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I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 492/2009

of 25 May 2009

repealing 14 obsolete Regulations in the field of the Common Fisheries Policy

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the Act of Accession of 1985 and in particular Articles 162, 163(3), 164(2), 165(8), 171, 349(5), 350, 351(5), 352(9) and 358 thereof,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy [1], and in particular Article 20 thereof,

Having regard to the Act of Accession of 2003 and in particular Article 24 and Annexes VI, VIII, IX and XII thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Improving the transparency of Community law is an essential element of the better lawmaking strategy that Community institutions are implementing. In that context it is appropriate to remove from active legislation those acts which no longer have real effect.

(2) The following Regulations relating to the common fisheries policy have become obsolete, even though formally they are still in force:

[1] OJ L 358, 31.12.2002, p. 59.

— Council Regulation (EEC) No 31/83 of 21 December 1982 on an interim common measure for restructuring the inshore fishing industry and aquaculture [2]. That Regulation has exhausted its effects since it concerned Community financing of investment projects under the year 1982,

— Council Regulation (EEC) No 3117/85 of 4 November 1985 laying down general rules on the granting of compensatory indemnities in respect of sardines [3]. That Regulation has exhausted its effects since it was intended for application in the transitional period following the accession of Spain to the European Communities,

— Council Regulation (EEC) No 3781/85 of 31 December 1985 laying down the measures to be taken in respect of operators who do not comply with certain provisions relating to fishing contained in the Act of Accession of Spain and Portugal [4]. That Regulation has exhausted its effects since it was intended for application in the transitional period following the accession of Spain to the European Communities,

— Council Regulation (EEC) No 3252/87 of 19 October 1987 on the coordination and promotion of research in the fisheries sector [5]. That Regulation has exhausted its effects since the matter is now covered by Council Regulation (EC) No 199/2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy [6],

[2] OJ L 5, 7.1.1983, p. 1.
[3] OJ L 297, 9.11.1985, p. 1.
[4] OJ L 363, 31.12.1985, p. 26.
[5] OJ L 314, 4.11.1987, p. 17.
[6] OJ L 60, 5.3.2008, p. 1.

— Council Regulation (EEC) No 3571/90 of 4 December 1990 introducing various measures concerning the implementation of the common fisheries policy in the former German Democratic Republic [1]. That Regulation has exhausted its effects since it was intended for application in the transitional period following the German unification,

— Council Regulation (EEC) No 3499/91 of 28 November 1991 providing a Community framework for studies and pilot projects relating to the conservation and management of fishery resources in the Mediterranean [2]. That Regulation has exhausted its effects since the matter is now covered by Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 [3],

— Council Regulation (EC) No 1275/94 of 30 May 1994 on adjustments to the arrangements in the fisheries chapters of the Act of Accession of Spain and Portugal [4]. That Regulation has exhausted its effects since it was intended for application in the transitional period following the accession of Spain to the European Communities,

— Council Regulation (EC) No 1448/1999 of 24 June 1999 introducing transitional measures for the management of certain Mediterranean fisheries and amending Regulation (EC) No 1626/94 [5]. That Regulation has exhausted its effects since the matter is now covered by Regulation (EC) No 1967/2006,

— Council Regulation (EC) No 300/2001 of 14 February 2001 establishing measures to be applied in 2001 for the recovery of the stock of cod in the Irish Sea (ICES division VIIa) [6]. That Regulation has exhausted its effects since it was intended to be in force during a period which has already expired,

— Council Regulation (EC) No 2561/2001 of 17 December 2001 aiming to promote the conversion of fishing vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco [7]. That Regulation has exhausted its effects since the national fleet conversion plans to which it applied have ended,

— Council Regulation (EC) No 2341/2002 of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required [8]. That Regulation has exhausted its effects since it was intended to govern fishing activities carried out in the year 2003,

— Council Regulation (EC) No 2372/2002 of 20 December 2002 instituting specific measures to compensate the Spanish fisheries, shellfish industry and aquaculture, affected by the oil spills from the Prestige [9]. That Regulation has exhausted its effects since the national compensation program to which it applied has ended,

— Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required [10]. That Regulation has exhausted its effects since it was intended to govern fishing activities carried out in the year 2004,

— Council Regulation (EC) No 52/2006 of 22 December 2005 fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2006 [11]. That Regulation has exhausted its effects since it was intended to govern fishing activities carried out in the year 2006.

(3) For reasons of legal security and clarity, those obsolete Regulations should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Regulations to be repealed

Regulations: (EEC) No 31/83, (EEC) No 3117/85, (EEC) No 3781/85, (EEC) No 3252/87, (EEC) No 3571/90, (EEC) No 3499/91, (EC) No 1275/94, (EC) No 1448/1999, (EC) No 300/2001, (EC) No 2561/2001, (EC) No 2341/2002, (EC) No 2372/2002, (EC) No 2287/2003 and (EC) No 52/2006 are hereby repealed.

(1) OJ L 353, 17.12.1990, p. 10.
(2) OJ L 331, 3.12.1991, p. 1.
(3) OJ L 409, 30.12.2006, p. 11.
(4) OJ L 140, 3.6.1994, p. 1.
(5) OJ L 167, 2.7.1999, p. 7.
(6) OJ L 44, 15.2.2001, p. 12.
(7) OJ L 344, 28.12.2001, p. 17.
(8) OJ L 356, 31.12.2002, p. 12.
(9) OJ L 358, 31.12.2002, p. 81.
(10) OJ L 344, 31.12.2003, p. 1.
(11) OJ L 16, 20.1.2006, p. 184.

Article 2

Entry into force

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 25 May 2009.

For the Council
The President
J. ŠEBESTA

COMMISSION REGULATION (EC) No 493/2009

of 11 June 2009

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1],

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector [2], and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 June 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 2009.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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(1) OJ L 299, 16.11.2007, p. 1.
(2) OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code [1]	Standard import value
0702 00 00	MA	37,3
	MK	35,9
	TR	46,6
	ZA	28,0
	ZZ	37,0
0707 00 05	JO	162,3
	MK	31,4
	TR	113,6
	ZZ	102,4
0709 90 70	TR	113,7
	ZZ	113,7
0805 50 10	AR	58,4
	TR	58,3
	ZA	53,0
	ZZ	56,6
0808 10 80	AR	78,3
	BR	73,1
	CL	92,4
	CN	102,4
	NA	101,9
	NZ	106,7
	US	118,7
	ZA	77,1
	ZZ	93,8
0809 10 00	TN	146,2
	TR	186,4
	ZZ	166,3
0809 20 95	TR	441,7
	ZZ	441,7

[1] Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 494/2009

of 3 June 2009

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Accounting Standard (IAS) 27

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards [1], and in particular Article 3(1) thereof,

Whereas:

(1) By Commission Regulation (EC) No 1126/2008 [2] certain international standards and interpretations that were in existence at 15 October 2008 were adopted.

(2) On 10 January 2008, the International Accounting Standards Board (IASB) published amendments to International Accounting Standard 27 *Consolidated and Separate Financial Statements*, hereinafter 'amendments to IAS 27'. The amendments to IAS 27 specify under which circumstances an entity has to prepare consolidated financial statements, how parent entities have to account for changes in their ownership interest in subsidiaries and how the losses of a subsidiary have to be allocated between the controlling and non-controlling interest.

(3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the amendments to IAS 27 meet the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006 setting up a Standards Advice Review Group to advise the Commission on the objectivity and neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions [3], the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.

(4) The adoption of the amendments to IAS 27 implies, by way of consequence, amendments to International Financial Reporting Standard (IFRS) 1, IFRS 4, IFRS 5, IAS 1, IAS 7, IAS 14, IAS 21, IAS 28, IAS 31, IAS 32, IAS 33, IAS 39 and Interpretation 7 of the Standing Interpretations Committee (SIC) in order to ensure consistency between international accounting standards.

(5) Regulation (EC) No 1126/2008 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

1. International Accounting Standard (IAS) 27 *Consolidated and Separate Financial Statements* is amended as set out in the Annex to this Regulation;

2. International Financial Reporting Standard (IFRS) 1, IFRS 4, IFRS 5, IAS 1, IAS 7, IAS 14, IAS 21, IAS 28, IAS 31, IAS 32, IAS 33, IAS 39 and Interpretation 7 of the Standing Interpretations Committee (SIC) are amended in accordance with the amendments to IAS 27 as set out in the Annex to this Regulation.

Article 2

Each company shall apply the amendments to IAS 27, as set out in the Annex to this Regulation, at the latest, as from the commencement date of its first financial year starting after 30 June 2009.

[1] OJ L 243, 11.9.2002, p. 1.
[2] OJ L 320, 29.11.2008, p. 1.
[3] OJ L 199, 21.7.2006, p. 33.

Article 3

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 June 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IAS 27	Consolidated and Separate Financial Statements

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INTERNATIONAL ACCOUNTING STANDARD 27

Consolidated and Separate Financial Statements

SCOPE

1 **This Standard shall be applied in the preparation and presentation of consolidated financial statements for a group of entities under the control of a parent.**

2 This Standard does not deal with methods of accounting for business combinations and their effects on consolidation, including goodwill arising on a business combination (see IFRS 3 *Business Combinations*).

3 **This Standard shall also be applied in accounting for investments in subsidiaries, jointly controlled entities and associates when an entity elects, or is required by local regulations, to present separate financial statements.**

DEFINITIONS

4 **The following terms are used in this Standard with the meanings specified:**

***Consolidated financial statements* are the financial statements of a group presented as those of a single economic entity.**

***Control* is the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.**

A *group* is a parent and all its subsidiaries.

***Non-controlling interest* is the equity in a subsidiary not attributable, directly or indirectly, to a parent.**

A *parent* is an entity that has one or more subsidiaries.

***Separate financial statements* are those presented by a parent, an investor in an associate or a venturer in a jointly controlled entity, in which the investments are accounted for on the basis of the direct equity interest rather than on the basis of the reported results and net assets of the investees.**

A *subsidiary* is an entity, including an unincorporated entity such as a partnership, that is controlled by another entity (known as the parent).

5 A parent or its subsidiary may be an investor in an associate or a venturer in a jointly controlled entity. In such cases, consolidated financial statements prepared and presented in accordance with this Standard are also prepared so as to comply with IAS 28 *Investments in Associates* and IAS 31 *Interests in Joint Ventures*.

6 For an entity described in paragraph 5, separate financial statements are those prepared and presented in addition to the financial statements referred to in paragraph 5. Separate financial statements need not be appended to, or accompany, those statements.

7 The financial statements of an entity that does not have a subsidiary, associate or venturer's interest in a jointly controlled entity are not separate financial statements.

8 A parent that is exempted in accordance with paragraph 10 from presenting consolidated financial statements may present separate financial statements as its only financial statements.

PRESENTATION OF CONSOLIDATED FINANCIAL STATEMENTS

9 **A parent, other than a parent described in paragraph 10, shall present consolidated financial statements in which it consolidates its investments in subsidiaries in accordance with this Standard.**

10 **A parent need not present consolidated financial statements if and only if:**

(a) the parent is itself a wholly-owned subsidiary, or is a partially-owned subsidiary of another entity and its other owners, including those not otherwise entitled to vote, have been informed about, and do not object to, the parent not presenting consolidated financial statements;

(b) the parent's debt or equity instruments are not traded in a public market (a domestic or foreign stock exchange or an over-the-counter market, including local and regional markets);

(c) the parent did not file, nor is it in the process of filing, its financial statements with a securities commission or other regulatory organisation for the purpose of issuing any class of instruments in a public market; and

(d) the ultimate or any intermediate parent of the parent produces consolidated financial statements available for public use that comply with International Financial Reporting Standards.

11 A parent that elects in accordance with paragraph 10 not to present consolidated financial statements, and presents only separate financial statements, complies with paragraphs 38-43.

SCOPE OF CONSOLIDATED FINANCIAL STATEMENTS

12 Consolidated financial statements shall include all subsidiaries of the parent ([1]).

13 Control is presumed to exist when the parent owns, directly or indirectly through subsidiaries, more than half of the voting power of an entity unless, in exceptional circumstances, it can be clearly demonstrated that such ownership does not constitute control. Control also exists when the parent owns half or less of the voting power of an entity when there is: ([2])

(a) power over more than half of the voting rights by virtue of an agreement with other investors;

(b) power to govern the financial and operating policies of the entity under a statute or an agreement;

(c) power to appoint or remove the majority of the members of the board of directors or equivalent governing body and control of the entity is by that board or body; or

(d) power to cast the majority of votes at meetings of the board of directors or equivalent governing body and control of the entity is by that board or body.

14 An entity may own share warrants, share call options, debt or equity instruments that are convertible into ordinary shares, or other similar instruments that have the potential, if exercised or converted, to give the entity voting power or reduce another party's voting power over the financial and operating policies of another entity (potential voting rights). The existence and effect of potential voting rights that are currently exercisable or convertible, including potential voting rights held by another entity, are considered when assessing whether an entity has the power to govern the financial and operating policies of another entity. Potential voting rights are not currently exercisable or convertible when, for example, they cannot be exercised or converted until a future date or until the occurrence of a future event.

15 In assessing whether potential voting rights contribute to control, the entity examines all facts and circumstances (including the terms of exercise of the potential voting rights and any other contractual arrangements whether considered individually or in combination) that affect potential voting rights, except the intention of management and the financial ability to exercise or convert such rights.

16 A subsidiary is not excluded from consolidation simply because the investor is a venture capital organisation, mutual fund, unit trust or similar entity.

17 A subsidiary is not excluded from consolidation because its business activities are dissimilar from those of the other entities within the group. Relevant information is provided by consolidating such subsidiaries and disclosing additional information in the consolidated financial statements about the different business activities of subsidiaries. For example, the disclosures required by IFRS 8 *Operating Segments* help to explain the significance of different business activities within the group.

CONSOLIDATION PROCEDURES

18 In preparing consolidated financial statements, an entity combines the financial statements of the parent and its subsidiaries line by line by adding together like items of assets, liabilities, equity, income and expenses. In order that the consolidated financial statements present financial information about the group as that of a single economic entity, the following steps are then taken:

([1]) If on acquisition a subsidiary meets the criteria to be classified as held for sale in accordance with IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations*, it shall be accounted for in accordance with that IFRS.
([2]) See also SIC-12 *Consolidation—Special Purpose Entities*.

(a) the carrying amount of the parent's investment in each subsidiary and the parent's portion of equity of each subsidiary are eliminated (see IFRS 3, which describes the treatment of any resultant goodwill);

(b) non-controlling interests in the profit or loss of consolidated subsidiaries for the reporting period are identified; and

(c) non-controlling interests in the net assets of consolidated subsidiaries are identified separately from the parent's ownership interests in them. Non-controlling interests in the net assets consist of:

(i) the amount of those non-controlling interests at the date of the original combination calculated in accordance with IFRS 3; and

(ii) the non-controlling interests' share of changes in equity since the date of the combination.

19 When potential voting rights exist, the proportions of profit or loss and changes in equity allocated to the parent and non-controlling interests are determined on the basis of present ownership interests and do not reflect the possible exercise or conversion of potential voting rights.

20 Intragroup balances, transactions, income and expenses shall be eliminated in full.

21 Intragroup balances and transactions, including income, expenses and dividends, are eliminated in full. Profits and losses resulting from intragroup transactions that are recognised in assets, such as inventory and fixed assets, are eliminated in full. Intragroup losses may indicate an impairment that requires recognition in the consolidated financial statements. IAS 12 *Income Taxes* applies to temporary differences that arise from the elimination of profits and losses resulting from intragroup transactions.

22 The financial statements of the parent and its subsidiaries used in the preparation of the consolidated financial statements shall be prepared as of the same date. When the end of the reporting period of the parent is different from that of a subsidiary, the subsidiary prepares, for consolidation purposes, additional financial statements as of the same date as the financial statements of the parent unless it is impracticable to do so.

23 When, in accordance with paragraph 22, the financial statements of a subsidiary used in the preparation of consolidated financial statements are prepared as of a date different from that of the parent's financial statements, adjustments shall be made for the effects of significant transactions or events that occur between that date and the date of the parent's financial statements. In any case, the difference between the end of the reporting period of the subsidiary and that of the parent shall be no more than three months. The length of the reporting periods and any difference between the ends of the reporting periods shall be the same from period to period.

24 Consolidated financial statements shall be prepared using uniform accounting policies for like transactions and other events in similar circumstances.

25 If a member of the group uses accounting policies other than those adopted in the consolidated financial statements for like transactions and events in similar circumstances, appropriate adjustments are made to its financial statements in preparing the consolidated financial statements.

26 The income and expenses of a subsidiary are included in the consolidated financial statements from the acquisition date as defined in IFRS 3. Income and expenses of the subsidiary shall be based on the values of the assets and liabilities recognised in the parent's consolidated financial statements at the acquisition date. For example, depreciation expense recognised in the consolidated statement of comprehensive income after the acquisition date shall be based on the fair values of the related depreciable assets recognised in the consolidated financial statements at the acquisition date. The income and expenses of a subsidiary are included in the consolidated financial statements until the date when the parent ceases to control the subsidiary.

27 Non-controlling interests shall be presented in the consolidated statement of financial position within equity, separately from the equity of the owners of the parent.

28 Profit or loss and each component of other comprehensive income are attributed to the owners of the parent and to the non-controlling interests. Total comprehensive income is attributed to the owners of the parent and to the non-controlling interests even if this results in the non-controlling interests having a deficit balance.

29 If a subsidiary has outstanding cumulative preference shares that are classified as equity and are held by non-controlling interests, the parent computes its share of profit or loss after adjusting for the dividends on such shares, whether or not dividends have been declared.

30 Changes in a parent's ownership interest in a subsidiary that do not result in a loss of control are accounted for as equity transactions (ie transactions with owners in their capacity as owners).

31 In such circumstances the carrying amounts of the controlling and non-controlling interests shall be adjusted to reflect the changes in their relative interests in the subsidiary. Any difference between the amount by which the non-controlling interests are adjusted and the fair value of the consideration paid or received shall be recognised directly in equity and attributed to the owners of the parent.

LOSS OF CONTROL

32 A parent can lose control of a subsidiary with or without a change in absolute or relative ownership levels. This could occur, for example, when a subsidiary becomes subject to the control of a government, court, administrator or regulator. It also could occur as a result of a contractual agreement.

33 A parent might lose control of a subsidiary in two or more arrangements (transactions). However, sometimes circumstances indicate that the multiple arrangements should be accounted for as a single transaction. In determining whether to account for the arrangements as a single transaction, a parent shall consider all of the terms and conditions of the arrangements and their economic effects. One or more of the following may indicate that the parent should account for the multiple arrangements as a single transaction:

(a) They are entered into at the same time or in contemplation of each other.

(b) They form a single transaction designed to achieve an overall commercial effect.

(c) The occurrence of one arrangement is dependent on the occurrence of at least one other arrangement.

(d) One arrangement considered on its own is not economically justified, but it is economically justified when considered together with other arrangements. An example is when one disposal of shares is priced below market and is compensated for by a subsequent disposal priced above market.

34 If a parent loses control of a subsidiary, it:

(a) derecognises the assets (including any goodwill) and liabilities of the subsidiary at their carrying amounts at the date when control is lost;

(b) derecognises the carrying amount of any non-controlling interests in the former subsidiary at the date when control is lost (including any components of other comprehensive income attributable to them);

(c) recognises:

(i) the fair value of the consideration received, if any, from the transaction, event or circumstances that resulted in the loss of control; and

(ii) if the transaction that resulted in the loss of control involves a distribution of shares of the subsidiary to owners in their capacity as owners, that distribution;

(d) recognises any investment retained in the former subsidiary at its fair value at the date when control is lost;

(e) reclassifies to profit or loss, or transfers directly to retained earnings if required in accordance with other IFRSs, the amounts identified in paragraph 35; and

(f) recognises any resulting difference as a gain or loss in profit or loss attributable to the parent.

35 If a parent loses control of a subsidiary, the parent shall account for all amounts recognised in other comprehensive income in relation to that subsidiary on the same basis as would be required if the parent had directly disposed of the related assets or liabilities. Therefore, if a gain or loss previously recognised in other comprehensive income would be reclassified to profit or loss on the disposal of the related assets or liabilities, the parent reclassifies the gain or loss from equity to profit or loss (as a reclassification adjustment) when it loses control of the subsidiary. For example, if a subsidiary has available-for-sale financial assets and the parent loses control of the subsidiary, the parent shall reclassify to profit or loss the gain or loss previously recognised in other comprehensive income in relation to those assets. Similarly, if a revaluation surplus previously recognised in other comprehensive income would be transferred directly to retained earnings on the disposal of the asset, the parent transfers the revaluation surplus directly to retained earnings when it loses control of the subsidiary.

36 On the loss of control of a subsidiary, any investment retained in the former subsidiary and any amounts owed by or to the former subsidiary shall be accounted for in accordance with other IFRSs from the date when control is lost.

37 The fair value of any investment retained in the former subsidiary at the date when control is lost shall be regarded as the fair value on initial recognition of a financial asset in accordance with IAS 39 *Financial Instruments: Recognition and Measurement* or, when appropriate, the cost on initial recognition of an investment in an associate or jointly controlled entity.

ACCOUNTING FOR INVESTMENTS IN SUBSIDIARIES, JOINTLY CONTROLLED ENTITIES AND ASSOCIATES IN SEPARATE FINANCIAL STATEMENTS

38 When an entity prepares separate financial statements, it shall account for investments in subsidiaries, jointly controlled entities and associates:

(a) at cost, or

(b) in accordance with IAS 39.

The entity shall apply the same accounting for each category of investments. Investments accounted for at cost shall be accounted for in accordance with IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations* when they are classified as held for sale (or included in a disposal group that is classified as held for sale) in accordance with IFRS 5. The measurement of investments accounted for in accordance with IAS 39 is not changed in such circumstances.

38A An entity shall recognise a dividend from a subsidiary, jointly controlled entity or associate in profit or loss in its separate financial statements when its right to receive the dividend is established.

38B When a parent reorganises the structure of its group by establishing a new entity as its parent in a manner that satisfies the following criteria:

(a) the new parent obtains control of the original parent by issuing equity instruments in exchange for existing equity instruments of the original parent;

(b) the assets and liabilities of the new group and the original group are the same immediately before and after the reorganisation; and

(c) the owners of the original parent before the reorganisation have the same absolute and relative interests in the net assets of the original group and the new group immediately before and after the reorganisation

and the new parent accounts for its investment in the original parent in accordance with paragraph 38(a) in its separate financial statements, the new parent shall measure cost at the carrying amount of its share of the equity items shown in the separate financial statements of the original parent at the date of the reorganisation.

38C Similarly, an entity that is not a parent might establish a new entity as its parent in a manner that satisfies the criteria in paragraph 38B. The requirements in paragraph 38B apply equally to such reorganisations. In such cases, references to 'original parent' and 'original group' are to the 'original entity'

39 This Standard does not mandate which entities produce separate financial statements available for public use. Paragraphs 38 and 40-43 apply when an entity prepares separate financial statements that comply with International Financial Reporting Standards. The entity also produces consolidated financial statements available for public use as required by paragraph 9, unless the exemption provided in paragraph 10 is applicable.

40 Investments in jointly controlled entities and associates that are accounted for in accordance with IAS 39 in the consolidated financial statements shall be accounted for in the same way in the investor's separate financial statements.

