(2009)0137

European Parliament resolution of 12 March 2009 on water in the light of the 5th World Water Forum to be held in Istanbul on 16-22 March 2009

(2010/C 87 E/31)

The European Parliament,

— having regard to the ministerial declarations of the first four World Water Fora, held in Marrakech (1997), The Hague (2000), Kyoto (2003) and Mexico (2006),

— having regard to the Statement of the Dublin Conference on Water and Sustainable Development (1992), which recommends adopting integrated water management and recognises the value of water in all its uses and introduces the principle of water pricing,

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— having regard to resolution A/RES/58/217 of the UN General Assembly declaring the period 2005-2015 International Decade for Action 'Water for Life' and declaring 22 March of each year 'World Water Day',

— having regard to the ministerial declaration of the International Conference on Freshwater held in Bonn in 2001, which stresses the urgent need to stimulate new financing from every possible category of investor and the need to strengthen public funding of water through the contribution of private capital, while encouraging action at local level,

— having regard to the Monterrey Conference held in 2002, which introduced the concept of a Global Water Partnership as a multidimensional dialogue among equals extending to businesses, financial institutions and civil society, an initiative that was taken up by the New Partnership for Africa's Development (NEPAD) and the G8 in Genoa in 2001, as well as by the Africa Partnership Forum in 2003,

— having regard to the 'United Nations Economic Commission for Europe' (UNECE) Convention, which was adopted in Helsinki in 1992 and entered into force in 1996, and which provides a legal framework for regional cooperation on the protection and use of transboundary watercourses and international lakes,

— having regard to the UN World Summit on the Millennium (New York, 6-8 September 2000) which drew up the Millennium Development Goals (MDGs), which provided for the halving by 2015 of the proportion of people without sustainable access to safe drinking water,

— having regard to the Zaragoza Charter of 2008 'A New Comprehensive Vision of Water' and the recommendations of the Water Tribune adopted on 14 September 2008, the closing day of the 2008 Zaragoza International Exhibition and forwarded to the Secretary-General of the United Nations,

— having regard to the second UN World Water Development Report, entitled 'Water, a shared responsibility',

— having regard to its resolution of 11 March 2004 on the Internal Market Strategy - Priorities 2003-2006 ([1]), paragraph 5 of which states that, 'since water is a shared resource of mankind, the management of water resources should not be subject to the rules of the internal market',

— having regard to the UNDP 'Human Development Report 2006' concerning 'water between power and poverty' in which it demonstrated that poverty, rather than the physical shortage of water, is the main reason for which over one billion people are being denied access to water,

— having regard to its resolution of 15 March 2007 on local authorities and development cooperation ([2]),

— having regard to its resolution of 15 March 2006 on the Fourth World Water Forum in Mexico City (16-22 March 2006) ([3]),

— having regard to the major initiatives by European civil society regarding water and the right of access to drinkable water for all, organised within the European Parliament, namely the World Water Assembly for Elected Representatives and Citizens (AMECE, 18-20 March 2007) and 'Peace with Water' - 'faire la Paix avec l'Eau' (12-13 February 2009) and the 'Memorandum for a World Water Protocol' which was discussed,

— having regard to Oral Question B6-0113/2009 to the Commission on the 5th World Water Forum in Istanbul from 16 to 22 March 2009,

— having regard to Rule 108(5) of its Rules of Procedure,

([1]) OJ C 102 E, 28.04.2004, p. 857.
([2]) OJ C 301 E, 13.12.2007, p. 249.
([3]) OJ C 291 E, 30.11.2006, p. 294.

A. whereas the shortage of water and sanitation is causing 8 million deaths a year, whereas more than one billion people have no convenient access to drink water at an acceptable price and whereas around two-and-a-half billion have no access to sanitation,

B. whereas 2,8 billion people live in places affected by water tress and whereas this figure will rise to 3,9 billion by 2030,

C. whereas poor populations are the most vulnerable to climate change and are also least capable of adapting to it,

D. whereas multinational industries and agro-business are the main users of fresh water in the world (70 % worldwide), for which the price is ridiculously low; whereas the over-exploitation of water resources has aggravated and spread more widely the process of water contamination and the general deterioration of soil quality resulting in a higher incidence of drought of an increasingly structural nature,

E. whereas rational water services and management should determine a level of pricing that avoids overuse by some sectors and should allow investments to maintain and improve infrastructure, combined with flanking measures to ensure equitable water distribution and government support to enable poor families to pay for their basic water needs,

F. whereas general water subsidies, resulting in artificially low water prices, lead to overuse by some sectors and are one of the main causes of water shortage,

G. whereas water distribution is extremely unequal, while it should be a fundamental and universal right, and whereas it is most appropriately determined and managed at local level,

H. whereas liberalisation and deregulation of water distribution in developing countries, and in particular in the Least Developed Countries (LDCs), without a proper accompanying regulatory framework, can result in price increases that hit the poorest and reduce their access to water,

I. whereas, however, public-private partnerships, that must combine tight and transparent regulations, public ownership and private investment, must be directed towards improved access to water and sanitation for all, as well as more cost-efficient use,

J. whereas the main obstacles to efficient water management are the low political and financial priority given to water, poor management, an inadequate legal framework, a lack of transparency in negotiating and awarding contracts, corruption and a lack of discussion of price levels,

K. whereas, according to the Organisation for Economic Cooperation and Development (OECD), the share of official development assistance (ODA) devoted to water and sanitation is only 9 % of bilateral ODA and 4,5 % of multilateral ODA and whereas distribution is unsatisfactory since the LDCs, which are the most needy, have only received 24 % of funding,

L. whereas the World Water Forum, which meets every three years, provides an opportunity for discussion and shaping global policy decisions on management of water and water resources, and regretting that to date, initiatives by the World Water Forum have not been included to any great degree in the work of the United Nations,

1. Declares that water is a shared resource of mankind and that access to drinking water should constitute a fundamental and universal right; calls for all necessary efforts to be made to guarantee access to water for the most deprived populations by 2015;

2. Declares that water is considered as a public good and should be under public control, irrespective of whether it is managed partly or entirely by the private sector;

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3. Stresses that any water management policy should also cover the protection of public health and the environment; stresses also that the World Water Forum should help in a democratic, participative and consensual manner to develop strategies conducive to a type of economic and agricultural development that can guarantee a high level of water quality;

4. Calls for the abandonment of systems of general water distribution subsidies, which undermine incentives for efficient water management by creating overuse, to free up funds for targeted subsidies, in particular for poor and rural populations, aimed at affordable access for all;

5. Stresses the value of establishing shared water management bodies where countries share a common basin in order to create or strengthen forms of solidarity conducive to the appeasement of tensions and the resolution of conflicts;

6. Draws attention to the vital role of women as regards supply, management and conservation of water;

7. Calls on the Member States, despite the financial crisis, to increase their contribution to ODA in order to achieve the Millennium Development Goal relating to supplies of drinking water, for which the investment requirement amounts to an annual sum of USD 180 000 000 000;

8. Calls for the resources of the European Water Fund for African, Caribbean and Pacific (ACP) countries to be strengthened within the 10th EDF and for new forms of funding, including private funding and innovative partnerships, in particular solidarity-based financing, to be developed;

9. Takes the view that bilateral ODA should support some multilateral measures such as the African Water Initiative;

10. Considers that ODA should be used in conjunction with the resources of local authorities, voluntary donations, bank loans and private capita, to ensure that funding for the water sector is as comprehensive as possible;

11. Stresses the need to create guarantee mechanisms that can be set up by financial and development institutions to counter investors' caution on the water market;

12. Points out that, in its tasks of determining policies and the necessary resources, selecting partners and allocating responsibilities, while delegating implementation measures to local authorities, the State is still a major player in water policy;

13. Stresses that water resource management should be based on a decentralised, participative and integrated approach involving users and decision-makers in the definition of water policy at local level;

14. Calls on the Commission to develop water awareness programmes in the Union and in the partner countries;

15. Stresses the need to support local public authorities in their efforts to implement a democratic water management policy that is efficient, transparent, regulated and respectful of sustainable development objectives in order to meet the needs of communities;

16. Calls on the Council and the Commission to recognise the vital role of local authorities in water protection and management, so as to ensure that they are given responsibility in all countries for management of the water sector and regrets the fact that the competences of EU local authorities are insufficiently valued and exploited by European co-financing programmes;

17. Calls therefore on the Council and the Commission to encourage EU local authorities to devote a proportion of the levies collected from users for the water supply and sanitation services to decentralised cooperation measures;

18. Calls, in the context of retained public ownership and within the right legal regulatory framework, for increased efforts to engage the private sector in water distribution, in order to benefit from its capital, know-how and technology to increase access to water and sanitation facilities for all and the recognition of access to water as a fundamental right;

19. Considers that it is the states' responsibility to incorporate small private service providers in their national water supply strategies;

20. Considers that systems of public-private partnerships, whereby the public authorities retain the ownership of the infrastructure and conclude a management contract with the private sector, can be one way of improving affordable access to water and sanitation;

21. Stresses the importance of promoting new approaches such as the irrigation of rural areas and the creation of green belts around towns, in order to strengthen food security and local autonomy;

22. Considers that the role of non-governmental organisations working on the ground as intermediaries with local communities is an essential additional element in guaranteeing the success of projects in poor countries;

23. Hopes that cross-subsidies can be introduced to enable the most disadvantaged, in terms of access to water, to be supplied with water at an affordable price;

24. Is convinced that local savings can also be used, and that this requires governments to remove all legal, tax and administrative obstacles which may stand in the way of local financial markets;

25. Calls on the Commission and the Member States to adopt a water management aid policy, based on the principle of universal, fair and non-discriminatory access to safe water;

26. Calls on the Commission and the Member States to facilitate and support the efforts of developing countries in adapting to and reducing the impact of climate change; recalls, in this connection, the importance of rapidly setting up the Global Climate Change Alliance;

27. Calls for the issues relating to water management, water resources and the right of access to water for all to be included on the agenda of the COP 15 agreements in Copenhagen (7-18 December 2009) regarding the future of the Kyoto Protocol, in the light of the work done by the 'Intergovernmental Panel on Climate Change' (IPCC) experts;

28. Stresses the importance of taking account of the needs of the poor in devising water supply and management policies, with special reference to communities most vulnerable to climate change;

29. Calls on the Presidency to represent the Union at the Istanbul Forum, with a mandate to:

— treat access to drink water as a vital and fundamental human right, and not merely as an economically tradable good, subject only to the rules of the market,

— advocate the approach expressed in this resolution;

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30. Wishes to see the opening of negotiations, under United Nations auspices, on an international treaty recognising the right of access to drinking water; calls on the EU Member States and the Union Presidency to take political and diplomatic initiatives in this direction in the UN General Assembly and Human Rights Council;

31. Instructs its President to forward this resolution to the Council, the Commission, the ACP-EU Council of Ministers, the United Nations Secretary-General and the general secretariat of the International Committee for the Global Water Contract.

EC Development Assistance to Health Services in Sub-Saharan Africa

P6_TA(2009)0138

European Parliament resolution of 12 March 2009 on an approach to 'EC development assistance to health services in sub-Saharan Africa'

(2010/C 87 E/32)

The European Parliament,

— having regard to Court of Auditors Special Report No 10/2008 on EC Development Assistance to Health Services in sub-Saharan Africa,

— having regard to the Millennium Declaration of the United Nations of 18 September 2000, which sets out the Millennium Development Goals (MDGs) as criteria established collectively by the international community for the elimination of poverty,

— having regard to the Commission Communication of 7 October 2005 entitled 'Speeding up progress towards the Millennium Development Goals – The European Union's contribution' (COM(2005)0132),

— having regard to the Programme of Action adopted in 1994 by the International Conference on Population and Development [1],

— having regard to the resolution adopted on 22 November 2007 by the 14th ACP-EU Joint Parliamentary Assembly on access to healthcare and medicines, with a particular focus on neglected diseases [2],

— having regard to the Strategy Paper for the Thematic Programme 2007–2013 entitled 'Investing in People', based on Regulation (EC) 1905/2006 establishing a financing instrument for development cooperation,

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[1] A/CONF.171/13/Rev.1.
[2] OJ C 58, 1.3.2008, p. 29.

— having regard to the World Health Organisation (WHO) World Health Report 2008 entitled 'Primary Health Care – Now More Than Ever',

— having regard to its resolution of 20 June 2007 on the Millennium Development Goals - the midway point ([1]) and its resolution of 4 September 2008 on Maternal Mortality ahead of the UN High Level Event on the Millennium Development Goals, 25 September 2008 ([2]),

— having regard to Oral Question to the Commission on Court of Auditors report No 10/2008 on EC Development Assistance to Health Services in sub-Saharan Africa (O-0030/2009 - B6-0016/2009),

— having regard to Rule 108(5) of its Rules of Procedure,

A. whereas EC funding for the health sector has not increased as a proportion of its total development assistance since 2000 despite the Commission's commitment to the MDGs and the health crisis in sub-Saharan Africa,

B. whereas the EC has not made systematic arrangements to guarantee that there is sufficient health expertise to implement its health policy adequately,

C. whereas, while the current design of general budget support includes links to the health sector, its implementation has not gone far enough in exploring those links and addressing the needs of the poorer sections of the population,

D. whereas sector budget support, which focuses on the health sector, has been little used by the Commission in sub-Saharan Africa,

E. whereas half the population of sub-Saharan Africa is still living in poverty, and whereas Africa is the only continent that is not progressing towards the MDGs, especially the three health-related MDGs – on infant mortality, maternal mortality and the fight against HIV/AIDS, tuberculosis and malaria – which are crucial to addressing poverty but are the least likely to be achieved by 2015,

F. whereas, despite sustainability problems observed in health-related projects, this aid delivery method has proved useful in supporting the health sector in sub-Saharan Africa,

G. whereas every year 3,5 million children die before their fifth birthday as a result of diarrhoea and pneumonia,

1. Considers that weak health systems, including the human resources crisis, are a major barrier to the achievement of the health-related MDGs, and stresses that strengthening health systems should be an essential element in poverty reduction; believes that basic healthcare infrastructure needs stable, long-term financial support if the health-related MDGs are to be delivered;

2. Considers that, with a view to reaching better health outcomes and attaining the internationally agreed health development goals, a common commitment is needed; in this context, welcomes the commitment on the part of the developing countries to work towards the target of 15 % of national budgets as investment for health in accordance with the commitments made by African leaders in Abuja, Nigeria, in April 2001 (the Abuja 15 % target); regrets that the EC allocated only 5,5 % of total assistance under the ninth European Development Fund (EDF) to health;

([1]) OJ C 146 E, 12.6.2008, p. 232.
([2]) Texts adopted: P6_TA(2008)0406.

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3. Urges the Commission to strengthen its support for health services in sub-Saharan Africa and to review the balance of the EC funding with a view to prioritising health system support;

4. Urges the Commission to increase the funds allocated to the health sector at the mid-term review of the 10th EDF, regardless of a necessarily comprehensive strategy which includes support to sectors that have a wider impact on health outcomes, such as education, water and sanitation, rural development and governance;

5. Stresses that the undertaking given in the context of the Development Cooperation Instrument (DCI) to devote 20 % of funds to health and basic education by 2009 should apply to all European development policy spending, including the EDF, in order to be coherent; asks the Commission to inform Parliament's competent committees, by 10 April 2009, what percentage, broken down by country, of the total development assistance allocated to sub-Saharan Africa was committed for basic and secondary education and basic health;

6. Asks the Council to bring the EDF within the EU budget, as repeatedly called for by Parliament, which would allow greater policy coherence and parliamentary oversight of development spending;

7. Urges the Commission to ensure that there is sufficient health expertise to play an effective role in the health sector dialogue by seeing to it that all delegations where health is a focal sector have health specialists, by working more closely in post-conflict countries with European Community Humanitarian Aid department (ECHO) health advisers, by forming closer partnerships with the WHO in order to draw on their expertise, and by entering into formal agreements with the EU Member States to use their expertise; asks the Commission to send to Parliament's competent committees, by 10 April 2009, an overview of the respective number of health and education experts it has made available in the region, at delegation level as well as in its headquarters, and a precise timetable/overview for 2009 and 2010 indicating how it intends to increase this number and where those persons will be located, so that the Commission replies can be taken into account in the discharge procedure for 2007;

8. Asks the Commission to provide technical assistance support to the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM) at country level in the preparation of grant applications and in the implementation of grant contracts and to provide feedback to EC headquarters in order to ensure that it plays an effective role on the GFATM's executive board;

9. Urges the Commission to increase its capacity in terms of staff and resources, both at headquarters and at delegation level, in order to support its health strategy in the countries concerned and to ensure the effectiveness of the GFATM disbursements; and calls for a greater prioritisation of easily preventable diseases, such as diarrhoeal diseases, which could be largely avoided by the simple means of universal access to soap and appropriate hand-washing awareness-raising campaigns;

10. Urges the Commission also to make greater use of general budget support for strengthening healthcare with performance indicators of progress towards the Abuja 15 % target and execution rates (specific public finance management and procurement weakness), technical assistance on health-sector policy dialogue and sound statistical systems;

11. Confirms that MDG contracts have the potential to ensure sustainable, long-term investment in health in developing countries and to help them achieve the MDGs, but only if the Commission ensures that MDG contracts concentrate primarily on the health and education sectors; underlines, however, that the MDG contracts are only part of the solution when it comes to improving aid effectiveness and accelerating progress towards achievement of the health MDGs; urges the Commission also to develop alternative approaches, especially for those countries not yet eligible for MDG contracting, which are often further away from achieving the health MDGs and have the greatest need for increased development aid;

12. Asks the Commission to use targets that directly measure the outcome of policies and to put in place mechanisms and monitoring tools to ensure that an adequate proportion of general budget support aid supports basic needs, particularly in health; stresses that this must be accompanied by support for capacity-building; calls on the Commission to inform Parliament by the end of 2009 what steps it has taken;

13. Calls for capacity-building in all ministries with a view to ensuring greater effectiveness in the area of health through budget support spending, as country ownership is too often limited to ministries of finance;

14. Urges the Commission to make greater use of sector budget support; asks the Commission to review the general requirement that sector budget support can only be used if health is a focal sector and to reconsider its current distribution of resources between sector budget support and general budget support;

15. Calls on the Commission to provide support for scrutiny of budget support by parliaments, civil society and local authorities in order to ensure a strong and clear link between budget support aid and the achievement of the MDGs;

16. Deplores the fact that only in a limited number of partner countries (six) was health selected as a focal sector under the tenth EDF; urges the Commission systematically to encourage countries to increase national health budgets through the use of performance indicators by targeting such increases in its general Budget Support Financing Agreements;

17. Calls on the Commission to play a much stronger role as a facilitator of dialogue between the partner country governments and civil society, the private sector and the national parliaments;

18. Urges the Commission to establish and disseminate clear guidance on when each of the instruments should be utilised and how they can be used in combination to maximise synergy; calls on the Commission to ensure there is coherence between the different financial instruments, taking into account the situation in individual countries, in order to ensure progress on health-related MDGs;

19. Insists that the Commission and the Member States apply the EU Code of Conduct on Division of Labour Development Cooperation to ensure that health spending and programmes are better coordinated and to ensure a sharper focus on neglected aid-orphan countries, including countries in crisis and fragile states;

20. Calls on the Commission, in close cooperation with the Court of Auditors, to identify how the weaknesses noted in the Court of Auditors Report can be addressed and to report on the outcome of these discussions to Parliament's competent committees by the end of 2009;

21. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Court of Auditors, and the governments and parliaments of the African countries concerned.

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Implementation of the Single Euro Payments Area (SEPA)

P6_TA(2009)0139

European Parliament resolution of 12 March 2009 on the implementation of the Single Euro Payments Area (SEPA)

(2010/C 87 E/33)

The European Parliament,

— having regard to the joint statement from the Commission and the European Central Bank of 4 May 2006 on the Single Euro Payments Area,

— having regard to the European Central Bank Occasional Paper No 71 of August 2007 on the economic impact of the Single Euro Payments Area,

— having regard to Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market [1] (Payment Services Directive),

— having regard to the Commission proposal of 13 October 2008 for a regulation of the European Parliament and of the Council on cross-border payments in the Community (COM(2008)0640),

— having regard to the sixth SEPA Progress Report of the European Central Bank of November 2008,

— having regard to Rule 108(5) of its Rules of Procedure,

A. whereas the Single Euro Payments Area (SEPA) is to be an integrated market for payment services, which is subject to effective competition and in which there is no distinction between cross-border and national payments in euro,

B. whereas SEPA is not only a self-regulatory initiative by the European Payments Council (EPC), but also a major public policy initiative reinforcing the Economic and Monetary Union and the Lisbon Agenda; whereas SEPA is supported by the Payment Services Directive, which provides the necessary harmonised legal framework; and whereas the success of SEPA is, therefore, a matter of particular interest to Parliament,

C. whereas migration to SEPA officially started on 28 January 2008 with the launch of the SEPA payment instrument for credit transfer, while the SEPA Cards Framework has been in force since 1 January 2008, and the SEPA Direct Debit scheme is scheduled to start on 1 November 2009,

D. whereas no legally binding end-date for migration to SEPA instruments has been set, and whereas all parties involved now agree that setting such an end-date is imperative for SEPA to be successful,

E. whereas migration to SEPA has been sluggish: by 1 October 2008, only 1,7 % of total transactions had been made by way of the SEPA Credit Transfer format,

F. whereas it is important that all relevant stakeholders - legislators, the banking industry and payment services users (in particular the public sector, which is a mass volume user of payment products) - contribute to achieving SEPA,

[1] OJ L 319, 5.12.2007, p. 1.

G. whereas the use of SEPA instruments merely for cross-border payment transactions would not result in the success of the SEPA project, as fragmentation would persist and anticipated benefits for the banking industry as well as for its customers could not be realised,

H. whereas on 4 September 2008, the Commission and the European Central Bank indicated to the EPC that they would be prepared to support the idea of a multilateral interchange fee (MIF) for cross-border direct debits within the framework of SEPA on condition that such fees were objectively justified and applicable only for a limited period,

I. whereas the Commission has pointed out concerns about existing MIF, and the industry has difficulties devising a proper solution,

J. whereas the application of a MIF should also be resolved with regard to an EU card solution based on the SEPA Cards Framework,

K. whereas the continued legal validity of existing direct debit mandates should be ensured, as the obligation to sign new mandates when switching from national direct debit schemes to the SEPA Direct Debit scheme would be burdensome;

1. Emphasises its continued support for the creation of SEPA, which is subject to effective competition and in which there is no distinction between cross-border and national payments in euro;

2. Calls on the Commission to set a clear, appropriate and binding end-date, which should be no later than 31 December 2012, for migrating to SEPA instruments, after which all payments in euro must be made using the SEPA standards;

3. Calls on the Commission to provide for legal clarity as regards the application of a MIF for cross-border direct debits, in particular the definition of a transitional period at the end of which it should be possible for MIFs to be maintained provided that they respect Commission guidelines that should be adopted as soon as possible and be based on the transparency and comparability principles as well as on the observation of costs of, and charges for, the services rendered by the payment services providers;

4. Calls on the Commission to clarify further the issue of MIF for card payments;

5. Calls for increased efforts to find appropriate solutions in the Member States to ensure the continued legal validity of existing direct debit mandates in the SEPA Direct Debit scheme;

6. Calls on Member States to encourage their public administrations to use SEPA instruments as soon as possible and to give them a catalytic role in the migration process;

7. Calls on the Commission to ensure that the migration to SEPA instruments will not result in a more expensive payment system for citizens of the Union;

8. Instructs its President to forward this resolution to the Council, the Commission, the European Central Bank and the governments and parliaments of the Member States.

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EU-Brazil Strategic Partnership

P6_TA(2009)0140

European Parliament recommendation to the Council of 12 March 2009 on the European Union-Brazil Strategic Partnership (2008/2288(INI))

(2010/C 87 E/34)

The European Parliament,

— having regard to the proposal for a recommendation to the Council by Véronique De Keyser on behalf of the PSE Group on the European Union-Brazil Strategic Partnership (B6-0449/2008),

— having regard to Title V of the Treaty on European Union,

— having regard to the Framework Agreement for Cooperation between the European Economic Community and the Federative Republic of Brazil ([1]),

— having regard to the Interregional Framework Cooperation Agreement between the European Community and its Member States, of the one part, and the Southern Common Market and its Party States, of the other part ([2]),

— having regard to its resolution of 15 November 2001 on a global partnership and a common strategy for relations between the European Union and Latin America ([3]),

— having regard to its resolution of 27 April 2006 on a stronger partnership between the European Union and Latin America ([4]),

— having regard to the Commission Communication entitled 'Towards an EU-Brazil Strategic Partnership' (COM(2007)0281),

— having regard to the Joint Statement issued by the First EU-Brazil Summit in Lisbon on 4 July 2007,

— having regard to its resolution of 24 April 2008 on the Fifth Latin America and Caribbean-European Union Summit in Lima ([5]),

— having regard to the Lima Declaration issued at the Fifth Latin America and Caribbean (LAC)-European Union Summit in Lima, Peru, on 16 May 2008,

— having regard to the Joint Statement issued by the Second EU-Brazil Summit in Rio de Janeiro on 22 December 2008,

— having regard to Rule 114(3) of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Development (A6-0062/2009),

([1]) OJ L 262, 1.11.1995, p. 54.
([2]) OJ L 69, 19.3.1996, p. 4.
([3]) OJ C 140 E, 13.6.2002, p. 569.
([4]) OJ C 296 E, 6.12.2006, p. 123.
([5]) Texts adopted, P6_TA(2008)0177.

A. whereas Brazil has become an increasingly significant regional and global player and has emerged as a key interlocutor for the EU,

B. whereas Brazil and the European Union are partners who share the same world vision, and can promote changes and solutions worldwide,

C. whereas the First EU-Brazil Summit launched the EU-Brazil Strategic Partnership, on the basis of the parties' close historic, cultural and economic links, and the Second EU-Brazil Summit adopted a Joint Action Plan to be a framework for action in their Strategic Partnership over a three-year period,

D. whereas the partners share fundamental values and principles such as democracy, the rule of law, the promotion of human rights and fundamental freedoms, a market economy and social cohesion, which constitute basic pre-conditions for developing the Strategic Partnership,

E. whereas priorities on the agendas of both regions have been changed by, inter alia, political and economic integration processes, the increasing rate of economic globalisation and the importance of the debate on democracy, human rights and the environment,

F. whereas Brazil has been at the forefront of South American integration through the establishment of the Union of South American Nations (UNASUR),

G. whereas the Strategic Partnership will provide a significant boost to the establishment, by the year 2012, of the Euro-Latin American area of global interregional partnership proposed by Parliament in its above-mentioned resolution of 27 April 2006,

H. whereas the establishment of the Euro-Latin American Parliamentary Assembly (EuroLat) was a decisive step towards strengthening the democratic legitimacy and political dimension of EU-Latin American relations, and whereas the future accession of the Mercosur Parliament to that Assembly will strengthen EuroLat in its role as a permanent forum for political dialogue between the two regions,

1. Addresses the following recommendations to the Council:

(a) the Strategic Partnership should form part of the bi-regional approach to, and of the global view of, relations between the European Union and Latin America and the Caribbean (LAC), which are the basis of the Bi-Regional Strategic Association decided on at the EU-LAC summits;

(b) the privileged mechanisms for political dialogue arising from the Strategic Partnership should provide a boost for relations with and between the various regional integration processes, with a view to safeguarding the values of the Strategic Partnership and strengthening multilateralism in international relations;

(c) the Strategic Partnership should provide fresh impetus for the conclusion of the EU-Mercosur Association Agreement, an EU strategic objective for deepening economic and trade relations, as well as expanding political dialogue and cooperation, between the two regions;

(d) the Strategic Partnership should provide real added value both in relation to the current Framework Cooperation Agreement with Brazil, the current Framework Cooperation Agreement with Mercosur and the future Association Agreement with Mercosur;

(e) the focus of the Strategic Partnership's political agenda should include the promotion of joint strategies to tackle global challenges, including inter alia peace and security, democracy and human rights, climate change, the financial crisis, biological diversity, energy security, sustainable development and the fight against poverty and exclusion;

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(f) effective multilateralism focused on the UN system is the most efficient way to tackle global issues; the partners should seek to align their positions by means of close cooperation and systematic consultation prior to UN meetings and those of other international bodies (e.g. the WTO) and fora (e.g. the G20);

(g) the Strategic Partnership should underline the importance of implementing the ongoing reform process adopted at the UN Summit in 2005, including the reform of its main bodies;

(h) the partners should endeavour to strengthen the conflict prevention and crisis management capabilities at the UN, in regional organisations and at bilateral level, and to coordinate efforts in UN peace-keeping and stabilisation operations;

(i) the Strategic Partnership should be a tool to promote democracy and human rights, the rule of law and good governance at global level; the partners should further cooperate in the UN Human Rights Council and the Third Committee of the UN General Assembly to promote worldwide human rights;

(j) the partners must continue working towards strengthening the multilateral trading system at WTO level; with the current global financial crisis, and close links between finance and trade, protectionism should be avoided; the partners should cooperate with a view to contributing to the successful conclusion of the Doha Development Agenda negotiations;

(k) the Strategic Partnership should be used to promote cooperation between the partners in other international fora, such as the World Bank, the International Monetary Fund and the G20, with a view to finding solutions to the current global financial crisis, which has demonstrated the urgent need for reform of the international financial architecture;

(l) the view expressed in the Commission's Communication of 18 September 2008 entitled 'Multilingualism: an asset for Europe and a shared commitment' (COM(2008)0566), which underlines the strategic value for the EU of 'the external dimension of multilingualism' in today's globalised world, should be supported; the fact that 'some EU languages are also spoken in a great number of non-Member States in different continents', that they 'constitute an important link between peoples and nations' and 'a valuable communication tool for business' namely in 'emerging markets such as Brazil', and that they are also a relevant cooperation and development asset, should be affirmed;

(m) the partners must work jointly to tackle the most pressing global challenges in the area of peace and security, including inter alia disarmament, non-proliferation and arms control, especially as regards nuclear, chemical and biological weapons and their means of delivery, corruption, transnational organised crime and, more specifically, drug trafficking, money laundering, trafficking in small arms, light weapons and ammunition, trafficking in human beings and terrorism; they should demonstrate total commitment to the EU-LAC Mechanism on Drugs;

(n) the Strategic Partnership between the European Union and the Federal Republic of Brazil must be based on the mutual recognition of final judgments;

(o) the partners should work closely to promote and implement the Millennium Development Goals (MDGs) in order to tackle poverty and economic and social inequalities at global level; they should strengthen cooperation in the area of development aid, including triangular cooperation, and should also work together to combat international terrorism, drug trafficking and crime;

(p) Brazil's efforts to achieve the MDGs should be welcomed, and it should be congratulated on the positive developments in areas such as poverty alleviation, the reduction of child malnutrition and basic education; it should be stressed that Brazil still needs to engage in considerable efforts to achieve all MDGs by 2015, for example by ensuring sufficient quality in basic education for all girls and boys and continuing the decrease in mortality amongst children aged under five; it should be pointed out that the promotion of gender equality is a fundamental human right and an instrument for achieving the MDGs which needs to be present in the EU-Brazil Strategic Partnership;

(q) it should be noted that, in spite of economic development and the accumulation of wealth, Brazil still has a high number of poor people; emphasis should be placed on the need to support the Brazilian government in its efforts to tackle poverty in the poorest regions and the poorest layers of society, taking into account the fact that 65 % of the poorest Brazilians are black or of mixed ethnicity, while 86 % of those in the most privileged class are white;

(r) the Strategic Partnership should comprise a forum for debate and exchange of the partners' best practices on social and regional cohesion; in this respect, the very positive impact of the Brazilian 'Bolsa Família' programme in the reduction of the country's poverty and in the increase of its human development indicators should be acknowledged;

(s) a wide-ranging dialogue on migration should be set up, giving priority to issues of regular and irregular migration, together with the protection of the human rights of migrants and the facilitation of remittances;

(t) the partners should work together to advance discussions in international fora with a view to concluding in 2009 a global and comprehensive post-2012 agreement on climate change, based notably on the principle of common but differentiated responsibilities;

(u) the partners should also work closely towards implementing the Convention on Biological Diversity and achieving the 2010 biodiversity target;

(v) the partners should strengthen international cooperation on the conservation and sustainable management of all types of forests, including the Amazon rainforest; they should exchange best practices on sustainable forest management and forest law enforcement;

(w) the partners should develop low carbon energy technologies and ensure the sustainable production and use of renewable energies, including sustainable biofuels which do not affect the production of food crops and biodiversity; they should increase the percentage of renewable energies in their global energy mix, promote energy efficiency and access to energy, and achieve greater energy security;

(x) cooperation in nuclear research should be strengthened so that Brazil may participate in the ITER (International Thermonuclear Experimental Reactor) project on thermonuclear energy generation;

(y) given that access to medicinal products and public health are overarching aims, Brazil's efforts to combat AIDS with low-cost medicines should be supported, and the EU should further investigate the compulsory licensing of medicines which tackle neglected pandemic illnesses affecting poor people;

(z) the amount available under the Development Cooperation Instrument [1] (DCI) for Brazil must be used for measures to support Brazil in its fight against poverty and to achieve the MDGs and other measures that can be considered as genuine development assistance, for instance in the environmental sector;

(aa) existing dialogues should be reinforced, and fresh sectoral dialogues should be launched, namely on the environment and sustainable development, energy, transport, food security, science and technology, the information society, employment and social issues, finance and macro-economics, regional development, culture and education;

(ab) the Strategic Partnership should encourage contacts between civil society organisations, business and social partners' fora, and should promote exchanges on an educational and cultural level;

[1] Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, s. 41).

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(ac) actions in favour of the EU-Brazil political partnership, mutual awareness and understanding and exchange programmes should be financed from an instrument other than the DCI;

(ad) the Strategic Partnership should provide for the establishment of a regular structured dialogue between the Members of the Brazilian National Congress and Members of the European Parliament;

(ae) provision should be made for the institutions of the EU and the Government of Brazil to provide the European Parliament and EuroLat with regular and detailed information on the state of play of the Strategic Partnership;

2. Instructs its President to forward this recommendation to the Council and, for information, to the Commission and to the governments and parliaments of the Member States, as well as to the President and the National Congress of the Federative Republic of Brazil.

EU-Mexico Strategic Partnership

P6_TA(2009)0141

European Parliament recommendation to the Council of 12 March 2009 on an EU-Mexico Strategic Partnership (2008/2289(INI))

(2010/C 87 E/35)

The European Parliament,

— having regard to the proposal for a recommendation to the Council, submitted by José Ignacio Salafranca Sánchez-Neyra on behalf of the PPE-DE Group, on an EU-Mexico Strategic Partnership (B6-0437/2008),

— having regard to the Commission communication of 15 July 2008 entitled 'Towards an EU-Mexico Strategic Partnership' (COM(2008)0447),

— having regard to its resolution of 11 October 2007 on the murder of women (feminicide) in Mexico and Central America and the role of the European Union in fighting the phenomenon [1],

— having regard to the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other [2], signed on 8 December 1997 ('the Global Agreement'),

— having regard to the declarations of the five summits of heads of state and government of the European Union, Latin America and the Caribbean (EU-LAC), held to date in Rio de Janeiro (28 and 29 June 1999), Madrid (17 and 18 May 2002), Guadalajara (28 and 29 May 2004), Vienna (12 and 13 May 2006) and Lima (16 and 17 May 2008),

— having regard to the joint communiqué of the Fourth Mexico-EU summit held in Lima, dated 17 May 2008,

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[1] OJ C 227 E, 4.9.2008, p. 140.
[2] OJ L 276, 28.10.2000, p. 45.

— having regard to the joint communiqué of the Eighth meeting of the EU-Mexico Joint Committee, held in Mexico City on 13 and 14 October 2008,

— having regard to the joint declaration of the Seventh meeting of the EU-Mexico Joint Parliamentary Committee (JPC) held in Mexico City on 28 and 29 October 2008,

— having regard to the conclusions of the General Affairs and External Relations Council of 13 October 2008,

— having regard to the message from the Euro-Latin America Parliamentary Assembly (EuroLat) to the Fifth EU-LAC Summit dated 1 May 2008,

— having regard to its resolution of 24 April 2008 on the Fifth Latin America and Caribbean-European Union Summit in Lima ([1]),

— having regard to the San Salvador Declaration adopted at the 18th Iberoamerican Summit of Heads of State and Government, held on 29, 30 and 31 October 2008,

— having regard to its resolution of 14 February 2006 on the human rights and democracy clause in European Union agreements ([2]),

— having regard to Rules 114(3) and 83(5) of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on International Trade (A6-0028/2009),

A. whereas Mexico and the EU share a set of fundamental values, common principles and historical and cultural links,

B. whereas respect for democratic principles and human rights, as enshrined in the democracy clause, are an essential element of both the Strategic Partnership and the Global Agreement, and must be applied by both parties,

C. whereas Mexico is increasingly consolidating its political weight on the international stage, as is confirmed at world level by its recent nomination as a non-permanent member of the UN Security Council (for 2009-2010), and at regional level by its presidency of the Pro-Tempore Secretariat of the Rio Group (for 2008-2010),

D. whereas it is important that the EU recognise Mexico's contribution to the multilateral system, given that multilateralism is one of the basic principles which both parties, Mexico and the EU, have undertaken to promote in the international sphere,

E. whereas Mexico has embarked on a scheme of structural reforms in strategic sectors and has become the world's tenth-largest economy, a member of the G20 and of the G5 (Brazil, China, India, South Africa and Mexico), and is, furthermore, the only Latin American member of the OECD,

F. whereas Mexico has a population of over 100 million, with a marked preponderance of youth given that 45 % of Mexicans are aged under 20, and occupies an important geostrategic position as a bridge both between North and South America and between the Caribbean and the Pacific,

([1]) Texts adopted, P6_TA(2008)0177.
([2]) OJ C 290 E, 29.11.2006, p. 107.

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G. whereas the Global Agreement has three pillars: political dialogue, the gradual creation of a free-trade area, and cooperation; whereas, in addition, since that agreement came into force in 2000 relations between the two sides have been marked by deepening and consolidation, both politically and in the trade and cooperation fields,

H. whereas at the Lima Summit the EU and Mexico underlined the positive development in trade and investment flows under the Global Agreement,

I. whereas, both bilaterally and in the framework of the Global Agreement, the EU and Mexico have strengthened their contacts at all levels and as regards all institutions, notably in the parliamentary field and in the context of the EU-Mexico Joint Parliamentary Committee and EuroLat,

J. whereas the proposal for a Strategic Partnership comes at a time of international financial and economic crisis, and there is a risk of this crisis affecting the economic and social balance of the bilateral relationship,

K. whereas the deepening of EU-Mexico relations can help enhance the consensus between the EU and its Latin American partners on regional and global issues, facilitating the joint promotion of their shared interests and values in international and regional forums,

L. whereas the Strategic Partnership needs to be conceived as marking a qualitative leap in EU-Mexico relations, at two different levels: multilaterally, in terms of mutual coordination on issues of world importance, and bilaterally, via the development of their relations and of particular initiatives,

M. whereas the processes of political and economic integration, the increasing spread of economic globalisation and the importance of the debate on democracy, human rights and the environment, inter alia, have changed the priorities in the agenda of both regions,

N. whereas Mexico's strategic situation and its network of trade agreements mean that it is of great strategic importance for European exports, the EU being its second source of foreign investment,

O. whereas the Mexico-EU Free Trade Area (FTA) plays an important role in the EU's bilateral relations since its scope is very comprehensive (covering goods, services, procurement, competition, intellectual property rights, investment and related payments),

P. whereas Mexican emigration to the EU, inter alia, is one of the most important and sensitive issues for Mexico, given the high number of Mexican immigrants, many of them highly skilled, in the Union,

1. Makes the following recommendations to the Council:

(a) hopes that the Strategic Partnership will mark a qualitative leap in EU-Mexico relations, both multilaterally in terms of issues of world importance and in strengthening the development of bilateral relations;

(b) favours institutionalising annual EU-Mexico summits within the framework of the Strategic Partnership, as is already the case for those with the USA, Russia, China and Brazil;

(c) trusts that the Strategic Partnership will give a new impetus to the EU-Mexico Global Agreement in its various aspects – political (including human rights), security, anti-drugs trafficking, environmental, cooperation (technical and cultural) and socio-economic;

(d) wishes the trade chapter to be based on like-for-like treatment, solidarity, dialogue and respect for the specific characteristics of Mexico and of the EU;

(e) reiterates its support for the Mexican Government and President Calderón in their vital work of cleaning up certain institutions of the State; believes this campaign is essential in order to stop corruption and ensure that society is not left unprotected;

(f) believes that it falls within the sphere of its activities to fight feminicide in both regions, on a basis of dialogue, cooperation and the exchange of best practices;

(g) trusts that the Strategic Partnership will lead to closer coordination of positions on crisis situations and issues of world importance, on the basis of shared interests and concerns;

(h) wishes to see clear guidelines on how best to ensure close cooperation with a view to promoting effective multilateralism and reinforcing the UN's capacities for preserving and consolidating peace and ensuring respect for human rights, while also tackling, in the framework of international law, common threats to peace and security such as trafficking in drugs and arms, organised crime, terrorism and human trafficking, in line with the Lima Declaration;

(i) urges that the Strategic Partnership be seen as an opportunity to debate how to make the human rights and democracy clause function more effectively and to evaluate compliance with it – including through development of its positive dimension – given that human rights and democracy represent essential values, in all the agreements and for both parties;

(j) expresses in this connection its support for the Mexican government in its contributions to the work of the UN and in its fight against drug trafficking, international terrorism and organised crime, especially in view of the increasing numbers of victims of drug trafficking and consumption;

(k) trusts that the privileged mechanisms of political dialogue arising from the EU-Mexico Strategic Partnership will result in a real impetus for relations with and between the various regional integration processes, for the safeguarding of the values and interests of the Strategic Partnership itself, and for the strengthening of multilateralism in the area of international relations;

(l) suggests that greater weight be given to the Mexico-EU Civil Society Forum and that its recommendations be taken into account wherever possible;

(m) stresses the role of the Strategic Partnership as an instrument that should help reinforce cooperation between the parties in international forums, such as the World Bank, the International Monetary Fund, the OECD, the G20 and the G8+G5, with a view to seeking solutions to the world financial crisis and launching a joint response aimed at restoring confidence in the financial institutions, in line with the San Salvador Declaration;

(n) underlines the need, especially in the context of the world financial crisis, to promote the development of small and medium-sized enterprises, given their vital role in the strengthening of the economic and social fabric and creating worthwhile employment;

(o) stresses the importance of all bilateral agreements concluded between the EU and Mexico, especially the Global Agreement, which includes an FTA, and the Strategic Partnership;

(p) highlights the positive effects that the application of the Global Agreement has had for both parties, with an increase in bilateral trade of more than 100 % being recorded;

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(q) underlines that the EU-Mexico Strategic Partnership will give fresh impetus to the bilateral relationship and will favour the expansion and improvement of cooperation programmes such as the Integral Support Programme for Small and Medium-Sized Enterprises (PIAPYME), the results of which will benefit both parties; calls in this context for an information campaign to be conducted to publicise all the programmes from which both parties will benefit within the framework of this deepening of their relations; point out that the Strategic Partnership will serve to further consolidate coordination between the two parties in the main multilateral forums and institutions;

(r) recommends that Mexico should become a permanent member of the new financial and economic international architecture of the G20, given that, within this context, the bilateral strategic partnership with the EU will become even more relevant;

(s) emphasises the need to establish common ground in order to devise an ambitious strategy for fighting climate change, with a view to the UN Conference on Climate Change to be held in 2009 in Copenhagen and the achievement of a global agreement;

(t) urges that more coherent efforts be made to promote scientific and technological transfer, with a view to boosting real cooperation in fighting climate change and improving environmental protection;

(u) wishes to see further progress in developing a comprehensive and structured dialogue on migration, both legal and illegal, as well as on the links between migration and development, in line with the experiences of both Mexico and the EU in that regard and with the Lima Declaration;

(v) calls on the Joint Council, on the basis of the future developments clause provided for by Article 43 of the Global Agreement, to consider the timeliness of establishing, inter alia, an agreement on an immigration policy between the two parties, in particular as regards Mode 4 procedures;

(w) calls for the reaffirmation of the commitments for attainment of the Millennium Development Goals and for renewed awareness of the need for close cooperation in the areas of social cohesion, gender equality, climate change, sustainable development, the fight against international terrorism, drug trafficking and organised crime, food security, and the fight against poverty;

(x) believes there must be a regular flow of information from the EU institutions and the Mexican government to the European Parliament, EuroLat and the EU-Mexico Joint Parliamentary Committee on the state of play regarding the Strategic Partnership and on the monitoring of the actions taken under it;

2. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, and to the governments and parliaments of the EU Member States and the Government and Congress of the United Mexican States.

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50th anniversary of the Tibetan uprising and dialogue between His Holiness the Dalai Lama and the Chinese Government

P6_TA(2009)0142

European Parliament resolution of 12 March 2009 on the 50th anniversary of the Tibetan uprising and dialogue between His Holiness the Dalai Lama and the Chinese Government

(2010/C 87 E/36)

The European Parliament,

— having regard to its previous resolutions on China and Tibet, in particular its resolutions of 10 April 2008 on Tibet [1] and 10 July 2008 on the situation in China after the earthquake and before the Olympic Games [2],

— having regard to the statement made by His Holiness the Dalai Lama to the European Parliament on 4 December 2008,

— having regard to the statement on Tibet made by the US Administration and the European Union at the US-EU Summit on 10 June 2008,

— having regard to Rule 108(5) of its Rules of Procedure,

A. whereas March 2009 marks the 50th anniversary of His Holiness the Dalai Lama's flight from Tibet and the beginning of his exile in India,

B. whereas eight rounds of dialogue between the envoys of His Holiness the Dalai Lama and representatives of the Chinese Government have produced no breakthrough and no further talks are planned,

C. whereas the Memorandum on Genuine Autonomy for the Tibetan People, produced at the request of the Chinese Government and presented by envoys of His Holiness the Dalai Lama at the eighth round of talks in November 2008 in Beijing, respects the principles underpinning the Chinese Constitution and the territorial integrity of the People's Republic of China, but was rejected by the Chinese Government as an attempt at 'semi-independence' and 'independence in disguise',

D. whereas His Holiness the Dalai Lama has appealed for non-violence, was awarded the Nobel Peace Prize in 1989 for his efforts and is not calling for the independence of Tibet but for the resumption of negotiations with the Chinese authorities, so as to reach a comprehensive political agreement on genuine autonomy, within the context of the People's Republic of China,

E. whereas over the last few days the Chinese authorities have tightened security in Tibet, with journalists and foreigners being banned from visiting the region and permits already issued to foreigners cancelled, implementing a 'strike hard' campaign against the Tibetan people,

F. whereas a large number of monks of the monastery of An Tuo, in the Chinese province of Qinghai, were arrested on 25 February 2009 during a peaceful march on the occasion of the Tibetan New Year,

[1] Texts adopted, P6_TA(2008)0119.
[2] Texts adopted, P6_TA(2008)0362.

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1. Urges the Chinese Government to consider the Memorandum for Genuine Autonomy for the Tibetan People of November 2008 as a basis for substantive discussion leading towards positive, meaningful change in Tibet, consistent with the principles outlined in the Constitution and laws of the People's Republic of China;

2. Calls on the Council to ascertain what exactly happened during the negotiations between the People's Republic of China and the envoys of His Holiness the Dalai Lama;

3. Calls on the Council Presidency, on the occasion of the 50th anniversary of the exile of His Holiness the Dalai Lama to India, to adopt a declaration calling on the Chinese Government to open a constructive dialogue with a view to reaching a comprehensive political agreement and to include a reference to the Memorandum for Genuine Autonomy for the Tibetan People;

4. Condemns all acts of violence, whether they are the work of demonstrators or disproportionate repression by the forces of law and order;

5. Calls on the Chinese Government to release immediately and unconditionally all those detained solely for engaging in peaceful protest, and to account for all those who have been killed or gone missing, and all those detained and the nature of the charges against them;

6. Asks the Chinese authorities to provide foreign media access to Tibet, including the Tibetan areas outside the Tibet Autonomous Region, and to abolish the system of special permits required for access to the Tibet Autonomous Region;

7. Urges the Chinese authorities to grant UN human rights experts and recognised international non-governmental organisations unimpeded access to Tibet so that they can investigate the situation there;

8. Urges the Council Presidency to take the initiative of including the question of Tibet on the agenda for a meeting of the General Affairs Council with a view to discussing how the EU could facilitate progress on a solution for Tibet;

9. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the President, Government and Parliament of the People's Republic of China, and His Holiness the Dalai Lama.

Guinea-Bissau

P6_TA(2009)0143

European Parliament resolution of 12 March 2009 on Guinea-Bissau

(2010/C 87 E/37)

The European Parliament,

— having regard to the EU Presidency statement of 2 March 2009 on the tragic events in Guinea-Bissau,

— having regard to the presidential elections of June and July 2005 and the parliamentary elections of 16 November 2008 in Guinea-Bissau,

— having regard to the United Nations Security Council statement of 3 March 2009 on the current political crisis in Guinea-Bissau,

— having regard to the statement of the Commission of the African Union (AU) of 2 March 2009,

— having regard to Rule 115(5) of its Rules of Procedure,

A. whereas on 2 March 2009 President of Guinea-Bissau João Bernardo Vieira was shot by renegade soldiers, the day after a bomb attack which killed the army's chief of staff, General Batista Tagmé Na Waié; whereas the killings have removed two very powerful figures and rivals who had escaped several assassination attempts in the past four months,

B. whereas the attacks have not been seen as a coup, and whereas the AU's Peace and Security Council has not suspended Guinea-Bissau as it did neighbouring Guinea and Mauritania after coups last year,

C. whereas the recently elected Speaker of the National People's Assembly, Raimundo Pereira, was sworn in as President for a limited period pending elections, as stipulated by the Constitution; whereas Raimundo Pereira has appealed to the international community to help stabilise the country,

D. whereas Guinea-Bissau's decades of political instability have led the country into a deep crisis, marked by a lack of access to clean water, health and education and by civil servants in many ministries facing months of wage arrears, and whereas the country is one of a handful of states on the agenda of the United Nations (UN) Peacebuilding Commission, which aims to help poor countries avoid sliding back into war or chaos; whereas the assassinations have come at a time of increased EU and international engagement aimed at building a democratic and stable Guinea-Bissau,

E. whereas since June 2008 the EU has been providing advice and assistance in support of security sector reform in Guinea-Bissau through its ESDP mission 'EU Security Sector Reform (SSR) Guinea-Bissau',

F. whereas the November 2008 parliamentary elections were an important test for Guinea-Bissau, whose transition to democratic rule badly needed fresh impetus; whereas the elections were praised by both citizens and international observers, particularly by the EU Election Observation Mission, and paved the way for enhanced UN support for the country's peace-building efforts; whereas, during the election period, the military kept out of the electoral process and remained committed to guaranteeing a peaceful environment,

G. whereas the assassinations appear to be related to political tension stemming from old rivalries, ethnic divisions and instability in the military ranks, and the ever-increasing presence of drug trafficking interests in the country, making up a very complex and dangerous background situation that constantly undermines the ability of the country to recover,

H. whereas Guinea-Bissau faces a drug trafficking problem and serves as major drugs transit point between South America and Europe, and whereas drug trafficking constitutes a serious threat to the political stability of the country,

I. whereas the growing evidence of drug trafficking in and through the region shows how it has become a major danger to the whole of West Africa and also already poses a huge threat to the European Union by affecting neighbouring regions,

1. Strongly condemns the assassinations of the President of Guinea-Bissau, João Bernardo Vieira, and the army's chief of staff, General Tagmé Na Waié;

2. Offers its sincere condolences to the families of the late President João Bernardo Vieira and the late General Tagmé Na Waié and to the people of Guinea-Bissau;

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3. Urges the Guinea-Bissau authorities to thoroughly investigate these crimes and to bring those responsible to justice, and calls on the international community to exert all the necessary influence and to provide all the support required to achieve that objective; points out that the cases involving the assassinations of Generals Ansumane Mané (2000) and Veríssimo Correia Seabra (2004) have not yet been cleared up, nor have the respective killers been located, indicted and tried; stresses that impunity is not an answer;

4. Welcomes the army's pledge to respect Guinea-Bissau's Constitution, and urges strict respect for the country's constitutional order;

5. Urges all the parties to resolve their disputes by political and peaceful means within the framework of Guinea-Bissau's institutions and opposes any attempt to change the government by unconstitutional means;

6. Hopes that presidential elections will be held within 60 days, as stipulated in the Constitution, and calls on the Member States and the international community to make sure Guinea-Bissau receives the financial and technical support it needs in order to conduct credible elections;

7. Stresses that there is a danger that Guinea-Bissau will remain unstable and unable to cope with rampant corruption or change its status as a key drugs transit country as long as its institutions remain structurally weak;

8. Calls on the Council, the Commission, the Member States, the United Nations, the AU, the Economic Community of West African States (ECOWAS), the Community of Portuguese-Speaking Countries (CPLP) and other members of the international community to monitor developments in Guinea-Bissau, to assist in preserving its constitutional order and to continue to support peace-building efforts in the country;

9. Calls for immediate talks between the various political factions in the country with a view to producing a programme to which all stakeholders commit, which would include speeding up security sector reform, a revised electoral law, public administration reform, anti-corruption measures, macro-economic stabilisation and consultation with civil society about national reconciliation;

10. Welcomes the decision taken on 3 March 2009 by ECOWAS to despatch a ministerial delegation to Guinea-Bissau, comprising ministers from Nigeria, Burkina Faso, Cape Verde, the Gambia and Senegal, accompanied by the President of the ECOWAS Commission, and the similar decision taken the same day by the CPLP to send a political mission to Guinea-Bissau, led by the Portuguese Secretary of State for Foreign Affairs and Cooperation, both involving all stakeholders in an effort to restore confidence among political actors, security forces and civil society and return the country to constitutional normality;

11. Draws attention, with deep concern, to the threat that the transhipment of drugs from as far afield as Colombia and Afghanistan and human trafficking poses to the consolidation of peace in Guinea-Bissau and to the stability of the West African region, and calls on the United Nations agencies, with appropriate support from ECOWAS, to develop a regional plan of action to address this challenge;

12. Calls on the UN Peacebuilding Commission to help keep promised donor aid (both financial and technical) flowing, in particular for security sector and administrative reforms and the fight against drug trafficking;

13. Calls on the Council and Commission to keep providing advice and assistance in support of the security sector reform in Guinea-Bissau through its ESDP mission 'EU SSR Guinea-Bissau' and to report on the progress already achieved;

14. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the Secretaries-General of the UN and ECOWAS, the AU institutions, the ACP-EU Joint Parliamentary Assembly, the CPLP Secretariat and the Government and Parliament of Guinea-Bissau.

