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EN

Price:
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⁽¹⁾ Text with EEA relevance

II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Authorisation for State aid pursuant to Articles 107 and 108 of the TFEU**Cases where the Commission raises no objections****(Text with EEA relevance)**

(2012/C 23/01)

Date of adoption of the decision	23.5.2011
Reference number of State Aid	SA.32051 (10/N)
Member State	Latvia
Region	—
Title (and/or name of the beneficiary)	Temporary Framework — Guarantees for development of enterprise competitiveness — amendment to N 506/09
Legal basis	Cabinet Regulations No 269 'Regulations on Guarantees for Development of Enterprise and Cooperative Partnerships which provide Agricultural Services Competitiveness'
Type of measure	Aid scheme
Objective	Aid to remedy serious disturbances in the economy
Form of aid	Guarantee
Budget	Overall budget: LVL 40,6 million
Intensity	—
Duration (period)	30.10.2010-31.12.2010
Economic sectors	All sectors
Name and address of the granting authority	Latvian Guarantee Agency Tirgonu Str. 11/13; 15 Riga, LV-1050 LATVIJA

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	7.12.2011
Reference number of State Aid	SA.33042 (11/N)
Member State	Poland
Region	Wielkopolska
Title (and/or name of the beneficiary)	Pomoc na restrukturyzację dla Przedsiębiorstwa Komunikacji Samochodowej w Ostrowie Wielkopolskim Sp. z o.o.
Legal basis	<ol style="list-style-type: none"> 1) Ustawa z dnia 30 sierpnia 1996 r. o komercjalizacji i prywatyzacji – art. 56 ust. 1 pkt 2 2) Ustawa z dnia 29 kwietnia 2010 r. o zmianie ustawy o komercjalizacji i prywatyzacji oraz ustawy – Przepisy wprowadzające ustawę o finansach publicznych – art. 5 3) Rozporządzenie Ministra Skarbu Państwa z dnia 6 kwietnia 2007 r. w sprawie pomocy publicznej na ratowanie i restrukturyzację przedsiębiorców
Type of measure	Individual aid
Objective	Restructuring of firms in difficulty
Form of aid	Other forms of equity intervention
Budget	Overall budget: PLN 3,65 million
Intensity	—
Duration (period)	2011-2012
Economic sectors	Transport
Name and address of the granting authority	Minister Skarbu Państwa ul. Krucza 36/Wspólna 6 00-522 Warszawa POLSKA/POLAND
Other information	—

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	8.12.2011
Reference number of State Aid	SA.33098 (11/N)
Member State	Belgium
Region	—
Title (and/or name of the beneficiary)	Staatssteun ten gunste van producenten van audiovisuele werken (VAF Filmfonds en VAF Mediafonds)
Legal basis	<ol style="list-style-type: none"> 1. Decreet van 13 april 1999 houdende machtiging van de Vlaamse regering om toe te treden tot en om mee te werken aan de oprichting van de vereniging zonder winstgevend doel Vlaams audiovisueel Fonds. 2. Decreet van 27 maart 2009 betreffende radio-omroep en televisie. 3. Beheersovereenkomst tussen de Vlaamse Gemeenschap en het Vlaams Audiovisueel Fonds vzw 2011-2013. 4. Beheersovereenkomst tussen de Vlaamse Gemeenschap en het Vlaams Audiovisueel Fonds vzw 2011-2013 m.b.t. het Mediafonds.
Type of measure	Aid scheme
Objective	Culture
Form of aid	Direct grant
Budget	Annual budget: EUR 18,97 million Overall budget: EUR 56,91 million
Intensity	50 %
Duration (period)	1.1.2011-31.12.2013
Economic sectors	Media
Name and address of the granting authority	Vlaamse Overheid — Departement Cultuur Jeugd Sport en Media Arenbergstraat 9 1000 Bruxelles/Brussel BELGIQUE/BELGIË
Other information	—

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	8.8.2011
Reference number of State Aid	SA.33238 (11/N)
Member State	Italy
Region	Friuli Venezia Giulia

Title (and/or name of the beneficiary)	Aiuto al salvaggio di FADALTI SpA
Legal basis	Nuova disciplina dell'amministrazione straordinaria delle grandi imprese in stato di insolvenza, a norma dell'art. 1 della legge 30 luglio 1998 n. 274. D.lgs. 8 luglio 1999 n. 270; decreto legge 23 dicembre 2003 n. 347, conertito nella legge 18 febbraio 2004 n. 39 e ss.mm.; decreto del Ministero dell'Economia e delle Finanze 23 dicembre 2004, n. 319, Regolamento recante le condizioni e le modalità di prestazione della garanzia statale sui finanziamenti a favore delle grandi mprese in stato di insolvenza, asi sensi dell'art. 101 del D.lvo 270/1999
Type of measure	Individual aid
Objective	Rescue of firms in difficulty
Form of aid	Guarantee
Budget	Annual budget: EUR 5 million Overall budget: EUR 5 million
Intensity	100 %
Duration (period)	8.2011-2.2012
Economic sectors	Construction
Name and address of the granting authority	Ministerio dello Sviluppo Economico Via Molise 2 00196 Roma RM ITALIA
Other information	—

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	11.1.2012
Reference number of State Aid	SA.33844 (11/N)
Member State	Denmark
Region	—
Title (and/or name of the beneficiary)	Prolongation of the Danish export credit financing scheme
Legal basis	Danish Act on Eksport Kredit Fonden
Type of measure	Aid scheme
Objective	Aid to remedy serious disturbances in the economy
Form of aid	Ad hoc contracts
Budget	Overall budget: DKK 20 000 million

Intensity	—
Duration (period)	11.1.2012-31.12.2015
Economic sectors	Financial intermediation
Name and address of the granting authority	Kingdom of Denmark
Other information	—

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Authorisation for State aid pursuant to Articles 107 and 108 of the TFEU

Cases where the Commission raises no objections

(Text with EEA relevance)

(2012/C 23/02)

Date of adoption of the decision	7.12.2011
Reference number of State Aid	SA.32834 (11/N)
Member State	Sweden
Region	—
Title (and/or name of the beneficiary)	Nedsättning av egenavgifter
Legal basis	Lagen (2001:1170) om särskilda avdrag i vissa fall vid avgiftsberäkningen enligt lagen (1994:1920) om allmän löneavgift och socialavgiftslagen (2000:980).
Type of measure	Aid scheme
Objective	Small and medium-sized enterprises
Form of aid	Reduction of social security contributions
Budget	Annual budget: SEK 1 500 million
Intensity	—
Duration (period)	Indefinite
Economic sectors	All sectors
Name and address of the granting authority	Skatteverket
Other information	—

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	20.12.2011
Reference number of State Aid	SA.33180 (11/N)
Member State	Poland
Region	—
Title (and/or name of the beneficiary)	Program pomocy na usuwanie skutków przyszłych powodzi
Legal basis	Ustawa o szczególnych rozwiązaniach związanych z usuwaniem skutków powodzi
Type of measure	Aid scheme

Objective	Compensation for damage caused by natural disasters or exceptional occurrences
Form of aid	Direct grant, Soft loan, Tax advantage
Budget	Annual budget: PLN 600 million
Intensity	100 %
Duration (period)	Until 20.12.2017
Economic sectors	All sectors
Name and address of the granting authority	Fundusz Gwarantowanych Świadczeń Pracowniczych, Fundusz Pracy, Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych, Zakład Ubezpieczeń Społecznych, starosta, fundusze pożyczkowe
Other information	—

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	22.12.2011
Reference number of State Aid	SA.33433 (11/N)
Member State	Czech Republic
Region	Vysočina
Title (and/or name of the beneficiary)	Město Bystřice nad Pernštejnem (Centrum zelených vědomostí)
Legal basis	Smlouva o poskytnutí dotace z Regionálního operačního programu NUTS 2 Jihovýchod (XR 4/2008); Usnesení zastupitelstva č. 11/2009 ze dne 8. dubna 2009 o schválení projektového záměru
Type of measure	Individual aid
Objective	Heritage conservation, Culture, Training
Form of aid	Direct grant
Budget	Overall budget: CZK 128 616 026
Intensity	100 %
Duration (period)	Until 31.12.2015
Economic sectors	Recreational, cultural sporting activities, Education
Name and address of the granting authority	Regionální rada regionu soudržnosti Jihovýchod Kounicova 13 602 00 Brno ČESKÁ REPUBLIKA
Other information	—