DISCLOSURE

41 **The following disclosures shall be made in consolidated financial statements:**

(a) the nature of the relationship between the parent and a subsidiary when the parent does not own, directly or indirectly through subsidiaries, more than half of the voting power;

(b) the reasons why the ownership, directly or indirectly through subsidiaries, of more than half of the voting or potential voting power of an investee does not constitute control;

(c) the end of the reporting period of the financial statements of a subsidiary when such financial statements are used to prepare consolidated financial statements and are as of a date or for a period that is different from that of the parent's financial statements, and the reason for using a different date or period;

(d) the nature and extent of any significant restrictions (eg resulting from borrowing arrangements or regulatory requirements) on the ability of subsidiaries to transfer funds to the parent in the form of cash dividends or to repay loans or advances;

(e) a schedule that shows the effects of any changes in a parent's ownership interest in a subsidiary that do not result in a loss of control on the equity attributable to owners of the parent; and

(f) if control of a subsidiary is lost, the parent shall disclose the gain or loss, if any, recognised in accordance with paragraph 34, and:

(i) the portion of that gain or loss attributable to recognising any investment retained in the former subsidiary at its fair value at the date when control is lost; and

(ii) the line item(s) in the statement of comprehensive income in which the gain or loss is recognised (if not presented separately in the statement of comprehensive income).

42 **When separate financial statements are prepared for a parent that, in accordance with paragraph 10, elects not to prepare consolidated financial statements, those separate financial statements shall disclose:**

(a) the fact that the financial statements are separate financial statements; that the exemption from consolidation has been used; the name and country of incorporation or residence of the entity whose consolidated financial statements that comply with International Financial Reporting Standards have been produced for public use; and the address where those consolidated financial statements are obtainable;

(b) a list of significant investments in subsidiaries, jointly controlled entities and associates, including the name, country of incorporation or residence, proportion of ownership interest and, if different, proportion of voting power held; and

(c) a description of the method used to account for the investments listed under (b).

43 **When a parent (other than a parent covered by paragraph 42), venturer with an interest in a jointly controlled entity or an investor in an associate prepares separate financial statements, those separate financial statements shall disclose:**

(a) the fact that the statements are separate financial statements and the reasons why those statements are prepared if not required by law;

(b) a list of significant investments in subsidiaries, jointly controlled entities and associates, including the name, country of incorporation or residence, proportion of ownership interest and, if different, proportion of voting power held; and

(c) a description of the method used to account for the investments listed under (b);

and shall identify the financial statements prepared in accordance with paragraph 9 of this Standard or IAS 28 and IAS 31 to which they relate.

EFFECTIVE DATE AND TRANSITION

44 An entity shall apply this Standard for annual periods beginning on or after 1 January 2005. Earlier application is encouraged. If an entity applies this Standard for a period beginning before 1 January 2005, it shall disclose that fact.

45 An entity shall apply the amendments to IAS 27 made by the International Accounting Standards Board in 2008 in paragraphs 4, 18, 19, 26–37 and 41(e) and (f) for annual periods beginning on or after 1 July 2009. Earlier application is permitted. However, an entity shall not apply these amendments for annual periods beginning before 1 July 2009 unless it also applies IFRS 3 (as revised by the International Accounting Standards Board in 2008). If an entity applies the amendments before 1 July 2009, it shall disclose that fact. An entity shall apply the amendments retrospectively, with the following exceptions:

(a) the amendment to paragraph 28 for attributing total comprehensive income to the owners of the parent and to the non-controlling interests even if this results in the non-controlling interests having a deficit balance. Therefore, an entity shall not restate any profit or loss attribution for reporting periods before the amendment is applied;

(b) the requirements in paragraphs 30 and 31 for accounting for changes in ownership interests in a subsidiary after control is obtained. Therefore, the requirements in paragraphs 30 and 31 do not apply to changes that occurred before an entity applies the amendments;

(c) the requirements in paragraphs 34–37 for the loss of control of a subsidiary. An entity shall not restate the carrying amount of an investment in a former subsidiary if control was lost before it applies those amendments. In addition, an entity shall not recalculate any gain or loss on the loss of control of a subsidiary that occurred before the amendments are applied.

45A Paragraph 38 was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment for annual periods beginning on or after 1 January 2009, prospectively from the date at which it first applied IFRS 5. Earlier application is permitted. If an entity applies the amendment for an earlier period it shall disclose that fact.

45B *Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate* (Amendments to IFRS 1 and IAS 27), issued in May 2008, deleted the definition of the cost method from paragraph 4 and added paragraph 38A. An entity shall apply those amendments prospectively for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the changes for an earlier period, it shall disclose that fact and apply the related amendments to IAS 18, IAS 21 and IAS 36 at the same time.

45C *Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate* (Amendments to IFRS 1 and IAS 27), issued in May 2008, added paragraphs 38B and 38C. An entity shall apply those paragraphs prospectively to reorganisations occurring in annual periods beginning on or after 1 January 2009. Earlier application is permitted. In addition, an entity may elect to apply paragraphs 38B and 38C retrospectively to past reorganisations within the scope of those paragraphs. However, if an entity restates any reorganisation to comply with paragraph 38B or 38C, it shall restate all later reorganisations within the scope of those paragraphs. If an entity applies paragraph 38B or 38C for an earlier period, it shall disclose that fact.

WITHDRAWAL OF IAS 27 (2003)

46 This Standard supersedes IAS 27 *Consolidated and Separate Financial Statements* (as revised in 2003).

Appendix

Amendments to other IFRSs

The amendments in this appendix shall be applied for annual periods beginning on or after 1 July 2009. If an entity applies the amendments to IAS 27 for an earlier period, these amendments shall be applied for that earlier period. In amended paragraphs, deleted text is struck through and new text is underlined.

A1 In the following International Financial Reporting Standards applicable at 1 July 2009, references to 'minority interest' are amended to 'non-controlling interest' in the paragraphs identified:

IFRS	paragraph(s)
IFRS 1	B2(c)(i), B2(g)(i), B2(k)
IFRS 4	34(c)
IAS 1	54(q), 83(a)(i), 83(b)(i)
IAS 7	20(b)
IAS 14	16
IAS 21	41
IAS 32	AG29
IAS 33	A1

IFRS 1 *First-time Adoption of International Financial Reporting Standards*

A2 IFRS 1 is amended as described below.

Paragraph 26 is amended as follows:

'26 This IFRS prohibits the retrospective application of some aspects of other IFRSs relating to:

…

(c) estimates (paragraphs 31-34);

(d) assets classified as held for sale and discontinued operations (paragraphs 34A and 34B); and

(e) some aspects of accounting for non-controlling interests (paragraph 34C).'

After paragraph 34B a new heading and paragraph 34C are added as follows:

'Non-controlling interests

34C A first-time adopter shall apply the following requirements of IAS 27 (as amended by the International Accounting Standards Board in 2008) prospectively from the date of transition to IFRSs:

(a) the requirement in paragraph 28 that total comprehensive income is attributed to the owners of the parent and to the non-controlling interests even if this results in the non-controlling interests having a deficit balance;

(b) the requirements in paragraphs 30 and 31 for accounting for changes in the parent's ownership interest in a subsidiary that do not result in a loss of control; and

(c) the requirements in paragraphs 34-37 for accounting for a loss of control over a subsidiary, and the related requirements of paragraph 8A of IFRS 5. [Change introduced by Annual Improvements]'

However, if a first-time adopter elects to apply IFRS 3 (as revised by the International Accounting Standards Board in 2008) retrospectively to past business combinations, it also shall apply IAS 27 (as amended by the International Accounting Standards Board in 2008) in accordance with paragraph B1 of this IFRS.

Paragraph 47J is added as follows:

‘47J IAS 27 (as amended by the International Accounting Standards Board in 2008) amended paragraphs 26 and 34C. An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendments shall be applied for that earlier period.’

IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations*

A3 IFRS 5 is amended as described below.

Paragraph 33 is amended as follows:

‘33 An entity shall disclose:

(a) …

(d) the amount of income from continuing operations and from discontinued operations attributable to owners of the parent. These disclosures may be presented either in the notes or in the statement of comprehensive income.’

Paragraph 44B is added as follows:

‘44B IAS 27 (as amended by the International Accounting Standards Board in 2008) added paragraph 33(d). An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendment shall be applied for that earlier period. The amendment shall be applied retrospectively.’

IAS 1 *Presentation of Financial Statements*

A4 Paragraph 106 of IAS 1 (as revised in 2007) is amended as follows:

‘106 An entity shall present a statement of changes in equity showing in the statement:

(a) total comprehensive income for the period, showing separately the total amounts attributable to owners of the parent and to non-controlling interests;

(b) for each component of equity, the effects of retrospective application or retrospective restatement recognised in accordance with IAS 8; and

(c) [deleted] and

(d) for each component of equity, a reconciliation between the carrying amount at the beginning and the end of the period, separately disclosing changes resulting from:

(i) profit or loss;

(ii) each item of other comprehensive income; and

(iii) transactions with owners in their capacity as owners, showing separately contributions by and distributions to owners and changes in ownership interests in subsidiaries that do not result in a loss of control’.

Paragraph 139A is added as follows:

‘139A IAS 27 (as amended by the International Accounting Standards Board in 2008) amended paragraph 106. An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendment shall be applied for that earlier period. The amendment shall be applied retrospectively.’

IAS 7 ***Statement of Cash Flows***

A5 IAS 7 is amended as described below.

The heading above paragraph 39 and paragraphs 39-42 are amended as follows:

'**Changes in ownership interests in subsidiaries and other businesses**

39 The aggregate cash flows arising from obtaining or losing control of subsidiaries or other businesses shall be presented separately and classified as investing activities.

40 An entity shall disclose, in aggregate, in respect of both obtaining and losing control of subsidiaries or other businesses during the period each of the following:

(a) the total consideration paid or received;

(b) the portion of the consideration consisting of cash and cash equivalents;

(c) the amount of cash and cash equivalents in the subsidiaries or other businesses over which control is obtained or lost; and

(d) the amount of the assets and liabilities other than cash or cash equivalents in the subsidiaries or other businesses over which control is obtained or lost, summarised by each major category.

41 The separate presentation of the cash flow effects of obtaining or losing control of subsidiaries or other businesses as single line items, together with the separate disclosure of the amounts of assets and liabilities acquired or disposed of, helps to distinguish those cash flows from the cash flows arising from the other operating, investing and financing activities. The cash flow effects of losing control are not deducted from those of obtaining control.

42 The aggregate amount of the cash paid or received as consideration for obtaining or losing control of subsidiaries or other businesses is reported in the statement of cash flows net of cash and cash equivalents acquired or disposed of as part of such transactions, events or changes in circumstances.'

Paragraphs 42A and 42B are added as follows:

'42A Cash flows arising from changes in ownership interests in a subsidiary that do not result in a loss of control shall be classified as cash flows from financing activities.

42B Changes in ownership interests in a subsidiary that do not result in a loss of control, such as the subsequent purchase or sale by a parent of a subsidiary's equity instruments, are accounted for as equity transactions (see IAS 27 *Consolidated and Separate Financial Statements* (as amended by the International Accounting Standards Board in 2008)). Accordingly, the resulting cash flows are classified in the same way as other transactions with owners described in paragraph 17.'

Paragraph 54 is added as follows:

'54 IAS 27 (as amended by the International Accounting Standards Board in 2008) amended paragraphs 39-42 and added paragraphs 42A and 42B. An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendments shall be applied for that earlier period. The amendments shall be applied retrospectively.'

IAS 21 ***The Effects of Changes in Foreign Exchange Rates***

A6 IAS 21 is amended as described below.

The heading before paragraph 48 is amended and paragraphs 48A-48D are added as follows:

'**Disposal or partial disposal of a foreign operation**

48 …

48A In addition to the disposal of an entity's entire interest in a foreign operation, the following are accounted for as disposals even if the entity retains an interest in the former subsidiary, associate or jointly controlled entity:

(a) the loss of control of a subsidiary that includes a foreign operation;

(b) the loss of significant influence over an associate that includes a foreign operation; and

(c) the loss of joint control over a jointly controlled entity that includes a foreign operation.

48B On disposal of a subsidiary that includes a foreign operation, the cumulative amount of the exchange differences relating to that foreign operation that have been attributed to the non-controlling interests shall be derecognised, but shall not be reclassified to profit or loss.

48C On the partial disposal of a subsidiary that includes a foreign operation, the entity shall re-attribute the proportionate share of the cumulative amount of the exchange differences recognised in other comprehensive income to the non-controlling interests in that foreign operation. In any other partial disposal of a foreign operation the entity shall reclassify to profit or loss only the proportionate share of the cumulative amount of the exchange differences recognised in other comprehensive income.

48D A partial disposal of an entity's interest in a foreign operation is any reduction in an entity's ownership interest in a foreign operation, except those reductions in paragraph 48A that are accounted for as disposals.'

Paragraph 60B is added as follows:

'60B IAS 27 (as amended by the International Accounting Standards Board in 2008) added paragraphs 48A-48D. An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendments shall be applied for that earlier period.'

IAS 28 *Investments in Associates*

A7 IAS 28 is amended as described below.

Paragraphs 18 and 19 are amended as follows:

'18 An investor shall discontinue the use of the equity method from the date when it ceases to have significant influence over an associate and shall account for the investment in accordance with IAS 39 from that date, provided the associate does not become a subsidiary or a joint venture as defined in IAS 31. On the loss of significant influence, the investor shall measure at fair value any investment the investor retains in the former associate. The investor shall recognise in profit or loss any difference between:

(a) the fair value of any retained investment and any proceeds from disposing of the part interest in the associate; and

(b) the carrying amount of the investment at the date when significant influence is lost.

19 When an investment ceases to be an associate and is accounted for in accordance with IAS 39, the fair value of the investment at the date when it ceases to be an associate shall be regarded as its fair value on initial recognition as a financial asset in accordance with IAS 39.'

Paragraph 19A is added as follows:

'19A If an investor loses significant influence over an associate, the investor shall account for all amounts recognised in other comprehensive income in relation to that associate on the same basis as would be required if the associate had directly disposed of the related assets or liabilities. Therefore, if a gain or loss previously recognised in other comprehensive income by an associate would be reclassified to profit or loss on the disposal of the related assets or liabilities, the investor reclassifies the gain or loss from equity to profit or loss (as a reclassification adjustment) when it loses significant influence over the associate. For example, if an associate has available-for-sale financial assets and the investor loses significant influence over the associate, the investor shall reclassify to profit or loss the gain or loss previously recognised in other comprehensive income in relation to those assets. If an investor's ownership interest in an associate is reduced, but the investment continues to be an associate, the investor shall reclassify to profit or loss only a proportionate amount of the gain or loss previously recognised in other comprehensive income.'

Paragraph 41B is added as follows:

‘41B IAS 27 (as amended by the International Accounting Standards Board in 2008) amended paragraphs 18 and 19 and added paragraph 19A. An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendments shall be applied for that earlier period.’

IAS 31 *Interests in Joint Ventures*

A8 IAS 31 is amended as described below.

Paragraph 45 is amended as follows:

‘45 When an investor ceases to have joint control over an entity, it shall account for any remaining investment in accordance with IAS 39 from that date, provided that the former jointly controlled entity does not become a subsidiary or associate. From the date when a jointly controlled entity becomes a subsidiary of an investor, the investor shall account for its interest in accordance with IAS 27 and IFRS 3 *Business Combinations* (as revised by the International Accounting Standards Board in 2008). From the date when a jointly controlled entity becomes an associate of an investor, the investor shall account for its interest in accordance with IAS 28. On the loss of joint control, the investor shall measure at fair value any investment the investor retains in the former jointly controlled entity. The investor shall recognise in profit or loss any difference between:

(a) the fair value of any retained investment and any proceeds from disposing of the part interest in the jointly controlled entity; and

(b) the carrying amount of the investment at the date when joint control is lost’.

Paragraphs 45A and 45B are added as follows:

‘45A When an investment ceases to be a jointly controlled entity and is accounted for in accordance with IAS 39, the fair value of the investment when it ceases to be a jointly controlled entity shall be regarded as its fair value on initial recognition as a financial asset in accordance with IAS 39.

45B If an investor loses joint control of an entity, the investor shall account for all amounts recognised in other comprehensive income in relation to that entity on the same basis as would be required if the jointly controlled entity had directly disposed of the related assets or liabilities. Therefore, if a gain or loss previously recognised in other comprehensive income would be reclassified to profit or loss on the disposal of the related assets or liabilities, the investor reclassifies the gain or loss from equity to profit or loss (as a reclassification adjustment) when the investor loses joint control of the entity. For example, if a jointly controlled entity has available-for-sale financial assets and the investor loses joint control of the entity, the investor shall reclassify to profit or loss the gain or loss previously recognised in other comprehensive income in relation to those assets. If an investor’s ownership interest in a jointly controlled entity is reduced, but the investment continues to be a jointly controlled entity, the investor shall reclassify to profit or loss only a proportionate amount of the gain or loss previously recognised in other comprehensive income.’

Paragraph 58A is added as follows:

‘58A IAS 27 (as amended by the International Accounting Standards Board in 2008) amended paragraph 45 and added paragraphs 45A and 45B. An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendments shall be applied for that earlier period.’

IAS 39 *Financial Instruments: Recognition and Measurement*

A9 IAS 39 is amended as described below.

The last sentence of paragraph 102 is amended as follows:

‘102 … The gain or loss on the hedging instrument relating to the effective portion of the hedge that has been recognised in other comprehensive income shall be reclassified from equity to profit or loss as a reclassification adjustment (see IAS 1 (revised 2007)) in accordance with paragraphs 48-49 of IAS 21 on the disposal or partial disposal of the foreign operation.’

Paragraph 103E is added as follows:

‘103E IAS 27 (as amended by the International Accounting Standards Board in 2008) amended paragraph 102. An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendment shall be applied for that earlier period.’

SIC-7 *Introduction of the Euro*

A10 SIC-7 is amended as described below.

In the ‘References’ section, ‘IAS 27 *Consolidated and Separate Financial Statements* (as amended in 2008)’ is added.

Paragraph 4 is amended as follows:

‘4 This means that, in particular:

(a) …

(b) cumulative exchange differences relating to the translation of financial statements of foreign operations, recognised in other comprehensive income, shall be accumulated in equity and shall be reclassified from equity to profit or loss only on the disposal or partial disposal of the net investment in the foreign operation; and …’

Under the heading ‘Effective Date’ a new paragraph is added after the paragraph describing the effective date of the IAS 1 amendments as follows:

‘IAS 27 (as amended by the International Accounting Standards Board in 2008) amended paragraph 4(b). An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendment shall be applied for that earlier period.’

COMMISSION REGULATION (EC) No 495/2009

of 3 June 2009

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard (IFRS) 3

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards [1], and in particular Article 3(1) thereof,

Whereas:

(1) By Commission Regulation (EC) No 1126/2008 [2] certain international standards and interpretations that were in existence at 15 October 2008 were adopted.

(2) On 10 January 2008, the International Accounting Standards Board (IASB) published International Financial Reporting Standard (IFRS) 3 (Revised) *Business Combinations*, hereinafter 'revised IFRS 3'. The revised IFRS 3 establishes principles and rules about how an acquirer in a business combination has to recognise and measure in its books the different elements (such as identifiable assets, liabilities assumed, non-controlling interest and goodwill) connected to the accounting treatment of the acquisition transaction. It also determines the information to be disclosed concerning such transactions.

(3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the revised IFRS 3 meets the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006 setting up a Standards Advice Review Group to advise the Commission on the objectivity and neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions [3], the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.

(4) The adoption of the revised IFRS 3 implies, by way of consequence, amendments to IFRS 1, IFRS 2, IFRS 7, International Accounting Standard (IAS) 12, IAS 16, IAS 28, IAS 32, IAS 33, IAS 34, IAS 36, IAS 37, IAS 38, IAS 39 and Interpretation 9 of the International Financial Reporting Interpretations Committee (IFRIC) in order to ensure consistency between international accounting standards.

(5) Regulation (EC) No 1126/2008 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

1. International Financial Reporting Standard (IFRS) 3 *Business Combinations* is replaced by the revised IFRS 3 as set out in the Annex to this Regulation;

2. IFRS 1, IFRS 2, IFRS 7, International Accounting Standard (IAS) 12, IAS 16, IAS 28, IAS 32, IAS 33, IAS 34, IAS 36, IAS 37, IAS 38, IAS 39 and Interpretation 9 of the International Financial Reporting Interpretations Committee (IFRIC) are amended in accordance with the amendments to IFRS 3 as set out in the Annex to this Regulation.

Article 2

Each company shall apply the revised IFRS 3 as set out in the Annex to this Regulation, at the latest, as from the commencement date of its first financial year starting after 30 June 2009.

(1) OJ L 243, 11.9.2002, p. 1.
(2) OJ L 320, 29.11.2008, p. 1.
(3) OJ L 199, 21.7.2006, p. 33.

Article 3

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 June 2009.

For the Commission
Charlie McCREEVY
Member of the Commission

ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IFRS 3	Business Combinations

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INTERNATIONAL FINANCIAL REPORTING STANDARD 3

Business Combinations

OBJECTIVE

1. The objective of this IFRS is to improve the relevance, reliability and comparability of the information that a reporting entity provides in its financial statements about a *business combination* and its effects. To accomplish that, this IFRS establishes principles and requirements for how the *acquirer*:

(a) recognises and measures in its financial statements the *identifiable* assets acquired, the liabilities assumed and any *non-controlling interest* in the *acquiree*;

(b) recognises and measures the *goodwill* acquired in the business combination or a gain from a bargain purchase; and

(c) determines what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination.

SCOPE

2. This IFRS applies to a transaction or other event that meets the definition of a business combination. This IFRS does not apply to:

(a) the formation of a joint venture.

(b) the acquisition of an asset or a group of assets that does not constitute a *business*. In such cases the acquirer shall identify and recognise the individual identifiable assets acquired (including those assets that meet the definition of, and recognition criteria for, *intangible assets* in IAS 38 *Intangible Assets*) and liabilities assumed. The cost of the group shall be allocated to the individual identifiable assets and liabilities on the basis of their relative *fair values* at the date of purchase. Such a transaction or event does not give rise to goodwill.

(c) a combination of entities or businesses under common control (paragraphs B1–B4 provide related application guidance).

IDENTIFYING A BUSINESS COMBINATION

3. **An entity shall determine whether a transaction or other event is a business combination by applying the definition in this IFRS, which requires that the assets acquired and liabilities assumed constitute a business. If the assets acquired are not a business, the reporting entity shall account for the transaction or other event as an asset acquisition. Paragraphs B5–B12 provide guidance on identifying a business combination and the definition of a business.**

THE ACQUISITION METHOD

4. **An entity shall account for each business combination by applying the acquisition method.**

5. Applying the acquisition method requires:

(a) identifying the acquirer;

(b) determining the *acquisition date*;

(c) recognising and measuring the identifiable assets acquired, the liabilities assumed and any non-controlling interest in the acquiree; and

(d) recognising and measuring goodwill or a gain from a bargain purchase.

Identifying the acquirer

6. **For each business combination, one of the combining entities shall be identified as the acquirer.**

7. The guidance in IAS 27 *Consolidated and Separate Financial Statements* shall be used to identify the acquirer—the entity that obtains *control* of the acquiree. If a business combination has occurred but applying the guidance in IAS 27 does not clearly indicate which of the combining entities is the acquirer, the factors in paragraphs B14–B18 shall be considered in making that determination.

Determining the acquisition date

8. **The acquirer shall identify the acquisition date, which is the date on which it obtains control of the acquiree.**

9. The date on which the acquirer obtains control of the acquiree is generally the date on which the acquirer legally transfers the consideration, acquires the assets and assumes the liabilities of the acquiree—the closing date. However, the acquirer might obtain control on a date that is either earlier or later than the closing date. For example, the acquisition date precedes the closing date if a written agreement provides that the acquirer obtains control of the acquiree on a date before the closing date. An acquirer shall consider all pertinent facts and circumstances in identifying the acquisition date.