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Phillipines

P6_TA(2009)0144

European Parliament resolution of 12 March 2009 on the Philippines

(2010/C 87 E/38)

The European Parliament,

— having regard to the Declaration of 15 September 2008 by the Presidency on behalf of the EU on the situation in Mindanao,

— having regard to the appeal issued by the Ambassadors of the European Union and the United States of America and the Australian Embassy's deputy head of mission on 29 January 2009,

— having regard to the third session of the Tripartite Review of the implementation of the 1996 Peace Agreement between the Moro National Liberation Front (MNLF) and the Government of the Republic of the Philippines (GRP) from 11 to 13 March 2009,

— having regard to the Hague Joint Declaration by the GRP and the National Democratic Front of the Philippines (NDFP) of 1 September 1992 and the First and Second Oslo Joint Statements of 14 February and of 3 April 2004,

— having regard to the Commission's Country Strategy Paper 2007-2013 for the Philippines, the programme of support to the Peace Process under the Stability Instrument and the negotiations for a Partnership and Cooperation Agreement between the EU and the Philippines,

— having regard to its previous resolutions on the Philippines, notably that of 26 April 2007 ([1]), and reaffirming its support for the peace negotiations between the GRP and NDFP as expressed in its resolutions of 17 July 1997 ([2]) and 14 January 1999 ([3]),

— having regard to Rule 115(5) of its Rules of Procedure,

A. whereas several armed groups, notably the Moro Islamic Liberation Front (MILF), have been combating government troops in the southern part of the Philippines since 1969, in one of Asia's longest-running insurgencies,

B. whereas the conflict between the GRP and the insurgents of the NDFP has claimed more than 40 000 lives and sporadic violence has continued despite the 2003 ceasefire and peace talks,

C. whereas hostilities between government forces and the MILF in Mindanao resumed in August 2008 after the Supreme Court of the Philippines declared unconstitutional the Memorandum of Agreement between the MILF and the GRP on the Ancestral Domain, which would have given substantial autonomy to the Bangsamoro nation,

D. whereas the renewed fighting has killed over one hundred and displaced approximately 300 000 people, many of whom are still in evacuation centres,

([1]) OJ C 74 E, 20.3.2008, p. 788.
([2]) OJ C 286, 22.9.1997, p. 245.
([3]) OJ C 104, 14.4.1999, p. 116.

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E. whereas Malaysia, the peace facilitator, withdrew its ceasefire monitors from Mindanao in April 2008 due to the lack of progress in the peace process, but is willing to reconsider its role if the GRP clarifies its negotiating position,

F. whereas peace talks between the GRP and the NDFP have stalled since 2004 and whereas the Norwegian Government has made great efforts to encourage both sides to resume formal talks,

G. whereas hundreds of activists, trade unionists, journalists and religious leaders in the Philippines have been killed or abducted since 2001 and the GRP denies any involvement of the security forces and the army in these political killings, despite ample evidence to the contrary,

H. whereas there were several cases in 2008 in which local courts found the arrest and detention of activists to be unlawful and ordered their release, but where those same people were subsequently rearrested and charged with rebellion or murder,

I. whereas the judiciary in the Philippines is not independent, while lawyers and judges are also subject to harassment and killings; whereas witness vulnerability makes it impossible to effectively investigate criminal offences and prosecute those responsible for them,

J. whereas, in the case of most of these extrajudicial killings, no formal criminal investigation has been opened and the perpetrators remain unpunished despite many government claims that it has adopted measures to stop the killings and bring their perpetrators to justice,

K. whereas in April 2008 the UN Human Rights Council examined the situation in the Philippines and stressed the impunity of those responsible for extrajudicial killings and enforced disappearances, but the GRP rejected recommendations for a follow-up report,

L. whereas in order to put an end to abductions and extrajudicial killings it is necessary to address the economic, social and cultural root causes of violence in the Philippines,

1. Expresses its grave concern about the hundreds of thousands of internally displaced people in Mindanao, calls on the GRP and the MILF to do all in their power to bring about a situation which allows people to return home, and calls for enhanced national and international action to protect and to work towards the rehabilitation of the displaced persons;

2. Believes strongly that the conflict can only be resolved through dialogue, and that the resolution of this long-standing insurgency is essential for the sake of the overall development of the Philippines;

3. Calls on the GRP to urgently resume peace negotiations with the MILF and to clarify the status and future of the Memorandum of Agreement after the above-mentioned Supreme Court ruling; welcomes the GRP's announcement that it intends to drop preconditions for the resumption of talks;

4. Welcomes the talks, facilitated by Norway, between the GRP and the NDFP in Oslo in November 2008 and hopes, in this case also, that formal negotiations can rapidly resume; calls on the parties to comply with their bilateral agreements for the JMC, to meet in accordance with the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) and to allow joint investigations of human rights violations;

5. Calls on the Council and the Commission to provide and facilitate support and assistance to the parties in implementing the CARHRIHL, notably through development, relief and rehabilitation programmes;

6. Calls on the European Council and the Commission to support the GRP in its efforts to advance the peace negotiations, including by means of facilitation if requested, as well as through support for the International Monitoring Team responsible for overseeing the ceasefire between the military and the MILF;

7. Suggests that the role of the International Monitoring Team could be enhanced through a stronger mandate for investigations and through an agreed policy of making its findings public;

8. Calls on the GRP to increase development aid to Mindanao in order to improve the desperate living conditions of the local population and welcomes the financial support of more than EUR 13 million in food and non-food aid which the EU has given to Mindanao since fighting restarted in August 2008;

9. Expresses its grave concern at the hundreds of cases of extrajudicial killings of political activists and journalists that have occurred in recent years in the Philippines, and the role that the security forces have played in orchestrating and perpetrating those murders;

10. Calls on the GRP to investigate cases of extrajudicial executions and enforced disappearances; calls at the same time on the GRP to put into place an independent monitoring mechanism to oversee the investigation and prosecution of perpetrators of such acts;

11. Calls on the GRP to adopt measures to end the systematic intimidation and harassment of political and human rights activists, members of civil society, journalists and witnesses in criminal prosecutions, and to ensure truly effective witness protection;

12. Reiterates its request to the Philippine authorities to allow the UN special bodies dealing with human rights protection unrestricted access to the country; urges, also, the authorities to swiftly adopt and implement laws to incorporate the international human rights instruments (e.g. against torture and enforced disappearances) which have been ratified into national law;

13. Calls on the Council and the Commission to ensure that the EU's financial assistance towards economic development in the Philippines is accompanied by scrutiny of possible violations of economic, social and cultural rights, with special attention being paid to encouraging dialogue and inclusion of all groups in society;

14. Instructs its President to forward this resolution to the Council, the Commission, the President and Government of the Republic of the Philippines, the MILF, the NDFP, the UN High Commissioner for Human Rights and the governments of the ASEAN Member States.

Expulsions of NGOs from Darfur

P6_TA(2009)0145

European Parliament resolution of 12 March 2009 on expulsions of NGOs from Darfur

(2010/C 87 E/39)

The European Parliament,

— having regard to the Declaration by the Presidency on behalf of the European Union following the decision of the International Criminal Court (ICC) concerning the arrest warrant against Sudan's President Omar Hassan al-Bashir on 6 March 2009,

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— having regard to Commissioner Louis Michel's statement of 5 March 2009 on the expulsion of humanitarian NGOs from Sudan,

— having regard to its previous resolutions on the situation in Sudan/Darfur, expressing in particular its continuing support for the ICC,

— having regard to the Rome Statute of the ICC and its entry into force on 1 July 2002,

— having regard to UN Security Council Resolution S/Res/1593 (2005), adopted on 31 March 2005, referring the situation in Darfur to the ICC,

— having regard to Rule 115(5) of its Rules of Procedure,

A. whereas on 4 March 2009 the ICC's Pre-Trial Chamber issued an arrest warrant against Sudan's President Omar Hassan al-Bashir in connection with alleged crimes against humanity and war crimes in Sudan's conflict-ridden province of Darfur,

B. whereas, as a reaction to the ICC decision, the Sudanese Government decided to expel 13 leading NGOs from Darfur,

C. whereas aid agencies in Darfur are running the largest humanitarian operation in the world; whereas the United Nations reports that up to 4.7 million people, including 2.7 million internally displaced people, are in need of assistance,

D. whereas the expulsion of the aid agencies could lead to increased mortality and morbidity resulting from the interruption of health services and outbreaks of infectious diseases, such as diarrhoea and respiratory infections; whereas the consequences of the expulsion may include declining immunisation coverage and increasing mortality among children if they do not have access to therapeutic feeding and nutrition services,

E. whereas the NGOs have been expelled at a time when their services are vitally needed, particularly as there is currently a meningitis epidemic in West Darfur; whereas the expulsion will leave sufferers with extremely limited or no access to medical treatment,

F. whereas the UN's 'Responsibility to Protect' doctrine provides that where national authorities manifestly fail to protect their populations, others have a responsibility to provide the protection needed,

G. whereas the Government of Sudan, as a member of the United Nations, is obliged to cooperate with the ICC by virtue of Resolution S/Res/1593 (2005), which the Security Council adopted under its Chapter 7 powers,

H. deeply dismayed by the fact that, since the issuing of the arrest warrant, the Government of Sudan has repeatedly refused to cooperate with the ICC and has indeed multiplied its acts of defiance towards the ICC and the international community,

1. Strongly condemns the expulsion of 13 humanitarian aid agencies from Darfur in response to the international arrest warrant issued by the ICC against President al-Bashir on 4 March 2009;

2. Demands the immediate and unconditional release of all the aid workers of the Belgian section of Médecines sans Frontières, who were kidnapped on 11 March 2009 in the offices of Médecines sans Frontières Belgium in Saraf Umra, 200 kilometres to the west of El-Facher, the capital of North Darfur;

3. Is very concerned at the immediate impact of the expulsions on the provision of the humanitarian aid that is vital to hundreds of thousands of people;

4. Demands that the Government of Sudan to immediately reverse its decision to expel the 13 aid agencies and allow them to continue their essential work in ensuring the survival of vulnerable populations in Darfur; calls on the Council and Commission to step up their efforts vis-à-vis the African Union, the League of Arab States and China to prevail upon the Sudanese Government to do so;

5. Calls on the Sudanese Government to take positive steps to ensure that human rights defenders in Sudan are not persecuted if they speak favourably of the ICC decision, and to refrain from any harassment or intimidation of human rights defenders;

6. Instructs its President to forward this resolution to the Council, the Commission, the EU Special Representative for Sudan, the Government of Sudan, the governments and parliaments of the Member States and the members of the UN Security Council, the African Union institutions, the institutions of the League of Arab States and the Prosecutor of the International Criminal Court.

Wednesday 11 March 2009

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

Rules of Procedure: extending the applicability of Rule 139

P6_TA(2009)0116

European Parliament decision of 11 March 2009 extending the applicability of Rule 139 of Parliament's Rules of Procedure until the end of the seventh parliamentary term

(2010/C 87 E/40)

The European Parliament,

— having regard to Article 290 of the EC Treaty,

— having regard to Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community ([1]), as last amended by Council Regulation (EC) No 920/2005 ([2]),

— having regard to the Code of Conduct on Multilingualism adopted by the Bureau on 17 November 2008,

— having regard to the Bureau's decision of 13 December 2006 on a derogation from Rule 138 and its subsequent decisions extending that derogation until the end of the current parliamentary term,

— having regard to Rules 138 and 139 of its Rules of Procedure,

A. whereas, pursuant to Rule 138, all Parliament's documents are to be drawn up in the official languages, and all Members have the right to speak in Parliament in the official language of their choice, with interpretation into the other official languages,

B. whereas, under Rule 139, derogations from Rule 138 are permissible until the end of the sixth parliamentary term if, and to the extent that, despite adequate precautions, the linguists required for an official language are not available in sufficient numbers; whereas with respect to each official language for which a derogation is considered necessary, the Bureau, on a proposal from the Secretary-General, shall ascertain whether the conditions are fulfilled, and the Bureau shall review its decision every six months,

([1]) OJ 17, 6.10.1958, p. 385.
([2]) OJ L 156, 18.6.2005, p. 3.

C. whereas, on 13 December 2006, the Bureau accepted that the difficulties of providing sufficient language cover for Maltese, Romanian, Bulgarian and Irish were such that the conditions were fulfilled for a derogation from Rule 138 in respect of each of those languages; whereas by subsequent Bureau decisions those derogations have been extended such that, from 1 January 2009 until the end of the parliamentary term, a derogation applies in respect of Bulgarian and Romanian (interpretation), Czech (interpretation during the Czech Council Presidency), Maltese (interpretation and translation) and Irish (interpretation, translation and legal-linguistic verification),

D. whereas Council Regulation (EC) No 920/2005 provides for temporary (renewable) derogation measures for a five-year period in respect of Irish,

E. whereas, despite all adequate precautions, the capacity in Irish and Maltese is not expected to be such as to allow a full interpretation service in those languages from the beginning of the seventh parliamentary term; whereas, for certain other languages, although there will be sufficient capacity to cover the needs arising from the usual activities of Parliament, the number of interpreters may not be sufficient to allow full coverage of all the extra needs expected during the Council Presidencies of the Member States concerned during the seventh parliamentary term,

F. whereas, despite sustained and continuous interinstitutional efforts, the number of qualified translators and lawyer-linguists is still expected to be so limited as regards Irish that, for the foreseeable future, only a reduced coverage of that language can be assured; whereas Council Regulation (EC) No 920/2005 does not require legislation of the European Union adopted before 1 January 2007 ('the *Acquis*') to be translated into Irish; whereas, as a result of the derogation measures laid down in that Regulation, only Commission proposals for codecision regulations are currently being presented in Irish and, as long as this situation persists, it will not be possible for Parliament's services to prepare Irish versions of other types of legal act,

G. whereas, during the seventh parliamentary term, other European States may become members of the European Union; whereas, for the new languages concerned, linguists may not be available in sufficient numbers from the day of accession, which will require transitional measures,

H. whereas Rule 139(4) provides that, on a reasoned recommendation from the Bureau, Parliament may decide, at the end of the parliamentary term, to extend that Rule,

I. whereas, in the light of the foregoing, the Bureau has recommended that Rule 139 be extended until the end of the seventh parliamentary term,

1. Decides to extend the applicability of Rule 139 of Parliament's Rules of Procedure until the end of the seventh parliamentary term;

2. Instructs its President to forward this decision to the Council and the Commission for information.

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III

(Preparatory acts)

EUROPEAN PARLIAMENT

EC-Armenia agreement: air services *

P6_TA(2009)0082

European Parliament legislative resolution of 10 March 2009 on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Republic of Armenia on certain aspects of air services (COM(2007)0729 – C6-0519/2008 – 2007/0251(CNS))

(2010/C 87 E/41)

(Consultation procedure)

The European Parliament,

— having regard to the proposal for a Council decision (COM(2007)0729),

— having regard to Articles 80(2) and 300(2), first subparagraph, first sentence, of the EC Treaty,

— having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0519/2008),

— having regard to Rules 51, 83(7) and 43(1) of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism (A6-0049/2009),

1. Approves conclusion of the agreement;

2. Instructs its President to forward its position to the Council and the Commission, and the governments and parliaments of the Member States and the Republic of Armenia.

EC-Israel agreement: air services *

P6_TA(2009)0083

European Parliament legislative resolution of 10 March 2009 on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the State of Israel on certain aspects of air services (COM(2008)0178 – C6-0520/2008 – 2008/0068(CNS))

(2010/C 87 E/42)

(Consultation procedure)

The European Parliament,

— having regard to the proposal for a Council decision (COM(2008)0178),

— having regard to Articles 80(2) and 300 (2), first subparagraph, first sentence, of the EC Treaty,

— having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0520/2008),

— having regard to Rules 51, 83(7) and 43(1) of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism (A6-0059/2009),

1. Approves conclusion of the agreement;

2. Instructs its President to forward its position to the Council and the Commission, and the governments and parliaments of the Member States and the State of Israel.

Additional protocol to the Agreement between the EC and South Africa, to take account of the accession of Bulgaria and Romania to the EU ***

P6_TA(2009)0084

European Parliament legislative resolution of 10 March 2009 on the proposal for a Council decision concerning the conclusion of the additional protocol to the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union (16447/2008 - COM(2008)0749 – C6-0017/2009 – 2008/0212(AVC))

(2010/C 87 E/43)

(Assent procedure)

The European Parliament,

— having regard to the text of the Council (16447/2008),

— having regard to the request for assent submitted by the Council pursuant to Article 300(3), second subparagraph, in conjunction with Articles 310 and 300(2), first subparagraph, of the EC Treaty (C6-0017/2009),

— having regard to Rules 75 and 83(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Development (A6-0073/2009),

1. Gives its assent to conclusion of the additional protocol;

2. Instructs its President to forward its position to the Council and Commission.

Tuesday 10 March 2009

Type-approval requirements for the general safety of motor vehicles ***I

P6_TA(2009)0092

European Parliament legislative resolution of 10 March 2009 on the proposal for a regulation of the European Parliament and of the Council concerning type-approval requirements for the general safety of motor vehicles (COM(2008)0316 – C6-0210/2008 – 2008/0100(COD))

(2010/C 87 E/44)

(Codecision procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0316),

— having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0210/2008),

— having regard to Rule 51 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Industry, Research and Energy (A6-0482/2008),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council and Commission.

P6_TC1-COD(2008)0100

Position of the European Parliament adopted at first reading on 10 March 2009 with a view to the adoption of Regulation (EC) No …/2009 of the European Parliament and of the Council concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Regulation (EC) No 661/2009.)

Tuesday 10 March 2009

Industrial emissions (integrated pollution prevention and control) (recast) ***I

P6_TA(2009)0093

European Parliament legislative resolution of 10 March 2009 on the proposal for a directive of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (recast) (COM(2007)0844 – C6-0002/2008 – 2007/0286(COD))

(2010/C 87 E/45)

(Codecision procedure: recast)

The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0844),

— having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0002/2008),

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts [1],

— having regard to the letter of 10 September 2008 from the Committee on Legal Affairs to the Committee on Environment, Public Health and Food Safety in accordance with Rule 80a(3) of its Rules of Procedure,

— having regard to Rules 80a and 51 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Legal Affairs (A6-0046/2009),

A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,

1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission and incorporating the technical amendments approved by the Committee on Legal Affairs and as amended below;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council and the Commission.

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[1] OJ C 77, 28.3.2002, p. 1.

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P6_TC1-COD(2007)0286

Position of the European Parliament adopted at first reading on 10 March 2009 with a view to the adoption of Directive *2009/…/EC* of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (*recast*)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175 (1) thereof,

Having regard to the proposal from the Commission ‖,

Having regard to the opinion of the European Economic and Social Committee ([1]),

Having regard to the opinion of the Committee of the Regions ([2]),

Acting in accordance with the procedure laid down in Article 251 of the Treaty ([3]),

Whereas:

(1) A number of substantial changes are to be made to Council Directive 78/176/EEC of 20 February 1978 on waste from the titanium dioxide industry ([4]), Council Directive 82/883/EEC of 3 December 1982 on procedures for the surveillance and monitoring of environments concerned by waste from the titanium dioxide industry ([5]), Council Directive 92/112/EEC of 15 December 1992 on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry ([6]), Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control ([7]), Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations ([8]), Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste ([9]) and Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants ([10]). In the interests of clarity, *those* Directives should be recast.

(2) In order to prevent, reduce and as far as possible eliminate pollution arising from industrial activities in compliance with the 'polluter pays' principle and the principle of pollution prevention, it is necessary to establish a general framework for the control of the main industrial activities giving priority to intervention at source and ensuring prudent management of natural resources.

(3) Compliance with the emission limit values provided for in this Directive should be regarded as a necessary but insufficient condition for meeting the objectives of preventing and reducing pollution and achieving a high level of protection of the environment, including groundwater, air and soil, and of the public. In order to meet those objectives, it may be necessary to lay down more stringent limit values for the polluting substances covered by this Directive, the emission values for other substances and environmental components, and other appropriate conditions.

([1]) *Opinion of 14 January 2009.*
([2]) *OJ C 325, 19.12.2008, p. 60.*
([3]) *Position of the European Parliament of 10 March 2009.*
([4]) OJ L 54, 25.2.1978, p. 19. ‖
([5]) OJ L 378, 31.12.1982, p. 1. ‖
([6]) OJ L 409, 31.12.1992, p. 11.
([7]) OJ L 257, 10.10.1996, p. 26. ‖
([8]) OJ L 85, 29.3.1999, p. 1. ‖
([9]) OJ L 332, 28.12.2000, p. 91.
([10]) OJ L 309, 27.11.2001, p. 1. ‖

(4) Different approaches to controlling emissions into the air, water or soil separately may encourage the shifting of pollution between the various environmental media rather than protecting the environment as a whole. It is therefore appropriate to provide *for* an integrated approach to prevention and control of emissions into air, water or soil, to waste management, to efficient use of energy and to prevention of accidents.

(5) It is appropriate to revise the legislation related to industrial installations in order to simplify and clarify the existing provisions, reduce unnecessary administrative burdens and implement the conclusions of the Commission Communications on the Thematic Strategy *on* Air Pollution ([1]), the Thematic Strategy for Soil Protection ([2]) and the Thematic Strategy *on* the Prevention and Recycling of Waste ([3]) adopted as a follow-up *to* Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ([4]). Those *communications* set objectives to protect human health and the environment which cannot be met without further reductions of emissions arising from industrial activities.

(6) In order to guarantee the prevention and control of pollution, each installation should operate only if it holds a permit or, in the case of certain installations and activities using organic solvents, only if it holds a permit or if it is registered. ***The overall use of organic solvents should be minimised.***

(7) In order to facilitate *the* granting of permits, Member States should be able to set requirements for certain categories of installations in general binding rules.

(8) In order to avoid *duplication of regulation*, the permit *for* an installation covered by Directive 2003/87/*EC* of the European Parliament and of the Council *of 13 October 2003* establishing a scheme for greenhouse gas emission allowance trading within the Community ([5]) should not include an emission limit value for the emissions of greenhouse gases except where it is necessary to ensure that no significant local pollution is caused or where an *installation* is temporarily excluded from that scheme.

(9) Operators should submit an application for a permit to the competent authority which contains the information that is necessary for setting the permit conditions. Operators should be able to use information resulting from the application of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of *certain* public and private projects on the environment ([6]) and of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances ([7]) when submitting an application for a permit.

(10) The permit should include all the ‖ measures *necessary* to achieve a high level of protection for the environment as a whole and should also include emission limit values for polluting substances, appropriate requirements *for the protection of* the soil and groundwater, monitoring requirements ***and a list of the dangerous substances or preparations used as defined in Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances*** ([8]). The conditions of the permit should be set on the basis of best available techniques.

(11) In order to determine what is considered best available techniques and to limit the imbalances in the Community as regards the level of emissions of industrial activities, the Commission should *publish* the reference documents for the best available techniques *(*hereinafter "BAT reference documents"*)* as a result of an exchange of information with stakeholders. Those BAT reference documents should be the reference for setting permit conditions. They can be supplemented by other sources.

([1]) COM(2005)0446 ‖.
([2]) COM(2006)0231 ‖.
([3]) COM(2005)0666 ‖.
([4]) OJ L 242, 10.9.2002, p. 1.
([5]) OJ L 275, 25.10.2003, p. 32. ‖
([6]) OJ L 175, 5.7.1985, p. 40. ‖
([7]) OJ L 10, 14.1.1997, p. 13. ‖
([8]) ***OJ 196, 16.8.1967, p. 1.***

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(12) In order to take into account certain specific circumstances, competent authorities should be able to ***lay down*** emission limit values***, equivalent parameters or technical measures resulting in emission levels that may*** exceed the emission levels associated with the best available techniques as described in the BAT reference documents. ▌

(13) In order to enable operators to test emerging techniques which could provide for a higher level of environmental protection, the competent authority should also be able to grant temporary derogations from emission levels associated with the best available techniques as described in the BAT reference documents.

(14) Changes to an installation may give rise to higher levels of pollution. The competent authority should therefore be notified of any planned change which might affect the environment. Substantial changes to installations which may have significant negative effects on humans or the environment should be subject to the reconsideration of a permit to ensure that the installations concerned continue to meet the requirements of this Directive.

(15) The spreading of livestock manure and slurry can lead to significant impacts on the quality of the environment. In order to ensure *that* the prevention and control of these impacts *is carried out* in an integrated way, it is necessary that manure and slurry generated by activities covered by this Directive are spread by the operator or by third parties using best available techniques. In order to provide Member States with flexibility in meeting these requirements, the application of best available techniques to operator or third party spreading may be specified within the permit or in other measures.

(16) In order to take account of developments in the best available techniques or other changes regarding the changes to an installation, permit conditions should be reconsidered regularly and, where necessary, updated, in particular where the Commission adopts a new or updated BAT reference document.

(17) It is necessary to ensure that the operation of an installation does not lead to a ***significant*** deterioration of the quality of soil and groundwater. ***Where necessary and appropriate,*** permit conditions should therefore include the monitoring of soil and groundwater and the ***requirement to*** remediate the site upon definitive cessation of activities***, in accordance with the requirements laid down in Community and national law. As soon as Community legislation amending Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage ([1]) or new legislation on the protection of soil and groundwater enters into force, the Commission should review the provisions on the protection of soil and groundwater provided for in this Directive in order to ensure consistency and to avoid overlap.***

(18) In order to ensure ‖ effective implementation and enforcement of this Directive, operators should regularly report on compliance with permit conditions to the competent authority. Member States should ensure ***that operators comply with those conditions and*** that the operator and the competent authority take necessary measures in a case of non-compliance with this Directive and provide for a system of environmental inspections. ***It is for the Member States to determine the most appropriate enforcement regimes, including how emission limit values should be complied with.***

(19) ***Bearing in mind the provisions of the Aarhus Convention*** ([2]), effective public participation in decision-making is necessary to enable the public to express, and the decision-maker to take account of, opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken. *The members* of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.

([1]) *OJ L 143, 30.4.2004, p. 56.*

([2]) ***Convention on access to information, public participation in decision-making and access to justice in environmental matters of 1998.***

(20) Large combustion plants contribute greatly to emissions of polluting substances into the air resulting in a significant impact on human health and the environment. In order to reduce that impact and to work towards meeting the requirements of Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants ([1]) and the objectives set in the Commission Communication on the Thematic Strategy *on* Air Pollution, it is necessary to set more stringent emission limit values at Community level for certain categories of combustion plants and pollutants.

(21) In *the* case of a sudden interruption in the supply of low-sulphur fuel or gas resulting from a serious shortage, the competent authority should be able to grant temporary derogations to allow emissions of the combustion plants concerned to exceed the emission limit values set out in this Directive.

(22) The operator concerned should not operate a combustion plant for more than 24 hours after malfunctioning or breakdown of abatement equipment and unabated operation should not exceed 120 hours in a *12-month* period in order to limit the negative effects of pollution on the environment. However, where there is an overriding need *for* energy supplies or it is necessary to avoid an overall increase of emissions by operation of another combustion plant, competent authorities should be able to grant a derogation from *those* time limits.

(23) In order to ensure a high level of environmental and human health protection and to avoid transboundary movements of waste to plants operating at lower environmental standards, it is necessary to maintain and set stringent operational conditions, technical requirements and emission limit values for plants incinerating or co-incinerating waste within the Community.

(24) The use of organic solvents in certain activities and installations gives rise to emissions of organic compounds into the air which contribute to the local and transboundary formation of photochemical oxidants which causes damage to natural resources and has harmful effects on human health. It is therefore necessary to take preventive action against the use of organic solvents and establish the requirement to comply with emission limit values for organic compounds and appropriate operating conditions. It should be possible to grant derogations from compliance with the emission limit values to operators where other measures, such as the use of low-solvent or solvent-free products or techniques, provide alternative means of achieving equivalent emission limits.

(25) Installations producing titanium dioxide can give rise to significant pollution into air and water ***and may pose a toxicological threat***. In order to reduce these impacts, it is necessary to set at Community level more stringent emission limit values for certain polluting substances.

(26) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([2]).

▌

(27) ***In accordance with the 'polluter pays' principle,*** Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.

(28) In order to provide existing installations *with* sufficient time to technically adapt to the new requirements of this Directive, some of the new requirements should apply to those installations after a fixed period from the date of application of this Directive. Combustion plants need sufficient time to install the necessary abatement measures to meet the emission limit values set out *in* Annex V.

([1]) OJ L 309, 27.11.2001, p. 22. ‖
([2]) OJ L 184, 17.7.1999, p. 23. ‖

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(29) In order to address the significant problems raised by the emissions of dioxins, furans and other relevant polluting substances emitted by installations producing pig iron and steel and, in particular, sintering iron ore, the procedure on the minimum requirements laid down in this Directive should be applied to such installations as a priority and in any event by 31 December 2011.

(30) Since the objectives of the action to be taken, *namely* to ensure a high level of environmental protection and the improvement of environmental quality, cannot be sufficiently achieved by the Member States and can therefore, by reason of the transboundary nature of pollution from industrial activities, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(31) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to promote the application of Article 37 of the Charter of Fundamental Rights of the European Union.

(32) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directives *recast by this Directive*. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.

(33) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex IX, Part B.

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

Common provisions

Article 1

Subject matter

This Directive lays down rules on integrated prevention and control of pollution arising from industrial activities.

It also lays down rules designed to prevent or, where that is not practicable, to reduce emissions in the air, water and land and to prevent generation of waste, in order to achieve a high level of protection of the environment taken as a whole.

Article 2

Scope

1. This Directive shall apply to industrial activities giving rise to pollution referred to in Chapters II to VI.

2. This Directive shall not apply to research activities, development activities or the testing of new products and processes.

Article 3

Definitions

For the purposes of this Directive the following definitions shall apply:

(1) 'substance' means any chemical element and its compounds, with the exception of the following substances:

(a) radioactive substances as defined in Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation ([1]);

(b) genetically modified micro-organisms as defined in Council Directive 90/219/EEC ‖ of 23 April 1990 on the contained use of genetically modified micro-organisms ([2]);

(c) genetically modified organisms as defined in Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms ‖ ([3]);

(2) 'pollution' means the direct or indirect introduction, as a result of human activity, of substances, vibrations, heat or noise into the air, water or land which may be harmful to human health or the quality of the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment;

(3) 'installation' means a stationary technical unit within which one or more activities listed in Annex I or in Part 1 of Annex VII are carried out, and any other directly associated activities on the same site which have a technical connection with the activities listed in those Annexes and which could have an effect on emissions and pollution;

(4) 'emission' means the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in *an* installation into the air, water or land;

(5) 'emission limit value' means the mass, expressed in terms of certain specific parameters, concentration and/or level of an emission, which may not be exceeded during one or more periods of time.

(6) 'environmental quality standard' means the set of requirements which must be fulfilled at a given time by a given environment or particular part thereof, as set out in Community legislation;

(7) 'permit' means a written authorisation to operate all or part of an installation or combustion plant, waste incineration plant or waste co-incineration plant;

(8) 'substantial change' means a change in the nature or functioning, or an extension, of an installation or combustion plant, waste incineration plant or waste co-incineration plant which may have significant negative effects on humans or the environment;

([1]) OJ L 159, 29.6.1996, p. 1.
([2]) OJ ‖ L 117, 8.5.1990, p. 1.
([3]) OJ L 106, 17.4.2001, p. 1.

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(9) 'best available techniques' means 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 the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment as a whole:

(a) 'techniques' includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

(b) 'available' techniques means those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Member State in question, as long as they are reasonably accessible to the operator;

(c) 'best' means most effective in achieving a high general level of protection of the environment as a whole.

(10) 'best available techniques associated emission levels' ('BAT-AELs') means a range of emission levels resulting from the application, in normal operating conditions, of the best available techniques as described in the BAT reference documents and expressed in the form of an average over a given period of time and under given reference conditions;

(11) 'operator' means any natural or legal person who operates or controls the installation or combustion plant, waste incineration plant or waste co-incineration plant or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of the installation or plant has been delegated;

(12) 'the public' means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups;

(13) 'the public concerned' means the public affected or likely to be affected by, or having an interest in, the taking of a decision on the issuing or the updating of a permit or of permit conditions; ***for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting the requirements of any relevant national law shall be deemed to have an interest;***

(14) 'emerging technique' means a novel technique for an industrial activity that, if ***industrially proven and*** commercially developed, ***would*** provide a higher general level of protection of the environment or ***at least the same level of protection and*** higher cost savings than existing best available techniques;

(15) 'dangerous substances' means dangerous substances or preparations as defined in ‖ Directive 67/548/EEC ‖ and Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations ([1]);

(16) 'baseline report' means quantified information on the state of soil and groundwater contamination by ***significant amounts of relevant*** dangerous substances;

(17) 'routine inspection' means an environmental inspection carried out as part of a planned inspection programme;

(18) 'non-routine inspection' means environmental inspections carried out in response to complaints or in the investigation of accidents, incidents and occurrences of non-compliance;

([1]) OJ L 200, 30.7.1999, p. 1

(19) 'environmental inspection' means any activity that involves verifying that an installation complies with relevant environmental requirements;

(20) 'fuel' means any solid, liquid or gaseous combustible material used to fire a combustion plant;

(21) 'combustion plant' means any technical apparatus in which fuels are oxidised in order to use the heat thus generated;

(22) 'biomass' means any of the following:

(a) products consisting of any vegetable matter from agriculture or forestry which can be used as a fuel for the purpose of recovering its energy content;

(b) the following waste used as a fuel:

(i) vegetable waste from agriculture and forestry;

(ii) vegetable waste from the food processing industry, if the heat generated is recovered;

(iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;

(iv) cork waste;

(v) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coating;

(23) 'multi-fuel firing combustion plant' means any combustion plant which may be fired simultaneously or alternately by two or more types of fuel;

(24) 'gas turbine' means any rotating machine which converts thermal energy into mechanical work, consisting mainly of a compressor, a thermal device in which fuel is oxidised in order to heat the working fluid, and a turbine;

(25) 'waste' means waste as defined in Article 3*(1)* of Directive *2008/98/EC* of the European Parliament and of the Council *of 19 November 2008* on waste [1];

(26) 'hazardous waste' means hazardous waste as defined in Article 3*(2)* of Directive *2008/98/EC*;

(27) 'mixed municipal waste' means waste from households as well as commercial, industrial and institutional waste which, because of its nature and composition is similar to waste from households, but excluding fractions indicated under heading 20 01 of the Annex to Commission Decision 2000/532/EC ‖ [2] establishing the European Waste List ‖ that is collected separately at source and excluding the other wastes indicated under heading 20 02 of that Annex;

(28) 'waste incineration plant' means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes if the substances resulting from the treatment are subsequently incinerated;

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[1] *OJ L 312, 22.11.2008, p. 3.*

[2] *Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (OJ L 226, 6.9.2000, p. 3).*

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(29) 'waste co-incineration plant' means any stationary or mobile technical unit *the* main purpose *of which* is the generation of energy or production of material products and which uses waste as a regular or additional fuel or in which waste is thermally treated for the purpose of disposal through the incineration by oxidation of waste as well as other thermal treatment processes if the substances resulting from the treatment are subsequently incinerated;

(30) 'nominal capacity' means the sum of the incineration capacities of the furnaces of which a waste incineration plant or a waste co-incineration plant is composed, as specified by the constructor and confirmed by the operator, with due account being taken of the calorific value of the waste, expressed as the quantity of waste incinerated per hour;

(31) 'dioxins and furans' means all polychlorinated dibenzo-p-dioxins and dibenzofurans listed in Part 2 of Annex VI;

(32) 'residue' means any liquid or solid waste which is generated by a waste incineration plant or waste co-incineration plant;

(33) 'organic compound' means any compound containing at least the element carbon and one or more of hydrogen, halogens, oxygen, sulphur, phosphorus, silicon or nitrogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates;

(34) 'volatile organic compound' means any organic compound as well as the fraction of creosote, having at 293,15 K a vapour pressure of 0,01 kPa or more, or having a corresponding volatility under the particular conditions of use;

(35) 'organic solvent' means any volatile organic compound which is used for any of the following:

(a) alone or in combination with other agents, and without undergoing a chemical change, to dissolve raw materials, products or waste materials;

(b) as a cleaning agent to dissolve contaminants;

(c) as a dissolver;

(d) as a dispersion medium;

(e) as a viscosity adjuster;

(f) as a surface tension adjuster;

(g) a plasticiser;

(h) as a preservative;

(36) 'coating' means coating as defined in Article 2(8) of Directive 2004/42/EC of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products [1];

(37) 'general binding rules' means emission limit values or other conditions, defined in environmental legislation, at least at sector level, that are laid down with the intention to be used directly to set permit conditions.

[1] *OJ L 143, 30.4.2004, p. 87.*

Article 4

Obligation to hold a permit

1. Member States shall take the necessary measures to ensure that no installation or combustion plant, waste incineration plant or waste co-incineration plant is operated without a permit.

By way of derogation from the first subparagraph, Member States may set a procedure for the registration of installations covered only by Chapter V.

The procedure for registration shall be specified in a binding act and include at least a notification to the competent authority by the operator of the intention to operate an installation.

2. ***Member States may provide that*** a permit may cover two or more installations or parts of installations operated by the same operator on the same site or on different sites.

Where a permit covers two or more installations, each installation shall comply ***individually*** with the requirements of this Directive.

Article 5

Operators

Member States may provide that two or more natural or legal persons ***are entitled to*** be the joint operator of an installation or combustion plant, waste incineration plant or waste co-incineration plant, or *to* be the operators of different parts of an installation or plant. ***A single natural or legal person shall be identified to take the responsibility for meeting the obligations of this Directive.***

Article 6

Granting of a permit

1. The competent authority shall grant a permit if the installation complies with the requirements of this Directive.

2. Member States shall take the measures necessary to ensure that the conditions of, and the procedures for the granting of, the permit are fully coordinated where more than one competent authority or more than one operator is involved or more than one permit is issued, in order to guarantee an effective integrated approach by all authorities competent for this procedure.

3. In the case of a new installation or a substantial change where Article 4 of Directive 85/337/EEC applies, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6, 7 and 9 of that Directive shall be examined and used for the purposes of granting the permit.

Article 7

General binding rules

Without prejudice to the obligation to hold a permit, Member States may include requirements for certain categories of installations, combustion plants, waste incineration plants or waste co-incineration plants in general binding rules.

Where general binding rules are adopted, the permit may simply include a reference to such rules.

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Article 8

Reporting on compliance

Member States shall take the necessary measures to ensure the following:

(1) that the operator provides the competent authority with ***the relevant data*** on compliance with the permit conditions at least every ***24 months, which shall be made available on the internet without delay. In the event that a breach of permit conditions has been identified by an inspection in accordance with Article 25, the reporting frequency shall be increased to at least once every*** twelve months;

(2) that the operator informs the competent authority without delay of any incident or accident significantly affecting the environment.

Article 9

Non-compliance

1. Member States shall take the necessary measures to ensure that the conditions of the permit are complied with.

2. If it is found that the requirements of this Directive have been breached, Member States shall ensure the following:

(a) that the operator immediately informs the competent authority;

(b) that the operator and the competent authority take the measures necessary to ensure that compliance is restored within the shortest possible time.

In cases of a breach causing ***significant*** danger to human health or the environment and as long as compliance is not restored in accordance with point (b) of the first subparagraph, the operation of the installation or combustion plant, waste incineration plant or waste co-incineration plant shall be suspended.

Article 10

Emission of greenhouse gases

1. Where emissions of a greenhouse gas from an installation are specified in Annex I to Directive 2003/87/EC in relation to an activity carried out in that installation, the permit shall not include an emission limit value for direct emissions of that gas, unless necessary to ensure that no significant local pollution is caused.

2. For activities listed in Annex I to Directive 2003/87/EC, Member States may choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.

3. Where necessary, the competent authorities shall amend the permit as appropriate.

4. Paragraphs 1 to 3 shall not apply to installations which are temporarily excluded from the scheme for greenhouse gas emission allowance trading within the Community in accordance with Article 27 of Directive 2003/87/EC.

CHAPTER II

Special provisions for activities listed in Annex I

Article 11

Scope

This Chapter shall apply to the activities set out in Annex I and, where applicable, reaching the capacity thresholds set out in that Annex.

Article 12

General principles governing the basic obligations of the operator

Member States shall take the necessary measures to provide that the installations are operated in accordance with the following principles:

(1) all the appropriate preventive measures are taken against pollution;

(2) the best available techniques are applied;

(3) no significant pollution is caused;

(4) waste production is avoided in accordance with Directive *2008/98/EC*;

(5) where waste is produced, it is recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment;

(6) energy is used efficiently;

(7) the necessary measures are taken to prevent accidents and limit their consequences;

(8) the necessary measures are taken upon definitive cessation of activities to avoid any risk of pollution and return the site of operation to ***a satisfactory*** state ▌in accordance with ***the requirements laid down in*** Article 23(2) and (3).

Article 13

Applications for permits

1. Member States shall take the necessary measures to ensure that an application for a permit includes a description of the following:

(a) the installation and its activities;

(b) the raw and auxiliary materials, other substances and the energy used in or generated by the installation;

(c) the sources of emissions from the installation;

(d) the conditions *at* the site of the installation;

(e) ***if the activity involves significant amounts of relevant dangerous substances***, a baseline report ***providing information on those substances***;

(f) the nature and quantities of foreseeable emissions from the installation into each medium as well as identification of significant effects of the emissions on the environment;

(g) the proposed technology and other techniques for preventing or, where this is not possible, reducing emissions from the installation;

(h) ***where necessary,*** measures for the prevention and recovery of waste generated by the installation;

(i) further measures planned to comply with the general principles of the basic obligations of the operator as provided for in Article 12;

(j) measures planned to monitor emissions into the environment;

(k) the main ***relevant*** alternatives to the proposed technology, techniques and measures studied by the applicant in outline.

An application for a permit shall also include a non-technical summary of the details referred to in the first subparagraph ***and, where applicable, a baseline report***.

2. Where information supplied in accordance with the requirements provided for in Directive 85/337/EEC or a safety report prepared in accordance with Directive 96/82/EC or other information produced in response to other legislation fulfils any of the requirements of paragraph 1, that information may be included in, or attached to, the application.

Article 14

BAT reference documents *and exchange of information*

1. The Commission shall ***organise exchanges of information between the Member States, representatives of their relevant competent authorities, operators and providers of techniques representing the industry concerned, non-governmental organisations promoting environmental protection, and the Commission in relation to the following:***

(a) the performance of installations as regards emissions, pollution, consumption and the nature of raw materials, use of energy and generation of waste; and

(b) the best available techniques used, associated monitoring and developments concerning the best available techniques.

For the organisation of the exchange of information referred to in this paragraph, the Commission shall establish an Information Exchange Forum comprised of the stakeholders referred to in the first subparagraph.

The Commission shall establish guidance for the exchange of information including relating to the collection of data and the determination of the content of BAT reference documents. The Commission shall publish an evaluation report in this regard. That report shall be made accessible on the internet.

2. The Commission shall publish the result of the information exchange referred to in paragraph 1 as a new or updated BAT reference document.

3. The BAT reference documents shall in particular describe the best available techniques, the associated emission levels***, consumption levels*** and associated monitoring, the monitoring of soil and groundwater and remediation of the site and the emerging techniques, giving special consideration to the criteria listed in Annex III***, finalising the revision within eight years of the publication of the previous version***. The Commission shall ***ensure that the BAT conclusions of*** the BAT reference documents ***are made available in the official languages of the Member States. On request of a Member State, the Commission shall make available the entire BAT reference document in the requested language.***

Article 15

Permit conditions

1. Member States shall ensure that the permit includes all measures necessary for compliance with the requirements of Articles 12 and 19.

Those measures shall include at least the following:

(a) emission limit values for polluting substances, listed in Annex II and for other polluting substances which are likely to be emitted from the installation concerned in significant quantities, having regard to their nature and their potential to transfer pollution from one medium to another;

(b) ***if necessary,*** appropriate requirements ensuring protection of the soil and groundwater and measures concerning the management of waste generated by the installation;

(c) suitable release monitoring requirements, specifying measurement methodology and frequency, evaluation procedure and an obligation to supply the competent authority regularly with the results of the monitoring of releases and with other data required for checking compliance with the permit;

(d) requirements of periodic monitoring in relation to ***relevant*** dangerous substances likely to be found ***in significant amounts*** on site having regard to the possibility of soil and groundwater contamination at the site of the installation;

(e) measures relating to start-up, leaks, malfunctions, momentary stoppages and definitive cessation of operations;

(f) provisions on the minimisation of long distance or transboundary pollution.

2. For the purpose of point (a) of ‖ *paragraph 1*, emission limit values may be supplemented or replaced by equivalent parameters or technical measures.

3. BAT reference documents shall be the reference for setting the permit conditions.

4. Where an installation or part of an installation is not covered by BAT reference documents or where those documents do not address all the potential environmental effects of the activity, the competent authority***, in consultation with the operator,*** shall determine ***the emission levels which can be achieved using*** the best available techniques for the installation or activities concerned, based on the criteria listed in Annex III, and shall set the permit conditions accordingly.

5. For installations referred to in point 6.6 of Annex I, paragraphs 1 to 4 shall apply without prejudice to the legislation related to animal welfare.

Article 16

Emission limit values, equivalent parameters and technical measures

1. The emission limit values for polluting substances shall apply at the point where the emissions leave the installation, and any dilution prior to that point shall be disregarded when determining those values.

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With regard to indirect releases of polluting substances into water, the effect of a water treatment plant may be taken into account when determining the emission limit values of the installation concerned, provided that an equivalent level of protection of the environment as a whole is guaranteed and provided this does not lead to higher levels of pollution in the environment.

2. Without prejudice to Article 19, the emission limit values and the equivalent parameters and technical measures referred to in paragraphs 1 and 2 of Article 15 shall be based on the best available techniques, without prescribing the use of any technique or specific technology.

The competent authority shall set emission limit values ***and monitoring and compliance requirements to ensure that*** the BAT ***associated emission levels are not exceeded***.

Emission limit values may be supplemented by equivalent parameters or technical measures provided that an equivalent level of environmental protection can be achieved.

3. By derogation from the second subparagraph of paragraph 2, the competent authority may, in ***exceptional*** cases ***which result from the*** assessment of the environmental and economic costs and benefits taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions, set emission limit values***, equivalent parameters or technical measures, and monitoring and compliance requirements in such a way that BAT associated*** emission levels ***may be exceeded***.

Those emission limit values***, equivalent parameters or technical measures*** shall however not exceed the emission limit values set out ***in accordance with Article 68 or, where applicable,*** in Annexes V to VIII.

Member States shall ensure that the public concerned is given early and effective opportunities to participate in the decision-making process relating to the grant of the derogation referred to in this paragraph.

When emission limit values, equivalent parameters and technical measures are established in accordance with this paragraph, the reasons for allowing emission levels to deviate from BAT associated emission levels, as described in the BAT reference documents, shall be documented and justified in an annex to the permit conditions.

The Commission may establish criteria for the granting of the derogation referred to in this paragraph.

Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

4. Paragraphs 2 and 3 shall apply to the spreading of livestock manure and slurry outside the site of the installation referred to in point 6.6 of Annex I***, with the exception of areas included within the scope of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources*** ([1]).

5. The competent authority may grant temporary derogations from the requirements of paragraph 2 and from points (1) and (2) of ‖ Article 12 for increases in emissions which result from the testing and use of emerging techniques provided that within 6 months of the granting of the derogation the use of those techniques is either stopped or the activity achieves at least the emission levels associated with the best available techniques.

Article 17

Monitoring requirements

1. The monitoring requirements referred to in Article 15(1) (c) and (d) shall, where applicable, be based on the conclusions on monitoring as described in the BAT reference documents.

([1]) ***OJ L 375, 31.12.1991, p. 1.***

2. The frequency of the periodic monitoring referred to in Article 15(1) (d) shall be determined by the competent authority in a permit for each individual installation or in general binding rules.

Without prejudice to the first subparagraph, periodic monitoring shall be carried out at least once every ***five years for groundwater and ten years for soil, unless such monitoring is based on a systematic appraisal of the risk of contamination***.

The Commission may establish criteria for the determination of the frequency of the periodic monitoring.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

Article 18

General binding rules

1. When adopting general binding rules, Member States shall ensure an integrated approach and a high level of environmental protection equivalent to that achievable with individual permit conditions.

2. General binding rules shall be based on the best available techniques, without prescribing the use of any technique or specific technology ***in order to ensure compliance with Articles 15 and 16***.

▌

3. Member States shall ensure that general binding rules are kept up to date with developments in the best available techniques ***in order to ensure compliance with Article 22***.

▌

4. General binding rules adopted in accordance with paragraphs 1 to 3 shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication.

Article 19

Environmental quality standards

Where an environmental quality standard requires stricter conditions than those achievable by the use of the best available techniques, additional measures shall be included in the permit, without prejudice to other measures which may be taken to comply with environmental quality standards.

Article 20

Developments in best available techniques

Member States shall ensure that the competent authority follows or is informed of developments in best available techniques, and of the publication of any new or revised BAT reference documents***, also informing the public concerned***.

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Article 21

Changes by operators to installations

1. Member States shall take the necessary measures to ensure that the operator informs the competent authority of any planned change in the nature or functioning, or an extension of the installation which may have consequences for the environment. Where appropriate, the competent authority shall update the permit.

