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Price: EUR 18

⁽¹⁾ Text with EEA relevance

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EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

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

REGULATIONS

COMMISSION REGULATION (EC) No 700/2009**of 3 August 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 4 August 2009.

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

Done at Brussels, 3 August 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽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	MK	26,9
	ZZ	26,9
0707 00 05	MK	25,2
	TR	100,7
	ZZ	63,0
0709 90 70	TR	99,9
	ZZ	99,9
0805 50 10	AR	67,9
	UY	60,3
	ZA	67,3
	ZZ	65,2
0806 10 10	EG	156,1
	MA	135,1
	TR	134,8
	ZA	127,1
	ZZ	138,3
0808 10 80	AR	121,2
	BR	85,9
	CL	86,1
	CN	81,7
	NZ	107,5
	US	105,4
	ZA	91,4
	ZZ	97,0
0808 20 50	AR	105,2
	CL	77,9
	TR	147,8
	ZA	102,4
	ZZ	108,3
0809 20 95	TR	263,6
	US	342,7
	ZZ	303,2
0809 30	TR	148,5
	ZZ	148,5
0809 40 05	BA	39,5
	ZZ	39,5

⁽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 701/2009

of 3 August 2009

amending Regulation (EC) No 1182/2008 fixing for 2009 the amount of aid in advance for private storage of butter

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⁾, and in particular Article 43(a) and (d), in conjunction with Article 4 thereof,

Whereas:

(1) World market prices for dairy products have collapsed notably due to an increased world supply and a drop in demand in connection with the financial and economic crisis. Community market prices for dairy products have fallen significantly. As a result of a combination of market measures taken since the beginning of this year Community prices have stabilised around support price levels. It is essential that such market support measures, as private storage, continue to apply as long as necessary for avoiding further deterioration of prices and disturbance of the Community market.

(2) Commission Regulation (EC) No 826/2008 ⁽²⁾ lays down common rules for the granting of private storage aid for certain agricultural products.

(3) Article 4(2) of Commission Regulation (EC) No 1182/2008 of 28 November 2008 fixing for 2009 the amount of aid in advance for private storage of butter ⁽³⁾ provides that the period for entry into contractual storage of butter is until 15 August 2009.

(4) In view of the current and foreseeable market situation it is necessary to continue to grant private storage aid for butter entered into contractual storage from 15 August 2009 until 28 February 2010.

(5) In order to avoid oversupply on the market, the removal from storage should take place, for the products entered after 15 August 2009, only as from 16 August 2010 and the contractual storage period should be of maximum 365 days.

(6) For reason of administrative efficiency and simplification, taking into account the particular situation for butter

storage, checks provided for in Article 36(6) of Regulation (EC) No 826/2008 should be carried out in respect of at least one half of the contracts. Consequently, derogation from that Article should be introduced.

(7) Taking into account the length of the storage period under the extended measure, the advance payment, provided in Article 31(1) of Regulation (EC) No 826/2008 should be adapted for products stored after 15 August 2009.

(8) Regulation (EC) No 1182/2008 should therefore be amended accordingly.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1182/2008 is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

This Regulation provides for private storage aid for salted and unsalted butter as referred to in Article 28(a) of Regulation (EC) No 1234/2007 for butter that entered into contractual storage by 28 February 2010.;

2. in Article 4, paragraphs 2 and 3 are replaced by the following:

'2. Entry into contractual storage shall take place:

(a) between 1 January and 15 August 2009; or

(b) between 16 August 2009 and 28 February 2010.

3. Removal from storage may take place only as:

(a) from 16 August 2009 for the products entered into contractual storage in the period referred in paragraph 2(a);

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 223, 21.8.2008, p. 3.

⁽³⁾ OJ L 319, 29.11.2008, p. 49.

(b) from 16 August 2010 for the products entered into contractual storage in the period referred in paragraph 2(b).

4. Contractual storage shall end:

(a) on the day preceding that of the removal from storage or at the latest the last day of February following the year of entry into storage for the products entered into contractual storage in the period referred in paragraph 2(a);

(b) on the day preceding that of the removal from storage for the products entered into contractual storage in the period referred in paragraph 2(b).

5. Aid may be granted only where the contractual storage period is:

(a) between 90 and 227 days for the products stored in the period referred in paragraph 2(a);

(b) maximum 365 days for the products stored in the period referred in paragraph 2(b).';

3. in Article 6, the following paragraphs are added:

'3. By way of derogation from Article 31(2) of Regulation (EC) No 826/2008, the advance payment for the butter entered into contractual storage during the period referred to in Article 4(2)(b) of the present Regulation shall not exceed the amount of aid corresponding to a storage period of 168 days.

4. By way of derogation from Article 36(6) of Regulation (EC) No 826/2008, at the end of the contractual storage period, the authority responsible for checking shall, throughout the whole of the removal period from August 2009 to February 2010, in respect of at least one half of the number of contracts, by sampling, verify weight and identification of the butter in storage.'

Article 2

This Regulation shall enter into force on the 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 August 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 702/2009

of 3 August 2009

amending and correcting Regulation (EC) No 555/2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector

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⁾, and in particular Articles 103za and 85x thereof,

Whereas:

- (1) In order to reduce administrative burden of the Member States, and taking into account the huge amount of information communicated by them in the sets of tables within the framework of Commission Regulation (EC) No 555/2008 ⁽²⁾ and the fact that their legislation is often available electronically, it seems appropriate to foresee that the notification to the Commission of their legislation related to the draft support programmes, requested in Article 2(2) of that Regulation, could be done by the notification of the site of the availability of the legislation concerned.
- (2) Article 10(b) of Regulation (EC) No 555/2008 refers, erroneously, to conditions set down in that Article. As no conditions are set in the given Article but they are fixed in that Regulation, the wording of the given point should be corrected accordingly.
- (3) Article 19 of Regulation (EC) No 555/2008 provides for the financial management of the investments measure. To allow better use of the funds, it is appropriate to foresee the possibility of payments after the execution of certain operations of a given measure, while making sure that the measure as a whole, as foreseen in the application concerned, will be completed. Furthermore, in order to ease the realisation of investment projects in the context of the ongoing economic and financial crisis, the maximum ceiling for advance payments should be raised in 2009 and 2010.
- (4) According to Article 103n and Article 180 of Regulation (EC) No 1234/2007, Member States may grant national aid in accordance with the relevant Community rules on State aid for the measures referred to in Articles 103p, 103t and 103u of that Regulation. While Articles 87 and 89 of the Treaty apply to the production of, and trade in, the products referred to in Article 1(l) of Regulation (EC)

No 1234/2007, Article 88 of the Treaty shall not apply to payments made under Article 103n(4) of Regulation (EC) No 1234/2007 by Member States in conformity with that Regulation. Since accordingly, notification of the State aid is not required in the form laid down in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽³⁾ and its implementing regulations, for the sake of controllability that such payments correspond to the rules on the State aid, a simplified communication has to be foreseen.

- (5) If producers withdraw their application for the grubbing-up premium or grub up only part or nothing of the area indicated in their application, this jeopardises the efficient use of the Community funds foreseen for this measure. Beyond the sanctions already foreseen in Article 70(2) of Regulation (EC) No 555/2008, it is appropriate to foresee that Member States may decide that no priority should be given to the application of the producers concerned in the subsequent financial years.
- (6) Application of the single percentage for acceptance means a disproportionate administrative burden for Member States where applications for grubbing-up cover only a relatively small area. Therefore, it is appropriate to exempt Member States from the application of this percentage for acceptance if the area concerned by the eligible applications does not reach a certain threshold.
- (7) Annex VI to Regulation (EC) No 555/2008 requests information on the amounts paid in respect of Single Payment Scheme (SPS) payments on vineyards. Annex VII to that Regulation requests information on the area covered by SPS payments on vineyards and the average payment made. However, once the entitlements are allocated, it is no longer possible to distinguish with respect of what land use they were originally allocated nor are claimants be required to indicate if land under vines is being used to support their annual SPS claim. In addition, aggregate SPS information is being supplied to the Commission pursuant to Commission Regulation (EC) No 795/2004 of 21 April 2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers ⁽⁴⁾. That information will also include land under vines. Therefore, lines requesting information on SPS payments should be deleted from the appropriate tables of Regulation (EC) No 555/2008.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 170, 30.6.2008, p. 1.

⁽³⁾ OJ L 83, 27.3.1999, p. 1.

⁽⁴⁾ OJ L 141, 30.4.2004, p. 1.

- (8) Regulation (EC) No 555/2008 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 555/2008 is amended as follows:

1. In Article 2, paragraph 2 is replaced by the following:

‘2. Member States shall notify the Commission their legislation related to the draft support programmes referred to in the first subparagraph once adopted or modified. This notification can be done by informing the Commission about the site where the legislation concerned is publicly available;’

2. In Article 10, point (b) is replaced by the following:

‘(b) the continuation of the measure fulfils, after adaptations if needed, the conditions set down in this Regulation.’;

3. Article 19 is replaced by the following:

‘Article 19

Financial management

1. Support shall be paid once it is ascertained that either a single operation or all the operations covered by the support application, according to the choice made by the Member State for the management of the measure, have been implemented and controlled on the spot.

Where support is normally payable only after implementation of all the operations, by way of derogation from the first subparagraph, support shall be paid for single operations implemented if the remaining operations could not be carried out due to *force majeure* or exceptional circumstances as referred to in Article 31 of Council Regulation (EC) No 73/2009 (*).

If checks show that an overall operation covered by the support application has not been fully implemented for reasons other than *force majeure* or exceptional circumstances as referred to in Article 31 of Regulation (EC) No 73/2009, and where support has been paid after single operations which are part of the overall operation covered by the support application, Member States shall decide to recover the aid paid.

2. Beneficiaries of investment support may request the payment of an advance from the competent paying agencies if this option is included in the national support programme.

The amount of the advances shall not exceed 20 % of the public aid related to the investment, and its payment shall be subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 110 % of the amount of the advance. However, in the case of investments for which the individual decision to grant support is taken in 2009 or in 2010, the amount of the advances may be increased up to 50 % of the public aid related to that investment.

The guarantee shall be released when the competent paying agency establishes that the amount of actual expenditure corresponding to the public aid related to the investment exceeds the amount of the advance.

(*) OJ L 30, 31.1.2009, p. 16.’

4. In Chapter III of Title II, the following Article 37a is added:

‘Article 37a

Communication related to State aid

1. Notwithstanding Article 5(8), the third paragraph of Article 16 and the second subparagraph of Article 20(1) of this Regulation, when Member States grant State aid in accordance with Article 103n(4) of Council Regulation (EC) No 1234/2007 (*), they shall communicate to the Commission the following:

(a) when applicable, the list of aid measures already authorised under Articles 87, 88 and 89 of the Treaty to be used for the implementation of the programmes or the reason why the national aid in question has been exempted from any notification obligations;

(b) in other cases, the elements that are needed for the appraisal under competition rules.

2. If paragraph (1)(a) is applicable, Member States shall fill in Table 1 of Annex VIIIc,

(a) indicating whether support will be granted in respect of Commission Regulation (EC) No 1535/2007 (**) on de minimis support for primary production in the agriculture sector or Commission Regulation (EC) No 1998/2006 (***) for processing and marketing of agricultural products; or

(b) providing the registration number and the reference to the Commission exemption Regulation adopted on the basis of Council Regulation (EC) No 994/98 (****) under which the measure was introduced; or

(c) providing the case number and reference number under which the measure has been declared compatible with the Treaty by the Commission.

3. If paragraph (1)(b) is applicable, Member States shall transmit to the Commission

(a) Table 2 of Annex VIIIc for each of the measures referred to in Articles 103p, 103t and 103u of Regulation (EC) No 1234/2007 for which national aid is granted;

(b) Table 3 of Annex VIIIc in case of national aid granted for the measure promotion on third country markets as referred to in Article 103p of Regulation (EC) No 1234/2007;

(c) Table 4 of Annex VIIIc in case of national aid granted for the harvest insurance measure referred to in Article 103t of Regulation (EC) No 1234/2007;

(d) Table 5 of Annex VIIIc in case of national aid granted for the investments measure referred to in Article 103u of Regulation (EC) No 1234/2007.

4. The elements communicated in form of any of the tables of Annex VIIIc must be valid over the entire life cycle of the programme without prejudice to any subsequent changes of the programmes.

5. Notwithstanding Article 103n(4) of Regulation (EC) No 1234/2007 and without prejudice to Article 3(2) of this Regulation, Member States granting national aid shall modify their support programme for the future, by filling

in the appropriate tables of Annex VIIIb by 15 October 2009 at the latest. Article 103k(2) of Regulation (EC) No 1234/2007 apply to these modifications.

(*) OJ L 299, 16.11.2007, p. 1.

(**) OJ L 337, 21.12.2007, p. 35.

(***) OJ L 379, 28.12.2006, p. 5.

(****) OJ L 142, 14.5.1998, p. 1.