Recognising and measuring the identifiable assets acquired, the liabilities assumed and any non-controlling interest in the acquiree

Recognition principle

10. As of the acquisition date, the acquirer shall recognise, separately from goodwill, the identifiable assets acquired, the liabilities assumed and any non-controlling interest in the acquiree. Recognition of identifiable assets acquired and liabilities assumed is subject to the conditions specified in paragraphs 11 and 12.

Recognition conditions

11. To qualify for recognition as part of applying the acquisition method, the identifiable assets acquired and liabilities assumed must meet the definitions of assets and liabilities in the *Framework for the Preparation and Presentation of Financial Statements* at the acquisition date. For example, costs the acquirer expects but is not obliged to incur in the future to effect its plan to exit an activity of an acquiree or to terminate the employment of or relocate an acquiree's employees are not liabilities at the acquisition date. Therefore, the acquirer does not recognise those costs as part of applying the acquisition method. Instead, the acquirer recognises those costs in its post-combination financial statements in accordance with other IFRSs.

12. In addition, to qualify for recognition as part of applying the acquisition method, the identifiable assets acquired and liabilities assumed must be part of what the acquirer and the acquiree (or its former *owners*) exchanged in the business combination transaction rather than the result of separate transactions. The acquirer shall apply the guidance in paragraphs 51–53 to determine which assets acquired or liabilities assumed are part of the exchange for the acquiree and which, if any, are the result of separate transactions to be accounted for in accordance with their nature and the applicable IFRSs.

13. The acquirer's application of the recognition principle and conditions may result in recognising some assets and liabilities that the acquiree had not previously recognised as assets and liabilities in its financial statements. For example, the acquirer recognises the acquired identifiable intangible assets, such as a brand name, a patent or a customer relationship, that the acquiree did not recognise as assets in its financial statements because it developed them internally and charged the related costs to expense.

14. Paragraphs B28–B40 provide guidance on recognising operating leases and intangible assets. Paragraphs 22–28 specify the types of identifiable assets and liabilities that include items for which this IFRS provides limited exceptions to the recognition principle and conditions.

Classifying or designating identifiable assets acquired and liabilities assumed in a business combination

15. At the acquisition date, the acquirer shall classify or designate the identifiable assets acquired and liabilities assumed as necessary to apply other IFRSs subsequently. The acquirer shall make those classifications or designations on the basis of the contractual terms, economic conditions, its operating or accounting policies and other pertinent conditions as they exist at the acquisition date.

16. In some situations, IFRSs provide for different accounting depending on how an entity classifies or designates a particular asset or liability. Examples of classifications or designations that the acquirer shall make on the basis of the pertinent conditions as they exist at the acquisition date include but are not limited to:

(a) classification of particular financial assets and liabilities as a financial asset or liability at fair value through profit or loss, or as a financial asset available for sale or held to maturity, in accordance with IAS 39 *Financial Instruments: Recognition and Measurement*;

(b) designation of a derivative instrument as a hedging instrument in accordance with IAS 39; and

(c) assessment of whether an embedded derivative should be separated from the host contract in accordance with IAS 39 (which is a matter of 'classification' as this IFRS uses that term).

17. This IFRS provides two exceptions to the principle in paragraph 15:

(a) classification of a lease contract as either an operating lease or a finance lease in accordance with IAS 17 *Leases*; and

(b) classification of a contract as an insurance contract in accordance with IFRS 4 *Insurance Contracts*.

The acquirer shall classify those contracts on the basis of the contractual terms and other factors at the inception of the contract (or, if the terms of the contract have been modified in a manner that would change its classification, at the date of that modification, which might be the acquisition date).

Measurement principle

18. The acquirer shall measure the identifiable assets acquired and the liabilities assumed at their acquisition-date fair values.

19. For each business combination, the acquirer shall measure any non-controlling interest in the acquiree either at fair value or at the non-controlling interest's proportionate share of the acquiree's identifiable net assets.

20. Paragraphs B41–B45 provide guidance on measuring the fair value of particular identifiable assets and a non-controlling interest in an acquiree. Paragraphs 24–31 specify the types of identifiable assets and liabilities that include items for which this IFRS provides limited exceptions to the measurement principle.

Exceptions to the recognition or measurement principles

21. This IFRS provides limited exceptions to its recognition and measurement principles. Paragraphs 22–31 specify both the particular items for which exceptions are provided and the nature of those exceptions. The acquirer shall account for those items by applying the requirements in paragraphs 22–31, which will result in some items being:

(a) recognised either by applying recognition conditions in addition to those in paragraphs 11 and 12 or by applying the requirements of other IFRSs, with results that differ from applying the recognition principle and conditions.

(b) measured at an amount other than their acquisition-date fair values.

Exception to the recognition principle

Contingent liabilities

22. IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* defines a contingent liability as:

(a) a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or

(b) a present obligation that arises from past events but is not recognised because:

(i) it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or

(ii) the amount of the obligation cannot be measured with sufficient reliability.

23. The requirements in IAS 37 do not apply in determining which contingent liabilities to recognise as of the acquisition date. Instead, the acquirer shall recognise as of the acquisition date a contingent liability assumed in a business combination if it is a present obligation that arises from past events and its fair value can be measured reliably. Therefore, contrary to IAS 37, the acquirer recognises a contingent liability assumed in a business combination at the acquisition date even if it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation. Paragraph 56 provides guidance on the subsequent accounting for contingent liabilities.

Exceptions to both the recognition and measurement principles

Income taxes

24. The acquirer shall recognise and measure a deferred tax asset or liability arising from the assets acquired and liabilities assumed in a business combination in accordance with IAS 12 *Income Taxes*.

25. The acquirer shall account for the potential tax effects of temporary differences and carryforwards of an acquiree that exist at the acquisition date or arise as a result of the acquisition in accordance with IAS 12.

Employee benefits

26. The acquirer shall recognise and measure a liability (or asset, if any) related to the acquiree's employee benefit arrangements in accordance with IAS 19 *Employee Benefits*.

Indemnification assets

27. The seller in a business combination may contractually indemnify the acquirer for the outcome of a contingency or uncertainty related to all or part of a specific asset or liability. For example, the seller may indemnify the acquirer against losses above a specified amount on a liability arising from a particular contingency; in other words, the seller will guarantee that the acquirer's liability will not exceed a specified amount. As a result, the acquirer obtains an indemnification asset. The acquirer shall recognise an indemnification asset at the same time that it recognises the indemnified item measured on the same basis as the indemnified item, subject to the need for a valuation allowance for uncollectible amounts. Therefore, if the indemnification relates to an asset or a liability that is recognised at the acquisition date and measured at its acquisition-date fair value, the acquirer shall recognise the indemnification asset at the acquisition date measured at its acquisition-date fair value. For an indemnification asset measured at fair value, the effects of uncertainty about future cash flows because of collectibility considerations are included in the fair value measure and a separate valuation allowance is not necessary (paragraph B41 provides related application guidance).

28. In some circumstances, the indemnification may relate to an asset or a liability that is an exception to the recognition or measurement principles. For example, an indemnification may relate to a contingent liability that is not recognised at the acquisition date because its fair value is not reliably measurable at that date. Alternatively, an indemnification may relate to an asset or a liability, for example, one that results from an employee benefit, that is measured on a basis other than acquisition-date fair value. In those circumstances, the indemnification asset shall be recognised and measured using assumptions consistent with those used to measure the indemnified item, subject to management's assessment of the collectibility of the indemnification asset and any contractual limitations on the indemnified amount. Paragraph 57 provides guidance on the subsequent accounting for an indemnification asset.

Exceptions to the measurement principle

Reacquired rights

29. The acquirer shall measure the value of a reacquired right recognised as an intangible asset on the basis of the remaining contractual term of the related contract regardless of whether market participants would consider potential contractual renewals in determining its fair value. Paragraphs B35 and B36 provide related application guidance.

Share-based payment awards

30. The acquirer shall measure a liability or an equity instrument related to the replacement of an acquiree's share-based payment awards with share-based payment awards of the acquirer in accordance with the method in IFRS 2 *Share-based Payment*. (This IFRS refers to the result of that method as the 'market-based measure' of the award.)

Assets held for sale

31. The acquirer shall measure an acquired non-current asset (or disposal group) that is classified as held for sale at the acquisition date in accordance with IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations* at fair value less costs to sell in accordance with paragraphs 15–18 of that IFRS.

Recognising and measuring goodwill or a gain from a bargain purchase

32. The acquirer shall recognise goodwill as of the acquisition date measured as the excess of (a) over (b) below:

(a) the aggregate of:

(i) the consideration transferred measured in accordance with this IFRS, which generally requires acquisition-date fair value (see paragraph 37);

(ii) the amount of any non-controlling interest in the acquiree measured in accordance with this IFRS; and

(iii) **in a business combination achieved in stages (see paragraphs 41 and 42), the acquisition-date fair value of the acquirer's previously held *equity interest* in the acquiree.**

(b) **the net of the acquisition-date amounts of the identifiable assets acquired and the liabilities assumed measured in accordance with this IFRS.**

33. In a business combination in which the acquirer and the acquiree (or its former owners) exchange only equity interests, the acquisition-date fair value of the acquiree's equity interests may be more reliably measurable than the acquisition-date fair value of the acquirer's equity interests. If so, the acquirer shall determine the amount of goodwill by using the acquisition-date fair value of the acquiree's equity interests instead of the acquisition-date fair value of the equity interests transferred. To determine the amount of goodwill in a business combination in which no consideration is transferred, the acquirer shall use the acquisition-date fair value of the acquirer's interest in the acquiree determined using a valuation technique in place of the acquisition-date fair value of the consideration transferred (paragraph 32(a)(i)). Paragraphs B46–B49 provide related application guidance.

Bargain purchases

34. Occasionally, an acquirer will make a bargain purchase, which is a business combination in which the amount in paragraph 32(b) exceeds the aggregate of the amounts specified in paragraph 32(a). If that excess remains after applying the requirements in paragraph 36, the acquirer shall recognise the resulting gain in profit or loss on the acquisition date. The gain shall be attributed to the acquirer.

35. A bargain purchase might happen, for example, in a business combination that is a forced sale in which the seller is acting under compulsion. However, the recognition or measurement exceptions for particular items discussed in paragraphs 22–31 may also result in recognising a gain (or change the amount of a recognised gain) on a bargain purchase.

36. Before recognising a gain on a bargain purchase, the acquirer shall reassess whether it has correctly identified all of the assets acquired and all of the liabilities assumed and shall recognise any additional assets or liabilities that are identified in that review. The acquirer shall then review the procedures used to measure the amounts this IFRS requires to be recognised at the acquisition date for all of the following:

(a) the identifiable assets acquired and liabilities assumed;

(b) the non-controlling interest in the acquiree, if any;

(c) for a business combination achieved in stages, the acquirer's previously held equity interest in the acquiree; and

(d) the consideration transferred.

The objective of the review is to ensure that the measurements appropriately reflect consideration of all available information as of the acquisition date.

Consideration transferred

37. The consideration transferred in a business combination shall be measured at fair value, which shall be calculated as the sum of the acquisition-date fair values of the assets transferred by the acquirer, the liabilities incurred by the acquirer to former owners of the acquiree and the equity interests issued by the acquirer. (However, any portion of the acquirer's share-based payment awards exchanged for awards held by the acquiree's employees that is included in consideration transferred in the business combination shall be measured in accordance with paragraph 30 rather than at fair value.) Examples of potential forms of consideration include cash, other assets, a business or a subsidiary of the acquirer, *contingent consideration*, ordinary or preference equity instruments, options, warrants and member interests of *mutual entities*.

38. The consideration transferred may include assets or liabilities of the acquirer that have carrying amounts that differ from their fair values at the acquisition date (for example, non-monetary assets or a business of the acquirer). If so, the acquirer shall remeasure the transferred assets or liabilities to their fair values as of the acquisition date and recognise the resulting gains or losses, if any, in profit or loss. However, sometimes the transferred assets or liabilities remain within the combined entity after the business combination (for example, because the assets or liabilities were transferred to the acquiree rather than to its former owners), and the acquirer therefore retains control of them. In that situation, the acquirer shall measure those assets and liabilities at their carrying amounts immediately before the acquisition date and shall not recognise a gain or loss in profit or loss on assets or liabilities it controls both before and after the business combination.

Contingent consideration

39. The consideration the acquirer transfers in exchange for the acquiree includes any asset or liability resulting from a contingent consideration arrangement (see paragraph 37). The acquirer shall recognise the acquisition-date fair value of contingent consideration as part of the consideration transferred in exchange for the acquiree.

40. The acquirer shall classify an obligation to pay contingent consideration as a liability or as equity on the basis of the definitions of an equity instrument and a financial liability in paragraph 11 of IAS 32 *Financial Instruments: Presentation*, or other applicable IFRSs. The acquirer shall classify as an asset a right to the return of previously transferred consideration if specified conditions are met. Paragraph 58 provides guidance on the subsequent accounting for contingent consideration.

Additional guidance for applying the acquisition method to particular types of business combinations

A business combination achieved in stages

41. An acquirer sometimes obtains control of an acquiree in which it held an equity interest immediately before the acquisition date. For example, on 31 December 20X1, Entity A holds a 35 per cent non-controlling equity interest in Entity B. On that date, Entity A purchases an additional 40 per cent interest in Entity B, which gives it control of Entity B. This IFRS refers to such a transaction as a business combination achieved in stages, sometimes also referred to as a step acquisition.

42. In a business combination achieved in stages, the acquirer shall remeasure its previously held equity interest in the acquiree at its acquisition-date fair value and recognise the resulting gain or loss, if any, in profit or loss. In prior reporting periods, the acquirer may have recognised changes in the value of its equity interest in the acquiree in other comprehensive income (for example, because the investment was classified as available for sale). If so, the amount that was recognised in other comprehensive income shall be recognised on the same basis as would be required if the acquirer had disposed directly of the previously held equity interest.

A business combination achieved without the transfer of consideration

43. An acquirer sometimes obtains control of an acquiree without transferring consideration. The acquisition method of accounting for a business combination applies to those combinations. Such circumstances include:

(a) The acquiree repurchases a sufficient number of its own shares for an existing investor (the acquirer) to obtain control.

(b) Minority veto rights lapse that previously kept the acquirer from controlling an acquiree in which the acquirer held the majority voting rights.

(c) The acquirer and acquiree agree to combine their businesses by contract alone. The acquirer transfers no consideration in exchange for control of an acquiree and holds no equity interests in the acquiree, either on the acquisition date or previously. Examples of business combinations achieved by contract alone include bringing two businesses together in a stapling arrangement or forming a dual listed corporation.

44. In a business combination achieved by contract alone, the acquirer shall attribute to the owners of the acquiree the amount of the acquiree's net assets recognised in accordance with this IFRS. In other words, the equity interests in the acquiree held by parties other than the acquirer are a non-controlling interest in the acquirer's post-combination financial statements even if the result is that all of the equity interests in the acquiree are attributed to the non-controlling interest.

Measurement period

45. If the initial accounting for a business combination is incomplete by the end of the reporting period in which the combination occurs, the acquirer shall report in its financial statements provisional amounts for the items for which the accounting is incomplete. During the measurement period, the acquirer shall retrospectively adjust the provisional amounts recognised at the acquisition date to reflect new information obtained about facts and circumstances that existed as of the acquisition date and, if known, would have affected the measurement of the amounts recognised as of that date. During the measurement period, the acquirer shall also recognise additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date and, if known, would have resulted in the recognition of those assets and liabilities as of that date. The measurement period ends as soon as the acquirer receives the information it was seeking about facts and circumstances that existed as of the acquisition date or learns that more information is not obtainable. However, the measurement period shall not exceed one year from the acquisition date.

46. The measurement period is the period after the acquisition date during which the acquirer may adjust the provisional amounts recognised for a business combination. The measurement period provides the acquirer with a reasonable time to obtain the information necessary to identify and measure the following as of the acquisition date in accordance with the requirements of this IFRS:

(a) the identifiable assets acquired, liabilities assumed and any non-controlling interest in the acquiree;

(b) the consideration transferred for the acquiree (or the other amount used in measuring goodwill);

(c) in a business combination achieved in stages, the equity interest in the acquiree previously held by the acquirer; and

(d) the resulting goodwill or gain on a bargain purchase.

47. The acquirer shall consider all pertinent factors in determining whether information obtained after the acquisition date should result in an adjustment to the provisional amounts recognised or whether that information results from events that occurred after the acquisition date. Pertinent factors include the date when additional information is obtained and whether the acquirer can identify a reason for a change to provisional amounts. Information that is obtained shortly after the acquisition date is more likely to reflect circumstances that existed at the acquisition date than is information obtained several months later. For example, unless an intervening event that changed its fair value can be identified, the sale of an asset to a third party shortly after the acquisition date for an amount that differs significantly from its provisional fair value determined at that date is likely to indicate an error in the provisional amount.

48. The acquirer recognises an increase (decrease) in the provisional amount recognised for an identifiable asset (liability) by means of a decrease (increase) in goodwill. However, new information obtained during the measurement period may sometimes result in an adjustment to the provisional amount of more than one asset or liability. For example, the acquirer might have assumed a liability to pay damages related to an accident in one of the acquiree's facilities, part or all of which are covered by the acquiree's liability insurance policy. If the acquirer obtains new information during the measurement period about the acquisition-date fair value of that liability, the adjustment to goodwill resulting from a change to the provisional amount recognised for the liability would be offset (in whole or in part) by a corresponding adjustment to goodwill resulting from a change to the provisional amount recognised for the claim receivable from the insurer.

49. During the measurement period, the acquirer shall recognise adjustments to the provisional amounts as if the accounting for the business combination had been completed at the acquisition date. Thus, the acquirer shall revise comparative information for prior periods presented in financial statements as needed, including making any change in depreciation, amortisation or other income effects recognised in completing the initial accounting.

50. After the measurement period ends, the acquirer shall revise the accounting for a business combination only to correct an error in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*.

Determining what is part of the business combination transaction

51. The acquirer and the acquiree may have a pre-existing relationship or other arrangement before negotiations for the business combination began, or they may enter into an arrangement during the negotiations that is separate from the business combination. In either situation, the acquirer shall identify any amounts that are not part of what the acquirer and the acquiree (or its former owners) exchanged in the business combination, ie amounts that are not part of the exchange for the acquiree. The acquirer shall recognise as part of applying the acquisition method only the consideration transferred for the acquiree and the assets acquired and liabilities assumed in the exchange for the acquiree. Separate transactions shall be accounted for in accordance with the relevant IFRSs.

52. A transaction entered into by or on behalf of the acquirer or primarily for the benefit of the acquirer or the combined entity, rather than primarily for the benefit of the acquiree (or its former owners) before the combination, is likely to be a separate transaction. The following are examples of separate transactions that are not to be included in applying the acquisition method:

(a) a transaction that in effect settles pre-existing relationships between the acquirer and acquiree;

(b) a transaction that remunerates employees or former owners of the acquiree for future services; and

(c) a transaction that reimburses the acquiree or its former owners for paying the acquirer's acquisition-related costs.

Paragraphs B50–B62 provide related application guidance.

Acquisition-related costs

53. Acquisition-related costs are costs the acquirer incurs to effect a business combination. Those costs include finder's fees; advisory, legal, accounting, valuation and other professional or consulting fees; general administrative costs, including the costs of maintaining an internal acquisitions department; and costs of registering and issuing debt and equity securities. The acquirer shall account for acquisition-related costs as expenses in the periods in which the costs are incurred and the services are received, with one exception. The costs to issue debt or equity securities shall be recognised in accordance with IAS 32 and IAS 39.

SUBSEQUENT MEASUREMENT AND ACCOUNTING

54. In general, an acquirer shall subsequently measure and account for assets acquired, liabilities assumed or incurred and equity instruments issued in a business combination in accordance with other applicable IFRSs for those items, depending on their nature. However, this IFRS provides guidance on subsequently measuring and accounting for the following assets acquired, liabilities assumed or incurred and equity instruments issued in a business combination:

(a) reacquired rights;

(b) contingent liabilities recognised as of the acquisition date;

(c) indemnification assets; and

(d) contingent consideration.

Paragraph B63 provides related application guidance.

Reacquired rights

55. A reacquired right recognised as an intangible asset shall be amortised over the remaining contractual period of the contract in which the right was granted. An acquirer that subsequently sells a reacquired right to a third party shall include the carrying amount of the intangible asset in determining the gain or loss on the sale.

Contingent liabilities

56. After initial recognition and until the liability is settled, cancelled or expires, the acquirer shall measure a contingent liability recognised in a business combination at the higher of:

(a) the amount that would be recognised in accordance with IAS 37; and

(b) the amount initially recognised less, if appropriate, cumulative amortisation recognised in accordance with IAS 18 *Revenue*.

This requirement does not apply to contracts accounted for in accordance with IAS 39.

Indemnification assets

57. At the end of each subsequent reporting period, the acquirer shall measure an indemnification asset that was recognised at the acquisition date on the same basis as the indemnified liability or asset, subject to any contractual limitations on its amount and, for an indemnification asset that is not subsequently measured at its fair value, management's assessment of the collectibility of the indemnification asset. The acquirer shall derecognise the indemnification asset only when it collects the asset, sells it or otherwise loses the right to it.

Contingent consideration

58. Some changes in the fair value of contingent consideration that the acquirer recognises after the acquisition date may be the result of additional information that the acquirer obtained after that date about facts and circumstances that existed at the acquisition date. Such changes are measurement period adjustments in accordance with paragraphs 45–49. However, changes resulting from events after the acquisition date, such as meeting an earnings target, reaching a specified share price or reaching a milestone on a research and development project, are not measurement period adjustments. The acquirer shall account for changes in the fair value of contingent consideration that are not measurement period adjustments as follows:

(a) Contingent consideration classified as equity shall not be remeasured and its subsequent settlement shall be accounted for within equity.

(b) Contingent consideration classified as an asset or a liability that:

(i) is a financial instrument and is within the scope of IAS 39 shall be measured at fair value, with any resulting gain or loss recognised either in profit or loss or in other comprehensive income in accordance with that IFRS.

(ii) is not within the scope of IAS 39 shall be accounted for in accordance with IAS 37 or other IFRSs as appropriate.

DISCLOSURES

59. The acquirer shall disclose information that enables users of its financial statements to evaluate the nature and financial effect of a business combination that occurs either:

(a) during the current reporting period; or

(b) after the end of the reporting period but before the financial statements are authorised for issue.

60. To meet the objective in paragraph 59, the acquirer shall disclose the information specified in paragraphs B64—B66.

61. The acquirer shall disclose information that enables users of its financial statements to evaluate the financial effects of adjustments recognised in the current reporting period that relate to business combinations that occurred in the period or previous reporting periods.

62. To meet the objective in paragraph 61, the acquirer shall disclose the information specified in paragraph B67.

63. If the specific disclosures required by this and other IFRSs do not meet the objectives set out in paragraphs 59 and 61, the acquirer shall disclose whatever additional information is necessary to meet those objectives.

EFFECTIVE DATE AND TRANSITION

Effective date

64. This IFRS shall be applied prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after 1 July 2009. Earlier application is permitted. However, this IFRS shall be applied only at the beginning of an annual reporting period that begins on or after 30 June 2007. If an entity applies this IFRS before 1 July 2009, it shall disclose that fact and apply IAS 27 (as amended by the International Accounting Standards Board in 2008) at the same time.

Transition

65. Assets and liabilities that arose from business combinations whose acquisition dates preceded the application of this IFRS shall not be adjusted upon application of this IFRS.

66. An entity, such as a mutual entity, that has not yet applied IFRS 3 and had one or more business combinations that were accounted for using the purchase method shall apply the transition provisions in paragraphs B68 and B69.