2. Member States shall take the necessary measures to ensure that no substantial change planned by the operator is made without a permit issued in accordance with this Directive.

The application for a permit and the decision by the competent authority shall cover those parts of the installation and those details listed in Article 13 which may be affected by the substantial change.

3. Any change in the nature or functioning or an extension of an installation shall be deemed to be substantial if the change or extension in itself reaches the capacity thresholds set out in Annex I.

Article 22

Reconsideration and updating of permit conditions by the competent authority

1. Member States shall take the necessary measures to ensure that the competent authority periodically reconsiders all permit conditions and, where necessary to ensure compliance with this Directive, updates those, conditions.

2. On request of the competent authority the operator shall submit all the information necessary for the purpose of reconsidering the permit conditions.

When reconsidering permit conditions the competent authority shall use any information resulting from monitoring or inspections.

3. Where the Commission ***publishes*** a new or updated BAT reference document, Member States shall, within four years of publication, ensure that the competent authority reconsiders and***, where necessary,*** updates the permit conditions for the installations concerned.

The first subparagraph shall apply to any derogation granted in accordance with Article 16(3).

4. The permit conditions shall be reconsidered and, where necessary, updated at least in the following cases:

(a) the pollution caused by the installation is of such significance that the existing emission limit values of the permit need to be revised or new such values need to be included in the permit;

(b) ***significant changes*** in the best available techniques allow for the significant reduction of emissions;

(c) the operational safety requires other techniques to be used;

(d) where ***needed for compliance with Directive 2001/81/EC or*** with an environmental quality standard in accordance with Article 19.

Article 23

Site closure and remediation

1. Without prejudice to Directive 2004/35/CE***, to Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (1), to Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (2)*** and to Directive *2009/…/EC* of the European Parliament and of the Council *of …* establishing a framework for the protection of soil (3) (4) the competent authority shall ensure that the permit conditions imposed to ensure the respect of the principle set out in point (8) of Article 12 are implemented upon definitive cessation of activities.

2. Where the activity involves the use, production or release of ***significant amounts of relevant*** dangerous substances having regard to the possibility of soil and groundwater contamination at the site of the installation, the operator shall prepare a baseline report before starting operation of an installation or before a permit for an installation is updated. That report shall contain the quantified information necessary to determine the initial state of the soil and the groundwater ***with regard to significant amounts of relevant dangerous substances***.

The Commission shall establish the ***general*** criteria on the content of the baseline report.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

3. Upon definitive cessation of the activities, the operator shall ***inform the competent authority and*** assess the state of the soil and groundwater contamination by dangerous substances. Where the installation has caused any pollution by dangerous substances of soil or groundwater compared to the initial state established in the baseline report referred to in paragraph 2, the operator shall remediate the site and return it to that initial state.

4. Where the operator is not required to prepare a baseline report referred to in paragraph 2, the operator shall take the necessary measures upon definitive cessation of the activities to ensure that the site does not pose any significant risk to human health and the environment.

Article 24

Comparison of emissions with best available techniques associated emission levels

The ***relevant data*** on compliance ***with the permit conditions*** referred to in point (1) of Article 8 shall include a comparison between the ▌emissions and the best available techniques ***associated emissions levels*** as described in the BAT reference documents. ***That relevant data shall be made accessible on the internet without delay.***

Article 25

Inspections

1. Member States shall set up a system of inspections of installations.

That system shall include on site inspections.

Member States shall ensure that operators afford the competent authorities all necessary assistance to enable those authorities to carry out any on site inspections, to take samples and to gather any information necessary for the performance of their duties for the purposes of this Directive.

(1) ***OJ L 372, 27.12.2006, p. 19***
(2) ***OJ L 328, 6.12.2008, p. 28.***
(3) ***OJ L …***
(4) *OJ: please insert number, date and publication reference.*

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2. Member States shall ensure that all installations are covered by an inspection plan.

3. Each inspection plan shall include the following:

(a) general assessment of relevant significant environmental issues;

(b) the geographical area covered by the inspection plan;

(c) a register of the installations covered by the inspection plan and a general appraisal of their state of compliance with the requirements of this Directive;

(d) provisions for its revision;

(e) an outline of the programmes for routine inspections pursuant to paragraph 5;

(f) procedures for non-routine inspections pursuant to paragraph 6;

(g) where necessary, provisions on the co-operation between different inspection authorities.

4. Based on the inspection plans, the competent *authorities* shall regularly draw up inspection programmes, determining the frequency of site visits for different types of installations.

Member States shall ensure that a sufficient number of skilled persons are available to carry out the inspections.

Those programmes shall include at least one ***random*** site visit every ***18 months***, for each installation***. This frequency shall be increased to at least every six months if an inspection has identified a case of non-compliance with the permit conditions.***

Where those programmes are based on a systematic appraisal of the environmental risks of the particular installations concerned***, the frequency of site visits may be lowered to a minimum of one every 24 months***.

The systematic appraisal of the environmental risks shall be based on objective criteria such as:

(a) the record of the operators' compliance with the conditions of the permit;

(b) the impacts of the installation on the environment and human health;

(c) the participation of the operator in the Community eco-management and audit scheme (EMAS), pursuant to Regulation (EC) No 761/2001 [1], or the implementation of equivalent eco-management systems.

The Commission ***may*** establish ***further*** criteria on the appraisal of the environmental risks.

Those measures, designed to amend non-essential elements of this Directive ‖ by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

5. Routine inspections shall be sufficient for the examination of the full range of relevant environmental effects from the installation concerned.

Routine inspections shall ensure that the operator complies with the permit conditions.

Routine inspections shall also serve to assess the effectiveness of the permit requirements.

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[1] ***Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (OJ L 114, 24.4.2001, p. 1).***

6. Non-routine ***random*** inspections shall be carried out to investigate serious ***and qualified*** environmental complaints, serious environmental accidents, incidents and occurrences of non-compliance ***or facts that seriously affect human health*** as soon as possible and, where appropriate, before the issue, reconsideration or update of a permit.

When carrying out such a non-routine inspection, the competent authorities may require operators to provide information in order to investigate the content of an accident, incident or occurrence of non-compliance, including health statistics.

7. Following each routine and non-routine inspection, the competent authority shall prepare a report describing the findings as to compliance of the installation with the requirements of this Directive and conclusions on whether any further action is necessary.

The report shall be notified to the operator concerned ***within two months. The report shall be*** made publicly available **on the internet by the competent authority** within ***four months*** after the inspection takes place.

The competent authority shall ensure that all the necessary actions identified in the report are taken within a reasonable period.

Article 26

Access to information and public participation in the permit procedure

1. Member States shall ensure that the public concerned are given early and effective opportunities to participate in the following procedures:

(a) issuing of a permit for new installations;

(b) issuing of a permit for any substantial change;

(c) updating of a permit or permit conditions for an installation in accordance with point (a) of Article 22(4).

(d) ***updating a permit or permit conditions for an installation where a derogation is to be granted in accordance with Article 16(3).***

The procedure set out in Annex IV shall apply to such participation.

Non-governmental organisations promoting environmental protection and meeting the requirements of any relevant national law shall be deemed to have an interest.

▌

2. When a decision on granting, reconsideration or updating of a permit ▌ has been taken, the competent authority *shall inform the public and* shall make available to the public ***without delay*** the following information:

(a) the content of the decision, including a copy of the permit and any subsequent updates;

(b) the reasons on which the decision is based;

(c) the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision;

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(d) the title of the BAT reference documents relevant to the installation or activity concerned;

(e) how the ***permit conditions referred to in Article 15*** have been determined in relation to the best available techniques and associated emission levels as described in the BAT reference documents;

(f) where a derogation is granted in accordance with Article 16(3), the ***specific*** reasons for that derogation ***based on the criteria laid down in that paragraph*** and the conditions imposed;

(g) the result of the reconsideration ▌ of permits as referred to in Article 22(1), (3) and (4);

(h) the results of monitoring of releases as required under the permit conditions and held by the competent authority.

Member States shall ensure that the information referred to in points (a) to (g) is made available on the internet without delay.

3. Paragraphs 1 ‖ and *2* shall apply subject to the restrictions laid down in Article 4(1) and (2) of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information [1].

Article 27

Access to justice

1. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to Article 26 when one of the following conditions is met:

(a) they have a sufficient interest;

(b) they maintain the impairment of a right, where administrative procedural law of a Member State requires this as a precondition.

2. Member States shall determine at what stage the decisions, acts or omissions may be challenged.

3. What constitutes a sufficient interest and impairment of a right shall be determined by Member States, consistently with the objective of giving the public concerned wide access to justice.

To this end, the interest of any non-governmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed sufficient for the purpose of point (a) of paragraph 1.

Such organisations shall also be deemed to have rights capable of being impaired for the purpose of point (b) of paragraph 1.

4. The provisions of paragraphs 1, 2 and 3 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

Any such procedure shall be fair, equitable, timely and not prohibitively expensive.

[1] *OJ L 41, 14.2.2003, p. 26.*

5. Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

Article 28

Transboundary effects

1. Where a Member State is aware that the operation of an installation is likely to have significant negative effects on the environment of another Member State, or where a Member State which is likely to be significantly affected so requests, the Member State in whose territory the application for a permit pursuant to Article 4 or Article 21(2) was submitted shall forward to the other Member State any information required to be given or made available pursuant to Annex IV at the same time as it makes it available to the public.

Such information shall serve as a basis for any consultations necessary in the framework of the bilateral relations between the two Member States on a reciprocal and equivalent basis.

2. Within the framework of their bilateral relations, Member States shall ensure that in the cases referred to in paragraph 1 the applications are also made available for an appropriate period of time to the public of the Member State likely to be affected so that it will have the right to comment on them before the competent authority reaches its decision.

3. The results of any consultations pursuant to paragraphs 1 and 2 shall be taken into consideration when the competent authority reaches a decision on the application.

4. The competent authority shall inform any Member State which has been consulted pursuant to paragraph 1 of the decision reached on the application and shall forward to it the information referred to in Article 26(*2*). That Member State shall take the measures necessary to ensure that that information is made available in an appropriate manner to the public concerned in its own territory.

▌

Article 29

Emerging techniques

Member States shall establish incentives for operators to develop and apply emerging techniques.

For the purpose of the first subparagraph, the Commission shall adopt ▌ the following ***criteria***:

(a) the type of industrial activities for prioritised development and application of emerging techniques;

(b) indicative targets for Member States regarding the development and application of emerging techniques;

(c) the tools to assess the progress made in developing and applying emerging techniques.

Those measures, designed to amend non-essential elements of this Directive ‖ by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

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CHAPTER III

Special provisions for combustion plants

Article 30

Scope

This *Chapter* shall apply to combustion plants designed for production of energy, the rated thermal input of which is equal to or greater than 50 MW, irrespective of the type of fuel used.

This *Chapter* shall not apply to the following combustion plants:

(a) plants in which the products of combustion are used for the direct heating, drying, or any other treatment of objects or materials;

(b) post-combustion plants designed to purify the waste gases by combustion which are not operated as independent combustion plants;

(c) facilities for the regeneration of catalytic cracking catalysts;

(d) facilities for the conversion of hydrogen sulphide into sulphur;

(e) reactors used in the chemical industry;

(f) coke battery furnaces;

(g) cowpers;

(h) any technical apparatus used in the propulsion of a vehicle, ship or aircraft;

(i) gas turbines used on offshore platforms;

(j) plants which use any solid or liquid waste as a fuel other than waste referred to in point (a) of *Article 37*(2).

Articles 31, 32 and 35 shall not apply to combustion installations when these are covered by a sector-specific BAT reference document and when they are excluded from the scope of the Large Combustion Plant BAT reference document.

Article 31

Aggregation rules

1. Where the waste gases of two or more separate combustion plants are discharged through a common stack, the combination formed by such plants shall be considered as a single combustion plant and their capacities added.

2. Where two or more separate combustion plants which have been granted a permit or have submitted a complete application after the date referred to in Article 72(2) are installed in such a way that, taking technical and economic factors into account, their waste gases could be discharged through a common stack, the combination formed by such plants shall be considered as a single combustion plant and their capacities added.

Article 32

Emission limit values

1. Waste gases from combustion plants shall be discharged in a controlled way by means of a stack, containing one or more flues, the height of which is calculated in such a way as to safeguard human health and the environment.

2. All permits for installations containing combustion plants which have been granted a permit or have submitted a complete application before the date referred to in Article 72(2) provided that such plant is put into operation no later than one year after that date shall include conditions ensuring that emissions to air from these plants do not exceed the emission limit values laid down in Part 1 of Annex V.

3. All permits for installations containing combustion plants not covered by paragraph 2 shall include conditions ensuring that emissions to the air from these plants do not exceed the emission limit values laid down in Part 2 of Annex V.

4. The competent authority may grant a derogation for a maximum of six months from the obligation to comply with the emission limit values provided for in paragraphs 2 and 3 for sulphur dioxide in respect of a combustion plant which to this end normally uses low-sulphur fuel, in cases where the operator is unable to comply with those limit values because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage.

Member States shall immediately inform the Commission of any derogation granted under the first subparagraph.

5. The competent authority may grant a derogation from the obligation to comply with the emission limit values provided for in paragraphs 2 and 3 in cases where a combustion plant using only gaseous fuel has to resort exceptionally to the use of other fuels because of a sudden interruption in the supply of gas and for this reason would need to be equipped with a waste gas purification facility. The period for which such a derogation is granted shall not exceed 10 days except where there is an overriding need to maintain energy supplies.

The operator shall immediately inform the competent authority of each specific case referred to in the first subparagraph.

Member States shall inform the Commission immediately of any derogation granted under the first subparagraph.

6. Where a combustion plant is extended ***by at least 20 MW***, the emission limit values specified in part 2 of Annex V shall apply to the part of the plant affected by the change and shall be set in relation to the rated thermal input of the entire combustion plant.

Article 33

Malfunction or breakdown of the abatement equipment

1. Member States shall ensure that provision is made in the permits for procedures relating to malfunction or breakdown of the abatement equipment.

2. In *the* case of a breakdown the competent authority shall require the operator to reduce or close down operations if a return to normal operation is not achieved within 24 hours, or to operate the plant using low polluting fuels.

The operator shall notify the competent authority within 48 hours after the malfunction or breakdown of the abatement equipment.

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The cumulative duration of unabated operation shall not exceed 120 hours in any *12-month* period.

The competent authority may grant a derogation from the time limits set out in the first and third subparagraphs in one of the following cases:

(a) there is an overriding need to maintain energy supplies,

(b) the combustion plant with the breakdown would be replaced for a limited period by another plant which would cause an overall increase in emissions.

Article 34

Monitoring of emissions into air

1. Member States shall ensure that the monitoring of air polluting substances is carried out in accordance with Part 3 of Annex V. ***Member States may require that such monitoring be carried out at the operator's expense.***

2. The installation and functioning of the automated monitoring equipment shall be subject to control and to annual surveillance tests as set out in Part 3 of Annex V.

3. The competent authority shall determine the location of the sampling or measurement points to be used for monitoring of emissions.

4. All monitoring results shall be recorded, processed and presented in a way as to enable the competent authority to verify compliance with the operating conditions and emission limit values which are included in the permit.

Article 35

Compliance with emission limit values

The emission limit values for air shall be regarded as being complied with if the conditions set out in Part 4 of Annex V are fulfilled.

Article 36

Multi-fuel firing combustion plants

1. In the case of a multi- fuel firing combustion plant involving the simultaneous use of two or more fuels, the competent authority shall set the emission limit values in accordance with the following steps:

(a) take the emission limit value relevant for each individual fuel and pollutant corresponding to the rated thermal input of the entire combustion plant as set out in Parts 1 and 2 of Annex V,

(b) determine fuel-weighted emission limit values, which are obtained by multiplying the individual emission limit value referred to in point (a) by the thermal input delivered by each fuel, and dividing the product of multiplication by the sum of the thermal inputs delivered by all fuels,

(c) aggregate the fuel-weighted emissions limit values.

2. In *the* case of multi- fuel firing combustion plants using the distillation and conversion residues from refining of crude-oil for own consumption, alone or with other fuels, the Commission may amend paragraph 1 to set an average emission limit value for sulphur dioxide covering all such plants with a rated thermal input of 50 MW or more.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

CHAPTER IV

Special provisions for waste incineration plants and waste co-incineration plants

Article 37

Scope

1. This Chapter shall apply to waste incineration plants and waste co-incineration plants which incinerate or co-incinerate solid or liquid waste.

For the purposes of this Chapter waste incineration plants and waste co-incineration plants shall include all incineration lines or co-incineration lines, waste reception, storage, on site pretreatment facilities, waste-fuel and air-supply systems, boiler, facilities for the treatment of waste gases, on-site facilities for treatment or storage of residues and waste water, stack, devices and systems for controlling incineration or co-incineration operations, recording and monitoring incineration or co-incineration conditions.

If co-incineration takes place in such a way that the main purpose of the plant is ‖ the thermal treatment of waste *rather than the generation of energy or production of material products,* the plant shall be regarded as a waste incineration plant.

2. This Chapter shall not apply to the following plants:

(a) plants treating only the following wastes:

(i) waste listed in point (b) of *Article 3(22),*

(ii) radioactive waste,

(iii) animal carcasses as regulated by Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption [1];

(iv) waste resulting from the exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installations;

(b) experimental plants used for research, development and testing in order to improve the incineration process and which treat less than 50 tonnes of waste per year.

Article 38

Applications for permits

An application for a permit for a waste incineration plant or waste co-incineration plant shall include a description of the measures which are envisaged to guarantee that the following requirements are met:

(a) the plant is designed, equipped and will be maintained and operated in such a manner that the requirements of this Chapter are met taking into account the categories of waste to be incinerated or co-incinerated;

[1] OJ L 273, 10.10.2002, p. 1.

(b) the heat generated during the incineration and co-incineration process is recovered as far as practicable through the generation of heat, steam or power;

(c) the residues will be minimised in their amount and harmfulness and recycled where appropriate;

(d) the disposal of the residues which cannot be prevented, reduced or recycled will be carried out in conformity with national and Community legislation.

Article 39

Permit conditions

1. The permit shall include the following:

(a) a list of all categories of waste which may be treated using at least the categories of waste set up in the European Waste List established by Commission Decision 2000/532/EC, and containing information on the quantity of each category of waste, where appropriate;

(b) the total waste incinerating or co-incinerating capacity of the plant;

(c) the limit values for emissions to air and water;

(d) the requirements for the pH, temperature and flow of waste water discharges;

(e) the sampling and measurement procedures and frequencies to be used to comply with the conditions set for emission monitoring;

(f) the maximum permissible period of any technically unavoidable stoppages, disturbances, or failures of the purification devices or the measurement devices, during which the emissions into the air and the discharges of waste water may exceed the prescribed emission limit values.

2. In addition to the requirements set out in paragraph 1, the permit granted to a waste incineration plant or waste co-incineration plant using hazardous waste shall include the following:

(a) a list of the quantities of the different categories of hazardous waste which may be treated;

(b) the minimum and maximum mass flows of those hazardous wastes, their lowest and maximum calorific values and their maximum contents of PCB, PCP, chlorine, fluorine, sulphur, heavy metals and other polluting substances.

3. Member States may list the categories of waste to be included in the permit which can be co-incinerated in certain categories of waste co-incineration plants.

4. The competent authority shall periodically reconsider and, where necessary, update permit conditions.

Article 40

Control of emissions

1. Waste gases from waste incineration plants and waste co-incineration plants shall be discharged in a controlled way by means of a stack the height of which is calculated in such a way as to safeguard human health and the environment.

2. Emissions to air from waste incineration plants and waste co-incineration plants shall not exceed the emission limit values set out in parts 3 and 4 of Annex VI or determined in accordance with part 4 of that Annex.

If in a waste co-incineration plant more than 40 % of the resulting heat release comes from hazardous waste, or the plant co-incinerates untreated mixed municipal waste, the emission limit values set out in Part 3 of Annex VI shall apply.

3. Discharges to the aquatic environment of waste water resulting from the cleaning of waste gases shall be limited as far as practicable and the concentrations of polluting substances shall not exceed the emission limit values set out in Part 5 of Annex VI.

4. The emission limit values shall apply at the point where waste waters from the cleaning of waste gases are discharged from the waste incineration plant or waste co-incineration plant.

When waste waters from the cleaning of waste gases are treated outside the waste incineration plant or waste co-incineration plant at a treatment plant intended only for the treatment of this sort of waste water, the emission limit values set out in Part 5 of Annex VI *shall* be applied at the point where the waste waters leave the treatment plant. Where the waste water from the cleaning of waste gases is treated collectively with other sources of waste water, either on site or off site, the operator shall make the appropriate mass balance calculations, using the results of the measurements set out in point 2 of Part 6 of Annex VI in order to determine the emission levels in the final waste water discharge that can be attributed to the waste water arising from the cleaning of waste gases.

Under no circumstances shall dilution of waste water take place for the purpose of complying with the emission limit values set out in Part 5 of Annex VI.

5. Waste incineration plant sites and waste co-incineration plant sites, including associated storage areas for waste, shall be designed and operated in such a way as to prevent the unauthorised and accidental release of any polluting substances into soil, surface water and groundwater.

Storage capacity shall be provided for contaminated rainwater run-off from the waste incineration plant site or waste co-incineration plant site or for contaminated water arising from spillage or fire-fighting operations. The storage capacity shall be adequate to ensure that such waters can be tested and treated before discharge where necessary.

6. Without prejudice to *Article 44*(4)(c), the waste incineration plant or waste co-incineration plant or individual furnaces being part of a waste incineration plant or waste co-incineration plant shall under no circumstances continue to incinerate waste for a period of more than four hours uninterrupted where emission limit values are exceeded.

The cumulative duration of operation in such conditions over one year shall not exceed 60 hours.

The time limit set out in the second subparagraph shall apply to those furnaces which are linked to one single waste gas cleaning device.

Article 41

Breakdown

In the case of a breakdown, the operator shall reduce or close down operations as soon as practicable until normal operations can be restored.

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Article 42

Monitoring of emissions

1. Member States shall ensure that the monitoring of emissions is carried out in accordance with Parts 6 and 7 of Annex VI.

2. The installation and functioning of the automated measuring systems shall be subject to control and to annual surveillance tests as set out in point 1 of Part 6 of Annex VI.

3. The competent authority shall determine the location of the sampling or measurement points to be used for monitoring of emissions.

4. All monitoring results shall be recorded, processed and presented in *such* a way *as* to enable the competent authority to verify compliance with the operating conditions and emission limit values which are included in the permit.

5. The Commission shall, as soon as appropriate measurement techniques are available within the Community, set the date from which continuous measurements of the emissions to air of heavy metals and dioxins and furans shall be carried out.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

Article 43

Compliance with emission limit values

The emission limit values for air and water shall be regarded as being complied with if the conditions described in Part 8 of Annex VI are fulfilled.

Article 44

Operating conditions

1. Waste incineration plants shall be operated in *such* a way ‖ as to achieve a level of incineration such that the total organic carbon content of slag and bottom ashes is less than 3 % or their loss on ignition is less than 5 % of the dry weight of the material. If necessary, waste pre-treatment techniques shall be used.

2. Waste incineration plants and waste co-incineration plants shall be designed, equipped, built and operated in such a way that the gas resulting from the incineration or co-incineration of waste is raised, after the last injection of combustion air, in a controlled and homogeneous fashion and even under the most unfavourable conditions, to a temperature of at least 850 °C for at least two seconds.

If hazardous waste with a content of more than 1 % of halogenated organic substances, expressed as chlorine, is incinerated or co-incinerated, the temperature required to comply with the first subparagraph shall be at least 1 100°C.

In waste incineration plants, the temperatures set out in the first and second subparagraphs shall be measured near the inner wall of the combustion chamber. The competent authority may *authorise* the measurements at another representative point of the combustion chamber.

3. Each combustion chamber of a waste incineration plant shall be equipped with at least one auxiliary burner. This burner shall be switched on automatically when the temperature of the combustion gases after the last injection of combustion air falls below the temperatures set out in paragraph 2. It shall also be used during plant start-up and shut-down operations in order to ensure that those temperatures are maintained at all times during these operations and as long as unburned waste is in the combustion chamber.

The auxiliary burner shall not be fed with fuels which can cause higher emissions than those resulting from the burning of gasoil as defined in Article 1(1) of Council Directive 93/12/EEC of 23 March 1993 relating to the sulphur content of certain liquid fuels ([1]), liquefied gas or natural gas.

4. Waste incineration plants and waste co-incineration plants shall operate an automatic system to prevent waste feed in the following situations:

(a) at start-up, until the temperature set out in paragraph 2 or the temperature specified according to *Article 45(1)* has been reached;

(b) whenever the temperature set out in paragraph 2 or the temperature specified according to *Article 45*(1) *is* not maintained;

(c) whenever the continuous measurements show that any emission limit value is exceeded due to disturbances or failures of the waste gas cleaning devices.

5. Any heat generated by waste incineration plants or waste co-incineration plants shall be recovered as far as practicable.

6. Infectious clinical waste shall be placed straight in the furnace, without first being mixed with other categories of waste and without direct handling.

7. Member States shall ensure that the waste incineration plant or waste co-incineration plant is operated and controlled by a natural person who is competent to manage the plant.

Article 45

Authorisation to change operation conditions

1. Conditions different from those laid down in paragraphs 1, 2 and 3 of *Article 44* and, as regards the temperature, paragraph 4 of that Article and specified in the permit for certain categories of waste or for certain thermal processes may be authorised by the competent authority, provided the other requirements of this Chapter are met. Member States may lay down rules governing these authorisations.

2. For waste incineration plants, the change of the operational conditions shall not cause more residues or residues with a higher content of organic polluting substances compared to those residues which could be expected under the conditions laid down in paragraphs 1, 2 and 3 of *Article 44*.

3. Waste co-incineration plants, authorised to change operational conditions according to paragraph 1 shall comply with at least the emission limit values set out in Part 3 of Annex VI for total organic carbon and CO.

Boilers within the pulp and paper industry co-incinerating bark waste at the place of its production which were in operation and had a permit before 28 December 2002 and which are authorised to change operational conditions according to paragraph 1 shall comply with, at least the emission limit values set out in Part 3 of Annex VI for total organic carbon

4. Member States shall communicate to the Commission all operating conditions authorised under paragraphs 1, 2 and 3 and the results of verifications made as part of the information provided in accordance with the reporting requirements under *Article 66*.

([1]) OJ L 74, 27.3.1993, p. 81.

Article 46

Delivery and reception of waste

1. The operator of the waste incineration plant or waste co-incineration plant shall take all necessary precautions concerning the delivery and reception of waste in order to prevent or to limit as far as practicable the pollution of air, soil, surface water and groundwater as well as other negative effects on the environment, odours and noise, and direct risks to human health.

2. The operator shall determine the mass of each category of waste, according to the European Waste List established by Commission Decision 2000/532/EC, prior to accepting the waste at the waste incineration plant or waste co-incineration plant.

3. Prior to accepting hazardous waste at the waste incineration plant or waste co-incineration plant, the operator shall collect available information about the waste for the purpose of verifying compliance with the permit requirements specified in *Article 39*(2).

That information shall cover the following:

(a) all the administrative information on the generating process contained in the documents mentioned in paragraph 4(a);

(b) the physical, and as far as practicable, chemical composition of the waste and all other information necessary to evaluate its suitability for the intended incineration process;

(c) the hazardous characteristics of the waste, the substances with which it cannot be mixed, and the precautions to be taken in handling the waste.

4. Prior to accepting hazardous waste at the waste incineration plant or waste co-incineration plant, at least the following procedures shall be carried out by the operator:

(a) the checking of the documents required by Directive *2008/98/EC* and, where applicable, those required by Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community [1] and by legislation on transport of dangerous goods;

(b) the taking of representative samples, unless inappropriate as far as possible before unloading, to verify conformity with the information provided for in paragraph 3 by carrying out controls and to enable the competent authorities to identify the nature of the wastes treated.

The samples referred to in point (b) shall be kept for at least one month after the incineration or co-incineration of the waste concerned.

5. The competent authority may grant exemptions from paragraphs 2, 3 and 4 to waste incineration plants or waste co-incineration plants which are a part of an installation covered by Chapter II and only incinerate or co-incinerate waste generated within that installation.

Article 47

Residues

1. Residues shall be minimised in their amount and harmfulness. Residues shall be recycled, where appropriate, directly in the plant or outside.

[1] OJ L 30, 6.2.1993, p. 1.

2. Transport and intermediate storage of dry residues in the form of dust shall take place in such a way as to prevent dispersal of those residues in the environment.

3. Prior to determining the routes for the disposal or recycling of the residues, appropriate tests shall be carried out to establish the physical and chemical characteristics and the polluting potential of the residues. Those tests shall concern the total soluble fraction and heavy metals soluble fraction.

Article 48

Substantial change

A change of operation of a waste incineration plant or a waste co-incineration plant treating only non-hazardous waste in an installation covered by Chapter II which involves the incineration or co-incineration of hazardous waste shall be regarded as a substantial change.

Article 49

Reporting and public information on waste incineration plants and waste co-incineration plants

1. Applications for new permits for waste incineration plants and waste co-incineration plants shall be made available to the public at one or more locations for an appropriate period to enable the public to comment on the applications before the competent authority reaches a decision. That decision, including at least a copy of the permit, and any subsequent updates, shall also be made available to the public.

2. For waste incineration plants or waste co-incineration plants with a nominal capacity of two tonnes or more per hour the report referred to in *Article 66* shall include information on the functioning and monitoring of the plant and give account of the running of the incineration or co-incineration process and the level of emissions into air and water in comparison with the emission limit values. That information shall be made available to the public.

3. A list of waste incineration plants or waste co-incineration plants with a nominal capacity of less than two tonnes per hour shall be drawn up by the competent authority and shall be made available to the public.

CHAPTER V

Special provisions for installations and activities using organic solvents

Article 50

Scope

This *Chapter* shall apply to activities listed in Part 1 of Annex VII and, where applicable, reaching the consumption thresholds set out in Part 2 of that Annex.

Article 51

Definitions

For the purposes of this Chapter, the following definitions shall apply:

(1) 'existing installation' means an installation in operation which has been granted a permit before 1 April 2001 or has submitted a complete application for a permit before 1 April 2001 provided that that installation was put in operation no later than 1 April 2002;

(2) 'waste gases' means the final gaseous discharge containing volatile organic compounds or other pollutants from a stack or abatement equipment into air;

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(3) 'fugitive emissions' means any emissions not in waste gases of volatile organic compounds into air, soil and water as well as solvents contained in any products, unless otherwise stated in Part 2 of Annex VII.;

(4) 'total emissions' means the sum of fugitive emissions and emissions in waste gases;

(5) 'mixture' means mixture as defined in paragraph 2 of Article 3 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and restriction of Chemicals (REACH) ([1]),

(6) 'adhesive' means any mixture, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used to adhere separate parts of a product;

(7) 'ink' means a mixture, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used in a printing activity to impress text or images on to a surface;

(8) 'varnish' means a transparent coating;

(9) 'consumption' means the total input of organic solvents into an installation per calendar year, or any other 12-month period, less any volatile organic compounds that are recovered for reuse;

(10) 'input' means the quantity of organic solvents and their quantity in mixtures used when carrying out an activity, including the solvents recycled inside and outside the installation, and which are counted every time they are used to carry out the activity;

(11) 'reuse' means the use of organic solvents recovered from an installation for any technical or commercial purpose and including use as a fuel but excluding the final disposal of such recovered organic solvent as waste;

(12) 'contained conditions' means conditions under which an installation is operated so that the volatile organic compounds released from the activity are collected and discharged in a controlled way either via a stack or abatement equipment and are therefore not entirely fugitive;

(13) 'start-up and shut-down operations' means operations excluding regularly oscillating activity phases whilst bringing an activity, an equipment item or a tank into or out of service or into or out of an idling state,

Article 52

Substitution of hazardous substances

Substances or mixtures which, because of their content of volatile organic compounds, are classified as carcinogens, mutagens, or toxic to reproduction under Directive 67/548/EEC, are assigned or need to carry the risk phrases R45, R46, R49, R60 or R61, shall be replaced, as far as possible by less harmful substances or mixtures within the shortest possible time.

Article 53

Control of emissions

1. Member States shall take the necessary measures to ensure either of the following:

([1]) *OJ L 396, 30.12.2006, p. 1.*

(a) the emission of volatile organic compounds from installations shall not exceed the emission limit values in waste gases and the fugitive emission limit values, or the total emission limit values, and other requirements laid down in Parts 2 and 3 of Annex VII are complied with;

(b) installations comply with the requirements of the reduction scheme set out in Part 5 of Annex VII provided that an equivalent emission reduction is achieved compared to that achieved through the application of the emission limit values referred to in point (a).

Member States shall report to the Commission in accordance with *Article 66(1)* on the progress in achieving the equivalent emission reduction referred to in point (b).

2. By derogation from point (a) of paragraph 1, where the operator demonstrates to the competent authority that for an individual installation the emission limit value for fugitive emissions is not technically and economically feasible, the competent authority may allow emissions to exceed that emission limit value provided that significant risks to human health or the environment are not to be expected and that the operator demonstrates to the competent authority that the best available techniques are being used;

3. By derogation from paragraph 1, for coating activities covered by item 8 of the Table in Part 2 of Annex VII which cannot be carried out under contained conditions, the competent authority may allow the emissions of the installation not to comply with the requirements set out in that paragraph if the operator demonstrates to the competent authority that such compliance is not technically and economically feasible and that the best available techniques are being used.

4. Member States shall report to the Commission on the *derogations* referred to in paragraphs 2 and 3 in accordance with *Article 66(2)*.

5. The emissions of volatile organic compounds which are assigned or need to carry the risk phrases R40, R45, R46, R49, R60, R61 or R68 shall be controlled under contained conditions as far as technically and economically feasible to safeguard public health and the environment and shall not exceed the emission limit values set out in Part 4 of Annex VII.

6. Installations where two or more activities are carried out, each of which exceeds the thresholds in Part 2 of Annex VII shall:

(a) as regards the substances specified in paragraph 5, meet the requirements of that paragraph for each activity individually;

(b) as regards all other substances, either:

(i) meet the requirements of paragraph 1 for each activity individually; or

(ii) have total emissions of volatile organic compounds not exceeding those which would have resulted had point (i) been applied.

7. All appropriate precautions shall be taken to minimise emissions of volatile organic compounds during start-up and shut-down operations.

Article 54

Monitoring of emissions

Member States shall, either by specification in the conditions of the permit or by general binding rules, ensure that measurements of emissions are carried out in accordance with Part 6 of Annex VII.

Article 55

Compliance with emission limit values

The emission limit values in waste gases shall be regarded as being complied with if the conditions set out in Part 8 of Annex VII are fulfilled.

Article 56

Reporting on compliance

The report on compliance referred to in paragraph 1 of Article 8 shall demonstrate compliance with either of the following:

(a) emission limit values in waste gases, fugitive emission limit values and total emission limit values;

(b) the requirements of the reduction scheme under Part 5 of Annex VII;

(c) the derogations granted in accordance with paragraphs 2 and 3 of *Article 53*

The report on compliance may include a solvent management plan prepared in accordance with Part 7 of Annex VII.

Article 57

Substantial change to existing installations

1. A change of the maximum mass input of organic solvents by an existing installation averaged over one day, if the installation is operated at its design output under conditions other than start-up and shut-down operations and maintenance of equipment, shall be considered as substantial if it leads to an increase of emissions of volatile organic compounds of more than:

— 25 % for an installation having activities falling within the lower threshold band of items 1, 3, 4, 5, 8, 10, 13, 16 or 17 of Part 2 of Annex VII or, for the other activities of Part 2 of Annex VII, having a solvent consumption of less than 10 tonnes per year;

— 10 % for all other installations.

2. Where an existing installation undergoes a substantial change, or falls within the scope of this Directive for the first time following a substantial change, that part of the installation which undergoes the substantial change shall be treated either as a new installation or as an existing installation, provided that the total emissions of the whole installation do not exceed those that would have resulted had the substantially changed part been treated as a new installation.

3. In *the* case of a substantial change, the competent authority shall check compliance of the installation with the requirements of this Directive.

Article 58

Exchange of information on substitution of organic solvents

The Commission shall organise an exchange of information with the Member States, the industry concerned and non-governmental organisations promoting environmental protection on the use of organic solvents and their potential substitutes and techniques which have the least potential effects on air, water, soil, ecosystems and human health.

The exchange of information shall be *organised* on all of the following:

(a) fitness for use;

(b) potential effects on human health and occupational exposure in particular;

(c) potential effects on the environment;

(d) the economic consequences, in particular the costs and benefits of the options available.

Article 59

Access to information

1. The decision of the competent authority, including at least a copy of the permit, and any subsequent updates, shall be made available to the public.

The general binding rules applicable for installations and the list of installations subject to permitting and registration shall be made available to the public.

2. The results of the monitoring of emissions as required under *Article 54* and held by the competent authority shall be made available to the public.

3. Paragraphs 1 and 2 shall apply, subject to the restrictions laid down in Article 4(1) and (2) of Directive 2003/4/EC.

CHAPTER VI

Special provisions for installations producing titanium dioxide

Article 60

Scope

This Chapter shall apply to installations producing titanium dioxide.

Article 61

Prohibition of the disposal of waste

Member States shall prohibit the disposal of the following waste into any water body, sea or ocean:

(1) solid waste;

(2) the mother liquors arising from the filtration phase following hydrolysis of the titanyl sulphate solution from installations applying the sulphate process; including the acid waste associated with such liquors, containing overall more than 0.5 % free sulphuric acid and various heavy metals, including acid waste which has been diluted until it contains 0,5 % or less free sulphuric acid;

(3) waste from installations applying the chloride process containing more than 0,5 % free hydrochloric acid and various heavy metals, including such waste which has been diluted until it contains 0,5 % or less free sulphuric acid;

(4) filtration salts, sludges and liquid waste arising from the treatment (concentration or neutralisation) of the waste mentioned under paragraphs (2) and (3) and containing various heavy metals, but not including *neutralised* and filtered or decanted waste containing only traces of heavy metals and which, before any dilution, has a pH value above 5,5.

Article 62

Control of emissions into water

1. Emissions from installations into water shall not exceed the emission limit values set out in Part 1 of Annex VIII.

2. Member States shall take the necessary measures to ensure that acute toxicity tests are carried out in accordance with point 1 of Part 2 of Annex VIII and that the results of those tests comply with the values set out in point 2 of Part 2 of Annex VIII.

Article 63

Prevention and control of emissions into air

1. The emission of acid droplets from the installations shall be prevented.

2. Emissions to air from the installations shall not exceed the emission limit values set out in Part 3 of Annex VIII.

Article 64

Monitoring of emissions and the environment

1. Member States shall ensure the monitoring of emissions into water in order to enable the competent authority to verify compliance with the permit conditions and *Article 62*.

2. Member States shall ensure the monitoring of emissions into air in order to enable the competent authority to verify compliance with the permit conditions and *Article 63*.

Such monitoring shall include at least monitoring of emissions as set out in Part 5 of Annex VII.

3. Member States shall ensure the monitoring of the environment affected by discharges of waste from installations producing titanium dioxide into water in accordance with Part 4 of Annex VIII.

4. Monitoring shall be carried out in accordance with CEN standards or, if CEN standards are not available, ISO standards, national or international standards which will ensure the provision of data of an equivalent scientific quality.

CHAPTER VII

Committee, transitional and final provisions

Article 65

Competent authorities

Member States shall designate the competent authorities and bodies responsible for carrying out the obligations arising from this Directive.

Article 66

Reporting by Member States

1. Member States shall ensure that information is made available to the Commission on the implementation of this Directive, on representative data on the emissions and other environmental effects, on emission limit values and on the application of best available techniques in accordance with Articles 15 and 16 ***and on the derogations granted in accordance with Article 16(3)***.

Member States shall develop and regularly upgrade national information systems to make available *to the Commission* in an electronic format the information referred to in the first subparagraph. ***Member States shall make available to the public a summary of the information provided.***

2. The Commission shall establish the type and format of the information to be made available by the Member States pursuant to paragraph 1.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

3. Within 3 years of the date referred to in Article 71(1), and every three years thereafter, the Commission shall submit to the European Parliament and the Council a report on the implementation of this Directive on the basis of the information referred to in paragraph 1 accompanied by a legislative proposal where appropriate.

Article 67

Amendments of Annexes

1. On the basis of *the* best available techniques ***as described in the BAT reference documents concerned,*** the Commission shall***, within 12 months of the publication of a BAT reference document in accordance with Article 14, based on the BAT conclusions in the BAT reference document, adjust Annexes V, VI, VII, VIII by setting emission limit values as minimum requirements. Emission limit values may be supplemented by equivalent parameters or technical measures and monitoring and compliance requirements provided that an equivalent level of environmental protection can be achieved.***

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

2. Before the adoption of the measures referred to in the first paragraph, the Commission shall consult the relevant industry and non-governmental organisations promoting environmental protection and shall report on the outcome of the consultations and how they have been taken into account.

Article 68

Minimum requirements

1. ***Without prejudice to Article 67, the Commission shall, within 12 months of the publication of a BAT reference document in accordance with Article 14, based on the BAT conclusions in the BAT reference document, set emission limit values as well as monitoring and compliance requirements as minimum requirements. Emission limit values may be supplemented by equivalent parameters or technical measures where an equivalent level of environmental protection can be achieved by such equivalent parameters.***

Such minimum requirements shall be directed to significant environmental impacts of the activities or installations concerned, and shall be based on BAT-AEL.

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Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

2. Before the adoption of the implementing measures referred to in the first paragraph, the Commission shall consult the relevant industry organisations and non-governmental organisations promoting environmental protection and shall report on the outcome of the consultations and how they have been taken into account.

3. In accordance with paragraphs 1 and 2, the Commission shall, in particular, by 31 December 2011 set emission limit values as well as monitoring and compliance requirements for dioxins and furans emitted by installations carrying out the activities referred to in points 2.1 and 2.2 of Annex I.

Member States or their competent authorities may set stricter emission limit values for dioxin and furan emissions.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

Article 69

Committee *procedure*

1. The Commission shall be assisted by a committee.

2. Where reference is made to this paragraph, Articles 5a (1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 70

Penalties

Member States shall determine penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by … at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 71

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2, 3(4), *3(15)*-(18), *(20)*, 4(2), 5, 6, 8(1), 9(2) b), 12(8), 13(1) e), 14, 15(1) d), 15(3)-(5), 16(2)-(5), 17, 18 (2)-(4), 22(2)-(3), 22(4) b) and d), 23, 24, 25, 26 (1) d), *26(2)* c)-g), *29, 31, 32(3), 34(2)-(4), 35, 36(2), 42(5), 64(2), 64(4), 65-66* and 70, and Annexes points 1.1, 2.5(c), 3.5, 4.7, 5.2, 5.3, 6.1(c), 6.4(b), 6.6, 6.9, 6.10 of Annex I, point 1(b) of Annex IV, Parts 1-4 of Annex V, point b) of Part 1, points 2.2, 3.1 and 3.2 of Part 4, points 2.5 and 2.6 of Part 6 of Annex VI, point 3 of Part 7 of Annex VII, point 1 and 2(c) of Part 1 and points 2-3 of Part 3 of Annex VIII by … (*) at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from … (*). When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

(*) *18 months* after the *date of* entry into force *of this Directive*.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 72

Repeal

1. Directives 78/176/EEC, 82/883/EEC, 92/112/EEC, 96/61/EC, 1999/13/EC and 2000/76/EC, as amended by the acts listed in Annex IX, Part A are repealed with effect from … (*), without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex IX, Part B.

2. Directive 2001/80/EC as amended by the acts listed in Annex IX, Part A is repealed with effect from 1 January 2016, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex IX, Part B.

3. References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex X.

Article 73

Transitional provisions

1. In relation to installations referred to in Annex I, in points 1.2, 1.3, 1.4, 2.1 to 2.4, points (a) and (b) of point 2.5, points 2.6, 3, 4.1 to 4.6, 5.1, 5.2, points (a) and (b) of point 5.3, point 5.4, points (a) and (b) of point 6.1, points 6.2 to 6.5, points (b) and (c) of point 6.6, points 6.7 and 6.8 as well as installations referred to in point 1.1 with a rated thermal input of 50 MW or more and installations referred to in point (a) of point 6.6 with more than 40 000 places for poultry and which are in operation and hold a permit or which have submitted a complete application for a permit before the date referred to in Article 71(1), provided that those installations are put into operation no later than one year after that date, Member States shall apply the laws, regulations and administrative provisions adopted in accordance with Article 71(1) from … (**)).

2. In relation to installations referred to in Annex I, in point (c) of point 2.5, points (c), (d) and (e) of point 5.3, point (c) of point 6.1, points 6.9 and 6.10 as well as installations referred to in point 1.1 with a rated thermal input below 50 MW and installations referred to in point (a) of point 6.6 with less than 40 000 places for poultry and which are in operation before the date referred to in Article 71(1), Member States shall apply the laws, regulations and administrative provisions adopted in accordance with Article 71(1) from … (***).

3. In relation to combustion plants covered by Chapter III, Member States shall apply the laws, regulations and administrative provisions adopted in accordance with Article 71(1) from 1 January 2016.

4. In relation to combustion plants which co-incinerate waste, point 3.1 of Part 4 of Annex VI shall apply until 31 December 2015.

However, as from 1 January 2016 point 3.2 of Part 4 of Annex VI shall apply in relation to those plants.

(*) 3 years after *the date of* entry into force *of this Directive*.
(**) *3 years after the date of entry into force of this Directive*.
(***) *54 months after the date of entry into force of this Directive*.

Article 74

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 75

Addressees

This Directive is addressed to the Member States.

Done at,

For the European Parliament
The President

For the Council
The President

ANNEX I

Categories of industrial activities referred to in Article 11

The threshold values given below generally refer to production capacities or outputs. Where several activities falling under the same point are operated in the same installation, the capacities of such activities are added together.

When calculating the total rated thermal input of installations referred to in point 1.1. for combustion plants used in healthcare facilities, only the normal running capacity shall be included for the purposes of this calculation.

When calculating the total rated thermal input of installations referred to in point 1.1, combustion plants with a rated thermal input below 3 MW shall not be included for the purposes of this calculation.

When calculating the total rated thermal input of installations referred to in point 1.1, combustion plants with a rated thermal input below 50 MW and operating no more than ***500 hours*** per year shall not be included for the purposes of this calculation.

1. Energy industries

1.1 Combustion of fuels in installations with a total rated thermal input of 20 MW or more

1.2. Refining of mineral oil and gas

1.3. Production of coke

1.4. Gasification or liquefaction of fuels

2. Production and processing of metals

2.1. Metal ore (including sulphide ore) roasting or sintering

2.2. Production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour

2.3. Processing of ferrous metals:

(a) operation of hot-rolling mills with a capacity exceeding 20 tonnes of crude steel per hour;

(b) operation of smitheries with hammers the energy of which exceeds 50 kilojoule per hammer, where the calorific power used exceeds 20 MW;

(c) application of protective fused metal coats with an input exceeding 2 tonnes of crude steel per hour.

2.4. Operation of ferrous metal foundries with a production capacity exceeding 20 tonnes of good castings per day

2.5. Processing of non-ferrous metals:

(a) production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes;

(b) melting including the alloyage, of non-ferrous metals, including recovered products, with a melting capacity exceeding 4 tonnes per day for lead and cadmium or 20 tonnes per day for all other metals and excluding operation of foundries;

(c) operation of non-ferrous metal foundries producing cast metal products, with ***melting*** capacity ▌exceeding 2,4 tonnes per day for lead and cadmium or 12 tonnes per day for all other metals.

2.6. Surface treatment of metals or plastic materials using anelectrolytic or chemical process where the volume of the treatment vatsexceeds 30 m^3

3. Mineral industry

3.1. Production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or lime in rotary kilns or other furnaces with a production capacity exceeding 50 tonnes per day

3.2. Production of asbestos or the manufacture of asbestos-based products

3.3. Manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day

3.4. Melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tonnes per day

3.5. Manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day ***and*** with a setting density per kiln exceeding 300 kg/m^3

4. Chemical industry

For the purpose of this section, production within the meaning of the categories of activities contained in this section means the production on an industrial scale by chemical or biological processing of substances or groups of substances listed in points 4.1 to 4.7

4.1. Production of organic chemicals, such as:

(a) simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);

(b) oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins;

(c) sulphurous hydrocarbons;

(d) nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates;

(e) phosphorus-containing hydrocarbons;

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(f) halogenic hydrocarbons;

(g) organometallic compounds;

(h) basic plastic materials (polymers synthetic fibres and cellulose-based fibres);

(i) synthetic rubbers;

(j) dyes and pigments;

(k) surface-active agents and surfactants.

4.2. Production of inorganic chemicals, such as:

(a) gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride;

(b) acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids;

(c) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;

(d) salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate;

(e) non-metals, metal oxides or other inorganic compounds such as calcium carbide, silicon, silicon carbide.

4.3. Production of phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers)

4.4. Production of plant health products or of biocides

4.5. Production of pharmaceutical products including intermediates

4.6. Production of explosives

4.7. Production of chemicals for use as fuels or lubricants

5. Waste management

5.1. Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving the following activities:

(a) biological treatment;

(b) physico-chemical treatment;

(c) incineration or co-incineration;

(d) blending or mixing;

(e) repackaging;

(f) storage with a capacity exceeding 10 tonnes of storage;

(g) use principally as a fuel or other means to generate energy;

(h) solvent reclamation/regeneration;

(i) recycling/reclamation of inorganic materials other than metals or metal compounds;

(j) regeneration of acids or bases;

(k) recovery of components used for pollution abatement;

(l) recovery of components from catalysts;

(m) oil re-refining or other reuses of oil.

5.2. Incineration ***and co-incineration*** of non-hazardous waste with a capacity exceeding 3 tonnes per hour.

5.3. Disposal or recovery of non-hazardous waste with a capacity exceeding 50 tonnes per day involving the following activities:

(a) biological treatment;

(b) physico-chemical treatment, ***with the exclusion of activities covered by Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment*** [1] ***and which result only in treated sludge, as defined in Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture*** [2]***. This exclusion applies only in cases where at least the same level of environmental protection would be achieved as under this Directive;***

(c) pre-treatment of waste for co-incineration;

(d) treatment of slags and ashes ***not covered by other categories of industrial activities***;

(e) treatment of scrap metal ***in shredders***.

5.4 Landfills receiving more than 10 tonnes per day or with a total capacity exceeding 25 000 tonnes, excluding landfills of inert waste

6. Other activities

6.1. Production in industrial -installations of:

(a) pulp from timber or other fibrous materials;

(b) paper or card board with a production capacity exceeding 20 tonnes per day;

(c) wood-based panels, with the exception of plywood, with a production capacity exceeding 600 m^3 per day.

6.2. Pre-treatment (operations such as washing, bleaching, *mercerisation*) or dyeing of textile fibres or textiles where the treatment capacity exceeds 10 tonnes per day

6.3. Tanning of hides and skins where the treatment capacity exceeds 12 tonnes of finished products per day

6.4. (a) Operating slaughterhouses with a carcass production capacity greater than 50 tonnes per day

(b) Treatment and processing, other than exclusively packaging, of the following raw materials, whether previously processed or unprocessed, intended for the production of food products for humans or animals from:

(i) animal raw materials (other than exclusively milk) with a finished product production capacity greater than 75 tonnes per day

(ii) vegetable raw materials with a finished product production capacity greater than 300 tonnes per day

(iii) a mix of animal and vegetable raw materials with a finished product production capacity in tonnes per day greater than:

— 75 if A is equal to 10 or more; or

— [300- (22.5 x A)] in any other case

where 'A' is the portion of animal material (in percent) of the finished product production capacity

Packaging shall not be included in the final weight of the product.

This subsection shall not apply where the raw material is milk only.

[1] ***OJ L 135, 30.5.1991, p. 40***.
[2] ***OJ L 181, 4.7.1986, p. 6***.