5. In Article 70, the following paragraph is added:

'3. If, in a given financial year, a producer withdrew his application for the grubbing-up premium or grubbed up only partially or not at all the area indicated in the application, a Member State may decide not to give him priority according to Article 85s(5)(b) of Regulation (EC) No 1234/2007 in any subsequent financial year.'

6. In Article 71, the following paragraph is added:

'3. Without prejudice to paragraph 1, the single percentage for acceptance does not apply to Member States which communicated, according to Article 85s(2) of Regulation (EC) No 1234/2007, eligible applications for an area smaller than 50 hectares.'

7. In Annex VI, the line 1, relating to the Single Payment Scheme is deleted;

8. In Annex VII, the line 1, relating to the Single Payment Scheme is deleted.

9. After Annex VIIIb, Annex VIIIc is inserted, the text of which is set out in the Annex to this Regulation.

Article 2

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

Article 1(4) and (9) shall apply from 1 August 2009.

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

Done at Brussels, 3 August 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

'ANNEX VIIIc

Table 1

Information on aid schemes already authorised under Articles 87, 88 and 89 of the Treaty or information on exemption of a given measure from any notification obligation ⁽¹⁾Member State ⁽²⁾: Region(s) concerned (if applicable):

Measure code	Name of the aid measure	Indication of the legal basis of the scheme	Duration of aid measure

To indicate respectively:

- for the measures covered by a de minimis Regulation: 'Any aid granted under this measure will be in conformity with the de minimis Regulation (EC) No 1535/2007 (primary production) or Regulation (EC) No 1998/2006' (processing and marketing of agricultural products) ⁽³⁾,
- for approved aid schemes: reference to Commission State aid approval decision, including State aid number and references of approval letter,
- for Block Exempted aid: reference to the individual Block Exemption Regulation (i.e. either Regulation (EC) No 1857/2006 or Commission Regulation (EC) No 800/2008 ⁽⁴⁾) and the registration number.

⁽¹⁾ Communication referred to in Article 37a(2) of this Regulation.⁽²⁾ OP acronym to be used.⁽³⁾ Please indicate which Regulation is applicable.⁽⁴⁾ Commission Regulation (EC) No 800/2008 of 6 August 2008, declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation) (OJ L 214, 9.8.2008, p. 3).

Table 2

General information sheet ⁽¹⁾

Member State ⁽²⁾: Region(s) concerned (if applicable):

1. Identification of the aid

1.1. Title of the aid (or name of company beneficiary in case of individual aid):

.....

1.2. Brief description of the objective of the aid:

.....

Primary objective (please tick one only):

Promotion third countries (Article 103p of Regulation (EC) No 1234/2007)

Harvest insurance (Article 103t of Regulation (EC) No 1234/2007)

Investment (Article 103u Regulation (EC) No 1234/2007)

1.3. Aid scheme — Individual aid

The communication relates to:

an aid scheme

an individual aid

2. National legal basis

Title of the national legal basis including the implementing provisions:

.....

.....

.....

3. Beneficiaries

3.1. Location of the beneficiary(ies)

in (an) unassisted region(s)

in (a) region(s) eligible for assistance under Article 87(3)(c) EC Treaty (specify at NUTS-level 3 or lower)

in (a) region(s) eligible for assistance under Article 87(3)(a) EC Treaty (specify at NUTS-level 2 or lower)

mixed: (specify)

3.2. In case of an individual aid:

Name of the beneficiary:

⁽¹⁾ Communication referred to in Article 37a(3)(a) of this Regulation.

⁽²⁾ OP acronym to be used.

Type of beneficiary:

SME

Number of employees:

Annual turnover:

Annual balance-sheet:

Independence:

large enterprise

3.3. In case of an aid scheme:

Type of beneficiaries:

all firms (large firms and small and medium-sized enterprises)

only large enterprises

small and medium-sized enterprises

medium-sized enterprises

small enterprises

micro enterprises

the following beneficiaries:

Estimated number of beneficiaries:

under 10

from 11 to 50

from 51 to 100

from 101 to 500

from 501 to 1 000

over 1 000

4. Form of the aid and means of funding

Form of the aid made available to the beneficiary (specify; where appropriate, separately for each measure) (e.g. direct grant, soft loan ...):

.....

.....

Table 3

Supplementary information sheet on aid for the promotion on third country markets (Article 103p of Regulation (EC) No 1234/2007) ⁽¹⁾Member State ⁽²⁾: Region(s) concerned (if applicable):**Hereby it is confirmed that:**

- the advertising campaign is not granted towards specific enterprises;
- the advertising campaign does not risk endangering sales of or denigrate products from other Member States;
- the advertising campaign is in line with the principles of Regulation (EC) No 3/2008, including the requirement that the advertising campaign is not granted towards brand names. (To demonstrate this statement, elements have to be provided about the compliance with the principles of Regulation (EC) No 3/2008).

⁽¹⁾ Communication referred to in Article 37a(3)(b) of this Regulation.

⁽²⁾ OP acronym to be used.

Table 4

Supplementary information sheet on aid towards the payment of harvest insurance premia (Article 103t of Regulation (EC) No 1234/2007) ⁽¹⁾

Member State ⁽²⁾: Region(s) concerned (if applicable):

1. Hereby it is confirmed that:

- the aid measure does not foresee payment of insurance premiums in favour of large companies and/or companies active in the processing and marketing of agricultural products
- the possibility of covering the risk is not linked to only one insurance company or group of companies
- the aid is not conditional on the insurance contract being concluded with a company established in the Member State concerned.

2. The following losses will be covered by the insurance for which the premium will be partly financed under the aid measure concerned:

- a) only losses caused by adverse climatic events which can be assimilated to natural disasters, as defined in Article 2 point 8 of Regulation (EC) No 1857/2006,
- b) the losses referred to above plus other losses caused by climatic events,
- c) losses caused by animal or plant diseases or pest infestations (whether in combination with other losses mentioned in this point or not).

3. Aid intensity proposed:%

NB: If only the first case (under 2 a) above applies, the maximum aid rate is 80 %, in all other cases (i.e. where box b) and/or c) under point 2 above has been ticked), it is 50 %.

These conditions relate to the maximum intensities of the cumulated amount of both the national and the community contribution, in accordance with Article 103n(4) of Regulation (EC) No 1234/2007.

⁽¹⁾ Communication referred to in Article 37a(3)(c) of this Regulation.

⁽²⁾ OP acronym to be used.

Table 5

Supplementary information sheet on aid for investments (Article 103u of Regulation (EC) No 1234/2007) ⁽¹⁾Member State ⁽²⁾: Region(s) concerned (if applicable):**1. Scope and beneficiaries of the aid**

1.1. The support is granted for the following tangible or intangible investments, which improve the overall performance of the enterprise (please tick as appropriate):

- in processing facilities,
- winery infrastructure,
- marketing of wine.

1.2. The aid concerns (please tick as appropriate):

- the production or marketing of products referred to in Annex Xlb of Regulation (EC) No 1234/2007;
- the development of new products, processes and technologies related to the products referred to in Annex Xlb to Regulation (EC) No 1234/2007.

1.3. Hereby it is confirmed that the aid is not granted to an enterprise in difficulty in the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty:

- yes

1.4. This communication is meant to fall under the following provision of the Agricultural Guidelines — and as a consequence, as appropriate, the following is confirmed:

1.4.1. point IV.B.2. (a) [Article 15 of Regulation (EC) No 800/2008]; in this case, it is hereby confirmed that:

- the aid fulfils the conditions set out in Regulation (EC) No 800/2008, Article 15 (State aid to small and medium-sized enterprises)

1.4.2. point IV.B.2. (b) [Article 13 of Regulation (EC) No 800/2008]; in this case, it is hereby confirmed that:

- the aid fulfils the conditions set out in Regulation (EC) No 800/2008, Article 13 (regional investment aid)

1.4.3. point IV.B.2. (c) [Commission guidelines on national regional aid for 2007–2013 ⁽³⁾]; in this case, it is hereby confirmed that

- the aid fulfils the conditions set out in Commission guidelines on national regional aid for 2007–2013 (in this case, the assessment of such aid is to be carried out on the basis of the Guidelines on National Regional aid. The relevant part of the general notification form (Annex of Commission Regulation (EC) No 1627/2006 ⁽⁴⁾) has to be completed.

1.4.4. point IV.B.2. (d) [aid for intermediate companies in regions not eligible for regional aid]; in this case:

there are beneficiaries which are SMEs:

- yes no

If yes, point 1.4.1. above applies [point IV.B.2 (a) of the Agricultural guidelines].

⁽¹⁾ Communication referred to in Article 37a(3)(d) of this Regulation.⁽²⁾ OP acronym to be used.⁽³⁾ OJ C 54, 4.3.2006, p. 13.⁽⁴⁾ OJ L 302, 1.11.2006, p. 10.

If no, it is hereby confirmed that aid will only be granted to intermediate companies (i.e. less than 750 employees and/or less than EUR 200 million turnover):

yes

In this case, the relevant part of the general notification form (Annex of Regulation (EC) No 1627/2006) regarding the eligible expenses has to be completed.

2. Individual aid

The eligible investments can exceed EUR 25 million or the aid amount EUR 12 million:

yes no

If yes, hereby is all the information allowing for an individual assessment of the aid:

.....

3. Aid intensity

NB: The conditions relate to the maximum intensities of the cumulated amount of both the national and the community contribution, in accordance with Article 103n(4) of Regulation (EC) No 1234/2007.

3.1. If the beneficiaries are SMEs (Article 15 of Regulation (EC) No 800/2008), the maximum aid intensity for eligible investments is the following in:

3.1.1. outermost regions: (max. 75 %)

3.1.2. smaller Aegean Islands ⁽¹⁾: (max. 65 %)

3.1.3. regions eligible under Article 87(3)(a): (max. 50 %)

3.1.4. other regions: (max. 40 %)

3.2. For aid falling under Article 13 of Regulation (EC) No 800/2008 (regional investment aid) or the Commission guidelines on national regional aid for 2007–2013, the maximum aid intensity is the following:

3.2.1. for SMEs:

3.2.1.1. regarding eligible investments in regions under Article 87(3)(a) of the Treaty: (max.: 50 % or maximum amount determined in the regional map approved for the Member State concerned for the period 2007–2013)

3.2.1.2. regarding eligible investments in other regions eligible for regional aid: (max.: 40 % or maximum amount determined in the regional map approved for the Member State concerned for the period 2007–2013)

3.2.2. for intermediate enterprises in the meaning of Article 28(3) of Regulation (EC) No 1698/2005 (not SME but with less than 750 employees or less than EUR 200 million turnover):

3.2.2.1. regarding eligible investments in regions eligible under Article 87(3)(a) of the Treaty: (max.: 25 % or maximum amount determined in the regional map approved for the Member State concerned for the period 2007–2013)

3.2.2.2. regarding eligible investments in other regions eligible for regional aid: (max.: 20 % or maximum amount determined in the regional map approved for the Member State concerned for the period 2007–2013)

⁽¹⁾ Council Regulation (EEC) No 2019/93 (OJ L 184, 27.7.1993, p. 1).

3.2.3. There are beneficiaries that are larger than the intermediate enterprises mentioned under point 3.2.2. (i.e. large enterprises):

yes no

If yes, it is hereby confirmed that the maximum aid intensity is equal to or below the maximum amount determined in the regional aid map approved for the Member State concerned for the period 2007-2013:

yes

In this case, the maximum aid intensity has to be mentioned in the aforementioned regional aid map.

The relevant maximum aid intensity in the corresponding regional aid map is: %.

3.3. For investment aid in favour of intermediate companies in regions not eligible for regional aid, the maximum aid intensity is: (max.: 20 %).

4. Eligibility criteria and expenses

4.1. Hereby it is confirmed that:

that the aid does not support investments for which a common market organisation, including direct support schemes, financed by the EAGF places restrictions on production or limitations on Community support at the level of individual farmers, holdings or processing plants which would increase production beyond those restrictions or limitations;

that the aid does not concern the purchase of second-hand equipment in case of aid to intermediate or large companies.

4.2. For aid for investments in regions not eligible for regional aid:

The eligible expenses for investments correspond fully to the eligible expenses listed in the Commission guidelines on national regional aid for 2007-2013:

yes no

If no and if the beneficiaries are SMEs, hereby it is confirmed that the eligible expenses are in conformity with Article 15(3) of Regulation (EC) No 800/2008:

yes

5. Other information

The communication is accompanied by documentation showing that that support is targeted on clearly defined objectives reflecting identified structural and territorial needs and structural disadvantages:

yes no

If yes, that documentation has to be provided in an Annex to this supplementary information sheet.