Income taxes

67. For business combinations in which the acquisition date was before this IFRS is applied, the acquirer shall apply the requirements of paragraph 68 of IAS 12, as amended by this IFRS, prospectively. That is to say, the acquirer shall not adjust the accounting for prior business combinations for previously recognised changes in recognised deferred tax assets. However, from the date when this IFRS is applied, the acquirer shall recognise, as an adjustment to profit or loss (or, if IAS 12 requires, outside profit or loss), changes in recognised deferred tax assets.

WITHDRAWAL OF IFRS 3 (2004)

68. This IFRS supersedes IFRS 3 *Business Combinations* (as issued in 2004).

Appendix A

Defined terms

This appendix is an integral part of the IFRS.

acquiree	The business or businesses that the **acquirer** obtains control of in a **business combination**.
acquirer	The entity that obtains control of the **acquiree**.
acquisition date	The date on which the **acquirer** obtains control of the **acquiree**.
business	An integrated set of activities and assets that is capable of being conducted and managed for the purpose of providing a return in the form of dividends, lower costs or other economic benefits directly to investors or other owners, members or participants.
business combination	A transaction or other event in which an **acquirer** obtains control of one or more **businesses**. Transactions sometimes referred to as 'true mergers' or 'mergers of equals' are also **business combinations** as that term is used in this IFRS.
contingent consideration	Usually, an obligation of the **acquirer** to transfer additional assets or **equity interests** to the former owners of an **acquiree** as part of the exchange for **control** of the **acquiree** if specified future events occur or conditions are met. However, contingent consideration also may give the **acquirer** the right to the return of previously transferred consideration if specified conditions are met.
control	The power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.
equity interests	For the purposes of this IFRS, *equity interests* is used broadly to mean ownership interests of investor-owned entities and owner, member or participant interests of **mutual entities**.
fair value	The amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.
goodwill	An asset representing the future economic benefits arising from other assets acquired in a **business combination** that are not individually identified and separately recognised.
identifiable	An asset is *identifiable* if it either: (a) is separable, ie capable of being separated or divided from the entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable asset or liability, regardless of whether the entity intends to do so; or (b) arises from contractual or other legal rights, regardless of whether those rights are transferable or separable from the entity or from other rights and obligations.
intangible asset	An identifiable non-monetary asset without physical substance.
mutual entity	An entity, other than an investor-owned entity, that provides dividends, lower costs or other economic benefits directly to its **owners**, members or participants. For example, a mutual insurance company, a credit union and a cooperative entity are all mutual entities.
non-controlling interest	The equity in a subsidiary not attributable, directly or indirectly, to a parent.
owners	For the purposes of this IFRS, *owners* is used broadly to include holders of **equity interests** of investor-owned entities and owners or members of, or participants in, **mutual entities**.

Appendix B

Application guidance

This appendix is an integral part of the IFRS.

BUSINESS COMBINATIONS OF ENTITIES UNDER COMMON CONTROL (APPLICATION OF PARAGRAPH 2(c))

B1 This IFRS does not apply to a business combination of entities or businesses under common control. A business combination involving entities or businesses under common control is a business combination in which all of the combining entities or businesses are ultimately controlled by the same party or parties both before and after the business combination, and that control is not transitory.

B2 A group of individuals shall be regarded as controlling an entity when, as a result of contractual arrangements, they collectively have the power to govern its financial and operating policies so as to obtain benefits from its activities. Therefore, a business combination is outside the scope of this IFRS when the same group of individuals has, as a result of contractual arrangements, ultimate collective power to govern the financial and operating policies of each of the combining entities so as to obtain benefits from their activities, and that ultimate collective power is not transitory.

B3 An entity may be controlled by an individual or by a group of individuals acting together under a contractual arrangement, and that individual or group of individuals may not be subject to the financial reporting requirements of IFRSs. Therefore, it is not necessary for combining entities to be included as part of the same consolidated financial statements for a business combination to be regarded as one involving entities under common control.

B4 The extent of non-controlling interests in each of the combining entities before and after the business combination is not relevant to determining whether the combination involves entities under common control. Similarly, the fact that one of the combining entities is a subsidiary that has been excluded from the consolidated financial statements is not relevant to determining whether a combination involves entities under common control.

IDENTIFYING A BUSINESS COMBINATION (APPLICATION OF PARAGRAPH 3)

B5 This IFRS defines a business combination as a transaction or other event in which an acquirer obtains control of one or more businesses. An acquirer might obtain control of an acquiree in a variety of ways, for example:

(a) by transferring cash, cash equivalents or other assets (including net assets that constitute a business);

(b) by incurring liabilities;

(c) by issuing equity interests;

(d) by providing more than one type of consideration; or

(e) without transferring consideration, including by contract alone (see paragraph 43).

B6 A business combination may be structured in a variety of ways for legal, taxation or other reasons, which include but are not limited to:

(a) one or more businesses become subsidiaries of an acquirer or the net assets of one or more businesses are legally merged into the acquirer;

(b) one combining entity transfers its net assets, or its owners transfer their equity interests, to another combining entity or its owners;

(c) all of the combining entities transfer their net assets, or the owners of those entities transfer their equity interests, to a newly formed entity (sometimes referred to as a roll-up or put-together transaction); or

(d) a group of former owners of one of the combining entities obtains control of the combined entity.

DEFINITION OF A BUSINESS (APPLICATION OF PARAGRAPH 3)

B7 A business consists of inputs and processes applied to those inputs that have the ability to create outputs. Although businesses usually have outputs, outputs are not required for an integrated set to qualify as a business. The three elements of a business are defined as follows:

(a) **Input:** Any economic resource that creates, or has the ability to create, outputs when one or more processes are applied to it. Examples include non-current assets (including intangible assets or rights to use non-current assets), intellectual property, the ability to obtain access to necessary materials or rights and employees.

(b) **Process:** Any system, standard, protocol, convention or rule that when applied to an input or inputs, creates or has the ability to create outputs. Examples include strategic management processes, operational processes and resource management processes. These processes typically are documented, but an organised workforce having the necessary skills and experience following rules and conventions may provide the necessary processes that are capable of being applied to inputs to create outputs. (Accounting, billing, payroll and other administrative systems typically are not processes used to create outputs.)

(c) **Output:** The result of inputs and processes applied to those inputs that provide or have the ability to provide a return in the form of dividends, lower costs or other economic benefits directly to investors or other owners, members or participants.

B8 To be capable of being conducted and managed for the purposes defined, an integrated set of activities and assets requires two essential elements—inputs and processes applied to those inputs, which together are or will be used to create outputs. However, a business need not include all of the inputs or processes that the seller used in operating that business if market participants are capable of acquiring the business and continuing to produce outputs, for example, by integrating the business with their own inputs and processes.

B9 The nature of the elements of a business varies by industry and by the structure of an entity's operations (activities), including the entity's stage of development. Established businesses often have many different types of inputs, processes and outputs, whereas new businesses often have few inputs and processes and sometimes only a single output (product). Nearly all businesses also have liabilities, but a business need not have liabilities.

B10 An integrated set of activities and assets in the development stage might not have outputs. If not, the acquirer should consider other factors to determine whether the set is a business. Those factors include, but are not limited to, whether the set:

(a) has begun planned principal activities;

(b) has employees, intellectual property and other inputs and processes that could be applied to those inputs;

(c) is pursuing a plan to produce outputs; and

(d) will be able to obtain access to customers that will purchase the outputs.

Not all of those factors need to be present for a particular integrated set of activities and assets in the development stage to qualify as a business.

B11 Determining whether a particular set of assets and activities is a business should be based on whether the integrated set is capable of being conducted and managed as a business by a market participant. Thus, in evaluating whether a particular set is a business, it is not relevant whether a seller operated the set as a business or whether the acquirer intends to operate the set as a business.

B12 In the absence of evidence to the contrary, a particular set of assets and activities in which goodwill is present shall be presumed to be a business. However, a business need not have goodwill.

IDENTIFYING THE ACQUIRER (APPLICATION OF PARAGRAPHS 6 AND 7)

B13 The guidance in IAS 27 *Consolidated and Separate Financial Statements* shall be used to identify the acquirer—the entity that obtains control of the acquiree. If a business combination has occurred but applying the guidance in IAS 27 does not clearly indicate which of the combining entities is the acquirer, the factors in paragraphs B14–B18 shall be considered in making that determination.

B14 In a business combination effected primarily by transferring cash or other assets or by incurring liabilities, the acquirer is usually the entity that transfers the cash or other assets or incurs the liabilities.

B15 In a business combination effected primarily by exchanging equity interests, the acquirer is usually the entity that issues its equity interests. However, in some business combinations, commonly called 'reverse acquisitions' the issuing entity is the acquiree. Paragraphs B19–B27 provide guidance on accounting for reverse acquisitions. Other pertinent facts and circumstances shall also be considered in identifying the acquirer in a business combination effected by exchanging equity interests, including:

(a) *the relative voting rights in the combined entity after the business combination*—The acquirer is usually the combining entity whose owners as a group retain or receive the largest portion of the voting rights in the combined entity. In determining which group of owners retains or receives the largest portion of the voting rights, an entity shall consider the existence of any unusual or special voting arrangements and options, warrants or convertible securities.

(b) *the existence of a large minority voting interest in the combined entity if no other owner or organised group of owners has a significant voting interest*—The acquirer is usually the combining entity whose single owner or organised group of owners holds the largest minority voting interest in the combined entity.

(c) *the composition of the governing body of the combined entity*—The acquirer is usually the combining entity whose owners have the ability to elect or appoint or to remove a majority of the members of the governing body of the combined entity.

(d) *the composition of the senior management of the combined entity*—The acquirer is usually the combining entity whose (former) management dominates the management of the combined entity.

(e) *the terms of the exchange of equity interests*—The acquirer is usually the combining entity that pays a premium over the pre-combination fair value of the equity interests of the other combining entity or entities.

B16 The acquirer is usually the combining entity whose relative size (measured in, for example, assets, revenues or profit) is significantly greater than that of the other combining entity or entities.

B17 In a business combination involving more than two entities, determining the acquirer shall include a consideration of, among other things, which of the combining entities initiated the combination, as well as the relative size of the combining entities.

B18 A new entity formed to effect a business combination is not necessarily the acquirer. If a new entity is formed to issue equity interests to effect a business combination, one of the combining entities that existed before the business combination shall be identified as the acquirer by applying the guidance in paragraphs B13–B17. In contrast, a new entity that transfers cash or other assets or incurs liabilities as consideration may be the acquirer.

REVERSE ACQUISITIONS

B19 A reverse acquisition occurs when the entity that issues securities (the legal acquirer) is identified as the acquiree for accounting purposes on the basis of the guidance in paragraphs B13–B18. The entity whose equity interests are acquired (the legal acquiree) must be the acquirer for accounting purposes for the transaction to be considered a reverse acquisition. For example, reverse acquisitions sometimes occur when a private operating entity wants to become a public entity but does not want to register its equity shares. To accomplish that, the private entity will arrange for a public entity to acquire its equity interests in exchange for the equity interests of the public entity. In this example, the public entity is the **legal acquirer** because it issued its equity interests, and the private entity is the **legal acquiree** because its equity interests were acquired. However, application of the guidance in paragraphs B13–B18 results in identifying:

(a) the public entity as the **acquiree** for accounting purposes (the accounting acquiree); and

(b) the private entity as the **acquirer** for accounting purposes (the accounting acquirer).

The accounting acquiree must meet the definition of a business for the transaction to be accounted for as a reverse acquisition, and all of the recognition and measurement principles in this IFRS, including the requirement to recognise goodwill, apply.

Measuring the consideration transferred

B20 In a reverse acquisition, the accounting acquirer usually issues no consideration for the acquiree. Instead, the accounting acquiree usually issues its equity shares to the owners of the accounting acquirer. Accordingly, the acquisition-date fair value of the consideration transferred by the accounting acquirer for its interest in the accounting acquiree is based on the number of equity interests the legal subsidiary would have had to issue to give the owners of the legal parent the same percentage equity interest in the combined entity that results from the reverse acquisition. The fair value of the number of equity interests calculated in that way can be used as the fair value of consideration transferred in exchange for the acquiree.

Preparation and presentation of consolidated financial statements

B21 Consolidated financial statements prepared following a reverse acquisition are issued under the name of the legal parent (accounting acquiree) but described in the notes as a continuation of the financial statements of the legal subsidiary (accounting acquirer), with one adjustment, which is to adjust retroactively the accounting acquirer's legal capital to reflect the legal capital of the accounting acquiree. That adjustment is required to reflect the capital of the legal parent (the accounting acquiree). Comparative information presented in those consolidated financial statements also is retroactively adjusted to reflect the legal capital of the legal parent (accounting acquiree).

B22 Because the consolidated financial statements represent the continuation of the financial statements of the legal subsidiary except for its capital structure, the consolidated financial statements reflect:

(a) the assets and liabilities of the legal subsidiary (the accounting acquirer) recognised and measured at their pre-combination carrying amounts.

(b) the assets and liabilities of the legal parent (the accounting acquiree) recognised and measured in accordance with this IFRS.

(c) the retained earnings and other equity balances of the legal subsidiary (accounting acquirer) **before** the business combination.

(d) the amount recognised as issued equity interests in the consolidated financial statements determined by adding the issued equity interest of the legal subsidiary (the accounting acquirer) outstanding immediately before the business combination to the fair value of the legal parent (accounting acquiree) determined in accordance with this IFRS. However, the equity structure (ie the number and type of equity interests issued) reflects the equity structure of the legal parent (the accounting acquiree), including the equity interests the legal parent issued to effect the combination. Accordingly, the equity structure of the legal subsidiary (the accounting acquirer) is restated using the exchange ratio established in the acquisition agreement to reflect the number of shares of the legal parent (the accounting acquiree) issued in the reverse acquisition.

(e) the non-controlling interest's proportionate share of the legal subsidiary's (accounting acquirer's) pre-combination carrying amounts of retained earnings and other equity interests as discussed in paragraphs B23 and B24.

Non-controlling interest

B23 In a reverse acquisition, some of the owners of the legal acquiree (the accounting acquirer) might not exchange their equity interests for equity interests of the legal parent (the accounting acquiree). Those owners are treated as a non-controlling interest in the consolidated financial statements after the reverse acquisition. That is because the owners of the legal acquiree that do not exchange their equity interests for equity interests of the legal acquirer have an interest in only the results and net assets of the legal acquiree—not in the results and net assets of the combined entity. Conversely, even though the legal acquirer is the acquiree for accounting purposes, the owners of the legal acquirer have an interest in the results and net assets of the combined entity.

B24 The assets and liabilities of the legal acquiree are measured and recognised in the consolidated financial statements at their pre-combination carrying amounts (see paragraph B22(a)). Therefore, in a reverse acquisition the non-controlling interest reflects the non-controlling shareholders' proportionate interest in the pre-combination carrying amounts of the legal acquiree's net assets even if the non-controlling interests in other acquisitions are measured at their fair value at the acquisition date.

Earnings per share

B25 As noted in paragraph B22(d), the equity structure in the consolidated financial statements following a reverse acquisition reflects the equity structure of the legal acquirer (the accounting acquiree), including the equity interests issued by the legal acquirer to effect the business combination.

B26 In calculating the weighted average number of ordinary shares outstanding (the denominator of the earnings per share calculation) during the period in which the reverse acquisition occurs:

(a) the number of ordinary shares outstanding from the beginning of that period to the acquisition date shall be computed on the basis of the weighted average number of ordinary shares of the legal acquiree (accounting acquirer) outstanding during the period multiplied by the exchange ratio established in the merger agreement; and

(b) the number of ordinary shares outstanding from the acquisition date to the end of that period shall be the actual number of ordinary shares of the legal acquirer (the accounting acquiree) outstanding during that period.

B27 The basic earnings per share for each comparative period before the acquisition date presented in the consolidated financial statements following a reverse acquisition shall be calculated by dividing:

(a) the profit or loss of the legal acquiree attributable to ordinary shareholders in each of those periods by

(b) the legal acquiree's historical weighted average number of ordinary shares outstanding multiplied by the exchange ratio established in the acquisition agreement.

RECOGNISING PARTICULAR ASSETS ACQUIRED AND LIABILITIES ASSUMED (APPLICATION OF PARAGRAPHS 10–13)

Operating leases

B28 The acquirer shall recognise no assets or liabilities related to an operating lease in which the acquiree is the lessee except as required by paragraphs B29 and B30.

B29 The acquirer shall determine whether the terms of each operating lease in which the acquiree is the lessee are favourable or unfavourable. The acquirer shall recognise an intangible asset if the terms of an operating lease are favourable relative to market terms and a liability if the terms are unfavourable relative to market terms. Paragraph B42 provides guidance on measuring the acquisition-date fair value of assets subject to operating leases in which the acquiree is the lessor.

B30 An identifiable intangible asset may be associated with an operating lease, which may be evidenced by market participants' willingness to pay a price for the lease even if it is at market terms. For example, a lease of gates at an airport or of retail space in a prime shopping area might provide entry into a market or other future economic benefits that qualify as identifiable intangible assets, for example, as a customer relationship. In that situation, the acquirer shall recognise the associated identifiable intangible asset(s) in accordance with paragraph B31.

Intangible assets

B31 The acquirer shall recognise, separately from goodwill, the identifiable intangible assets acquired in a business combination. An intangible asset is identifiable if it meets either the separability criterion or the contractual-legal criterion.

B32 An intangible asset that meets the contractual-legal criterion is identifiable even if the asset is not transferable or separable from the acquiree or from other rights and obligations. For example:

(a) an acquiree leases a manufacturing facility under an operating lease that has terms that are favourable relative to market terms. The lease terms explicitly prohibit transfer of the lease (through either sale or sublease). The amount by which the lease terms are favourable compared with the terms of current market transactions for the same or similar items is an intangible asset that meets the contractual-legal criterion for recognition separately from goodwill, even though the acquirer cannot sell or otherwise transfer the lease contract.

(b) an acquiree owns and operates a nuclear power plant. The licence to operate that power plant is an intangible asset that meets the contractual-legal criterion for recognition separately from goodwill, even if the acquirer cannot sell or transfer it separately from the acquired power plant. An acquirer may recognise the fair value of the operating licence and the fair value of the power plant as a single asset for financial reporting purposes if the useful lives of those assets are similar.

(c) an acquiree owns a technology patent. It has licensed that patent to others for their exclusive use outside the domestic market, receiving a specified percentage of future foreign revenue in exchange. Both the technology patent and the related licence agreement meet the contractual-legal criterion for recognition separately from goodwill even if selling or exchanging the patent and the related licence agreement separately from one another would not be practical.

B33 The separability criterion means that an acquired intangible asset is capable of being separated or divided from the acquiree and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable asset or liability. An intangible asset that the acquirer would be able to sell, license or otherwise exchange for something else of value meets the separability criterion even if the acquirer does not intend to sell, license or otherwise exchange it. An acquired intangible asset meets the separability criterion if there is evidence of exchange transactions for that type of asset or an asset of a similar type, even if those transactions are infrequent and regardless of whether the acquirer is involved in them. For example, customer and subscriber lists are frequently licensed and thus meet the separability criterion. Even if an acquiree believes its customer lists have characteristics different from other customer lists, the fact that customer lists are frequently licensed generally means that the acquired customer list meets the separability criterion. However, a customer list acquired in a business combination would not meet the separability criterion if the terms of confidentiality or other agreements prohibit an entity from selling, leasing or otherwise exchanging information about its customers.

B34 An intangible asset that is not individually separable from the acquiree or combined entity meets the separability criterion if it is separable in combination with a related contract, identifiable asset or liability. For example:

(a) market participants exchange deposit liabilities and related depositor relationship intangible assets in observable exchange transactions. Therefore, the acquirer should recognise the depositor relationship intangible asset separately from goodwill.

(b) an acquiree owns a registered trademark and documented but unpatented technical expertise used to manufacture the trademarked product. To transfer ownership of a trademark, the owner is also required to transfer everything else necessary for the new owner to produce a product or service indistinguishable from that produced by the former owner. Because the unpatented technical expertise must be separated from the acquiree or combined entity and sold if the related trademark is sold, it meets the separability criterion.

Reacquired rights

B35 As part of a business combination, an acquirer may reacquire a right that it had previously granted to the acquiree to use one or more of the acquirer's recognised or unrecognised assets. Examples of such rights include a right to use the acquirer's trade name under a franchise agreement or a right to use the acquirer's technology under a technology licensing agreement. A reacquired right is an identifiable intangible asset that the acquirer recognises separately from goodwill. Paragraph 29 provides guidance on measuring a reacquired right and paragraph 55 provides guidance on the subsequent accounting for a reacquired right.

B36 If the terms of the contract giving rise to a reacquired right are favourable or unfavourable relative to the terms of current market transactions for the same or similar items, the acquirer shall recognise a settlement gain or loss. Paragraph B52 provides guidance for measuring that settlement gain or loss.

Assembled workforce and other items that are not identifiable

B37 The acquirer subsumes into goodwill the value of an acquired intangible asset that is not identifiable as of the acquisition date. For example, an acquirer may attribute value to the existence of an assembled workforce, which is an existing collection of employees that permits the acquirer to continue to operate an acquired business from the acquisition date. An assembled workforce does not represent the intellectual capital of the skilled workforce—the (often specialised) knowledge and experience that employees of an acquiree bring to their jobs. Because the assembled workforce is not an identifiable asset to be recognised separately from goodwill, any value attributed to it is subsumed into goodwill.

B38 The acquirer also subsumes into goodwill any value attributed to items that do not qualify as assets at the acquisition date. For example, the acquirer might attribute value to potential contracts the acquiree is negotiating with prospective new customers at the acquisition date. Because those potential contracts are not themselves assets at the acquisition date, the acquirer does not recognise them separately from goodwill. The acquirer should not subsequently reclassify the value of those contracts from goodwill for events that occur after the acquisition date. However, the acquirer should assess the facts and circumstances surrounding events occurring shortly after the acquisition to determine whether a separately recognisable intangible asset existed at the acquisition date.

B39 After initial recognition, an acquirer accounts for intangible assets acquired in a business combination in accordance with the provisions of IAS 38 *Intangible Assets*. However, as described in paragraph 3 of IAS 38, the accounting for some acquired intangible assets after initial recognition is prescribed by other IFRSs.

B40 The identifiability criteria determine whether an intangible asset is recognised separately from goodwill. However, the criteria neither provide guidance for measuring the fair value of an intangible asset nor restrict the assumptions used in estimating the fair value of an intangible asset. For example, the acquirer would take into account assumptions that market participants would consider, such as expectations of future contract renewals, in measuring fair value. It is not necessary for the renewals themselves to meet the identifiability criteria. (However, see paragraph 29, which establishes an exception to the fair value measurement principle for reacquired rights recognised in a business combination.) Paragraphs 36 and 37 of IAS 38 provide guidance for determining whether intangible assets should be combined into a single unit of account with other intangible or tangible assets.

MEASURING THE FAIR VALUE OF PARTICULAR IDENTIFIABLE ASSETS AND A NON-CONTROLLING INTEREST IN AN ACQUIREE (APPLICATION OF PARAGRAPHS 18 AND 19)

Assets with uncertain cash flows (valuation allowances)

B41 The acquirer shall not recognise a separate valuation allowance as of the acquisition date for assets acquired in a business combination that are measured at their acquisition-date fair values because the effects of uncertainty about future cash flows are included in the fair value measure. For example, because this IFRS requires the acquirer to measure acquired receivables, including loans, at their acquisition-date fair values, the acquirer does not recognise a separate valuation allowance for the contractual cash flows that are deemed to be uncollectible at that date.