(c) Treatment and processing of milk only, the quantity of milk received being greater than 200 tonnes per day (average value on an annual basis)

6.5. Disposal or recycling of animal carcases or animal waste with a treatment capacity exceeding 10 tonnes per day

6.6 Intensive rearing of poultry or pigs with more than:

(a) 40 000 places for ***poultry***

(b) 2 000 places for production pigs (over 30 kg), or

(c) 750 places for sows

In cases of other poultry species than referred in point (a) or different types of species referred in points (a), (b) and (c) reared on the same installation, the threshold shall be calculated on the basis of equivalent nitrogen excretion factors compared to the thresholds set above. ***The Commission shall establish guidance on the calculation of the thresholds and the determination of equivalent nitrogen excretion factors.***

6.7 Surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with an organic solvent consumption capacity of more than 150 kg per hour or more than 200 tonnes per year.

6.8 Production of carbon (hard-burnt coal) or electrographite by means of incineration or *graphitisation.*

6.9 Preservation of wood and wood products with a production capacity exceeding ***50 m³*** per day.

6.10 Off-site treatment of waste water not covered by ‖Directive 91/271/EEC ‖ and discharged by an installation covered by Chapter I.

ANNEX II

List of polluting substances

AIR

1. Sulphur dioxide and other sulphur compounds
2. Oxides of nitrogen and other nitrogen compounds
3. Carbon monoxide
4. Volatile organic compounds
5. Metals and their compounds
6. Dust including fine particulate matter
7. Asbestos (suspended particulates, fibres)
8. Chlorine and its compounds
9. Fluorine and its compounds
10. Arsenic and its compounds

11. Cyanides

12. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air

13. Polychlorinated dibenzodioxins and polychlorinated dibenzofurans

WATER

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment

2. Organophosphorus compounds

3. Organotin compounds

4. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment

5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances

6. Cyanides

7. Metals and their compounds

8. Arsenic and its compounds

9. Biocides and plant health products

10. Materials in suspension

11. Substances which contribute to eutrophication (in particular, nitrates and phosphates)

12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc.).

13. Substances listed in Annex X of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ([1]).

([1]) OJ L 327, 22.12.2000, p. 1.

ANNEX III

Criteria for determining best available techniques

1. the use of low-waste technology;

2. the use of less hazardous substances;

3. the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate;

4. comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;

5. technological advances and changes in scientific knowledge and understanding;

6. the nature, effects and volume of the emissions concerned;

7. the commissioning dates for new or existing installations;

8. the length of time needed to introduce the best available technique;

9. the consumption and nature of raw materials (including water) used in the process and energy efficiency;

10. the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;

11. the need to prevent accidents and to *minimise* the consequences for the environment;

ANNEX IV

Public participation in decision-making

1. The public shall be informed (by public notices or other appropriate means such as electronic media where available) of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided:

   (a) the application for a permit or, as the case may be, the proposal for the updating of a permit or of permit conditions in accordance with Article 22, including the description of the elements listed in Article 13(1);

   (b) the development of new or updated general binding rules in accordance with Article 18, including the proposed requirements of the rules and a non-technical summary of the legal and administrative framework within which the rules will be applied;

   (c) where applicable, the fact that a decision is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 28;

   (d) details of the competent authority responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;

   (e) the nature of possible decisions or, where there is one, the draft decision;

   (f) where applicable, the details relating to a proposal for the updating of a permit or of permit conditions;

   (g) an indication of the times and places where, or means by which, the relevant information will be made available;

   (h) details of the arrangements for public participation and consultation made pursuant to point 5.

2. Member States shall ensure that, within appropriate time-frames, the following is made available to the public concerned:

   (a) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned were informed in accordance with point 1;

   (b) in accordance with the provisions of Directive 2003/4/EC, information other than that referred to in point 1 which is relevant for the decision in accordance with Article 6 and which only becomes available after the time the public concerned was informed in accordance with point 1.

3. The public concerned shall be entitled to express comments and opinions to the competent authority before a decision is taken.

4. The results of the consultations held pursuant to this Annex must be taken into due account in the taking of a decision.

5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Member States. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Annex.

ANNEX V

Technical provisions relating to combustion plants

Part 1

Emission limit values for combustion plants referred to in *Article 32(2)*

1. All emission limit values shall be calculated at a temperature of 273,15 K, a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases and at a *standardised* O_2 content of 6 % for solid fuels, 3 % for boilers using liquid and gaseous fuels and 15 % for gas turbines and gas engines.

   In case of combined cycle gas turbines (CCGT) with supplementary firing, the *standardised* O_2 content may be defined by the competent authority, taking into account the specific characteristics of the installation concerned.

2. Emission limit values (mg/Nm^3) for SO_2 for boilers using solid or liquid fuels

Rated thermal input (MWth)	Coal and lignite	Biomass	Peat	Liquid fuels
50-100	400	200	300	350
100-300	250	200	300	250
> 300	200	200	200	200

   Combustion plants ***with a rated thermal input of less than 500 MW*** using ***liquid*** fuels which were granted a permit before 27 November 2002, and which do not operate more than 1 500 hours per year (rolling average over a period of five years), shall be subject to an emission limit value for SO_2 of 800 mg/Nm^3.

3. Emission limit values (mg/Nm^3) for SO_2 for boilers using gaseous fuels

In general	35
Liquefied gas	5
Low calorific gases from coke oven	400
Low calorific gases from blast furnace	200

4. Emission limit values (mg/Nm^3) for NO_x for boilers using solid or liquid fuels

Rated thermal input (MWth)	Coal and lignite	Biomass and peat	Liquid fuels
50-100	300 450 in case of pulverised lignite combustion	300	450
100-300	200	250	200
> 300	200	200	150

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‖ Combustion plants using solid ***or liquid*** fuels ***and*** with a rated thermal input not exceeding 500 MW which were granted a permit before 27 November 2002 and which do not operate more than 1 500 hours per year (as a rolling average over a period of five years), shall be subject to an emission limit value for NO_x of 450 mg/Nm^3.

Combustion plants using solid ***or liquid*** fuels ***and*** with a rated thermal input of 500 MW or more, which were granted a permit before 1 July 1987 and which do not operate more than 1 500 hours per year as a rolling average over a period of five years, shall be subject to an emission limit value for NO_x of 450 mg/Nm^3.

5. Emission limit values (mg/Nm^3) for NO_x and CO for gas fired combustion plants

	NO_x	CO
Gas fired boilers	100 ([5])	100
Gas turbines (including CCGT), using natural gas ([1]) as fuel	50 ([2]) ([3])	100
Gas turbines (including CCGT), using other than natural gas as fuel ([4])	90	100
Gas engines	100	100

Notes:
([1]) Natural gas is naturally occurring methane with not more than 20 % (by volume) of inerts and other constituents.
([2]) 75 mg/Nm^3 in the following cases, where the efficiency of the gas turbine is determined at ISO base load conditions:
(i) gas turbines, used in combined heat and power systems having an overall efficiency greater than 75 %;
(ii) gas turbines used in combined cycle plants having an annual average overall electrical efficiency greater than 55 %;
(iii) gas turbines for mechanical drives.
([3]) For single cycle gas turbines not falling into any of the categories mentioned under note (2), but having an efficiency greater than 35 % — determined at ISO base load conditions - the emission limit value for NO_x shall be 50xη/35 where η is the gas turbine efficiency at ISO base load conditions expressed as a percentage.
([4]) These emission limit values also apply to gas turbines using light and middle distillates as liquid fuels.
For gas turbines (including CCGT), the NO_x and CO emission limit values set out in the table contained in this point apply only above 70 % load.
Gas turbines ***or gas engines*** for emergency use that operate less than 500 hours per year are not covered by the emission limit values set out in this point. The operator of such plants shall record the used operating time.
([5]) ***For plants, as referred to in Article 4(1) and 4(3) of Directive 2001/80/EC, for the use of blast furnace gas and/or coke oven gas, for nitrogen dioxide and nitrogen monoxide, measured as nitrogen dioxide, an emission limit value of 135 mg/Nm^3 shall apply.***

6. Emission limit values (mg/Nm^3) for dust for boilers using solid or liquid fuels

Rated thermal input (MWth)	Coal and lignite	Biomass and peat	Liquid fuels
50-100	30	30	30
100-300	25	20	25
> 300	20	20	20

7. Emission limit values (mg/Nm^3) for dust for boilers using gaseous fuels

In general	5
Blast furnace gas	10
Gases produced by the steel industry which can be used elsewhere	30

Part 2

Emission limit values for combustion plants referred to in *Article 32(3)*

1. All emission limit values shall be calculated at a temperature of 273,15 K, a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases and at a *standardised* O_2 content of 6 % for solid fuels, 3 % for boilers using liquid and gaseous fuels and 15 % for gas turbines and gas engines.

In case of combined cycle gas turbines with supplementary firing, the *standardised* O_2 content may be defined by the competent authority, taking into account the specific characteristics of the installation concerned.

2. Emission limit values (mg/Nm^3) for SO_2 for boilers using solid or liquid fuels

Rated thermal input (MWth)	Coal and lignite	Biomass	Peat	Liquid fuels
50-100	400	200	300	350
100-300	200	200	300 250 in case of *fluidised* bed combustion	200
> 300	150 200 in case of circulating or *pressurised fluidised* bed combustion	150	150 200 in case of *fluidised* bed combustion	150

3. Emission limit values (mg/Nm^3) for SO_2 for boilers using gaseous fuels

In general	35
Liquefied gas	5
Low calorific gases from coke oven	400
Low calorific gases from blast furnace	200

4. Emission limit values (mg/Nm^3) for NO_x for boilers using solid or liquid fuels

Rated thermal input (MWth)	Coal and lignite	Biomass and peat	Liquid fuels
50-100	300 400 in case of pulverised lignite combustion	250	300
100-300	200	200	150
> 300	150 200 in case of pulverised lignite combustion	150	100

5. Emission limit values (mg/Nm^3) for NO_x and CO for gas fired combustion plants

	NO_x	CO
Gas fired boilers	100	100
Gas turbines (including CCGT) (1)	50 (2)	100
Gas engines	75	100

Notes

(1) For gas turbines using light and middle distillates as liquid fuels, the emission limit values for NO_x and for CO set out in this point also apply.

(2) For single cycle gas turbines having an efficiency greater than 35 % — determined at ISO base load conditions — the emission limit value for NO_x shall be 50xη/35 where η is the gas turbine efficiency at ISO base load conditions expressed as a percentage. For gas turbines (including CCGT), the NO_x and CO emission limit values set out in this point apply only above 70 % load. Gas turbines ***or gas engines*** for emergency use that operate less than 500 hours per year are not covered by the emission limit values set out in this point. The operator of such plants shall record the used operating time.

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6. Emission limit values (mg/Nm^3) for dust for boilers using solid or liquid fuels

Rated thermal input (MWth)	
50-300	20
> 300	10 20 for biomass and peat

7. Emission limit values (mg/Nm^3) for dust for boilers using gaseous fuels

In general	5
Blast furnace gas	10
Gases produced by the steel industry which can be used elsewhere	30

Part 3

Emission monitoring

1. The concentrations of SO_2, NO_x, ***CO*** and dust in waste gases from each combustion plant with a rated thermal input of 100 MW or more shall be measured continuously.

▌

2. The competent authority may decide not to require the continuous measurements referred to in point 1 in the following cases:

   (a) for combustion plants with a life span of less than 10 000 operational hours;

   (b) for SO_2 and dust from combustion plants firing natural gas;

   (c) for SO_2 from combustion plants firing oil with known sulphur content in cases where there is no waste gas desulphurisation equipment;

   (d) for SO_2 from combustion plants firing biomass if the operator can prove that the SO_2 emissions can under no circumstances be higher than the prescribed emission limit values.

3. Where continuous measurements are not required, measurements of SO_2, NO_x, dust and, for gas fired plants, also for CO shall be required at least once per six months.

4. For combustion plants firing coal or lignite, the emissions of total mercury shall be measured at least once per year.

5. As an alternative to the measurements of SO_2 and NO_x referred to in point 3, other procedures, verified and approved by the competent authority, may be used to determine the SO_2 and NO_x emissions. Such procedures shall use relevant CEN standards or, if CEN standards are not available, ISO standards, national or international standards which will ensure the provision of data of an equivalent scientific quality.

6. The competent authority shall be informed of significant changes in the type of fuel used or in the mode of operation of the plant. The competent authority shall decide whether the monitoring requirements laid down in points 1 to 4 are still adequate or require adaptation.

7. The continuous measurements carried out in accordance with point 1 shall include the measurement of the oxygen content, temperature, pressure and water vapour content of the waste gases. The continuous measurement of the water vapour content of the waste gases shall not be necessary, provided that the sampled waste gas is dried before the emissions are analysed.

8. Sampling and analysis of relevant polluting substances and measurements of process parameters as well as the quality assurance of automated measuring systems and the reference measurement methods to calibrate those systems shall be carried out in accordance with CEN standards. If CEN standards are not available, ISO standards, national or international standards which will ensure the provision of data of an equivalent scientific quality shall apply.

   The automated measuring systems shall be subject to control by means of parallel measurements with the reference methods at least once per year.

   The operator shall inform the competent authority about the results of the checking of the automated measuring systems.

9. At the emission limit value level, the values of the 95 % confidence intervals of a single measured result shall not exceed the following percentages of the emission limit values:

Carbon monoxide	10 %
Sulphur dioxide	20 %
Nitrogen oxides	20 %
Dust	30 %

10. The validated hourly and daily average values shall be determined from the measured valid hourly average values after having subtracted the value of the confidence interval specified in point 9.

    Any day in which more than three hourly average values are invalid due to malfunction or maintenance of the automated measuring system shall be invalidated. If more than ten days over a year are invalidated for such situations the competent authority shall require the operator to take adequate measures to improve the reliability of the automated measuring system.

Part 4

Assessment of compliance with the emission limit values

1. In the case of continuous measurements, the emission limit values set out in Parts 1 and 2 shall be regarded as having been complied with if the evaluation of the measurement results indicates, for operating hours within a calendar year, that all of the following conditions have been met:

   (a) no validated ***daily*** average value exceeds the relevant emission limit values set out in Parts 1 and 2;

   ▌

   (b) 95 % of all the validated hourly average values over the year do not exceed 200 % of the relevant emission limit values set out in Parts 1 and 2.

   ▌

2. Where continuous measurements are not required, the emission limit values set out in Parts 1 and 2 shall be regarded as having been complied with if the results of each of the series of measurements or of the other procedures defined and determined according to the rules laid down by the competent authorities do not exceed the emission limit values.

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ANNEX VI

Technical provisions relating to waste incineration plants and waste co-incineration plants

Part 1

Definitions

For the purpose of this Annex the following definitions shall apply:

(a) 'existing waste incineration plant' means one of the following waste incineration plants:

(i) which was in operation and had a permit in accordance with applicable Community legislation before 28 December 2002,

(ii) which was authorised or registered for waste incineration and had a permit issued before 28 December 2002 in accordance with applicable Community legislation, provided that the plant was put into operation not later than 28 December 2003,

(iii) which, in the view of the competent authority, was the subject of a full request for authorisation, before 28 December 2002, provided that the plant was put into operation not later than 28 December 2004;

(b) 'new waste incineration plant' means any waste incineration plant not covered by point (a).

Part 2

Equivalence factors for dibenzo-p-dioxins and dibenzofurans

For the determination of the total concentration of dioxins and furans, the mass concentrations of the following dibenzo-p-dioxins and dibenzofurans shall be multiplied by the following equivalence factors before summing:

	Toxic equivalence factor
2,3,7,8 — Tetrachlorodibenzodioxin (TCDD)	1
1,2,3,7,8 — Pentachlorodibenzodioxin (PeCDD)	0,5
1,2,3,4,7,8 — Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,6,7,8 — Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,7,8,9 — Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,4,6,7,8 — Heptachlorodibenzodioxin (HpCDD)	0,01
Octachlorodibenzodioxin (OCDD)	0,001
2,3,7,8 — Tetrachlorodibenzofuran (TCDF)	0,1
2,3,4,7,8 — Pentachlorodibenzofuran (PeCDF)	0,5
1,2,3,7,8 — Pentachlorodibenzofuran (PeCDF)	0,05
1,2,3,4,7,8 — Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,6,7,8 — Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,7,8,9 — Hexachlorodibenzofuran (HxCDF)	0,1
2,3,4,6,7,8 — Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,4,6,7,8 — Heptachlorodibenzofuran (HpCDF)	0,01
1,2,3,4,7,8,9 — Heptachlorodibenzofuran (HpCDF)	0,01
Octachlorodibenzofuran (OCDF)	0,001

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Part 3

Air emission limit values for waste incineration plants

1. All emission limit values shall be calculated at a temperature of 273,15 K, a pressure of 101,3 kPa and after correcting for the water vapour content of the waste gases.

They are standardised at 11 % oxygen in waste gas except in case of incineration of mineral waste oil as defined in Article *3(3)* of Directive *2008/98/EC*, when they are standardised at 3 % oxygen, and in the cases referred to in Point 2.7 of *Part 6*.

1.1. Daily average emission limit values for the following polluting substances (mg/Nm^3)

Total dust	10
Gaseous and vaporous organic substances, expressed as total organic carbon (TOC)	10
Hydrogen chloride (HCl)	10
Hydrogen fluoride (HF)	1
Sulphur dioxide (SO_2)	50
Nitrogen monoxide (NO) and nitrogen dioxide (NO_2), expressed as NO_2 for existing waste incineration plants with a nominal capacity exceeding 6 tonnes per hour or new waste incineration plants	200
Nitrogen monoxide (NO) and nitrogen dioxide (NO_2), expressed as NO_2 for existing waste incineration plants with a nominal capacity of 6 tonnes per hour or less	400

1.2. Half-hourly average emission limit values for the following polluting substances (mg/Nm^3)

	(100 %) A	(97 %) B
Total dust	30	10
Gaseous and vaporous organic substances, expressed as total organic carbon (TOC)	20	10
Hydrogen chloride (HCl)	60	10
Hydrogen fluoride (HF)	4	2
Sulphur dioxide (SO_2)	200	50
Nitrogen monoxide (NO) and nitrogen dioxide (NO_2), expressed as NO_2 for existing waste incineration plants with a nominal capacity exceeding 6 tonnes per hour or new waste incineration plants	400	200

1.3. Average emission limit values (mg/Nm^3) for the following heavy metals over a sampling period of a minimum of 30 minutes and a maximum of 8 hours

Cadmium and its compounds, expressed as cadmium (Cd)	Total: 0,05	
Thallium and its compounds, expressed as thallium (Tl)		
Mercury and its compounds, expressed as mercury (Hg)	0,05	

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Antimony and its compounds, expressed as antimony (Sb)	Total: 0,5	
Arsenic and its compounds, expressed as arsenic (As)		
Lead and its compounds, expressed as lead (Pb)		
Chromium and its compounds, expressed as chromium (Cr)		
Cobalt and its compounds, expressed as cobalt (Co)		
Copper and its compounds, expressed as copper (Cu)		
Manganese and its compounds, expressed as manganese (Mn)		
Nickel and its compounds, expressed as nickel (Ni)		
Vanadium and its compounds, expressed as vanadium (V)		

These average values cover also the gaseous and the vapour forms of the relevant heavy metal emissions as well as their compounds.

1.4. Average emission limit value (ng/Nm^3) for dioxins and furans over a sampling period of a minimum of 6 hours and a maximum of 8 hours. The emission limit value refers to the total concentration of dioxins and furans calculated in accordance with Part 2.

Dioxins and furans	0,1

1.5. Emission limit values (mg/Nm^3) for carbon monoxide (CO) in the waste gases:

(a) 50 as daily average value;

(b) 100 as half-hourly average value.

(c) 150 as 10-minute average value.

The competent authority may authorise exemptions from the emission limit values set out in this point for waste incineration plants using fluidised bed technology, provided that the permit sets an emission limit value for carbon monoxide (CO) of not more than 100 mg/Nm^3 as an hourly average value.

2. Emission limit values applicable in the circumstances described in *Articles 40* (5) and *41*.

The total dust concentration in the emissions into the air of a waste incineration plant shall under no circumstances exceed 150 mg/Nm^3 expressed as a half-hourly average. The air emission limit values for TOC and CO set out in points 1.2 and 1.5(b) shall not be exceeded.

3. Member States may lay down rules governing the exemptions provided for in this Annex.

Part 4

Determination of air emission limit values for the co-incineration of waste

1. The following formula (mixing rule) shall be applied whenever a specific total emission limit value 'C' has not been set out in a table in this Part.

The emission limit value for each relevant polluting substance and CO in the waste gas resulting from the co-incineration of waste shall be calculated as follows:

$$\frac{V_{waste} \times C_{waste} + V_{proc} \times C_{proc}}{V_{waste} + V_{proc}} = C$$

V_{waste}: waste gas volume resulting from the incineration of waste only determined from the waste with the lowest calorific value specified in the permit and standardised at the conditions given by this Directive.

If the resulting heat release from the incineration of hazardous waste amounts to less than 10 % of the total heat released in the plant, V_{waste} must be calculated from a (notional) quantity of waste that, being incinerated, would equal 10 % heat release, the total heat release being fixed.

C_{waste}: emission limit values for waste incineration plants set out in Part 3

V_{proc}: waste gas volume resulting from the plant process including the combustion of the authorised fuels normally used in the plant (wastes excluded) determined on the basis of oxygen contents at which the emissions must be standardised as set out in Community or national legislation. In the absence of legislation for this kind of plant, the real oxygen content in the waste gas without being thinned by addition of air unnecessary for the process must be used.

C_{proc}: emission limit values as set out in this Part for certain industrial activities or in case of the absence of such values, emission limit values of plants which comply with the national laws, regulations and administrative provisions for such plants while burning the normally authorised fuels (wastes excluded). In the absence of these measures the emission limit values set out in the permit are used. In the absence of such permit values the real mass concentrations are used.

C: total emission limit values at an oxygen content as set out in this Part for certain industrial activities and certain polluting substances or, in case of the absence of such values, total emission limit values replacing the emission limit values as set out in specific Annexes of this Directive. The total oxygen content to replace the oxygen content for the standardisation is calculated on the basis of the content above respecting the partial volumes.

All emission limit values shall be calculated at a temperature of 273,15 K, a pressure of 101,3 kPa and after correcting for the water vapour content of the waste gases.

Member States may lay down rules governing the exemptions provided for in this Part.

2. Special provisions for cement kilns co-incinerating waste

2.1. The emission limit values set out in points 2.2 and 2.3 apply as daily average values for total dust, HCl, HF, NO_x, SO_2 and TOC (for continuous measurements), as average values over the sampling period of a minimum of 30 minutes and a maximum of 8 hours for heavy metals and as average values over the sampling period of a minimum of 6 hours and a maximum of 8 hours for dioxins and furans.

All values are standardised at 10 % oxygen.

Half-hourly average values shall only be needed in view of calculating the daily average values.

2.2. C - total emission limit values (mg/Nm^3 except for dioxins and furans) for the following polluting substances

Polluting substance	C
Total dust	30
HCl	10
HF	1
NO_x	500

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Polluting substance	C
Cd + Tl	0,05
Hg	0,05
Sb + As + Pb + Cr + Co + Cu + Mn + Ni + V	0,5
Dioxins and furans (ng/Nm^3)	0,1

2.3. C - total emission limit values (mg/Nm^3) for SO_2 and TOC

Pollutant	C
SO_2	50
TOC	10

The competent authority may grant derogations for emission limit values set out in this point in cases where TOC and SO_2 do not result from the incineration of waste.

3. Special provisions for combustion plants co-incinerating waste

3.1. C_{proc} expressed as daily average values (mg/Nm^3) valid until 31 December 2015

For determining the rated thermal input of the combustion plants, the aggregation rules as defined in *Article 31* shall apply.

Half-hourly average values shall only be needed in view of calculating the daily average values.

C_{proc} for solid fuels with the exception of biomass (O_2 content 6 %):

Polluting substances	< 50 MWth	50-100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	850	200	200
NO_x	—	400	200	200
Dust	50	50	30	30

C_{proc} for biomass (O_2 content 6 %):

Polluting substances	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	200	200	200
NO_x	—	350	300	200
Dust	50	50	30	30

C_{proc} for liquid fuels (O_2 content 3 %):

Polluting substances	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	850	400 to 200 (linear decrease from 100 to 300 MWth)	200
NO_x	—	400	200	200
Dust	50	50	30	30

3.2. C_{proc} expressed as daily average values (mg/Nm^3) valid from 1 January 2016 on

For determining the rated thermal input of the combustion plants, the aggregation rules as defined in *Article 31* shall apply. Half-hourly average values shall only be needed in view of calculating the daily average values.

3.2.1. C_{proc} for combustion plants referred to in *Article 32*(2)

C_{proc} for solid fuels with the exception of biomass (O_2 content 6 %):

Polluting substance	< 50 MWth	50-100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	400 for peat: 300	200	200
NO_x	—	300 for *pulverised* lignite: 400	200	200
Dust	50	30	25 for peat: 20	20

C_{proc} for biomass (O_2 content 6 %):

Polluting substance	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	200	200	200
NO_x	—	300	250	200
Dust	50	30	20	20

C_{proc} for liquid fuels (O_2 content 3 %):

Polluting substance	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	350	250	200
NO_x	—	400	200	150
Dust	50	30	25	20

3.2.2. C_{proc} for combustion plants referred to in *Article 32*(3)

C_{proc} for solid fuels with the exception of biomass (O_2 content 6 %):

Polluting substance	< 50 MWth	50-100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	400 for peat: 300	200 for peat: 300, except in the case of *fluidised* bed combustion: 250	150 for circulating or *pressurised fluidised* bed combustion or, in case of peat firing, for all *fluidised* bed combustion: 200
NO_x	—	300 for peat: 250	200	150 for *pulverised* lignite combustion: 200
Dust	50	20	20	10 for peat: 20

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C_{proc} for biomass (O_2 content 6 %):

Polluting substance	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	200	200	150 for *fluidised* bed combustion: 200
NO_x	—	250	200	150
Dust	50	20	20	20

C_{proc} for liquid fuels (O_2 content 3 %):

Polluting substance	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	350	200	150
NO_x	—	300	150	100
Dust	50	30	25	20

3.3. C — total emission limit values for heavy metals (mg/Nm^3)

expressed as average values over the sampling period of a minimum of 30 minutes and a maximum of 8 hours (O_2 content 6 % for solid fuels and 3 % for liquid fuels).

Polluting substances	C
Cd + Tl	0,05
Hg	0,05
Sb + As + Pb + Cr + Co + Cu + Mn + Ni + V	0,5

3.4. C - total emission limit value (ng/Nm^3)

for dioxins and furans expressed as average value measured over the sampling period of a minimum of 6 hours and a maximum of 8 hours (O_2 content 6 % for solid fuels and 3 % for liquid fuels).

Polluting substance	C
Dioxins and furans	0,1

4. Special provisions for co-incineration plants in industrial sectors not covered under Points 2 and 3 of this Part

4.1. C — total emission limit value (ng/Nm^3)

for dioxins and furans expressed as average value measured over the sampling period of a minimum of 6 hours and a maximum of 8 hours:

Polluting substance	C
Dioxins and furans	0,1

4.2. C – total emission limit values (mg/Nm^3)

for heavy metals expressed as average values over the sampling period of a minimum of 30 minutes and a maximum of 8 hours:

Polluting substances	C
Cd + Tl	0,05
Hg	0,05

Part 5

Emission limit values for discharges of waste water from the cleaning of waste gases

Polluting substances	Emission limit values for unfiltered samples (mg/l except for dioxins and furans)	
1. Total suspended solids as defined in Annex I of Directive 91/271/EEC	(95 %) 30	(100 %) 45
2. Mercury and its compounds, expressed as mercury (Hg)	0,03	
3. Cadmium and its compounds, expressed as cadmium (Cd)	0,05	
4. Thallium and its compounds, expressed as thallium (Tl)	0,05	
5. Arsenic and its compounds, expressed as arsenic (As)	0,15	
6. Lead and its compounds, expressed as lead (Pb)	0,2	
7. Chromium and its compounds, expressed as chromium (Cr)	0,5	
8. Copper and its compounds, expressed as copper (Cu)	0,5	
9. Nickel and its compounds, expressed as nickel (Ni)	0,5	
10. Zinc and its compounds, expressed as zinc (Zn)	1,5	
11. Dioxins and furans	0,3 ng/l	

Part 6

Monitoring of emissions

1. Measurement techniques

1.1. Measurements for the determination of concentrations of air and water polluting substances shall be carried out representatively.

1.2. Sampling and analysis of all polluting substances including dioxins and furans as well as the quality assurance of automated measuring systems and the reference measurement methods to calibrate them shall be carried out according to CEN-standards. If CEN standards are not available, ISO standards, national or international standards which will ensure the provision of data of an equivalent scientific quality shall apply. Automated measuring systems shall be subject to control by means of parallel measurements with the reference methods at least once per year.

1.3. At the daily emission limit value level, the values of the 95 % confidence intervals of a single measured result shall not exceed the following percentages of the emission limit values:

Carbon monoxide:	10 %
Sulphur dioxide:	20 %
Nitrogen dioxide:	20 %

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Total dust:	30 %
Total organic carbon:	30 %
Hydrogen chloride:	40 %
Hydrogen fluoride:	40 %.

Periodic measurements of the emissions into the air and water shall be carried out in accordance with points 1.1 and 1.2.

2. Measurements relating to air polluting substances

2.1. The following measurements relating to air polluting substances shall be carried out:

(a) continuous measurements of the following substances: NO_x, provided that emission limit values are set, CO, total dust, TOC, HCl, HF, SO_2;

(b) continuous measurements of the following process operation parameters: temperature near the inner wall or at another representative point of the combustion chamber as authorised by the competent authority, concentration of oxygen, pressure, temperature and water vapour content of the waste gas;

(c) at least two measurements per year of heavy metals, dioxins and furans; one measurement at least every three months shall however be carried out for the first 12 months of operation.

2.2. The residence time as well as the minimum temperature and the oxygen content of the waste gases shall be subject to appropriate verification, at least once when the waste incineration plant or waste co-incineration plant is brought into service and under the most unfavourable operating conditions anticipated.

2.3. The continuous measurement of HF may be omitted if treatment stages for HCl are used which ensure that the emission limit value for HCl is not being exceeded. In that case the emissions of HF shall be subject to periodic measurements as laid down in point 2.1(c).

2.4. The continuous measurement of the water vapour content shall not be required if the sampled waste gas is dried before the emissions are analysed.

2.5. The competent authority may decide not to require continuous measurements for HCl, HF and SO_2 in waste incineration plants or waste co-incineration plants and require periodic measurements as set out in point 2.1(c) ▌if the operator can prove that the emissions of those pollutants can under no circumstances be higher than the prescribed emission limit values. ***This derogation shall not be applied in cases of burning mixed waste from different sources.***

▌

2.6. The competent authority may decide to require ***only one measurement*** per year ▌for heavy metals and for dioxins and furans in the following cases:

(a) the emissions resulting from co-incineration or incineration of waste are under all circumstances below 50 % of the emission limit values;

(b) the waste to be co-incinerated or incinerated consists only of certain sorted combustible fractions of non-hazardous waste not suitable for recycling and presenting certain characteristics, and which is further specified on the basis of the assessment referred to in point (c);

(c) the operator can prove on the basis of information on the quality of the waste concerned and the monitoring of the emissions that the emissions are under all circumstances significantly below the emission limit values for heavy metals, dioxins and furans;

(d) the operator can prove that neither electric nor electronic waste, nor waste containing chlorinated compounds is being treated.

2.7. The results of the measurements shall be standardised using the standard oxygen concentrations mentioned in Part 3 or calculated according to Part 4 and by applying the formula given in Part 7.

When waste is incinerated or co-incinerated in an oxygen-enriched atmosphere, the results of the measurements can be standardised at an oxygen content laid down by the competent authority reflecting the special circumstances of the individual case.

When the emissions of polluting substances are reduced by waste gas treatment in a waste incineration plant or waste co-incineration plant treating hazardous waste, the standardisation with respect to the oxygen contents provided for in the first subparagraph shall be done only if the oxygen content measured over the same period as for the polluting substance concerned exceeds the relevant standard oxygen content.

3. Measurements relating to water polluting substances

3.1. The following measurements shall be carried out at the point of waste water discharge:

(a) continuous measurements of pH, temperature and flow;

(b) spot sample daily measurements of total suspended solids or measurements of a flow proportional representative sample over a period of 24 hours;

(c) at least monthly measurements of a flow proportional representative sample of the discharge over a period of 24 hours of Hg, Cd, TI, As, Pb, Cr, Ni and Zn;

(d) at least every six months measurements of dioxins and furans; however one measurement at least every three months shall be carried out for the first 12 months of operation.

3.2. Where the waste water from the cleaning of waste gases is treated on site collectively with other on-site sources of waste water, the operator shall take the measurements:

(a) on the waste water stream from the waste gas cleaning processes prior to its input into the collective waste water treatment plant;

(b) on the other waste water stream or streams prior to its or their input into the collective waste water treatment plant;

(c) at the point of final waste water discharge, after the treatment, from the waste incineration plant or waste co-incineration plant.

Part 7

Formula to calculate the emission concentration at the standard percentage oxygen concentration

$$E_S = \frac{21 - O_S}{21 - O_M} \times E_M$$

E_S = calculated emission concentration at the standard percentage oxygen concentration

E_M = measured emission concentration

O_S = standard oxygen concentration

O_M = measured oxygen concentration

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Part 8

Assessment of compliance with emission limit values

1. Air emission limit values

1.1. The emission limit values for air shall be regarded as being complied with if:

(a) none of the daily average values exceeds any of the emission limit values set out in point 1.1 of Part 3 or in Part 4 or calculated in accordance with Part 4;

(b) either none of the half-hourly average values exceeds any of the emission limit values set out in, column A of the table under point 1.2 of Part 3 or, where relevant, 97 % of the half-hourly average values over the year do not exceed any of the emission limit values set out in, column B of the table under point 1.2 of Part 3;

(c) none of the average values over the sampling period set out for heavy metals and dioxins and furans exceeds the emission limit values set out in points 1.3 and 1.4 of Part 3 or in Part 4 or calculated in accordance with Part 4;

(d) for carbon monoxide (CO):

(i) in case of waste incineration plants:

— at least 97 % of the daily average values over the year do not exceed the emission limit value set out in point 1.5(a) of Part 3;

and

— at least 95 % of all 10-minute average values taken in any 24-hour period or all of the half-hourly average values taken in the same period do not exceed the emission limit values set out in points 1.5(b) and (c) of Part 3

(ii) in case of waste co-incineration plants: the provisions of Part 4 are met.

1.2. The half-hourly average values and the 10-minute averages shall be determined within the effective operating time (excluding the start-up and shut- down periods if no waste is being incinerated) from the measured values after having subtracted the value of the confidence interval specified in point 1.3 of Part 6. The daily average values shall be determined from those validated average values.

To obtain a valid daily average value no more than five half-hourly average values in any day shall be discarded due to malfunction or maintenance of the continuous measurement system. No more than ten daily average values per year shall be discarded due to malfunction or maintenance of the continuous measurement system.

1.3. The average values over the sampling period and the average values in the case of periodical measurements of HF, HCl and SO_2 shall be determined in accordance with the requirements of *Articles* 39(1)(e) and 42(3) and point 1 of Part 6.

2. Water emission limit values.

The emission limit values for water shall be regarded as being complied with if:

(a) for total suspended solids 95 % and 100 % of the measured values do not exceed the respective emission limit values as set out in Part 5;

(b) for heavy metals (Hg, Cd, TI, As, Pb, Cr, Cu, Ni and Zn) no more than one measurement per year exceeds the emission limit values set out in Part 5; or, if the Member State provides for more than 20 samples per year, no more than 5 % of these samples exceed the emission limit values set out in Part 5;

(c) for dioxins and furans, the measurement results do not exceed the emission limit value set out in Part 5.

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ANNEX VII

Part 1

Activities

1. In each of the following points, the activity includes the cleaning of the equipment but not the cleaning of products unless specified otherwise.

2. Adhesive coating

   Any activity in which an adhesive is applied to a surface, with the exception of adhesive coating and laminating associated with printing activities.

3. Coating activity

   Any activity in which a single or multiple application of a continuous film of a coating is applied to:

   (a) either of the following vehicles:

      (i) new cars, defined as vehicles of category M1 in *Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)* [1] and of category N1 in so far as they are coated at the same installation as M1 vehicles ‖;

      (ii) truck cabins, defined as the housing for the driver, and all integrated housing for the technical equipment, of vehicles of categories N2 and N3 in Directive *2007/46/EC*;

      (iii) vans and trucks, defined as vehicles of categories N1, N2 and N3 in Directive *2007/46/EC*, but not including truck cabins;

      (iv) buses, defined as vehicles of categories M2 and M3 in Directive *2007/46/EC*;

      (v) trailers, defined in categories O1, O2, O3 and O4 in Directive *2007/46/EC*;

   (b) metallic and plastic surfaces including surfaces of airplanes, ships, trains, etc.;

   (c) wooden surfaces;

   (d) textile, fabric, film and paper surfaces;

   (e) leather.

   Coating activities do not include the coating of substrate with metals by electrophoretic and chemical spraying techniques. If the coating activity includes a step in which the same article is printed by whatever technique used, that printing step is considered part of the coating activity. However, printing activities operated as a separate activity are not included, but may be covered by Chapter V of this Directive if the printing activity falls within the scope thereof.

4. Coil coating

   Any activity where coiled steel, stainless steel, coated steel, copper alloys or aluminium strip is coated with either a film forming or laminate coating in a continuous process.

5. Dry cleaning

   Any industrial or commercial activity using volatile organic compounds in an installation to clean garments, furnishing and similar consumer goods with the exception of the manual removal of stains and spots in the textile and clothing industry.

[1] *OJ L 263, 9.10.2007, p. 1.*

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6. Footwear manufacture

Any activity of producing complete footwear or parts thereof.

7. Manufacturing of coating mixtures, varnishes, inks and adhesives

The manufacture of the above final products, and of intermediates where carried out at the same site, by mixing of pigments, resins and adhesive materials with organic solvent or other carrier, including dispersion and predispersion activities, viscosity and tint adjustments and operations for filling the final product into its container.

8. Manufacturing of pharmaceutical products

The chemical synthesis, fermentation, extraction, formulation and finishing of pharmaceutical products and, where carried out at the same site, the manufacture of intermediate products.

9. Printing

Any reproduction activity of text and/or images in which, with the use of an image carrier, ink is transferred onto whatever type of surface. It includes associated varnishing, coating and laminating techniques. However, only the following sub-processes are subject to Chapter V:

(a) flexography - a printing activity using an image carrier of rubber or elastic photopolymers on which the printing areas are above the non-printing areas, using liquid inks which dry through evaporation;

(b) heatset web offset - a web-fed printing activity using an image carrier in which the printing and non-printing area are in the same plane, where web-fed means that the material to be printed is fed to the machine from a reel as distinct from separate sheets. The non-printing area is treated to attract water and thus reject ink. The printing area is treated to receive and transmit ink to the surface to be printed. Evaporation takes place in an oven where hot air is used to heat the printed material;

(c) laminating associated to a printing activity - the adhering together of two or more flexible materials to produce laminates;

(d) publication rotogravure - a rotogravure printing activity used for printing paper for magazines, brochures, catalogues or similar products, using toluene-based inks;

(e) rotogravure - a printing activity using a cylindrical image carrier in which the printing area is below the non-printing area, using liquid inks which dry through evaporation. The recesses are filled with ink and the surplus is cleaned off the non-printing area before the surface to be printed contacts the cylinder and lifts the ink from the recesses;

(f) rotary screen printing - a web-fed printing activity in which the ink is passed onto the surface to be printed by forcing it through a porous image carrier, in which the printing area is open and the non-printing area is sealed off, using liquid inks which dry only through evaporation. Web-fed means that the material to be printed is fed to the machine from a reel as distinct from separate sheets;

(g) varnishing - an activity by which a varnish or an adhesive coating for the purpose of later sealing the packaging material is applied to a flexible material.

10. Rubber conversion

Any activity of mixing, milling, blending, calendering, extrusion and vulcanisation of natural or synthetic rubber and any ancillary operations for converting natural or synthetic rubber into a finished product.

11. Surface cleaning

Any activity except dry cleaning using organic solvents to remove contamination from the surface of material including degreasing. A cleaning activity consisting of more than one step before or after any other activity shall be considered as one surface cleaning activity. This activity does not refer to the cleaning of the equipment but to the cleaning of the surface of products.

12. Vegetable oil and animal fat extraction and vegetable oil refining activities

Any activity to extract vegetable oil from seeds and other vegetable matter, the processing of dry residues to produce animal feed, the purification of fats and vegetable oils derived from seeds, vegetable matter and/or animal matter.

13. Vehicle refinishing

Any industrial or commercial coating activity and associated degreasing activities performing either of the following:

(a) the original coating of road vehicles as defined in Directive *2007/46/EC* or part of them with refinishing-type materials, where this is carried out away from the original manufacturing line;

(b) the coating of trailers (including semi-trailers) (category O in Directive *2007/46/EC*).

14. Winding wire coating

Any coating activity of metallic conductors used for winding the coils in transformers and motors, etc.

15. Wood impregnation

Any activity giving a loading of preservative in timber.

16. Wood and plastic lamination

Any activity to adhere together wood and/or plastic to produce laminated products.

Part 2

Thresholds and emission limit values

The emission limit values in waste gases shall be calculated at a temperature of 273,15 K, a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases.

	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm^3)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provisions
				New installations	Existing installations	New installations	Existing installations	
1	Heatset web offset printing (> 15)	15—25 > 25	100 20	30 ([1]) 30 ([1])				([1]) Solvent residue in finished product is not to be considered as part of fugitive emissions.
2	Publication rotogravure (> 25)		75	10	15			
3	Other rotogravure, flexography, rotary screen printing, laminating or varnishing units (> 15) rotary screen printing on textile/cardboard (> 30)	15—25 > 25 > 30 ([1])	100 100 100	25 20 20				([1]) Threshold for rotary screen printing on textile and on cardboard.
4	Surface cleaning using compounds specified in *Article 53*(5). (> 1)	1—5 > 5	20 ([1]) 20 ([1])	15 10				([1]) Limit value refers to mass of compounds in mg/Nm^3, and not to total carbon.

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	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm^3)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provisions
				New installations	Existing installations	New installations	Existing installations	
5	Other surface cleaning (> 2)	2—10 > 10	75 (1) 75 (1)	20 (1) 15 (1)				(1) Installations which demonstrate to the competent authority that the average organic solvent content of all cleaning material used does not exceed 30 % by weight are exempt from application of these values.
6	Vehicle coating (< 15) and vehicle refinishing	> 0,5	50 (1)	25				(1) Compliance in accordance with point 2 of Part 8 shall be demonstrated based on 15 minute average measurements.
7	Coil coating (> 25)		50 (1)	5	10			(1) For installations which use techniques which allow reuse of recovered solvents, the emission limit value shall be 150.
8	Other coating, including metal, plastic, textile (5), fabric, film and paper coating (> 5)	5—15 > 15	100 (1) (4) 50/75 (2) (3) (4)	25 (4) 20 (4)				(1) Emission limit value applies to coating application and drying processes operated under contained conditions. (2) The first emission limit value applies to drying processes, the second to coating application processes. (3) For textile coating installations which use techniques which allow reuse of recovered solvents, the emission limit value applied to coating application and drying processes taken together shall be 150. (4) Coating activities which cannot be carried out under contained conditions (such as shipbuilding, aircraft painting) may be exempted from these values, in accordance with *Article 53(3)*. (5) Rotary screen printing on textile is covered by activity No 3.
9	Winding wire coating (> 5)					10 g/kg (1) 5 g/kg (2)		(1) Applies for installations where average diameter of wire ≤ 0,1 mm. (2) Applies for all other installations.
10	Coating of wooden surfaces (> 15)	15—25 > 25	100 (1) 50/75 (2)	25 20				(1) Emission limit value applies to coating application and drying processes operated under contained conditions. (2) The first value applies to drying processes, the second to coating application processes.

	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm^3)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provisions
				New installations	Existing installations	New installations	Existing installations	
11	Dry cleaning					20 g/kg ([1]) ([2])		([1]) Expressed in mass of solvent emitted per kilogram of product cleaned and dried. ([2]) The emission limit value in point 2 of Part 4 does not apply for this activity.
12	Wood impregnation (> 25)		100 ([1])	45		11 kg/m^3		([1]) Emission limit value does not apply for impregnation with creosote.
13	Coating of leather (> 10)	10—25 > 25 > 10 ([1])				85 g/m^2 75 g/m^2 150 g/m^2		Emission limit values are expressed in grams of solvent emitted per m^2 of product produced. ([1]) For leather coating activities in furnishing and particular leather goods used as small consumer goods like bags, belts, wallets, etc.
14	Footwear manufacture (> 5)					25 g per pair		Total emission limit value is expressed in grams of solvent emitted per pair of complete footwear produced.
15	Wood and plastic lamination (> 5)					30 g/m^2		
16	Adhesive coating (> 5)	5—15 > 15	50 ([1]) 50 ([1])	25 20				([1]) If techniques are used which allow reuse of recovered solvent, the emission limit value in waste gases shall be 150.
17	Manufacture of coating mixtures, varnishes, inks and adhesives (> 100)	100—1 000 > 1 000	150 150	5 3		5 % of solvent input 3 % of solvent input		The fugitive emission limit value does not include solvent sold as part of a coatings mixture in a sealed container.
18	Rubber conversion (> 15)		20 ([1])	25 ([2])		25 % of solvent input		([1]) If techniques are used which allow reuse of recovered solvent, the emission limit value in waste gases shall be 150. ([2]) The fugitive emission limit value does not include solvent sold as part of products or mixtures in a sealed container.

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	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm^3)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provisions
				New installations	Existing installations	New installations	Existing installations	
19	Vegetable oil and animal fat extraction and vegetable oil refining activities (> 10)					Animal fat: 1,5 kg/tonne Castor: 3 kg/tonne Rape seed: 1 kg/tonne Sunflower seed: 1 kg/tonne Soya beans (normal crush): 0,8 kg/tonne Soya beans (white flakes): 1,2 kg/tonne Other seeds and other vegetable matter: 3 kg/tonne (1) 1,5 kg/tonne (2) 4 kg/tonne (3)		(1) Total emission limit values for installations processing individual batches of seeds and other vegetable matter should be set by the competent authority on a case-by-case basis, applying the best available techniques. (2) Applies to all fractionation processes excluding de-gumming (the removal of gums from the oil). (3) Applies to de-gumming.
20	Manufacturing of pharmaceutical products (> 50)		20 (1)	5 (2)	15 (2)	5 % of solvent input	15 % of solvent input	(1) If techniques are used which allow reuse of recovered solvent, the emission limit value in waste gases shall be 150. (2) The fugitive emission limit value does not include solvent sold as part of products or mixtures in a sealed container.

Part 3

Emission limit values for installations of the vehicle coating industry

1. The total emission limit values are expressed in terms of grams of organic solvent emitted in relation to the surface area of product in square metres and in kilograms of organic solvent emitted in relation to the car body.

2. The surface area of any product dealt with in the table under point 3 below is defined as follows:

— the surface area calculated from the total electrophoretic coating area, and the surface area of any parts that might be added in successive phases of the coating process which are coated with the same coatings as those used for the product in question, or the total surface area of the product coated in the installation.

The surface of the electrophoretic coating area is calculated using the following formula:

$$\frac{2 \times \text{total weight of product shell}}{\text{average thickness of metal sheet} \times \text{density of metal sheet}}$$

This method shall also be applied for other coated parts made out of sheets.

Computer aided design or other equivalent methods shall be used to calculate the surface area of the other parts added, or the total surface area coated in the installation.

3. The total emission limit values in the table below refer to all process stages carried out at the same installation from electrophoretic coating, or any other kind of coating process, through to the final wax and polish of topcoating inclusive, as well as solvent used in cleaning of process equipment, including spray booths and other fixed equipment, both during and outside of production time.

Activity (solvent consumption threshold in tonnes/year)	Production threshold (refers to annual production of coated item)	Total emission limit value	
		New installations	Existing installations
Coating of new cars (> 15)	> 5 000	45 g/m^2 or 1,3 kg/body + 33 g/m^2	60 g/m^2 or 1,9 kg/body + 41 g/m^2
	≤ 5 000 monocoque or > 3 500 chassis-built	90 g/m^2 or 1,5 kg/body + 70 g/m^2	90 g/m^2 or 1,5 kg/body + 70 g/m^2
		Total emission limit value (g/m^2)	
Coating of new truck cabins (> 15)	≤ 5 000	65	85
	> 5 000	55	75
Coating of new vans and trucks (> 15)	≤ 2 500	90	120
	> 2 500	70	90
Coating of new buses (> 15)	≤ 2 000	210	290
	> 2 000	150	225

4. Vehicle coating installations below the solvent consumption thresholds mentioned in the table under point 3 shall meet the requirements for the vehicle refinishing sector set out in Part 2.

Part 4

Emission limit values relating to volatile organic compounds with specific risk phrases

1. For emissions of the volatile organic compounds referred to in *Article 52* where the mass flow of the sum of the compounds causing the labelling referred to in that Article is greater than, or equal to, 10 g/h, an emission limit value of 2 mg/Nm^3 shall be complied with. The emission limit value refers to the mass sum of the individual compounds.

2. For emissions of halogenated volatile organic compounds which are assigned the risk phrase R40 or R68, where the mass flow of the sum of the compounds causing the labelling R40 or R68 is greater than, or equal to, 100 g/h, an emission limit value of 20 mg/Nm^3 shall be complied with. The emission limit value refers to the mass sum of the individual compounds.

Part 5

Reduction scheme

1. In the case of applying coatings, varnishes, adhesives or inks, the following scheme can be used. Where the following method is inappropriate, the competent authority may allow an operator to apply any alternative scheme achieving equivalent emission reductions to those achieved if the emission limit values of Parts 2 and 3 were to be applied. The design of the scheme shall take into account the following facts:

   (a) where substitutes containing little or no solvent are still under development, a time extension shall be given to the operator to implement his emission reduction plans;

   (b) the reference point for emission reductions should correspond as closely as possible to the emissions which would have resulted had no reduction action been taken.

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2. The following scheme shall operate for installations for which a constant solid content of product can be assumed:

(a) The annual reference emission is calculated as follows:

(i) The total mass of solids in the quantity of coating and/or ink, varnish or adhesive consumed in a year is determined. Solids are all materials in coatings, inks, varnishes and adhesives that become solid once the water or the volatile organic compounds are evaporated.

(ii) The annual reference emissions are calculated by multiplying the mass determined in (i) by the appropriate factor listed in the table below. Competent authorities may adjust these factors for individual installations to reflect documented increased efficiency in the use of solids.

Activity	Multiplication factor for use in item (a)(ii)
Rotogravure printing; flexography printing; laminating as part of a printing activity; varnishing as part of a printing activity; wood coating; coating of textiles, fabric film or paper; adhesive coating	4
Coil coating, vehicle refinishing	3
Food contact coating, aerospace coatings	2,33
Other coatings and rotary screen printing	1,5

(b) The target emission is equal to the annual reference emission multiplied by a percentage equal to:

(1) (the fugitive emission limit value + 15), for installations falling within item 6 and the lower threshold band of items 8 and 10 of Part 2,

(2) (the fugitive emission limit value + 5) for all other installations.

(c) Compliance is achieved if the actual solvent emission determined from the solvent management plan is less than or equal to the target emission.

Part 6

Emission monitoring

1. Channels to which abatement equipment is connected, and which at the final point of discharge emit more than an average of 10 kg/h of total organic carbon, shall be monitored continuously for compliance.

2. In the other cases, Member States shall ensure that either continuous or periodic measurements are carried out. For periodic measurements at least three measurement values shall be obtained during each measurement exercise.

3. Measurements are not required in the case where end-of-pipe abatement equipment is not needed to comply with this Directive.

Part 7

Solvent management plan

1. Principles

The solvent management plan shall be used to:

(a) verify compliance as specified in *Article 56*;

(b) identify future reduction options;

(c) enable provision of information on solvent consumption, solvent emissions and compliance with the requirements of Chapter V to the public.

2. Definitions

The following definitions provide a framework for the mass balance exercise.