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	16.12.2011
Reference number of State Aid	SA.33606 (11/N)
Member State	Ireland
Region	—
Title (and/or name of the beneficiary)	Refund of Social Security Contributions of Seafarers
Legal basis	S.I No. 204/2006 — Social Welfare (Consolidated Contributions and Insurability) (Refunds) Regulations
Type of measure	Aid scheme
Objective	Sectoral development, Employment
Form of aid	Reduction of social security contributions, Tax allowance
Budget	Annual budget: EUR 0,57 million Overall budget: EUR 3,42 million
Intensity	100 %
Duration (period)	1.1.2011-31.12.2016
Economic sectors	Transport
Name and address of the granting authority	Department of Transport, Tourism and Sport Maritime Transport Division Leeson Lane Dublin 2 IRELAND http://www.dttas.ie
Other information	—

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	8.12.2012
Reference number of State Aid	SA.33740 (11/N)
Member State	Ireland
Region	—
Title (and/or name of the beneficiary)	Prolongation of the ELG Scheme until 30 June 2012

Legal basis	The Credit Institutions (Financial Support) Act 2008 The Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009 as amended
Type of measure	Aid scheme
Objective	Aid to remedy serious disturbances in the economy
Form of aid	Guarantee
Budget	[...] (*)
Intensity	—
Duration (period)	1.1.2012-30.6.2012
Economic sectors	Financial intermediation
Name and address of the granting authority	Department of Finance Government Buildings Merrion Street Dublin 2 IRELAND
Other information	—

(*) Confidential information.

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

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Non-opposition to a notified concentration
(Case COMP/M.6350 — Siemens/Nem Holding)

(Text with EEA relevance)

(2012/C 23/03)

On 28 October 2011, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32011M6350. EUR-Lex is the on-line access to the European law.

Non-opposition to a notified concentration

(Case COMP/M.6403 — Volkswagen/KPI Polska/Skoda Auto Polska/VW Bank Polska/VW Leasing Polska)

(Text with EEA relevance)

(2012/C 23/04)

On 19 December 2011, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32011M6403. EUR-Lex is the on-line access to the European law.
-

Communication from the Commission relating to the available quantity for the May 2012 subperiod in the framework of certain quotas opened by the European Union for products in the rice sector

(2012/C 23/05)

Commission Regulation (EU) No 1274/2009 opened tariff quotas for the import of rice originating in the overseas countries and territories (OCT) ⁽¹⁾. No import licence applications have been submitted during the first seven days of January 2012 for the quotas with order numbers 09.4189 and 09.4190.

In accordance with the second sentence of Article 7(4) of Commission Regulation (EC) No 1301/2006 ⁽²⁾, the quantities for which applications are not submitted are to be added to the following subperiod.

In accordance with the second subparagraph of Article 1(5) of Commission Regulation (EU) No 1274/2009 quantities available in the following subperiod are communicated by the Commission before the 25th day of the last month of a given subperiod.

As a result, the total available quantity for the May 2012 subperiod under the quotas with order numbers 09.4189 and 09.4190 as referred to in Regulation (EU) No 1274/2009 are set out in the Annex to this communication.

⁽¹⁾ OJ L 344, 23.12.2009, p. 3.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

ANNEX

Quantities available for the following subperiod under Regulation (EU) No 1274/2009

Origin	Order number	Import licence applications introduced for the January 2012 subperiod	Total available quantity for the May 2012 subperiod (in kg)
Netherlands Antilles and Aruba	09.4189	⁽¹⁾	16 667 000
Least developed OCTs	09.4190	⁽¹⁾	6 667 000

⁽¹⁾ No allocation coefficient for this subperiod: no licence applications were sent to the Commission.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

27 January 2012

(2012/C 23/06)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3145	AUD	Australian dollar	1,2326
JPY	Japanese yen	101,18	CAD	Canadian dollar	1,3129
DKK	Danish krone	7,4335	HKD	Hong Kong dollar	10,1947
GBP	Pound sterling	0,83685	NZD	New Zealand dollar	1,5949
SEK	Swedish krona	8,8966	SGD	Singapore dollar	1,6485
CHF	Swiss franc	1,2078	KRW	South Korean won	1 475,64
ISK	Iceland króna		ZAR	South African rand	10,2035
NOK	Norwegian krone	7,6450	CNY	Chinese yuan renminbi	8,2995
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,5698
CZK	Czech koruna	25,156	IDR	Indonesian rupiah	11 809,33
HUF	Hungarian forint	293,95	MYR	Malaysian ringgit	3,9941
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	56,313
LVL	Latvian lats	0,6991	RUB	Russian rouble	39,7400
PLN	Polish zloty	4,2207	THB	Thai baht	40,920
RON	Romanian leu	4,3457	BRL	Brazilian real	2,2903
TRY	Turkish lira	2,3389	MXN	Mexican peso	17,0004
			INR	Indian rupee	64,9300

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

COMMISSION DECISION

of 28 November 2011

on the conclusion, on behalf of the European Union of the Monetary Agreement between the European Union and the Principality of Monaco

(2012/C 23/07)

THE EUROPEAN COMMISSION,

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

Having regard to Council Decision of 25 February 2011 on the arrangements for the renegotiation of the Monetary Agreement between the Government of the French Republic, on behalf of the European Community, and the Government of His Serene Highness the Prince of Monaco ⁽¹⁾, and in particular Article 4 thereof,

Whereas:

- (1) On 26 December 2001 the Monetary Agreement between the Government of the French Republic, on behalf of the European Community, and the Government of His Serene Highness the Prince of Monaco ⁽²⁾ (hereinafter 'the Agreement') was concluded.
- (2) In its conclusion of 10 February 2009 the Council invited the Commission to review the functioning of the existing Monetary Agreements and to consider possible increases in the ceilings for coin issuance.
- (3) The Commission concluded in the Communication on the functioning of the Monetary Agreements with the Principality of Monaco (hereinafter 'Monaco'), San Marino and the Vatican that the Agreement in its present form needs to be amended with a view to ensuring a more consistent approach in the relations between the Union and the countries having signed a monetary agreement.
- (4) Following the Council Decision of 25 February 2011 and, in particular, Article 4 thereof, the Agreement with Monaco was successfully renegotiated by France and the Commission on behalf of the Union. The European Central Bank (ECB) was fully associated with the negotiations and its agreement was given on issues falling within its field of competence.

(5) The Commission submitted the draft renegotiated Agreement to the Economic and Financial Committee (EFC) for opinion.

(6) Neither the ECB nor the EFC are of the opinion that the agreement should be submitted to the Council,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Union and the Principality of Monaco is hereby approved.

The text of the Agreement is set out in the Annex I.

Article 2

The Vice-President responsible for Economic and Monetary Affairs and the Euro is hereby authorised to sign the Agreement in order to bind the European Union.

Article 3

The Agreement shall enter into force on 1 December 2011. It shall be published in the *Official Journal of the European Union*.

Article 4

This Decision shall enter into force on 28 November 2011.

Done at Brussels, 28 November 2011.

For the Commission

Olli REHN

Vice-President

⁽¹⁾ OJ L 81, 29.3.2011, p. 3.

⁽²⁾ OJ L 142, 31.5.2002, p. 59.

ANNEX

MONETARY AGREEMENT**between the European Union and the Principality of Monaco**

THE EUROPEAN UNION, represented by the French Republic and the European Commission,

and

THE PRINCIPALITY OF MONACO,

Whereas:

- (1) On 1 January 1999, the euro replaced the currency of each Member State participating in the third stage of Economic and Monetary Union, among which France, pursuant to Council Regulation (EC) No 974/98 of 3 May 1998.
- (2) The French Republic and the Principality of Monaco were linked before the creation of the euro by bilateral agreements in the monetary and banking fields, most notably through the Franco-Monegasque Agreement of 14 April 1945 concerning foreign exchange control and by the Neighbourhood Agreement of 18 May 1963.
- (3) The Principality of Monaco has been authorised to use the euro as its official currency since 1 January 1999 by virtue of the Council Decision of 31 December 1998 ⁽¹⁾.
- (4) The European Union, represented by the French Republic in association with the European Commission and the ECB, concluded, on 24 December 2001, a Monetary Agreement with the Principality of Monaco. Said Agreement resulted in an amendment of the previously established Neighbourhood Agreement between the French Republic and the Principality of Monaco.
- (5) In accordance with the present Monetary Agreement, the Principality of Monaco has the right to continue using the euro as its official currency and to grant legal tender status to euro banknotes and euro coins. The rules of the European Union listed in Annex to the present Agreement shall be applied within the territory of the Principality of Monaco under the conditions and within the limitations foreseen under the present Agreement.
- (6) The Principality of Monaco should ensure that European Union rules on banknotes and coins denominated in euros are applicable within its territory; these coins and banknotes shall be appropriately protected against counterfeiting; it is important that the Principality of Monaco undertakes all measures necessary to combat counterfeiting and cooperates with the European Commission, the ECB, the French Republic and the European Police Office (Europol) in this domain.
- (7) The present Agreement shall not confer any right upon credit institutions or, where appropriate, any other financial institutions authorised to carry out their activities in the territory of the Principality of Monaco in matters related to the freedom of establishment or the provision of services in the European Union. The present Agreement shall not confer any right upon credit institutions or, where appropriate, any other financial institutions authorised to carry out their activities in the territory of the European Union in matters related to the freedom of establishment or the provision of services in the Principality of Monaco.
- (8) This Agreement does not impose any obligation on the ECB or national central banks to include the financial instruments of the Principality of Monaco in the list(s) of securities eligible for monetary policy operations of the European System of Central Banks.
- (9) Without prejudice to Article 11, paragraph six of this Agreement, the Principality of Monaco maintains certain institutions exclusively involved in portfolio management for third parties or in the transmission of instructions within its territory, whose services are exclusively regulated by Monegasque legislation. These institutions shall not have access to the payment and securities settlement systems.
- (10) In the interest of maintaining the historical links existing between the French Republic and the Principality of Monaco and the principles set forth on the Monetary Agreement of 24 December 2001, the European Union and the Principality of Monaco shall cooperate in good faith to ensure the effective implementation of the present Agreement in its entirety.

⁽¹⁾ OJ L 30, 4.2.1999, p. 31.

- (11) A Joint Committee composed of representatives of the Principality of Monaco, the French Republic, the European Commission and the ECB has been established in order to examine the application of this Agreement; decide, under the conditions presented in Article 3, the annual ceiling for coin issuance; examine the adequacy of the minimum proportion of coins to be introduced at the face value; and assess the measures taken by the Principality of Monaco for implementing relevant EU legislation.
- (12) The Court of Justice of the European Union shall be the body in charge of settling any disputes which may arise from the application of this Agreement, in cases in which no agreement has been reached by the parties to this Agreement,

HAVE AGREED AS FOLLOWS:

Article 1

The Principality of Monaco shall be entitled to use the euro as its official currency in accordance with Regulations (EC) No 1103/97 and (EC) No 974/98 as amended. The Principality of Monaco shall grant legal tender status to euro banknotes and coins.

Article 2

The Principality of Monaco shall issue neither banknotes nor coins, as long as the conditions for issuance have not been agreed to with the European Union. The conditions for issuing euro coins as from 1 January 2011 are laid down in the following Articles.

Article 3

1. The annual ceiling (in value terms) for the issuance of euro coins by the Principality of Monaco shall include:

a fixed part, whose initial amount for 2011 is set at EUR 2 340 000;

a variable part, corresponding in value terms to the average per capita coin issuance of the French Republic in the year n-1 multiplied by the number of inhabitants of the Principality of Monaco.

The Joint Committee may revise annually the fixed part with a view to taking into account both inflation — on the basis of HICP inflation of France in the year n-1 — and possible significant trends affecting the euro coins collector market.

2. The Principality of Monaco may also issue a special commemorative coin and/or collector coins to commemorate special or important events for the Principality. In case this special issuance brings the overall issuance above the ceiling laid down in paragraph 1, the value of that issuance shall be accounted for using the remaining part of the ceiling of the previous year and/or deducted from the ceiling of the following year.

Article 4

1. Euro coins issued by the Principality of Monaco shall be identical to those issued by the Member States of the European Union which have adopted the euro as far as the face value, legal tender status, technical characteristics, artistic features of the common side and shared artistic features of the national side are concerned.

2. The Principality of Monaco shall communicate, in advance, a draft of the national sides of its euro coins to the European Commission, which shall check their compliance with the EU rules.

Article 5

The French Republic shall place the Hôtel de la Monnaie de Paris at the disposal of the Principality of Monaco to conduct the minting of coins by the Principality of Monaco, in accordance with Article 18 of the Neighbourhood Agreement established between the French Republic and the Principality of Monaco on 18 May 1963.

Article 6

1. The volume of euro coins issued by the Principality of Monaco shall be added to the total volume of euro coins issued by the French Republic for the purposes of approval by the European Central Bank of the total volume issued by the French Republic, in accordance with Article 128(2) of the Treaty on the Functioning of the European Union.

2. No later than 1 September each year, the Principality of Monaco shall notify the French Republic of the total volume and face value of the euro coins that it intends to issue during the following year. The Principality of Monaco shall also inform the Commission of the intended conditions of issuance of these coins.

3. The Principality of Monaco shall communicate the information referred to in paragraph 2 for the year 2011 as of the signing of this Agreement.

4. Without prejudice to the issuance of collector coins, at least 80 % of euro coins intended for circulation shall be put into circulation at face value each year by the Principality of Monaco. The Joint Committee shall evaluate the adequacy of this proportion every five years and may decide to increase this proportion.

Article 7

1. The Principality of Monaco may issue euro collector coins. These coins shall be included in the annual ceiling stipulated in Article 3. The issuance of euro collector coins by the Principality of Monaco shall be in accordance with the European Union guidelines laid down for euro collector coins, which, inter alia, require the adoption of technical characteristics, artistic features and denominations that enable euro collector coins to be distinguished from coins intended for circulation.

2. Collector coins issued by the Principality of Monaco shall not be legal tender in the European Union.

Article 8

The Principality of Monaco shall take all necessary measures to combat the counterfeiting of euro banknotes and coins and cooperate with the European Commission, the ECB, the French Republic and the European Police Office (Europol) in this domain.

Article 9

The Principality of Monaco shall undertake to:

- (a) apply all appropriate EU legal acts or rules listed in Annex A relevant to the application of Article 11(2), including those which are directly applied by the French Republic or those measures taken by the French Republic for the transposition of the relevant legal acts or rules in accordance with the modalities set out in Articles 11(2) and 11(3);
- (b) adopt measures to comply with the legal acts or rules listed in Annex B, which are either directly applied or transposed by the Member States, in accordance with the modalities set out in Articles 11(4), 11(5), and 11(6) of this Agreement, in the following fields:
 - banking and financial legislation, as well as the prevention of money laundering in the domains and in accordance with the modalities set out in Article 11,
 - prevention of fraud and counterfeiting of cash and non-cash means of payment, medals and tokens;
- (c) apply directly on its territory all legal acts and rules of the European Union related to euro banknotes and coins, as well as those measures necessary for the use of the euro as a single currency adopted under Article 133 of the Treaty on the Functioning of the European Union, except in those cases for which this Agreement foresees different rules. The European Commission, via the Joint Committee, shall keep the Monegasque authorities informed of legal acts or rules relevant hereto.

Article 10

1. Credit institutions and, where appropriate, other financial institutions authorised to carry out their activities in the territory of the Principality of Monaco may, under the conditions stipulated in Article 11, participate in the interbank settlement and payment and securities settlement systems of the European Union under the same terms and conditions as credit institutions and, where relevant, other financial institutions established in the territory of the French Republic, under the proviso that said institutions fulfil the conditions required for access to those systems.

2. Credit institutions and, where appropriate, other financial institutions located in the territory of the Principality of Monaco are subject, under the conditions stipulated in Article 11, to the same measures adopted by the Banque de France in implementation of ECB provisions laying down the monetary policy instruments and procedures as those credit institutions and other financial institutions located in the territory of the French Republic.

Article 11

1. The legal acts adopted by the Council for the application of Article 129(4) of the Treaty on the Functioning of the European Union, in conjunction with Articles 5(4), 19(1) or 34(3) of the Statutes of the European System of Central Banks and the European Central Bank (hereinafter: the Statutes), by the ECB in application of the abovementioned legal acts adopted by the Council or pursuant to Articles 5, 16, 18, 19, 20, 22 or 34(3) of the Statutes, or by the Banque de France for the purpose of implementing the legal acts adopted by the ECB, shall apply to the territory of the Principality of Monaco. This shall also apply to all possible amendments of these acts.

2. The Principality of Monaco shall apply the same rules as those established in the French Republic for the purposes of transposing European Union legal acts concerning the activities and prudential regulation of credit institutions and the prevention of systemic risks to payment and securities settlement systems contained in Annex A. To that effect, the Principality of Monaco shall apply, firstly, the provisions of the French Monetary and Financial Code relative to the activities and monitoring of credit institutions, in addition to implementing regulations in accordance with the Franco-Monegasque Agreement of 14 April 1945 concerning foreign exchange control and to the Exchanges of Letters between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco of 18 May 1963, 10 May 2001, 8 November 2005 and 20 October 2010, concerning banking regulations, and, secondly, the provisions of the French Monetary and Financial Code concerning the prevention of systemic risks to payment and securities settlement systems.