DIRECTIVES

DIRECTIVE 2009/80/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 July 2009
on the identification of controls, tell-tales and indicators for two or three-wheel motor vehicles
(Codified version)
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Council Directive 93/29/EEC of 14 June 1993 on the identification of controls, tell-tales and indicators for two- or three-wheel motor vehicles ⁽³⁾ has been substantially amended ⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.
- (2) Directive 93/29/EEC is one of the separate Directives of the EC type-approval system provided for in Council Directive 92/61/EEC of 30 June 1992 relating to the type-approval of two or three-wheel motor vehicles as replaced by Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles ⁽⁵⁾ and lays down technical prescriptions concerning the design and construction of two or three-wheel motor vehicles as regards the identification of controls, tell-tales and indicators. These technical prescriptions concern the approximation of the laws of the Member States to allow for the EC type-approval procedure provided for in Directive 2002/24/EC to be applied in respect of each type of vehicle. Consequently

the provisions laid down in Directive 2002/24/EC relating to vehicle systems, components and separate technical units apply to this Directive.

- (3) In order to facilitate access to the markets of non-Community countries an equivalence should exist between the requirements of this Directive and those of Regulation No 60 of the United Nations Economic Commission for Europe ⁽⁶⁾ (UNECE).
- (4) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex III, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

This Directive applies to the identification of controls, tell-tales and indicators for all types of vehicles as referred to in Article 1 of Directive 2002/24/EC.

Article 2

The procedure for the granting of EC component type-approval in respect of the identification of controls, tell-tales and indicators for a type of two or three-wheel motor vehicle and the conditions governing the free movement of such vehicles shall be as laid down in Chapters II and III of Directive 2002/24/EC.

Article 3

1. In accordance with the provisions of Article 11 of Directive 2002/24/EC, equivalence between the requirements laid down in this Directive and those laid down in UNECE Regulation No 60 is hereby acknowledged.

2. The authorities of the Member States which grant EC component type-approval shall accept approvals granted in accordance with the requirements of the UNECE Regulation referred to in paragraph 1 as well as component type-approval marks as an alternative to the corresponding approvals granted in accordance with the requirements of this Directive.

⁽¹⁾ OJ C 325, 30.12.2006, p. 28.

⁽²⁾ Opinion of the European Parliament of 19 June 2007 (OJ C 146 E, 12.6.2008, p. 72) and Council Decision of 7 July 2009.

⁽³⁾ OJ L 188, 29.7.1993, p. 1.

⁽⁴⁾ See Annex III, Part A.

⁽⁵⁾ OJ L 124, 9.5.2002, p. 1.

⁽⁶⁾ E/ECE/TRANS/505 — Add. 59.

Article 4

This Directive may be amended in accordance with the procedure referred to in Article 18(2) of Directive 2002/24/EC in order to:

- (a) take into account any amendments to the UNECE Regulation referred to in Article 3;
- (b) adapt Annexes I and II to technical progress.

Article 5

1. Member States shall not, on grounds relating to the identification of controls, tell-tales and indicators:

- refuse to grant EC type-approval for a type of two or three-wheel motor vehicle, or,
- prohibit the registration, sale or entry into service of two or three-wheel motor vehicles,

if the identification of controls, tell-tales and indicators complies with the requirements of this Directive.

2. Member States shall refuse to grant EC type-approval for any new type of two or three-wheel motor vehicle on grounds relating to the identification of controls, tell-tales and indicators if the requirements of this Directive are not fulfilled.

3. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 6

Directive 93/29/EEC, as amended by the Directive listed in Annex III, Part A, is repealed without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex III, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex IV.

Article 7

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2010.

Article 8

This Directive is addressed to the Member States.

Done at Brussels, 13 July 2009.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
E. ERLANDSSON

ANNEX I

REQUIREMENTS CONCERNING THE EC COMPONENT TYPE-APPROVAL OF TWO OR THREE-WHEEL VEHICLES IN RESPECT OF THE IDENTIFICATION OF THEIR CONTROLS, TELL-TALES AND INDICATORS

1. DEFINITIONS

For the purposes of this Directive the following definitions shall apply:

- 1.1. 'control' means any part of the vehicle or component directly actuated by the driver which causes a change in the state or operation of the vehicle or one of the parts thereof;
- 1.2. 'tell-tale' means a signal indicating the triggering of a device, an operation or a suspect or faulty state or an absence of operation;
- 1.3. 'indicator' means a device providing information on the proper functioning or state of a system or part of a system such as the level of a fluid;
- 1.4. 'symbol' means an outline enabling a control, tell-tale or indicator to be identified.

2. REQUIREMENTS

2.1. **Identification**

The controls, tell-tales and indicators referred to in point 2.1.5 shall be identified in accordance with the following requirements when they are fitted to a vehicle.

- 2.1.1. The symbols shall stand out clearly against the background.
- 2.1.2. The symbols shall be placed on the control or control tell-tale to be identified or in immediate proximity thereof. Where this is not possible the symbol and control, or tell-tale, shall be joined by a continuous dash that is as short as possible.
- 2.1.3. Main-beam headlights shall be represented by parallel horizontal rays of light and dipped-beam headlamps by parallel rays of light angled downwards.
- 2.1.4. When used for optical tell-tales the following colours listed below shall have the meanings indicated:
 - red: danger,
 - amber: caution,
 - green: safety.

Blue shall be reserved exclusively for the main beam headlamp tell-tales.

2.1.5. Designation and identification of symbols

Figure 1
Headlamp control — Main-beam headlamp
 Tell-tale colour: blue.

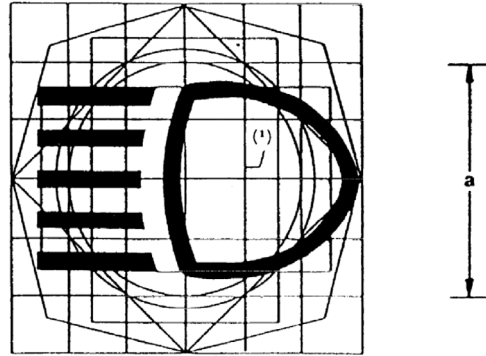


Figure 2
Headlamp control — Dipped-beam headlamp
 Tell-tale colour: green.

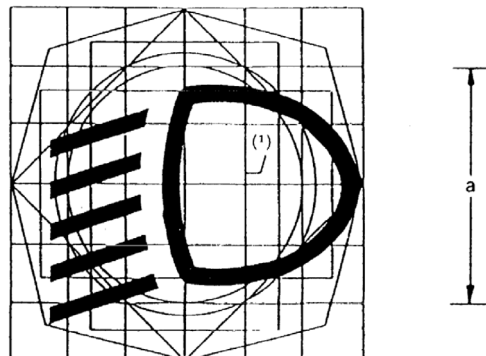


Figure 3
Direction indicator

Note: if there are separate tell-tales for the left and right direction indicators, the two arrows may also be used separately.

Tell-tale colour: green.

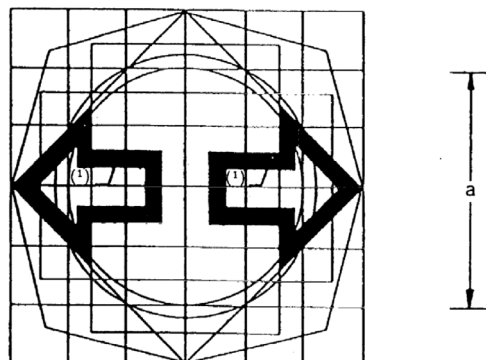


Figure 4

Hazard warning device

Two possibilities:

- identifying signal placed alongside,
tell-tale colour: red
- or
- simultaneous operation of direction indicators
(both arrows in Figure 3)

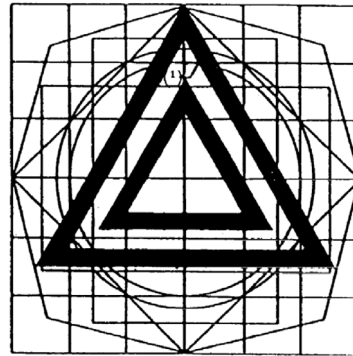


Figure 5

Manual choke

Tell-tale colour: amber.

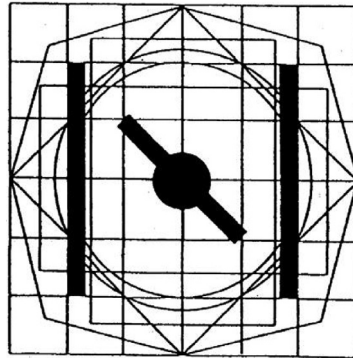


Figure 6

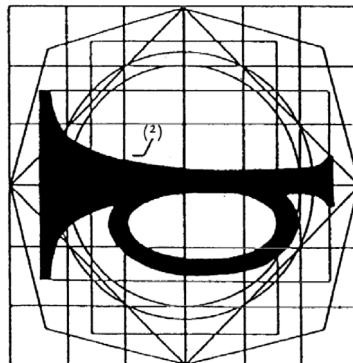
Audible warning device

Figure 7
Fuel level
Tell-tale colour: amber.

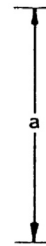
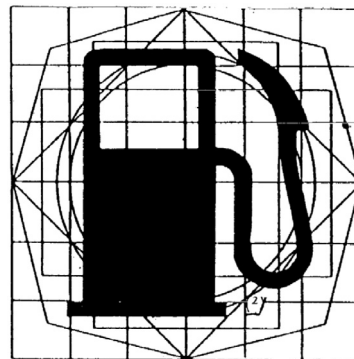


Figure 8
Engine coolant temperature
Tell-tale colour: red.

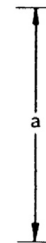
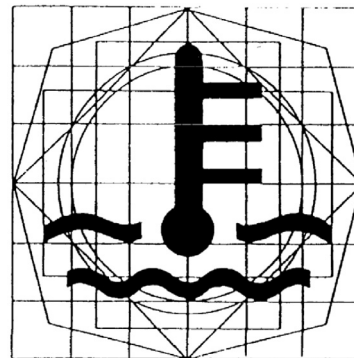


Figure 9
Battery charge
Tell-tale colour: red.

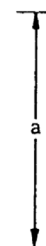
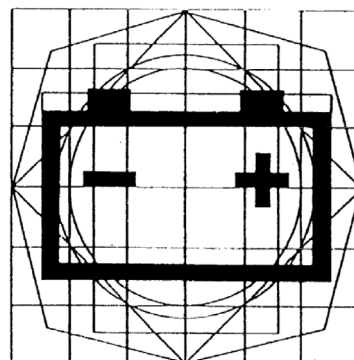


Figure 10
Engine oil
Tell-tale colour: red.

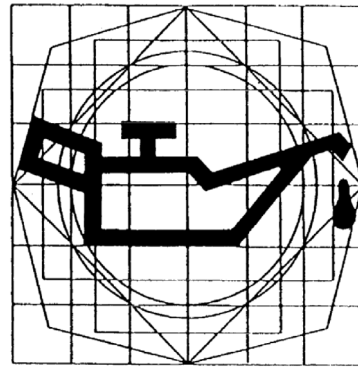


Figure 11
Front fog lamp ⁽³⁾
Tell-tale colour: green.

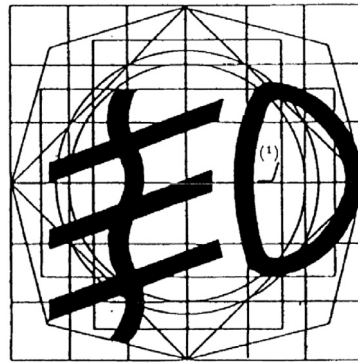


Figure 12
Rear fog lamp ⁽³⁾
Tell-tale colour: amber.

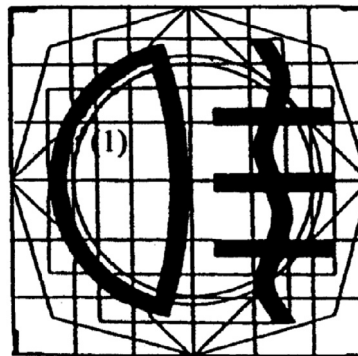


Figure 13
Engine ignition or cut-off control in 'out of use'
position

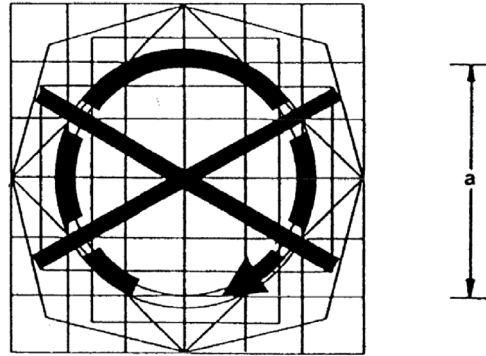


Figure 14
Engine ignition or cut-off control in the 'operating'
position

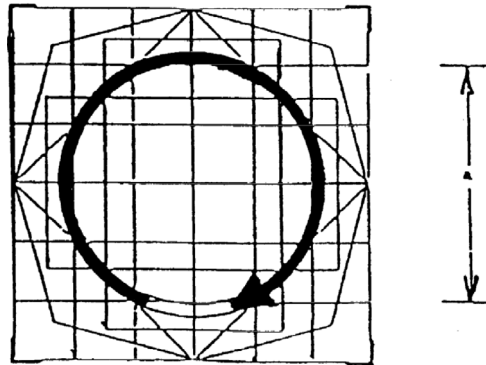


Figure 15
Lighting switch
Tell-tale colour: green.