Inputs of organic solvents (I):

I1 The quantity of organic solvents or their quantity in mixtures purchased which are used as input into the process in the time frame over which the mass balance is being calculated.

I2 The quantity of organic solvents or their quantity in mixtures recovered and reused as solvent input into the process. The recycled solvent is counted every time it is used to carry out the activity.

Outputs of organic solvents (O):

O1 Emissions in waste gases.

O2 Organic solvents lost in water, taking into account waste water treatment when calculating O5.

O3 The quantity of organic solvents which remains as contamination or residue in products output from the process.

O4 Uncaptured emissions of organic solvents to air. This includes the general ventilation of rooms, where air is released to the outside environment via windows, doors, vents and similar openings.

O5 Organic solvents and/or organic compounds lost due to chemical or physical reactions (including those which are destroyed, by incineration or other waste gas or waste water treatments, or captured,, as long as they are not counted under O6, O7 or O8).

O6 Organic solvents contained in collected waste.

O7 Organic solvents, or organic solvents contained in mixtures, which are sold or are intended to be sold as a commercially valuable product.

O8 Organic solvents contained in mixtures recovered for reuse but not as input into the process, as long as not counted under O7.

O9 Organic solvents released in other ways.

3. Use of the solvent management plan for verification of compliance.

The use made of the solvent management plan shall be determined by the particular requirement which is to be verified, as follows:

(a) verification of compliance with the reduction scheme as set out in Part 5, with a total emission limit value expressed in solvent emissions per unit product, or otherwise stated in Parts 2 and 3.

(i) for all activities using the reduction scheme as set out in Part 5, the solvent management plan shall be done annually to determine the consumption (C). The consumption shall be calculated according to the following equation:

C = I1 - O8

A parallel exercise shall also be undertaken to determine solids used in coating in order to derive the annual reference emission and the target emission each year.

(ii) for assessing compliance with a total emission limit value expressed in solvent emissions per unit product or otherwise stated in Parts 2 and 3, the solvent management plan shall be done annually to determine the emissions (E). The emissions shall be calculated according to the following equation:

E = F + O1

Where F is the fugitive emission as defined in point (b)(i). The emission figure shall then be divided by the relevant product parameter.

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(iii) for assessing compliance with the requirements of point (b)(ii) of paragraph 6 of *Article 53*, the solvent management plan shall be done annually to determine total emissions from all activities concerned, and that figure shall then be compared with the total emissions that would have resulted had the requirements of Parts 2, 3 and 5 been met for each activity separately.

(b) Determination of fugitive emissions for comparison with the fugitive emission limit values in Part 2:

(i) The fugitive emission shall be calculated according to one of the following equations;

F = I1 - O1 - O5 - O6 - O7 - O8

or

F = O2 + O3 + O4 + O9

F shall be determined either by direct measurement of the quantities or by an equivalent method or calculation, for instance by using the capture efficiency of the process.

The fugitive emission limit value is expressed as a proportion of the input, which shall be calculated according to the following equation:

I = I1 + I2

(ii) Determination of fugitive emissions shall be done by a short but comprehensive set of measurements and needs not be done again until the equipment is modified.

Part 8

Assessment of compliance with emission limit values in waste gases

1. In the case of continuous measurements the emission limit values shall be considered to be complied with if:

(a) none of the arithmetic averages of all valid readings taken during any 24-hour period of operation of an installation or activity except start-up and shut-down operations and maintenance of equipment exceeds the emission limit values,

(b) none of the hourly averages exceeds the emission limit values by more than a factor of 1,5.

2. In the case of periodic measurements the emission limit values shall be considered to be complied with if, in one monitoring exercise:

(a) the average of all the measurement values does not exceed the emission limit values,

(b) none of the hourly averages exceeds the emission limit value by more than a factor of 1,5.

3. Compliance with the provisions of Part 4 shall be verified on the basis of the sum of the mass concentrations of the individual volatile organic compounds concerned. For all other cases, compliance shall be verified on the basis of the total mass of organic carbon emitted unless otherwise specified in Part 2.

4. Gas volumes may be added to the waste gas for cooling or dilution purposes where technically justified but shall not be considered when determining the mass concentration of the pollutant in the waste gas.

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ANNEX VIII

Technical provisions relating to installations producing titanium dioxide

Part 1

Emission limit values for emissions into water

1. In case of installations using the sulphate process (as a yearly average):

   550 kg of sulphate per tonne of titanium dioxide produced;

2. In case of installations using the chloride process (as a yearly average):

   (a) 130 kg chloride per tonne of titanium dioxide produced using neutral rutile,

   (b) 228 kg chloride per tonne of titanium dioxide produced using synthetic rutile,

   (c) 330 kg chloride per tonne of titanium dioxide produced using slag.

3. For installations using the chloride process and using more than one type or ore, the emission limit values in point 2 shall apply in proportion to the quantity of the ores used.

Part 2

Acute toxicity tests

1. Tests for acute toxicity shall be carried out on certain species of molluscs, crustaceans, fish and plankton, commonly found in the discharge areas. In addition, tests shall be done on samples of the brine shrimp species (Artemia salina).

2. Maximum mortality revealed by the tests in point 1, over a period of 36 hours and at an effluent dilution of 1/5 000:

   (a) for adult forms of the species tested: 20 % mortality,

   (b) for larval forms of the species tested: mortality exceeding that of a control group.

Part 3

Emission limit values to air

1. The emission limit values which are expressed as concentrations in mass per cubic meter (Nm^3) shall be calculated at a temperature of 273,15 K, a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases.

2. For dust: 50 mg/Nm^3 as an hourly average;

3. For gaseous sulphur dioxide and trioxide, including acid droplets calculated as SO_2 equivalent

   (a) 6 kg per tonne of titanium dioxide produced as a yearly average;

   (b) 500 mg/Nm^3 as an hourly average forplants for the concentration of waste acid;

4. For chlorine in the case of installations using the chloride process:

   (a) 5 mg/Nm^3 as a daily average

   (b) 40 mg/Nm^3 at any time.

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Part 4

Monitoring of the environment affected by discharges of waste from installations producing titanium dioxide into water

1. The water column shall be monitored at least three times per year, either through monitoring non-filtered or filtered water, by determining the following parameters:

   (a) in case of monitoring non-filtered water: temperature, salinity or conductivity at 20°C, pH, dissolved O_2, turbidity or suspended matter, Fe dissolved and in suspension, Ti;

   (b) in case of monitoring filtered water:

      (i) in the water filtered through a 0,45 μm pore size membrane filter: dissolved Fe;

      (ii) in the suspended solids remaining in the 0,45 μm pore size membrane filter: Fe, hydrated oxides and hydroxides of iron.

2. Sediments shall be monitored at least once per year by taking samples in the top layer of the sediment as near to the surface as possible and by determining the following parameters in these samples: Ti, Fe, hydrated oxides and hydroxides of iron.

3. Living organisms shall be monitored at least once per year by determining the concentration of the following substances in species representative of the site: Ti, Cr, Fe, Ni, Zn, Pb, and by determining the diversity and relative abundance of the benthic fauna, and the presence of morbid and anatomical lesions in fish.

4. In the course of successive sampling operations, the samples shall be taken at the same location and depth and under the same conditions.

Part 5

Emission monitoring

The monitoring of emissions to air shall include at least continuous monitoring of:

(a) SO_2 from plants for the concentration of waste acid in installations using the sulphate process

(b) chlorine from installations using the chloride process

(c) dust from major sources.

ANNEX IX

Part A

Repealed Directives with their successive amendments

(referred to in Article 72)

Council Directive 78/176/EEC (OJ L 54, 25.2.1978, p. 19)	
Council Directive 83/29/EEC (OJ L 32, 3.2.1983, p. 28)	
Council Directive 91/692/EEC (OJ L 377, 31.12.1991, p. 48)	only Annex I point (b)
Council Directive 82/883/EEC (OJ L 378, 31.12.1982, p. 1)	
Council Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36)	only Annex III, point 34

Council Directive 92/112/EEC (OJ L 409, 31.12.1992, p. 11).	
Council Directive 96/61/EC (OJ L 257, 10.10.1996, p. 26)	
Directive 2003/35/EC of the European Parliament and of the Council (OJ L 156, 25.6.2003, p. 17)	only Article 4 and Annex II
Directive 2003/87/EC of the European Parliament and of the Council (OJ L 275, 25.10.2003, p. 32)	only Article 26
Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1)	only Annex III, point 61
Regulation (EC) No 166/2006 of the European Parliament and of the Council (OJ L 33, 4.2.2006, p. 1)	only Article 21(2)
Council Directive 1999/13/EC (OJ L 85, 29.3.1999, p. 1)	
Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1)	only Annex I, point 17
Directive 2004/42/CE of the European Parliament and of the Council (OJ L 143, 30.4.2004, p. 87)	only Article 13(1)
Directive 2000/76/EC of the European Parliament and of the Council (OJ L 332, 28.12.2000, p. 91)	
Directive 2001/80/EC of the European Parliament and of the Council (OJ L 309, 27.11.2001, p. 1)	
Council Directive 2006/105/EC (OJ L 363, 20.12.2006, p. 368)	Only Annex, part B, point 2

Part B

List of time-limits for transposition into national law

(referred to in Article 72)

Directive	Time-limit for transposition	Time-limit for application
78/176/EEC	25 February 1979	
82/883/EEC	31 December 1984	
92/112/EEC	15 June 1993	
96/61/EC	30 October 1999	
1999/13/EC	1 April 2001	
2000/76/EC	28 December 2000	28 December 2002 28 December 2005
2001/80/EC	27 November 2002	27 November 2004
2003/35/EC	25 June 2005	
2003/87/EC	31 December 2003	

ANNEX X

Correlation table

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
Article 1(1)	Article 1	Article 1	Article 1	Article 1	Article 1, first paragraph		Article 1
Article 1(2), point (a)			Article 2(2)				Article 3(2)
Article 1(2), point (b)					Article 3(1)		Article 3*(25)*
Article 1(2), points (c), (d) and (e)							—
Article 2							*Article 61*
Article 3							Article 12, points (4) and (5)
Article 4			Article 4	Article 3, introductory wording and (1)	Article 4(1)		Article 4(1), first subparagraph
—	—	—	—	—	—	—	Article 5
Article 5							Article 12, points (4) and (5)
Article 6							Article 12, points (4) and (5)
Article 7(1)							*Article 64*(1) and *64*(2), first subparagraph
Article 7(2) and (3)							—
—	—	—	—	—	—	—	*Article 64*(2), second subparagraph
Article 8(1)							*Article 62*(2)
Article 8(2)							Article 28(1), second subparagraph
Article 9							—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
Article 10							—
Article 11							Article 13
Article 12							—
Article 13(1)							*Article 66*
Article 13(2), (3) and (4)							—
Article 14							—
Article 15	Article 14	Article 12	Article 21	Article 15	Article 21	Article 18(1) and (3)	Article 71
Article 16	Article 15	Article 13	Article 23	Article 17	Article 23	Article 20	Article 75
Annex I							—
Annex IIA introductory wording and point 1							—
Annex IIA point 2							Annex VIII, Part 2
Annex IIB							—
	Article 2						—
	Article 3						—
	Article 4(1) and 4(2), first subparagraph						*Article 64*(3)
	Article 4(2), second subparagraph						Annex VIII, Part 4
	Article 4(3) and (4)						
—	—	—	—	—	—	—	*Article 64*(4)
	Article 5						—
	Article 6						—
	Article 7						—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
	Article 8						—
	Article 9						—
	Article 10						Article 69
	Article 11(1)		Article 19(1)	Article 13(1)	Article 17(1)		Article 69(1)
—	—	—	—	—	—	—	Article 69(2)
	Article 11(2) and (3)						—
	Article 12						—
	Article 13						—
	Annex I						—
	Annex II						Annex VIII, Part 4
	Annex III						Annex VIII, Part 4
	Annex IV						—
	Annex V						—
		Article 2(1), introductory wording					—
		Article 2(1)(a), introductory wording and first indent					—
		Article 2(1)(a), second indent					*Article 61*(2)
		Article 2(1)(a), third indent and 2(1)(b), third indent					*Article 61*(4)
		Article 2(1)(a), fourth, fifth, sixth and seventh indent					—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
		Article 2(1)(b), introductory wording and first, fourth, fifth, sixth and seventh indent					—
		Article 2(1)(b), second indent					*Article 61*(3)
		Article 2(1)(c)					—
		Article 2(2)					—
		Article 3					*Article 61*
		Article 4					*Article 61*
		Article 5					—
		Article 6, first paragraph, introductory wording					*Article 62*(1)
		Article 6, first paragraph, point (a)					Annex VIII, Part 1, point (1)
		Article 6, first paragraph, point (b)					Annex VIII, Part 1, point (2)
		Article 6, second paragraph					Annex VIII, Part 1, point (3)
		Article 7					—
		Article 8					—
		Article 9(1) introductory wording					*Article 63*(2)
		Article 9(1)(a), introductory wording					—
		Article 9(1)(a)(i)					Annex VIII, Part 3, point (2)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
		Article 9(1)(a)(ii)					Annex VIII, Part 3, point (3), introductory wording, and point (3)(a)
		Article 9(1)(a)(iii)					*Article 63*(1)
		Article 9(1)(a)(iv)					Annex VIII, Part 3, point (3)(b)
		Article 9(1)(a)(v)					—
		Article 9(1) b)					Annex VIII, Part 3, point (4)
		Article 9(2) and (3)					—
		Article 10					*Article 64*
		Article 11					Article 12, points (4) and (5)
		Annex					—
			Article 2, introductory wording				Article 3, introductory wording
			Article 2(1)	Article 2(14)			Article 3(1)
			Article 2(3)	Article 2(1)			Article 3(3)
			Article 2(4)				—
			Article 2(5)	Article 2(9)	Article 3(8)	Article 2(1)	Article 3(4)
			Article 2(6)	Article 2(13)	Article 3(9)	Article 2(3), first part	Article 3(5)
			Article 2(7)				Article 3(6)
			Article 2(8)	Article 2(5)			*Article 65*
			Article 2(9), first sentence	Article 2(7)	Article 3(12)		Article 3(7)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
			Article 2(9), second sentence				Article 4(2), first subparagraph
—	—	—	—	—	—	—	Article 4(2), second subparagraph
			Article 2(10)(a)				—
			Article 2(10)(b), first subparagraph				Article 3(8)
			Article 2(10)(b), second subparagraph				Article 21(3)
			Article 2(11), first subparagraph and first, second and third indents				Article 3(9)
			Article 2(11), second subparagraph				Articles 14(2) and 15(4)
			Article 2(12)	Article 2(6)	Article 3(11)	Article 2(5)	Article 3*(11)*
			Article 2(13)				Article 3*(12)*
			Article 2(14)				Article 3*(13)*
—	—	—	—	—	—	—	Article 3*(14)*, *(15)*, *(16)*, *(17)* and *(18)*
			Article 3, first subparagraph, introductory wording				Article 12, introductory wording
			Article 3, first subparagraph, point (a)				Article 12(1) and (2)
			Article 3 first subparagraph, point (b)				Article 12(3)
			Article 3 first subparagraph, point (c)				Article 12(4) and (5)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
			Article 3 first subparagraph, point (d)				Article 12(6)
			Article 3 first subparagraph, point (e)				Article 12(7)
			Article 3 first subparagraph, point (f)				Article 12(8)
			Article 3, second subparagraph				—
			Article 5(1)				Article 73(1) and (2)
—	—	—	—	—	—	—	Article 73(3) and (4)
			Article 5(2)				Article 71(1), second subparagraph
			Article 6(1), introductory wording				Article 13(1), introductory wording
			Article 6(1), first subparagraph, first indent				Article 13(1) a)
			Article 6(1), first subparagraph, second indent				Article 13(1) b)
			Article 6(1), first subparagraph, third indent				Article 13(1) c)
			Article 6(1), first subparagraph, fourth indent				Article 13(1) d)
—	—	—	—	—	—	—	Article 13(1) e)
			Article 6(1), first subparagraph, fifth indent				Article 13(1) f)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
			Article 6(1), first subparagraph, sixth indent				Article 13(1) g)
			Article 6(1), first subparagraph, seventh indent				Article 13(1) h)
			Article 6(1), first subparagraph, eighth indent				Article 13(1) i)
			Article 6(1), first subparagraph, ninth indent				Article 13(1) j)
			Article 6(1), first subparagraph, tenth indent				Article 13(1) k)
			Article 6(1), second subparagraph				Article 13(1), second subparagraph
			Article 6(2)				Article 13(2)
—	—	—	—	—	—	—	Article 14
			Article 7				Article 6(2)
			Article 8, first paragraph		Article 4(3)		Article 6(1)
			Article 8, second paragraph				—
			Article 9(1), first part of sentence				Article 15(1), first subparagraph
			Article 9(1), second part of sentence				—
			Article 9(2)				Article 6(3)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
			Article 9(3), first subparagraph, first and second sentence				Article 15(1), second subparagraph, introductory wording and points (a) and (b)
			Article 9(3), first subparagraph, third sentence				Article 15(2)
—	—	—	—	—	—	—	Article 15(3), (4) and (5)
			Article 9(3), second subparagraph				—
			Article 9(3), third subparagraph				Article 10(1)
			Article 9(3), fourth subparagraph				Article 10(2)
			Article 9(3), fifth subparagraph				Article 10(3)
			Article 9(3), sixth subparagraph				Article 10(4)
			Article 9(4), first part of first sentence				Article 16(2), first subparagraph
			Article 9(4), second part of first sentence				Article 16 (3), first subparagraph
			Article 9(4), second sentence				Article 15(1), second subparagraph, point (f)
—	—	—	—	—	—	—	Article 16(2), second subparagraph
—	—	—	—	—	—	—	Article 16 (3), second subparagraph and (4) and (5)
—	—	—	—	—	—	—	Article 17

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
			Article 9(5), first subparagraph				Article 15(1), second subparagraph, point (c)
—	—	—	—	—	—	—	Article 15(1), second subparagraph, point (d)
			Article 9(5), second subparagraph				—
			Article 9(6), first subparagraph				Article 15(1), second subparagraph, point (e)
			Article 9(6), second subparagraph				—
			Article 9(7)				—
			Article 9(8)				Articles 7 and 18(1)
—	—	—	—	—	—	—	Article 18(2), (3) and (4)
			Article 10				Article 19
			Article 11				Article 20
			Article 12(1)				Article 21(1)
			Article 12(2), first sentence				Article 21(2), first subparagraph
			Article 12(2), second sentence				Article 21(2), second subparagraph
			Article 12(2), third sentence				—
			Article 13(1)				Article 22(1)
—	—	—	—	—	—	—	Article 22(2) and (3)
			Article 13(2), introductory wording				Article 22(4), introductory wording

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
			Article 13(2), first indent				Article 22(4)(a)
			Article 13(2), second indent				Article 22(4)(b)
			Article 13(2), third indent				Article 22(4)(c)
			Article 13(2), fourth indent				—
—	—	—	—	—	—	—	Article 22(4)(d)
—	—	—	—	—	—	—	Article 23
—	—	—	—	—	—	—	Article 24
—	—	—	—	—	—	—	Article 25(1), first and second subparagraph
			Article 14, introductory wording				Article 9(1), first part of sentence and Article 25(1), third subparagraph, introductory wording
			Article 14, first indent				Article 9(1), second part of sentence
			Article 14, second indent				Article 8, point (2) and Article 15(1), point (c)
			Article 14, third indent				Article 25(1), third subparagraph
—	—	—	—	—	—	—	Article 25(2) to (7)
			Article 15(1), introductory wording and first and second indents	Article 12(1), first subparagraph			Article 26(1), first subparagraph and points (a) and (b)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
			Article 15(1), third indent				Article 26(1), first subparagraph, point (c)
—	—	—	—	—	—	—	Article 26(1)(d)
			Article 15(1), second subparagraph				Article 26(1), second subparagraph
—	—	—	—	—	—	—	—
			Article 15(2)				Article 26*(2)(h)*
			Article 15(4)				Article 26*(3)*
			Article 15(5)				Article 26*(2)*, introductory wording and points (a) and (b)
—	—	—	—	—	—	—	Article 26*(2)*, points (c) to (g)
			Article 15a, first paragraph				Article 27(1)
			Article 15a, second paragraph				Article 27(2)
			Article 15a, third paragraph				Article 27(3)
			Article 15a, fourth and fifth paragraph				Article 27(4)
			Article 15a, sixth paragraph				Article 27(5)
			Article 16(1)	Article 11(1), first sentence and 11(2)			*Article 66*(1), first subparagraph
—	—	—	—	—	—	—	*Article 66*(1), second subparagraph
			Article 16(2), first sentence				Article 29, introductory wording

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
			Article 16(2), second sentence				—
			Article 16(3), first sentence	Article 11(1), second sentence			*Article 66*(2)
			Article 16(3), second sentence				—
			Article 16(3), third sentence	Article 11(3)			*Article 66*(3)
			Article 16(4)				—
—	—	—	—	—	—	—	*Article 67*
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	*Article 29*
			Article 17			Article 11	Article 28
			Article 18(1)				—
			Article 18(2)				Article 16(3), second subparagraph
			Article 19(2) and (3)				—
			Article 20(1) and (2)				—
			Article 20(3)		Article 18	Article 17	Article 72
			Article 22	Article 16	Article 22	Article 19	Article 74
—	—	—	—	—	—	—	Article 2(1)
			Annex I, first paragraph of introductory wording				Article 2(2)
			Annex I, second paragraph of introductory wording				Annex I, first subparagraph of introductory wording

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
—	—	—	—	—	—	—	Annex I, second and third subparagraph of introductory wording
			Annex I, point 1				Annex I, point 1
			Annex I, points 2.1 – 2.5(b)				Annex I, points 2.1 – 2.5(b)
—	—	—	—	—	—	—	Annex I, point 2.5(c)
			Annex I, point 2.6				Annex I, point 2.6
			Annex I, point 3				Annex I, point 3
			Annex I, points 4.1 – 4.6				Annex I, points 4.1 – 4.6
—	—	—	—	—	—	—	Annex I, point 4.7
			Annex I, point 5, introductory wording				—
			Annex I, points 5.1 – 5.3(b)				Annex I, points 5.1 – 5.3(b)
—	—	—	—	—	—	—	Annex I, points 5.3 (c) to (e)
			Annex I, point 5.4				Annex I, point 5.4
			Annex I, points 6.1(a) and (b)				Annex I, points 6.1(a) and (b)
—	—	—	—	—	—	—	Annex I, point 6.1 (c)
			Annex I, points 6.2 – 6.4(b)				Annex I, points 6.2 – 6.4(b)(ii)
—	—	—	—	—	—	—	Annex I, point 6.4 (b)(iii)
			Annex I, points 6.4(c) – 6.6(c)				Annex I, points 6.4(c) – 6.6(c)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
—	—	—	—	—	—	—	Annex I, point 6.6(c), final sentence
			Annex I, points 6.7 - 6.8				Annex I, points 6.7 - 6.8
—	—	—	—	—	—	—	Annex I, points 6.9 and 6.10
			Annex II				—
			Annex III				Annex II
—	—	—	—	—	—	—	Annex II, point 13
			Annex IV, introductory wording				Article 3(9)
			Annex IV, points 1 to 11				Annex III
			Annex IV, point 12				—
			Annex V 1(a)				Annex IV 1(a)
—	—	—	—	—	—	—	Annex IV, point 1(b)
			Annex V 1(b)-(g)				Annex IV, 1(c)-(h)
			Annex V, points 2 to 5				Annex IV, points 2 to 5
				Article 2(2)			*Article 51*(1)
				Article 2(3)			—
				Article 2(4)			*Article 57*(1)
				Article 2(8)			Article 4(1), third subparagraph
				Article 2(10)			*Article 51(3)*
				Article 2(11)			*Article 51(2)*
				Article 2(12)			*Article 51(4)*

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
				Article 2(15)			*Article 51(5)*
				Article 2(16)			Article 3*(33)*
				Article 2(17)			Article 3*(34)*
				Article 2(18)			Article 3*(35)*
				Article 2(19)			—
				Article 2(20)			Article 3*(36)*
				Article 2(21)			*Article 51*(6)
				Article 2(22)			*Article 51*(7)
				Article 2(23)			*Article 51*(8)
				Article 2(24)			*Article 51*(9)
				Article 2(25)			*Article 51*(10)
				Article 2(26)			*Article 51*(11)
				Article 2(27)			—
				Article 2(28)			*Article 57*(1)
				Article 2(29)			—
				Article 2(30)			*Article 51*(12)
				Article 2(31)			Annex VII, Part 2, first sentenceAnnex VIII, Part 3, point 1
				Article 2(32)			—
				Article 2(33)			*Article 51*(13)
				Article 3(2)			Article 4(1), second subparagraph
				Article 4(1) to (3)			Article 4(1), first and second subparagraph

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
				Article 4(4)			*Article 57*(2)
				Article 5(1)			*Article 53*(1), first subparagraph
				Article 5(2)			*Article 53*(1)(a) and (b)
				Article 5(3)(a)			*Article 53*(2)
				Article 5(3)(b)			*Article 53*(3)
				Article 5(3), third subparagraph			*Article 53*(4)
				Article 5(4)			—
				Article 5(5)			*Article 53*(6)
				Article 5(6)			*Article 52*
				Article 5(7)			Annex VII, Part 4, point 1
				Article 5(8) first subparagraph			Annex VII, Part 4, point 2
				Article 5(8) second subparagraph			*Article 53*(5)
				Article 5(9)			—
				Article 5(10)			*Article 53*(7)
				Article 5(11), (12) and (13)			—
				Article 6			—
				Article 7(1), introductory wording and first, second, third and fourth indent			*Article 58*
				Article 7(1), second part			—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
				Article 7(2)			—
				Article 8(1)			Article 8, introductory wording and point (1)
				Article 8(2)			Annex VII, Part 6, point 1
				Article 8(3)			Annex VII, Part 6, point 2
				Article 8(4)			Annex VII Part 6, point 3
				Article 8(5)			—
				Article 9(1), introductory wording			*Article 56*(1), introductory wording
				Article 9(1), first subparagraph, first, second and third indent			*Article 56*, first *paragraph*, points (a), (b) and (c)
				Article 9(1), second subparagraph			*Article 56*, second subparagraph
				Article 9(1), third subparagraph			Annex VII, Part 8, point 4
				Article 9(2)			*Article 57*(3)
				Article 9(3)			Annex VII, Part 8, point 1
				Article 9(4)			Annex VII, Part 8, point 2
				Article 9(5)			Annex VII, Part 8, point 3
				Article 10	Article 4(9)		Article 9(2)
				Article 11(1), third to sixth sentences			—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
				Article 12(1), second subparagraph			*Article 59*(1), first subparagraph
				Article 12(1), third subparagraph			*Article 59*(1), second subparagraph
				Article 12(2)			*Article 59*(2)
				Article 12(3)			*Article 59*(3)
				Article 13(2) and (3)			—
				Article 14	Article 19	Article 16	Article 70
				Annex I, first and second sentence of introductory wording			*Article 50*
				Annex I, third sentence of introductory wording and list of activities			Annex VII, Part 1
				Annex IIA, Part I			Annex VII, Part 2
				Annex IIA, Part 2			Annex VII, Part 3
				Annex IIA, Part II, last sentence of paragraph 6			—
				Annex IIB, point 1, first and second sentences			*Article 53*(1)(b)
				Annex IIB, point 1, third sentence			*Article 53*(1), second subparagraph
				Annex IIB, point 2			Annex VII, Part 5
				Annex IIB, point 2, second subparagraph (i) and table			—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
				Annex III, point 1			—
				Annex III, point 2			Annex VII, Part 7, point 1
				Annex III, point 3			Annex VII, Part 7, point 2
				Annex III, point 4			Annex VII, Part 7, point 3
					Article 1, second paragraph		—
					Article 2(1)		*Article 37*(1), first subparagraph
					Article 2(2), introductory wording		*Article 37*(2), introductory wording
					Article 2(2)(a), introductory wording		*Article 37*(2)(a), introductory wording
					Article 2(2)(a), points (i) to (v)		*Article 37*(2)(a), point (i)
					Article 2(2)(a), point (vi)		*Article 37*(2)(a), point (ii)
					Article 2(2)(a), point (vii)		*Article 37*(2)(a), point (iii)
					Article 2(2)(a), point (viii)		*Article 37*(2)(a), point (iv)
					Article 2(2)(b)		*Article 37*(2)(b)
					Article 3(2), first subparagraph		Article 3*(26)*
					Article 3(2), second subparagraph		—
					Article 3(3)		Article 3*(27)*

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
					Article 3(4), first subparagraph		Article 3*(28)*
					Article 3(4), second subparagraph		*Article 37*(1), second subparagraph
					Article 3(5), first subparagraph		Article 3*(29)*
					Article 3(5), second subparagraph		*Article 37*(1), third subparagraph
					Article 3(5), third subparagraph		*Article 37*(1), second subparagraph
					Article 3(6)		Annex VI, Part 1, point (a)
					Article 3(7)		Article 3*(30)*
—	—	—	—	—	—	—	Annex VI, Part 1, point (b)
					Article 3(10)		Article 3*(31)*
					Article 3(13)		Article 3*(32)*
					Article 4(2)		*Article 38*
					Article 4(4), introductory wording and points (a) and (b)		*Article 39* (1), introductory wording and points (a) and (b)
					Article 4(4), point (c)		*Article 39* (1), point (e)
					Article 4(5)		*Article 39*(2)
					Article 4(6)		*Article 39*(3)
					Article 4(7)		*Article 39*(4)
					Article 4(8)		*Article 48*
					Article 5		*Article 46*

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
					Article 6(1), first subparagraph		*Article 44*(1)
					Article 6(1), second subparagraph and 6(2)		*Article 44*(2)
					Article 6(1), third subparagraph		*Article 44*(3), first subparagraph
					Article 6(1), fourth subparagraph		*Article 44*(3), second subparagraph
					Article 6(3)		*Article 44*(4)
					Article 6(4), first and second sentences of first subparagraph and Article 6(4), second subparagraph		*Article 45*(1)
					Article 6(4), third sentence of first subparagraph		*Article 45*(2)
					Article 6(4), third subparagraph		*Article 45*(3), second subparagraph
					Article 6(4), fourth subparagraph		*Article 45*(4)
					Article 6(5)		*Article 40*(1)
					Article 6(6)		*Article 44*(5)
					Article 6(7)		*Article 44*(6)
					Article 6(8)		*Article 44*(7)
					Article 7(1) and Article 7(2), first subparagraph		*Article 40*(2), first subparagraph
					Article 7(2), second subparagraph		*Article 40*(2), second subparagraph

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
					Article 7(3) and Article 11(8), first subparagraph, introductory wording		Annex VI, Part 6, first part of point 2.7
					Article 7(4)		*Article 40*(2), second subparagraph
					Article 7(5)		—
					Article 8(1)		*Article 39*(1), point (c)
					Article 8(2)		*Article 40*(3)
					Article 8(3)		—
					Article 8(4), first subparagraph		*Article 40*(4), first subparagraph
					Article 8(4), second subparagraph		Annex VI, Part 6, first part of point 3.2
					Article 8(4), third subparagraph		Annex VI, Part 6, second part of point 3.2
					Article 8(4), fourth subparagraph		—
					Article 8(5)		*Article 40*(4), second and third subparagraph
					Article 8(6)		*Article 39* (1), points (c) and (d)
					Article 8(7)		*Article 40*(4)
					Article 8(8)		—
					Article 9, first subparagraph		*Article 47*(1)
					Article 9, second subparagraph		*Article 47*(2)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
					Article 9, third subparagraph		*Article 47*(3)
					Article 10(1) and (2)		—
					Article 10(3), first sentence		*Article 42*(2)
					Article 10(3), second sentence		—
					Article 10(4)		*Article 42*(3)
					Article 10(5)		Annex VI, Part 6, second part of point 1.3
					Article 11(1)		*Article 42*(1)
					Article 11(2)		Annex VI, Part 6, point 2.1
					Article 11(3)		Annex VI, Part 6, point 2.2
					Article 11(4)		Annex VI, Part 6, point 2.3
					Article 11(5)		Annex VI, Part 6, point 2.4
					Article 11(6)		Annex VI, Part 6, point 2.5
					Article 11(7), first part of first sentence of first subparagraph		Annex VI, Part 6, first part of point 2.6
					Article 11(7), second part of first sentence of first subparagraph		Annex VI, Part 6, point 2.6(a)
					Article 11(7), second sentence of first subparagraph		—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
					Article 11(7), second subparagraph		—
					Article 11(7), point (a)		Annex VI, Part 6, point 2.6(b)
					Article 11(7), points (b) and (c)		—
					Article 11(7), point (d)		Annex VI, Part 6, point 2.6(c)
					Article 11(7), points (e) and (f)		—
					Article 11(8), first subparagraph, points (a)and (b)		Annex VI, Part 3, point 1, first and second subparagraph
					Article 11(8)(c)		Annex VI, Part 6, second part of point 2.7
					Article 11(8)(d)		Annex VI, Part 4, point 2.1, second subparagraph
					Article 11(8), second subparagraph		Annex VI, Part 6, third part of point 2.7
					Article 11(9)		*Article 42*(4)
					Article 11(10), points (a), (b) and (c)		Annex VI, Part 8, points (a), (b) and (c) of point 1.1
					Article 11(10)(d)		Annex VI, Part 8, point (d) of point 1.1
					Article 11(11)		Annex VI, Part 8, point 1.2
					Article 11(12)		Annex VI, Part 8, point 1.3

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
					Article 11(13)		*Article 42*(5), first subparagraph
—	—	—	—	—	—	—	*Article 42*(5) second subparagraph
					Article 11(14)		Annex VI, Part 6, point 3.1
					Article 11(15)		*Article 39*(1), point (e)
					Article 11(16)		Annex VI, Part 8, point 2
					Article 11(17)		Article 9(2), point (a)
					Article 12(1)		*Article 49*(1)
					Article 12(2), first sentence		*Article 49*(2)
					Article 12(2), second sentence		—
					Article 12(2), third sentence		*Article 49*(3)
					Article 13(1)		*Article 39* (1), point (f)
					Article 13(2)		*Article 41*
					Article 13(3)		*Article 40*(5)
					Article 13(4)		Annex VI, Part 3, point 2
					Article 14		—
					Article 15		—
					Article 16		—
					Article 17(2) and (3)		—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
					Article 20		—
					Annex I		Annex VI, Part 2
					Annex II, first part (without numbering)		Annex VI, Part 4, point 1
					Annex II, point 1, introductory wording		Annex VI, Part 4, point 2.1
					Annex II, points 1.1 – 1.2		Annex VI, Part 4, points 2.2 - 2.3
					Annex II, point 1.3		—
					Annex II, point 2.1		Annex VI, Part 4, point 3.1
—	—	—	—	—	—	—	Annex VI, Part 4, point 3.2
					Annex II, point 2.2		Annex VI, Part 4, point 3.3
					Annex II, point 3		Annex VI, Part 4, point 4
					Annex III		Annex VI, Part 6, point 1
					Annex IV, table		Annex VI, Part 5
					Annex IV, final sentence		—
					Annex V, point (a), table		Annex VI, Part 3, point 1.1
					Annex V, point (a), final sentences		—
					Annex V, point (b), table		Annex VI, Part 3, point 1.2
					Annex V, point (b), final sentence		—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
					Annex V, point (c)		Annex VI, Part 3, point 1.3
					Annex V, point (d)		Annex VI, Part 3, point 1.4
					Annex V, point (e)		Annex VI, Part 3, point 1.5
					Annex V, point (f)		Annex VI, Part 3, point 3
					Annex VI		Annex VI, Part 7
						Article 1	*Article 30*
						Article 2(2)	Annex V, Part 1, point 1 and Part 2, point 1
						Article 2(3) second part	Annex V, Part 1, point 1 and Part 2, point 1
—	—	—	—	—	—	—	Annex V, Part 1, last sentence of point 1
						Article 2(4)	—
						Article 2(6)	Article 3*(20)*
						Article 2(7), first subparagraph	Article 3*(21)*
						Article 2(7), second subparagraph and points (a) to (i)	*Article 30*, second subparagraph
						Article 2(7), second subparagraph, point (j)	—
						Article 2(7), third subparagraph	—
—	—	—	—	—	—	—	*Article 31*(1)

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
						Article 2(7), fourth subparagraph	*Article 31*(2)
						Article 2(8)	Article 3(*23*)
						Article 2(9)	*Article 31*(2)
						Article 2 (10)	—
						Article 2(11)	Article 3(*22*)
						Article 2(12)	Article 3(*24*)
						Article 2(13)	—
						Article 3	—
						Article 4(1)	—
						Article 4(2)	*Article 32*(2)
						Article 4(3) to (8)	—
						Article 5(1)	Annex V, Part 1, point 2, last sentence
						Article 5(2)	—
						Article 6	—
						Article 7(1)	*Article 33*
						Article 7(2)	*Article 32*(4)
						Article 7(3)	*Article 32*(5)
						Article 8(1)	*Article 36*(1)
						Article 8(2), first part of first subparagraph	*Article 36*(2), first part of first subparagraph
						Article 8(2), second part of first subparagraph	—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
—	—	—	—	—	—	—	*Article 36*(2), second part of first subparagraph
—	—	—	—	—	—	—	*Article 36*(2), second subparagraph
						Article 8(2), second subparagraph	—
						Article 8(2), points (a) to (d)	—
						Article 8(3) and (4)	—
						Article 9	*Article 32*(1)
						Article 10(1), first sentence	*Article 32*(6)
						Article 10(1), second sentence	—
						Article 10(2)	—
						Article 12	*Article 34*(1)
—	—	—	—	—	—	—	*Article 34*(2), (3) and (4)
						Article 13	Annex V, Part 3, third part of point 8
						Article 14	Annex V, Part 4
						Article 15	—
						Article 18(2)	—
						Annex I	—
						Annex II	—
						Annex III and IV	Annex V, point 2 of Part 1 and Part 2

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
						Annex V A	Annex V, Part 1, point 3
						Annex V B	Annex V, Part 2, point 3
						Annex VI A	Annex V, Part 1, points 4 and 5
						Annex VI B	Annex V, Part 2, points 4 and 5
						Annex VII A	Annex V, Part 1, points 6 and 7
						Annex VII B	Annex V, Part 2, points 6 and 7
						Annex VIII A point 1	—
						Annex VIII A point 2	Annex V, Part 3, first part of point 1 and points 2, 3 and 5
—	—	—	—	—	—	—	Annex V, Part 3, second part of point 1
—	—	—	—	—	—	—	Annex V, Part 3, point 4
						Annex VIII A point 3	—
						Annex VIII A point 4	Annex V, Part 3, point 6
						Annex VIII A point 5	Annex V, Part 3, points 7 and 8
						Annex VIII A point 6	Annex V, Part 3, points 9 and 10
—	—	—	—	—	—	—	Annex V, Part 4
						Annex VIII B	—

Directive 78/176/EEC	Directive 82/883/EEC	Directive 92/112/EEC	Directive 96/61/EC	Directive 1999/13/EC	Directive 2000/76/EC	Directive 2001/80/EC	This Directive
						Annex VIII C	—
						Annex IX	Annex IX
						Annex X	Annex X

Tuesday 10 March 2009

Statute for a European private company *

P6_TA(2009)0094

European Parliament legislative resolution of 10 March 2009 on the proposal for a Council regulation on the Statute for a European private company (COM(2008)0396 — C6-0283/2008 — 2008/0130(CNS))

(2010/C 87 E/46)

(Consultation procedure)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2008)0396),

— having regard to Article 308 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0283/2008),

— having regard to Rule 51 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Employment and Social Affairs (A6-0044/2009),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;

5. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

6. Instructs its President to forward its position to the Council and the Commission.

TEXT PROPOSED BY THE COMMISSION	AMENDMENT
Amendment 1 **Proposal for a regulation** **Recital 2 a (new)**	
	(2a) Existing Community forms of company have a cross-border component. That cross-border component should not be an obstacle for the founding of a European private company (SPE). The Commission and Member States should, however, without prejudice to the requirements of registration and within two years of registration, conduct ex-post monitoring in order to examine whether the SPE has the required cross-border component;

TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 2

Proposal for a regulation
Recital 3

(3) Since a private company (*hereinafter 'SPE'*) which may be created throughout the Community is intended for small businesses, a legal form should be provided which is as uniform as possible throughout the Community and as many matters as possible should be left to the contractual freedom of shareholders, while a high level of legal certainty is ensured for shareholders, creditors, employees and third parties in general. Given that a high degree of flexibility and freedom is to be left to the shareholders to organise the internal affairs of the SPE, the private nature of the company should also be reflected by the fact that its shares may not be offered to the public or negotiated on the capital markets, including being admitted to trading or listed on regulated markets.	(3) ***Sustainable and steady growth of the internal market requires a comprehensive body of business law tailored to the needs of small and medium-sized enterprises (SMEs).*** Since a private company which may be created throughout the Community is intended for small businesses, a legal form should be provided which is as uniform as possible throughout the Community and as many matters as possible should be left to the contractual freedom of shareholders, while a high level of legal certainty is ensured for shareholders, creditors, employees and third parties in general. Given that a high degree of flexibility and freedom is to be left to the shareholders to organise the internal affairs of the SPE, the private nature of the company should also be reflected by the fact that its shares may not be offered to the public or negotiated on the capital markets, including being admitted to trading or listed on regulated markets.

Amendment 3

Proposal for a regulation
Recital 4

(4) In order to enable businesses to reap the full benefits of the internal market, the SPE should be able to have its registered office and principal place of business in different Member States and to transfer its registered office from one Member State to another, with or without also transferring its central administration or principal place of business.	(4) In order to enable businesses to reap the full benefits of the internal market, the SPE should be able to have its registered office and principal place of business in different Member States and to transfer its registered office from one Member State to another, with or without also transferring its central administration or principal place of business. ***At the same time, however, steps should be taken to prevent the use of SPEs to circumvent legitimate legal requirements of Member States.***

Amendment 4

Proposal for a regulation
Recital 8

(8) In order to reduce the costs and administrative burdens associated with company registration, the formalities for the registration of the SPE should be limited to those requirements which are necessary to ensure legal certainty and the validity of the documents filed upon the creation of a SPE should be subject to a single verification***, which may take place either before or after registration***. For the purposes of registration, it is appropriate to use the registries designated by First Council Regulation 68/151/EEC of 9 March 1968 on the co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community.	(8) In order to reduce the costs and administrative burdens associated with company registration, the formalities for the registration of the SPE should be limited to those requirements which are necessary to ensure legal certainty and the validity of the documents filed upon the creation of a SPE should be subject to a single ***preventive*** verification. For the purposes of registration, it is appropriate to use the registries designated by First Council Regulation 68/151/EEC of 9 March 1968 on the co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community.

Tuesday 10 March 2009

TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 5

Proposal for a regulation
Recital 8 a (new)

	(8a) In line with the Council and Commission commitments to the concept of 'e-justice', all forms pertinent to the formation and registration of an SPE should be available online. Furthermore, in order to reduce duplicate filing of documents, the Commission should maintain a central registry with electronic links to the discrete national registries of Member States.

Amendment 6

Proposal for a regulation
Recital 8 b (new)

	(8b) In order to ensure transparency and disclosure of accurate information about SPEs, the Commission should establish and coordinate a database for SPEs, available on the Internet, for the purpose of collecting, disclosing and disseminating information and particulars concerning their registration, registered office, centre of activity, branches and any transfers of their registered office, transformation, merger, division, or dissolution.

Amendment 7

Proposal for a regulation
Recital 11

(11) The SPE should not be subject to a high mandatory capital requirement since this would be a barrier to the creation of SPEs. Creditors, however, should be protected from excessive distributions to shareholders which could affect the ability of the SPE to pay its debts. To this end, distributions that leave the SPE with liabilities exceeding the value of the assets of the SPE should be prohibited. Shareholders, however, should also be free to require the management body of the SPE to sign a solvency certificate.	(11) The SPE should not be subject to a high mandatory capital requirement since this would be a barrier to the creation of SPEs. Creditors, however, should be protected from excessive distributions to shareholders which could affect the ability of the SPE to pay its debts. To this end, distributions that leave the SPE with liabilities exceeding the value of the assets of the SPE should be prohibited. Shareholders, however, should also be free to require the ***executive*** management body of the SPE to sign a solvency certificate.

Amendment 74

Proposal for a regulation
Recital 15

(15) Employees' rights of participation should be governed by the legislation of the Member State in which the SPE has its registered office (the 'home Member State'). The SPE should not be used for the purpose of circumventing such rights. ***Where the national legislation of the Member State to which the SPE transfers its registered office does not provide for at least the same level of employee participation as the home Member State, the participation of employees in the company following the transfer should in certain circumstances be negotiated. Should such negotiations fail, the provisions applying in the company before the transfer should continue to apply after the transfer***.	(15) Employees' rights of participation should be governed by the legislation of the Member State in which the SPE has its registered office (the 'home Member State'). ***Where the law of the home Member State provides for participation rights, the entire workforce of the SPE should have the right to elect, appoint, recommend or oppose the appointment of a number of members of the administrative or supervisory organ of the SPE.*** The SPE should not be used for the purpose of circumventing ***employees'*** rights ***of participation. In particular, appropriate safeguards should be put in place so that the SPE Statute cannot be used by large companies as a way to circumvent existing obligations under national and***

TEXT PROPOSED BY THE COMMISSION	AMENDMENT
	Community law, without overburdening small and medium-sized enterprises wishing to form an SPE for genuine business reasons. Where a significant part of the workforce is habitually employed in a Member State or Member States with employee participation that is more extensive than the level of participation of the home Member State, the company should start negotiations with the employees on a uniform system of participation at the level of the SPE, in line with the provisions of Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees ([1]). Tailored rules should, however, apply to SPEs formed ex nihilo and employing altogether fewer than 500 employees. Negotiations on employee participations should only be initiated where a dominant part of the workforce habitually works under a more favourable participation regime than that applying in the home Member State. The place where an employee is habitually employed should be understood as the Member State where he normally carries on his working activities, even if he is temporarily seconded to another place.

([1]) *OJ L 294, 10.11.2001, p. 22.*

Amendment 75

Proposal for a regulation
Recital 15 a (new)

	(15a) The rules on the possible negotiation of participation arrangements should not impair the dynamism of the SPE by being too rigid. Where the size and/or the deployment of the workforce of an SPE changes significantly, for example by reason of a major acquisition or transfer of activities between Member States, the existing participation arrangements should be adapted whilst respecting the will of the parties. If the existing participation arrangements do not permit the requisite adaptation to be carried out, the need for, and, where applicable, the content of, participation arrangements should be reassessed in the light of the rules applicable in the case of the formation of an SPE.

Amendment 76

Proposal for a regulation
Recital 15 b (new)

	(15b) Where the national legislation of the Member State to which the SPE transfers its registered office does not provide for at least the same level of employee participation as that applying in the home Member State, the participation of employees in the company following the transfer should in certain circumstances be negotiated. For reasons of consistency and to avoid creating loopholes, the rules concerning possible negotiations on participation rights in the event of transfer of the registered office should be the same as those applicable in the case of the formation of an SPE.

Tuesday 10 March 2009

TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 9

Proposal for a regulation
Recital 16

(16) Employees' rights ***other than rights of participation*** should remain subject to Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, Council Directive 2001/23/EC of 12 March 2001 on the approximation of the law of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses and Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.	(16) Employees' rights should remain subject to ***Community law and its implementation in Member States, in particular*** Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, Council Directive 2001/23/EC of 12 March 2001 on the approximation of the law of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses and Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.

Amendment 77

Proposal for a regulation
Recital 17

(17) The Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation, including infringements of the obligation to regulate in the articles of association of the SPE the matters prescribed by this Regulation, and should ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.	(17) The Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation, including infringements of the obligation to regulate in the articles of association of the SPE the matters prescribed by this Regulation, ***and the rules applicable to employee participation,*** and should ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.

Amendment 10

Proposal for a regulation
Article 2 – paragraph 1 – point b

(b) 'distribution' means any financial benefit derived directly or indirectly from the SPE by a shareholder, in relation to the shares held by him, including any transfer of money or property, as well as the incurring of a debt;	(b) 'distribution' means any financial benefit derived directly or indirectly from the SPE by a shareholder, in relation to the shares held by him, including any transfer of money or property, as well as the incurring of a debt, ***that is not balanced by a full claim to compensation or reimbursement***;

Amendment 12

Proposal for a regulation
Article 2 – paragraph 1 – point d

(d) 'management body' means one or more individual managing directors, the management board (dual board) or the administrative board (unitary board), designated in the articles of association of the SPE as being responsible for the management of the SPE;	(d) '***executive*** management body' means one or more individual managing directors, the management board (dual board) or the administrative board (unitary board), designated in the articles of association of the SPE as being responsible for the management of the SPE;

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Amendment 13

Proposal for a regulation
Article 2 – paragraph 1 – point e

(e) 'supervisory body' means the supervisory board (dual board), designated in the articles of association of the SPE as being responsible for the supervision of the management body;	(e) 'supervisory body' means the supervisory board (dual board), ***when*** designated in the articles of association of the SPE as being responsible for the supervision of the management body;

Amendment 14

Proposal for a regulation
Article 2 – paragraph 1 – point e a (new)

	(ea) 'level of employee participation' means the proportion of employee representatives amongst the members of the administrative or supervisory body or their committees or of the management group which covers the profit units of the SPE;

Amendment 15

Proposal for a regulation
Article 3 – paragraph 1

1. An SPE shall comply with the following requirements:	1. An SPE ***shall be a corporate body possessing legal personality and*** shall comply with the following requirements:
(a) its capital *shall* be divided into shares,	(a) its capital *must* be divided into shares,
(b) *a shareholder shall* not be liable for more than the amount *he has* subscribed or agreed to subscribe,	(b) *its shareholders must* not be liable for more than the amount *they have* subscribed or *have* agreed to subscribe,
(c) it shall have legal personality,	
(d) its shares *shall* not be ***offered to the public*** and *shall* not be publicly traded,	(d) its shares *must* not be ***made the subject of general public offers,*** and *must* not be publicly traded***; this shall not, however, prohibit offers to employees***,
(e) it may be formed by one or more natural persons and/or legal entities, hereinafter 'founding shareholders'.	(e) it may be formed by one or more natural persons and/or legal entities, hereinafter 'founding shareholders',

Amendment 70

Proposal for a regulation
Article 3 – paragraph 1 – point e a (new)

	(ea) it shall have a cross-border component demonstrated by one of the following:
	— a cross-border business intention or corporate object,
	— an objective to be significantly active in more than one Member State,
	— establishments in different Member States, or
	— a parent company registered in another Member State.

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 18

Proposal for a regulation
Article 7

An SPE shall have its registered office and its central administration or principal place of business in the Community.	An SPE shall have its registered office and its central administration or principal place of business in the Community.
An SPE shall not be under any obligation to have its central administration or principal place of business in the Member State in which it has its registered office.	An SPE shall not be under any obligation to have its central administration or principal place of business in the Member State in which it has its registered office. ***If the central administration or principal place of business is located in a Member State other than that in which it has its registered office, the SPE shall lodge in the register of the Member State where the central administration or principal place of business is located the particulars referred to in points (a), (b) and (c) of Article 10(2). The information recorded in the register shall be deemed to be accurate.***
	The lodging of documents in a European central register will fulfil the requirements for lodging documents in accordance with the second paragraph.

Amendment 19

Proposal for a regulation
Article 7 – paragraph 3 a (new)

	The registered office shall be the address at which all legal documents relating to the SPE are to be served.

Amendments 20 and 79

Proposal for a regulation
Article 8 – paragraphs 2 and 3

2. The articles of association of a SPE shall be in writing and signed by every founding shareholder.	2. The articles of association of a SPE shall be in writing and signed by every founding shareholder. ***Further formalities may be prescribed by the existing applicable national law, unless the SPE uses official model articles of association.***
3. The articles of association and any amendments thereto may be relied upon as follows:	3. The articles of association and any amendments thereto may be relied upon as follows:
(a) in relation to the shareholders and the management body of the SPE and its supervisory body, if any, from the date on which they are signed or, in the case of amendments, adopted;	(a) in relation to the shareholders and the ***executive*** management body of the SPE and its supervisory body, if any, from the date on which they are signed or, in the case of amendments, adopted;
(b) in relation to third parties, in accordance with the provisions of the applicable national law implementing ***paragraphs 5, 6 and 7*** of Article 3 of Directive 68/151/EEC.	(b) in relation to third parties, in accordance with the provisions of the applicable national law implementing ***paragraphs 2, 5, 6 and 7*** of Article 3 of Directive 68/151/EEC.