Assets subject to operating leases in which the acquiree is the lessor

B42 In measuring the acquisition-date fair value of an asset such as a building or a patent that is subject to an operating lease in which the acquiree is the lessor, the acquirer shall take into account the terms of the lease. In other words, the acquirer does not recognise a separate asset or liability if the terms of an operating lease are either favourable or unfavourable when compared with market terms as paragraph B29 requires for leases in which the acquiree is the lessee.

Assets that the acquirer intends not to use or to use in a way that is different from the way other market participants would use them

B43 For competitive or other reasons, the acquirer may intend not to use an acquired asset, for example, a research and development intangible asset, or it may intend to use the asset in a way that is different from the way in which other market participants would use it. Nevertheless, the acquirer shall measure the asset at fair value determined in accordance with its use by other market participants.

Non-controlling interest in an acquiree

B44 This IFRS allows the acquirer to measure a non-controlling interest in the acquiree at its fair value at the acquisition date. Sometimes an acquirer will be able to measure the acquisition-date fair value of a non-controlling interest on the basis of active market prices for the equity shares not held by the acquirer. In other situations, however, an active market price for the equity shares will not be available. In those situations, the acquirer would measure the fair value of the non-controlling interest using other valuation techniques.

B45 The fair values of the acquirer's interest in the acquiree and the non-controlling interest on a per-share basis might differ. The main difference is likely to be the inclusion of a control premium in the per-share fair value of the acquirer's interest in the acquiree or, conversely, the inclusion of a discount for lack of control (also referred to as a minority discount) in the per-share fair value of the non-controlling interest.

MEASURING GOODWILL OR A GAIN FROM A BARGAIN PURCHASE

Measuring the acquisition-date fair value of the acquirer's interest in the acquiree using valuation techniques (application of paragraph 33)

B46 In a business combination achieved without the transfer of consideration, the acquirer must substitute the acquisition-date fair value of its interest in the acquiree for the acquisition-date fair value of the consideration transferred to measure goodwill or a gain on a bargain purchase (see paragraphs 32–34). The acquirer should measure the acquisition-date fair value of its interest in the acquiree using one or more valuation techniques that are appropriate in the circumstances and for which sufficient data are available. If more than one valuation technique is used, the acquirer should evaluate the results of the techniques, considering the relevance and reliability of the inputs used and the extent of the available data.

Special considerations in applying the acquisition method to combinations of mutual entities (application of paragraph 33)

B47 When two mutual entities combine, the fair value of the equity or member interests in the acquiree (or the fair value of the acquiree) may be more reliably measurable than the fair value of the member interests transferred by the acquirer. In that situation, paragraph 33 requires the acquirer to determine the amount of goodwill by using the acquisition-date fair value of the acquiree's equity interests instead of the acquisition-date fair value of the acquirer's equity interests transferred as consideration. In addition, the acquirer in a combination of mutual entities shall recognise the acquiree's net assets as a direct addition to capital or equity in its statement of financial position, not as an addition to retained earnings, which is consistent with the way in which other types of entities apply the acquisition method.

B48 Although they are similar in many ways to other businesses, mutual entities have distinct characteristics that arise primarily because their members are both customers and owners. Members of mutual entities generally expect to receive benefits for their membership, often in the form of reduced fees charged for goods and services or patronage dividends. The portion of patronage dividends allocated to each member is often based on the amount of business the member did with the mutual entity during the year.

B49 A fair value measurement of a mutual entity should include the assumptions that market participants would make about future member benefits as well as any other relevant assumptions market participants would make about the mutual entity. For example, an estimated cash flow model may be used to determine the fair value of a mutual entity. The cash flows used as inputs to the model should be based on the expected cash flows of the mutual entity, which are likely to reflect reductions for member benefits, such as reduced fees charged for goods and services.

DETERMINING WHAT IS PART OF THE BUSINESS COMBINATION TRANSACTION (APPLICATION OF PARAGRAPHS 51 AND 52)

B50 The acquirer should consider the following factors, which are neither mutually exclusive nor individually conclusive, to determine whether a transaction is part of the exchange for the acquiree or whether the transaction is separate from the business combination:

(a) **the reasons for the transaction**—Understanding the reasons why the parties to the combination (the acquirer and the acquiree and their owners, directors and managers—and their agents) entered into a particular transaction or arrangement may provide insight into whether it is part of the consideration transferred and the assets acquired or liabilities assumed. For example, if a transaction is arranged primarily for the benefit of the acquirer or the combined entity rather than primarily for the benefit of the acquiree or its former owners before the combination, that portion of the transaction price paid (and any related assets or liabilities) is less likely to be part of the exchange for the acquiree. Accordingly, the acquirer would account for that portion separately from the business combination.

(b) **who initiated the transaction**—Understanding who initiated the transaction may also provide insight into whether it is part of the exchange for the acquiree. For example, a transaction or other event that is initiated by the acquirer may be entered into for the purpose of providing future economic benefits to the acquirer or combined entity with little or no benefit received by the acquiree or its former owners before the combination. On the other hand, a transaction or arrangement initiated by the acquiree or its former owners is less likely to be for the benefit of the acquirer or the combined entity and more likely to be part of the business combination transaction.

(c) **the timing of the transaction**—The timing of the transaction may also provide insight into whether it is part of the exchange for the acquiree. For example, a transaction between the acquirer and the acquiree that takes place during the negotiations of the terms of a business combination may have been entered into in contemplation of the business combination to provide future economic benefits to the acquirer or the combined entity. If so, the acquiree or its former owners before the business combination are likely to receive little or no benefit from the transaction except for benefits they receive as part of the combined entity.

Effective settlement of a pre-existing relationship between the acquirer and acquiree in a business combination (application of paragraph 52(a))

B51 The acquirer and acquiree may have a relationship that existed before they contemplated the business combination, referred to here as a 'pre-existing relationship'. A pre-existing relationship between the acquirer and acquiree may be contractual (for example, vendor and customer or licensor and licensee) or non-contractual (for example, plaintiff and defendant).

B52 If the business combination in effect settles a pre-existing relationship, the acquirer recognises a gain or loss, measured as follows:

(a) for a pre-existing non-contractual relationship (such as a lawsuit), fair value.

(b) for a pre-existing contractual relationship, the lesser of (i) and (ii):

(i) the amount by which the contract is favourable or unfavourable from the perspective of the acquirer when compared with terms for current market transactions for the same or similar items. (An unfavourable contract is a contract that is unfavourable in terms of current market terms. It is not necessarily an onerous contract in which the unavoidable costs of meeting the obligations under the contract exceed the economic benefits expected to be received under it.)

(ii) the amount of any stated settlement provisions in the contract available to the counterparty to whom the contract is unfavourable.

If (ii) is less than (i), the difference is included as part of the business combination accounting.

The amount of gain or loss recognised may depend in part on whether the acquirer had previously recognised a related asset or liability, and the reported gain or loss therefore may differ from the amount calculated by applying the above requirements.

B53 A pre-existing relationship may be a contract that the acquirer recognises as a reacquired right. If the contract includes terms that are favourable or unfavourable when compared with pricing for current market transactions for the same or similar items, the acquirer recognises, separately from the business combination, a gain or loss for the effective settlement of the contract, measured in accordance with paragraph B52.

Arrangements for contingent payments to employees or selling shareholders (application of paragraph 52(b))

B54 Whether arrangements for contingent payments to employees or selling shareholders are contingent consideration in the business combination or are separate transactions depends on the nature of the arrangements. Understanding the reasons why the acquisition agreement includes a provision for contingent payments, who initiated the arrangement and when the parties entered into the arrangement may be helpful in assessing the nature of the arrangement.

B55 If it is not clear whether an arrangement for payments to employees or selling shareholders is part of the exchange for the acquiree or is a transaction separate from the business combination, the acquirer should consider the following indicators:

(a) *Continuing employment*—The terms of continuing employment by the selling shareholders who become key employees may be an indicator of the substance of a contingent consideration arrangement. The relevant terms of continuing employment may be included in an employment agreement, acquisition agreement or some other document. A contingent consideration arrangement in which the payments are automatically forfeited if employment terminates is remuneration for post-combination services. Arrangements in which the contingent payments are not affected by employment termination may indicate that the contingent payments are additional consideration rather than remuneration.

(b) *Duration of continuing employment*—If the period of required employment coincides with or is longer than the contingent payment period, that fact may indicate that the contingent payments are, in substance, remuneration.

(c) *Level of remuneration*—Situations in which employee remuneration other than the contingent payments is at a reasonable level in comparison with that of other key employees in the combined entity may indicate that the contingent payments are additional consideration rather than remuneration.

(d) *Incremental payments to employees*—If selling shareholders who do not become employees receive lower contingent payments on a per-share basis than the selling shareholders who become employees of the combined entity, that fact may indicate that the incremental amount of contingent payments to the selling shareholders who become employees is remuneration.

(e) *Number of shares owned*—The relative number of shares owned by the selling shareholders who remain as key employees may be an indicator of the substance of the contingent consideration arrangement. For example, if the selling shareholders who owned substantially all of the shares in the acquiree continue as key employees, that fact may indicate that the arrangement is, in substance, a profit-sharing arrangement intended to provide remuneration for post-combination services. Alternatively, if selling shareholders who continue as key employees owned only a small number of shares of the acquiree and all selling shareholders receive the same amount of contingent consideration on a per-share basis, that fact may indicate that the contingent payments are additional consideration. The pre-acquisition ownership interests held by parties related to selling shareholders who continue as key employees, such as family members, should also be considered.

(f) *Linkage to the valuation*—If the initial consideration transferred at the acquisition date is based on the low end of a range established in the valuation of the acquiree and the contingent formula relates to that valuation approach, that fact may suggest that the contingent payments are additional consideration. Alternatively, if the contingent payment formula is consistent with prior profit-sharing arrangements, that fact may suggest that the substance of the arrangement is to provide remuneration.

(g) *Formula for determining consideration*—The formula used to determine the contingent payment may be helpful in assessing the substance of the arrangement. For example, if a contingent payment is determined on the basis of a multiple of earnings, that might suggest that the obligation is contingent consideration in the business combination and that the formula is intended to establish or verify the fair value of the acquiree. In contrast, a contingent payment that is a specified percentage of earnings might suggest that the obligation to employees is a profit-sharing arrangement to remunerate employees for services rendered.

(h) *Other agreements and issues*—The terms of other arrangements with selling shareholders (such as agreements not to compete, executory contracts, consulting contracts and property lease agreements) and the income tax treatment of contingent payments may indicate that contingent payments are attributable to something other than consideration for the acquiree. For example, in connection with the acquisition, the acquirer might enter into a property lease arrangement with a significant selling shareholder. If the lease payments specified in the lease contract are significantly below market, some or all of the contingent payments to the lessor (the selling shareholder) required by a separate arrangement for contingent payments might be, in substance, payments for the use of the leased property that the acquirer should recognise separately in its post-combination financial statements. In contrast, if the lease contract specifies lease payments that are consistent with market terms for the leased property, the arrangement for contingent payments to the selling shareholder may be contingent consideration in the business combination.

Acquirer share-based payment awards exchanged for awards held by the acquiree's employees (application of paragraph 52(b))

B56 An acquirer may exchange its share-based payment awards (replacement awards) for awards held by employees of the acquiree. Exchanges of share options or other share-based payment awards in conjunction with a business combination are accounted for as modifications of share-based payment awards in accordance with IFRS 2 *Share-based Payment*. If the acquirer is obliged to replace the acquiree awards, either all or a portion of the market-based measure of the acquirer's replacement awards shall be included in measuring the consideration transferred in the business combination. The acquirer is obliged to replace the acquiree awards if the acquiree or its employees have the ability to enforce replacement. For example, for the purposes of applying this requirement, the acquirer is obliged to replace the acquiree's awards if replacement is required by:

(a) the terms of the acquisition agreement;

(b) the terms of the acquiree's awards; or

(c) applicable laws or regulations.

In some situations, acquiree awards may expire as a consequence of a business combination. If the acquirer replaces those awards even though it is not obliged to do so, all of the market-based measure of the replacement awards shall be recognised as remuneration cost in the post-combination financial statements. That is to say, none of the market-based measure of those awards shall be included in measuring the consideration transferred in the business combination.

B57 To determine the portion of a replacement award that is part of the consideration transferred for the acquiree and the portion that is remuneration for post-combination service, the acquirer shall measure both the replacement awards granted by the acquirer and the acquiree awards as of the acquisition date in accordance with IFRS 2. The portion of the market-based measure of the replacement award that is part of the consideration transferred in exchange for the acquiree equals the portion of the acquiree award that is attributable to pre-combination service.

B58 The portion of the replacement award attributable to pre-combination service is the market-based measure of the acquiree award multiplied by the ratio of the portion of the vesting period completed to the greater of the total vesting period or the original vesting period of the acquiree award. The vesting period is the period during which all the specified vesting conditions are to be satisfied. Vesting conditions are defined in IFRS 2.

B59 The portion of a non-vested replacement award attributable to post-combination service, and therefore recognised as remuneration cost in the post-combination financial statements, equals the total market-based measure of the replacement award less the amount attributed to pre-combination service. Therefore, the acquirer attributes any excess of the market-based measure of the replacement award over the market-based measure of the acquiree award to post-combination service and recognises that excess as remuneration cost in the post-combination financial statements. The acquirer shall attribute a portion of a replacement award to post-combination service if it requires post-combination service, regardless of whether employees had rendered all of the service required for their acquiree awards to vest before the acquisition date.

B60 The portion of a non-vested replacement award attributable to pre-combination service, as well as the portion attributable to post-combination service, shall reflect the best available estimate of the number of replacement awards expected to vest. For example, if the market-based measure of the portion of a replacement award attributed to pre-combination service is CU100 and the acquirer expects that only 95 per cent of the award will vest, the amount included in consideration transferred in the business combination is CU95. Changes in the estimated number of replacement awards expected to vest are reflected in remuneration cost for the periods in which the changes or forfeitures occur—not as adjustments to the consideration transferred in the business combination. Similarly, the effects of other events, such as modifications or the ultimate outcome of awards with performance conditions, that occur after the acquisition date are accounted for in accordance with IFRS 2 in determining remuneration cost for the period in which an event occurs.

B61 The same requirements for determining the portions of a replacement award attributable to pre-combination and post-combination service apply regardless of whether a replacement award is classified as a liability or as an equity instrument in accordance with the provisions of IFRS 2. All changes in the market-based measure of awards classified as liabilities after the acquisition date and the related income tax effects are recognised in the acquirer's post-combination financial statements in the period(s) in which the changes occur.

B62 The income tax effects of replacement awards of share-based payments shall be recognised in accordance with the provisions of IAS 12 *Income Taxes*.

OTHER IFRSS THAT PROVIDE GUIDANCE ON SUBSEQUENT MEASUREMENT AND ACCOUNTING (APPLICATION OF PARAGRAPH 54)

B63 Examples of other IFRSs that provide guidance on subsequently measuring and accounting for assets acquired and liabilities assumed or incurred in a business combination include:

(a) IAS 38 prescribes the accounting for identifiable intangible assets acquired in a business combination. The acquirer measures goodwill at the amount recognised at the acquisition date less any accumulated impairment losses. IAS 36 *Impairment of Assets* prescribes the accounting for impairment losses.

(b) IFRS 4 *Insurance Contracts* provides guidance on the subsequent accounting for an insurance contract acquired in a business combination.

(c) IAS 12 prescribes the subsequent accounting for deferred tax assets (including unrecognised deferred tax assets) and liabilities acquired in a business combination.

(d) IFRS 2 provides guidance on subsequent measurement and accounting for the portion of replacement share-based payment awards issued by an acquirer that is attributable to employees' future services.

(e) IAS 27 (as amended by the International Accounting Standards Board in 2008) provides guidance on accounting for changes in a parent's ownership interest in a subsidiary after control is obtained.

DISCLOSURES (APPLICATION OF PARAGRAPHS 59 AND 61)

B64 To meet the objective in paragraph 59, the acquirer shall disclose the following information for each business combination that occurs during the reporting period:

(a) the name and a description of the acquiree.

(b) the acquisition date.

(c) the percentage of voting equity interests acquired.

(d) the primary reasons for the business combination and a description of how the acquirer obtained control of the acquiree.

(e) a qualitative description of the factors that make up the goodwill recognised, such as expected synergies from combining operations of the acquiree and the acquirer, intangible assets that do not qualify for separate recognition or other factors.

(f) the acquisition-date fair value of the total consideration transferred and the acquisition-date fair value of each major class of consideration, such as:

(i) cash;

(ii) other tangible or intangible assets, including a business or subsidiary of the acquirer;

(iii) liabilities incurred, for example, a liability for contingent consideration; and

(iv) equity interests of the acquirer, including the number of instruments or interests issued or issuable and the method of determining the fair value of those instruments or interests.

(g) for contingent consideration arrangements and indemnification assets:

(i) the amount recognised as of the acquisition date;

(ii) a description of the arrangement and the basis for determining the amount of the payment; and

(iii) an estimate of the range of outcomes (undiscounted) or, if a range cannot be estimated, that fact and the reasons why a range cannot be estimated. If the maximum amount of the payment is unlimited, the acquirer shall disclose that fact.

(h) for acquired receivables:

(i) the fair value of the receivables;

(ii) the gross contractual amounts receivable; and

(iii) the best estimate at the acquisition date of the contractual cash flows not expected to be collected.

The disclosures shall be provided by major class of receivable, such as loans, direct finance leases and any other class of receivables.

(i) the amounts recognised as of the acquisition date for each major class of assets acquired and liabilities assumed.

(j) for each contingent liability recognised in accordance with paragraph 23, the information required in paragraph 85 of IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. If a contingent liability is not recognised because its fair value cannot be measured reliably, the acquirer shall disclose:

(i) the information required by paragraph 86 of IAS 37; and

(ii) the reasons why the liability cannot be measured reliably.

(k) the total amount of goodwill that is expected to be deductible for tax purposes.

(l) for transactions that are recognised separately from the acquisition of assets and assumption of liabilities in the business combination in accordance with paragraph 51:

(i) a description of each transaction;

(ii) how the acquirer accounted for each transaction;

(iii) the amounts recognised for each transaction and the line item in the financial statements in which each amount is recognised; and

(iv) if the transaction is the effective settlement of a pre-existing relationship, the method used to determine the settlement amount.

(m) the disclosure of separately recognised transactions required by (l) shall include the amount of acquisition-related costs and, separately, the amount of those costs recognised as an expense and the line item or items in the statement of comprehensive income in which those expenses are recognised. The amount of any issue costs not recognised as an expense and how they were recognised shall also be disclosed.

(n) in a bargain purchase (see paragraphs 34–36):

(i) the amount of any gain recognised in accordance with paragraph 34 and the line item in the statement of comprehensive income in which the gain is recognised; and

(ii) a description of the reasons why the transaction resulted in a gain.

(o) for each business combination in which the acquirer holds less than 100 per cent of the equity interests in the acquiree at the acquisition date:

(i) the amount of the non-controlling interest in the acquiree recognised at the acquisition date and the measurement basis for that amount; and

(ii) for each non-controlling interest in an acquiree measured at fair value, the valuation techniques and key model inputs used for determining that value.

(p) in a business combination achieved in stages:

(i) the acquisition-date fair value of the equity interest in the acquiree held by the acquirer immediately before the acquisition date; and

(ii) the amount of any gain or loss recognised as a result of remeasuring to fair value the equity interest in the acquiree held by the acquirer before the business combination (see paragraph 42) and the line item in the statement of comprehensive income in which that gain or loss is recognised.

(q) the following information:

(i) the amounts of revenue and profit or loss of the acquiree since the acquisition date included in the consolidated statement of comprehensive income for the reporting period; and

(ii) the revenue and profit or loss of the combined entity for the current reporting period as though the acquisition date for all business combinations that occurred during the year had been as of the beginning of the annual reporting period.

If disclosure of any of the information required by this subparagraph is impracticable, the acquirer shall disclose that fact and explain why the disclosure is impracticable. This IFRS uses the term 'impracticable' with the same meaning as in IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors.*

B65 For individually immaterial business combinations occurring during the reporting period that are material collectively, the acquirer shall disclose in aggregate the information required by paragraph B64(e)–(q).

B66 If the acquisition date of a business combination is after the end of the reporting period but before the financial statements are authorised for issue, the acquirer shall disclose the information required by paragraph B64 unless the initial accounting for the business combination is incomplete at the time the financial statements are authorised for issue. In that situation, the acquirer shall describe which disclosures could not be made and the reasons why they cannot be made.

B67 To meet the objective in paragraph 61, the acquirer shall disclose the following information for each material business combination or in the aggregate for individually immaterial business combinations that are material collectively:

(a) if the initial accounting for a business combination is incomplete (see paragraph 45) for particular assets, liabilities, non-controlling interests or items of consideration and the amounts recognised in the financial statements for the business combination thus have been determined only provisionally:

(i) the reasons why the initial accounting for the business combination is incomplete;

(ii) the assets, liabilities, equity interests or items of consideration for which the initial accounting is incomplete; and

(iii) the nature and amount of any measurement period adjustments recognised during the reporting period in accordance with paragraph 49.

(b) for each reporting period after the acquisition date until the entity collects, sells or otherwise loses the right to a contingent consideration asset, or until the entity settles a contingent consideration liability or the liability is cancelled or expires:

(i) any changes in the recognised amounts, including any differences arising upon settlement;

(ii) any changes in the range of outcomes (undiscounted) and the reasons for those changes; and

(iii) the valuation techniques and key model inputs used to measure contingent consideration.

(c) for contingent liabilities recognised in a business combination, the acquirer shall disclose the information required by paragraphs 84 and 85 of IAS 37 for each class of provision.

(d) a reconciliation of the carrying amount of goodwill at the beginning and end of the reporting period showing separately:

(i) the gross amount and accumulated impairment losses at the beginning of the reporting period.

(ii) additional goodwill recognised during the reporting period, except goodwill included in a disposal group that, on acquisition, meets the criteria to be classified as held for sale in accordance with IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations*.

(iii) adjustments resulting from the subsequent recognition of deferred tax assets during the reporting period in accordance with paragraph 67.

(iv) goodwill included in a disposal group classified as held for sale in accordance with IFRS 5 and goodwill derecognised during the reporting period without having previously been included in a disposal group classified as held for sale.

(v) impairment losses recognised during the reporting period in accordance with IAS 36. (IAS 36 requires disclosure of information about the recoverable amount and impairment of goodwill in addition to this requirement.)

(vi) net exchange rate differences arising during the reporting period in accordance with IAS 21 *The Effects of Changes in Foreign Exchange Rates*.

(vii) any other changes in the carrying amount during the reporting period.

(viii) the gross amount and accumulated impairment losses at the end of the reporting period.

(e) the amount and an explanation of any gain or loss recognised in the current reporting period that both:

(i) relates to the identifiable assets acquired or liabilities assumed in a business combination that was effected in the current or previous reporting period; and

(ii) is of such a size, nature or incidence that disclosure is relevant to understanding the combined entity's financial statements.

TRANSITIONAL PROVISIONS FOR BUSINESS COMBINATIONS INVOLVING ONLY MUTUAL ENTITIES OR BY CONTRACT ALONE (APPLICATION OF PARAGRAPH 66)

B68 Paragraph 64 provides that this IFRS applies prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after 1 July 2009. Earlier application is permitted. However, an entity shall apply this IFRS only at the beginning of an annual reporting period that begins on or after 30 June 2007. If an entity applies this IFRS before its effective date, the entity shall disclose that fact and shall apply IAS 27 (as amended by the International Accounting Standards Board in 2008) at the same time.

B69 The requirement to apply this IFRS prospectively has the following effect for a business combination involving only mutual entities or by contract alone if the acquisition date for that business combination is before the application of this IFRS:

(a) *Classification*—An entity shall continue to classify the prior business combination in accordance with the entity's previous accounting policies for such combinations.