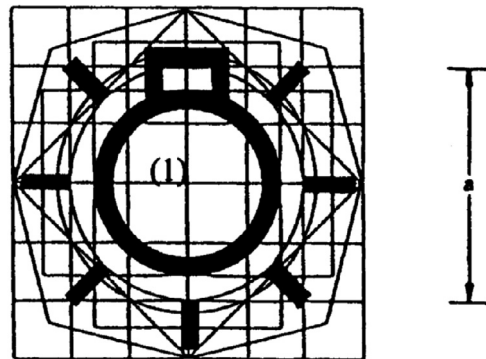


Figure 16
Position (side) lamps

Note: if the control is not separate, it may be identified by the symbol shown in figure 15.

Tell-tale colour: green.

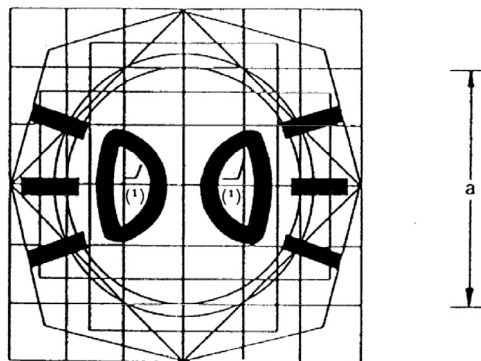


Figure 17
'Gear box in neutral' indicator
Tell-tale colour: green.

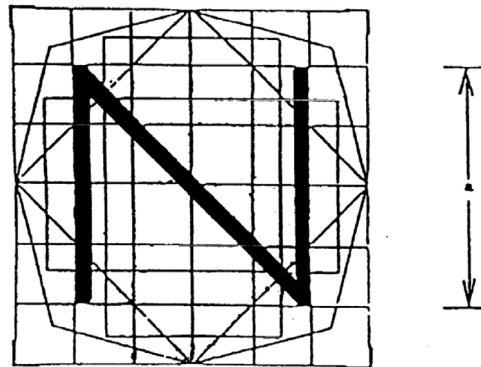
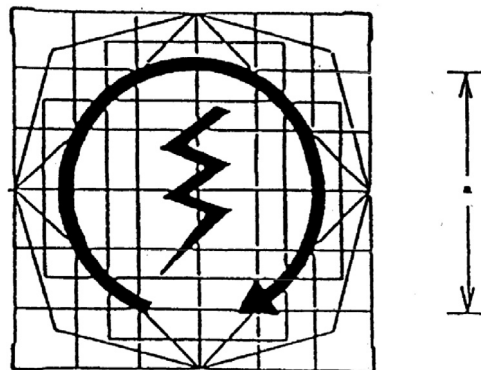


Figure 18
Electric starter



Notes:

- (1) The framed areas may be solid.
- (2) The dark part of this symbol may be replaced by its silhouette; the white part in this diagram shall then be entirely in a dark colour.
- (3) If a single control is used for the front and rear fog lamps the symbol used shall be that for 'front fog lamp'.

Appendix

Structure of the model base for the symbols referred to in point 2.1.5

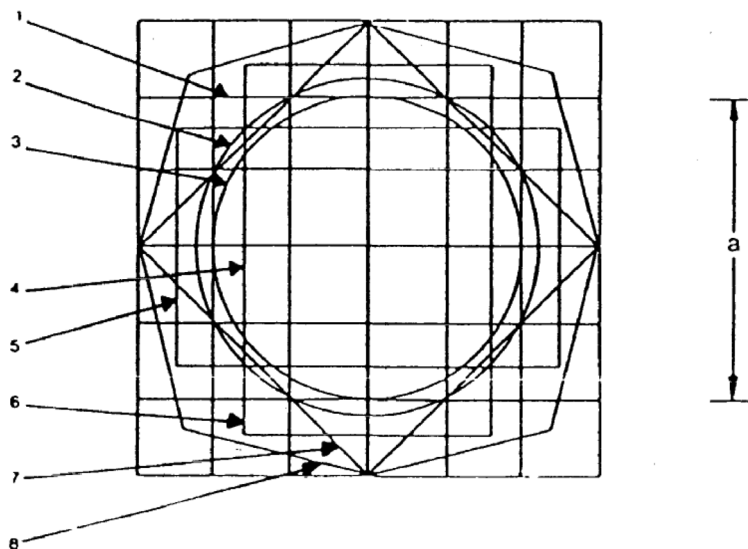


Figure 1

Model base

The model base consists of:

1. a base 50 mm square, this dimension being equal to nominal dimension 'a' in the original;
2. a base circle 56 mm in diameter having approximately the same area as the base square (1);
3. a second 50 mm-diameter circle is drawn within the base square (1);
4. a second square the tips of which lie on the base circle (2) and the sides of which are parallel to those of the base square (1);
5. and 6. two rectangles having the same area as the base square (1), their sides being at right angles to each other and each of them devised so as to divide the opposite sides of the base square into symmetrical points;
7. a third square the sides of which pass through the points of intersection of the base square (1) and the base circle (2) and are inclined at 45°, thus providing the greatest horizontal and vertical dimensions of the model base;
8. an irregular octagon formed by lines inclined at 30° to the sides of the square (7).

The base model is laid upon a grid the lower side of which measures 12,5 mm and coincides with the base square (1).

ANNEX II

Appendix 1

Information document in respect of the identification of controls, tell-tales and indicators for a type of two or three-wheel motor vehicle

(to be attached to the application for EC component type-approval if this is submitted separately from the application for an EC vehicle type-approval)

Order number (assigned by the applicant):

The application for an EC component type-approval in respect of the identification of controls, tell-tales and indicators of a type of two or three-wheel motor vehicle shall contain the information set out under the following points in Part 1, Section A of Annex II to Directive 2002/24/EC:

- 0.1,
- 0.2,
- 0.4 to 0.6,
- 9.2.1.

Appendix 2

Name of administration

EC component type-approval certificate in respect of the identification of controls, tell-tales and indicators for a type of two or three-wheel motor vehicle

MODEL

Report No by technical service Date:

EC component type-approval No: Extension No:

1. Make of vehicle:

2. Type of vehicle and any versions and variants:

3. Manufacturer's name and address:

4. Name and address of manufacturer's representative (if any):

.....

5. Date vehicle submitted for test:

6. EC component type-approval granted/refused ⁽¹⁾

7. Place:

8. Date:

9. Signature:

⁽¹⁾ Delete as appropriate.

ANNEX III

PART A

**Repealed Directive with its amendment
(referred to in Article 6)**

Council Directive 93/29/EEC	(OJ L 188, 29.7.1993, p. 1)
Commission Directive 2000/74/EC	(OJ L 300, 29.11.2000, p. 24)

PART B

**List of time limits for transposition into national law and application
(referred to in Article 6)**

Directive	Time limit for transposition	Date of application
93/29/EEC	14 December 1994	14 June 1995 (*)
2000/74/EC	31 December 2001	1 January 2002 (**)

(*) In conformity with Article 5(1), third subparagraph of Directive 93/29/EEC:

'From the date mentioned in the first subparagraph Member States may not, for reasons connected with the identification of controls, tell-tales and indicators, prohibit the initial entry into service of vehicles which conform to this Directive.'
The said date is 14 December 1994; see first subparagraph of Article 5(1) of Directive 93/29/EEC.

(**) In conformity with Article 2 of Directive 2000/74/EC:

1. With effect from 1 January 2002, Member States may not, on grounds relating to the identification of controls, tell-tales and indicators:

- refuse to grant EC type-approval for a type of two- or three-wheel motor vehicle, or,
- prohibit the registration, sale or entry into service of two- or three-wheel motor vehicles,

if the identification of controls, tell-tales and indicators complies with the requirements of Directive 93/29/EEC, as amended by this Directive.

2. With effect from 1 July 2002, Member States shall refuse to grant EC type-approval for any new type of two- or three-wheel motor vehicle on grounds relating to the identification of controls, tell-tales and indicators if the requirements of Directive 93/29/EEC, as amended by this Directive, are not fulfilled.'

ANNEX IV

CORRELATION TABLE

Directive 93/29/EEC	Directive 2000/74/EC	This Directive
Articles 1 and 2		Articles 1 and 2
Article 3, first paragraph		Article 3(1)
Article 3, second paragraph		Article 3(2)
Article 4, introductory wording		Article 4, introductory wording
Article 4, first indent		Article 4 point (a)
Article 4, second indent		Article 4 point (b)
Article 5(1)		—
	Article 2(1)	Article 5(1)
	Article 2(2)	Article 5(2)
Article 5(2)		Article 5(3)
—		Articles 6 and 7
Article 6		Article 8
Annexes I and II		Annexes I and II
—		Annex III
—		Annex IV

COMMISSION DIRECTIVE 2009/97/EC

of 3 August 2009

amending Directives 2003/90/EC and 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directives 2002/53/EC and 2002/55/EC respectively, as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species ⁽¹⁾, and in particular Article 7(2)(a) and (b) thereof,

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed ⁽²⁾, and in particular Article 7(2)(a) and (b) thereof,

Whereas:

- (1) Commission Directives 2003/90/EC ⁽³⁾ and 2003/91/EC ⁽⁴⁾ were adopted to ensure that the varieties the Member States include in their national catalogues comply with the guidelines established by the Community Plant Variety Office (CPVO) as regards the characteristics to be covered as a minimum by the examination of the various species and the minimum conditions for examining the varieties, as far as such guidelines had been established. For other varieties those Directives provide that guidelines of the International Union for Protection of new Varieties of Plants (UPOV) are to apply.
- (2) The CPVO has since established further guidelines for a number of other species, and has updated existing ones.
- (3) As regards Directive 2003/90/EC, guidelines have to be added for new species which have recently been included in the lists of species covered by Directives 66/401/EEC ⁽⁵⁾ and 66/402/EEC ⁽⁶⁾.

(4) Directives 2003/90/EC and 2003/91/EC should therefore be amended accordingly.

(5) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I and II to Directive 2003/90/EC are replaced by the text in part A of the Annex to this Directive.

Article 2

The Annexes to Directive 2003/91/EC are replaced by the text in part B of the Annex to this Directive.

Article 3

For examinations started before 1 January 2010 Member States may apply Directives 2003/90/EC and 2003/91/EC in the version applying before their amendment by this Directive.

Article 4

Member States shall adopt and publish, by 31 December 2009 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 January 2010.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

⁽¹⁾ OJ L 193, 20.7.2002, p. 1.

⁽²⁾ OJ L 193, 20.7.2002, p. 33.

⁽³⁾ OJ L 254, 8.10.2003, p. 7.

⁽⁴⁾ OJ L 254, 8.10.2003, p. 11.

⁽⁵⁾ OJ 125, 11.7.1966, p. 2298/66.

⁽⁶⁾ OJ 125, 11.7.1966, p. 2309/66.

Article 5

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 3 August 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

PARTE A

'ANNEX I

List of species referred to in Article 1(2)(a) which are to comply with CPVO test protocols

Scientific name	Common name	CPVO protocol
<i>Pisum sativum</i> L.	Field pea	TP 7/1 of 6.11.2003
<i>Vicia faba</i> L.	Field bean	TP Broadbean/1 of 25.3.2004
<i>Brassica napus</i> L.	Swede rape	TP 36/1 of 25.3.2004
<i>Helianthus annuus</i> L.	Sunflower	TP 81/1 of 31.10.2002
<i>Linum usitatissimum</i> L.	Flax/Linseed	TP 57/1 of 21.3.2007
<i>Avena nuda</i> L.	Small naked oat, Hulless oat	TP 20/1 of 6.11.2003
<i>Avena sativa</i> L. (includes <i>A. byzantina</i> K. Koch)	Oats and Red oat	TP 20/1 of 6.11.2003
<i>Hordeum vulgare</i> L.	Barley	TP 19/2 of 6.11.2003
<i>Oryza sativa</i> L.	Rice	TP 16/1 of 18.11.2004
<i>Secale cereale</i> L.	Rye	TP 58/1 of 31.10.2002
<i>xTriticosecale</i> Wittm. ex A. Camus	Hybrids resulting from the crossing of a species of the genus <i>Triticum</i> and a species of the genus <i>Secale</i>	TP 121/2 of 22.1.2007
<i>Triticum aestivum</i> L.	Wheat	TP 3/4 of 23.6.2008
<i>Triticum durum</i> Desf.	Durum wheat	TP 120/2 of 6.11.2003
<i>Zea mays</i> L.	Maize	TP 2/2 of 15.11.2001
<i>Solanum tuberosum</i> L.	Potato	TP 23/2 of 1.12.2005

The text of these protocols can be found on the CPVO web site (www.cpvo.europa.eu).