3. The list of texts contained in Annex A shall be amended by the Commission upon amendment of any relevant texts and also each time a new text is adopted by the European Union, taking into account the date of entry into force and of transposition of the texts. The legal acts and rules enumerated in Annex A shall be applied by the Principality of Monaco as of the date of their inclusion in French law, pursuant to the provisions mentioned in paragraph 2. At the time of each amendment, the Commission shall publish the updated list of texts in the *Official Journal of the European Union* (OJEU).

4. The Principality of Monaco shall adopt measures equivalent to those adopted by the Member States to apply the legal acts of the European Union enumerated in Annex B necessary for the implementation of this Agreement. The Joint Committee referred to in Article 13, via a procedure to be defined by the Joint Committee, shall examine the equivalence between the measures adopted by the Principality of Monaco and those adopted by Member States in the application of the abovementioned acts.

5. Notwithstanding the procedure foreseen in paragraph 9 of this Article, the list of texts contained in Annex B shall be amended by a decision of the Joint Committee. To this effect, the Commission shall inform the Principality of Monaco as soon as it adopts a new piece of legislation in one of the domains covered by this Agreement and if it determines that said legislation should be included in the list of acts contained in Annex B. The Principality of Monaco will receive a copy of

the proposals made by the institutions of the European Union during the various stages of the legislative process. The Commission shall publish the updated Annex B in the *Official Journal of the European Union* (OJEU).

The Joint Committee shall also decide on appropriate and reasonable deadlines for implementation, by the Principality of Monaco, of new legal acts and rules added in Annex B.

6. The Principality of Monaco shall adopt measures equivalent in effect to the Directives of the European Union contained in Annex B in relation to the combat of money laundering pursuant to the recommendations of the Financial Action Task Force (FATF). The Joint Committee shall decide, on a case-by-case basis, whether regulations of the European Union related to the combat of money laundering should be included in Annex B. The financial intelligence unit of the Principality of Monaco and those of the Member States of the European Union should actively pursue and coordinate their efforts to combat money laundering.

7. Credit institutions and, where appropriate, other financial institutions and reporting agents located within the territory of the Principality of Monaco shall be subject to sanctions and disciplinary procedures in case of infringement of the legal acts and rules referred to in the preceding paragraphs. The Principality of Monaco shall oversee the enforcement of sanctions imposed by the competent authorities, in accordance with the provisions of the present Article.

8. The legal acts referred to in the first paragraph of this Article shall enter into force in the Principality of Monaco on the same day as in the European Union for those acts published in the OJEU, and on the same day as in France for those acts that are published in the Official Journal of the French Republic (OJFR). The legal acts of general application referred to in the first paragraph of the present Article and not published in the OJEU or of the OJFR shall enter into force as of communication to the relevant Monegasque authorities. The legal acts of an individual nature referred to in the first paragraph of the present Article shall apply as of the date of notification to the party concerned.

9. Before granting authorisation to investment firms seeking to establish themselves in the territory of the Principality of Monaco for the purposes of offering investment services other than investment management for third parties and the transmission of orders, and without prejudice to the obligations laid down in paragraph 6 of the present Article, the Principality of Monaco shall undertake measures equivalent in effect to existing European Union legal acts governing these services. By way of derogation from the procedure laid down in paragraph 5 of the present Article, these acts shall be integrated into the list of acts contained in Annex B by the Commission.

Article 12

1. The Court of Justice of the European Union shall have exclusive competence for settling any dispute between the parties of this Agreement which may arise from any infringement of this Agreement, and which has not been

solved within the Joint Committee. The parties to this Agreement commit to do whatever is necessary to first resolve any dispute within the confines of the Joint Committee.

2. If no amicable conclusion can be reached, the European Union — acting on a recommendation from the Commission, after consultation with the French Republic and the ECB on matters falling within its field of competence — or the Principality of Monaco may bring the matter before the Court of Justice, if the Joint Committee determines that one of the parties has not fulfilled an obligation or provision under the present Agreement. The judgment of the Court shall be binding on the Parties, which shall take the necessary measures to comply with the judgment within a period to be decided by the Court in its judgment.

3. In the event that the European Union or the Principality of Monaco fails to take the necessary measures to comply with the judgment within the specified period, the other Party may immediately terminate the Agreement.

4. All questions concerning the validity of decisions of the institutions or bodies of the European Union implemented by virtue of this Agreement shall fall within the exclusive competence of the Court of Justice. In particular, any natural or legal person domiciled in the territory of the Principality of Monaco may exercise any right of appeal available to any natural or legal person located in the territory of the French Republic against legal acts addressed to them, whatever their form or nature.

Article 13

1. The Joint Committee shall be composed of representatives of the Principality of Monaco and of the European Union. It shall exchange views and information and adopt decisions under Articles 3, 6 and 11. It shall similarly examine the measures taken by the Principality of Monaco and try to resolve any disputes arising from the application of this Agreement. It shall adopt its own Rules of Procedure.

2. The delegation of the European Union shall be composed of representatives of the French Republic (holding the chairmanship), the European Commission, together with representatives of the European Central Bank. The delegation of the European Union shall adopt its rules and procedures by consensus.

3. The Monegasque delegation shall be composed of representatives designated by the Ministry of State and shall be presided by the Counsellor of Government for Finance and the Economy or his/her representative.

4. The Joint Committee shall meet at least once a year, as well as at such time as one of the members determines a meeting is necessary to ensure the functioning of the present Agreement, notably taking into account the relevant European, French, or Monegasque legislative developments. The chair of the Joint Committee shall rotate on an annual basis between the

chair of the delegation of the European Union and the chair of the delegation of Monaco. The Joint Committee shall adopt its decisions unanimously.

5. The Secretariat of the Joint Committee shall be composed of two persons appointed, one by the chair of the delegation of Monaco, and the other by the chair of the delegation of the European Union. The Secretariat shall also participate in meetings of the Joint Committee.

Article 14

Each Party may terminate this Agreement subject to one year's notice.

Article 15

This Agreement shall be concluded and signed in French and, where necessary, may be translated into other languages of the European Union. Only the French version shall be considered authentic.

Article 16

The present Monetary Agreement shall enter into force on 1 December 2011.

Article 17

The Monetary Agreement of 24 December 2001 shall be repealed on the date on which this Agreement enters into force. References to the Agreement of 24 December 2001 shall be understood as meaning references to this Agreement.

Done at Brussels on 29 November 2011 in three originals in French.

For the European Union

Olli REHN
Vice-President

François BAROIN
*Minister of Economic Affairs,
Finance and Industry for the
French Republic*

For the Principality of Monaco

Michel ROGER
Minister of State

ANNEX A

Banking and financial legislation

Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions: as regards the provisions applicable to the credit institutions, OJ L 372, 31.12.1986, p. 1,

amended by:

Directive 2001/65/EC of the European Parliament and of the Council of 27 September 2001 amending Directives 78/660/EEC, 83/349/EEC and 86/635/EEC as regards the valuation rules for the annual and consolidated accounts of certain types of companies as well as of banks and other financial institutions, OJ L 283, 27.10.2001, p. 28;

Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings, OJ L 178, 17.7.2003, p. 16;

Directive 2006/46/EC of the European Parliament and of the Council of 14 June 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings, OJ L 224, 16.8.2006, p. 1;

Council Directive 89/117/EEC of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents, OJ L 44, 16.2.1989, p. 40.

Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast): as regards the provisions applicable to the credit institutions, OJ L 177, 30.6.2006, p. 201,

amended by:

Directive 2008/23/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, as regards the implementing powers conferred on the Commission, OJ L 76, 19.3.2008, p. 54;

Commission Directive 2009/27/EC of 7 April 2009 amending certain Annexes to Directive 2006/49/EC of the European Parliament and of the Council as regards technical provisions concerning risk management, OJ L 94, 8.4.2009, p. 97;

Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management, OJ L 302, 17.11.2009, p. 97;

Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies, OJ L 329, 14.12.2010, p. 3;

Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120.

Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, OJ L 135, 31.5.1994, p. 5,

amended by:

Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees, OJ L 79, 24.3.2005, p. 9;

Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay, OJ L 68, 13.3.2009, p. 3.

Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, OJ L 166, 11.6.1998, p. 45,

amended by:

Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims, OJ L 146, 10.6.2009, p. 37;

Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120.

Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast), OJ L 177, 30.6.2006, p. 1,

amended by:

Commission Directive 2007/18/EC of 27 March 2007 amending Directive 2006/48/EC of the European Parliament and of the Council as regards the exclusion or inclusion of certain institutions from its scope of application and the treatment of exposures to multilateral development banks, OJ L 87, 28.3.2007, p. 9;

Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector, OJ L 247, 21.9.2007, p. 1;

Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319, 5.12.2007, p. 1, concerning the provisions of Titles I and II of the Directive 2007/64/EC;

Directive 2008/24/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions, as regards the implementing powers conferred on the Commission, OJ L 81, 20.3.2008, p. 38;

Commission Directive 2009/83/EC of 27 July 2009 amending certain Annexes to Directive 2006/48/EC of the European Parliament and of the Council as regards technical provisions concerning risk management, OJ L 196, 28.7.2009, p. 14.

Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, OJ L 267, 10.10.2009, p. 7, with the exceptions of Titles III of the Directive 2009/110/EC;

Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management, OJ L 302, 17.11.2009, p. 97;

Commission Directive 2010/16/EU of 9 March 2010 amending Directive 2006/48/EC of the European Parliament and of the Council as regards the exclusion of a certain institution from the scope of application, OJ L 60, 10.3.2010, p. 15;

Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies, OJ L 329, 14.12.2010, p. 3;

Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120.

Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions, OJ L 125, 5.5.2001, p. 15.

Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements, OJ L 168, 27.6.2002, p. 43,

amended by:

Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims, OJ L 146, 10.6.2009, p. 37.

Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, OJ L 35, 11.2.2003, p. 1,

amended by:

Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees, OJ L 79, 24.3.2005, p. 9;

Directive 2008/25/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, as regards the implementing powers conferred on the Commission, OJ L 81, 20.3.2008, p. 40;

Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120.

Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, for the provisions applicable to credit institutions and with the exception of the Articles 15, 31 to 33 and Title III, OJ L 145, 30.4.2004, p. 1.

Corrigendum to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004), OJ L 45, 16.2.2005, p. 18,

amended by:

Directive 2006/31/EC of the European Parliament and of the Council of 5 April 2006 amending Directive 2004/39/EC on markets in financial instruments, as regards certain deadlines, OJ L 114, 27.4.2006, p. 60;

Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector, OJ L 247, 21.9.2007, p. 1;

Directive 2008/10/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2004/39/EC on markets in financial instruments, as regards the implementing powers conferred on the Commission, OJ L 76, 19.3.2008, p. 33;

Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120,

supplemented by:

Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive, OJ L 241, 2.9.2006, p. 1;

Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, OJ L 241, 2.9.2006, p. 26.

Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, OJ L 267, 10.10.2009, p. 7, with the exception of Title III of the Directive 2009/110/EC.

Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC: concerning the provisions of Titles I and II of Directive 2007/64/EC, OJ L 319, 5.12.2007, p. 1.

Corrigendum to Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007), OJ L 187, 18.7.2009, p. 5,

amended by:

Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management, OJ L 302, 17.11.2009, p. 97.

Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, OJ L 331, 15.12.2010, p. 12.

ANNEX B

Prevention of money laundering

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, OJ L 309, 25.11.2005, p. 15,

amended by:

Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319, 5.12.2007, p. 1, concerning the provisions of Titles I and II of Directive 2007/64/EC;

Directive 2008/20/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as regards the implementing powers conferred on the Commission, OJ L 76, 19.3.2008, p. 46;

Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, OJ L 267, 10.10.2009, p. 7, with the exception of Title III of Directive 2009/110/EC;

Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 120,

supplemented by:

Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis, OJ L 214, 4.8.2006, p. 29;

Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds, OJ L 345, 8.12.2006, p. 1;

Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community, OJ L 309, 25.11.2005, p. 9.

Prevention of fraud and counterfeiting

Council Framework Decision 2001/413/JHA of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment, OJ L 149, 2.6.2001, p. 1.

Council Regulation (EC) No 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins, OJ L 373, 21.12.2004, p. 1,

amended by:

Council Regulation (EC) No 46/2009 of 18 December 2008 amending Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins, OJ L 17, 22.1.2009, p. 5.

Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, OJ L 181, 4.7.2001, p. 6,

amended by:

Council Regulation (EC) No 44/2009 of 18 December 2008 amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting, OJ L 17, 22.1.2009, p. 1.

Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, OJ L 140, 14.6.2000, p. 1,

amended by:

Council Framework Decision 2001/888/JHA of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, OJ L 329, 14.12.2001, p. 3.

Council Decision 2001/887/JHA of 6 December 2001 on the protection of the euro against counterfeiting, OJ L 329, 14.12.2001, p. 1.

Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol), OJ L 121, 15.5.2009, p. 37.

Council Decision 2001/923/EC of 17 December 2001 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme), OJ L 339, 21.12.2001, p. 50,

amended by:

Council Decision 2006/75/EC of 30 January 2006 amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme), OJ L 36, 8.2.2006, p. 40;

Council Decision 2006/849/EC of 20 November 2006 amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme), OJ L 330, 28.11.2006, p. 28.

Banking and financial legislation

Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investment compensation schemes OJ L 84, 26.3.1997, p. 22.

Opinion of the Advisory Committee on mergers given at its meeting of 5 November 2010 concerning a preliminary draft decision relating to Case COMP/M.5658 — Unilever/Sara Lee Body Care

Rapporteur: Slovakia

(2012/C 23/08)

1. The Advisory Committee agrees with the Commission that the notified operation constitutes a concentration within the meaning of the Council Regulation (CE) No 139/2004.
2. The Advisory Committee agrees with the Commission that the notified operation has a community dimension within the meaning of the Council Regulation (CE) No 139/2004.
3. The Advisory Committee agrees with the Commission that, for the purpose of assessing the present operation, the definitions of the relevant product markets are:
 - (a) separate markets for male deodorants and non-male deodorants;
 - (b) market for bath and shower products, whereas a further distinction between bath products and shower products, and a distinction based on gender for shower products can be left open in this case;
 - (c) market for soaps, whereas a further distinction between liquid and bar soaps can be left open in this case;
 - (d) market for skin care products, whereas a further distinction between face, hand and body care products can be left open in this case;
 - (e) market for detergents, whereas it is not necessary to conclude on the exact product market definition in this case;
 - (f) market for fabric conditioners, whereas it is not necessary to conclude on the exact product market definition in this case;
 - (g) market for shaving products, whereas it is not necessary to conclude on the exact product market definition in this case;
 - (h) market for toothpaste, whereas it is not necessary to conclude on the exact product market definition in this case;
 - (i) market for hair care products, whereas a further distinction between shampoos, conditioners/ treatments and styling products can be left open in this case;
 - (j) market for household cleaners, whereas it is not necessary to conclude on the exact product market definition in this case, including on a segmentation for multi-purpose cleaners.
4. The Advisory Committee agrees with the Commission that, for the purpose of assessing the present operation, the definitions of the relevant geographic markets are national for all markets analysed.
5. The Advisory Committee agrees with the Commission that the proposed concentration is likely to result in a significant impediment to effective competition in the common market or in a substantial part of it on the following markets:
 - (a) non-male deodorants in Belgium;
 - (b) non-male deodorants in Denmark;
 - (c) non-male deodorants in Ireland;

- (d) non-male deodorants in the Netherlands;
 - (e) non-male deodorants in Portugal;
 - (f) non-male deodorants in Spain;
 - (g) male deodorants in Spain;
 - (h) non-male deodorants in the United Kingdom.
6. The Advisory Committee agrees with the Commission that the proposed concentration is not likely to result in a significant impediment to effective competition in the common market or in a substantial part of it on the following markets:
- (a) all male and non-male deodorants markets other than those mentioned in the previous question 5;
 - (b) all markets for bath and shower products;
 - (c) all markets for soaps;
 - (d) all markets for skin care products;
 - (e) all markets for detergents;
 - (f) all markets for fabric conditioners;
 - (g) all markets for shaving products;
 - (h) all markets for toothpaste;
 - (i) all markets for hair care products;
 - (j) all markets for household cleaners.
7. The Advisory Committee agrees with the Commission that the commitments are sufficient to remove the significant impediments to competition in the following markets:
- (a) non-male deodorants in Belgium;
 - (b) non-male deodorants in Denmark;
 - (c) non-male deodorants in Ireland;
 - (d) non-male deodorants in the Netherlands;
 - (e) non-male deodorants in Portugal;
 - (f) non-male deodorants in Spain;
 - (g) male deodorants in Spain;
 - (h) non-male deodorants in the United Kingdom.
8. The Advisory Committee agrees with the Commission that, subject to full compliance with the commitments offered by the parties, and considered all commitments together, the proposed concentration does not significantly impede effective competition in the internal market or in a substantial part of it.