TEXT PROPOSED BY THE COMMISSION	AMENDMENT
Amendment 21	
Proposal for a regulation	
Article 9 – paragraph 3 a (new)	
	3a. A copy of each registration of an SPE and copies of all subsequent amendments thereto shall be sent by the respective national registers to a European register managed by the Commission and the competent national authorities and held in that European register. The Commission shall monitor the data entered in that register, particularly with a view to avoiding possible abuses and mistakes. If the SPE is unable to demonstrate that it complies with point (ea) of Article 3(1) within two years of registration, it shall be converted into the appropriate national legal form.
Amendment 22	
Proposal for a regulation	
Article 10	
1. Application for registration shall be made by the founding shareholders of the SPE or by any person authorised by them. Such application may be made by electronic means.	1. Application for registration shall be made by the founding shareholders of the SPE or by any person authorised by them. Such application may be made by electronic means***, in accordance with the provisions of the applicable national law implementing Article 3(2) of Directive 68/151/EEC***.
2. Member States shall not require any particulars *and* documents to be supplied upon application for the registration of a SPE other than the following:	2. Member States shall not require any particulars *or* documents to be supplied upon application for the registration of a SPE other than the following:
(a) the name of the SPE and the address of its registered office;	(a) the name of the SPE and the address of its registered office;
(b) the names, addresses and any other information necessary to identify the persons who are authorised to represent the SPE in dealings with third parties and in legal proceedings, or take part in the administration, supervision or control of the SPE;	(b) the names, addresses and any other information necessary to identify the persons who are ***members of the executive management body, and those who are*** authorised to represent the SPE in dealings with third parties and in legal proceedings, or take part in the administration, supervision or control of the SPE;
	(ba) the corporate object, including an explanation of the cross-border component of the business objective of the SPE, where appropriate;
(c) the share capital of the SPE;	(c) the share capital of the SPE;
	(ca) the list of shareholders in accordance with Article 15;
(d) the share classes and the number of shares in each share class;	(d) the share classes and the number of shares in each share class;
(e) the total number of shares;	(e) the total number of shares;
(f) the nominal value or accountable par of the shares;	(f) the nominal value or accountable par of the shares;
(g) the articles of association of the SPE;	(g) the articles of association of the SPE;

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT
(h) where the SPE was formed as a result of a transformation, merger or division of companies, the resolution on the transformation, merger or division that led to the creation of the SPE.	(h) where the SPE was formed as a result of a transformation, merger or division of companies, the resolution on the transformation, merger or division that led to the creation of the SPE.
3. The documents and particulars referred to in paragraph 2 shall be provided in the language required by the applicable national law.	3. The documents and particulars referred to in paragraph 2 shall be provided in the language required by the applicable national law.
4. Registration of the SPE ***may*** be subject to ***only*** one of the following requirements:	4. Registration of the SPE ***shall*** be subject to ***at least*** one of the following requirements:
(a) a control by an administrative or judicial body of the legality of the documents and particulars of the SPE;	(a) a control by an administrative or judicial body of the legality of the documents and particulars of the SPE;
(b) the certification of the documents and particulars of the SPE.	(b) the certification ***or legal authentication*** of the documents and particulars of the SPE.
5. The SPE shall submit any change in the particulars or documents referred to in points (a) to (g) of paragraph 2 to the register within 14 calendar days of the day on which the change takes place. After every amendment to the articles of association, the SPE shall submit its complete text to the register as amended to date.	5. The SPE shall submit any change in the particulars or documents referred to in points (a) to (g) of paragraph 2 to the register within 14 calendar days of the day on which the change takes place. After every amendment to the articles of association, the SPE shall submit its complete text to the register as amended to date. ***The second sentence of paragraph 1 and paragraph 4 shall apply mutatis mutandis.***
6. The registration of an SPE shall be disclosed.	6. The registration of an SPE shall be disclosed.

Amendment 23

Proposal for a regulation
Article 11 – paragraph 2 – point b

(b) the name of the SPE, the address of its registered office and, where appropriate, the fact that the company is being wound up.	(b) the name of the SPE, the address of its registered office and, where appropriate, ***details of its central administration or principal place of business, the existence of any branches and*** the fact that the company is being wound up*;*

Amendment 24

Proposal for a regulation
Article 11 – paragraph 2 – point b a (new)

	(ba) details of the members of the executive management body of the SPE.

TEXT PROPOSED BY THE COMMISSION	AMENDMENT
Amendment 25	
Proposal for a regulation	
Article 15	
1. The management body of the SPE shall draw up a list of shareholders. The list shall contain at least the following:	1. The ***executive*** management body of the SPE shall draw up a list of shareholders. The list shall contain at least the following:
(a) the name and address ***of*** each shareholder;	(a) the name ***of,*** and ***a postal*** address ***for,*** each shareholder;
(b) the number of shares held by the shareholder concerned, their nominal value or accountable par;	(b) the number of shares held by the shareholder concerned, their nominal value or accountable par;
(c) where a share is owned by more than one person, the names and addresses of the co-owners and of the common representative;	(c) where a share is owned by more than one person, the names and addresses of the co-owners and of the common representative;
(d) the date of acquisition of the shares;	(d) the date of acquisition of the shares;
(e) the amount of each consideration in cash, if any, paid or to be paid by the shareholder concerned;	(e) the amount of each consideration in cash, if any, paid or to be paid by the shareholder concerned;
(f) the value and nature of each consideration in kind, if any, provided or to be provided by the shareholder concerned;	(f) the value and nature of each consideration in kind, if any, provided or to be provided by the shareholder concerned;
(g) the date on which a shareholder ceases to be a member of the SPE.	(g) the date on which a shareholder ceases to be a member of the SPE.
2. The list of shareholders shall, unless proven otherwise, constitute evidence of the ***authenticity*** of the matters listed in points (a) to (g) of paragraph 1.	2. The list of shareholders ***registered in accordance with Article 10*** shall, unless proven otherwise, constitute evidence of the ***accuracy*** of the matters listed in points (a) to (g) of paragraph 1.
3. The list of shareholders and any amendments thereto shall be kept by the management body and may be inspected by the shareholders or third parties on request.	3. The list of shareholders ***registered in accordance with Article 10*** and any amendments thereto shall be kept by the ***executive*** management body and may be inspected by the shareholders or third parties on request.
Amendment 27	
Proposal for a regulation	
Article 16 – paragraph 3	
3. On notification of a transfer, the management body shall, without undue delay, enter the shareholder in the list referred to in Article 15, provided that the transfer has been executed in accordance with this Regulation and the articles of association of the SPE and the shareholder submits reasonable evidence as to his lawful ownership of the share.	3. On notification ***by the shareholder*** of a transfer, the ***executive*** management body shall, without undue delay, enter the shareholder in the list referred to in Article 15 ***and registered in accordance with Article 10***, provided that the transfer has been executed in accordance with this Regulation and the articles of association of the SPE and the shareholder submits reasonable evidence as to his lawful ownership of the share.

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 28

Proposal for a regulation
Article 16 – paragraph 4 – point a

(a) in relation to the SPE, on the day the shareholder notifies the SPE of the transfer;	(a) in relation to the SPE, on the day the ***new*** shareholder notifies the SPE of the transfer;

Amendment 29

Proposal for a regulation
Article 16 – paragraph 4 – point b

(b) in relation to third parties, on the day the shareholder is entered in the list referred to in Article 15.	(b) in relation to third parties, on the day the shareholder is entered in the list referred to in Article 15 ***or his status as shareholder is published in the register in accordance with Article 9***.

Amendment 30

Proposal for a regulation
Article 18 – paragraph 1

1. ***A shareholder shall have the right to withdraw from the SPE if the activities of the SPE are being or have been conducted in a manner which causes serious harm to the interests of the shareholder as a result of one or more of the following events***:	1. ***The right of withdrawal shall be exercisable by shareholders who do not subscribe to resolutions concerning***:
(a) ***the SPE has been deprived of a significant part of its assets***;	(a) ***operations which deprive the SPE of a significant part of its assets***;
(b) ***the registered office of the SPE has been transferred to another Member State;***	(b) ***operations which bring about a substantial change in the activities of the SPE;***
(c) ***the activities of the SPE have changed substantially;***	(c) ***transferral of the registered office of the SPE to another Member State;***
(d) ***no dividend has been*** distributed for at least 3 years even though the SPE's financial position would have permitted such distribution.	(d) ***non-distribution of dividends*** for at least *three* years, even though the SPE's financial position would have permitted such distribution.
	The articles of association of the SPE may provide for additional grounds for withdrawal.

Amendment 31

Proposal for a regulation
Article 18 – paragraph 3

3. The management body of the SPE shall, on receipt of the notice referred to in paragraph 2, without undue delay, request a resolution of the shareholders on the purchase of the shareholder's shares by the other shareholders or by the SPE itself.	3. The ***executive*** management body of the SPE shall, on receipt of the notice referred to in paragraph 2, without undue delay, request a resolution of the shareholders on the purchase of the shareholder's shares by the other shareholders or by the SPE itself.

TEXT PROPOSED BY THE COMMISSION	AMENDMENT
Amendment 32	
Proposal for a regulation	
Article 18 – paragraph 4	
4. Where the shareholders of the SPE fail to adopt a resolution referred to in paragraph 3 or do not accept the shareholder's reasons for withdrawal within 30 calendar days of the submission of the notice referred to in paragraph 2, the management body shall notify the shareholder of that fact without undue delay.	4. Where the shareholders of the SPE fail to adopt a resolution referred to in paragraph 3 or do not accept the shareholder's reasons for withdrawal within 30 calendar days of the submission of the notice referred to in paragraph 2, the ***executive*** management body shall notify the shareholder of that fact without undue delay.
Amendment 33	
Proposal for a regulation	
Article 19 – paragraph 4	
4. The capital of the SPE shall be at least EUR 1.	4. The capital of the SPE shall be at least EUR 1***, provided that the articles of association require that the executive management body sign a solvency certificate as referred to in Article 21. Where the articles of association contain no provision to that effect, the capital of the SPE shall be at least EUR 8 000***.
Amendment 34	
Proposal for a regulation	
Article 20 – paragraph 3	
3. ***Without prejudice to paragraphs 1 and 2, the liability of shareholders for the consideration paid or provided shall be governed by the applicable national law***.	3. ***Where the value of the consideration in kind falls short of the value of the share acquired, the shareholder shall pay a consideration in cash equal to the shortfall. The company's claim to payment shall lapse eight years after the company's registration.***
Amendment 35	
Proposal for a regulation	
Article 21 – paragraph 1	
1. Without prejudice to Article 24, the SPE may, on the basis of a proposal of the management body, make a distribution to shareholders provided that, after the distribution, the assets of the SPE fully cover its liabilities. The SPE may not distribute those reserves that may not be distributed under its articles of association.	1. Without prejudice to Article 24, the SPE may, on the basis of a proposal of the ***executive*** management body, make a distribution to shareholders provided that, after the distribution, the assets of the SPE fully cover its liabilities. The SPE may not distribute those reserves that may not be distributed under its articles of association. ***A distribution shall be permissible only where the remaining amount of the deposit does not fall below the minimum amount referred to in Article 19(4).***

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 36

Proposal for a regulation
Article 21 – paragraph 2

2. If the articles of association so require, the management body of the SPE, in addition to complying with paragraph 1, shall sign a statement, hereinafter a 'solvency certificate', before a distribution is made, certifying that the SPE will be able to pay its debts as they become due in the normal course of business within one year of the date of the distribution. Shareholders shall be provided with the solvency certificate before the resolution on the distribution referred to in Article 27 is taken.	2. If the articles of association so require, the ***executive*** management body of the SPE, in addition to complying with paragraph 1, shall sign a statement, hereinafter a 'solvency certificate', before a distribution is made, certifying that the SPE will be able to pay its debts as they become due in the normal course of business within one year of the date of the distribution. Shareholders shall be provided with the solvency certificate before the resolution on the distribution referred to in Article 27 is taken.

Amendment 37

Proposal for a regulation
Article 22

Any shareholder who has received distributions made contrary to Article 21 must return those distributions to the SPE***, provided that the SPE proves that the shareholder knew or in view of the circumstances should have been aware of the irregularities***.	Any shareholder who has received distributions made contrary to Article 21 must return those distributions to the SPE.

Amendment 38

Proposal for a regulation
Article 24 – paragraph 1

1. In the case of a reduction of the share capital of the SPE, Articles 21 and 22 shall apply mutatis mutandis.	1. In the case of a reduction of the share capital of the SPE, Articles 21 and 22 shall apply mutatis mutandis. ***A reduction of the share capital shall be permissible only where the remaining amount of the deposit does not fall below the minimum amount referred to in Article 19(4).***

Amendment 39

Proposal for a regulation
Article 25 – paragraph 1

1. An SPE shall be subject to the requirements of the applicable national law as regards preparation, filing, auditing and publication of accounts.	1. An SPE shall be subject to the requirements of the applicable national law as regards preparation, filing, auditing and publication of ***statutory*** accounts.

Amendment 40

Proposal for a regulation
Article 25 – paragraph 2

2. The management body shall keep the books of the SPE. The bookkeeping of the SPE shall be governed by the applicable national law.	2. The ***executive*** management body shall keep the books of the SPE. The bookkeeping of the SPE shall be governed by the applicable national law.

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT
Amendment 41 **Proposal for a regulation** **Article 26 – paragraph 1**	
1. The SPE shall have ***a*** management body, which shall be responsible for the management of the SPE. The management body may exercise all the powers of the SPE not required by this Regulation or the articles of association to be exercised by the shareholders.	1. The SPE shall have ***an executive*** management body, which shall be responsible for the management of the SPE. The ***executive*** management body may exercise all the powers of the SPE not required by this Regulation or the articles of association to be exercised by the shareholders. ***Members' resolutions shall be internally binding on the executive management body.***
Amendment 42 **Proposal for a regulation** **Article 27 – paragraph 2**	
2. Resolutions on the matters indicated in points (a), (b), (c), (i), (l), (m) (n), (o) and (p) of paragraph 1 shall be taken by a qualified majority.	2. Resolutions on the matters indicated in points (a), (b), (c), ***(h),*** (i), (l), (m) (n), (o) and (p) of paragraph 1 shall be taken by a qualified majority.
Amendment 43 **Proposal for a regulation** **Article 27 – paragraph 3**	
3. The adoption of resolutions shall not require the organisation of a general meeting. The management body shall provide all shareholders with the proposals for resolutions together with sufficient information to enable them to take an informed decision. Resolutions shall be recorded in writing. Copies of the decisions taken shall be sent to every shareholder.	3. The adoption of resolutions shall not require the organisation of a general meeting. The ***executive*** management body shall provide all shareholders with the proposals for resolutions together with sufficient information to enable them to take an informed decision. Resolutions shall be recorded in writing. Copies of the decisions taken shall be sent to every shareholder.
Amendment 44 **Proposal for a regulation** **Article 27 – paragraph 4**	
4. Resolutions of the shareholders shall comply with this Regulation and the articles of association of the SPE.	4. Resolutions of the shareholders shall comply with this Regulation and the articles of association of the SPE.
The right of shareholders to challenge resolutions ***shall be governed by*** the applicable ***national*** law.	Resolutions ***of the shareholders may be declared ineffective on the grounds of an infringement of the provisions of the articles of association, of this Regulation or of*** the applicable law ***only by means of an action before the court that has jurisdiction in relation to the SPE's registered office.*** ***An action may be brought within one month from the date of the resolution by any shareholder who did not vote in favour of the resolution, provided that the company does not remedy the deficiency in the resolution and the complainant does not give his or her subsequent agreement. The articles of association may allow a longer time for appeal.***

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 45

Proposal for a regulation
Article 27 – paragraph 7 – point (a)

(a) in relation to the shareholders, the management body of the SPE and its supervisory body, if any, on the date they are adopted,	(a) in relation to the shareholders, the ***executive*** management body of the SPE and its supervisory body, if any, on the date they are adopted,

Amendment 46

Proposal for a regulation
Article 28 – paragraph 1

1. Shareholders shall have the right to be duly informed and to ask questions to the management body about resolutions, annual accounts and all other matters relating to the activities of the SPE.	1. Shareholders shall have the right to be duly informed and to ask questions to the ***executive*** management body about resolutions, annual accounts and all other matters relating to the activities of the SPE.

Amendment 47

Proposal for a regulation
Article 28 – paragraph 2

2. The management body may refuse to give access to the information only if doing so could cause serious harm to the business interests of the SPE.	2. The ***executive*** management body may refuse to give access to the information only if doing so could cause serious harm to the business interests of the SPE.

Amendment 48

Proposal for a regulation
Article 29 – paragraph 1

1. Shareholders holding 5 % of the voting rights attached to the shares of the SPE shall have the right to request the management body to submit a proposal for a resolution to the shareholders.	1. Shareholders holding 5 % of the voting rights attached to the shares of the SPE shall have the right to request the ***executive*** management body to submit a proposal for a resolution to the shareholders.

Amendment 49

Proposal for a regulation
Article 29 – paragraph 1 – subparagraph 3

If the request is refused or if the management body does not submit a proposal within 14 calendar days of receiving the request, the shareholders concerned may then submit a proposal for a resolution to the shareholders regarding the matters in question.	If the request is refused or if the ***executive*** management body does not submit a proposal within 14 calendar days of receiving the request, the shareholders concerned may then submit a proposal for a resolution to the shareholders regarding the matters in question.

Amendment 50

Proposal for a regulation
Article 29 – paragraph 2 – subparagraph 2

The expert shall be allowed access to the documents and records of the SPE and to require information from the management body.	The expert shall be allowed access to the documents and records of the SPE and to require information from the ***executive*** management body.

TEXT PROPOSED BY THE COMMISSION	AMENDMENT
Amendment 51	
Proposal for a regulation **Article 31 – paragraph 4**	
4. ***A director of the SPE*** shall be liable ***to*** the company for any ***act or omission in breach of his duties*** deriving from this Regulation, ***the articles of association*** of the SPE or a resolution of shareholders ***which causes loss or damage to the SPE. Where such breach has been committed by more than one director, all directors concerned shall be jointly and severally liable***.	4. ***The directors*** shall be ***jointly and severally*** liable ***in respect of*** the company for any ***prejudice to the SPE*** deriving from ***a failure to fulfil the duties incumbent on them under*** this Regulation, ***the articles of association*** of the SPE or a resolution of shareholders. ***Such liability shall not extend to directors who are able to demonstrate their blamelessness and who made known their disagreement with the failure to fulfil duties***.
Amendment 52	
Proposal for a regulation **Article 31 – paragraph 5**	
5. ***Without prejudice to the provisions of this Regulation, the liability of directors shall be governed by the applicable national law***.	5. ***Directors shall pay compensation in particular where payments have been made in breach of Article 21 or own shares in the company have been acquired in breach of Article 23(2). A requirement on the part of the directors to compensate the company's creditors shall not be waived on the grounds that they acted in accordance with a resolution of the shareholders.***
Amendment 53	
Proposal for a regulation **Article 31 – paragraph 5 a (new)**	
	5a. Any right of action pursuant to this Article shall lapse within four years of the date when it arose.
Amendment 54	
Proposal for a regulation **Article 33**	
1. The SPE shall be represented in relation to third parties by one or more ***directors***. Acts undertaken by the ***directors*** shall be binding on the SPE even if they are not within the objects of the SPE.	1. The SPE shall be represented in relation to third parties by one or more ***members of the executive management body***. Acts undertaken by the ***members of the executive management body*** shall be binding on the SPE even if they are not within the objects of the SPE.
2. The articles of association of the SPE may provide that ***directors*** are to exercise jointly the general power of representation. Any other limitation of the powers of the directors, following from the articles of association, a resolution of shareholders or a decision of the management or supervisory body, if any, may not be relied on against third parties even if they have been disclosed.	2. The articles of association of the SPE may provide that ***members of the executive management body*** are to exercise jointly the general power of representation. Any other limitation of the powers of the directors, following from the articles of association, a resolution of shareholders or a decision of the management or supervisory body, if any, may not be relied on against third parties even if they have been disclosed.
3. ***Directors*** may delegate the right to represent the SPE in accordance with the articles of association.	3. ***Members of the executive management body*** may delegate the right to represent the SPE in accordance with the articles of association.

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 71

Proposal for a regulation
Article 34 – paragraph 1

1. The SPE shall be subject to the rules on employee participation, if any, applicable in the Member State in which it has its registered office, subject to the provisions of this Article.	1. The SPE shall be subject to the rules on employee participation, if any, applicable in the Member State in which it has its registered office, subject to the provisions of this Article. ***Those rules, if any, shall apply to the entire workforce of the SPE.***
	1a. Paragraph 1 shall not apply where:
	(a) the SPE employs altogether more than 1 000 employees and more than one quarter (25 %) of the total workforce habitually works in a Member State or Member States which provide for a greater level of employee participation than the Member State in which the SPE has its registered office. In that event, the provisions on employee participation of Directive 2001/86/EC shall apply mutatis mutandis. In addition, the SPE may also apply Article 16(4) of Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies [1];
	(b) the SPE employs altogether between 500 and 1 000 employees and more than one third (33⅓ %) of the total workforce habitually works in a Member State or Member States which provide for a greater level of employee participation than the Member State in which the SPE has its registered office. In that event, the provisions on employee participation of Directive 2001/86/EC and of Article 16(3)(e), (4) and (5) of Directive 2005/56/EC shall apply mutatis mutandis;
	(c) the SPE has been founded pursuant to point (b), (c) or (d) of Article 5(1) and employs altogether fewer than 500 employees, and more than one third (33⅓ %) of the total workforce habitually works in a Member State or Member States which provide for a greater level of employee participation than the Member State in which the SPE has its registered office. In that event, the provisions on employee participation of Directive 2001/86/EC and of Article 16(3)(e), (4) and (5) of Directive 2005/56/EC shall apply mutatis mutandis;
	(d) the SPE has been founded pursuant to point (a) of Article 5(1) and employs altogether fewer than 500 employees, and more than half (50 %) of the total workforce habitually works in a Member State or Member States which provide for a greater level of employee participation than the Member State in which the SPE has its registered office. In that event, the provisions on employee participation of Directive 2001/86/EC and of Article 16(3)(e), (4) and (5) of Directive 2005/56/EC shall apply mutatis mutandis.

[1] OJ L 310, 25.11.2005, p. 1.

TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 72

Proposal for a regulation
Article 34 a (new)

	Article 34a
	Adaptation clause
	In the absence of provisions on employee participation, Article 34(1a) shall apply if, due to changes in the number of employees, the conditions laid down therein are fulfilled.
	If the conditions laid down in Article 34(1a) cease to be fulfilled, the management board of the SPE may apply Article 34(1).
	Existing participation arrangements, if any, shall remain in place until the new arrangements enter into force.

Amendment 56

Proposal for a regulation
Article 36 – paragraph 1 – introduction

1. The management body of an SPE planning a transfer shall draw up a transfer proposal, which shall include at least the following particulars:	1. The ***executive*** management body of an SPE planning a transfer shall draw up a transfer proposal, which shall include at least the following particulars:

Amendment 57

Proposal for a regulation
Article 36 – paragraph 2 – introduction

2. At least one month before the resolution of the shareholders referred to in paragraph 4 is taken, the management body of the SPE shall:	2. At least one month before the resolution of the shareholders referred to in paragraph 4 is taken, the ***executive*** management body of the SPE shall:

Amendment 58

Proposal for a regulation
Article 36 – paragraph 3

3. The management body of the SPE shall draw up a report to the shareholders explaining and justifying the legal and economic aspects of the proposed transfer and setting out the implications of the transfer for shareholders, creditors and employees. The report shall be submitted to the shareholders and the employee representatives, or where there are no such representatives, to the employees themselves together with the transfer proposal.	3. The ***executive*** management body of the SPE shall draw up a report to the shareholders explaining and justifying the legal and economic aspects of the proposed transfer and setting out the implications of the transfer for shareholders, creditors and employees. The report shall be submitted to the shareholders and the employee representatives, or where there are no such representatives, to the employees themselves together with the transfer proposal.

Amendment 59

Proposal for a regulation
Article 36 – paragraph 3 – subparagraph 2

Where the management body receives in time the opinion of the employee representatives on the transfer, that opinion shall be submitted to the shareholders.	Where the ***executive*** management body receives in time the opinion of the employee representatives on the transfer, that opinion shall be submitted to the shareholders.

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT
	Amendment 73 **Proposal for a regulation** **Article 38**
1. The SPE shall be subject, as from the date of registration, to the rules in force in the host Member State, if any, concerning arrangements for the participation of employees.	1. The SPE shall be subject, as from the date of registration, to the rules in force in the host Member State, if any, concerning arrangements for the participation of employees.
2. Paragraph 1 shall not apply where the ***employees of the SPE in the home Member State account for at least one third of the total number of employees of the SPE including subsidiaries or branches of the SPE in any Member State, and where one of the following conditions is met:***	2. Paragraph 1 shall not apply where the ***conditions laid down in Article 34(1a) are fulfilled. In that event, Article 34(1a) shall apply mutatis mutandis.***
(a) the legislation of the host Member State does not provide for at least the same level of participation as that operated in the SPE in the home Member State prior to its registration in the host Member State. The level of employee participation shall be measured by reference to the proportion of employee representatives amongst the members of the administrative or supervisory body or their committees or of the management group which covers the profit units of the SPE, subject to employee representation;	
(b) the legislation of the host Member State does not confer on the employees of establishments of the SPE that are situated in other Member States the same entitlement to exercise participation rights as such employees enjoyed before the transfer.	
3. Where one of the conditions set out in points (a) or (b) of paragraph 2 is met, the management body of the SPE shall take the necessary steps, as soon as possible, after disclosure of the transfer proposal, to start negotiations with the representatives of the SPE's employees with a view to reaching an agreement on arrangements for the participation of the employees.	
4. The agreement between the management body of the SPE and the representatives of the employees shall specify:	
(a) the scope of the agreement;	
(b) where, during the negotiations, the parties decide to establish arrangements for participation in the SPE following the transfer, the substance of those arrangements including, where applicable, the number of members in the company's administrative or supervisory body employees will be entitled to elect, appoint, recommend or oppose, the procedures as to how these members may be elected, appointed, recommended or opposed by employees, and their rights;	

TEXT PROPOSED BY THE COMMISSION	AMENDMENT
(c) the date of entry into force of the agreement and its duration, and any cases in which the agreement should be renegotiated and the procedure for its renegotiation.	
5. Negotiations shall be limited to a period of six months. The parties may agree to extend negotiations beyond this period for an additional six-month period. The negotiations shall otherwise be governed by the law of the home Member State.	
6. In the absence of an agreement, the participation arrangements existing in the home Member State shall be maintained.	

Amendment 60

Proposal for a regulation
Article 42 – paragraph 1

1. Member States in which the third phase of the economic and monetary union (EMU) does not apply may require SPEs having their registered office in their territory to express their capital in the national currency. ***An SPE may also*** express ***its*** capital in euro. The national currency/euro conversion rate shall be as on the last day of the month preceding the registration of the SPE.	1. Member States in which the third phase of the economic and monetary union (EMU) does not apply may require SPEs having their registered office in their territory to express their capital in the national currency. ***Such SPEs shall, in addition,*** express ***their*** capital in euro. The national currency/euro conversion rate shall be as on the last day of the month preceding the registration of the SPE.

Amendment 61

Proposal for a regulation
Article 42 – paragraph 2

2. An SPE ***may*** prepare and publish its annual and, where applicable, consolidated accounts in euro in Member States where the third phase of the economic and monetary union (EMU) does not apply. ***However such Member States may also require SPEs to prepare and publish their annual and, where applicable, consolidated accounts in the national currency in accordance with the applicable national law.***	2. An SPE ***shall*** prepare and publish its annual and, where applicable, consolidated accounts ***both in the national currency and*** in euro in Member States where the third phase of the economic and monetary union (EMU) does not apply.

Amendment 62

Proposal for a regulation
Article 42 a (new)

	Article 42a
	Arbitration clause
	1. The articles of association may, in the form of an arbitration clause, provide for the referral to arbitrators of any disputes arising between shareholders, or between shareholders and the SPE, concerning its corporate relations. The articles of association may also provide that the arbitration clause cover disputes with the directors. In that case, the arbitration clause shall be binding on the directors upon their acceptance of the post.

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TEXT PROPOSED BY THE COMMISSION	AMENDMENT
	2. Any amendment of the constituent act, introducing or removing the arbitration clause by a resolution of the shareholders under Article 27 must be approved by shareholders representing at least two-thirds of the share capital.

Amendment 63

Proposal for a regulation
Article 43 a (new)

	Article 43a
	Severability clause
	Any clause of the articles of association that is ineffective shall be severable and the remaining clauses of the articles of association shall continue to be effective. The ineffective clause shall be replaced by the corresponding clause of the model articles of association until they have been corrected by a resolution of the shareholders. Where the sample articles of association make no provision for a corresponding clause, the ineffective clause shall be replaced by the law relating to limited-liability companies of the Member State in which the registered office of the SPE is situated.

Amendment 64

Proposal for a regulation
Article 45

Member States shall notify the form of private limited-liability ***company*** referred to in the second paragraph of Article 4 ***to the Commission by 1 July 2010 at the latest***.	Member States shall notify ***the Commission by 1 July 2010 of*** the form of private limited-liability ***companies*** referred to in the second paragraph of Article 4***, of the consequences under their national law of failure to comply with any provisions of this Regulation, and of any additional provisions of their company law which apply to an SPE***.
The Commission shall publish this information in the *Official Journal of the European Union*.	The Commission shall publish this information in the *Official Journal of the European Union*.
	Furthermore, Member States shall maintain web pages listing SPEs registered in their territory and any court judgments relating to the operation of SPEs in their territory. The Commission shall maintain a web page which provides an electronic link to those discrete national web pages.

Amendment 65

Proposal for a regulation
Annex I – Chapter IV – Capital – indent 7

— whether the management body is required to sign a solvency certificate before a distribution is made, and the applicable requirements,	— whether the ***executive*** management body is required to sign a solvency certificate before a distribution is made, and the applicable requirements,

TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 66

Proposal for a regulation
Annex I – Chapter V – Organisation of the SPE – indent 10

— whether the SPE's management body is composed of one or more managing directors, a management board (dual board) or an administrative board (unitary board),	— whether the SPE's ***executive*** management body is composed of one or more managing directors, a management board (dual board) or an administrative board (unitary board),

Amendment 67

Proposal for a regulation
Annex I – Chapter V – Organisation of the SPE – indent 13

— where there is a management board (dual board) or one or more managing directors, whether the SPE has a supervisory body, and if so, its composition and organisation and its relationship with the management body,	— where there is a management board (dual board) or one or more managing directors, whether the SPE has a supervisory body, and if so, its composition and organisation and its relationship with the ***executive*** management body,

Amendment 68

Proposal for a regulation
Annex I – Chapter V – Organisation of the SPE – indent 20

— the rules on representation of the SPE by the management body, in particular if the directors have the right to represent the SPE jointly or separately and any delegation of this right,	— the rules on representation of the SPE by the ***executive*** management body, in particular if the directors have the right to represent the SPE jointly or separately and any delegation of this right,

Amendment 69

Proposal for a regulation
Annex I – Chapter V – Organisation of the SPE – indent 21

— the rules on delegation of any management power to another person.	— the rules on delegation of any ***executive*** management power to another person.

Guidelines for the 2010 budget procedure – Section III

P6_TA(2009)0095

European Parliament resolution of 10 March 2009 on the guidelines for the 2010 budget procedure, Section III – Commission (2009/2005(BUD))

(2010/C 87 E/47)

The European Parliament,

— having regard to the general budget of the European Union for the financial year 2009,

— having regard to the Commission's updated financial programming 2007-2013, as submitted on 30 January 2009 in accordance with Point 46 of the Interinstitutional Agreement (IIA) of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management [1],

[1] OJ C 139, 14.6.2006, p. 1.

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— having regard to the Commission Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on its Annual Policy Strategy for 2010 (COM(2009) 0073) and, in particular, Part II thereof,

— having regard to the aforementioned IIA of 17 May 2006,

— having regard to Article 272 of the EC Treaty and Article 177 of the Euratom Treaty,

— having regard to Rule 112(1) of its Rules of Procedure,

— having regard to the report of the Committee on Budgets (A6-0111/2009),

A. whereas 2010 will bring a mid-term evaluation of many multiannual programmes,

B. whereas both the European Parliament and the European Commission will be newly constituted by the end of 2009,

Budgetary overview

1. Notes that the Multiannual Financial Framework (MFF) for 2007-2013 sets out a challenging amount of budgetary resources for 2010, namely EUR 139 489 000 000 in commitments, which represents 1,02 % of EU GNI, and EUR 133 505 000 000 in payments, which constitutes 0,97 % of EU GNI (in current prices), and recalls that the next adjustment of the MFF will take place in April 2009, just before the publication of the PDB 2010;

2. Takes into account that the amounts set out in the MFF for each heading are the maximum amounts of expenditure and constitute the frame for annual budgets; wishes to see the final budget closer to these upper limits, which might help to finance numerous aims of vital importance of the European Union without jeopardising current policies and programmes; notes that some community programmes are still under-financed; states that the Union needs more ambitious financial and budgetary decisions to allow it to assume its role mainly in the area of economic growth and jobs and in the external policy area where the resources are scarce;

3. Emphasises that Parliament will use all the means available under the IIA of 17 May 2006, including the use of the legislative flexibility of 5 % (Point 37 of that IIA) over the MFF period 2007-2013 in order to see its political priorities carried through;

4. Also notes that weak implementation of annual budgets leads to an even lower executed budget, mainly due to the system of complicated rules and requirements imposed by both the Commission and/or Member States and to the weak implementation capacity of Member States, which results in a substantial amount of RALs (restes à liquider); urges the Commission and the Member States to facilitate implementation by reducing self-imposed bureaucratic burdens and simplifying the management systems where possible, notably of the Structural Funds;

5. Underlines the importance of good interinstitutional cooperation in the context of which the Commission provides the budgetary authority with all necessary background information;

6. Considers a clear and comprehensive presentation of the Union's budget to be necessary; intends to follow up closely the financial programming to allow the appropriate budgetary decisions to be taken; welcomes the Commission's improved presentation of its financial programming documents; wishes the modifications that the Commission has made to its financial programming, however, to appear more distinctively and clearly; calls for further clarification in the allocation between operational and administrative expenditure; notes that an already substantial amount of what is, in reality, administrative expenditure is financed from operational allocations;

7. Asks the Commission, in its preparation for the preliminary draft budget (PDB) for 2010, to produce clear, consistent and sound activity statements for each policy area in order to enable all relevant committees of Parliament to thoroughly scrutinise the implementation of the various EU programmes and policies; in that respect, expects to see the appropriate evolution and implementation of the major budgetary decisions previously undertaken such as Galileo, EIT and food aid;

8. Points out the importance of the principle of 'sound budgeting'; asks the Commission to prepare a PDB that addresses the current challenges and provides for a sustainable budget for the ongoing policies; is particularly concerned about the budgetary needs for 2010 in Headings 1a and 4 of the MFF; wishes to underline that the Flexibility Instrument is intended to finance unforeseen political challenges and is only one of the tools enabling additional funding;

9. Welcomes the setting-up of an inter-institutional working group on decentralised agencies; reiterates the fact that the financial resources to create new agencies is very limited due to the current margins under each heading, and reminds the Commission and the Council of the need to respect point 47 of the IIA of 17 May 2006; reminds the Commission of the need to take into account assigned revenues when establishing the PDB 2010 for existing decentralised agencies; insists that those agencies depending to a large extent on revenues generated by fees must still be able to use this instrument in its entirety to give them the needed budgetary flexibility;

10. Supports the different assistance instruments under Heading 4; recalls that a constant preoccupation of the Parliament is that Heading 4 of the MFF suffers from serious under-funding; points out that if the Union is to live up to its promises and its ambitions as a global player, it must ensure that the needs of developing countries are fully reflected in the strategic choices of financing mechanisms in the area of development cooperation;

11. Recalls the procedure laid down in Point 23 of the IIA of 17 May 2006; recalls, nevertheless, that there have already been several changes reducing the margins available and that it is therefore difficult to finance new measures without fresh money; favours finding long-term solutions which would make the EU budget sufficient to meet all needs instead of shifting appropriations between headings; underlines that margins available under each heading of the MFF (especially Heading 2) cannot be taken for granted, due to changing economic conditions; considers it more appropriate to address directly the category of expenditure that is insufficient in order to avoid hindering other areas of expenditure; considers that in the absence of flexibility within and across headings, a revision of the MFF reflects most budgetary principles; regrets that in the current context, the Council has not taken a constructive approach for using the existing flexibility mechanisms; considers that the mid-term review of the MFF should also address the chronic under-funding of certain categories of expenditure;

12. Expresses its readiness to take into account the outcomes of the mid-term review covering all aspects of EU spending and resources, including the UK rebate, the Commission report on the functioning of the IIA by the end of 2009 foreseen by the IIA of 17 May 2006 as well as the mid-term evaluation of the ongoing multiannual programmes;

Acting to face the challenges

13. Recalls that enormous challenges should be met in the EU budget 2010; points out that the key objective is to put European citizens first and provide them with greater safety, which requires special attention to be given to: the recent financial and economic crisis and its impact on growth and competitiveness, jobs and cohesion, better and simpler implementation of structural funds; enhancing energy supply and transport safety; as well as internal security, particularly the fight against terrorism; immigration, demographic challenges, and also the matter of climate change and environmental protection, social cohesion, security of its citizens, and the strengthening of the role of the Union in the world;

14. Calls on the Commission to take into account the abovementioned circumstances when deciding on the PDB; expects the Commission to present solid and useful proposals to allow a meaningful budgetary discussion within the budgetary authority;

15. Welcomes the Commission's intention to contribute to economic and social recovery, reinforce energy efficiency and combat climate change and continue the delivery of aid in particular to Kosovo, the Middle East, Afghanistan and Georgia as expressed in the Annual Policy Strategy for 2010; expects the Commission, having identified some of the major priorities, to reflect them in PDB, and to provide sufficient financial resources;

Responding to the global financial and economic crisis

16. Emphasises that, in a time of global financial and economic crisis, Member States have responded with their individual aid measures; strongly believes that the Union has to react rapidly with additional and coordinated measures that have a direct impact on the economy and has to support the Member States with accompanying actions, particularly those stimulating economic growth, as this would result in encouraging investments by the private sector and therefore help to overcome the danger of job losses, to promote job creation and to support SMEs in the short and longer term;

17. Stresses that the current context of economic crisis could be seen as an opportunity to increase investments in green technologies, which may require modifications to current financial programmes;

18. Welcomes the intention of the Commission to respond to the economic crisis and reiterates its willingness to negotiate with Council the appropriate budgetary solution as soon as possible; believes that the decision on the projects to be financially supported would be facilitated by a geographically balanced proposal; calls on the Council to assume its responsibility and make the European dimension of the recovery plan a reality;

19. Is worried that SMEs in particular will suffer from the economic crisis and will be cut off from urgently needed financing; therefore emphasises the importance of strengthening EU funds supporting SMEs, particularly those working in the area of research, development and innovation; points out, in this context, that the Competitiveness and Innovation Framework Programme (CIP) can provide effective support for their innovation activities;

20. Is concerned that the current margin under Heading 1a, estimated at EUR 111 599 000, does not allow the effects of the economic crisis to be appropriately addressed;

21. Considers that the tremendous opportunities of information and communication technologies (ICTs) foster growth and innovation, thereby contributing to achieving the goals of the Lisbon strategy and to overcoming the current economic crises; recalls that the European Research Area is more than ever a cornerstone for a European knowledge society and also recalls the need to overcome the fragmentation of research activities, programmes and policies across Europe; in this context, points out the importance of granting adequate funding to assure the proper implementation of these projects;

22. Calls for a rapid agreement on the proposal to amend the current European Globalisation Adjustment Fund Regulation in order to better address the consequences of relocations, decreasing production and job losses and to help workers to return to the labour market;

Providing Energy and Transport Security

23. Recognises that, as a result of the recent energy crisis, there is an enormous need for projects which bring energy security to the Union through diversification of resources and interconnection of energy markets; stresses that the Union's security of energy supply as well as the principle of energy solidarity are top priorities on the EU agenda and must also be appropriately reflected in the EU budget; sees the increased energy investment also as a tool for fighting the economic crisis and favours the idea of advancing EU budget expenditure on key energy infrastructure projects;

24. Points out that the recent gas crisis and the volatility of oil prices have shown again the vulnerability of the European energy supply system; underlines that the lack of alternative (renewable) energy sources, alternative energy transport routes, energy source storage capacity and energy transport interconnections among Member States is detrimental to the energy independence of Europe and the well-being of its people; therefore the Union should be better prepared for times of energy shortage;

25. Wishes to explore the possibilities of further EU financing in those areas; expects the Commission to propose strong actions in support of the realisation of diversified gas transport routes, including the Nabucco project; points out, in this context, the role of the European Investment Bank, in bringing about leverage effects and in helping mobilise private sector participation, bearing in mind, however, the issue of democratic accountability;

26. Recognises that transport, especially the TEN-T programme, was always a high priority for Parliament; stresses the importance of developing the necessary rail, sea and road transport infrastructure and wishes to accelerate the implementation of projects in 2010; notes the importance that the Union attaches to reducing the impact of climate change and is of the opinion that priority should be given to proposals that can exploit the energy-saving potential;

Environmental protection and combating climate change

27. Recalls that combating climate change is also connected to energy security and that promoting energy efficiency and energy savings, increasing the share of renewable energy are also tools of higher energy supply security;

28. Points out that climate change has a widely recognised impact on Europe's environment, economy and society; in this context, reiterates its conviction that measures to mitigate climate change are still not satisfactorily included in the EU budget, since significant additional EU resources for energy efficiency and renewable energy technologies are needed and should be deployed to help to meet the Union's 2020 targets; stresses that it will support all efforts to increase and concentrate adequate financial resources to mitigate the consequences of climate change; reminds the Commission that the budget authority voted for the 2009 budget in favour of extra funding in order to boost the fight against climate change; calls on the Commission to implement this increase; recalls its resolution of 23 October 2008 on the draft general budget of the European Union for the financial year 2009 [1] which invites the Commission to present, by 15 March 2009, an ambitious plan for an adequate increase of climate change funds which considers the establishment of a specific 'climate change fund' or the creation of a dedicated budget line which would improve the budget capability to deal with these issues;

29. Encourages the Commission to increase, from 2009 onward, financial support to an appropriate level for new sustainable energy (meaning in particular zero-carbon) technologies;

30. Recalls the responsibility towards future generations to take cost-effective steps to maintain environmental protection; reiterates that EU action needs to be taken in a global context, and therefore regrets the fact that European actions are not followed by actions of other actors, which has serious effects on the competitiveness of the Union;

31. Recalls its resolution of 20 November 2008 on the European space policy [2] and reiterates its position that the Council and Commission should submit specific recommendations and proposals in this policy area accompanied by appropriate funding;

Reinforcing internal security

32. Recalls that the funding for issues such as border protection, civil protection, the fight against terrorism are to be maintained and should be reinforced in 2010, because these policies directly address the concerns of European citizens; notes that promoting food safety also remains a priority; regrets that, according to the financial programming of January 2009, the funding for these issues is increased in Heading 3a moderately and remains almost unchanged for citizenship, Heading 3b according to the 2010 APS compared to the 2009 budget, although they address significant concerns of European citizens;

33. Considers that special attention should be given to border protection in connection with the problem of illegal immigration and that the efforts of Member States should be supported by the Union;

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[1] Texts Adopted, P6_TA(2008)0515.
[2] Texts Adopted, P6_TA(2008)0564.

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Improving the quality of spending

34. Insists that improving implementation and the quality of spending should constitute a guiding principle for achieving the best outcomes of the EU budget; calls on the Commission and the Member States to gear their efforts in this direction and monitor closely the implementation of policies, and particularly of Heading 1B on structural policies;

35. Requests the Commission to keep the budgetary authority informed and to reflect on appropriate actions that would boost implementation; wishes to continue reflection in line with the joint declaration of 21 November 2008 on acceleration of the implementation of the structural and cohesion funds; wishes to expand the acceleration of implementation to other policy areas too;

36. Expects the Commission to present a proposal for the next regular revision of the Financial Regulation, including real proposals for simplification; expects the Commission to put pressure on the Council to develop and improve the working conditions in OLAF's fight against fraud with regard to the proposals made by Parliament in connection with Regulation (EC) No 1073/1999;

37. Requests the Commission via its responsible services, including OLAF, to support Bulgaria and Romania in their efforts with respect to the verification and cooperation mechanism and the management of EU funds; calls on the Commission to follow closely the developments in Kosovo and the Balkan states with regard to the implementation and proper management of EU funds and to establish a successor organisation for the ITF to follow up the fight against fraud and irregularity;

38. Wishes to see administrative expenditure at more efficient levels compared to operational expenditure; believes the effectiveness of the EU's public administration is essential in achieving the best use of the EU budget; has in the previous budget year reduced administrative expenditure compared to operational expenditure and invites the Commission to continue in this direction;

39. Notes with concern that an increasing number of staff employed by the European Union are neither visible in the institutions' establishment plans, as adopted by the budgetary authority, nor financed under Heading 5 of the MFF; is determined to continue the screening exercise concerning Commission staff and the balanced representation of the Member States; will also monitor closely the Commission's building policy in Brussels;

Safeguarding the EP's prerogatives

40. Underlines that pilot projects and preparatory actions provide the Parliament with the possibility of paving the way for new policies and activities that enrich the Union's actions; stresses that, even though the limited margins jeopardise the full use of this tool as provided for in the IIA of 17 May 2006, it intends to use the full amounts set aside for pilot projects and preparatory actions, in Annex II, Part D to the IIA of 17 May 2006, should the proposals so require;

41. Recalls the incontrovertibly positive performance, both in participation and implementation terms, of the different Erasmus pilot projects launched by Parliament over the past years (Erasmus apprentices, Erasmus young entrepreneurs, Erasmus secondary school, Erasmus public administration) as well as of the traditional Erasmus programme; confirms the need for the Union to further invest in this field; believes that a substantial increase of the global financial envelope allocated to all Erasmus lines is needed in order to considerably raise (up to 1 000 000 per year) the number of young people participating in the 'European Erasmus policy'; is convinced that this measure is essential to respond correctly to the difficulties that Europe is encountering in its integration process as well as to help resolve the current economic crisis;

42. Draws attention to the need for sufficient funding to be made available for communication policy, notably that it be in alignment with the objectives set out in the common Declaration on Communicating Europe in Partnership adopted by Parliament, the Council and the Commission in October 2008;

43. Stresses that it has made efforts to adopt its guidelines for the 2010 budget at an early stage; therefore expects the Commission to take them on board in the preparation of the PDB;

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44. Instructs its President to forward this resolution to the Council, the Commission and the Court of Auditors.

Guidelines for the 2010 budget procedure – Sections I, II and IV to IX

P6_TA(2009)0096

European Parliament resolution of 10 March 2009 on the guidelines for the 2010 budget procedure, Section I – European Parliament, Section II – Council, Section IV – Court of Justice, Section V – Court of Auditors, Section VI – European Economic and Social Committee, Section VII – Committee of the Regions, Section VIII – European Ombudsman, Section IX – European Data Protection Supervisor (2009/2004(BUD))

(2010/C 87 E/48)

The European Parliament,

— having regard to Article 272 of the EC Treaty,

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management [1],

— having regard to Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources [2],

— having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities [3],

— having regard to the fifth report by the Secretaries-General of the institutions on trends in heading 5 of the financial perspective of May 2006,

— having regard to the Annual Report of the Court of Auditors on the implementation of the budget for the financial year 2007, together with the institutions' replies [4],

— having regard to the report of the Committee on Budgets (A6-0057/2009),

A. whereas, at this stage of the annual procedure, the European Parliament is awaiting the other institutions' estimates and its own Bureau's proposals for the 2010 budget,

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[1] OJ C 139, 14.6.2006, p. 1.
[2] OJ L 253, 7.10.2000, p. 42.
[3] OJ L 248, 16.9.2002, p. 1.
[4] OJ C 286, 10.11.2008, p. 1.