ANNEX II

List of species referred to in Article 1(2)(b) which are to comply with UPOV test guidelines

Scientific name	Common name	UPOV guideline
<i>Beta vulgaris</i> L.	Fodder beet	TG/150/3 of 4.11.1994
<i>Agrostis canina</i> L.	Velvet bent	TG/30/6 of 12.10.1990
<i>Agrostis gigantea</i> Roth.	Red top	TG/30/6 of 12.10.1990
<i>Agrostis stolonifera</i> L.	Creeping bent	TG/30/6 of 12.10.1990
<i>Agrostis capillaris</i> L.	Brown top	TG/30/6 of 12.10.1990
<i>Bromus catharticus</i> Vahl	Rescue grass	TG/180/3 of 4.4.2001
<i>Bromus sitchensis</i> Trin.	Alaska brome grass	TG/180/3 of 4.4.2001
<i>Dactylis glomerata</i> L.	Cocksfoot	TG/31/8 of 17.4.2002

Scientific name	Common name	UPOV guideline
<i>Festuca arundinacea</i> Schreber	Tall fescue	TG/39/8 of 17.4.2002
<i>Festuca filiformis</i> Pourr.	Fine-leaved sheep's fescue	TG/67/5 of 5.4.2006
<i>Festuca ovina</i> L.	Sheep's fescue	TG/67/5 of 5.4.2006
<i>Festuca pratensis</i> Huds.	Meadow fescue	TG/39/8 of 17.4.2002
<i>Festuca rubra</i> L.	Red fescue	TG/67/5 of 5.4.2006
<i>Festuca trachyphylla</i> (Hack.) Krajina	Hard fescue	TG/67/5 of 5.4.2006
<i>Lolium multiflorum</i> Lam.	Italian ryegrass	TG/4/8 of 5.4.2006
<i>Lolium perenne</i> L.	Perennial ryegrass	TG/4/8 of 5.4.2006
<i>Lolium x boucheanum</i> Kunth	Hybrid ryegrass	TG/4/8 of 5.4.2006
<i>Phleum nodosum</i> L.	Small timothy	TG/34/6 of 7.11.1984
<i>Phleum pratense</i> L.	Timothy	TG/34/6 of 7.11.1984
<i>Poa pratensis</i> L.	Smooth-stalked meadow grass	TG/33/6 of 12.10.1990
<i>Lupinus albus</i> L.	White lupin	TG/66/4 of 31.3.2004
<i>Lupinus angustifolius</i> L.	Narrow-leaved lupin	TG/66/4 of 31.3.2004
<i>Lupinus luteus</i> L.	Yellow lupin	TG/66/4 of 31.3.2004
<i>Medicago sativa</i> L.	Lucerne	TG/6/5 of 6.4.2005
<i>Medicago x varia</i> T. Martyn	Sand lucerne	TG/6/5 of 6.4.2005
<i>Trifolium pratense</i> L.	Red clover	TG/5/7 of 4.4.2001
<i>Trifolium repens</i> L.	White clover	TG/38/7 of 9.4.2003
<i>Vicia sativa</i> L.	Common vetch	TG/32/6 of 21.10.1988
<i>Brassica napus</i> L. var. <i>napobrassica</i> (L.) Rchb.	Swede	TG/89/6 of 4.4.2001
<i>Raphanus sativus</i> L. var. <i>oleiformis</i> Pers.	Fodder radish	TG/178/3 of 4.4.2001
<i>Arachis hypogea</i> L.	Groundnut/Peanut	TG/93/3 of 13.11.1985
<i>Brassica rapa</i> L. var. <i>silvestris</i> (Lam.) Briggs	Turnip rape	TG/185/3 of 17.4.2002
<i>Carthamus tinctorius</i> L.	Safflower	TG/134/3 of 12.10.1990
<i>Gossypium</i> spp.	Cotton	TG/88/6 of 4.4.2001
<i>Papaver somniferum</i> L.	Poppy	TG/166/3 of 24.3.1999
<i>Sinapis alba</i> L.	White mustard	TG/179/3 of 4.4.2001
<i>Glycine max</i> (L.) Merrill	Soya bean	TG/80/6 of 1.4.1998
<i>Sorghum bicolor</i> (L.) Moench	Sorghum	TG/122/3 of 6.10.1989

The text of these guidelines can be found on the UPOV web site (www.upov.int).

PARTE B

'ANNEX I

List of species referred to in Article 1(2)(a) which are to comply with CPVO test protocols

Scientific name	Common name	CPVO protocol
<i>Allium cepa</i> L. (Cepa group)	Onion and Echalion	TP 46/2 of 1.4.2009
<i>Allium cepa</i> L. (Aggregatum group)	Shallot	TP 46/2 of 1.4.2009
<i>Allium porrum</i> L.	Leek	TP 85/2 of 1.4.2009
<i>Allium sativum</i> L.	Garlic	TP 162/1 of 25.3.2004
<i>Allium schoenoprasum</i> L.	Chives	TP 198/1 of 1.4.2009
<i>Apium graveolens</i> L.	Celery	TP 82/1 of 13.3.2008
<i>Apium graveolens</i> L.	Celeriac	TP 74/1 of 13.3.2008
<i>Asparagus officinalis</i> L.	Asparagus	TP 130/1 of 27.3.2002
<i>Beta vulgaris</i> L.	Beetroot including Cheltenham beet	TP 60/1 of 1.4.2009
<i>Brassica oleracea</i> L.	Cauliflower	TP 45/1 of 15.11.2001
<i>Brassica oleracea</i> L.	Sprouting broccoli or Calabrese	TP 151/2 of 21.3.2007
<i>Brassica oleracea</i> L.	Brussels sprouts	TP 54/2 of 1.12.2005
<i>Brassica oleracea</i> L.	Kohlrabi	TP 65/1 of 25.3.2004
<i>Brassica oleracea</i> L.	Savoy cabbage, White cabbage and Red cabbage	TP 48/2 of 1.12.2005
<i>Brassica rapa</i> L.	Chinese cabbage	TP 105/1 of 13.3.2008
<i>Capsicum annuum</i> L.	Chilli or Pepper	TP 76/2 of 21.3.2007
<i>Cichorium endivia</i> L.	Curled-leaved endive and Plain-leaved endive	TP 118/2 of 1.12.2005
<i>Cichorium intybus</i> L.	Industrial chicory	TP 172/2 of 1.12.2005
<i>Cichorium intybus</i> L.	Witloof chicory	TP 173/1 of 25.3.2004
<i>Citrullus lanatus</i> (Thumb.) Matsum. et Nakai	Watermelon	TP 142/1 of 21.3.2007
<i>Cucumis melo</i> L.	Melon	TP 104/2 of 21.3.2007
<i>Cucumis sativus</i> L.	Cucumber and Gherkin	TP 61/2 of 13.3.2008
<i>Cucurbita pepo</i> L.	Marrow or Courgette	TP 119/1 of 25.3.2004
<i>Cynara cardunculus</i> L.	Globe artichoke and Cardoon	TP 184/1 of 25.3.2004
<i>Daucus carota</i> L.	Carrot and Fodder carrot	TP 49/3 of 13.3.2008
<i>Foeniculum vulgare</i> Mill.	Fennel	TP 183/1 of 25.3.2004
<i>Lactuca sativa</i> L.	Lettuce	TP 13/4 of 1.4.2009
<i>Lycopersicon esculentum</i> Mill.	Tomato	TP 44/3 of 21.3.2007
<i>Petroselinum crispum</i> (Mill.) Nyman ex A. W. Hill	Parsley	TP 136/1 of 21.3.2007

Scientific name	Common name	CPVO protocol
<i>Phaseolus coccineus</i> L.	Runner bean	TP 9/1 of 21.3.2007
<i>Phaseolus vulgaris</i> L.	Dwarf French bean and Climbing French bean	TP 12/3 of 1.4.2009
<i>Pisum sativum</i> L. (partim)	Wrinkled pea, Round pea and Sugar pea	TP 7/1 of 6.11.2003
<i>Raphanus sativus</i> L.	Radish	TP 64/1 of 27.3.2002
<i>Solanum melongena</i> L.	Aubergine or Egg plant	TP 117/1 of 13.3.2008
<i>Spinacia oleracea</i> L.	Spinach	TP 55/2 of 13.3.2008
<i>Valerianella locusta</i> (L.) Laterr.	Corn salad or Lamb's lettuce	TP 75/2 of 21.3.2007
<i>Vicia faba</i> L. (partim)	Broad bean	TP Broadbean/1 of 25.3.2004
<i>Zea mays</i> L. (partim)	Sweet corn and Pop corn	TP 2/2 of 15.11.2001

The text of these protocols can be found on the CPVO web site (www.cpvo.europa.eu).

ANNEX II

List of species referred to in Article 1(2)(b) which are to comply with UPOV test guidelines

Scientific name	Common name	UPOV guideline
<i>Allium fistulosum</i> L.	Japanese bunching onion or Welsh onion	TG/161/3 of 1.4.1998
<i>Beta vulgaris</i> L.	Spinach beet or Chard	TG/106/4 of 31.3.2004
<i>Brassica oleracea</i> L.	Curly kale	TG/90/6 of 31.3.2004
<i>Brassica rapa</i> L.	Turnip	TG/37/10 of 4.4.2001
<i>Cichorium intybus</i> L.	Large-leaved chicory or Italian chicory	TG/154/3 of 18.10.1996
<i>Cucurbita maxima</i> Duchesne	Gourd	TG/155/4 of 28.3.2007
<i>Raphanus sativus</i> L.	Black radish	TG/63/6 of 24.3.1999
<i>Rheum rhabarbarum</i> L.	Rhubarb	TG/62/6 of 24.3.1999
<i>Scorzonera hispanica</i> L.	Scorzonera or Black salsify	TG/116/3 of 21.10.1988

The text of these guidelines can be found on the UPOV web site (www.upov.int).

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 16 February 2009

relating to the conclusion of the Agreement between the European Community and the Government of the Republic of Korea concerning cooperation on anti-competitive activities

(2009/586/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 83 and 308, in conjunction with the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) Given the increasingly pronounced international dimension to competition problems, international cooperation in this field should be strengthened.
- (2) The sound and effective enforcement of competition laws is a matter of importance to the efficient operation of the markets and to international trade.
- (3) Elaboration of the principles of positive comity in international law and implementation of those principles in the enforcement of the competition laws of the Community and South Korea are likely to increase the effectiveness in their application.
- (4) To this end, the Commission has negotiated an Agreement with the Government of the Republic of Korea regarding the application of the competition rules of the Community and South Korea.

(5) Given that the Agreement includes mergers and acquisitions which are covered by Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) ⁽²⁾, which in turn is based essentially on Article 308, this Decision should also be based on that Article.

(6) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Government of the Republic of Korea concerning cooperation on anti-competitive activities is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the Community ^(*).

Done at Brussels, 16 February 2009.

For the Council

The President

O. LIŠKA

⁽¹⁾ Opinion of 4 December 2008 (not yet published in the Official Journal).

⁽²⁾ OJ L 24, 29.1.2004, p. 1.

^(*) The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT

between the European Community and the Government of the Republic of Korea concerning cooperation on anti-competitive activities

THE EUROPEAN COMMUNITY,

of the one part, and

THE GOVERNMENT OF THE REPUBLIC OF KOREA,

of the other part,

(hereinafter referred to as 'the Parties');

RECOGNISING that the world's economies are becoming increasingly interrelated, and in particular that this is true of the economies of the European Community and the Republic of Korea;

NOTING that the European Community and the Republic of Korea share the view that the sound and effective enforcement of competition law is a matter of importance to the efficient operation of their respective markets, as well as to economic welfare of consumer of both Parties and trade between them;

NOTING that the sound and effective enforcement of the Parties' competition laws would be enhanced through cooperation and, in appropriate cases, coordination between them in the application of those laws;

FURTHER RECOGNISING that cooperation between the Parties' competition authorities will contribute to improving and strengthening their relationship;

BEARING IN MIND that from time to time differences may arise between the Parties concerning the application of their competition laws to conduct or transactions that implicate significant interests of both Parties;

NOTING the revised Recommendation of the Council of the Organization for Economic Cooperation and Development Concerning Cooperation between Member Countries on Anticompetitive Practices Affecting International Trade, adopted on 27 and 28 July 1995;

HAVING REGARD to the Memorandum of Understanding concluded between the Competition Directorate General of the European Commission and the Fair Trade Commission of the Republic of Korea on 28 October 2004,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose and Definitions

1. The purpose of this Agreement is to contribute to the effective enforcement of the competition laws of each Party through promoting cooperation and coordination between the competition authorities of the Parties and to avoid or lessen the possibility of conflicts between the Parties in all matters pertaining to the application of the competition laws of each Party.

2. For the purpose of this Agreement, the following terms shall have the following definitions:

(a) the term 'anticompetitive activities' means any activities that may be subject to sanctions or other relief measures by competition authorities under the competition laws of one of the Parties or both Parties;

(b) the terms 'competition authority' and 'competition authorities' mean:

(i) for the European Community, the Commission of the European Communities, as to its responsibilities pursuant to the competition laws of the European Community; and

(ii) for the Republic of Korea, the Korea Fair Trade Commission;

(c) the term 'competent authority of a Member State' means one authority for each Member State of the European Community for the application of competition laws. Upon signature of this Agreement a list of such authorities will be notified by the Commission of the European Communities to the Government of the Republic of Korea. The

Commission will notify to the Government of the Republic of Korea an updated list each time this becomes necessary;

- (d) the term 'competition laws' means:
- (i) for the European Community, Articles 81, 82, and 85 of the Treaty establishing the European Community, Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, and their implementing Regulations as well as any amendments thereto; and
 - (ii) for the Republic of Korea, the Monopoly Regulation and Fair Trade Act, and its implementing regulations as well as any amendments thereto;
- (e) the term 'enforcement activities' means any application of competition laws by way of investigation or proceedings conducted by the competition authority of a Party.