(b) *Previously recognised goodwill*—At the beginning of the first annual period in which this IFRS is applied, the carrying amount of goodwill arising from the prior business combination shall be its carrying amount at that date in accordance with the entity's previous accounting policies. In determining that amount, the entity shall eliminate the carrying amount of any accumulated amortisation of that goodwill and the corresponding decrease in goodwill. No other adjustments shall be made to the carrying amount of goodwill.

(c) *Goodwill previously recognised as a deduction from equity*—The entity's previous accounting policies may have resulted in goodwill arising from the prior business combination being recognised as a deduction from equity. In that situation the entity shall not recognise that goodwill as an asset at the beginning of the first annual period in which this IFRS is applied. Furthermore, the entity shall not recognise in profit or loss any part of that goodwill when it disposes of all or part of the business to which that goodwill relates or when a cash-generating unit to which the goodwill relates becomes impaired.

(d) *Subsequent accounting for goodwill*—From the beginning of the first annual period in which this IFRS is applied, an entity shall discontinue amortising goodwill arising from the prior business combination and shall test goodwill for impairment in accordance with IAS 36.

(e) *Previously recognised negative goodwill*—An entity that accounted for the prior business combination by applying the purchase method may have recognised a deferred credit for an excess of its interest in the net fair value of the acquiree's identifiable assets and liabilities over the cost of that interest (sometimes called negative goodwill). If so, the entity shall derecognise the carrying amount of that deferred credit at the beginning of the first annual period in which this IFRS is applied with a corresponding adjustment to the opening balance of retained earnings at that date.

Appendix C

Amendments to other IFRSs

The amendments in this appendix shall be applied for annual reporting periods beginning on or after 1 July 2009. If an entity applies this IFRS for an earlier period, these amendments shall be applied for that earlier period.

IFRS 1 *FIRST-TIME ADOPTION OF INTERNATIONAL FINANCIAL REPORTING STANDARDS*

C1 IFRS 1 is amended as described below.

Paragraph 14 is amended as follows:

'14. Some exemptions below refer to fair value. In determining fair values in accordance with this IFRS, an entity shall apply the definition of fair value in Appendix A and any more specific guidance in other IFRSs on the determination of fair values for the asset or liability in question. Those fair values shall reflect conditions that existed at the date for which they were determined.'

Paragraph 47I is added as follows:

'47I IFRS 3 (as revised by the International Accounting Standards Board in 2008) amended paragraphs 14, B1, B2(f) and B2(g). An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendments shall also be applied for that earlier period.'

In Appendix B, paragraphs B1, B2(f) and B2(g) are amended as follows:

'B1 A first-time adopter may elect not to apply IFRS 3 *Business Combinations* retrospectively to past business combinations (business combinations that occurred before the date of transition to IFRSs). However, if a first-time adopter restates any business combination to comply with IFRS 3, it shall restate all later business combinations and shall also apply IAS 27 (as amended by the International Accounting Standards Board in 2008) from that same date. For example, if a first-time adopter elects to restate a business combination that occurred on 30 June 20X6, it shall restate all business combinations that occurred between 30 June 20X6 and the date of transition to IFRSs, and it shall also apply IAS 27 (amended 2008) from 30 June 20X6.

B2(f) If an asset acquired, or liability assumed, in a past business combination was not recognised under previous GAAP, it does not have a deemed cost of zero in the opening IFRS statement of financial position. Instead, the acquirer shall recognise and measure it in its consolidated statement of financial position on the basis that IFRSs would require in the statement of financial position of the acquiree. To illustrate: if the acquirer had not, under its previous GAAP, capitalised finance leases acquired in a past business combination, it shall capitalise those leases in its consolidated financial statements, as IAS 17 *Leases* would require the acquiree to do in its IFRS statement of financial position. Similarly, if the acquirer had not, under its previous GAAP, recognised a contingent liability that still exists at the date of transition to IFRSs, the acquirer shall recognise that contingent liability at that date unless IAS 37 would prohibit its recognition in the financial statements of the acquiree. Conversely, …

B2(g) The carrying amount of goodwill in the opening IFRS statement of financial position shall be its carrying amount under previous GAAP at the date of transition to IFRSs, after the following two adjustments:

(i) …

(ii) [deleted]

(iii) Regardless …'

IFRS 2 *SHARE-BASED PAYMENT*

C2 IFRS 2 is amended as described below.

Paragraph 5 is amended as follows:

'5. As noted in paragraph 2, this IFRS … Similarly, the cancellation, replacement or other modification of *share-based payment arrangements* because of a business combination or other equity restructuring shall be accounted for in accordance with this IFRS. IFRS 3 provides guidance on determining whether equity instruments issued in a business combination are part of the consideration transferred in exchange for control of the acquiree (and therefore within the scope of IFRS 3) or are in return for continued service to be recognised in the post-combination period (and therefore within the scope of this IFRS).'

Paragraph 61 is added as follows:

‘61. IFRS 3 (as revised by the International Accounting Standards Board in 2008) amended paragraph 5. An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendment shall also be applied for that earlier period.’

IFRS 7 *FINANCIAL INSTRUMENTS: DISCLOSURES*

C3 IFRS 7 is amended as described below.

Paragraph 3(c) is deleted.

Paragraph 44B is added as follows:

‘44B IFRS 3 (as revised by the International Accounting Standards Board in 2008) deleted paragraph 3(c). An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendment shall also be applied for that earlier period.’

IAS 12 *INCOME TAXES*

C4 IAS 12 is amended as described below.

The third paragraph of the ‘**Objective**’ is amended as follows:

‘**Objective**

This Standard … Similarly, the recognition of deferred tax assets and liabilities in a business combination affects the amount of goodwill arising in that business combination or the amount of the bargain purchase gain recognised.’

Paragraphs 18, 19, 21–22 and 26 are amended as follows:

‘18. Temporary differences also arise when:

(a) the identifiable assets acquired and liabilities assumed in a business combination are recognised at their fair values in accordance with IFRS 3 *Business Combinations*, but no equivalent adjustment is made for tax purposes (see paragraph 19);

(b) …

Business combinations

19. With limited exceptions, the identifiable assets acquired and liabilities assumed in a business combination are recognised at their fair values at the acquisition date. Temporary differences …

Goodwill

21. Goodwill arising in a business combination is measured as the excess of (a) over (b) below:

(a) the aggregate of:

(i) the consideration transferred measured in accordance with IFRS 3, which generally requires acquisition-date fair value;

(ii) the amount of any non-controlling interest in the acquiree recognised in accordance with IFRS 3; and

(iii) in a business combination achieved in stages, the acquisition-date fair value of the acquirer’s previously held equity interest in the acquiree.

(b) the net of the acquisition-date amounts of the identifiable assets acquired and liabilities assumed measured in accordance with IFRS 3.

Many taxation authorities …

21A Subsequent reductions in a deferred tax liability that is unrecognised because it arises from the initial recognition of goodwill are also regarded as arising from the initial recognition of goodwill and are therefore not recognised under paragraph 15(a). For example, if in a business combination an entity recognises goodwill of CU100 that has a tax base of nil, paragraph 15(a) prohibits the entity from recognising the resulting deferred tax liability. If the entity subsequently recognises an impairment loss of CU20 for that goodwill, the amount of the taxable temporary difference relating to the goodwill is reduced from CU100 to CU80, with a resulting decrease in the value of the unrecognised deferred tax liability. That decrease in the value of the unrecognised deferred tax liability is also regarded as relating to the initial recognition of the goodwill and is therefore prohibited from being recognised under paragraph 15(a).

21B Deferred tax liabilities for taxable temporary differences relating to goodwill are, however, recognised to the extent they do not arise from the initial recognition of goodwill. For example, if in a business combination an entity recognises goodwill of CU100 that is deductible for tax purposes at a rate of 20 per cent per year starting in the year of acquisition, the tax base of the goodwill is CU100 on initial recognition and CU80 at the end of the year of acquisition. If the carrying amount of goodwill at the end of the year of acquisition remains unchanged at CU100, a taxable temporary difference of CU20 arises at the end of that year. Because …

Initial recognition of an asset or liability

22. A temporary difference may arise on initial recognition of an asset or liability, for example if part or all of the cost of an asset will not be deductible for tax purposes. The method of accounting for such a temporary difference depends on the nature of the transaction that led to the initial recognition of the asset or liability:

(a) in a business combination, an entity recognises any deferred tax liability or asset and this affects the amount of goodwill or bargain purchase gain it recognises (see paragraph 19);

(b) …

26. The following are examples of deductible temporary differences that result in deferred tax assets:

(a) …

(c) with limited exceptions, an entity recognises the identifiable assets acquired and liabilities assumed in a business combination at their fair values at the acquisition date. When a liability assumed is recognised at the acquisition date but the related costs are not deducted in determining taxable profits until a later period, a deductible temporary difference arises which results in a deferred tax asset. A deferred tax asset also arises when the fair value of an identifiable asset acquired is less than its tax base. In both cases, the resulting deferred tax asset affects goodwill (see paragraph 66); and

(d) …'

After paragraph 31 a new heading and paragraph 32A are added as follows:

'32. [Deleted]

Goodwill

32A If the carrying amount of goodwill arising in a business combination is less than its tax base, the difference gives rise to a deferred tax asset. The deferred tax asset arising from the initial recognition of goodwill shall be recognised as part of the accounting for a business combination to the extent that it is probable that taxable profit will be available against which the deductible temporary difference could be utilised.'

Paragraphs 66–68 are amended as follows:

'**Deferred tax arising from a business combination**

66. As explained in paragraphs 19 and 26(c), temporary differences may arise in a business combination. In accordance with IFRS 3, an entity recognises any resulting deferred tax assets (to the extent that they meet the recognition criteria in paragraph 24) or deferred tax liabilities as identifiable assets and liabilities at the acquisition date. Consequently, those deferred tax assets and deferred tax liabilities affect the amount of goodwill or the bargain purchase gain the entity recognises. However, in accordance with paragraph 15(a), an entity does not recognise deferred tax liabilities arising from the initial recognition of goodwill.

67. As a result of a business combination, the probability of realising a pre-acquisition deferred tax asset of the acquirer could change. An acquirer may consider it probable that it will recover its own deferred tax asset that was not recognised before the business combination. For example, the acquirer may be able to utilise the benefit of its unused tax losses against the future taxable profit of the acquiree. Alternatively, as a result of the business combination it might no longer be probable that future taxable profit will allow the deferred tax asset to be recovered. In such cases, the acquirer recognises a change in the deferred tax asset in the period of the business combination, but does not include it as part of the accounting for the business combination. Therefore, the acquirer does not take it into account in measuring the goodwill or bargain purchase gain it recognises in the business combination.

68. The potential benefit of the acquiree's income tax loss carryforwards or other deferred tax assets might not satisfy the criteria for separate recognition when a business combination is initially accounted for but might be realised subsequently.

An entity shall recognise acquired deferred tax benefits that it realises after the business combination as follows:

(a) Acquired deferred tax benefits recognised within the measurement period that result from new information about facts and circumstances that existed at the acquisition date shall be applied to reduce the carrying amount of any goodwill related to that acquisition. If the carrying amount of that goodwill is zero, any remaining deferred tax benefits shall be recognised in profit or loss.

(b) All other acquired deferred tax benefits realised shall be recognised in profit or loss (or, if this Standard so requires, outside profit or loss).'

The example following paragraph 68 is deleted.

Paragraph 81 is amended as follows:

'**81. The following shall also be disclosed separately:**

(a) …

(h) in respect of discontinued operations, the tax expense relating to:

(i) the gain or loss on discontinuance; and

(ii) the profit or loss from the ordinary activities of the discontinued operation for the period, together with the corresponding amounts for each prior period presented;

(i) the amount of income tax consequences of dividends to shareholders of the entity that were proposed or declared before the financial statements were authorised for issue, but are not recognised as a liability in the financial statements;

(j) if a business combination in which the entity is the acquirer causes a change in the amount recognised for its pre-acquisition deferred tax asset (see paragraph 67), the amount of that change; and

(k) if the deferred tax benefits acquired in a business combination are not recognised at the acquisition date but are recognised after the acquisition date (see paragraph 68), a description of the event or change in circumstances that caused the deferred tax benefits to be recognised.'

Paragraphs 93–95 are added as follows:

'93. **Paragraph 68 shall be applied prospectively from the effective date of IFRS 3 (as revised** by the International Accounting Standards Board **in 2008) to the recognition of deferred tax assets acquired in business combinations.**

94. Therefore, entities shall not adjust the accounting for prior business combinations if tax benefits failed to satisfy the criteria for separate recognition as of the acquisition date and are recognised after the acquisition date, unless the benefits are recognised within the measurement period and result from new information about facts and circumstances that existed at the acquisition date. Other tax benefits recognised shall be recognised in profit or loss (or, if this Standard so requires, outside profit or loss).

95. **IFRS 3 (as revised** by the International Accounting Standards Board **in 2008) amended paragraphs 21 and 67 and added paragraphs 32A and 81(j) and (k). An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendments shall also be applied for that earlier period.**'

IAS 16 *PROPERTY, PLANT AND EQUIPMENT*

C5 In IAS 16 paragraph 44 is amended as follows:

'44. An entity allocates the amount initially recognised in respect of an item of property, plant and equipment to its significant parts and depreciates separately each such part. For example, it may be appropriate to depreciate separately the airframe and engines of an aircraft, whether owned or subject to a finance lease. Similarly, if an entity acquires property, plant and equipment subject to an operating lease in which it is the lessor, it may be appropriate to depreciate separately amounts reflected in the cost of that item that are attributable to favourable or unfavourable lease terms relative to market terms.'

Paragraph 81C is added as follows:

'**81C IFRS 3 *Business Combinations* (as revised** by the International Accounting Standards Board **in 2008) amended paragraph 44. An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendment shall also be applied for that earlier period**.'

IAS 28 *INVESTMENTS IN ASSOCIATES*

C6 In IAS 28 paragraph 23 is amended as follows:

'23. An investment in an associate is accounted for using the equity method from the date on which it becomes an associate. On acquisition of the investment any difference between the cost of the investment and the investor's share of the net fair value of the associate's identifiable assets and liabilities is accounted for as follows:

(a) goodwill relating to an associate is included in the carrying amount of the investment. Amortisation of that goodwill is not permitted.

(b) any excess of the investor's share of the net fair value of the associate's identifiable assets and liabilities over the cost of the investment is included as income in the determination of the investor's share of the associate's profit or loss in the period in which the investment is acquired.

Appropriate …'

IAS 32 *FINANCIAL INSTRUMENTS: PRESENTATION*

C7 IAS 32 is amended as described below.

Paragraph 4(c) is deleted.

Paragraph 97B is added as follows:

'**97B IFRS 3 (as revised** by the International Accounting Standards Board **in 2008) deleted paragraph 4(c). An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendment shall also be applied for that earlier period**.'

IAS 33 *EARNINGS PER SHARE*

C8 In IAS 33 paragraph 22 is amended as follows:

'22. Ordinary shares issued as part of the consideration transferred in a business combination are included in the weighted average number of shares from the acquisition date. This is because the acquirer incorporates into its statement of comprehensive income the acquiree's profits and losses from that date.'

IAS 34 *INTERIM FINANCIAL REPORTING*

C9 IAS 34 is amended as described below.

Paragraph 16(i) is amended as follows:

'**(i) the effect of changes in the composition of the entity during the interim period, including business combinations, obtaining or losing control of subsidiaries and long-term investments, restructurings, and discontinued operations. In the case of business combinations, the entity shall disclose the information required by IFRS 3 *Business Combinations*; and**'

Paragraph 48 is added as follows:

'**48. IFRS 3 (as revised** by the International Accounting Standards Board **in 2008) amended paragraph 16(i). An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendment shall also be applied for that earlier period**.'

IAS 36 *IMPAIRMENT OF ASSETS*

C10 IAS 36 is amended as described below.

In paragraph 6, the definition of the agreement date is deleted.

Paragraph 65 is amended as follows:

'65. Paragraphs 66–108 and Appendix C set out the requirements for identifying the cash-generating unit to which an asset belongs and determining the carrying amount of, and recognising impairment losses for, cash-generating units and goodwill.'

Paragraphs 81 and 85 are amended as follows:

'81. Goodwill recognised in a business combination is an asset representing the future economic benefits arising from other assets acquired in a business combination that are not individually identified and separately recognised. Goodwill does not generate cash flows independently of other assets or groups of assets, and often contributes to the cash flows of multiple cash-generating units. Goodwill sometimes cannot be allocated on a non-arbitrary basis to individual cash-generating units, but only to groups of cash-generating units. As a result, the lowest level within the entity at which the goodwill is monitored for internal management purposes sometimes comprises a number of cash-generating units to which the goodwill relates, but to which it cannot be allocated. References in paragraphs 83–99 and Appendix C to a cash-generating unit to which goodwill is allocated should be read as references also to a group of cash-generating units to which goodwill is allocated.

85. In accordance with IFRS 3 *Business Combinations*, if the initial accounting for a business combination can be determined only provisionally by the end of the period in which the combination is effected, the acquirer:

(a) accounts for the combination using those provisional values; and

(b) recognises any adjustments to those provisional values as a result of completing the initial accounting within the measurement period, which shall not exceed twelve months from the acquisition date.

In such circumstances, it might also not be possible to complete the initial allocation of the goodwill recognised in the combination before the end of the annual period in which the combination is effected. When this is the case, the entity discloses the information required by paragraph 133.'

After paragraph 90 the heading and paragraphs 91–95 are deleted.

Paragraph 138 is deleted.

Paragraph 139 is amended as follows:

'**139. An entity shall apply this Standard:**

(a) …'

Paragraph 140B is added as follows:

'**140B IFRS 3 (as revised** by the International Accounting Standards Board **in 2008) amended paragraphs 65, 81, 85 and 139; deleted paragraphs 91–95 and 138 and added Appendix C. An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendments shall also be applied for that earlier period**.'

A new appendix (Appendix C) is added as described below. It incorporates the requirements of the deleted paragraphs 91–95.

'*Appendix C*

This appendix is an integral part of the Standard.

Impairment testing cash-generating units with goodwill and non-controlling interests

C1 In accordance with IFRS 3 (as revised by the International Accounting Standards Board in 2008), the acquirer measures and recognises goodwill as of the acquisition date as the excess of (a) over (b) below:

(a) the aggregate of:

(i) the consideration transferred measured in accordance with IFRS 3, which generally requires acquisition-date fair value;

(ii) the amount of any non-controlling interest in the acquiree measured in accordance with IFRS 3; and

(iii) in a business combination achieved in stages, the acquisition-date fair value of the acquirer's previously held equity interest in the acquiree.

(b) the net of the acquisition-date amounts of the identifiable assets acquired and liabilities assumed measured in accordance with IFRS 3.

Allocation of goodwill

C2 Paragraph 80 of this Standard requires goodwill acquired in a business combination to be allocated to each of the acquirer's cash-generating units, or groups of cash generating units, expected to benefit from the synergies of the combination, irrespective of whether other assets or liabilities of the acquiree are assigned to those units, or groups of units. It is possible that some of the synergies resulting from a business combination will be allocated to a cash-generating unit in which the non-controlling interest does not have an interest.

Testing for impairment

C3 Testing for impairment involves comparing the recoverable amount of a cash-generating unit with the carrying amount of the cash-generating unit.

C4 If an entity measures non-controlling interests as its proportionate interest in the net identifiable assets of a subsidiary at the acquisition date, rather than at fair value, goodwill attributable to non-controlling interests is included in the recoverable amount of the related cash-generating unit but is not recognised in the parent's consolidated financial statements. As a consequence, an entity shall gross up the carrying amount of goodwill allocated to the unit to include the goodwill attributable to the non-controlling interest. This adjusted carrying amount is then compared with the recoverable amount of the unit to determine whether the cash-generating unit is impaired.

Allocating an impairment loss

C5 Paragraph 104 requires any identified impairment loss to be allocated first to reduce the carrying amount of goodwill allocated to the unit and then to the other assets of the unit pro rata on the basis of the carrying amount of each asset in the unit.

C6 If a subsidiary, or part of a subsidiary, with a non-controlling interest is itself a cash-generating unit, the impairment loss is allocated between the parent and the non-controlling interest on the same basis as that on which profit or loss is allocated.

C7 If a subsidiary, or part of a subsidiary, with a non-controlling interest is part of a larger cash-generating unit, goodwill impairment losses are allocated to the parts of the cash-generating unit that have a non-controlling interest and the parts that do not. The impairment losses should be allocated to the parts of the cash-generating unit on the basis of:

(a) to the extent that the impairment relates to goodwill in the cash-generating unit, the relative carrying values of the goodwill of the parts before the impairment; and

(b) to the extent that the impairment relates to identifiable assets in the cash-generating unit, the relative carrying values of the net identifiable assets of the parts before the impairment. Any such impairment is allocated to the assets of the parts of each unit pro rata on the basis of the carrying amount of each asset in the part.

In those parts that have a non-controlling interest, the impairment loss is allocated between the parent and the non-controlling interest on the same basis as that on which profit or loss is allocated.

C8 If an impairment loss attributable to a non-controlling interest relates to goodwill that is not recognised in the parent's consolidated financial statements (see paragraph C4), that impairment is not recognised as a goodwill impairment loss. In such cases, only the impairment loss relating to the goodwill that is allocated to the parent is recognised as a goodwill impairment loss.

C9 Illustrative Example 7 illustrates the impairment testing of a non-wholly-owned cash-generating unit with goodwill.'

IAS 37 *PROVISIONS, CONTINGENT LIABILITIES AND CONTINGENT ASSETS*

C11 In IAS 37 paragraph 5 is amended as follows:

'5. When another Standard deals with a specific type of provision, contingent liability or contingent asset, an entity applies that Standard instead of this Standard. For example, some types of provisions are addressed in Standards on:

(a) construction contracts (see IAS 11 *Construction Contracts*);

…'

IAS 38 *INTANGIBLE ASSETS*

C12 IAS 38 is amended as described below.

In paragraph 8, the definition of the agreement date is deleted.

Paragraphs 11, 12, 25 and 33–35 are amended as follows:

'11. The definition of an intangible asset requires an intangible asset to be identifiable to distinguish it from goodwill. Goodwill recognised in a business combination is an asset representing the future economic benefits arising from other assets acquired in a business combination that are not individually identified and separately recognised. The future economic benefits may result from synergy between the identifiable assets acquired or from assets that, individually, do not qualify for recognition in the financial statements.

12. An asset is identifiable if it either:

(a) is separable, ie is capable of being separated or divided from the entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable asset or liability, regardless of whether the entity intends to do so; or

(b) arises from contractual or other legal rights, regardless of whether those rights are transferable or separable from the entity or from other rights and obligations.

25. Normally, the price an entity pays to acquire separately an intangible asset will reflect expectations about the probability that the expected future economic benefits embodied in the asset will flow to the entity. In other words, the entity expects there to be an inflow of economic benefits, even if there is uncertainty about the timing or the amount of the inflow. Therefore, the probability recognition criterion in paragraph 21(a) is always considered to be satisfied for separately acquired intangible assets.

33. In accordance with IFRS 3 *Business Combinations*, if an intangible asset is acquired in a business combination, the cost of that intangible asset is its fair value at the acquisition date. The fair value of an intangible asset will reflect expectations about the probability that the expected future economic benefits embodied in the asset will flow to the entity. In other words, the entity expects there to be an inflow of economic benefits, even if there is uncertainty about the timing or the amount of the inflow. Therefore, the probability recognition criterion in paragraph 21(a) is always considered to be satisfied for intangible assets acquired in business combinations. If an asset acquired in a business combination is separable or arises from contractual or other legal rights, sufficient information exists to measure reliably the fair value of the asset. Thus, the reliable measurement criterion in paragraph 21(b) is always considered to be satisfied for intangible assets acquired in business combinations.