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B. whereas it has been proposed to continue the pilot exercise on enhanced cooperation and relations between the Bureau and the Committee on Budgets, for a second year, throughout the 2010 budget procedure,

C. whereas the ceiling of heading 5 in 2010 is EUR 8 088 000 000 (representing an increase of EUR 311 000 000 or of 4 % compared to 2009, including 2 % for inflation),

D. whereas the European Parliament's budget for 2009 amounts to EUR 1 529 970 930, representing 19,67 % of heading 5 this year,

European Parliament

General framework

1. Cannot stress enough the fundamental principle that all Members should be equally provided with full and quality services allowing them to work and express themselves and to receive documents in their native language in order to be able to act on behalf of their electors in the best way possible; considers the new parliamentary term to be an opportunity to make sure this is the case and agrees that, in this sense, 'optimal and equal access to language facilities for Members' will be one of the crucial guidelines for the 2010 budget;

2. Considers that, in line with its previous position, equal emphasis should be given to all aspects relating to Parliament's legislative role; in particular, the priority alignment of staff and related resources should primarily accommodate parliamentary work and decision-making in the area of co-decision;

3. Stresses that 2010 will be a year when the Parliament, following the 2009 European elections and the changes in its composition that that will bring, gradually resumes full activity during the year and notes that this will imply a certain number of budgetary adjustments; also notes that many items relating to the election year of 2009 specifically will no longer be needed;

4. Points out that 2010 will be a year of continued adaptation for the Parliament as concerns the improvement of its working methods and modernisation, which go hand in hand with its political and legislative responsibilities, and the evaluation concerning a series of major multi-annual initiatives launched during the past few years;

5. Confirms its intention to make the necessary provisions in view of a future possible enlargement of the Union to include Croatia;

6. Takes note of the fact that the financial ceiling of heading 5, administrative expenditure, will theoretically allow for an increase of 4 % or EUR 311 000 000; consequently notes that, as a yardstick, the voluntary 20 % share of the Parliament would still imply an 'automatic' additional room for manoeuvre of EUR 62 000 000 calculated on the ceilings and EUR 87 000 000 compared to the real budget adopted for 2009; points out that there are, nevertheless, uncertainties as to the evolution of the EU-GNI and the circumstances in which the European Parliament has to operate;

7. Is expecting the Bureau to submit realistic requests when presenting the estimates, and is ready to examine its proposals on a fully needs-based and prudent basis in order to ensure an appropriate and efficient functioning of the institution;

8. Takes the view that a significant margin should be kept in the budget estimates, rather than creating a specific reserve, in order to safeguard the possibility for the new Parliament to set its own priorities once in place or adapting to changing circumstances while taking into account the 20 % of the overall administrative expenditure;

9. Believes that, in the event of a future ratification of the Treaty of Lisbon, any necessary adaptations requiring budget expenditure would have to be dealt with at that time according to the budgetary procedures in force;

10. Requests a detailed and clear overview of those budget lines that were under-implemented in 2008 and looks forward to analysing the reasons for this; also wishes to receive an account of all carry-overs and their use in 2008, as well as an update on the final assigned revenues compared to the amounts that were budgeted;

11. Welcomes the decision to prolong for a second year the pilot exercise on enhanced cooperation between its Bureau and Committee on Budgets, which should implement a streamlined budget procedure as well as allowing for more timely and transparent consultation on all parliamentary matters with significant financial implications; underlines that the practice as to when the Bureau consults the Committee on Budgets on matters with such financial implications could be improved, and wishes to clarify and define current practice in this regard;

Equal access to language facilities for Members of the European Parliament

12. Considers that 2010 should be a year when the utmost effort must be made so that Members of all nationalities and languages are treated equally in terms of their possibility to carry out their duties and all political activity incumbent upon them in their own language if they so choose;

13. Recognises that, in many instances and particularly at committee and group stages, restrictive deadlines increase the importance of negotiations among the main actors; nevertheless stresses the principle of democratic legitimacy through all its composite Members and their right to full multilingualism; therefore considers that this budget can and should be used to work towards this goal and find the correct balance between the multilingualism restrictions and the smooth completion of the legislative procedures;

14. Takes a keen interest in the question of multilingualism and asks the services for a presentation of the current situation and developments foreseen for 2010, including the application of the 'Code' and possible room for further practical improvements, the pilot project on ad personam interpretation, including its criteria and usefulness for Members of different language backgrounds and also an overview of how the 'physical barriers' to equal treatment (i.e. the absence of suitable meeting rooms, cabins etc.) will be eliminated over time; wishes to be assured as to how the new Parliament will be better equipped in all these matters compared to the situation for Members arriving with the last enlargements;

15. Is also of the opinion that all means must be sought to increase the flexibility of interpretation as a crucial step to ensure good working practices and notes that, in many instances, problems and financial wastage could be avoided if there were a possibility to swap languages at short notice depending on the actual attendance at meetings rather than the planned attendance;

Optimal use of resources to improve the European Parliament's legislative work

16. Emphasises that maximum care should be taken to ensure that the overall budgetary and staffing resources at the Parliament's disposal are used in the most cost-efficient way possible to enable the institution and its Members to fulfil their ultimate mission on legislation successfully; reiterates that this implies careful planning and organisation of its working methods and, whenever possible, the pooling together of functions and structures to avoid unnecessary bureaucracy, functional overlaps and duplication of effort;

17. Underlines that the growing co-decision powers put an additional strain on all of Parliament's services dealing with legislative work and will require high effectiveness as well as prioritisation of staff and related resources to enable Members to perform their duties correctly;

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18. Recalls that a significant increase of staffing levels was agreed for 2009 although, at the same time, it was generally agreed that staff resources had now entered a phase of consolidation and that redeployment should be a continuous process following the very significant increases made with the recent enlargements; renews its call on all services and the political groups to provide full justifications for their requests from the outset of the procedure;

19. Looks forward to the suggestions from the working group on simplification of administrative procedures and believes that cost savings should be a natural consequence of its subsequent implementation;

20. Also asks that the requests by the political groups be included at the Estimates stage in the spring;

21. Believes that an analysis on how resources are used and how work is organised is sometimes necessary when specific problems are clearly identified and the objectives of the examination to be carried out are sufficiently specified, measurable and targeted; believes that in 2010, some specific sector(s) and projects could be identified and looked at in this way; recalls, at the same time, the importance of the screening exercise that took place during 2008; wishes for this exercise to be continued and deepened so that it can be taken into account when deciding on the 2010 estimates; recalls that changing circumstances of the newly elected Parliament, increased co-decision powers, as well as other changes, should also be taken into consideration;

22. Draws the Bureau's attention to the working conditions of the persons employed by the contractors operating in Parliament; calls on the Bureau, in this connection, to make sure that those firms fully comply with the applicable labour legislation;

Dissemination of information to Members

23. Stresses that since the major reform of 'Raising the Game' launched some years ago, at least three new significant projects have been or are being established in order to provide information as complete and relevant as possible in relation to parliamentary work; notes the policy departments of committees, the analytical service of the library, and a knowledge management system in order to facilitate access to these and to many other resources available; also notes a number of other resources in the Parliament, such as, for example, the 'legislative observatory'; warmly welcomes these efforts in order to make the Parliament more professional in the way it assists Members but considers that functional and budgetary stocktaking is necessary;

24. Considers it important for the 2010 procedure to clarify the situation for the benefit of all Members, including those dealing with the budgetary aspects, in order to define more clearly the different responsibilities and how to best arrange these initiatives in the most efficient way; would therefore welcome a hearing of the Committee on Budgets on how these are to be used, the current thinking with regard to the different elements, and how these will relate to each other; insists that the administration should also ensure exhaustive information to the newly elected Members concerning the services to which they are entitled;

Communicating Parliament to citizens

25. Notes the Bureau's reference to the three major projects in the field of communication policy - europarlTV, the Visitors' Centre and the new audiovisual centre in the JAN building - the completion and consolidation of which represents a qualitative improvement to the communication instruments at the disposal of the institution; renews its commitment to monitor closely the development of these instruments and to maximise the real impact on public opinion;

26. Deplores the fact that the visitors' centre will not be established before the 2009 elections and requests full information as to the reasons behind this delay;

27. Takes note of the Bureau's decision concerning the 'House of European History' and emphasises the need for a full and transparent consultation with the competent Committees on its concept, contents and budgetary aspects in line with the pilot procedure on enhanced cooperation between the Bureau and Committee on Budgets;

Buildings

28. Recalls that this sector is of high importance for the Parliament both in terms of meeting its current and future property needs as an institution and in terms of managing in the best way possible the property which it owns; recalls that any project in this context should safeguard the Parliament's financial interests; considers that events in 2008, although some were clearly not predictable, highlight the need for improvements in this area, taking into account the external report on the maintenance of buildings; also looks forward to receiving information concerning the proposals on a potential reorganisation of DG INLO, in view of the increased challenges for the European Parliament as a major property owner;

29. In this regard, reiterates its call to see a specific report and any possible recommendations concerning unnecessarily high maintenance, renovation and purchase costs relating to EU buildings, including the Parliament's; still wishes this to be a cross-cutting effort in order to establish the root causes, whether linked to a restricted market in any way, to burdens imposed by the Financial Regulation and public tendering, or to any other relevant factor; requests confirmation that the rule requiring the blacklisting of firms that have put forward unnecessarily high costs should be enforced;

30. Looks forward to receiving the medium- to long-term strategy paper on building policy, as called for already last year, in order to take the relevant decisions at first reading;

Continuation of various aspects from the 2009 procedure

31. Welcomes the Bureau's intention to continue to improve the legislative, linguistic and technical support to Members, which is obviously closely linked to a number of issues indicated above;

32. Agrees that the implementation in the first year of the new Statute for Members and the Statute for Assistants will need to be closely followed and considers that they must be consolidated in the best possible way, with a continuous update of the financial implications and forecasts;

33. Continues to stress that improvements in the IT sector should not lead only to a greater capability to manage key aspects 'in house' but also to demonstrate a greater potential to organise this area in a more cost-effective way; asks for a report clarifying the current situation and prospects regarding the internalisation of ICT experts and appropriate governance; calls on the Bureau to set out a clear strategy for Parliament's approach on ICT - including synergies with the political groups - before taking further steps in this area;

34. Welcomes the fact that environmental goals are mentioned in the Bureau's document and, following the previous 'EMAS process' and work on the 'carbon footprint', considers that 2010 will indeed provide an opportunity to continue these efforts, inter alia by the forthcoming adoption of a CO_2 action plan by the Bureau;

Other institutions

35. Welcomes the constructive co-operation with the other institutions during the last procedure and, as last year, urges them to present realistic and cost-based budget requests that take full account of the need to manage scarce resources in an optimal way;

36. Wishes to explore still further the possibility of better sharing the available resources between all Institutions, especially when there might be free capacity in one area which, if organised properly, could be taken advantage of and used in another area and/or institution;

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37. Invites its rapporteur for 2010 to carry out individual visits to the Council, Court of Justice, Court of Auditors, European Economic and Social Committee, Committee of the Regions, the Ombudsman and the European Data Protection Supervisor, in order to hear them before the estimates stage and to report back to its Committee on Budgets;

*

* *

38. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Ombudsman and the European Data Protection Supervisor.

VAT exemption on the final importation of certain goods (codified version) *

P6_TA(2009)0101

European Parliament legislative resolution of 11 March 2009 on the proposal for a Council directive determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods on the common system of value added tax (codified version) (COM(2008)0575 – C6-0347/2008 – 2008/0181(CNS))

(2010/C 87 E/49)

(Consultation procedure – codification)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2008)0575),

— having regard to Articles 93 and 94 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0347/2008),

— having regard to the Interinstitutional Agreement of 20 December 1994 – Accelerated working method for official codification of legislative texts [1],

— having regard to Rules 80 and 51 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A6-0060/2009),

A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance,

1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;

2. Instructs its President to forward its position to the Council and the Commission.

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[1] OJ C 102, 4.4.1996, p. 2.

Wednesday 11 March 2009

Europol staff: adjustment of basic salaries and allowances *

P6_TA(2009)0102

European Parliament legislative resolution of 11 March 2009 on the initiative of the French Republic with a view to adopting a Council decision adjusting the basic salaries and allowances applicable to Europol staff (14479/2008 – C6-0038/2009 – 2009/0804(CNS))

(2010/C 87 E/50)

(Consultation procedure)

The European Parliament,

— having regard to the initiative of the French Republic (14479/2008),

— having regard to the Council Act of 3 December 1998 laying down the staff regulations applicable to Europol employees [1], and in particular Article 44 thereof,

— having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0038/2009),

— having regard to Rules 93 and 51 of its Rules of Procedure,

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0078/2009),

1. Approves the initiative of the French Republic;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Calls on the Council to consult Parliament again if it intends to amend the initiative of the French Republic substantially;

4. Instructs its President to forward its position to the Council and the Commission, and to the government of the French Republic.

[1] OJ C 26, 30.1.1999, p. 23.

Wednesday 11 March 2009

Mobilisation of the EU Solidarity Fund

P6_TA(2009)0103

European Parliament resolution of 11 March 2009 on the proposal for a decision of the European Parliament and of the Council on mobilisation of the European Union Solidarity Fund, in accordance with point 26 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (COM(2009)0023 – C6-0040/2009 – 2009/2007(ACI))

(2010/C 87 E/51)

The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2009)0023 – C6-0040/2009),

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management [1], and in particular point 26 thereof,

— having regard to Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund [2],

— having regard to the Joint Declaration of the European Parliament, the Council and the Commission, adopted during the conciliation meeting on 17 July 2008 on the Solidarity Fund,

— having regard to the report of the Committee on Budgets and the opinion of the Committee on Regional Development (A6-0106/2009),

1. Approves the decision annexed to this resolution;

2. Instructs its President to sign the decision with the President of the Council and arrange for its publication in the *Official Journal of the European Union*;

3. Instructs its President to forward this resolution, including its annex, to the Council and Commission.

[1] OJ C 139, 14.6.2006, p. 1.
[2] OJ L 311, 14.11.2002, p. 3.

ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2009

on mobilisation of the European Union Solidarity Fund, in accordance with point 26 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management [1], and in particular point 26 thereof,

[1] OJ C 139, 14.6.2006, p. 1.

having regard to Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund ([1]), and in particular Article 4(3) thereof,

having regard to the proposal from the Commission,

Whereas:

(1) The European Union has created a European Union Solidarity Fund (the "Fund") to show solidarity with the population of regions struck by disasters.

(2) The Interinstitutional Agreement of 17 May 2006 allows the mobilisation of the Fund within the annual ceiling of EUR 1 billion.

(3) Regulation (EC) No 2012/2002 contains the provisions whereby the Fund may be mobilised.

(4) Romania submitted an application to mobilise the Fund, concerning a disaster caused by floods. The Commission considers that the application meets the conditions set out in Article 2 of Regulation (EC) No 2012/2002, and therefore proposes to authorise the corresponding appropriations.

HAVE DECIDED AS FOLLOWS:

Article 1

In the general budget of the European Union for the financial year 2009, the European Union Solidarity Fund shall be mobilised to provide the sum of EUR 11 785 377 in commitment and payment appropriations.

Article 2

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

Done at Strasbourg, 11 March 2009

For the European Parliament
The President

For the Council
The President

([1]) OJ L 311, 14.11.2002, p. 3.

Draft amending budget 1/2009: floods in Romania

P6_TA(2009)0104

European Parliament resolution of 11 March 2009 on Draft amending budget No 1/2009 of the European Union for the financial year 2009, Section III - Commission (6952/2009 – C6-0075/2009 – 2009/2008(BUD))

(2010/C 87 E/52)

The European Parliament,

— having regard to Article 272 of the EC Treaty and Article 177 of the Euratom Treaty,

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— having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities [1], and particularly Articles 37 and 38 thereof,

— having regard to the general budget of the European Union for the financial year 2009, as finally adopted on 18 December 2008 [2],

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management [3],

— having regard to Preliminary draft amending budget No 1/2009 of the European Union for the financial year 2009, which the Commission presented on 23 January 2009 (COM(2009)0022),

— having regard to Draft amending budget No 1/2009, which the Council established on 26 February 2009 (6952/2009 – C6-0075/2009),

— having regard to Rule 69 of and Annex IV to its Rules of Procedure,

— having regard to the report of the Committee on Budgets (A6-0113/2009),

A. whereas Draft amending budget No 1 to the general budget 2009 covers the following items:

— Mobilisation of the EU Solidarity Fund for an amount of EUR 11,8 million in commitment and payment appropriations relating to the effects of the floods that hit Romania in July 2008,

— A corresponding reduction in payment appropriations of EUR 11,8 million from line 130316 - European Regional Development Fund (ERDF)-Convergence,

B. whereas the purpose of Draft amending budget No 1/2009 is to formally enter these budgetary adjustments into the 2009 budget,

1. Takes note of Preliminary draft amending budget No 1/2009, which is the third amending budget solely dedicated to the EU Solidarity Fund, as requested by the European Parliament and the Council in a joint declaration adopted during the Conciliation meeting of 17 July 2008;

2. Approves Draft amending budget No 1/2009 unamended;

3. Instructs its President to forward this resolution to the Council and Commission.

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[1] OJ L 248, 16.9.2002, p. 1.
[2] OJ L 69, 13.3.2009.
[3] OJ C 139, 14.6.2006, p. 1.

Wednesday 11 March 2009

Common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (recast) ***III

P6_TA(2009)0105

European Parliament legislative resolution of 11 March 2009 on the joint text approved by the Conciliation Committee for a directive of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (recast) (PE-CONS 3719/2008 – C6-0042/2009 – 2005/0237A(COD))

(2010/C 87 E/53)

(Codecision procedure: third reading)

The European Parliament,

— having regard to the joint text approved by the Conciliation Committee (PE-CONS 3719/2008 – C6-0042/2009),

— having regard to its position at first reading [1] on the Commission proposal to Parliament and the Council (COM(2005)0587),

— having regard to its position at second reading [2] on the Council common position [3],

— having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2008)0828),

— having regard to Article 251(5) of the EC Treaty,

— having regard to Rule 65 of its Rules of Procedure,

— having regard to the report of its delegation to the Conciliation Committee (A6-0097/2009),

1. Approves the joint text;

2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

3. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;

4. Instructs its President to forward this legislative resolution to the Council and Commission.

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[1] OJ C 74 E, 20.3.2008, p. 632.
[2] Texts adopted, 24.9.2008, P6_TA(2008)0447.
[3] OJ C 184 E, 22.7.2008, p. 11.

Wednesday 11 March 2009

Common rules and standards for ship inspection and survey organisations (recast) ***III

P6_TA(2009)0106

European Parliament legislative resolution of 11 March 2009 on the joint text approved by the Conciliation Committee for a regulation of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations (recast) (PE-CONS 3720/2008 – C6-0043/2009 – 2005/0237B(COD))

(2010/C 87 E/54)

(Codecision procedure: third reading)

The European Parliament,

— having regard to the joint text approved by the Conciliation Committee (PE-CONS 3720/2008 – C6-0043/2009),

— having regard to its position at first reading [1] on the Commission proposal to Parliament and the Council (COM(2005)0587),

— having regard to its position at second reading [2] on the Council common position [3],

— having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2008)0826),

— having regard to Article 251(5) of the EC Treaty,

— having regard to Rule 65 of its Rules of Procedure,

— having regard to the report of its delegation to the Conciliation Committee (A6-0098/2009),

1. Approves the joint text;

2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

3. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;

4. Instructs its President to forward this legislative resolution to the Council and Commission.

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[1] OJ C 74 E, 20.3.2008, p. 632.
[2] Texts adopted, 24.9.2008, P6_TA(2008)0448.
[3] OJ C 190 E, 29.7.2008, p. 1.

Wednesday 11 March 2009

Port State control (recast) ***III

P6_TA(2009)0107

European Parliament legislative resolution of 11 March 2009 on the joint text approved by the Conciliation Committee for a directive of the European Parliament and of the Council on port State control (recast) (PE-CONS 3721/2008 – C6-0044/2009 – 2005/0238(COD))

(2010/C 87 E/55)

(Codecision procedure: third reading)

The European Parliament,

— having regard to the joint text approved by the Conciliation Committee (PE-CONS 3721/2008 – C6-0044/2009),

— having regard to its position at first reading [1] on the Commission proposal to Parliament and the Council (COM(2005)0588),

— having regard to its position at second reading [2] on the Council common position [3],

— having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2008)0830),

— having regard to Article 251(5) of the EC Treaty,

— having regard to Rule 65 of its Rules of Procedure,

— having regard to the report of its delegation to the Conciliation Committee (A6-0099/2009),

1. Approves the joint text;

2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

3. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;

4. Instructs its President to forward this legislative resolution to the Council and Commission.

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[1] OJ C 74 E, 20.3.2008, p. 584.
[2] Texts adopted, 24.9.2008, P6_TA(2008)0446.
[3] OJ C 198 E, 5.8.2008, p. 1.

Wednesday 11 March 2009

Community vessel traffic monitoring and information system ***III

P6_TA(2009)0108

European Parliament legislative resolution of 11 March 2009 on the joint text approved by the Conciliation Committee for a directive of the European Parliament and of the Council amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system (PE-CONS 3722/2008 – C6-0045/2009 – 2005/0239(COD))

(2010/C 87 E/56)

(Codecision procedure: third reading)

The European Parliament,

— having regard to the joint text approved by the Conciliation Committee (PE-CONS 3722/2008 – C6-0045/2009),

— having regard to its position at first reading [1] on the Commission proposal to Parliament and the Council (COM(2005)0589),

— having regard to its position at second reading [2] on the Council common position [3],

— having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2008)0829),

— having regard to Article 251(5) of the EC Treaty,

— having regard to Rule 65 of its Rules of Procedure,

— having regard to the report of its delegation to the Conciliation Committee (A6-0100/2009),

1. Approves the joint text;

2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

3. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;

4. Instructs its President to forward this legislative resolution to the Council and Commission.

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[1] OJ C 74 E, 20.3.2008, p. 533.
[2] Texts adopted, 24.9.2008, P6_TA(2008)0443.
[3] OJ C 184 E, 22.7.2008, p. 1.

Wednesday 11 March 2009

Investigation of accidents in the maritime transport sector ***III

P6_TA(2009)0109

European Parliament legislative resolution of 11 March 2009 on the joint text approved by the Conciliation Committee for a directive of the European Parliament and of the Council establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Directives 1999/35/EC and 2002/59/EC (PE-CONS 3723/2008 – C6-0046/2009 – 2005/0240(COD))

(2010/C 87 E/57)

(Codecision procedure: third reading)

The European Parliament,

— having regard to the joint text approved by the Conciliation Committee (PE-CONS 3723/2008 – C6-0046/2009),

— having regard to its position at first reading [1] on the Commission proposal to Parliament and the Council (COM(2005)0590),

— having regard to its position at second reading [2] on the Council common position [3],

— having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2008)0827),

— having regard to Article 251(5) of the EC Treaty,

— having regard to Rule 65 of its Rules of Procedure,

— having regard to the report of its delegation to the Conciliation Committee (A6-0101/2009),

1. Approves the joint text;

2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

3. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;

4. Instructs its President to forward this legislative resolution to the Council and Commission.

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[1] OJ C 74 E, 20.3.2008, p. 546.
[2] Texts adopted, 24.9.2008, P6_TA(2008)0444.
[3] OJ C 184 E, 22.7.2008, p. 23.

Wednesday 11 March 2009

The liability of carriers of passengers by sea in the event of accidents ***III

P6_TA(2009)0110

European Parliament legislative resolution of 11 March 2009 on the joint text approved by the Conciliation Committee for a regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea in the event of accidents (PE-CONS 3724/2008 – C6-0047/2009 – 2005/0241(COD))

(2010/C 87 E/58)

(Codecision procedure: third reading)

The European Parliament,

— having regard to the joint text approved by the Conciliation Committee (PE-CONS 3724/2008 – C6-0047/2009),

— having regard to its position at first reading [1] on the Commission proposal to Parliament and the Council (COM(2005)0592),

— having regard to the amended Commission proposal (COM(2007)0645),

— having regard to its position at second reading [2] on the Council common position [3],

— having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2008)0831),

— having regard to Article 251(5) of the EC Treaty,

— having regard to Rule 65 of its Rules of Procedure,

— having regard to the report of its delegation to the Conciliation Committee (A6-0102/2009),

1. Approves the joint text;

2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

3. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;

4. Instructs its President to forward this legislative resolution to the Council and Commission.

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[1] OJ C 74 E, 20.3.2008, p. 562.
[2] Texts adopted, 24.9.2008, P6_TA(2008)0445.
[3] OJ C 190 E, 29.7.2008, p. 17.

Wednesday 11 March 2009

Civil liability and financial guarantees of shipowners ***II

P6_TA(2009)0111

European Parliament legislative resolution of 11 March 2009 on the common position adopted by the Council with a view to the adoption of a directive of the European Parliament and of the Council on the insurance of shipowners for maritime claims (14287/2/2008 – C6-0483/2008 – 2005/0242(COD))

(2010/C 87 E/59)

(Codecision procedure: second reading)

The European Parliament,

— having regard to the Council common position (14287/2/2008 – C6-0483/2008) ([1]),

— having regard to its position at first reading ([2]) on the Commission proposal to Parliament and the Council (COM(2005)0593),

— having regard to the amended Commission proposal (COM(2007)0674),

— having regard to Article 251(2) of the EC Treaty,

— having regard to Rule 67 of its Rules of Procedure,

— having regard to the recommendation for second reading of the Committee on Transport and Tourism (A6-0072/2009),

1. Approves the common position;

2. Notes that the act is adopted in accordance with the common position;

3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;

5. Instructs its President to forward its position to the Council and Commission.

([1]) OJ C 330 E, 30.12.2008, p. 7.
([2]) OJ C 27 E, 31.1.2008, p. 166.

Wednesday 11 March 2009

Compliance with flag State requirements ***II

P6_TA(2009)0112

European Parliament legislative resolution of 11 March 2009 on the common position adopted by the Council with a view to the adoption of a directive of the European Parliament and of the Council on compliance with flag State requirements (14288/2/2008 – C6-0484/2008 – 2005/0236(COD))

(2010/C 87 E/60)

(Codecision procedure: second reading)

The European Parliament,

— having regard to the Council common position (14288/2/2008 – C6-0484/2008) ([1]),

— having regard to the statement of the Member States on maritime safety (15859/2008),

— having regard to its position at first reading ([2]) on the Commission proposal to Parliament and the Council (COM(2005)0586),

— having regard to Article 251(2) of the EC Treaty,

— having regard to Rule 67 of its Rules of Procedure,

— having regard to the recommendation for second reading of the Committee on Transport and Tourism (A6-0069/2009),

1. Approves the common position;

2. Notes that the act is adopted in accordance with the common position;

3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;

4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;

5. Instructs its President to forward its position to the Council and Commission.

([1]) OJ C 330 E, 30.12.2008, p. 13.
([2]) OJ C 27 E, 31.1.2008, p. 140.

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The charging of heavy goods vehicles for the use of certain infrastructures ***I

P6_TA(2009)0113

European Parliament legislative resolution of 11 March 2009 on the proposal for a directive of the European Parliament and of the Council amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures (COM(2008)0436 – C6-0276/2008 – 2008/0147(COD))

(2010/C 87 E/61)

(Codecision procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0436),

— having regard to Article 251(2) and Article 71(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0276/2008),

— having regard to Rule 51 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Industry, Research and Energy (A6-0066/2009),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council and Commission.

P6_TC1-COD(2008)0147

Position of the European Parliament adopted at first reading on 11 March 2009 with a view to the adoption of Directive *2009/…/EC* of the European Parliament and of the Council amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1) thereof,

Having regard to the proposal from the Commission ‖,

Having regard to the *opinion* of the *European* Economic and Social Committee [1],

Having regard to the *opinion* of the Committee of the Regions [2],

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[1] OJ […], […], p. […].
[2] OJ […], […], p. […].

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Acting in accordance with the procedure laid down in Article 251 of the Treaty [1],

Whereas:

(1) The promotion of sustainable transport is a key element of the common transport policy. To this end, the negative impacts of transport, in particular congestion, which impedes mobility, pollution, which creates health and environmental damage, and its contribution to climate change must be reduced. Moreover environmental protection requirements must be integrated into the definition and implementation of other Community policies, including the common transport policy. ***The following priority objectives, namely environmental protection, social and economic cohesion and EU competitiveness, should also be reconciled in a balanced way as part of the Lisbon Strategy for growth and employment.***

(2) The objective of reducing the negative impacts of transport should be achieved in such a way as to avoid disproportionate obstacles to the freedom of movement in the interest of sound economic growth and the proper functioning of the internal market. ***It should also be emphasised that the principle of internalising external costs is the equivalent of a management instrument and should therefore be used to encourage road users and the related industrial sectors to exploit and expand their respective capabilities in the area of environmentally-friendly transport, for example by means of changes in driving behaviour or further technological development. It is vital that ways and means should be found of reducing the damage caused by road transport, rather than simply using the resulting revenue to cover the relevant costs.***

(3) To optimise the transport system accordingly, the common transport policy must use a variety of instruments to improve the transport infrastructure and technologies and enable a more efficient management of transport demand. This calls for further recourse to the 'user pays' principle and the development of the 'polluter pays' principle in the transport sector.

(4) Article 11 of Directive 1999/62/EC ‖ [2] called on the Commission to present a model for the assessment of all external costs arising from use of the transport infrastructure to serve as the basis for future calculations of infrastructure charges. This model was to be accompanied by an impact analysis of the internalisation of external costs for all modes of transport and a strategy for a stepwise implementation of the model and, if appropriate, by proposals for further revision of that Directive.

(5) In order to move towards a sustainable transport policy, transport prices should better reflect the ***external*** costs related to ▌the ▌use of vehicles, trains, planes or ships ▌. This calls for a ***coherent and ambitious*** approach in all transport modes, taking into account their particular characteristics.

(6) Transport modes other than road transport have already started to internalise external costs and the relevant Community legislation either phases in such internalisation or at least does not prevent it. CO_2 emissions should be tackled by including aviation in the Emissions Trading Scheme (ETS). The use of electricity for trains is also covered by the ETS and maritime transport is to be included in the ETS shortly. Other external costs can be internalised through airport charges, which can be differentiated for environmental purposes and through infrastructure charges for the use of railways pursuant to Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure [3]. Moreover, the Commission should propose a recast of the First Railway Package in the near future in order to introduce harmonised noise-related track access charging schemes.

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[1] *Position of the European Parliament of 11 March 2009.*
[2] OJ L 187, 20.7.1999, p. 42. ‖
[3] ***OJ L 75, 15.3.2001, p. 29.***

(7) According to Article 7 of Directive 2001/14/EC, which sets out the charging principles for the use of railway infrastructure, internalisation of external costs is already possible. However, in order to modulate track access charges more widely and have a complete internalisation of external costs in the railway sector, it is a precondition that the road transport sector also applies external cost charging.

(8) In the road transport sector, several taxes and charges already apply, including taxes and charges to partially compensate for external costs such as CO_2, as is for example the case with excise taxes on fuel.

(9) In the road transport sector, tolls as distance based charges for the use of infrastructure constitute a fair and efficient economic instrument to achieve *the objective of moving towards a sustainable transport policy*, since they have a direct *relationship* with the use of infrastructure and can vary according to the distance travelled, the environmental performance of vehicles and the place and time of use of vehicles and therefore can be set at a level which reflects the cost of pollution and congestion caused by the actual use of vehicles. Moreover, tolls do not create any distortion of competition within the internal market since they are payable by all operators irrespective of their Member State of origin or establishment and in proportion to the intensity of use of the road network.

(10) The impact analysis shows that applying tolls calculated on the basis of the cost of pollution, and, on congested roads, on the basis of the cost of congestion, ***can contribute to or result in more efficient and environmentally friendly road transport*** and contribute to the ***EU*** strategy to fight climate change. It would reduce congestion and local pollution by encouraging the use of cleaner vehicle technologies, optimising logistic behaviour and reducing empty returns. It would indirectly play an important role in reducing fuel consumption and contributing to the fight against climate change. Tolls which integrate a cost element related to congestion for using congested roads into their calculation ***can only be*** effective ***if they are part of an action plan which includes measures related to*** other road users outside the scope of this Directive***, such as*** similar ***charging schemes or measures with an equivalent effect, for example, traffic restrictions and high occupancy vehicle lanes. So far, however, it has been insufficiently demonstrated that such tolls have brought about substantial changes in modal split.***

(11) ▌The polluter pays principle will be implemented through ‖ external cost charging and this will also contribute to the reduction of external costs.

(12) The model devised by the Commission for calculating the ▌external costs provides reliable methods and a range of unit values which can already serve as a basis for the calculation of road user charges.

(13) Efforts should be made in the medium term to bring about convergence in the methods which all European charging systems use to calculate external costs in order to ensure that European road hauliers receive clear price signals, which act as an incentive to optimise their behaviour.

(14) There are still uncertainties about the costs and benefits of the systems required to enforce differentiated *user* charges on roads with low traffic. Until such uncertainties are dealt with, a flexible approach at Community level appears most appropriate. This flexible approach should leave Member States to decide whether and on which roads to introduce external cost charges on the basis of the local and national characteristics of the network.

(15) Time-based user charges and tolls should not be applied simultaneously within the territory of a Member State in order to avoid a fragmentation of the charging schemes with negative effects for the transport industry, except in certain specific cases where this is necessary to finance the construction of tunnels, bridges or mountain passes.

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(16) Time-based user charges levied on a daily, weekly, monthly or annual basis should not discriminate against occasional users, since a high proportion of such users are likely to be non-national hauliers. A more detailed ratio between daily, weekly, monthly and annual rates should therefore be fixed. ***For reasons of efficiency and fairness, time-based user charges should be considered as a transitional instrument for charging of infrastructure. A phasing out of time-based charging systems should therefore be taken into consideration. Member States with external borders with third countries should be allowed to derogate from this provision and to continue to apply time-based charging to heavy goods vehicles queuing at border-crossing points.***

(17) Inconsistent charging schemes should be avoided between the trans-European network and other parts of the road network which may be used by international traffic. The same charging principles should therefore be applied to the entire interurban road network.

(18) Tolls based on distance travelled should be allowed to include an external cost element based on the cost of traffic-based air and noise pollution. Furthermore, on roads that are usually congested and during peak periods congestion costs which are mostly borne at local level should also be allowed to be recovered through the external cost charge. The external cost element included in tolls should be allowed to be added to the cost of infrastructure, provided that certain conditions are respected in the calculation of costs so as to avoid undue charging.

(19) To better reflect the cost of traffic-based air and noise pollution, and congestion, the external cost charge should vary according to the type of roads, type of vehicles and time periods such as daily, weekly or seasonal peak and off peak periods and the night period.

(20) The smooth functioning of the internal market requires a Community framework in order to ensure that road charges set on the basis of the local cost of traffic-based air and noise pollution and congestion are transparent, proportionate and non-discriminatory. This requires common charging principles, calculation methods and unit values of external costs based on acknowledged scientific methods together with mechanisms for notifying and reporting tolling schemes to the Commission.

(21) The authority which sets the external cost charge should also have no vested interest in setting the amount at an undue level and should therefore be independent from the body which collects and manages toll revenue. Experience has shown that adding a mark-up to tolls in mountainous areas in order to finance priority projects of the trans-European network is not a practicable option ***where the definition of a corridor does not correspond to the actual traffic flow***. To remedy this situation, ***the corridor on which*** a mark-up ***could*** be allowed ***should, in particular, cover road sections for which the introduction of a mark-up would result in a traffic diversion towards the priority project concerned***.

(22) In order to give precedence to the construction of priority projects of European interest, Member States which have the possibility of applying a mark-up should use this option before levying an external cost charge. To avoid an undue charging of users, an external cost charge should not be combined with a mark-up unless the external costs exceed the amount of the mark-up already levied. In such a case, it is thus appropriate that the amount of the mark-up should be deducted from the external cost charge.

(23) Where differentiated external cost charges are levied, a variation in the infrastructure charge for the purpose of reducing congestion, optimising the use of the infrastructure, minimising infrastructure damage or *promoting* road safety would represent an undue burden on certain categories of users and should accordingly be precluded.

(24) Discounts or reductions of the external cost charge should not be permitted as there would be a significant risk that they would unduly discriminate against certain categories of users.

(25) Charging external costs through tolls will be more effective in influencing transport decisions if users are aware of these costs. They should accordingly be identified separately on a ***comprehensible*** statement, a bill or an equivalent document from the toll operator. Furthermore, such a document may make it easier for hauliers to pass on the cost of the external cost charge to the shipper or any other clients.

(26) The use of electronic tolling systems is essential to avoid disruption to the free flow of traffic and to prevent adverse effects on the local environment caused by queues at toll barriers. It is therefore appropriate to ensure that the ***infrastructure and*** external cost ***charges are*** collected by means of such a system, subject to compliance with the requirements of Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community [1] that foresees appropriate and proportionate measures to ensure that technical, legal, commercial and data protection and privacy concerns are properly addressed in the implementation of electronic tolling. Furthermore such systems should be designed without roadside barriers and in a way which allows subsequent extension to any parallel roads at low cost. Provision should however be made for a transitional period in order to permit the necessary adaptations to take place.

(27) It is important that the objective of this Directive should be attained in a way which does not harm the proper functioning of the internal market. Moreover, it is important to avoid heavy goods vehicle drivers in future being saddled with ever more incompatible and expensive electronic equipment in their cabs and running the risk of making errors in its use. A proliferation of technologies is unacceptable. The interoperability of the toll systems in the Community, as provided for in Directive 2004/52/EC, should therefore be achieved as quickly as possible. Efforts should be made to limit the number of devices in the vehicle to one, which makes it possible to apply the various rates which are in force in the various Member States.

(28) The Commission should take all necessary measures to ensure the rapid introduction of a truly interoperable system by the end of 2010, in accordance with Directive 2004/52/EC.

(29) For reasons of legal clarity, it should be specified where regulatory charges specifically designed to reduce traffic congestion or combat environmental impacts, including poor air quality are permitted.

(30) Member States should be able to use the Trans-European Transport Network (TEN-T) budget and the Structural Funds in order to improve transport infrastructures with a view to reducing the external costs of transport in general and implementing electronic means of collecting the charges arising from the provisions of this Directive.

(31) In accordance with the transport policy objectives of this Directive, the additional revenue generated from an external cost charge should be used ***as a matter of priority to reduce and eliminate the external costs of road transport where possible. It may also be used*** to promote sustainable mobility at large. Such projects should therefore relate to facilitating efficient pricing, reducing road transport pollution at source, mitigating its effects, improving CO_2 and energy performance of ***road*** vehicles, and ***improving existing road infrastructure or*** developing alternative infrastructure for transport users. It includes, for example, research and development on cleaner vehicles and the implementation of the transport part of the action plans under Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management [2] and Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise [3], which may comprise measures to mitigate traffic-based noise and air pollution around large infrastructure and in agglomerations. Earmarking this revenue does not release Member States from the obligation laid down in Article 88(3) of the Treaty to notify the Commission of certain national measures, nor does it prejudge the outcome of any procedures initiated under Articles 87 and 88 of the Treaty.

[1] OJ L 166, 30.4.2004, p. 124. ‖
[2] OJ L 296, 21.11.1996, p. 55. ‖
[3] OJ L 189, 18.7.2002, p. 12.

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(32) In order to promote interoperability of tolling arrangements, ***cooperation between*** Member States ▌in introducing a common system of tolls ***should be encouraged***, subject to compliance with certain conditions. ***The Commission should support Member States which wish to cooperate in order to introduce a common system of tolls on their combined territories.***

(33) A comprehensive assessment of the experience acquired in those Member States which apply an external cost charge in accordance with this Directive should be sent in due time by the Commission to the European Parliament and the Council. This assessment should also include an analysis of progress in the strategy to fight climate change, including ***progress*** in defining a common fuel tax element related to climate change in Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity [1], including of the fuel used by heavy goods vehicles. ***A comprehensive assessment of internalisation of external costs in all other transport modes should also be drawn up, to serve as a basis for further legislative proposals in this area. This should ensure the introduction of a fair and competitive system of internalisation of external costs that avoids any distortions of the internal market in all transport modes.***

(34) Article 55(2) of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund ‖ [2] provides that the revenue generated by charges borne directly by users must be considered in the determination of the funding-gap in the case of a revenue-generating project. However, since the revenue generated by an external cost charge is earmarked for projects aimed at reducing road transport pollution at the source, mitigating its effects, improving CO_2 and energy performance of vehicles, and ***improving existing road infrastructure or*** developing alternative infrastructure for transport users, it should not be considered in the calculation of the funding-gap.

(35) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [3].

(36) In particular, the Commission should be empowered to adapt Annexes 0, III, IIIa and IV to technical and scientific progress, and ***Annexes I, II and IIIa*** to inflation. Since those measures are of general scope and are designed to amend non-essential elements of *Directive 1999/62/EC*, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(37) Since the *objective* of *this Directive, namely* to encourage differentiated charging based on external costs as a means towards sustainable transport, cannot be sufficiently achieved by the Member States alone, and can therefore, by reason of the importance of the cross-border dimension of transport, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this *Directive* does not go beyond what is necessary in order to achieve *this objective*,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 1999/62/EC is amended as follows:

(1) In Article 2, points (b) and (ba) are replaced by the following:

‘(b) “toll” means a specified amount payable for a vehicle based on the distance travelled on a given infrastructure and comprising an infrastructure charge and/or an external cost charge;

[1] OJ L 283, 31.10.2003, p. 51. ‖
[2] OJ L 210, 31.7.2006, p. 25. ‖
[3] OJ L 184, 17.7.1999, p. 23. ‖

(ba) "infrastructure charge" means a charge levied through a toll for the purpose of recovering the costs ***related to infrastructure*** incurred by a Member State ***or more than one Member State if the infrastructure project has been jointly undertaken***;

(bb) "external cost charge" means a charge levied through a toll for the purpose of recovering the costs incurred by a Member State related to traffic-based air pollution ***and*** traffic-based noise pollution ▌;

(bc) "cost of traffic-based air pollution" means the cost of the damage caused by the release of certain harmful air emissions in the course of the operation of a vehicle;

(bd) "cost of traffic-based noise pollution" means the cost of the damage caused by the noise emitted by a vehicle or created by the interaction of a vehicle and the road surface;

▌

(be) "weighted average infrastructure charge" means the total revenue of an infrastructure charge over a given period divided by the number of vehicle kilometres travelled on the road sections subject to the charge during that period;

(bf) "weighted average external cost charge" means the total revenue of an external cost charge over a given period divided by the number of vehicle kilometres travelled on the road sections subject to the charge during that period;'.

(2) Articles 7, 7a and 7b are replaced by the following:

'Article 7

1. Member States may maintain or introduce tolls and/or user charges on ***the trans-European road network or on any section of*** their road network ***which customarily carries a significant volume of international transport of goods*** under the conditions laid down in paragraphs 2, 3 and 4 of this *Article* and in Articles 7a to 7j.

2. Member States shall not impose within their territory both tolls and user charges ▌. However, a Member *State* which imposes a user charge on its network may also impose tolls for the use of bridges, tunnels and mountain passes.

3. Tolls and user charges shall not discriminate, directly or indirectly, on the grounds of the nationality of the haulier, the Member State or the third country of establishment of the haulier or of registration of the vehicle, or the origin or destination of the transport operation.

4. Member States may provide for reduced toll rates or user charges or exemptions from the obligation to pay tolls or user charges for vehicles exempted from the requirement to install and use recording equipment under Council Regulation (EEC) No 3821/85 *of 20 December 1985 on recording equipment in road transport* (*), and in cases covered by, and subject to the conditions contained in, Article 6(2)(a) and (b) of this Directive.

5. Until 31 December 2011, a Member State may choose to apply tolls and/or user charges only to vehicles having a maximum permissible laden weight of not less than 12 tonnes. From 1 January 2012, tolls and/or user charges shall be applied to all vehicles within the meaning of Article 2(d) unless a Member State considers that an extension to vehicles of less than 12 tonnes would (**):

▌

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Article 7a

1. User charges shall be in proportion to the duration of the use made of the infrastructure and shall be available for the duration of a day, week, month and a year. In particular, the ***monthly rate*** shall be no ***more than 10 % of the annual rate, the weekly rate*** shall be no ***more than 5 % of the annual rate***, and ***the daily rate*** shall be no ***more than 2 % of the annual rate.***

▌

2. User charges, including administrative costs, for all vehicle categories shall be set by the Member State concerned at a level which is no higher than the maximum rates laid down in Annex II.

Article 7b

1. The infrastructure charge shall be based on the principle of the recovery of infrastructure costs. The weighted average infrastructure charge shall be related to the construction costs and the costs of operating, maintaining, ▌developing ***and ensuring safety standards on*** the infrastructure network concerned. The weighted average infrastructure charge may also include a return on capital or a profit margin based on market conditions.

2. The external cost charge shall be related to the cost of traffic-based air pollution, the cost of traffic-based noise pollution, or both. On road sections subject to congestion the external cost charge may also include the cost of congestion during the periods when these road sections are usually congested.

3. The costs taken into account shall relate to the network or a part of the network on which tolls are levied and to the vehicles that are subject thereto. Member States may choose to recover only a percentage of these costs.

Article 7c

1. The external cost charge shall vary according to the type of road and EURO emission class ***(Annex IIIa, Table 1)***, and also according to the time period in cases where the charge includes the cost of congestion or traffic-based noise pollution.

2. The amount of the external cost charge for each combination of class of vehicle, type of road and time period shall be set in accordance with the minimum requirements, the common formulae and the maximum chargeable external costs in Annex IIIa.

3. The external cost charge shall not apply to vehicles which comply with future EURO emissions standards in advance of the dates of applicability laid down in the relevant rules.

4. The amount of the external cost charge shall be set by ***each*** Member State***. If a Member State designates an authority for this task, that*** authority shall be legally and financially independent from the ***body*** in charge of managing ***and*** collecting ***all or part*** of the charge. ▌

Article 7d

1. Member States shall calculate the infrastructure charge using a methodology based on the core calculation principles set out in Annex III.

2. For concession tolls, the maximum level of the infrastructure charge shall be equivalent to, or less than, the level that would have resulted from the use of a methodology based on the core calculation principles set out in Annex III. The assessment of such equivalence shall be made on the basis of a reasonably long reference period appropriate to the nature of that concession contract.

3. Tolling arrangements which were already in place on 10 June 2008 or for which tenders or responses to invitations to negotiate under the negotiated procedure were received pursuant to a public procurement process before 10 June 2008 shall not be subject to the obligations set out in paragraphs 1 and 2 for as long as these arrangements remain in force and provided that they are not substantially amended.

Article 7e

1. In exceptional cases concerning infrastructure in mountainous regions ***and conurbations***, and after informing the Commission, a ***toll*** mark-up may be added to the infrastructure charge levied on specific road sections which are subject to acute congestion, or the use of which by vehicles is the cause of significant environmental damage, on condition that:

(a) the revenue generated from the mark-up is invested in financing ▌projects ***designed to promote sustainable mobility and*** contribute directly to the alleviation of the congestion or environmental damage and which are located in the same corridor as the road section on which the mark-up is applied;

(b) the mark-up does not exceed 15 % of the weighted average infrastructure charge calculated in accordance with Article 7b(1) and Article 7d except where the revenue generated is invested in cross-border sections of ▌projects ***designed to promote sustainable mobility*** involving infrastructure in mountainous regions, in which case the mark-up may not exceed 25 %;

(c) the application of the mark-up does not result in unfair treatment of commercial traffic compared to other road users;

(d) a description of the exact location of the mark-up and proof of a decision to finance the ***projects*** referred to in point (a) are submitted to the Commission in advance of the application of the mark-up; and

(e) the period for which the mark-up is to apply is defined and limited in advance and is consistent, in terms of the expected revenue to be raised, with the financial plans and cost-benefit analysis for the projects co-financed with the revenue from the mark-up.

The first subparagraph shall apply to new cross-border projects subject to the agreement of all Member States involved in that project.

2. After informing the Commission, a mark-up may also be applied to a road section which constitutes an alternative route to that covered by the mark-up referred to in paragraph 1, if:

— the application of a mark-up on a road would result in a significant share of traffic being diverted to this alternative route; and

— the conditions set out in points (a) to (e) of the first subparagraph of paragraph 1 are complied with.

3. A mark-up may be applied to an infrastructure charge which has been varied in accordance with Article 7f.

4. When the Commission receives the required information from a Member State intending to apply a mark-up, it shall make this information available to the members of the Committee referred to in Article 9c. If the Commission considers that the planned mark-up does not meet the conditions set out in paragraph 1, or if it considers that the planned mark-up will have significant adverse effects on the economic development of peripheral regions, it may reject or request amendment of the plans for charges submitted by the Member State concerned, in accordance with the consultation procedure referred to in Article 9c(2).

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5. On road sections where the criteria for applying a mark-up pursuant to paragraph 1 are met, the Member States may not levy an external cost charge unless a mark-up is applied.

▌

Article 7f

1. Toll rates which comprise only an infrastructure charge shall be varied according to *the* EURO emission class ***(Annex IIIa, Table 1)*** in such a way that no toll is more than 100 % above the toll charged for equivalent vehicles meeting the strictest emission standards.

2. Where a driver is unable to produce the vehicle documents necessary to ascertain the EURO emission class of the vehicle in the event of a check, Member States may apply tolls up to the highest level chargeable, ***provided that there is a possibility of subsequent rectification to return any excess collected.***

3. Tolls which comprise only an infrastructure charge may also be varied for the purpose of reducing congestion, minimising infrastructure damage and optimising the use of the infrastructure concerned or promoting road safety, on condition that:

(a) the variation is transparent, openly published and available to all users on equal terms;

(b) the variation is applied according to the time of day, type of day or season; and

(c) no toll is more than ***500 %*** above the toll charged during the cheapest period of the day, type of day or season.

4. The variations referred to in paragraphs 1 and 3 are not designed to generate additional toll revenue. Any unintended increase in revenue shall be counterbalanced by changes to the structure of the variation which must be implemented within two years from the end of the accounting year in which the additional revenue is generated.

5. If a toll includes an external cost charge, paragraphs 1 and 3 shall not be applied to the part of the toll consisting of an infrastructure charge.

Article 7g

1. At least six months before the implementation of a new infrastructure charge tolling arrangement, Member States shall send to the Commission:

(a) for tolling arrangements other than those involving concession tolls:

— the unit values and other parameters used in calculating the various infrastructure cost elements, and

— clear information on the vehicles covered by the tolling arrangements, the geographic extent of the network, or part of the network, used for each cost calculation, and the percentage of costs that are intended to be recovered;

(b) for tolling arrangements involving concession tolls:

— the concession contracts or significant changes to such contracts,

— the base case on which the grantor has founded the notice of concession, as referred to in Annex VII B to Directive 2004/18/EC; this base case shall include the estimated costs as defined in Article 7b(1) envisaged under the concession, the forecast traffic, broken down by type of vehicle, the levels of toll envisaged and the geographic extent of the network covered by the concession contract.

2. The Commission shall, within six months of receiving all the necessary information in accordance with paragraph 1, give an opinion as to whether the obligations of Article 7d are complied with. The opinions of the Commission shall be made available to the Committee referred to in Article 9c ***and to the European Parliament.***

3. At least six months before the implementation of a new external cost charge tolling arrangement, Member States shall send the Commission:

(a) precise information *indicating* the road sections where the external cost charge is to be levied and describing the class of vehicles, type of roads and the exact time periods according to which the external cost charge will vary;

(b) the envisaged weighted average external cost charge and the envisaged total revenue;

(c) the name of the authority designated in accordance with Article 7c(4) to set the amount of the charge, and of its representative; and

(d) the parameters, data and information necessary to demonstrate how the calculation method set out in Annex IIIa will be applied;

(e) the envisaged earmarking of the external cost charge;

(f) a specific plan indicating how additional revenue from external cost charges is to be used to reduce the negative impacts of transport.

4. The Commission may, within six months of receiving the information in accordance with paragraph 3, decide to ask the Member State concerned to adapt the proposed external cost charge, if it considers that the obligations laid down in Articles 7b, 7c, 7i or 9(2) are not complied with. The decision of the Commission shall be made available to the Committee referred to in Article 9c ***and to the European Parliament.***

Article 7h

1. Member States shall not provide for discounts or reductions for any users in relation to the external cost charge element of a toll.

2. Member States may provide for discounts or reductions to the infrastructure charge on condition that:

(a) the resulting charging structure is proportionate, openly published and available to all users on equal terms and does not lead to additional costs being passed on to other users in the form of higher tolls; and

(b) such discounts or reductions lead to actual savings in administrative costs and do not exceed 13 % of the infrastructure charge paid by equivalent vehicles not eligible for the discount or reduction.

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3. Subject to the conditions provided for in Article 7f(3)(b) and in Article 7f(4), toll rates may, in exceptional cases, namely specific projects of high European interest ***in the field of freight transport***, be subject to other forms of variation in order to secure the commercial viability of such projects where they are exposed to direct competition with other modes of vehicle transport. The resulting charging structure shall be linear, proportionate, openly published, and available to all users on equal terms and shall not lead to additional costs being passed on to other users in the form of higher tolls. The Commission shall verify compliance with these conditions prior to the implementation of the charging structure in question.

Article 7i

1. Tolls and user charges shall be applied and collected and their payment monitored in such a way as to cause as little hindrance as possible to the free flow of traffic and to avoid any mandatory controls or checks at the Community's internal borders. To this end, Member States shall cooperate in establishing methods for enabling hauliers to pay user charges 24 hours a day, at least at the major sales outlets, using all common means of payment, inside and outside the Member States in which they are applied. Member States shall provide adequate facilities at the points of payment for tolls and user charges so as to maintain normal road safety standards.

2. The arrangements for collecting tolls and user charges shall not, financially or otherwise, place non-regular users of the road network at an unjustified disadvantage ***compared to those who use alternative forms of payment***. In particular, where a Member State collects tolls or user charges exclusively by means of a system that requires the use of a vehicle on-board unit, it shall ensure that appropriate on-board units compliant with the requirements of Directive 2004/52/EC *of the European Parliament and of the Council* (***) can be obtained by all users under reasonable administrative and economic arrangements.

3. If a Member State levies ***a toll on a vehicle, the total amount of the toll, the amount of the infrastructure charge and the amount of the*** external cost charge ▌ shall be indicated in a document provided to the haulier***, if possible by electronic means.***

4. An external cost charge shall be levied and collected by means of an electronic system which complies with the requirements of Article 2(1) of Directive 2004/52/EC. ***Member States shall also cooperate to ensure that they use interoperable electronic systems which can be used on one another's territory, with the provision that, if necessary, the rates can be adjusted.***

5. As soon as the operability of toll collecting services based on the Galileo satellite positioning system is technically worked out, external cost charges shall be levied and collected **by an interoperable European electronic toll collecting system as specified in Directive 2004/52/EC.**

Article 7j

This Directive does not affect the freedom of Member States which introduce a system of tolls and/or user charges for infrastructure to provide, without prejudice to Articles 87 and 88 of the Treaty, appropriate compensation for these charges***, even where the resulting amounts collected fall below the minimum rates set out in Annex I.***

(*) OJ L 370, 31.12.1985, p. 8.
(**) ***To be completed at a later stage in the legislative procedure.***
(***) *OJ L 166, 30.4.2004, P. 124.*'.

(3) In chapter III, the following *article* ‖ is *inserted*:

'Article 8b

1. Two or more Member States may cooperate in introducing a common system for tolls applicable to their combined territories as a whole. In such a case, those Member States shall ensure that the Commission is closely involved in such cooperation and in the system's subsequent operation and possible amendment.