Article 2

Notifications

1. The competition authority of each Party shall notify the competition authority of the other Party with respect to the enforcement activities that the notifying competition authority considers may affect the important interests of the other Party.
2. Enforcement activities that may affect the important interests of the other Party and are relevant to enforcement activities of the other Party include inter alia:
 - (a) enforcement activities against a national or nationals of the other Party (in the case of the European Community a national or nationals of the Member States of the European Community), or against a company or companies incorporated or organised under the applicable laws and regulations within the territory of the other Party;
 - (b) enforcement activities against anticompetitive activities other than concentrations which also take place or took place in significant part within the other Party's territory;
 - (c) enforcement activities which involve a concentration in which one or more parties to the transaction is a company incorporated or organised under the applicable laws and regulations of the territory of the other Party;
 - (d) enforcement activities which involve a concentration in which a company controlling one or more of the parties to the transaction is a company incorporated or organised under the applicable laws and regulations of the territory of the other Party;
 - (e) enforcement activities which involve conduct believed to have been encouraged, required or approved by the other Party; and
 - (f) enforcement activities which involve remedies that expressly require or prohibit conduct in the other Party's territory or

contain binding obligations for the undertakings in that territory.

3. Notifications with respect to concentrations pursuant to paragraph 1 of this Article shall be given:

- (a) in the case of the European Community:
 - (i) when initiating proceedings pursuant to Article 6(1)c of Council Regulation (EC) No 139/2004;
 - (ii) when issuing a Statement of Objections;
- (b) in the case of the Republic of Korea:
 - (i) not later than the time when the competition authority produces a written request either to extend the period of review or to ask for submission of additional materials concerning concentrations with potential anti-competitive effects; and
 - (ii) when issuing the examination report.

4. Where notification is required pursuant to paragraph 1 of this Article with respect to matters other than concentrations, notification shall be given:

- (a) in the case of the European Community:
 - (i) when issuing a Statement of Objections;
 - (ii) when adopting a decision or a settlement;
- (b) in the case of the Republic of Korea:
 - (i) when issuing the examination report;
 - (ii) when filing a criminal accusation;
 - (iii) when adopting a decision.

5. Notifications shall include in particular the names of the parties to the investigation, the activities under examination and the markets they relate to, the relevant legal provisions and the date of the enforcement activities.

Article 3

Enforcement Cooperation

1. The competition authority of each Party shall render assistance to the competition authority of the other Party in its enforcement activities to the extent consistent with the laws and regulations of the Party rendering the assistance and the important interests of that Party, and within its reasonably available resources.

2. The competition authority of each Party shall, to the extent consistent with the laws and regulations of the Party, and the important interests of that Party:

- (a) inform the competition authority of the other Party with respect to its enforcement activities involving anti-competitive activities that the informing competition authority considers may also have an adverse effect on competition within the territory of the other Party;
- (b) provide the competition authority of the other Party with any significant information, within its possession and that comes to its attention, about anti-competitive activities that the providing competition authority considers may be relevant to, or may warrant, enforcement activities by the competition authority of the other Party; and
- (c) provide the competition authority of the other Party, upon request and in accordance with the provisions of this Agreement, with information within its possession that is relevant to the enforcement activities of the competition authority of the other Party.

Article 4

Coordination of enforcement activities

1. Where the competition authorities of both Parties are pursuing enforcement activities with regard to related matters, they shall consider coordination of their enforcement activities to the extent compatible with their respective laws and regulations.
2. In considering whether particular enforcement activities should be coordinated, the competition authorities of the Parties should take into account the following factors, among others:
 - (a) the effect of such coordination on the ability of the competition authorities of both Parties to achieve the objectives of their enforcement activities;
 - (b) the relative abilities of the competition authorities of the Parties to obtain information necessary to conduct the enforcement activities;
 - (c) the possibility of avoiding conflicting obligations and unnecessary burdens for the persons subject to the enforcement activities;
 - (d) the opportunity to make more efficient use of their resources through coordination.
3. In any coordinated enforcement activities, the competition authority of each Party shall seek to conduct its enforcement activities with careful consideration to the objectives of the enforcement activities by the competition authority of the other Party.
4. Where the competition authorities of both Parties are pursuing enforcement activities with regard to related matters, the competition authority of each Party shall consider, upon request by the competition authority of the other Party and where consistent with the important interests of the requested Party, inquiring whether companies/persons who have provided confidential information in connection with those enforcement

activities will consent to the sharing of such information with the competition authority of the other Party (waiver of confidentiality).

5. Subject to appropriate notification to the competition authority of the other Party, the competition authority of either Party may, at any time, limit the coordination of enforcement activities and proceed independently on a specific enforcement activity.

Article 5

Conflict avoidance (Negative Comity)

1. The competition authority of each Party shall give careful consideration to the important interests of the other Party throughout all phases of its enforcement activities, including decisions regarding the initiation of enforcement activities, the scope of enforcement activities and the nature of sanctions or other relief sought in each case.
2. If a specific enforcement activity envisaged by a competition authority of one Party may affect the important interests of the other Party, the former, without prejudice to its full discretion, shall use its best endeavours:
 - (a) to provide to the other Party timely notice of significant developments relating to the interests of the latter;
 - (b) to give the other Party an opportunity to provide comments; and
 - (c) to take into consideration the comments of the other Party, while fully respecting the independence of each Party to make its own decision.

The application of paragraph 2 of this Article is without prejudice to the obligations of the Parties under paragraphs 3 and 4 of Article 2.

3. Where either Party considers that enforcement activities by its competition authority may adversely affect the important interests of the other Party, the Parties should consider the following factors, in addition to any other factor that may be relevant in the circumstances in seeking an appropriate accommodation of the competing interests:
 - (a) the relative significance of the effects of the anticompetitive activities on the enforcing Party's important interests as compared to the effects on the other Party's important interests;
 - (b) the relative significance to the anti-competitive activities of conduct or transactions occurring within the territory of one Party as compared to conduct or transactions occurring within the territory of the other Party;
 - (c) the extent to which enforcement activities by the other Party with respect to the same persons, either natural or legal, would be affected;

(d) the extent to which private persons, either natural or legal, will be placed under conflicting requirements by both Parties.

Article 6

Positive comity

1. If the competition authority of a Party believes that anti-competitive activities carried out in the territory of the other Party adversely affect the important interests of the former Party, such competition authority, taking into account the importance of avoiding conflicts regarding jurisdiction and taking into account that the competition authority of the other Party may be in a position to conduct more effective enforcement activities with regard to such anti-competitive activities, may request that the competition authority of the other Party initiate appropriate enforcement activities.

2. The request shall be as specific as possible about the nature of the anti-competitive activities and their effect on the important interests of the Party of the requesting competition authority, and shall include an offer of such further information and other cooperation as the requesting competition authority is able to provide.

3. The requested competition authority shall carefully consider whether to initiate enforcement activities, or whether to expand ongoing enforcement activities, with respect to the anti-competitive activities identified in the request. The requested competition authority shall inform the requesting competition authority of its decision as soon as practically possible. If enforcement activities are initiated, the requested competition authority shall inform the requesting competition authority of their outcome and, to the extent possible, of significant interim developments.

4. Nothing in this Article limits the discretion of the requested Party's competition authority under its competition laws and enforcement policies as to whether or not to undertake enforcement activities with respect to the anti-competitive activities identified in the request, or precludes the requesting Party's competition authority from withdrawing its request.

Article 7

Confidentiality

1. Notwithstanding any other provision of this Agreement, neither Party is required to communicate information to the other Party if such communication is prohibited by the laws and regulations of the Party possessing the information or if such communication would be incompatible with its important interests.

2. (a) The European Community is not required to communicate to the Republic of Korea under the Agreement confidential information covered by Article 28 of Council Regulation (EC) No 1/2003, and Article 17 of Council Regulation (EC) No 139/2004, except for the information communicated in accordance with the provisions of Article 4(4) of this Agreement.

(b) The Government of the Republic of Korea is not required to communicate to the European Community under the Agreement confidential information covered by Article 62 of the Monopoly Regulation and Fair Trade Act and Article 9 of the Disclosure of Information by Public Agencies Act, except for the information communicated in accordance with the provisions of Article 4(4) of this Agreement.

3. (a) Information, other than publicly available information, communicated by a Party to the other Party pursuant to this Agreement shall be used by the receiving Party solely for the purpose of investigating anti-competitive activities under its competition laws in connection with the matter specified in the request.

(b) When a Party communicates confidential information under this Agreement, the receiving Party shall, consistent with its laws and regulations, maintain the confidentiality of the communicated information.

4. A Party may require that information communicated pursuant to this Agreement be used subject to the terms and conditions it may specify. The receiving Party shall not use such information in a manner contrary to such terms and conditions without the prior written consent of the other Party.

5. Each Party may limit the information it communicates to the other Party when the latter Party is unable to give the assurance requested by it with respect to confidentiality, with respect to the terms and conditions it specifies, or with respect to the limitations of purposes for which the information will be used.

6. This Article shall not preclude the use or disclosure of information, other than publicly available information, by the receiving Party to the extent that:

(a) the Party providing the information has given its prior written consent to such use or disclosure; or

(b) there is an obligation to do so under the laws and regulations of the Party receiving the information. In such case, the receiving Party:

(i) shall not take any action which may result in a legal obligation to make available to a third party or other authorities information provided in confidence pursuant to this Agreement without the prior written consent of the Party providing the information;

(ii) shall, wherever possible, give advance notice of any such use or disclosure to the Party which provided the information and, upon request, consult with the other Party and give due consideration to its important interests; and

(iii) shall, unless otherwise agreed by the Party which provided the information, use all available measures under the applicable laws and regulations to maintain the confidentiality of information as regards applications by a third party or other authorities for disclosure of the information concerned.

7. The competition authority of the European Community:

- (a) will inform the competent authorities of the Member State or Member States whose important interests are affected of the notifications sent to it by the Korean competition authority;
- (b) will inform the competent authorities of such Member State or Member States of any cooperation and coordination of enforcement activities; and
- (c) shall ensure that information, other than publicly available information, communicated to the competent authorities of the Member State or Member States pursuant to subparagraphs (a) and (b) above shall not be used for any purpose other than the one specified in Article 1(1) of this Agreement, as well as that such information shall not be disclosed.

Article 8

Consultation

1. The Parties shall consult with each other, upon request of either Party, on any matter which may arise in the implementation of this Agreement.
2. The competition authorities of the Parties shall meet at least once a year and may:
 - (a) exchange information on their current enforcement efforts and priorities in relation to the competition laws of each Party;
 - (b) exchange information on economic sectors of common interest;
 - (c) discuss policy issues of mutual interest; and
 - (d) discuss other matters of mutual interest relating to the application of the competition laws of each Party.

Article 9

Communications under the Agreement

Communications under this Agreement may be carried out directly between the competition authorities of the Parties. Notifications under Article 2(3) and requests under Article 6(1) shall, however, be confirmed promptly in writing through diplomatic channels and shall contain the information initially exchanged between the competition authorities.

Article 10

Existing law

1. This Agreement shall be implemented within the respective laws and regulations of the Parties.
2. Nothing in this Agreement shall be construed to prejudice the policy or legal jurisdiction of either party regarding any issues related to jurisdiction.
3. Nothing in this Agreement shall be construed to affect the rights or obligations of either Party under other international agreements or under the laws of the Republic of Korea and the European Community.

Article 11

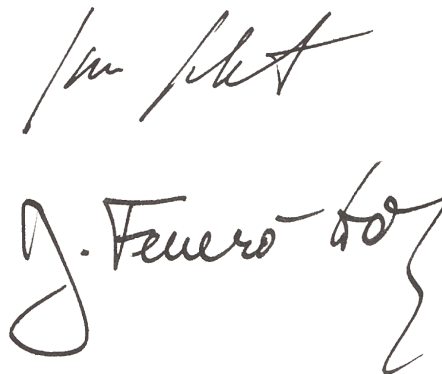
Entry into force, termination and review

1. This Agreement shall enter into force on the date when the Parties exchange written notifications that their respective legal requirements for the entry into force of this agreement have been fulfilled.
2. This Agreement shall remain in force until sixty (60) days after the date on which either Party notifies the other Party in writing through the diplomatic channel of its intention to terminate the Agreement.
3. The Parties shall consider reviewing the operation of this Agreement not later than five (5) years from the date of its entry into force, with a view to assessing their cooperative activities, identifying additional areas in which they could usefully cooperate and identifying any other ways in which the Agreement could be improved. The Parties agree that this review will include, among other things, an analysis of actual or potential cases to determine whether their interests could be better served through closer cooperation.
4. This Agreement may be amended with the mutual written consent of the Parties. Such amendment shall enter into force through the same procedures as set forth in paragraph 1 of this Article.