34. In accordance with this Standard and IFRS 3 (as revised by the International Accounting Standards Board in 2008), an acquirer recognises at the acquisition date, separately from goodwill, an intangible asset of the acquiree, irrespective of whether the asset had been recognised by the acquiree before the business combination. This means that the acquirer recognises as an asset separately from goodwill an in-process research and development project of the acquiree if the project meets the definition of an intangible asset. An acquiree's in-process research and development project meets the definition of an intangible asset when it:

(a) meets the definition of an asset; and

(b) is identifiable, ie is separable or arises from contractual or other legal rights.

Measuring the fair value of an intangible asset acquired in a business combination

35. If an intangible asset acquired in a business combination is separable or arises from contractual or other legal rights, sufficient information exists to measure reliably the fair value of the asset. When, for the estimates used to measure an intangible asset's fair value, there is a range of possible outcomes with different probabilities, that uncertainty enters into the measurement of the asset's fair value.'

Paragraph 38 is deleted.

Paragraphs 68 is amended as follows:

'**68. Expenditure on an intangible item shall be recognised as an expense when it is incurred unless:**

(a) it forms part of the cost of an intangible asset that meets the recognition criteria (see paragraphs 18–67); or

(b) the item is acquired in a business combination and cannot be recognised as an intangible asset. If this is the case, it forms part of the amount recognised as goodwill at the acquisition date (see IFRS 3).'

Paragraph 94 is amended as follows:

'**94. The useful life of an intangible asset that arises from contractual or other legal rights shall not exceed the period of the contractual or other legal rights, but may be shorter depending on the period over which the entity expects to use the asset. If the contractual or other legal rights are conveyed for a limited term that can be renewed, the useful life of the intangible asset shall include the renewal period(s) only if there is evidence to support renewal by the entity without significant cost. The useful life of a reacquired right recognised as an intangible asset in a business combination is the remaining contractual period of the contract in which the right was granted and shall not include renewal periods**.'

Paragraph 115A is added as follows:

'115A In the case of a reacquired right in a business combination, if the right is subsequently reissued (sold) to a third party, the related carrying amount, if any, shall be used in determining the gain or loss on reissue.'

Paragraph 129 is deleted.

Paragraph 130 is amended as follows:

'**130. An entity shall apply this Standard:**

(a) …'

Paragraph 130C is added as follows:

'**130C IFRS 3 (as revised by the International Accounting Standards Board in 2008) amended paragraphs 12, 33–35, 68, 94 and 130, deleted paragraphs 38 and 129 and added paragraph 115A. An entity shall apply prospectively those amendments for annual periods beginning on or after 1 July 2009. Therefore, amounts recognised for intangible assets and goodwill in prior business combinations shall not be adjusted. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendments shall also be applied for that earlier period**.'

IAS 39 *FINANCIAL INSTRUMENTS: RECOGNITION AND MEASUREMENT*

C13 IAS 39 is amended as described below.

Paragraph 2(f) is deleted.

Paragraph 103D is added as follows:

'**103D IFRS 3 (as revised by the International Accounting Standards Board in 2008) deleted paragraph 2(f). An entity shall apply that amendment for annual periods beginning on or after 1 July 2009. If an entity applies IFRS 3 (revised 2008) for an earlier period, the amendment shall also be applied for that earlier period**.'

IFRIC 9 *REASSESSMENT OF EMBEDDED DERIVATIVES*

C14 Paragraph 5 of IFRIC 9 is footnoted as follows:

'5. This Interpretation does not address the acquisition of contracts with embedded derivatives in a business combination nor their possible reassessment at the date of acquisition (*).

(*) IFRS 3 (as revised by the International Accounting Standards Board in 2008) addresses the acquisition of contracts with embedded derivatives in a business combination.'

COMMISSION REGULATION (EC) No 496/2009

of 11 June 2009

amending Council Regulation (EC) No 872/2004 concerning further restrictive measures in relation to Liberia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 872/2004 concerning further restrictive measures in relation to Liberia, [1] and in particular Article 11 (a) thereof,

Whereas:

(1) Annex I to Regulation (EC) No 872/2004 lists the natural and legal persons, bodies and entities covered by the freezing of funds and economic resources under that Regulation.

(2) On 12 May 2009, the Sanctions Committee of the United Nations Security Council decided to amend the identifying information of one person to whom the freezing of funds and economic resources should apply. Annex I should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 872/2004 is hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 2009.

For the Commission

Eneko LANDÁBURU

Director-General for External Relations

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[1] OJ L 162, 30.4.2004, p. 32.

ANNEX

Annex I to Council Regulation (EC) No 872/2004 is amended as follows:

The entry 'Edwin M., **Snowe** jr. Nationality: Liberian. Passport number: (a) OR/0056672-01, (b) D/005072, (c) D-00172 (ECOWAS-DPL Passport, valid 7.8.2008-6.7.2010).' Other information: Managing Director of the Liberian Petroleum and Refining Corporation (LPRC), shall be replaced by the following:

> 'Edwin M., **Snowe** jr. Address: Elwa Road, Monrovia, Liberia. Date of birth: 11.2.1970. Place of birth: Mano River, Grand Cape Mount, Liberia. Nationality: Liberian. Passport number: (a) OR/0056672-01, (b) D/005072, (c) D005640 (diplomatic passport), (d) D-00172 (ECOWAS-DPL Passport, valid 7.8.2008-6.7.2010). Other information: Managing Director of the Liberian Petroleum and Refining Corporation (LPRC). Date of designation referred to in Article 6(b): 10.9.2004.'.

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 25 May 2009

repealing Directive 83/515/EEC and 11 obsolete Decisions in the field of the Common Fisheries Policy

(2009/447/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37, Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the Act of Accession of 1985, and in particular Article 167(3) and Article 354(3) thereof,

Having regard to the proposal of the Commission,

Having regard to the Opinion of the European Parliament,

Whereas:

(1) Improving the transparency of Community law is an essential element of the better lawmaking strategy that Community institutions are implementing. In that context it is appropriate to remove from active legislation those acts which no longer have real effect.

(2) The following Directive and the following Decisions relating to the common fisheries policy have become obsolete, even though formally they are still in force:

— Council Directive 83/515/EEC of 4 October 1983 concerning certain measures to adjust capacity in the fisheries sector [1]. That Directive has exhausted its effects since the provisions covering the subject matter are now incorporated in Council Regulation (EC) No 1198/2006 [2],

— Council Decision 89/631/EEC of 27 November 1989 on a Community financial contribution towards expenditure incurred by Member States for the purpose of ensuring compliance with the Community system for the conservation and management of fishery resources [3]. That Decision has exhausted its effects since it relates to eligible expenditure effected by Member States between 1 January 1991 and 31 December 1995,

— Council Decision 94/117/EC of 21 February 1994 laying down the minimum requirements as regards structure and equipment to be met by certain small establishments ensuring the distribution of fishery products in Greece [4]. That Decision has exhausted its effects since the factual situation during which it was to apply no longer exists,

— Council Decision 94/317/EC of 2 June 1994 authorizing the Kingdom of Spain to extend until 7 March 1995 the Agreement on mutual fishery relations with the Republic of South Africa [5]. That Decision has exhausted its effects since it was intended to apply during a period which has already lapsed,

(1) OJ L 290, 22.10.1983, p. 15.
(2) OJ L 223, 15.8.2006, p. 1.
(3) OJ L 364, 14.12.1989, p. 64.
(4) OJ L 54, 25.2.1994, p. 28.
(5) OJ L 142, 7.6.1994, p. 30.

— Council Decision 94/318/EC of 2 June 1994 authorizing the Portuguese Republic to extend until 7 March 1995 the Agreement on mutual fishery relations with the Republic of South Africa ([1]). That Decision has exhausted its effects since it was intended to apply during a period which has already lapsed,

— Council Decision 1999/386/EC of 7 June 1999 on the provisional application by the European Community of the Agreement on the International Dolphin Conservation Programme ([2]). That Decision has exhausted its effects since it refers to a transitional period which has already lapsed,

— Council Decision 2001/179/EC of 26 February 2001 setting the terms for financial support to Guinea-Bissau in the fisheries sector ([3]). That Decision has exhausted its effects since it was intended to apply during a period which has already lapsed,

— Council Decision 2001/382/EC of 14 May 2001 on a Community financial contribution towards certain expenditure to implement certain management measures on highly migratory fish ([4]). That Decision has exhausted its effects since it covered a period which has already lapsed,

— Council Decision 2001/431/EC of 28 May 2001 on a financial contribution by the Community to certain expenditure incurred by the Member States in implementing the control, inspection and surveillance systems applicable to the common fisheries policy ([5]). That Decision has exhausted its effects since it related to eligible expenditure effected by Member States between 1 January 2001 and 31 December 2003 and the factual situation for which it was adopted has been accomplished. Furthermore, a new Council Decision 2004/465/EC was adopted to cover expenditure as from the year 2004 ([6]),

— Council Decision 2004/662/EC of 24 September 2004 authorising the Kingdom of Spain to extend until 7 March 2005 the Agreement on mutual fishery relations with the Republic of South Africa ([7]). That Decision has exhausted its effects since it covered a transitional period which has already lapsed,

— Council Decision 2004/890/EC of 20 December 2004 on the withdrawal by the European Community from the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and Belts ([8]). That Decision has exhausted its effects because the withdrawal by the Community was notified to the Depositary of that Convention,

— Council Decision 2005/76/EC of 22 November 2004 on the signing, on behalf of the European Community, and provisional application of the Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of The Comoros on fishing off The Comoros for the period from 28 February 2004 to 31 December 2004 ([9]). That Decision has exhausted its effects since it was intended to be in force during a period which has already lapsed.

(3) For reasons of legal security and clarity, that obsolete Directive and those obsolete Decisions should be repealed.

HAS ADOPTED THIS DECISION:

Article 1

Directive and Decisions to be repealed

Directive 83/515/EEC and Decisions 89/631/EEC, 94/117/EC 94/317/EC, 94/318/EC, 1999/386/EC, 2001/179/EC, 2001/382/EC, 2001/431/EC, 2004/662/EC, 2004/890/EC and 2005/76/EC are repealed,

Article 2

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 25 May 2009.

For the Council

The President

J. ŠEBESTA

([1]) OJ L 142, 7.6.1994, p. 31.
([2]) OJ L 147, 12.6.1999, p. 23.
([3]) OJ L 66, 8.3.2001, p. 33.
([4]) OJ L 137, 19.5.2001, p. 25.
([5]) OJ L 154, 9.6.2001, p. 22.
([6]) OJ L 157, 30.4.2004, p. 114.
([7]) OJ L 302, 29.9.2004, p. 5.
([8]) OJ L 375, 23.12.2004, p. 27.
([9]) OJ L 29, 2.2.2005, p. 20.

COUNCIL DECISION

of 28 May 2009

amending Decision 1999/70/EC concerning the external auditors of the national central banks, as regards the external auditor of De Nederlandsche Bank

(2009/448/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty establishing the European Community, and in particular to Article 27.1 thereof,

Having regard to Recommendation ECB/2009/8 of the European Central Bank of 3 April 2009 to the Council of the European Union on the external auditor of De Nederlandsche Bank [1],

Whereas:

(1) The accounts of the European Central Bank (ECB) and of the national central banks of the Eurosystem are to be audited by independent external auditors recommended by the Governing Council of the ECB and approved by the Council of the European Union.

(2) On 12 July 2005, Josephus Andreas Nijhuis, Registered Accountant and chairman of the board of PricewaterhouseCoopers Accountants N.V., acting in his personal capacity, was appointed as the external auditor of De Nederlandsche Bank from the financial year 2005 for an indefinite period, subject to confirmation each year.

(3) Mr Nijhuis resigned from PricewaterhouseCoopers Accountants N.V. with effect from 1 October 2008; it is therefore necessary to appoint a new auditor.

(4) De Nederlandsche Bank has selected PricewaterhouseCoopers Accountants N.V. as its external auditor for the financial years 2008 to 2011.

(5) The Governing Council of the ECB recommended that PricewaterhouseCoopers Accountants N.V. should be appointed as the external auditor of De Nederlandsche Bank for the financial years 2008 to 2011.

(6) It is appropriate to follow the recommendation of the Governing Council of the ECB and to amend Decision 1999/70/EC [2] accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

Article 1(8) of Decision 1999/70/EC shall be replaced by the following:

‘8. PricewaterhouseCoopers Accountants N.V. is hereby approved as the external auditor of De Nederlandsche Bank for the financial years 2008 to 2011.’

Article 2

This Decision shall be notified to the ECB.

Article 3

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

Done at Brussels, 28 May 2009.

For the Council
The President
V. TOŠOVSKÝ

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[1] OJ C 93, 22.4.2009, p. 1.

[2] OJ L 22, 29.1.1999, p. 69.

COMMISSION

COMMISSION DECISION

of 13 May 2009

on the selection of operators of pan-European systems providing mobile satellite services (MSS)

(notified under document number C(2009) 3746)

(2009/449/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 626/2008/EC of the European Parliament and of the Council of 30 June 2008 on the selection and authorisation of systems providing mobile satellite services (MSS) [1], and in particular Article 5 thereof,

Whereas:

(1) In order to facilitate the development of a competitive internal market for mobile satellite services (MSS) across the Community and to ensure gradual coverage in all Member States, Decision No 626/2008/EC creates a Community procedure for the common selection of operators of mobile satellite systems that use the 2 GHz frequency band in accordance with Commission Decision 2007/98/EC [2], comprising radio spectrum from 1 980 to 2 010 MHz for earth to space communications, and from 2 170 to 2 200 MHz for space to earth communications.

(2) The Commission published a call for applications for pan-European systems providing mobile satellite services (MSS) (2008/C 201/03) on 7 August 2008 [3]. The deadline of 7 October 2008 was set for the submission of applications.

(3) Applications from ICO Satellite Limited, Inmarsat Ventures Limited, Solaris Mobile Limited and TerreStar Europe Limited were received within the deadline.

(4) On 24 October 2008 requests for additional information regarding the fulfilment of admissibility requirements were sent to ICO Satellite Limited, Inmarsat Ventures Limited and TerreStar Europe Limited. All the three applicants responded by 7 November 2008.

(5) By Decision C(2008) 8123 of 11 December 2008 on the admissibility of applications submitted in response to the call for applications for pan-European systems providing mobile satellite services (MSS) (2008/C 201/03) the Commission decided that the four applications submitted by, respectively, ICO Satellite Limited, Inmarsat Ventures Limited, Solaris Mobile Limited and TerreStar Europe Limited are admissible. The Decision was forthwith notified to the applicants, and the list of admissible applicants was published on the Commission website [4].

(6) Information regarding the completion of the critical design review was provided, in addition to the application, by ICO Satellite Limited, Inmarsat Ventures Limited and TerreStar Europe Limited no later than 80 working days after the submission of their application (by 6 February 2009), in accordance with the Annex to Decision No 626/2008/EC.

(7) Moreover, correspondence including additions to the technical or operational content of the application was provided by TerreStar Europe Limited and ICO Satellite Limited after the deadlines for submission of the application and for submission of information regarding the completion of the critical design review, and could therefore not be taken into account.

(8) In the first selection phase the Commission should assess, within 40 working days following publication of the list of admissible applicants, whether applicants have demonstrated the required level of technical and commercial development of their respective mobile satellite systems. Such assessment should be based on the satisfactory completion of milestones one to five as set out in the Annex to Decision No 626/2008/EC. The credibility of applicants and the viability of the proposed mobile satellite systems should be taken into account throughout the first selection phase.

(9) To facilitate the implementation of the comparative selection procedure, and in particular in order to assist the Commission in preparing decisions connected with the selection procedure, a working group of the Communications Committee on the comparative selection procedure for pan-European systems providing mobile satellite services (MSS) was established.

[1] OJ L 172, 2.7.2008, p. 15.
[2] OJ L 43, 15.2.2007, p. 32.
[3] OJ C 201, 7.8.2008, p. 4.
[4] http://ec.europa.eu/information_society/policy/ecomm/current/pan_european/index_en.htm

(10) For the analysis and evaluation of applications in the first selection phase, the Commission sought the advice and assistance of external experts, selected through a competitive tendering procedure on the basis of their expertise and high level of independence and impartiality.

(11) Following a detailed analysis, and comprehensive deliberations in meetings, a consolidated report including conclusions on the completion of the milestones was produced by the experts and communicated to the Commission.

(12) The conclusions of the first-phase evaluation by the external experts were discussed by the experts of Member States in the framework of the working group of the Communications Committee on the comparative selection procedure for pan-European systems providing mobile satellite services (MSS). The outcome of these discussions was presented and discussed in the Communications Committee.

(13) The Commission took into account the consolidated report of the external experts as well as the opinion of the Member States′ experts expressed in the working group on the comparative selection procedure for pan-European systems providing mobile satellite services (MSS) for the purposes of the first selection phase assessment.

(14) The outcome of the Commission′s assessment is that Inmarsat Ventures Limited and Solaris Mobile Limited have demonstrated the required level of technical and commercial development of their respective mobile satellite systems and should be eligible applicants, while ICO Satellite Limited and TerreStar Europe Limited have not demonstrated the required level of technical and commercial development of their respective mobile satellite systems and should not be eligible applicants.

(15) Milestone one is entitled 'Submission of International Telecommunications Union (ITU) request for coordination' and requires that the applicant provide clear evidence that the administration responsible for the ITU filing of a mobile satellite system to be used for the provision of commercial MSS within the territories of the Member States has submitted the relevant ITU Radio Regulations Appendix 4 information. All the four applications contained clear evidence in this regard, which led the Commission to consider that this milestone had been satisfactorily completed by all four applicants.

(16) Milestone two is entitled 'Satellite manufacturing' and requires that the applicant provide clear evidence of a binding agreement for the manufacture of the satellites required for the provision of commercial MSS within the territories of the Member States. The document shall identify the construction milestones leading to the completion of manufacture of satellites required for the provision of commercial MSS. The document shall be signed by the applicant and the satellite manufacturing company. The applications of Inmarsat Ventures Limited and Solaris Mobile Limited were supported by clear evidence in this regard, which led the Commission to consider that this milestone had been satisfactorily completed by these applicants.

(17) Milestone three is entitled 'Satellite launch agreement' and requires that the applicant provide clear evidence of a binding agreement to launch the minimum number of satellites required for the continuous provision of commercial MSS within the territories of the Member States. The document shall identify the launch dates and launch services and the contractual terms and conditions concerning indemnity. The document shall be signed by the mobile satellite system operator and the satellite launching company. All the four applications were supported by clear evidence in this regard, which led the Commission to consider that this milestone had been satisfactorily completed by all four applicants.

(18) Milestone four is entitled 'Gateway earth stations' and requires that the applicant provide clear evidence of a binding agreement for the construction and installation of gateway earth stations that would be used for the provision of commercial MSS within the territories of the Member States. All the four applications were supported by clear evidence in this regard, which led the Commission to consider that this milestone had been satisfactorily completed by all four applicants.

(19) Milestone five is entitled 'Completion of the critical design review'. Critical design review is defined as 'the stage in the spacecraft implementation process at which the design and development phase ends and the manufacturing phase starts'. The milestone requires that the applicant provide clear evidence of the completion, no later than 80 working days after the submission of the application, of the critical design review in accordance with the construction milestones indicated in the satellite manufacturing agreement. The relevant document shall be signed by the satellite manufacturing company and shall indicate the date of the completion of the critical design review. The applications of ICO Satellite Limited, Inmarsat Ventures Limited and Solaris Mobile Limited were supported by clear evidence in this regard, which led the Commission to consider that this milestone had been satisfactorily completed by these applicants.

(20) As regards milestone two […] (*). […] (*) lack of contractual and up-to-date evidence for the construction milestones leading to the completion of manufacture of the satellites required for the provision of commercial MSS led the Commission to consider, in accordance with Article 5(1) of Decision No 626/2008/EC, that this milestone had not been satisfactorily completed by ICO Satellite Limited.

(21) […] (*) The inconsistency between the information provided in the application and the information in relation to the critical design review provided subsequently, and the lack of clear evidence of the completion of the critical design review for the satellite referred to in the satellite manufacturing agreement as included in the application, led the Commission to consider, in accordance with Article 5(1) of Decision No 626/2008/EC, that milestone five in conjunction with milestone two had not been satisfactorily completed by TerreStar Europe Limited.

(22) Inmarsat Ventures Limited requested in its application 15 MHz of spectrum for earth to space communications and 15 MHz of spectrum for space to earth communications. Solaris Mobile Limited requested in its application 15 MHz of spectrum for earth to space communications and 15 MHz of spectrum for space to earth communications.

(23) Since the combined demand for radio spectrum requested by Inmarsat Ventures Limited and Solaris Mobile Limited does not exceed the amount of radio spectrum available identified in Article 1(1) of Decision No 626/2008/EC, the two applicants should be selected in accordance with Article 5(2) of Decision No 626/2008/EC.

(24) Any selection decision adopted as a result of the first selection phase should identify the respective frequencies which each selected applicant shall be authorised to use, in each Member State, in accordance with Title III of Decision No 626/2008/EC.

(25) The frequencies should be identified on the basis of objective, transparent, non-discriminatory, and proportionate criteria. In this regard, the principle of effective management of radio frequencies, as enshrined in Article 9 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) [1], should apply. In accordance with this principle, the two times 30 MHz to be used should be divided into contiguous sub-bands of equal bandwidth for both earth to space communications (the uplink) and space to earth communications (the downlink) in order to allow the most efficient use of the sub-bands. The lower pair of sub-bands should consist of 1 980-1 995 MHz for earth to space communications (the uplink) and of 2 170-2 185 MHz for space to earth communications (the downlink); the upper pair of sub-bands should consist of 1 995-2 010 MHz for the uplink and of 2 185-2 200 MHz for the downlink. As required in Section 4.4 of the call for applications 2008/C 201/03, the Commission has taken into account the indications of preferences of the eligible applicants as provided in their applications. […] (*).

(26) Within 30 working days of the publication of the list of selected applicants, those applicants that intend not to use the radio frequencies should inform the Commission thereof in writing.

(27) According to Article 7 of Decision No 626/2008/EC, Member States shall ensure that the selected applicants, in accordance with the time-frame and the service area to which the selected applicants have committed themselves, in accordance with Article 4(1)(c), and in accordance with national and Community law, have the right to use the specific radio frequency identified in the Commission decision adopted pursuant to Articles 5(2) or 6(3) and the right to operate a mobile satellite system. They shall inform selected applicants of those rights accordingly. Decision No 626/2008/EC also stipulates that the right to use the specific radio frequencies should be granted to the selected applicants as soon as possible after their selection, in accordance with Article 5(3) of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) [2].

(28) The measures provided for in this Decision are in accordance with the opinion of the Communications Committee delivered on 2 April 2009,

HAS ADOPTED THIS DECISION:

Article 1

ICO Satellite Limited and TerreStar Europe Limited are not eligible applicants as a result of the first selection phase of the comparative selection procedure provided in Title II of Decision No 626/2008/EC.

(*) Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.

[1] OJ L 108, 24.4.2002, p. 33.

[2] OJ L 108, 24.4.2002, p. 21.

Article 2

Inmarsat Ventures Limited and Solaris Mobile Limited are eligible applicants as a result of the first selection phase of the comparative selection procedure provided in Title II of Decision No 626/2008/EC.

As the combined demand for radio spectrum requested by the eligible applicants retained as a result of the first selection phase of the comparative selection procedure provided in Title II of Decision No 626/2008/EC does not exceed the amount of radio spectrum available identified in Article 1(1) of Decision No 626/2008/EC, Inmarsat Ventures Limited and Solaris Mobile Limited are selected.