2. The common toll system shall be subject to the conditions set out in Articles 7 to 7j and shall be open to other Member States.'

(4) In Article 9, paragraphs 1a and 2 are replaced by the following:

'1a. This Directive shall not prevent the non-discriminatory application by Member States of regulatory charges specifically designed to reduce traffic congestion or combat environmental impacts, including poor air quality, on any ▌road***, notably in urban areas, including trans-European road network roads crossing an urban area***.

2. A Member State in which an external cost charge is levied shall ensure that the revenue generated by the charge is earmarked ***as a priority to reduce and where possible eliminate the external costs arising from road transport. The revenue may also be used*** for measures aimed at facilitating efficient pricing, reducing road transport pollution at source, mitigating its effects, improving CO_2 and energy performance of ***road transport*** vehicles, and developing ***and improving existing road infrastructure or developing*** alternative infrastructure for transport users.

A Member State in which an infrastructure charge is levied shall determine the use to be made of revenue generated by that charge. To enable the transport network to be developed as a whole, revenue from charges ***shall*** be used ***mainly*** to benefit the ***road*** transport sector and optimise the ***road*** transport system.

As from 2011, at least 15 % of the revenues generated by the external cost charge and infrastructure charge in each Member State shall be dedicated to financially supporting TEN-T projects in order to increase transport sustainability. This percentage shall gradually increase over time.'

(5) Articles 9b and 9c are replaced by the following:

'Article 9b

The Commission shall facilitate dialogue and the exchange of technical know-how between Member States in relation to the implementation of this Directive and in particular the Annexes. The Commission shall adapt Annexes 0, III, IIIa and IV in the light of scientific and technical progress and ***Annexes I, II and IIIa*** in the light of inflation. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9c(3).

Article 9c

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 3 and 7 of *Council* Decision 1999/468/EC (*) shall apply, having regard to the provisions of Article 8 thereof.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

(*) *OJ L 184, 17.7.1999, p. 23.*'

(6) Article 11 is replaced by the following:

'Article 11

1. By 31 December 2012 at the latest, and every four years thereafter, Member States which levy an external cost charge and/or an infrastructure charge shall draw up a report on tolls levied on their territory and shall forward it to the Commission. The report shall comprise information on:

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(a) the weighted average external cost charge and the specific amounts levied for each combination of class of vehicle, type of road and period of time;

(b) the total revenue raised through the external cost charge, and information on the use of that revenue; ‖

(c) the effect of the external cost charge or infrastructure charge on modal shift, on the optimisation of road transport and on the environment, and the effect of the external cost charge on the external costs which the Member State is seeking to cover by means of the charge; and

(d) the weighted average infrastructure cost charge and total revenue raised through the infrastructure charge.

2. By 31 December 2010 at the latest, the Commission shall present a report to the European Parliament and the Council on the availability of safe and secured parking places on the trans-European road network.

After consulting the relevant social partners, this report shall be accompanied by proposals on:

(a) earmarking of infrastructure charge for a sufficient number of safe and secured parking areas on the trans-European road network to be complied with by infrastructure operators or by public authorities responsible for the trans-European road network;

(b) guidelines for the European Investment Bank, the Cohesion Fund and the Structural Funds for due consideration of safe and secure parking areas within the design and co-financing of trans-European road network projects.

3. By 31 December 2013 *at the latest*, the Commission shall present a report to the European Parliament and the Council on the implementation and effects of this Directive, in particular as regards the effectiveness of the provisions on the recovery of the costs related to congestion and traffic-based pollution and on the inclusion of vehicles of more than 3.5 and less than 12 tonnes. The report shall also assess:

(a) the relevance of integrating other external costs in the calculation of tolls, especially the cost of CO_2 emissions should the definition of a common fuel tax element related to climate change have not yielded satisfactory results, the cost of accidents and the cost of biodiversity loss;

(b) the relevance of extending the scope of *this* Directive to other categories of vehicles;

(c) the possibility of adopting a revised classification of vehicles for the purposes of varying tolls taking into account the average impact on the environment, congestion and infrastructure, their CO_2 and energy performance, and the practical and economic feasibility of levying and enforcing tolls; ‖

(d) the technical and economic feasibility of introducing on the main inter-urban roads minimum distance-based charges. The report shall identify the possible types of road sections to be charged, the possible ways of levying and enforcing in a cost-effective way such charges and a common simple method to set the minimum rates;

(e) the technical and economic feasibility of gradually abolishing time-based charging systems and introducing distance-based systems and the need to maintain a derogation for Member States with external borders with third countries to continue to apply time-based charging systems to heavy goods vehicles queuing at border-crossing points; and

(f) the need for a proposal for a scheme to ensure the consistent and simultaneous internalisation of external costs for all other modes of transport.

The report shall be accompanied by an assessment of the progress of the internalisation of external costs for all modes of transport and by a proposal to the European Parliament and the Council for further revision of this Directive.'

(7) Annex III is amended as follows:

(a) the first paragraph is replaced by the following:

'This Annex stipulates the core principles for the calculation of weighted average infrastructure charge to reflect Article 7b(1). The obligation to relate tolls to costs shall be without prejudice to the freedom of Member States to choose, in accordance with Article 7b(3), not to recover the costs in full through toll revenue, or to the freedom, in accordance with Article 7f, to vary the amounts of specific tolls away from the average (*).

(*) These provisions, together with the flexibility offered in the way costs are recovered over time (see the third indent of point 2.1), give considerable margin to fix tolls at levels which are acceptable to users and adapted to the specific transport policy objectives of the Member State.'

(b) in point (1), second indent, the words 'Article 7a(1)" are replaced by the words 'Article 7b(3)'.

(8) After Annex III, the text set out in the Annex to this Directive is inserted as Annex IIIa.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 december 2010 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this directive.

Article 3

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at ‖,

For the European Parliament
The President

For the Council
The President

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ANNEX

'ANNEX IIIa

MINIMUM REQUIREMENTS FOR LEVYING AN EXTERNAL COST CHARGE AND MAXIMUM CHARGEABLE EXTERNAL COST ELEMENTS

This Annex sets out the minimum requirements for levying an external cost charge and the maximum authorised cost elements to be included when setting the amount.

1. The parts of the network concerned

The Member State shall specify precisely the part or parts of network which are to be subject to an external cost charge.

A Member State ***may choose*** to levy an external cost charge on only a part or parts of the network ***on the basis of objective criteria***.

▌

2. The vehicles, roads and time period covered

The Member State shall notify the Commission of the classification of vehicles according to which the toll shall vary. It shall also notify the Commission of the location of roads subject to higher external cost charges (hereafter "suburban roads") and of roads subject to lower external cost charges (hereafter "other interurban roads").

Where applicable, it shall also notify the Commission of the exact time periods corresponding to the night period and to the various daily, weekly or seasonal peak periods during which a higher external cost charge may be imposed to reflect greater congestion or greater noise annoyance.

The classification of roads and the definition of time periods shall be based on objective criteria related to the level of exposure of the roads and their vicinities to congestion and pollution such as population density, the yearly number of pollution peaks measured in accordance with Directive 96/62/EC, the average daily and hourly traffic and the level of service (percentage of the day or the year when road usage is close to or above capacity, average delays and/or queues lengths). The criteria used shall be included in the notification.

3. Amount of the charge

For each vehicle ***EURO emission class***, type of road and time period, the independent authority shall determine a single specific amount. The resulting charging structure shall be transparent, openly published and available to all users on equal terms.

When setting the charges, the independent authority shall be guided by the principle of efficient pricing that is a price close to the social marginal cost of the usage of the vehicle charged. The charge shall be set as close as possible to the external costs which can be allocated to the category of road users concerned.

The charge shall also be set after having considered the risk of traffic diversion together with any adverse effects on road safety, the environment and congestion, and solutions to mitigate these risks.

The independent authority shall monitor the effectiveness of the charging scheme in reducing environmental damage arising from road transport and in relieving congestion where it is applied. It shall regularly adjust the charging structure and the specific amount of the charge set for a given ***EURO emission class*** of vehicle, type of road and period of time to the changes in transport demand.

4. External cost elements

4.1. Cost of traffic-based air pollution

When a Member State chooses to include all or part the cost of traffic-based air pollution in the external cost charge, the independent authority shall calculate the chargeable cost of traffic–based air pollution by applying the following formula or by taking the unit values in Table 1 if the latter are lower:

$PCV_{ij} = \Sigma_k \, EF_{ik} \times PC_{jk}$ where:

PCV_{ij} air pollution cost of vehicle class i on road type j (euro/vehicle.kilometre)

EF_{ik} emission factor of pollutant k and vehicle class i (gram/kilometre)

PC_{jk} monetary cost of pollutant k for type of road j (euro/gram)

Only the emissions of particulate matter and of ozone precursors such as nitrogen oxide and volatic organic compounds will be taken into consideration. The emission factors shall be the same as those used by the Member State to draft the national emissions inventories provided for in Directive 2001/81/EC *of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants* [1] (which requires use of the EMEP/CORINAIR Emission Inventory Guidebook) [2]. The monetary cost of pollutants shall be taken from Table 13 of the "Handbook on estimation of external cost in the transport sector" ‖.

Table 1: ***Maximum chargeable air*** pollution cost of ***any*** vehicle ***in a given class***

Euro cent/vehicle.kilometre	***Roads subject to higher external cost charges***/Suburban roads ***and motorways***	***Roads subject to lower external cost charges***/Interurban roads ***and motorways***
EURO 0	16	***12***
EURO I	11	8
EURO II	9	***7***
EURO III	7	6
EURO IV	4	***3***
EURO V ▌	3	2
EURO VI	***2***	***1***
Less polluting than EURO VI, for example hybrid and electric heavy goods vehicles or vehicles running on a natural gas/hydrogen mixtures or hydrogen power supply	***0***	***0***

Values in euro cents, 2000

The values in Table 1 represent arithmetic averages of the values given in Table 15 of the "Handbook on estimation of external cost in the transport sector" ‖ for vehicles belonging to four different weight classes. Member States may apply a correction factor to the values in Table 1 to reflect the actual fleet composition in terms of vehicle size. The values of Table 1 may be multiplied by a factor of up to 2 in mountain areas to the extent that it is justified by the gradient of roads, altitude and/or temperature inversions.

The independent authority may adopt alternatives methods using data from air pollutant measurement and the local value of the monetary cost of air pollutants, provided that the results do not exceed the results which would have been obtained with the above formulae or the above unit values for any class of vehicles.

All parameters, data and other information necessary to understand how the chargeable air pollution cost is calculated shall be made public.

4.2. Cost of traffic-based noise pollution

When a Member State chooses to include all or part of the cost of traffic-based noise pollution in the external cost charge, the independent authority shall calculate the chargeable cost of traffic –based noise pollution by applying the following formulae or by taking the unit values in Table 2 if the latter are lower:

$$NCV_{ij}\ (day) = \Sigma^{k}\ NC_{jk} \times POP_{k} / ADT$$

[1] *OJ L 309, 27.11.2001, p. 22.*
[2] Methodology of the European Environmental Agency ‖.

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NCV_{ij} (night) = n × NCV_{ij} (day) where

NCV_{ij} noise cost of vehicle class i on road type j (euro/vehicle.kilometre)

NC_{jk} noise cost per person exposed on road type j to noise level k (euro/person)

POP_k population exposed to daily noise level k per kilometre (person/kilometre)

ADT average daily traffic (vehicle)

n night correction factor

The population exposed to noise level k shall be taken from the strategic noise maps drafted under Article 7 of Directive 2002/49/EC *of the European Parliament and of the Council of 25 june 2002 relating to the assessment* and management of environmental noise ([1]).

The cost per person exposed to noise level k shall be taken from Table 20 of the "Handbook on estimation of external cost in the transport sector" ‖.

The average daily traffic shall assume a weighting factor of no more than 4 between heavy goods vehicles and passenger cars.

Table 2: Chargeable noise cost of vehicles (NCV)

Euro cent/vehicle.kilometre	Day	Night
Suburban roads	1,1	2
Other interurban roads	0,13	0,23

Values in euro cents, 2000
Source: Handbook on estimation of external cost in the transport sector, table 22 ‖

The values of Table 2 may be multiplied by a factor of up to 5 in mountain areas to the extent that it is justified by the gradient of roads, temperature inversions and/or amphitheatre effect of valleys.

All parameters, data and other information necessary to understand how the chargeable noise cost is calculated shall be made public.

([1]) *OJ L 189, 18.7.2002, p. 12.*'

▌

Public access to European Parliament, Council and Commission documents (recast) ***I

P6_TA(2009)0114

Proposal for a regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (recast) (COM(2008)0229 – C6-0184/2008 – 2008/0090(COD))

(2010/C 87 E/62)

(Codecision procedure - recast)

The proposal was amended on 11 March 2009 as follows ([1]):

([1]) The matter was then referred back to committee pursuant to Rule 53(2) (A6-0077/2009).

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P6_TC1-COD(2008)0069

Regulation *(EC) No …/2009* of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents *(recast)*

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 255(2) thereof,

Having regard to the proposal from the Commission ‖,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ([1]),

Whereas:

(1) A number of substantive changes are to be made to Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ([2]). In the interest of clarity, that Regulation should be recast.

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

(3) Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system. Openness contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in Article 6 of the EU Treaty and in the Charter of Fundamental Rights of the European Union.

(4) Transparency should also strengthen the principles of good administration in the EU institutions as provided for by Article 41 of the Charter of Fundamental Rights of the European Union ([3]) ('the Charter'). Internal procedures should be defined accordingly and adequate financial and human resources should be made available to put the principle of openness into practice. [Am 1]

▌ ***[Am 2]***

▌ ***[Am 3]***

(5) The consultation conducted by the Commission showed broad support from civil society for the European Parliament's call for the introduction of a genuine freedom of information instrument applicable to the institutional framework of the European Union, in accordance with the right to good administration laid down Article 41 of the Charter of Fundamental Rights of the European Union. [Am 92]

(6) The purpose of this Regulation is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and ***the*** limits on the ***grounds of public or private interest which govern*** such access in accordance with Article 255(2) of the EC Treaty ***and taking into account the experience of the initial implementation of Regulation (EC) No 1049/2001 and of the resolution of the European Parliament of 4 April 2006 with recommendations to the Commission on access to the institutions' texts ([4]). This Regulation is without prejudice to existing rights of access to documents for Member States, judicial authorities or investigative bodies. [Am 4]***

([1]) …
([2]) OJ L 145, 31.5.2001, p. 43.
([3]) ***OJ C 303, 14.12.2007, p. 1.***
([4]) ***OJ C 293 E, 2.12.2006, p. 151.***

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(7) ***In accordance with Article 255(2) of the EC Treaty, this Regulation details the general principles and limits on grounds of public or private interest governing the right of*** access to documents ***with which all other EU rules should comply.*** **[Am 16]**

(8) In accordance with Articles 28(1) and 41(1) of the EU Treaty, the right of access also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters. ***[Am 5]***

(9) Since the question of access to documents is not covered by provisions of the Treaty establishing the European Atomic Energy Community, the European Parliament, the Council and the Commission should, in accordance with Declaration No 41 attached to the Final Act of the Treaty of Amsterdam, draw guidance from this Regulation as regards documents concerning the activities covered by that Treaty.

(10) The European Parliament and the Council adopted on 6 September 2006 Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters to Community institutions and bodies [1]. With regard to access to documents containing environmental information, this Regulation should be consistent with Regulation (EC) No 1367/2006.

(11) The Council and the Commission act in their legislative capacity when, by associating the European Parliament, they adopt, even under delegated powers, rules of general scope which are legally binding in or for the Member States, by means of regulations, directives, framework decisions or decisions, on the basis of the relevant provisions of the Treaties. [Am 6]

(12) ***In compliance with the democratic principles outlined in Article 6(1) of the EU Treaty and the case-law of the Court of Justice on the implementation of Regulation (EC) No 1049/2001, wider*** access should be granted to documents in cases where the institutions are acting in their legislative capacity, including under delegated powers***. Legal texts should be drafted in a clear and understandable way [2] and published in the Official Journal of the European Union; preparatory documents and all related information, including legal opinions and the interinstitutional procedure, should be made easily accessible by citizens on the Internet in a timely manner.***

Better law-making practices, drafting models and techniques as well as technical solutions to track the life-cycle of preparatory documents and to share them with the institutions and bodies associated in the procedure should be agreed by the European Parliament, the Council and the Commission in accordance with this Regulation and published in the Official Journal of the European Union. [Am 8]

(13) An interinstitutional register of lobbyists and other interested parties is a natural tool for the promotion of openness and transparency in the legislative process. [Am 11]

(14) Transparency in the legislative process is of utmost importance for citizens. Therefore, institutions should actively disseminate documents, which are part of the legislative process. Active dissemination of documents should also be encouraged in other fields.

(15) By way of complementing this Regulation, the Commission should propose an instrument, to be adopted by the European Parliament and the Council, on common rules governing the re-use of information and documents held by the institutions which implements, mutatis mutandis, the principles outlined in Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public-sector information [3]. [Am 22]

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[1] OJ L 264, 25.9.2006, p. 13.

[2] ***Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation (OJ C 73, 17.3.1999, p. 1).***

[3] ***OJ L 345, 31.12.2003, p. 90.***

(16) Without prejudice to national legislation on access to documents, in accordance with the principles of loyal cooperation and legal certainty, when implementing acts of the EU institutions, the Member States should not undermine the attainment of the objectives of this Regulation, including the level of transparency which it seeks to ensure at EU level and should, in particular, ensure that the Member States' national provisions implementing EU legislation should give European citizens and other persons concerned a clear and precise understanding of their rights and obligations and enable national courts to ensure that those rights and obligations are respected. [Am 100]

(*17*) Even though it is neither the object nor the effect of this Regulation to amend national legislation on access to documents, it is nevertheless clear that, by virtue of the principle of loyal cooperation which governs relations between the institutions and the Member States, ***the Member States should grant to their citizens at national level at least the same level of transparency as is granted at EU level when implementing EU rules***.

By the same token and without prejudice to national parliamentary scrutiny, Member States should take care not to hamper ***the processing of EU classified documents***. **[Am 20]**

(18) Documents related to non- legislative procedures, such as binding measures without general scope or measures dealing with internal organisation, administrative or budgetary acts, or non-binding acts of a political nature (such as conclusions, recommendations or resolutions) should be easily accessible in compliance with the principle of good administration outlined in Article 41 of the Charter, while at the same time preserving the effectiveness of the institutions' decision-making process. For each category of document the institution responsible and, where appropriate, the other institutions associated should make accessible to citizens the workflow of the internal procedures to be followed, which organisational units could be in charge, as well their remit, the deadlines set and the office to be contacted. Special arrangements may be made with the interested parties in the procedure even when public access could not be granted; the institutions should duly take into account the recommendations of the European Ombudsman. [Am 9]

(19) The institutions should agree on common guidelines as to the way in which to register their internal documents, to classify them and to archive them for historical needs according to the principles outlined in this Regulation. Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community ([1]) should then be repealed. [Am 10]

(*20*) ***In order to develop the activities of the institutions in areas which require a degree of confidentiality, it is appropriate to establish a comprehensive security system covering the treatment of EU classified information. The term 'EU classified' should mean any information and material the unauthorised disclosure of which could cause varying degrees of prejudice to EU interests, or to one or more of its Member States, whether such information originates within the EU or is received from Member States, third countries or international organisations. In accordance with the democratic principles outlined in Article 6(1) of the EU Treaty, the European Parliament should have access to EU classified information notably when such access is necessary for the performance of legislative or non- legislative duties conferred by the Treaties. [Am 13]***

(*21*) ***The Community institutions and bodies should treat*** personal data ***in a fair and transparent way and in full compliance with the rights of data subjects as defined by*** 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]) ***and by the case-law of the Court of Justice of the European Communities ('the Court of Justice'). The institutions should define their internal procedures, duly taking into account the recommendation of the European Data Protection Supervisor***.

([1]) ***OJ L 43, 15.2.1983, p. 1.***
([2]) OJ L 8, 12.1.2001, p. 1.

Since the adoption of Regulation (EC) No 1049/2001 the case-law of the Court of Justice and decisions and positions adopted by the European Ombudsman and the European Data Protection Supervisor have clarified the relationship between that Regulation and Regulation (EC) No 45/2001, to the effect that it is Regulation (EC) No 1049/2001 which is to be applied to requests for documents containing personal data and that any application of the exceptions to the rules allowing access to documents and information for the purpose of protecting personal data must be based on the need to protect the privacy and integrity of an individual. [Am 7]

(22) The right of access to public documents is without prejudice to the right of access to personal data under Regulation (EC) No 45/2001. When a person requests access to data concerning him or her, an institution should on its own initiative examine whether that person is entitled to access under Regulation (EC) No 45/2001. [Am 99]

(23) Article 4 of the Statute for Members of the European Parliament excludes the documents of Members of the European Parliament from the scope of the definition of 'document' used in this Regulation. These documents, when transmitted to the institutions outside the legislative process, are still protected by Article 6 of the Members' Statute. Therefore the interpretation of this Regulation should take due account of the protection of the political activities of Members of the European Parliament, as enshrined in the Members' Statute in order to protect the democratic principles of the European Union. [Am 116]

(*24*) Clear rules should be established regarding the disclosure of documents originating from the Member States and of documents of third parties which are part of judicial proceedings files or obtained by the institutions by virtue of specific powers of investigation conferred upon them by EC law.

(25) The Court of Justice of the European Communities has specified that the obligation for Member States to be consulted in relation to requests for access to documents originating from them does not give them a right of veto, or the right to invoke national laws or provisions, and that the institution receiving a request may refuse access only on the grounds of the exceptions in this Regulation. However, there is still a need to clarify the status of documents originating from third parties in order to ensure that information relating to legislative procedures is not shared more broadly with third parties,(including administrations of third countries) than with Union citizens to whom the legislation will apply. [Ams 93/110]

(26) In accordance with Article 255(1) of the EC Treaty, the Commission should immediately make all documents related to the ongoing international negotiations on the Anti-Counterfeiting Trade Agreement (ACTA) publicly available. [Am 109]

(*27*) In order to bring about greater openness in the work of the institutions, access to documents should be granted by the European Parliament, the Council and the Commission not only to documents drawn up by the institutions, but also to documents received by them. A Member State may request ***the European Parliament***, the Commission or the Council not to communicate to third parties ***outside the institutions themselves*** a document originating from that State without its prior agreement. ***If such a request is not accepted, the institution which received the request should give the reasons for refusing it. According to Article 296 of the EC Treaty, no Member State is obliged to supply information the disclosure of which it considers contrary to the essential interests of its security. [Am 14]***

(*28*) In principle, all documents ***drafted or received by*** the institutions ***and relating to their activities*** should be ***registered and*** accessible to the public. However, ***without prejudice to the European Parliament's scrutiny, access to the entire document or to part of it could be postponed. [Am 15]***

(29) The institutions should ensure that the development of information technology makes it easier to exercise the right of access and does not result in a reduction in the amount of information available to the public. **[Am 17]**

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

(31) The **institutions** should ***in a consistent and coordinated way*** inform the public of the ***measures adopted to implement this Regulation*** and train their staff to assist citizens exercising their rights under this Regulation. **[Am 19]**

▌**[Am 21]**

(32) In accordance with Article 255(3) of the EC Treaty ***and the principles and rules outlined in this Regulation*** each institution lays down specific provisions regarding access to its documents in its rules of procedure, [1] [2] [3] **[Am 23]**

(33) In order to ensure the full application of this Regulation to all activities of the Union, all agencies established by the institutions should apply the principles laid down in this Regulation. ***All the other EU institutions are invited to adopt comparable measures in accordance with Article 1 of the EU Treaty. [Am 12]***

HAVE ADOPTED THIS REGULATION:

TITLE I

General Principles

Article 1

Purpose

The purpose of this Regulation is:

(a) to define ***in accordance with Article 255 of the EC Treaty,*** the principles, conditions and limits on grounds of public or private interest governing the right of access to ***documents of the*** European Parliament, Council and Commission (hereinafter referred to as 'the institutions') ***as well as of all the Agencies and bodies created by those institutions*** to grant ▌the widest possible access to such documents; **[Am 24]**

(b) to establish rules ensuring the easiest possible exercise of this right;

(c) to promote ***transparent and*** good administrative practice ***in the institutions in order to improve*** access to ***their*** documents. **[Am 25]**

Article 2

Beneficiaries ▌**[Am 27]**

1. Any natural or legal person ***or any association of legal or natural persons*** shall have a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation. **[Am 28]**

▌**[Ams 29, 30, 31, 32, 33 and 34]**

[1] OJ L 340, 31.12.1993, p. 43. ‖
[2] OJ L 46, 18.2.1994, p. 58. ‖
[3] OJ L 263, 25.9.1997, p. 27.

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2. This Regulation shall not apply to documents covered by Article 4 of the Statute for Members of the European Parliament. [AM 114]

3. In order to ensure that the principle of institutional transparency is fully applied, free public access to documents concerning infringement mechanisms and proceedings should be guaranteed. [AM 108]

Article 3

Scope

1. This Regulation shall apply to all documents held by an institution, that is to say documents drawn up or received by it and in its possession, in all areas of activity of the European Union.

2. Documents shall be made accessible to the public either in electronic form, in the Official Journal of the European Union, or in an official institution's register, or following a written application.

The documents drawn up or received in the course of a legislative procedure shall be made directly accessible in accordance with Article 11.

3. This Regulation shall be without prejudice to enhanced rights of public access to documents held by the institutions which might follow from instruments of international law or acts of the institutions implementing them or by the Member States' legislation. [Am 35]

Article 4

Definitions

For the purpose of this Regulation:

(a) 'document' ***shall mean*** any ***data or*** content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) ***concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility***; ***information*** contained in electronic storage, processing and retrieval systems ***(including external systems used for the institution's work) shall constitute a document or*** documents. ***An institution that intends to create a new electronic storage system, or to substantially change an existing system, shall evaluate the likely impact on the right of access provided for by this Regulation and act so as to promote the objective of transparency.***

The functions for the retrieval of information stored in electronic storage systems by the institutions shall be adapted in order to satisfy repeated requests from the public which cannot be satisfied using the tools currently available for the exploitation of the system; **[Am 36]**

(b) 'classified documents' shall mean documents the disclosure of which could affect the protection of the essential interests of the European Union or of one or more of its Member States, notably in public security, defence and military matters, and which may be partially or totally classified; **[Am 37]**

(c) 'legislative documents' shall in principle mean documents drawn up or received in the course of procedures for the adoption of acts, including under delegated powers, which are legally binding in or for the Member States and for the adoption of which the Treaty provides for the intervention or association of the European Parliament; by way of exception, measures of general scope which according to the Treaties are adopted by the Council and the Commission without associating the European Parliament shall also be considered 'legislative'. [Am 101]

(d) 'non- legislative documents' shall mean documents drawn up or received in the course of procedures for the adoption of non-binding acts, such as conclusions, recommendations or resolutions or acts which are legally binding in or for the Member States, but which are not of general scope as are the ones cited in point (c); **[Am 39]**

(e) 'administrative documents' shall mean documents relating to the institutions' decision-making process or measures dealing with organisational, administrative or budgetary matters which are internal to the institution concerned; **[Am 40]**

(f) 'archive' shall mean an institution's tool for managing in a structured way the registration of all the institution's documents referring to an ongoing or recently concluded procedure; **[Am]41**

(g) 'historical archives' shall mean that part of the archives of the institutions which has been selected, on the terms laid down in point (a), for permanent preservation; **[Am 42]**

(h) 'third party' means any natural or legal person, or any entity outside the institution concerned, including the Member States, other Community or non-Community institutions and bodies and third countries.

A detailed list of all the categories of the acts covered by the definitions in points (a) to (e) shall be published in the Official Journal of the European Union and on the Internet sites of the institutions. The institutions shall also agree and publish their common criteria for archiving. **[Am 43]**

Article 5

Classified documents

1. When grounds of public policy exist under Article 6(1), and without prejudice to parliamentary scrutiny at EU and national level, an institution shall classify a document where its disclosure would undermine the protection of the essential interests of the European Union or of one or more of its Member States.

Information shall be classified as follows:

(a) 'EU TOP SECRET': this classification shall be applied only to information and material the unauthorised disclosure of which could cause exceptionally grave prejudice to the essential interests of the European Union or of one or more of its Member States;

(b) 'EU SECRET': this classification shall be applied only to information and material the unauthorised disclosure of which could seriously harm the essential interests of the European Union or of one or more of its Member States;

(c) 'EU CONFIDENTIAL': this classification shall be applied to information and material the unauthorised disclosure of which could harm the essential interests of the European Union or of one or more of its Member States;

(d) 'EU RESTRICTED': this classification shall be applied to information and material the unauthorised disclosure of which could be disadvantageous to the interests of the European Union or of one or more of its Member States;

2. Information shall be classified only when necessary.

If possible, the originators shall specify on classified documents a date or period when the contents may be downgraded or declassified.

Otherwise, they shall review the documents at least every five years, in order to ensure that the original classification remains necessary.

The classification shall be clearly and correctly indicated, and shall be maintained only for as long as the information requires protection.

The responsibility for classifying information and for any subsequent downgrading or declassification rests solely with the originating institution or that which received the classified document from a third party or another institution.

3. Without prejudice to the right of access by other EU institutions, classified documents shall be released to third parties only with the consent of the originator.

However, the institution refusing such access shall give reasons for its decision in a manner which does not harm the interest protected under Article 6(1).

When more than one institution is involved in the processing of a classified document, the same ground of classification shall be granted and mediation shall be initiated if the institutions have a different appreciation of the protection to be granted.

Documents relating to legislative procedures shall not be classified; implementing measures shall be classified before their adoption insofar as the classification is necessary and aimed at preventing an adverse effect on the measure itself. International agreements dealing with the sharing of confidential information concluded on behalf of the European Union or of the Community cannot give any right to a third country or international organisation to prevent the European Parliament from having access to confidential information.

4. Applications for access to classified documents under the procedures laid down in Articles 17 and 18 shall be handled only by those persons who have a right to acquaint themselves with those documents. Those persons shall also assess which references to classified documents could be made in the public register.

5. Classified documents shall be recorded in an institution's register or released only with the consent of the originator.

6. An institution which decides to refuse access to a classified document shall give the reasons for its decision in a manner which does not harm the interests protected by the exceptions laid down in Article 6(1).

7. Without prejudice to national parliamentary scrutiny, Member States shall take appropriate measures to ensure that, when handling applications for EU classified documents, the principles set out in this Regulation are respected.

8. The security rules of the institutions concerning classified documents shall be made public.

9. The European Parliament shall have access to classified documents through a special oversight committee composed of members appointed by its Conference of Presidents. These Members shall comply with a specific clearance procedure and solemnly swear not to reveal in any way the content of the information accessed.

The European Parliament shall establish in its internal rules and in compliance with the obligations conferred by the Treaties, security standards and sanctions equivalent to the ones outlined in the Council and Commission Internal Security rules. **[Am 44]**

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Article 6 ***[Am 45]***

General exceptions ***to the right of access***

1. ***Without prejudice to the cases dealt with in Article 5,*** the institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards: **[Am 46]**

(a) ***the internal*** public security ***of the European Union or of one or more of its Member States***; **[Am 47]**

(b) defence and military matters;

(c) the privacy and the integrity of the individual, in accordance with Community legislation regarding the protection of personal data, in particular the rules applicable to the institutions as laid down in Article 286 of the EC Treaty, as well as the principle of transparent and good administrative practice outlined in Article 1(c) of this Regulation; **[Am 49]**

(*d*) international relations;

(*e*) the financial, monetary or economic policy of the Community or a Member State;

(*f*) the environment, such as breeding sites of rare species.

2. The institutions shall refuse access to a document where disclosure would undermine the protection of ***public or private interests linked to***: **[Am 48]**

(a) commercial interests of a natural or legal person;

(b) intellectual property rights;

(c) legal advice and court proceedings***, except for legal advice in connection with procedures leading to a legislative act or a non-legislative act of general application***; **[Am 50]**

(d) the purpose of inspections, investigations and audits;

(e) the objectivity and impartiality of ***public procurement*** procedures ***until a decision has been taken by the contracting institution, or of a Selection Board in proceedings leading to the recruitment of staff until a decision has been taken by appointing authority***. **[Am 51]**

▌ **[Am 52]**

3. The exceptions under paragraph (2) shall apply unless there is an overriding public interest in disclosure. ***A strong*** public interest in disclosure ***exists*** where ***the requested documents have been drawn up or received in the course of procedures for the adoption of EU legislative acts or of non-legislative acts of general application. When balancing the public interest in disclosure, special weight shall be given to the fact that the*** requested ***documents relate to the protection of fundamental rights or the right to live in a healthy*** environment. **[Am 53]**

4. The definition of an overriding public interest in disclosure shall take due account of the protection of the political activity and independence of Members of the European Parliament, in particular with regard to Article 6(2) of the Members' Statute. [AM 115]

5. Documents the disclosure of which would pose a risk to environmental protection values, such as the breeding sites of rare species, shall only be disclosed in conformity with Regulation (EC) No 1367/2006. [Am 54]

6. ***Personal data shall not be disclosed if such disclosure would harm the privacy or the integrity of the person concerned. Such harm shall not be deemed to be caused:***

— ***if the data relate solely to the professional activities of the person concerned unless, given the particular circumstances, there is reason to assume that disclosure would adversely affect that person;***

— ***if the data relate solely to a public person unless, given the particular circumstances, there is reason to assume that disclosure would adversely affect that person or other persons connected with him or her;***

— ***if the data have already been published with the consent of the person concerned.***

Personal data shall nevertheless be disclosed if an overriding public interest requires disclosure. In such a case, the institution or body concerned shall be required to specify the public interest. It shall give reasons why, in the specific case, the public interest outweighs the interests of the person concerned.

Where an institution or body refuses access to a document on the basis of paragraph 1, it shall consider whether it is possible to grant partial access to that document. [Ams 90 + 96 + 102]

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

8. The exceptions as laid down in this Article ***shall not apply to documents transmitted within the framework of procedures leading to a legislative act or a non-legislative act of general application. The exceptions*** shall only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years. In the case of documents covered by the ***exception*** relating to ***privacy and the integrity of the individual,*** the ***exception*** may, if necessary, continue to apply after this period. ***[Am 55]***

9. The exceptions as laid down in this Article shall not be interpreted as referring to information of public interest relating to the beneficiaries of European Union funds that is available within the framework of the financial transparency system. [Am 56]

Article 7 ***[Am 57]***

Consultation ***of third parties***

1. As regards third-party documents, ***they shall be disclosed by*** the ***institutions without consulting the originator if it is clear that none of the exceptions in this Regulation are applicable. A*** third party ***shall be consulted if that party has requested, when handing in the document, that it be treated in a specific way,*** with a view to assessing whether an exception ***provided for in this Regulation*** is applicable. ***Documents provided to the institutions for the purpose of influencing policy-making should be made public. [Am 58]***

2. Where an application concerns a document originating from a Member State:

— ***which has not been transmitted by that Member State in its capacity as a member of the Council, or***

— ***which does not concern information submitted to the Commission concerning the implementation of EC policies and legislation,***

the authorities of that Member State shall be consulted. The institution holding the document shall disclose it unless the Member State gives reasons for withholding it, based on the exceptions referred to in Article 4 or in ***equivalent*** provisions ***of*** its own legislation, ***or objects on the basis of Article 296(1)(a) of the EC Treaty that the disclosure would be contrary to its essential security interests. The institution shall assess the adequacy of reasons given by the Member State. [Am 91]***

3. ***Without prejudice to national parliamentary scrutiny, where*** a Member State receives a request for a document in its possession, which originates from an institution, unless it is clear that the document shall or shall not be disclosed, the Member State shall consult with the institution concerned in order to take a decision that does not jeopardise the objectives of this Regulation. The Member State may instead refer the request to the institution. **[Am 60]**

Article 8

Reproduction of documents

This Regulation shall be without prejudice to any existing rules on copyright which may limit a third party's right to ▌reproduce or exploit released documents. ***[Am 82]***

Article 9

Principle of good administration

The institutions shall on the basis of the code of good administrative behaviour adopt and publish general guidelines on the scope of the obligations of confidentiality and professional secrecy set out in Article 287 of the EC Treaty, the obligations arising from sound and transparent administration and the protection of personal data in accordance with Regulation (EC) 45/2001. These guidelines shall also define the sanctions applicable in the event of failure to comply with this Regulation in accordance with the Staff Regulations of Officials of the European Communities, the Conditions of Employment of other servants of the European Communities and in the institutions' internal rules. [Am 107]

TITLE II

Legislative and Non-legislative Transparency

Article 10

Legislative Transparency

1. In compliance with the democratic principles outlined in Article 6 (1) of the EU Treaty and with the case-law of the Court of Justice on the implementation of Regulation (EC) No 1049/2001, institutions acting in their legislative capacity, including under delegated powers, shall grant the widest possible access to their activities.

2. Documents relating to their legislative programmes, preliminary civil society consultations, impact assessments and any other preparatory documents linked to a legislative procedure shall be accessible on a user-friendly interinstitutional site and published in a special series of the Official Journal of the European Union.

3. Legislative proposals as well other EU legal texts shall be drafted in a clear and understandable way and the institutions shall agree common drafting guidelines and models improving legal certainty in accordance with the relevant case-law of the Court of Justice.

4. During the legislative procedure, each institution or body associated in the decision-making process shall publish its preparatory documents and all related information, including legal opinions, in a special series of the Official Journal of the European Union as well on a common Internet site reproducing the lifecycle of the procedure concerned.

5. Any initiative or documents provided by any interested parties with a view to influencing the decision-making process in any way shall be made public.

6. Once adopted, legislative acts shall be published in the Official Journal of the European Union as provided for by Article 12.

7. By virtue of the principle of loyal cooperation which governs relations between the institutions and the Member States, in order not to undermine the attainment of the objectives of this Regulation, the Member States shall seek to ensure that an equivalent level of transparency is granted in relation to national measures implementing acts of the institutions of the European Union, in particular by clearly publishing the references of the national measures. The objective is to give citizens a clear and precise understanding of their rights and obligations deriving from specific EU rules and enable national courts to ensure that those rights and obligations are respected in accordance with the principles of legal certainty and the protection of individual.[Am 103]

Article 11

Publication in the Official Journal

1. ***In accordance with the principles outlined in this Regulation, the institutions shall agree on the structure and presentation of the Official Journal of the European Union by taking into account the pre-existing interinstitutional agreement.***

In addition to the acts referred to in Article 254(1) and (2) of the EC Treaty and the first paragraph of Article 163 of the Euratom Treaty, the following documents shall, subject to ***Article 6*** of this Regulation, be published in the Official Journal:

▌

(a) common positions adopted by the Council in accordance with the procedures referred to in Articles 251 and 252 of the EC Treaty and the reasons underlying those common positions, as well as the European Parliament's positions in these procedures;

(b) Directives other than those referred to in Article 254(1) and (2) of the EC Treaty, decisions other than those referred to in Article 254(1) of the EC Treaty, recommendations and opinions;

▌

(c) conventions signed between Member States on the basis of Article 293 of the EC Treaty;

(d) international agreements concluded by the Community or in accordance with Article 24 of the EU Treaty.

▌

(e) common positions referred to in Article 34(2) of the EU Treaty;

(f) framework decisions and decisions referred to in Article 34(2) of the EU Treaty;

(g) conventions established by the Council in accordance with Article 34(2) of the EU Treaty;

2. Other documents to be published in the Official Journal of the European Union shall be determined by a joint decision of the European Parliament and of the Council, on a proposal by the Management Committee of the Publication Office of the EU ([1]). [Ams 74 + 105]

Article 12

Administrative ***transparency*** practice in the institutions ***[Am 77]***

1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation. ***The institutions shall organise and maintain the information in their possession in such a way that the public may be granted access to the information without additional effort. [Am 78]***

2. In order to ensure that the principles of transparency and good administration are effectively applied, the institutions concerned shall agree on common implementing rules and procedures for the presentation, classification, declassification, registration and dissemination of documents.

In order to facilitate a genuine debate among the players involved in the decision-making process and without prejudice to the principle of transparency, the institutions shall make clear to citizens if and when, during the specific phases of the decision-making process, direct access to documents may not be granted. These limitations shall not apply once that decision has been taken. [Am 79]

3. The institutions shall inform citizens, in a fair and transparent way, about their organisational chart by indicating the remit of their internal units, the internal workflow and indicative deadlines of the procedures falling within their remit, to which services may citizens refer to obtain support, information or administrative redress. [Am 80]

4. The institutions shall establish an interinstitutional ***Article 255*** committee to examine ***and exchange*** best practice, ***identify access and usability barriers and unpublished data sources,*** address possible conflicts***, promote interoperability, re-use and merger of registers, standardise document coding through a European standards organisation, create a single EU portal to ensure access to all EU documents*** and discuss future developments on public access to documents. ***[Am 81]***

Article 13

Financial transparency

Information relating to the EU budget, its implementation and beneficiaries of EU funds and grants shall be public and accessible to citizens.

Such information shall also be accessible via a specific website and database, searchable on the basis of the above information, dealing with financial transparency in the EU. [AM 85]

TITLE III

Method of access

Article 14

Direct access to documents

1. The institutions shall as far as possible make documents directly accessible to the public in electronic form or through a register in accordance with the rules of the institution concerned. [Am 71]

([1]) ***See Article 7 of SEC (2008)2109.***

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2. ***The institutions shall make all documents directly accessible to the public in electronic form or trough a register, particularly those*** drawn up or received in the course of procedures for the adoption of EU legislative acts or non-legislative acts of general application. ▌ ***[Am 72]***

3. Where possible, other documents, notably documents relating to the development of policy or strategy, shall be made directly accessible in electronic form.

4. Where direct access is not given through the register, the register shall as far as possible indicate where the document is located.

5. ***The institutions*** shall ***establish a common interface for their registers*** of documents***, and shall in particular ensure a single point of access for direct access to documents drawn up or received in the course of procedures for the adoption of legislative acts or non-legislative acts of general application. [Am 73]***

Article 15

Registers

1. To make citizens' rights under this Regulation effective, each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form. References to documents shall be recorded in the register without delay.

2. For each document the register shall contain a reference number (including, where applicable, the interinstitutional reference), the subject matter and/or a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. References shall be made in a manner which does not undermine protection of the interests in Article 6.

3. ***Without prejudice to the internal rules of the institutions, the register or system of registers (in the case of multiple registers for the same institution) of each institution shall in particular contain references to:***

— ***incoming and outgoing documents, as well as the official mail of the institution where such mail falls within the definition set out in Article 4(a),***

— ***agendas and summaries of meetings and documents prepared before meetings for circulation, as well as other documents circulated during meetings.***

Each institution shall:

— ***by … (*), adopt and publish internal rules concerning the registration of documents,***

— ***by … (**), ensure that its register is fully operational. [Am 70]***

Article 16

Applications

1. Applications for access to a document shall be made in any written form, including electronic form, in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application.

2. If an application is not sufficiently precise the institution shall ***within 15 working days*** ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing information on the use of the public registers of documents. ▌ ***[Am 62]***

(*) ***Six months from the date of entry into force of this Regulation.***
(**) ***One year from the date of entry into force of this Regulation.***

3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair and practical solution.

4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made.

Article 17

Processing of initial applications

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within ***a maximum of*** 15 working days from registration of the application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with paragraph 4 of this Article. ***[Am 63]***

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in paragraph 1 may be extended by ***a maximum of*** 15 working days, provided that the applicant is notified in advance and that detailed reasons are given. ***[Am 64]***

3. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the institution's reply, either make a confirmatory application asking the institution to reconsider its position ***or, where the applicant calls into question whether any actual harm will be caused to the relevant interests and/or argues that there is an overriding interest in disclosure, the applicant may request the European Ombudsman to give an independent and objective view on the question of harm and/or overriding public interest.***

While waiting for the delivery of the European Ombudsman' opinion, the time-limit provided for in paragraph 1 shall be suspended for a maximum of 30 working days.

Following delivery of the European Ombudsman's opinion, or at the latest at the end of a period of 30 working days, the applicant may, within a maximum of 15 working days, make a confirmatory application asking the institution to reconsider its position. [Am 104]

4. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.

Article 18

Processing of confirmatory applications

1. A confirmatory application shall be handled promptly. Within ***15*** working days from registration of such an application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the institution shall inform the applicant of the remedies open to him or her. ***[Am 66]***

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be extended by ***a maximum of*** 15 working days, provided that the applicant is notified in advance and that detailed reasons are given. ***[Am 67]***

3. In the event of a total or partial refusal, the applicant may bring proceedings before the Court of First Instance against the institution and/or make a complaint to the European Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.

4. Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and shall entitle the applicant to institute court proceedings against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the EC Treaty.

▌ ***[Am 68]***

Article 19

Access following an application

1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference.

2. If a document is publicly available and is easily accessible to the applicant, the institution may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document.

3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.

4. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than *twenty* A4 pages and direct access in electronic form or through the register shall be free of charge. ***In the case of printouts or documents in electronic format based on information contained in electronic storage, processing and retrieval systems, the actual cost of searching for and retrieving the document or documents may also be charged to the applicant. No additional charge shall be made if the institution has already produced the document or documents concerned. The applicant shall be informed in advance of the amount and method of calculating any charge. [Am 69]***

5. This Regulation shall not derogate from specific modalities governing access laid down in EC or national law, such as the payment of a fee.

Article 20

Information

1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this Regulation.

2. The Member States shall cooperate with the institutions in providing information to the citizens.

Article 21

Information Officer

1. Each directorate-general within each institution shall appoint an Information Officer who shall be responsible for ensuring compliance with the provisions of this Regulation and good administrative practice within that directorate-general.

2. The Information Officer shall determine which information it is expedient to give the public concerning:

(a) the implementation of this Regulation;

(b) good practice;

and shall ensure the dissemination of that information in an appropriate form and manner.

3. The Information Officer shall assess whether the services within his or her directorate-general follow good practice.

4. The Information Officer may redirect the person who requires the information to another directorate if the information in question falls outside its remit and within the remit of a different directorate within the same institution, provided that he or she is in possession of such information. [Am 106]

TITLE IV

Final provisions

Article 22

Reports

1. Each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.

2. At the latest by …*, the Commission shall publish a report on the application of the principles of this Regulation and shall make recommendations including, if appropriate, proposals for the revision of this Regulation which are necessitated by changes in the current situation and an action programme of measures to be taken by the institutions. [Am 83]

Article 23

Repeal

Regulation (EC) No 1049/2001 is repealed with effect from […].

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

Article 24

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at,

For the European Parliament
The President

For the Council
The President

Wednesday 11 March 2009

ANNEX

Correlation Table [1]

Regulation *(EC) No* 1049/2001	This Regulation
Article 1	Article 1
Article 2(1)	Article 2(1)
Article 2(2)	—
Article 2(3)	Article 2(2)
Article 2(4)	Article 2(3)
Article 2(5)	Article 2(4)
—	Article 2(5)
—	Article 2(6)
Article 2(6)	Article 2(7)
Article 3	Article 3
Article 4(1) (a)	Article 4(1)
Article 4(1) (b)	Article 4(5)
Article 4(2)	Article 4(2)
Article 4(3)	Article 4(3)
Article 4(4)	Article 5(1)
Article 4(5)	Article 5(2)
—	Article 4(4)
Article 4(6)	Article 4(6)
Article 4(7)	Article 4(7)
Article 5	Article 5(3)
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11
Article 12	Article 12
Article 13	Article 13
Article 14	Article 14
Article 15	Article 15
Article 16	Article 16
Article 17(1)	Article 17
Article 17(2)	—
Article 18	—
—	Article 18
—	Article 19
—	Annex

[1] *To be updated.*

Thursday 12 March 2009

Guidelines for the Member States' employment policies *

P6_TA(2009)0115

European Parliament legislative resolution of 11 March 2009 on the proposal for a Council decision on guidelines for the employment policies of the Member States (COM(2008)0869 – C6-0050/2009 – 2008/0252(CNS))

(2010/C 87 E/63)

(Consultation procedure)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2008)0869),

— having regard to Article 128(2) of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0050/2009),

— having regard to Rule 51 of its Rules of Procedure,

— having regard to the report of the Committee on Employment and Social Affairs (A6-0052/2009),

1. Approves the Commission proposal;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

4. Reiterates its longstanding call on the Commission and the Council to ensure that the Parliament is given the necessary time, and in any event no less than five months, to fulfil its consultative role, as defined in Article 128(2) of the Treaty, during the full revision of the Employment Guidelines, which is scheduled to take place at the end of 2010;

5. Instructs its President to forward its position to the Council and the Commission.

Multi-annual recovery plan for bluefin tuna *

P6_TA(2009)0128

European Parliament legislative resolution of 12 March 2009 on the proposal for a Council regulation concerning a multi-annual recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean (COM(2009)0093 – C6-0081/2009 – 2009/0029(CNS))

(2010/C 87 E/64)

(Consultation procedure)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2009)0093),

Thursday 12 March 2009

— having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0081/2009),

— having regard to Rules 51 and 134 of its Rules of Procedure,

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

5. Instructs its President to forward its position to the Council and the Commission.

TEXT PROPOSED BY THE COMMISSION	AMENDMENT
Amendment 1 **Proposal for a regulation** **Recital 3 a (new)**	
	(3a) The ICCAT recovery plan encourages Contracting Parties voluntarily to reduce their catches of bluefin tuna in the Eastern Atlantic and Mediterranean in 2009 as a way to foster stock recovery; some Contracting Parties have done so.
Amendment 4 **Proposal for a regulation** **Article 2 – point g**	
(g) 'joint fishing operation' means any operation between two or more catching vessels flying the flag of different CPCs or of different Member States where the catch of one catching vessel is attributed to one or more other catching vessels in accordance with an allocation key;	(g) 'joint fishing operation' means any operation between two or more catching vessels flying the flag of different CPCs or of different Member States ***or by vessels flying the same flag*** where the catch of one catching vessel is attributed to one or more other catching vessels in accordance with an allocation key;
Amendment 5 **Proposal for a regulation** **Article 4 – paragraph 6 – subparagraph 3**	
The flag Member State may require the vessel to proceed immediately to a port designated by it when the individual quota is deemed to be exhausted.	The flag Member State ***shall suspend the licence to fish for bluefin tuna and*** may require the vessel to proceed immediately to a port designated by it when the individual quota is deemed to be exhausted.

Thursday 12 March 2009

TEXT PROPOSED BY THE COMMISSION	AMENDMENT

Amendment 6

Proposal for a regulation
Article 21 – paragraph 1 – introductory wording

1. By way of derogation from Article 7 of Regulation (EEC) No 2847/93, the master of a Community fishing vessel referred to in Article 14 of this Regulation or his representative shall notify the competent authority of the Member State (including the flag Member State) or the CPC whose ports or landing facility they wish to use at least four hours before the estimated time of arrival at the port, of the following:	1. By way of derogation from Article 7 of Regulation (EEC) No 2847/93, the master of a Community fishing vessel referred to in Article 14 of this Regulation or his representative shall notify the competent authority of the Member State (including the flag Member State) or the CPC whose ports or landing facility they wish to use at least four hours before the estimated time of arrival at the port ***or, if the distance to port is shorter, at the end of the fishing operations and prior to starting the return journey***, of the following:

Amendment 7

Proposal for a regulation
Article 23 – paragraph 2 – point a

a) estimated time of arrival;	a) ***date, port and*** estimated time of arrival;

Amendment 8

Proposal for a regulation
Article 30 – paragraph 2 – point a

a) observer coverage for ***at least 20 %*** of its active purse seine catching vessels over 24 metres;	a) observer coverage for ***100 %*** of its active purse seine catching vessels over 24 metres;

Amendment 9

Proposal for a regulation
Article 30 – paragraph 2 – point b

b) in the case of joint fishing operations, the presence of an observer during the fishing operation.	b) in the case of joint fishing operations, the presence of an observer ***on each catching vessel*** during the fishing operation.

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*	Consultation procedure
**I	Cooperation procedure: first reading
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***I	Codecision procedure: first reading
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Political amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▌.

Technical corrections and adaptations by the services: new or replacement text is highlighted in italics and deletions are indicated by the symbol ‖.

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