In WITNESS WHEREOF, the undersigned, being duly authorised thereto by the respective Parties, have signed this Agreement.

Done in duplicate, at Seoul on 23 May 2009 in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Korean languages. In case of divergence the English and Korean texts shall prevail over the other language texts.

За Европейската общност
 Por la Comunidad Europea
 Za Evropské společenství
 For Det Europæiske Fællesskab
 Für die Europäische Gemeinschaft
 Euroopa Ühenduse nimel
 Για την Ευρωπαϊκή Κοινότητα
 For the European Community
 Pour la Communauté européenne
 Per la Comunità europea
 Eiropas Kopienas vārdā
 Europos bendrijos vardu
 Az Európai Közösség részéről
 Ghall-Komunitá Ewropea
 Voor de Europese Gemeenschap
 W imieniu Wspólnoty Europejskiej
 Pela Comunidade Europeia
 Pentru Comunitatea Europeană
 Za Európske spoločenstvo
 Za Evropsko skupnost
 Euroopan yhteisön puolesta
 På Europeiska gemenskapen vägnar
 유럽공동체를 대표하여



За правителството на Република Корея
 Por el Gobierno de la República de Corea
 Za vládu Korejské republiky
 For Republikken Koreas regering
 Für die Regierung der Republik Korea
 Korea Vabariigi Valitsuse nimel
 Για την Κυβέρνηση της Δημοκρατίας της Κορέας
 For the Government of the Republic of Korea
 Pour le gouvernement de la République de Corée
 Per il governo della Repubblica di Corea
 Korejas Republikas valdības vārdā
 Korėjos Respublikos Vyriausybės vardu
 A Koreai Köztársaság kormánya részéről
 Ghall-Gvern tar-Repubblika tal-Korea
 Voor de Regering van de Republiek Korea
 W imieniu rządu Republiki Korei
 Pelo Governo da República da Coreia
 Pentru Guvernul Republicii Coreea
 Za vládu Kórejskej republiky
 Za Vlado Republike Korejo
 Korean tasavallan hallituksen puolesta
 På Republiken Koreas regerings vägnar
 대한민국 정부를 대표하여



COUNCIL DECISION**of 7 July 2009****on the existence of an excessive deficit in Malta**

(2009/587/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Malta,

Whereas:

- (1) According to Article 104 of the Treaty, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 104 of the Treaty, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾, which is part of the Stability and Growth Pact, provides for a decision on the existence of an excessive deficit. The Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 3605/93⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.
- (5) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having taken into account its report in accordance with Article 104(3) of the Treaty and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty, the Commission concluded that an excessive deficit exists in Malta. The Commission therefore addressed such an opinion to the Council in respect of Malta on 24 June 2009⁽³⁾.
- (6) Article 104(6) of the Treaty states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Malta, this overall assessment leads to the conclusion set out in this Decision.
- (7) According to data notified by the Maltese authorities in March 2009 and subsequently validated by Eurostat, the general government deficit in Malta reached 4,7 % of GDP in 2008, thus largely exceeding the 3 % of GDP reference value. The deficit is not close to the 3 % of GDP reference value and the excess over the reference value cannot be qualified as exceptional within the meaning of the Treaty and of the Stability and Growth Pact. In particular, it did not result from an unusual event or from a severe economic downturn in 2008 in the sense of the Treaty and of the Stability and Growth Pact. Indeed, real GDP growth between 2005 and 2007 was above 3 % annually, significantly higher than potential growth. Economic growth slowed down in 2008, but remained positive at 1,6 % and, according to the latest data, was revised upwards to 2,5 %. Furthermore, the excess over the reference value cannot be considered temporary. According to the Commission services' spring 2009 forecast, the deficit ratio is projected to decline but remain above the threshold over the forecast horizon, at 3,6 % of GDP in 2009 and, under the customary no-policy-change assumption, 3,2 % of GDP in 2010. The deficit criterion in the Treaty is therefore not fulfilled.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 332, 31.12.1993, p. 7.

⁽³⁾ All EDP-related documents for Malta can be found at the following website:
http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

- (8) General government gross debt has been above the 60 % of GDP reference value since 2003 and stood at 64,1 % of GDP in 2008. According to the Commission services' spring 2009 forecast, general government debt is projected to follow an upward trend, increasing to almost 69 % by 2010. The debt ratio cannot be considered as sufficiently diminishing and approaching the reference value at a satisfactory pace within the meaning of the Treaty and of the Stability and Growth Pact. The debt criterion in the Treaty is therefore not fulfilled.
- (9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 104(6) of the Treaty if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Malta, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment, it follows that an excessive deficit exists in Malta.

Article 2

This Decision is addressed to the Republic of Malta.

Done at Brussels, 7 July 2009.

For the Council
The President
A. BORG

COUNCIL DECISION**of 7 July 2009****on the existence of an excessive deficit in Lithuania**

(2009/588/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Lithuania,

Whereas:

- (1) According to Article 104 of the Treaty, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 104 of the Treaty, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾, which is part of the Stability and Growth Pact, provides for a decision on the existence of an excessive deficit. The Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 3605/93⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.
- (5) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having taken into account its report in accordance with Article 104(3) of the Treaty and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4), the Commission concluded that an excessive deficit exists in Lithuania. The Commission therefore addressed such an opinion to the Council in respect of Lithuania on 24 June 2009⁽³⁾.
- (6) Article 104(6) of the Treaty states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Lithuania, this overall assessment leads to the conclusion set out in this Decision.
- (7) According to EDP notification by the Lithuanian authorities, the general government deficit in Lithuania reached 3,2 % of GDP in 2008, thus exceeding the 3,0 % of GDP reference value. The deficit was close to the 3,0 % of GDP reference value but the excess over the reference value cannot be qualified as exceptional within the meaning of the Treaty and of the Stability and Growth Pact. In particular, it did not result from a severe economic downturn in 2008, when GDP growth declined to 3,0 % in 2008 from 8,9 % in 2007. This annual average growth figure alone does not allow the 2008 deficit to be qualified as exceptional. Furthermore, the excess over the reference value cannot be considered temporary. According to the Commission services' spring 2009 forecast, taking into account measures for the current year in the budget for 2009 and in the supplementary budget adopted by Parliament in May 2009, the deficit would widen to 5,4 % of GDP in 2009, and on a no-policy-change assumption, to worsen further to 8,0 % of GDP in 2010. Therefore, the deficit criterion in the Treaty is not fulfilled.
- (8) General government gross debt remains well below the 60 % of GDP reference value and stood at 15,6 % of GDP in 2008. It is, nevertheless, according to the Commission services' spring 2009 forecast, projected to rise rapidly to 22,6 % of GDP in 2009 and to 31,9 % in 2010 mainly due to expected high primary deficits.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 332, 31.12.1993, p. 7.

⁽³⁾ All EDP-related documents for Lithuania can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

(9) In accordance with the Stability and Growth Pact, due consideration should be given to systemic pension reforms introducing a multi-pillar system that includes a mandatory, fully funded pillar. While the implementation of these reforms leads to a temporary deterioration of the budgetary position, the long-term sustainability of public finances clearly improves. Based on the estimates of the Lithuanian authorities, the net costs of this reform amount to 1,0 % of GDP in 2008, and due to the temporary reduction of contributions from 5,5 % to 2,0 %, 0,5 % in 2009 and 0,4 % in 2010. According to the Stability and Growth Pact, these can be taken into account on a linear degressive basis for a transitory period and only where the deficit remains close to the reference value. For 2008, which is the only year in which the deficit can be considered close to the reference value, taking into account the net cost of the reform would produce an adjusted deficit of 2,6 % of GDP. For 2009 and 2010, on the other hand, the deficit forecast by the Commission services is no longer close to the reference value and, therefore, the cost of the pension reform cannot be taken into account.

(10) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with

Article 104(6) of the Treaty if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Lithuania, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment, it follows that an excessive deficit exists in Lithuania.

Article 2

This Decision is addressed to the Republic of Lithuania.

Done at Brussels, 7 July 2009.

For the Council
The President
A. BORG

COUNCIL DECISION

of 7 July 2009

on the existence of an excessive deficit in Poland

(2009/589/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Poland,

Whereas:

- (1) According to Article 104 of the Treaty Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 104 of the Treaty, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾, which is part of the Stability and Growth Pact, provides for a decision on the existence of an excessive deficit. The Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 3605/93⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.
- (5) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having taken into account its report in accordance with Article 104(3) of the Treaty and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty, the Commission concluded that an excessive deficit exists in Poland. The Commission therefore addressed such an opinion to the Council in respect of Poland on 24 June 2009⁽³⁾.
- (6) Article 104(6) of the Treaty states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Poland, this overall assessment leads to the conclusion set out in this Decision.
- (7) According to the April 2009 EDP notification by the Polish authorities, subsequently validated by Eurostat, the general government deficit in Poland reached 3,9 % of GDP in 2008, thus exceeding the 3 % of GDP reference value. The deficit was not close to the 3 % of GDP reference value and the excess over the reference value cannot be qualified as exceptional within the meaning of the Treaty and of the Stability and Growth Pact. In particular, it does not result from an unusual event within the meaning of the Treaty and of the Stability and Growth Pact. Moreover, it does not result from a severe economic downturn in the sense of the Treaty and of the Stability and Growth Pact. Despite growth slowing down to 3,3 % year-on-year in the last quarter of 2008, which affected revenue collection in the last quarter of the year and added to the worse-than-expected deficit outcome, overall GDP growth was still relatively robust at 4,9 % in 2008.
- Potential GDP growth is estimated to be of the order of 4 ½ % and the output gap to have reached about 3 ½ % of potential GDP, indicating favourable cyclical conditions. Furthermore, the excess over the reference value cannot be considered temporary. According to the Commission services' spring 2009 forecast, the general government deficit is expected to reach 6,6 % of GDP in 2009 and, on a no-policy-change assumption, 7,3 % in 2010 against a GDP contraction of 1,4 % in 2009 and GDP growth of 0,8 % in 2010. The deficit will increase in 2009 also according to the Polish authorities which, on 22 June 2009, announced that the general

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 332, 31.12.1993, p. 7.

⁽³⁾ All EDP-related documents for Poland can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=m2

- government deficit may significantly exceed the 4,6 % of GDP planned for the current year in the Spring 2009 EDP notification⁽¹⁾. Therefore, the deficit criterion in the Treaty is not fulfilled.
- (8) General government gross debt remains below the 60 % of GDP reference value and stood at 47,1 % of GDP in 2008. However, due to high expected deficits, the general government debt is likely to reach almost 60 % on a no-policy-change assumption in 2010 according to the Commission's spring 2009 forecast.
- (9) In accordance with the Stability and Growth Pact, due consideration should be given to systemic pension reforms introducing a multi-pillar system that includes a mandatory, fully-funded pillar. While the implementation of these reforms leads to a temporary deterioration of the budgetary position, the long-term sustainability of public finances clearly improves. Based on the estimates of the Polish authorities, the net cost of this reform amounted to 2,9 % of GDP in 2008, rising to 3,2 % of GDP in 2009, as recalled by the Polish authorities in their letter of 22 June. According to the Stability and Growth Pact, these can be taken into account on a linear degressive basis for a transitory period and only where the deficit remains close to the reference value. Since the deficit does not remain close to the reference value in 2008-2010, the cost of the pension reform cannot be taken into account.
- (10) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 104(6) of the Treaty if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Poland, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment, it follows that an excessive deficit exists in Poland.

Article 2

This Decision is addressed to the Republic of Poland.

Done at Brussels, 7 July 2009.

For the Council
The President
A. BORG

⁽¹⁾ Letter from Finance Minister Mr Rostowski to Commissioner Almunia.

COUNCIL DECISION**of 7 July 2009****on the existence of an excessive deficit in Romania**

(2009/590/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Whereas:

- (1) According to Article 104 of the Treaty, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 104 of the Treaty, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾, which is part of the Stability and Growth Pact, provides for a decision on the existence of an excessive deficit. The Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 3605/93⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.
- (5) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having taken into account its

report in accordance with Article 104(3) of the Treaty and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty, the Commission concluded that an excessive deficit exists in Romania. The Commission therefore addressed such an opinion to the Council in respect of Romania on 13 May 2009⁽³⁾.