Article 3

The frequencies which each selected applicant shall be authorised to use in each Member State in accordance with Title III of Decision No 626/2008/EC shall be the following:

(a) Inmarsat Ventures Limited: from 1 980 to 1 995 MHz for earth to space communications and from 2 170 to 2 185 MHz for space to earth communications;

(b) Solaris Mobile Limited: from 1 995 to 2 010 MHz for earth to space communications and from 2 185 to 2 200 MHz for space to earth communications.

Article 4

The selection of Inmarsat Ventures Limited and Solaris Mobile Limited and the identification to the selected applicants of the respective frequencies provided for by Articles 2 and 3 is conditional upon no information in writing being provided, within 30 working days of the publication of the list of selected applicants by the Commission, by the relevant selected applicant to the effect that the applicant intends not to use the radio frequencies identified.

Article 5

This Decision is addressed:

1. to the Member States; and

2. (a) to ICO Satellite Limited, 269 Argyll Avenue, Slough SL1 4HE, United Kingdom;

   (b) to Inmarsat Ventures Limited, 99 City Road, London EC1Y 1AX, United Kingdom;

   (c) to Solaris Mobile Limited, 30 Upper Pembroke Street, Dublin 2, Ireland;

   (d) to TerreStar Europe Limited, c/o TerreStar Global Ltd, 2nd Floor, 145-157 St John Street, London EC1V 4PY, United Kingdom.

Done at Brussels, 13 May 2009.

For the Commission

Viviane REDING

Member of the Commission

COMMISSION DECISION

of 8 June 2009

on the detailed interpretation of the aviation activities listed in Annex I to Directive 2003/87/EC of the European Parliament and of the Council

(notified under document number C(2009) 4293)

(Text with EEA relevance)

(2009/450/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC [1], and in particular Article 3b thereof,

Whereas:

(1) Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community [2] included aviation activities within the scheme for greenhouse gas emission allowance trading within the Community.

(2) The definition of aviation activities and in particular the exemptions listed in Annex I to Directive 2003/87/EC are mainly based on the exemptions of Commission Regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services [3], which exemptions are consistent with those of the Eurocontrol Route Charges System.

(3) Appendix 2 to the Procedures for Air Navigation Services — Air Traffic Management adopted by the International Civil Aviation Organisation (ICAO) [4] describes the ICAO model flight plan form and gives instructions for the completion of that form. The flight plan can be used to identify the flights falling under the scope of the Community scheme.

(4) The interpretation of aviation activities provided for in this Decision should be applied in conformity with Commission Decision 2007/589/EC of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council [5].

(5) The interpretation of public service obligations should be applied in conformity with Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) [6].

(6) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee referred to in Article 23 of Directive 2003/87/EC,

HAS ADOPTED THIS DECISION:

Article 1

The detailed interpretation of aviation activities listed in Annex I to Directive 2003/87/EC is set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 8 June 2009.

For the Commission

Stavros DIMAS

Member of the Commission

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(1) OJ L 275, 25.10.2003, p. 32.
(2) OJ L 8, 13.1.2009, p. 3.
(3) OJ L 341, 7.12.2006, p. 3.
(4) PANS-ATM, Doc 4444.
(5) OJ L 229, 31.8.2007, p. 1.
(6) OJ L 293, 31.10.2008, p. 3.

ANNEX

Guidelines on the detailed interpretation of the aviation activities listed in Annex I to Directive 2003/87/EC

1. DEFINITION OF AVIATION ACTIVITIES

1. The term 'flight' means one flight sector that is a flight or one of a series of flights which commences at a parking place of the aircraft and terminates at a parking place of the aircraft.

2. The term 'aerodrome' means a defined area on land or water, including buildings, installations and equipment, intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft.

3. If an aircraft operator performs an aviation activity listed in Annex I to Directive 2003/87/EC, it falls under the Community scheme independently of whether it is on the list of aircraft operators published by the Commission pursuant to Article 18a(3) of Directive 2003/87/EC.

2. INTERPRETATION OF THE EXEMPTIONS

4. Under the category of activity 'Aviation', Annex I to the Directive 2003/87/EC lists which type of flights are exempted from the Community scheme.

2.1. **Exemption under subparagraph (a)**

5. This exemption shall be interpreted according to the exclusive purpose of the flight.

6. Immediate family comprises exclusively the spouse, any partner considered as equivalent to the spouse, the children and the parents.

7. Government ministers are the members of the government as listed in the national official journal of the country concerned. Members of regional or local governments of a country do not qualify for exemption under this subparagraph.

8. An official mission means a mission in which the person concerned is acting in an official capacity.

9. Flights for the positioning or ferrying of the aircraft are not covered by this exemption.

10. Flights that Eurocontrol's Central Route Charges Office has identified for route charges exemption applicability (hereinafter CRCO exemption code) as 'S' are presumed to be flights performed exclusively for the transport, on official mission, of a reigning monarch and his immediate family, heads of state, heads of government and government ministers substantiated by an appropriate status indicator in the flight plan.

2.2. **Exemptions under subparagraph (b)**

2.2.1. *Military flights*

11. Military flights mean flights directly related to the conduct of military activities.

12. Military flights performed by civil registered aircraft are not covered by this exemption. Similarly, civil flights performed by military aircraft are not exempted under subparagraph (b).

13. Flights with the CRCO exemption code 'M' or 'X' are presumed to be exempted military flights.

2.2.2. *Customs and police flights*

14. Customs and police flights performed by both civil registered and military aircraft are exempted.

15. Flights with the CRCO exemption code 'P' are presumed to be exempted customs and police flights.

2.3. **Exemptions under subparagraph (c)**

16. In relation to the below categories of flight, flights for the positioning or ferrying of the aircraft and the flights carrying exclusively equipment and personnel directly involved in providing the related services are covered by the exemption. Furthermore, these exemptions do not distinguish between flights performed through the use of public and private resources.

2.3.1. *Search and rescue flights*

17. Flights related to search and rescue mean flights offering search and rescue services. Search and rescue service means the performance of distress monitoring, communication, coordination and search and rescue functions, initial medical assistance or medical evacuation, through the use of public and private resources, including cooperating aircraft, vessels and other craft and installations.

18. Flights with the CRCO exemption code 'R' and flights identified with STS/SAR in field 18 of the flight plan are presumed to be exempted search and rescue flights.

2.3.2. *Firefighting flights*

19. Firefighting flights mean flights performed exclusively to provide aerial firefighting services, which means the use of aircraft and other aerial resources to combat wildfires.

20. Flights identified with STS/FFR in field 18 of the flight plan are presumed to be exempted firefighting flights.

2.3.3. *Humanitarian flights*

21. Humanitarian flights mean flights operated exclusively for humanitarian purposes which carry relief personnel and relief supplies such as food, clothing, shelter, medical and other items during or after an emergency and/or disaster and/or are used to evacuate persons from a place where their life or health is threatened by such emergency and/or disaster to a safe haven in the same State or another State willing to receive such persons.

22. Flights with the CRCO exemption code 'H' and flights identified with STS/HUM in field 18 of the flight plan are presumed to be exempted humanitarian flights.

2.3.4. *Emergency medical service flights*

23. Emergency medical service flights mean flights the exclusive purpose of which is to facilitate emergency medical assistance, where immediate and rapid transportation is essential, by carrying medical personnel, medical supplies, including equipment, blood, organs, drugs, or ill or injured persons and other persons directly involved.

24. Flights identified with STS/MEDEVAC or STS/HOSP in field 18 of the flight plan are presumed to be exempted emergency medical service flights.

2.4. **Exemption under subparagraph (f)**

25. Flights with the CRCO exemption code 'T' and flights identified with RMK/'Training flight' in field 18 of the flight plan are presumed to be exempted under subparagraph (f).

2.5. **Exemptions under subparagraph (g)**

26. In relation to the below categories of flight, flights for the positioning or ferrying of the aircraft are not covered.

2.5.1. *Flights performed exclusively for the purpose of scientific research*

27. This category exempts flights the only purpose of which is to carry out scientific research. The scientific research must be partially or totally performed in-flight for the exemption to apply. The transport of scientists or research equipment is not in itself sufficient for a flight to be exempt.

2.5.2. *Flights performed exclusively for the purpose of checking, testing or certifying aircraft or equipment whether airborne or ground-based*

28. Flights with the CRCO exemption code 'N' and flights identified with STS/FLTCK in field 18 of the flight plan are presumed to be exempted under subparagraph (g).

2.6. **Exemption under subparagraph (i) (public service obligation flights)**

29. The exemption of public service obligation (PSO) flights within outermost regions shall be interpreted as applying to the regions listed in Article 299(2) of the EC Treaty and comprises exclusively PSO flights within one outermost region and flights between two outermost regions.

2.7. **Exemption under subparagraph (j) (*de minimis* rule)**

30. All commercial air transport operators must hold an air operator's certificate (AOC) under Part I of Annex 6 to the Chicago Convention. Operators without such a certificate are not 'commercial air transport operators'

31. For the application of the *de minimis* rule, the characteristic of being commercial is linked to the operator and not to the flights in question. That means in particular that the flights provided by a commercial operator shall be taken into account for deciding whether that operator falls above or below the exemption thresholds even if those flights are not provided for remuneration.

32. Only flights which depart from or arrive in an aerodrome situated in the territory of a Member State to which the Treaty applies shall be taken into account for deciding whether the aircraft operator falls above or below the exemption thresholds of the *de minimis* rule. Flights exempted under subparagraphs (a)-(j) shall not be taken into account for the same purposes.

33. Flights performed by a commercial aircraft operator operating fewer than 243 flights per period for three consecutive four-month periods are exempted. The four-month periods are: January to April; May to August; September to December. The local time of departure of the flight determines in which four-month period that flight shall be taken into account for deciding whether the aircraft operator falls above or below the exemption thresholds of the *de minimis* rule.

34. A commercial operator operating 243 flights per period or more is included in the Community scheme for the whole calendar year in which the threshold of 243 flights is reached or exceeded.

35. A commercial operator operating flights with total annual emissions equal or higher than 10 000 tonnes per year is included in the Community scheme for the calendar year in which the threshold of 10 000 tonnes is reached or exceeded.

COMMISSION DECISION

of 8 June 2009

on the intention of the United Kingdom to accept Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations

(notified under document number C(2009) 4427)

(2009/451/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, in particular to Article 11a thereof,

Having regard to the letter from the United Kingdom to the Council and the Commission of 15 January 2009,

Whereas:

(1) On 18 December 2008, the Council adopted Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations [1].

(2) Pursuant to Article 1 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom did not participate in the adoption of Regulation (EC) No 4/2009.

(3) In accordance with Article 4 of that Protocol, the United Kingdom notified the Council and the Commission by letter of 15 January 2009, received by the Commission on 17 January 2009, of its intention to accept Regulation (EC) No 4/2009.

(4) On 21 April 2009 the Commission gave a positive opinion to the Council on the United Kingdom's intention to accept Regulation (EC) No 4/2009,

HAS ADOPTED THIS DECISION:

Article 1

Regulation (EC) No 4/2009 shall apply to the United Kingdom in accordance with Article 2.

Article 2

Regulation (EC) No 4/2009 shall enter into force in the United Kingdom on 1 July 2009.

Article 2(2), Article 47(3) and Articles 71, 72 and 73 of the Regulation shall apply from 18 September 2010.

The other provisions of the Regulation shall apply from 18 June 2011, subject to the 2007 Hague Protocol on the law applicable to maintenance obligations being applicable in the Community by that date. Failing that, the Regulation shall apply from the date of application of that Protocol in the Community.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 8 June 2009.

For the Commission
Jacques BARROT
Vice-President

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(1) OJ L 7, 10.1.2009, p. 1.

COMMISSION DECISION

of 11 June 2009

terminating the anti-subsidy proceeding concerning imports of sodium metal originating in the United States of America

(2009/452/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidized imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Article 14 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 23 July 2008 the Commission initiated, by a notice published in the *Official Journal of the European Union* [2] ('notice of initiation'), an anti-subsidy proceeding concerning imports into the Community of sodium, in bulk, originating in the United States of America ('USA'), normally declared within CN code ex 2805 11 00 ('the product concerned').

(2) The proceeding was initiated following a complaint lodged on 10 June 2008 by the sole Community producer Métaux Spéciaux (MSSA SAS) ('the complainant').

(3) On 23 July 2008 the Commission initiated an anti-dumping investigation concerning imports of the same product originating in the USA [3]. This investigation has been terminated by means of Commission Decision 2009/453/EC [4].

1.2. Parties concerned and verification visits

(4) Prior to the initiation of the proceeding and in accordance with Article 10(9) of Regulation (EC) No 2026/97, the Commission notified the representatives of the USA that it had received a properly documented complaint alleging that subsidised imports of sodium, in bulk, originating in the USA were causing material injury to the Community industry. The representatives of the USA were invited for consultations with the aim of clarifying the situation as regards the contents of the complaint and arriving at a mutually agreed solution. The representatives of the USA accepted the offer of consultations and consultations were subsequently held on 11 July 2008. During the consultations, no mutually agreed solution could be arrived at. However, due note was taken of comments made by the representatives of the USA in regard to the allegations contained in the complaint, concerning the countervailability of the alleged subsidy.

(5) The Commission officially advised the complainant, the sole known exporter/producer in the USA, the importers and users known to be concerned, and the representatives of the USA of the initiation of the proceeding. The interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(6) The Commission sent questionnaires to all parties known to be concerned and received replies from the representatives of the USA, from the sole exporting producer in the USA ('the cooperating exporting producer'), from the complainant and three Community users.

(7) The Commission sought and verified all information it deemed necessary for the determination of subsidisation, resulting injury and Community interest.

(8) Verification visits were carried out at the premises of the following representative of the USA:

— New York Power Authority (NYPA), White Plains, New York.

(9) Verification visits were also carried out at the premises of the following companies:

Community producer:

— Métaux Spéciaux (MSSA SAS), Saint-Marcel, France.

Exporting producer in the USA:

— DuPont Reactive Metals (DuPont), Niagara Falls, New York, and E.I. DuPont De Nemours and Company, Wilmington, Delaware.

Community users:

— Rohm and Haas Europe SARL, Morges, Switzerland,

— Evonik Degussa GmbH, Frankfurt, Germany.

[1] OJ L 288, 21.10.1997, p. 1.
[2] OJ C 186, 23.7.2008, p. 35.
[3] OJ C 186, 23.7.2008, p. 32.
[4] See page 76 of this Official Journal.

1.3. **Investigation period and period considered**

(10) The investigation of subsidisation and injury covered the period from 1 July 2007 to 30 June 2008 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2005 to the end of the investigation period ('period considered').

2. **WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING**

(11) By a letter dated 1 April 2009 addressed to the Commission, the complainant formally withdrew its complaint. According to the complainant this withdrawal was prompted by changed circumstances.

(12) In accordance with Article 14(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn unless such termination would not be in the Community interest.

(13) The Commission considered that the present proceeding should be terminated since the investigation had not brought to light any consideration showing that such termination would not be in the Community interest. Interested parties were informed accordingly and were given the opportunity to comment. However, no comments were received indicating that such termination would not be in the Community interest.

(14) The Commission therefore concludes that the anti-subsidy proceeding concerning imports into the Community of sodium, in bulk, originating in the USA should be terminated without the imposition of countervailing measures,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-subsidy proceeding concerning imports of sodium, in bulk, falling within CN code ex 2805 11 00, originating in the United States of America, is hereby terminated.

Done at Brussels, 11 June 2009.

For the Commission

Catherine ASHTON

Member of the Commission

COMMISSION DECISION

of 11 June 2009

terminating the anti-dumping proceeding concerning on imports of sodium metal originating in the United States of America

(2009/453/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, (the basic Regulation) [1] and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation of the proceeding

(1) On 23 July 2008, the Commission announced by a notice published in the *Official Journal of the European Union* [2] (notice of initiation), the initiation of an anti-dumping proceeding concerning imports into the Community of sodium, in bulk, originating in the United States of America (USA), normally declared within CN code ex 2805 11 00 (the product concerned).

(2) The proceeding was initiated following a complaint lodged on 10 June 2008 by the sole Community producer Métaux Spéciaux (MSSA SAS) (the complainant).

(3) On 23 July 2008 the Commission initiated an anti-subsidy investigation concerning imports of the same product originating in the USA [3]. This investigation has been terminated by means of Commission Decision 2009/452/EC [4].

1.2. Parties concerned and verification visits

(4) The Commission officially advised the complainant, the sole known exporter/producer in the USA, the importers and users known to be concerned, and the representatives of the USA of the initiation of the proceeding. The interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(5) The Commission sent questionnaires to all parties known to be concerned and received replies from the representatives of the USA, from the sole exporting producer in the USA ('the cooperating exporting producer'), from the complainant and three Community users.

(6) The Commission sought and verified all information it deemed necessary for the determination of dumping, resulting injury and Community interest and carried out verifications at the premises of the following companies:

Community producer:

— Métaux Spéciaux (MSSA SAS), Saint-Marcel, France.

Exporting producer in the USA:

— E.I. DuPont De Nemours and Company, Wilmington, Delaware.

Related trader in Switzerland:

— DuPont De Nemours International SA, Geneva.

Community users:

— Rohm and Haas Europe SARL, Morges, Switzerland,

— Evonik Degussa GmbH, Frankfurt, Germany.

1.3. Investigation period and period considered

(7) The investigation of dumping and injury covered the period from 1 July 2007 to 30 June 2008 (investigation period or IP). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2005 to the end of the investigation period (period considered).

2. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

(8) By a letter dated 1 April 2009 addressed to the Commission, the complainant formally withdrew its complaint. According to the complainant this withdrawal was prompted by changed circumstances.

(9) In accordance with Article 9(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn unless such termination would not be in the Community interest.

(1) OJ L 56, 6.3.1996, p. 1.
(2) OJ C 186, 23.7.2008, p. 32.
(3) OJ C 186, 23.7.2008, p. 35.
(4) See page 74 of this Official Journal.

(10) The Commission considered that the present proceeding should be terminated since the investigation had not brought to light any consideration showing that such termination would not be in the Community interest. Interested parties were informed accordingly and were given the opportunity to comment. However, no comments were received indicating that such termination would not be in the Community interest.

(11) The Commission therefore concludes that the anti-dumping proceeding concerning imports into the Community of sodium, in bulk, originating in the USA should be terminated without the imposition of anti-dumping measures,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of sodium, in bulk, falling within CN code ex 2805 11 00, originating in the United States of America, is hereby terminated.

Done at Brussels, 11 June 2009.

For the Commission

Catherine ASHTON

Member of the Commission

COMMISSION DECISION

of 11 June 2009

amending Decision 2008/938/EC on the list of the beneficiary countries which qualify for the special incentive arrangement for sustainable development and good governance, provided for in Council Regulation (EC) No 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011

(notified under document number C(2009) 4383)

(2009/454/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964/2007 [1], and in particular Article 10(2) thereof,

Whereas:

(1) Regulation (EC) No 732/2008 provides for the granting of a special incentive arrangement for sustainable development and good governance to developing countries which satisfy requirements established under its Articles 8 and 9.

(2) In accordance with Article 10(2) of that Regulation the Commission adopted Decision 2008/938/EC of 9 December 2008 on the list of the beneficiary countries which qualify for the special incentive arrangement for sustainable development and good governance, provided for in Council Regulation (EC) No 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 [2].

(3) In accordance with that Decision, the Bolivarian Republic of Venezuela (hereinafter Venezuela) was granted the special incentive arrangement for sustainable development and good governance.

(4) However, it has now come to light that Venezuela did not ratify the United Nations Convention against Corruption, listed under point 27, in Part B of Annex III of Regulation (EC) No 732/2008. Therefore, Venezuela did not fulfil all the necessary requirements under Regulation (EC) No 732/2008 to be granted the special incentive arrangement. Decision 2008/938/EC should be amended accordingly, while providing for an appropriate transitional period for its application. In accordance with Article 214 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [3], any customs debt incurred with the benefit of Decision 2008/938/EC until the date of application of this Decision will therefore not be affected.

(5) The Generalised Preferences Committee has not delivered an opinion within the time limit laid down by its chairman; the Commission has therefore submitted a proposal to the Council on 2 April 2009 in accordance with Article 5(4) of the Council Decision 1999/468/EC [4], the Council being required to act within three months.

(6) However, the Council has confirmed on 18 May 2009 that there is no qualified majority in favour of or against the proposal, and that the Commission may proceed in accordance with Article 5(6), last subparagraph of Decision 1999/468/EC, therefore a Decision should now be adopted by the Commission.

(7) Pursuant to Article 10(3) of Regulation (EC) No 732/2008, this Decision is to be notified to Venezuela,

HAS ADOPTED THIS DECISION:

Article 1

In Article 1 of Decision 2008/938/EC, the words ‘(VE) Venezuela’ are deleted.

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[1] OJ L 211, 6.8.2008, p. 1.
[2] OJ L 334, 12.12.2008, p. 90.
[3] OJ L 302, 19.10.1992, p. 1.
[4] OJ L 184, 17.7.1999, p. 23.

Article 2

This decision shall apply from the 60th day following its publication in the *Official Journal of the European Union*.

Article 3

This Decision is addressed to the Bolivarian Republic of Venezuela.

Done at Brussels, 11 June 2009.

For the Commission

Catherine ASHTON

Member of the Commission

AGREEMENTS

COMMISSION

Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

According to Article 3(2) of the Agreement of 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [1] (hereafter the Agreement), concluded by Council Decision 2006/325/EC [2], whenever amendments to Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [3] are adopted, Denmark shall notify the Commission of its decision whether or not to implement the content of such amendments.

Council Regulation (EC) No 4/2009 [4] on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations was adopted on 18 December 2008. Article 68 of Regulation (EC) No 4/2009 provides that subject to transitional provisions in Article 75(2) of Regulation (EC) No 4/2009, Regulation (EC) No 4/2009 shall modify Regulation (EC) No 44/2001 by replacing provisions of that Regulation applicable to matters relating to maintenance obligations.

In accordance with Article 3(2) of the Agreement, Denmark has by letter of 14 January 2009 notified the Commission of its decision to implement the contents of Regulation (EC) No 4/2009 to the extent that this Regulation amends Regulation (EC) No 44/2001. This means that the provisions of Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations will be applied to relations between the Community and Denmark with the exception of the provisions in Chapters III and VII. The provisions in Article 2 and Chapter IX of Regulation (EC) No 4/2009, however, are applicable only to the extent that they relate to jurisdiction, recognition, enforceability and enforcement of judgments, and access to justice.

In accordance with Article 3(6) of the Agreement, the Danish notification creates mutual obligations between Denmark and the Community. Thus, Regulation (EC) No 4/2009 constitutes an amendment to the Agreement to the extent that it amends Regulation (EC) No 44/2001 and is considered annexed thereto.

With reference to Article 3(3) and (4) of the Agreement, implementation of the abovementioned provisions of Regulation (EC) No 4/2009 in Denmark can take place administratively under Section 9 of the Danish Law No 1563 of 20 December 2006 on the Brussels I Regulation and therefore does not require the Folketing's approval. The necessary administrative measures entered into force on the date of entry into force of Regulation (EC) No 4/2009 on 30 January 2009.

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[1] OJ L 299, 16.11.2005, p. 62.
[2] OJ L 120, 5.5.2006, p. 22.
[3] OJ L 12, 16.1.2001, p. 1.
[4] OJ L 7, 10.1.2009, p. 1.

2009/454/EC:

★ **Commission Decision of 11 June 2009 amending Decision 2008/938/EC on the list of the beneficiary countries which qualify for the special incentive arrangement for sustainable development and good governance, provided for in Council Regulation (EC) No 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011** *(notified under document number C(2009) 4383)* 78

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