9. The Advisory Committee agree with the Commission's view that the notified concentration should be declared compatible with the Internal Market and the EEA Agreement in accordance with Articles 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.
 10. The Advisory Committee recommends the publication of its Opinion in the *Official Journal of the European Union*.
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Final Report of the Hearing Officer ⁽¹⁾
COMP/M.5658 — Unilever/Sara Lee Body Care
(2012/C 23/09)

Unilever N.V. and Unilever Plc, (together hereinafter, referred to as 'Unilever') notified the Commission on 21 April 2010 of its acquisition of sole control of the undertaking Sara Lee Household and Body Care International (hereinafter, referred to as 'Sara Lee'), belonging to Sara Lee Corporation by way of an irrevocable binding offer announced on 25 September 2009.

Upon examination of the notification, the Commission concluded that the notified operation falls within the scope of Council Regulation (EC) No 139/2004 ⁽²⁾ (hereinafter, referred to as 'the Merger Regulation') and that the operation raised serious doubts as to its compatibility with the internal market and the Agreement on the European Economic Area. Accordingly, on 31 May 2010, the Commission initiated proceedings and opened a Phase II investigation pursuant to Article 6(1)(c) of the Merger Regulation.

A Statement of Objections was sent to Unilever on 12 August 2010 in which the Commission set out its preliminary conclusion that the notified concentration would significantly impede effective competition in a substantial part of the common market within the meaning of Article 2 of the Merger Regulation.

After having been given access to the file, Unilever requested on 17 August 2010, *inter alia*, further disclosure of certain documents which it claimed had been excessively redacted. As a result, the Commission contacted the information providers and obtained, for certain documents, a less redacted version which was then provided to Unilever. The latter reserved its right to claim that its rights of defence had been impeded in light of such a deferred access to file. However, Unilever never reverted to this issue in the remaining of the procedure or sought the decision of the Hearing Officer.

Unilever replied to the Statement of Objections on 27 August 2010, without requesting an oral hearing.

I have admitted one company as an interested third party who was provided with information on the nature and subject-matter of the proceedings and was invited by the Commission to submit its comments.

Additional facts gathered by the Commission after the adoption of the Statement of Objections were presented to Unilever in a Letter of Facts sent on 1 October 2010, on which they were given the opportunity to submit observations after they had received further access to the file.

In order to render the proposed concentration compatible with the internal market, Unilever proposed a first set of commitments which were market-tested. Following the market test, the notifying party submitted a revised set of commitments which was also market tested. Unilever received access to the observations received following the market tests.

A final set of commitments were subsequently submitted which the Commission considers that it addresses the competition concerns identified in the Statement of Objections, notably in the market for non-male deodorants in Belgium, Denmark, Ireland, the Netherlands, Portugal, Spain and the UK as well as the market for male deodorants in Spain. Unilever did not raise any objection as regards the objectivity of the market test carried out by the Commission ⁽³⁾.

In essence, the final commitments proposal consists of a full divestiture of the Sanex business across all product categories in the EEA. This comprises in particular all Sanex trademarks in Europe owned by Unilever as well as other intellectual property rights (referred to as 'IPRs') which are used in or relate to the Sanex business.

⁽¹⁾ Pursuant to Articles 15 and 16 of Commission Decision (2001/462/EC, ECSC) of 23 May 2001 on the terms of reference of Hearing Officers in certain competition proceedings (OJ L 162, 19.6.2001, p. 21).

⁽²⁾ OJ L 24, 29.1.2004, p. 1.

⁽³⁾ Article 14 of Commission Decision 2001/462/EC.

Thereby, the Commission finds that the amended commitments constitute an acceptable remedy to the overall competition concerns identified in the Statement of Objections. The Commission therefore proposes to declare, pursuant to Articles 8(2) and 10(2) of the Merger Regulation, the notified concentration compatible with the internal market and with the EEA Agreement, subject to the above conditions and obligations.

No queries or submissions have been made to me by the notifying party, the other involved party or any third party. In view thereof and taking into account that the case does not call for any particular comments as regards the right to be heard, I consider that the parties' right to be heard in this case has been respected.

Brussels, 12 November 2010.

Michael ALBERS

Summary of Commission Decision**of 17 November 2010****declaring a concentration compatible with the internal market and the functioning of the EEA Agreement****(Case COMP/M.5658 — Unilever/Sara Lee Body Care)***(notified under document C(2010) 7934)***(Only the English text is authentic)****(Text with EEA relevance)**

(2012/C 23/10)

On 17 November 2010, the Commission adopted a decision in a merger case under Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings⁽¹⁾, and in particular Article 8(2) of that Regulation. A non-confidential version of the full decision can be found in the authentic language of the case and in the working languages of the Commission on the website of the Directorate-General for Competition, at the following address:

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

I. THE PARTIES

- (1) Unilever, an Anglo-Dutch company⁽²⁾, is a worldwide supplier of fast-moving consumer goods and has primary share listings on Euronext Amsterdam (through Unilever N.V.) and the London Stock Exchange (through Unilever Plc). Its principal businesses are in the food, home care and personal care categories. In the home care sector, Unilever is a leading supplier of products for fabric and surface cleaning and hygiene. Unilever's personal care division supplies deodorants, bath & shower products, skin care products, oral care products and hair care products.
- (2) Sara Lee Corporation is a worldwide supplier of branded consumer goods, operating in the meats, bakery, beverage and household and body care sectors with its headquarters in the US and listed on the New York and Chicago Stock Exchanges. Sara Lee Body Care is comprised of: (i) the global body care business which manufactures and supplies bath and shower products, deodorants, baby care products, men's toiletries and oral care products worldwide; and (ii) the European laundry care business supplying fabric cleaning and conditioning products and laundry aids.

II. THE OPERATION

- (3) On 25 September 2009, Unilever made an offer for Sara Lee Corporation's worldwide body care and European laundry care businesses. The acquisition by Unilever is structured as a number of purchases of shares and assets comprising Sara Lee Body Care from Sara Lee Corporation, as set out in the sale and purchase agreement (the 'SPA').

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

⁽²⁾ Unilever has a dual listed structure comprising Unilever N.V. and Unilever Plc. The two entities exist as separate companies but operate as a single economic unit.

- (4) Since after completion of the notified transaction Unilever owns all the shares and assets of Sara Lee Body Care, the proposed transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. SUMMARY

- (5) After examination of the notification, the Commission adopted a decision on 31 May 2010, concluding that the operation falls within the scope of the Merger Regulation and raises serious doubts as to its compatibility with the internal market and the functioning of the EEA Agreement and initiated proceedings pursuant to Article 6(1)(c) of the Merger Regulation.
- (6) On 12 August 2010, a statement of objections was sent to Unilever pursuant to Article 18 of the Merger Regulation. Unilever replied to the statement of objections on 27 August 2010.
- (7) On 21 September 2010, Unilever offered commitments with a view to rendering the proposed concentration compatible with the internal market. These commitments were modified and the final version of the commitments was submitted to the Commission on 12 November 2010.

IV. EXPLANATORY MEMORANDUM

- (8) Unilever and Sara Lee Body Care are both active in the supply of personal care and home care products. Their activities overlap in the following categories: deodorants, skin cleansing (products for personal washing like bath and shower and soap products), skin care (products designed to moisturise and nourish skin on the hands and body), fabric care (detergents, conditioners and

laundry aids), aftershave treatments, oral care (toothpaste), hair care (shampoo, conditioners and styling products) and household cleaning (multi-purpose cleaners).

- (9) Irrespective of the precise market delineation, the transaction does not raise competition concerns in the following categories: skin cleansing, skin care, fabric care, aftershave treatments, oral care, hair care and household cleaning.
- (10) This summary only focuses on deodorants, for which a significant impediment to effective competition was identified in a number of national markets, namely Belgium, Denmark, Ireland, the Netherlands, Portugal, Spain and the United Kingdom.

A. The relevant markets

- (11) Deodorants are products minimising or eliminating the negative effects of sweating through control of odour and/or wetness. They are increasingly differentiated according to gender and most brands have variants marketed specifically to male and female consumers. Certain brands are sold with only male or female variants. In some Member States (especially Spain) a 'unisex' category exists, with products appealing to both male and female consumers.
- (12) Deodorants are sold in different formats. A distinction can be made between contact (primarily roll-ons, creams, stick and wipes) and non-contact formats. Deodorant brands are typically associated with certain core functionalities, the main ones being 'efficacy', 'skin caring' or 'fragrance'.
- (13) Sara Lee's leading brand is Sanex⁽¹⁾. Its marketing focuses primarily on the promises of healthy skin, although customers also value Sanex for its efficacy credentials.
- (14) Unilever has three core EU-wide brands: Axe, Rexona and Dove⁽²⁾. Axe (known as Lynx in the United Kingdom and Ireland) is an exclusively male deodorant. Rexona (known as Sure in the United Kingdom and Ireland) is positioned as an efficacy product, available in male and female variants, although its credentials are stronger in the female area. Dove deodorants have a particular focus on superior moisturising to fight skin dryness. The brand used to be exclusively targeted at women, but a range of products under the Dove Men + Care brand, including deodorants, has been launched across several Member States in the EU in January 2010.

⁽¹⁾ Sara Lee also supplies deodorants under other brands including Radox (United Kingdom and Ireland), Williams (Belgium, Denmark, France and Spain), Duschdas (Germany); Monsavon (France) and Neutral (Denmark, the Netherlands and Sweden). These brands are much less important in the Sara Lee deodorant portfolio compared to the main brand Sanex.

⁽²⁾ In addition to the core brands it has two brands present in a certain national markets: Vaseline (Vasenol in Portugal) and Impulse.

- (15) The Parties' main competitors in the EEA are: Beiersdorf (which markets Nivea, one of the main deodorant brands in the EEA), Henkel (with its brand Fa), Colgate-Palmolive (which supplies deodorants under the brands Palmolive and Soft & Gentle), L'Oreal (active with brands such as Narta, Ushuaïa and Garnier Mineral) and Procter & Gamble (which markets brands the brands Mum, Secret, Gillette and Old Spice).

Market definition for deodorants

- (16) With respect to the relevant product market, the market investigation did not confirm the product market definition proposed by the Parties whereby male deodorants form part of the same relevant product market as non-male deodorants. Instead, the investigation showed that male and non-male deodorants form two distinct product markets.
- (17) The market investigation provided a number of elements which allowed the conclusion that male and non-male deodorants are not substitutable from a demand side point of view, including separate shelf organisation, price differences, different growth patterns and limited cross-gender use. Regarding supply-side substitutability, the results of the investigation did not support the conclusion that male and non-male deodorants are substitutes for the purposes of the relevant product market definition. If the extension of a well known male/female/unisex deodorant brand into a different gender category in principle would be 'possible' for the major deodorants suppliers, such extension would still require a significant time and investment to prepare and launch the product. It was thus concluded that male deodorants and non-male deodorants are separate relevant product markets.
- (18) In relation to the relevant geographic market, the market investigation confirmed that the geographic market for deodorants remains national in scope. Customers and competitors across all Member States explained that prices and consumer preferences for brands, formats and gender varieties differ between countries. Local brands still play an important role in several Member States. Moreover, almost all market participants confirmed that price negotiations, as well as procurement, were conducted at national level. Therefore, the deodorants markets were analysed on a national level.

B. Competitive assessment

Introduction

- (19) The Commission carried out a thorough investigation as to the structure and the functioning of the deodorants markets concerned by the proposed merger. As a result, the Commission found that the merger is likely to result in a significant impediment of effective competition in the markets for non-male deodorants in Belgium, Denmark, Ireland, the Netherlands, Portugal, Spain and the United

Kingdom. With regards to the male deodorant market, significant impediment of effective competition was only identified in Spain.

(20) The following recitals describe, first, the assessment of general arguments which were applicable for all the Member States mentioned before. Second, a country specific assessment is presented before the commitments offered are summarised.

General assessment

(21) In differentiated markets, such as the market for deodorants, market shares, although providing an indication of the market power of the Parties, may not fully reflect the competitive interaction. The Decision examines the elements pointing towards price rises before discussing countervailing factors in line with the framework for analysing non-coordinated effects in the Horizontal Merger Guidelines ⁽¹⁾.

Likelihood of price increases

(22) In differentiated markets the degree of substitutability between the merging firms' products is an essential element in assessing the effects of the merger. With regards to closeness of competition, the Commission concluded that Unilever's brands (Dove, Rexona/Sure and Vasenol/Vaseline) have a comparable brand positioning to Sanex. Unilever's internal documents and analysis of a number of interaction studies also confirmed the closeness between Unilever's brands and Sanex.

(23) The Commission conducted a merger simulation which pointed to likely price increase following the transaction. The model has two components. The demand side describes how consumers chose a deodorant product and nested logit models have been used. The supply side describes how producers chose their prices: the model assumes that producers compete by setting their products' prices while viewing demand as described by the estimated model. The predicted price increase is obtained by comparing the model's post-merger market equilibrium to the prevailing pre-merger equilibrium. To simulate post-merger prices, the economic model used assumes that, after the merger, the merging brands are priced by the same firm, while they were competing with each other pre-merger.

Lack of countervailing buyer power

(24) Unilever has a sizeable position within the deodorant market, which allows it to have a better bargaining

position compared to its competitors. The Commission concluded that this position would be further enhanced by the proposed transaction and cannot be countered by retailers as their bargaining position is further weakened.

(25) Indeed, neither the competitive pressure exerted by private labels nor the threat or effective delisting from retailer's shelves or the relative margins showed that retailers would be able to resist a general increase of Unilever's prices post merger.

(26) Having assessed all the elements, it was concluded that buyer power would not mitigate the likelihood of price increases.

Sufficient entry unlikely to occur

(27) A majority of competitors, but also a high number of customers in the deodorant markets, indicated that entering (or expanding in) the deodorant market — either from a neighbouring personal care market or as a new entrant — is difficult, and that barriers to entry in the deodorant markets are generally high. Indeed, successful entry of a new brand or the introduction of a new gender variant by an existing deodorant supplier involves significant investments and time due to several crucial stages (concept testing, distribution, marketing).

(28) Moreover, internal documents and examples of the recent entry of Garnier Mineral demonstrated that Unilever as the leading incumbent with several brands has not only the ability, but also the incentive to try to prevent entry of new brands or expansion of existing ones.

(29) Therefore, it was concluded that barriers to entry are significantly high in the deodorant markets.

Country specific assessment

(30) In most of the national markets concerned the transaction would result in a further strengthening of Unilever's already leading position in non-male deodorants (one exception was Denmark, where Sara Lee was the market leader and Unilever number two). Although the increment varies, it was usually significant and above 6 percentage points. Moreover, in all these Member States, the second largest competitor would have significantly lower market shares than the combined market shares of the Parties in non-male deodorants, as shown in the table below:

Country	Unilever in %	Sara Lee in %	Combined in %	Competitors in %
Belgium	30-40	10-20	50-60	Henkel: 10-20 Beiersdorf: 10-20 Private labels: 5-10

⁽¹⁾ Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings, OJ C 31, 5.2.2004, p. 5 (hereinafter referred to as 'Horizontal Merger Guidelines').

Country	Unilever in %	Sara Lee in %	Combined in %	Competitors in %
Denmark	20-30	20-30	40-50	Unicare: 10-20 Beiersdorf: 10-20 E. Tjellesen: 5-10
Ireland	60-70	5-10	60-70	Beiersdorf: 10-20 Colgate: 10-20 Revlon: 0-5
Netherlands	30-40	10-20	40-50	Beiersdorf: 10-20 Others: 10-20 Henkel: 5-10
Portugal	40-50	5-10	40-50	Beiersdorf: 20-30 L'Oreal: 10-20 Private labels: 5-10
Spain (non-male market)	20-30	20-30	40-50	Private labels: 20-30 G. Puig: 5-10 Beiersdorf: 5-10
Spain (male market)	50-60	10-20	60-70	Beiersdorf: 10-20 G. Puig: 5-10 Coty: 5-10
UK	50-60	5-10	60-70	Colgate: 5-10 Revlon: 5-10 Beiersdorf: 5-10

Belgium

- (31) In Belgium, the market investigation showed that there was significant competitive interaction between the Parties' brands. The most successful player in the non-male deodorant market was Sara Lee with its brand Sanex, sales of which increased by [10-20 %] between 2008 and 2009. The risk of losing sales to Sanex was an important competitive constraint on Unilever that the transaction would remove. The overall simulated price increase for the total deodorant category would be in the region of 4-5 %, and around 6 % in the non-male deodorant market. In addition Sanex was predicted to have strong price increases (between 14 % and 20 %).

Denmark

- (32) Sara Lee was the number one and most successful non-male deodorant supplier in Denmark. The market investigation revealed that some of the competitors supply premium/prestige brands which were rather distant competitors to the Parties' brands. The price difference between these brands and the 'mass market brands', such as the brands of the Parties, remained significant. The transaction would have eliminated the rivalry between the two leading suppliers as Sara Lee's brands were constrained by Unilever and vice versa.

Ireland

- (33) In Ireland, the combined market shares in the non-male deodorant market — 60-70 % — were very significant (the second player — Beiersdorf — would be many times smaller than the new entity). The market investigation indicated that Parties' brands were close competitors, especially Dove and Sanex. It also pointed to the fact that the transaction would have eliminated a competitive force which spurred competitive rivalry in the market.

The Netherlands

- (34) In the Netherlands, Unilever and Sara Lee were the first and third supplier on the non-male deodorant market. The most successful player was Sara Lee, whose sales increased by [10-20 %] between 2007 and 2009, with Sanex increasing its sales by [10-20 %] and Neutral by [20-30 %]. The transaction would have eliminated a close competitor to two of Unilever's core brands. The prospect of price increases arising from the transaction was therefore significant and the merger simulation indicated a 5-6 % price increase for deodorants in the non-male market. The main drivers being price increases from Sanex (around 20 %) and Dove (between 7 and 11 %).

Portugal

- (35) In Portugal, the Parties would have achieved a combined market share of [40-50 %] in the non-male deodorant market. It would have exceeded by more than 2 times the share of its nearest competitor Beiersdorf and would have been more than 4 times bigger than the next competitor, L'Oréal. The market investigation revealed that Parties' brands were close competitors, in particular Vasenol, Dove and Sanex. In addition, even if Sanex declined between 2003 and 2007, it was a steady brand since 2007 and one of the five/six main brands in Portugal.

Spain (non-male market)

- (36) In Spain, Sara Lee and Unilever were the largest suppliers in the non-male deodorant market, each of them being more than twice the size of the third largest branded supplier, Puig. The closeness of competition between the Parties' brands was also confirmed by the market investigation. While private label sales were particularly significant in Spain (20 %) and showed high growth rates, this increase was mainly the result of the strategy of one specific retailer. Furthermore, the increase of private label sales primarily impacted competitors' brands (whose sales dropped between 15 % and 50 %), whereas Sanex slightly grew and Unilever remained stable.

Spain (male market)

- (37) In the Spanish male market, Unilever and Sara Lee were the largest suppliers in the market. The market investigation revealed significant competitive interaction between Sara Lee's brands (Sanex and Williams) and Unilever's brands (Axe and Rexona), in terms of brand proposition and price positioning. The merger simulation indicated a 2,2 % price increase for male deodorants.

The United Kingdom

- (38) In the United Kingdom, the Parties achieved a combined market share of [60-70 %] in the non-male deodorant market, whereas the main remaining competitor would have been Colgate with market, shares of [5-10 %]. Apart from the Parties, there were only three competitors with a market share in excess of 2 %. The qualitative and quantitative data gathered during the market investigation revealed that Parties' brands closely compete with each others. The merger simulation predicted price increases in the total deodorants category in the region of 2-3 % and of 4 % in the non-male deodorant market. On the brand level, Sanex was predicted to have quite strong price increases (around 30 %).

C. Commitments

- (39) In order to remove the identified competition concerns arising from the transaction, the Parties proposed commitments under Article 8(2) of the EC Merger Regulation. The first set of commitments was submitted on 21 September 2010, updated on 24 September 2010 with a view of obtaining a clearance of the operation from the Commission. The remedy package consisted of a five-year licence for the purposes of re-naming: (i) all products under the Sanex trade mark in the United Kingdom, Ireland, Belgium, the Netherlands and Denmark; and (ii) the Rexona trade mark in Spain and Portugal in relation to deodorants.
- (40) Subsequently, the Commission market-tested the commitments. The results of the first market test showed that significant improvements were needed. As a consequence, the parties submitted on 7 October 2010 an improved set of commitments consisting of a full divestiture of the Sanex deodorants business in Belgium, Denmark, Ireland, the Netherlands, Spain, Portugal and the United Kingdom.

Unilever would retain the Sanex brand for all other products/countries with an obligation to re-brand.

- (41) The market testing of the second package showed that the divestiture of Sanex deodorants was a more clear-cut solution and preferable to the first one, but some concerns were expressed as regards the viability of a remedy splitting Sanex between deodorants and other product categories. The Parties were informed of these concerns and on 12 November 2010 submitted a final commitments package.
- (42) The final commitments consist of a full divestiture of the Sanex business across all product categories in the EEA and includes all trade mark rights owned by Unilever in Europe in relation to Sanex, all intellectual property rights owned by Unilever in Europe which are used in or relate to the Sanex business including pipeline innovations, all contracts, leases, commitments and customer orders, including all co-packing contracts relating to the divestment business, access to all production equipment and production lines used in the Sanex business as well as the key personnel.
- (43) The final remedy package removes competition concerns identified in a clear-cut way, as it provides for a permanent divestiture of Sanex including deodorants in all seven Member States where competition concerns were identified, without raising any viability issues. It constitutes a clean, workable and effective remedy capable to create a viable and effective competitor since this solution addresses all viability concerns expressed during the second market test concerning the brand-split proposed in the second commitment proposal.

V. CONCLUSION

- (44) For the reasons mentioned above, the Decision concludes that the proposed concentration will not significantly impede effective competition in the internal market or in a substantial part of it.
- (45) Consequently, the concentration should be declared compatible with the internal market and the functioning of the EEA Agreement, in accordance with Article 2(2) and Article 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.

V

*(Announcements)*PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration**(Case COMP/M.6445 — Eurochem/BASF Antwerp Assets)****Candidate case for simplified procedure****(Text with EEA relevance)**

(2012/C 23/11)

1. On 20 January 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking Eurochem International Holding BV ('Eurochem BV', The Netherlands), controlled by Eurochem Group SE ('Eurochem SE', Cyprus), acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of certain fertiliser assets currently controlled by BASF Antwerpen NV ('BASF Antwerp Assets', Belgium) by way of purchase of shares.
2. The business activities of the undertakings concerned are:
 - for Eurochem SE: mining of minerals for fertilisers and the manufacture and sale of fertilisers,
 - for BASF Antwerp Assets: manufacture of mineral field fertilisers.
3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6445 — Eurochem/BASF Antwerp Assets, to the following address:

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

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

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

Prior notification of a concentration**(Case COMP/M.6451 — Schneider Electric France/Bouygues Immobilier/JV)****Candidate case for simplified procedure****(Text with EEA relevance)**

(2012/C 23/12)

1. On 20 January 2012, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings Schneider Electric France and Bouygues Immobilier (France) will create within the meaning of Article 3(4) of the Merger Regulation a joint venture offering energy performance services. This transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

2. The business activities of the undertakings concerned are:

- Schneider Electric France is an undertaking controlled by the Schneider Electric group, which specialises in energy management. The group designs, manufactures and sells products, equipment and solutions for electrical power distribution, industrial control and automation. Schneider Electric France is responsible for the group's activities in France,
- Bouygues Immobilier is part of the Bouygues group ('Bouygues'). Bouygues (France) operates in the construction, telecommunications and media sectors,
- The joint venture will offer services designed to improve and optimise energy efficiency in new and old office buildings.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6451 — Schneider Electric France/Bouygues Immobilier/JV, to the following address:

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

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

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

Prior notification of a concentration
(Case COMP/M.6216 — IHC/DEME/OceanfLORE JV)
Candidate case for simplified procedure
(Text with EEA relevance)
(2012/C 23/13)

1. On 23 January 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings IHC Merwede Holding BV ('IHC', the Netherlands) and DEME NV ('DEME', Belgium) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the undertaking OceanfLORE BV ('OceanfLORE JV', the Netherlands) by way of purchase of shares in a newly created company constituting a joint venture.
2. The business activities of the undertakings concerned are:
 - IHC: development of technology and construction of equipment for dredging activities, dredging related activities, marine mining and various offshore activities,
 - DEME: provision of services in the field of dredging, land reclamation, marine hydraulic engineering, and environmental sectors,
 - OceanfLORE JV: provision of deep sea mining services.
3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by e-mail to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6216 — IHC/DEME/OceanfLORE JV, to the following address:

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

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

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

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