- (6) Article 104(6) of the Treaty states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Romania, this overall assessment leads to the conclusion set out in this Decision.
- (7) According to the April 2009 EDP notification by the Romanian authorities, subsequently validated by Eurostat, the general government deficit in Romania reached 5,4 % of GDP in 2008, thus exceeding the 3 % of GDP reference value. The deficit was not close to the 3 % of GDP reference value and the excess over the reference value cannot be qualified as exceptional within the meaning of the Treaty and of the Stability and Growth Pact. In particular, it does not result from an unusual event or from a severe economic downturn in 2008 in the sense of the Treaty and of the Stability and Growth Pact. Despite growth slowing down in the final quarter of the year, overall GDP growth in 2008 accelerated to a rate of 7,1 %, from 6 % in 2007 and significantly above the rate of potential growth. Furthermore, the excess over the reference value cannot be considered temporary. According to the Commission services' spring 2009 forecast, the general government deficit is expected to reach 5,1 % of GDP in 2009 and, on a no-policy-change assumption, 5,6 % in 2010. This projection is based on GDP growth of -4,0 % in 2009 and 0 % in 2010. The Commission services' forecast takes into account measures for the current year in the budget for 2009 approved in February 2009 and the additional measures adopted by the government in April 2009. The deficit criterion in the Treaty is not fulfilled.
- (8) General government gross debt remains well below the 60 % of GDP reference value and stood at 13,6 % of GDP in 2008. Nevertheless, according to the Commission services' spring 2009 forecast, the debt-to-GDP ratio is anticipated to increase to 18 ¼ % in 2009 and 22 ¾ % in 2010.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 332, 31.12.1993, p. 7.

⁽³⁾ All EDP-related documents for Romania can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

(9) In accordance with the Stability and Growth Pact, due consideration was given to systemic pension reforms introducing a multi-pillar system that includes a mandatory, fully-funded pillar. While the implementation of these reforms leads to a temporary deterioration of the budgetary position, the long-term sustainability of public finances clearly improves. Based on the estimates of the Romanian authorities, the net costs of this reform amount to 0,2 % of GDP in 2008, 0,3 % in 2009, 0,4 % in 2010 and 0,4 % in 2011. According to the Stability and Growth Pact, these can be taken into account on a linear degressive basis for a transitory period and only where the deficit remains close to the reference value, which is not the case for Romania. In any event, the government deficit adjusted for the pension reform cost in 2008 would be well above 3 % of GDP.

(10) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 104(6) of the Treaty if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is

fully met. In the case of Romania, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment, it follows that an excessive deficit exists in Romania.

Article 2

This Decision is addressed to Romania.

Done at Brussels, 7 July 2009.

For the Council
The President
A. BORG

COUNCIL DECISION

of 7 July 2009

on the existence of an excessive deficit in Latvia

(2009/591/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Latvia,

Whereas:

- (1) According to Article 104 of the Treaty, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 104 of the Treaty, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾, which is part of the Stability and Growth Pact, provides for a decision on the existence of an excessive deficit. The Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 3605/93⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact in 2005 sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.
- (5) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having taken into account its report in accordance with Article 104(3) of the Treaty and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty, the Commission concluded that an excessive deficit exists in Latvia. The Commission therefore addressed such an opinion to the Council in respect of Latvia on 2 July 2009⁽³⁾.
- (6) Article 104(6) of the Treaty states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Latvia, this overall assessment leads to the conclusion set out in this Decision.
- (7) According to the April 2009 EDP notification, the general government deficit in Latvia reached 4 % of GDP in 2008, thus exceeding the 3 % of GDP reference value. Furthermore, the deficit was not close to the 3 % of GDP reference value. The excess over the reference value can, however, be qualified as exceptional within the meaning of the Treaty and of the Stability and Growth Pact. In particular, it results from a severe economic downturn in the sense of the Treaty and of the Stability and Growth Pact. According to the Commission services' spring 2009 forecast, real GDP growth in Latvia is projected to be strongly negative in 2009, with output 13,1 % after falling by 4,6 % in 2008; more recent indicators point to an even larger contraction in 2009, of the order of 18 %.

Consequently, the targets set in December 2008 under the framework of the Community balance of payments assistance programme — namely 5,3 % of GDP in 2009, 4,9 % of GDP in 2010 and below 3 % in 2011 — have become unrealistic. However, the excess over the reference value cannot be considered temporary. According to the Commission services' spring forecast, taking into account budgetary measures for 2009 based only on the amendments adopted in December 2008, the deficit would widen from 4 % of GDP in 2008 to 11,1 % of GDP in 2009 and, on a no-policy change assumption, worsen further to 13,6 % of GDP in 2010. After adoption of the package of new consolidation measures by the Latvian authorities in June 2009, and

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.

⁽²⁾ OJ L 332, 31.12.1993, p. 7.

⁽³⁾ All EDP-related documents for Latvia can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

indicated by the authorities for 2010, and assuming their full implementation, the general government deficit may reach around 10 % of GDP in 2009 and 8,5 % in 2010 and 6 % in 2011 ⁽¹⁾. Therefore, although the excess of the 2008 deficit over the reference value appears exceptional, the deficit was not close to the reference value and the excess cannot be considered temporary. Thus the deficit criterion in the Treaty is not fulfilled.

(8) General government gross debt stood at 19,5 % of GDP in 2008, still well below the 60 % of GDP reference value. It is nevertheless projected to be on a rapidly growing trend (in the Commission services' spring forecast, rising to 34,1 % of GDP in 2009 and 50,1 % of GDP in 2010, assuming full take-up of the international financial assistance being extended to Latvia during the period up to 2011). Taking account of the new consolidation measures adopted in June 2009 and further consolidation plans indicated by the authorities for 2010-12, and depending on whether and to what extent the government assumes further debt in respect of financial sector stabilisation needs, the gross debt ratio may exceed the 60 % of GDP reference value in 2012 even with sufficient corrective action.

(9) The budgetary impact of the fully-funded pillar of the systemic pension reform introduced by the Latvian government will be considered, in line with the provisions of the Stability and Growth Pact. While the implementation of these reforms leads to a temporary deterioration of the budgetary position, the long-term sustainability of public finances clearly improves. Based on Commission services' estimates, the total cost of such a reform undertaken in Latvia amounts to 1,6 % of GDP in 2008, and, due to the temporary reduction of contributions from 8 % to 2 % in 2009, -0,4 % in 2009 and in 2010. The social contribution rate transferred to the fully-funded second pillar is planned to be increased to 4 % in 2011 and to 6 % in 2012, which is

projected to increase the total cost of the reform in 2011-2012 respectively to 0,8 and 1,2 percentage points of GDP. According to the Stability and Growth Pact, these can be taken into account on a linear degressive basis for a transitory period and only where the deficit remains close to the reference value. Since in 2008 the deficit was not close to the reference value, and for 2009 and 2010 the deficit forecast by the Commission services remains not close to the reference value, the cost of the pension reform cannot be taken into account.

(10) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 104(6) of the Treaty if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Latvia, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment, it follows that an excessive deficit exists in Latvia.

Article 2

This Decision is addressed to the Republic of Latvia.

Done at Brussels, 7 July 2009.

For the Council
The President
A. BORG

⁽¹⁾ The impact of the temporary redirection of the social contribution payments from the second pillar pension system is included in these estimates.

COUNCIL DECISION**of 13 July 2009****amending Decision 2009/290/EC of 20 January 2009 providing Community medium-term financial assistance for Latvia**

(2009/592/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Article 1

Having regard to the Treaty establishing the European Community,

Decision 2009/290/EC is hereby amended as follows:

Having regard to Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States balances of payments ⁽¹⁾ and in particular Article 5, second subparagraph, in conjunction with Article 8 thereof,

1. Article 3(5)(a) shall be replaced by the following:

'(a) implementation of a clearly-set medium-term fiscal programme so as to bring the general government deficit below the Treaty reference value of 3 % of GDP with a timeframe and consolidation path consistent with the Council recommendation(s) to Latvia adopted under the excessive deficit procedure;'

Having regard to the proposal from the Commission made after consulting the Economic and Financial Committee (EFC),

2. Article 3(5)(b) shall be replaced by the following:

'(b) implementation of the budget for 2009 and adoption of the budget for 2010 with sustainable measures consistent with the consolidation path;'

Whereas:

Article 2

(1) By Decision 2009/289/EC ⁽²⁾, the Council decided to grant mutual assistance to Latvia. By Decision 2009/290/EC ⁽³⁾, the Council decided to provide medium-term financial assistance for Latvia.

This Decision is addressed to the Republic of Latvia.

Article 3

(2) The scope and intensity of the financial crisis affecting Latvia calls for a revision of the economic policy conditions foreseen for the disbursement of the instalments of the Community financial assistance with a view to taking into account the fiscal effects entailed by the significant reduction of the GDP.

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

Done at Brussels, 13 July 2009.

(3) Decision 2009/290/EC should therefore be amended accordingly,

*For the Council**The President*

E. ERLANDSSON

⁽¹⁾ OJ L 53, 23.2.2002, p. 1.

⁽²⁾ OJ L 79, 25.3.2009, p. 37.

⁽³⁾ OJ L 79, 25.3.2009, p. 39.

COUNCIL DECISION

of 27 July 2009

amending Decision 1999/70/EC concerning the external auditors of the national central banks, as regards the external auditors of the Banka Slovenije

(2009/593/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/2009/12 of the European Central Bank of 5 June 2009 to the Council of the European Union on the external auditors of Banka Slovenije ⁽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) The mandate of the current external auditor of the Banka Slovenije will end after the audit for the financial year 2008. It is therefore necessary to appoint a new external auditor from the financial year 2009.
- (3) The Banka Slovenije has selected Deloitte revizija d.o.o. as its external auditor for the financial years 2009 to 2011.
- (4) The Governing Council of the ECB recommended that Deloitte revizija d.o.o. should be appointed as the

external auditor of the Banka Slovenije for the financial years 2009 to 2011.

- (5) 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(13) of Decision 1999/70/EC shall be replaced by the following:

‘13. Deloitte revizija d.o.o. is hereby approved as the external auditor of the Banka Slovenije for the financial years 2009 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, 27 July 2009.

For the Council

The President

C. BILDT

⁽¹⁾ OJ C 132, 11.6.2009, p. 1.

⁽²⁾ OJ L 22, 29.1.1999, p. 69.

EUROPEAN CENTRAL BANK

DECISION OF THE EUROPEAN CENTRAL BANK

of 17 July 2009

amending Decision ECB/2006/17 on the annual accounts of the European Central Bank

(ECB/2009/19)

(2009/594/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

HAS DECIDED AS FOLLOWS:

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular to Article 26.2 thereof,

Article 1

Amendments

Decision ECB/2006/17 is amended as follows:

Whereas:

1. Article 1(1) shall be replaced by the following:

(1) Guideline ECB/2009/10 of 7 May 2009 amending Guideline ECB/2000/7 on monetary policy instruments and procedures of the Eurosystem⁽¹⁾ allows access to Eurosystem open market operations and standing facilities by credit institutions which, in view of their specific institutional nature under Community law, are subject to scrutiny of a standard comparable to supervision by competent national authorities.

'1. The terms defined in Article 1 of Guideline ECB/2006/16 shall have the same meaning when used in this Decision.'

(2) Decision ECB/2009/16 of 2 July 2009 on the implementation of the covered bond purchase programme⁽²⁾ provides for the establishment of a programme for the purchase of covered bonds.

2. Annexes I and II to Decision ECB/2006/17 are amended in accordance with the Annex to this Decision.

Article 2

Final provision

This Decision shall enter into force on 1 July 2009.

(3) Decision ECB/2006/17 of 10 November 2006 on the annual accounts of the European Central Bank⁽³⁾ needs to be amended in order to reflect these policy developments,

Done at Frankfurt am Main, 17 July 2009.

The President of the ECB
Jean-Claude TRICHET

⁽¹⁾ OJ L 123, 19.5.2009, p. 99.

⁽²⁾ OJ L 175, 4.7.2009, p. 18.

⁽³⁾ OJ L 348, 11.12.2006, p. 38.

ANNEX

Annexes I and II to Decision ECB/2006/17 are amended as follows:

1. The table entitled 'Assets' in Annex I is replaced by the following:

'ASSETS

Balance sheet item	Categorisation of contents of balance sheet items	Valuation principle
1. Gold and gold receivables	Physical gold, i.e. bars, coins, plates, nuggets, in storage or "under way". Non-physical gold, such as balances in gold sight accounts (unallocated accounts), term deposits and claims to receive gold arising from the following transactions: (i) upgrading or downgrading transactions; and (ii) gold location or purity swaps where there is a difference of more than one business day between release and receipt	Market value
2. Claim on non-euro area residents denominated in foreign currency	Claims on counterparties resident outside the euro area including international and supranational institutions and central banks outside the euro area denominated in foreign currency	
2.1. Receivables from the International Monetary Fund (IMF)	<p>(a) <i>Drawing rights within the reserve tranche (net)</i></p> <p>National quota minus balances in euro at the disposal of the IMF. The No 2 account of the IMF (euro account for administrative expenses) may be included in this item or under the item "Liabilities to non-euro area residents denominated in euro"</p> <p>(b) <i>Special drawing rights</i></p> <p>Holdings of special drawing rights (gross)</p> <p>(c) <i>Other claims</i></p> <p>General arrangements to borrow, loans under special borrowing arrangements, deposits within the framework of the Poverty Reduction and Growth Facility</p>	<p>(a) <i>Drawing rights within the reserve tranche (net)</i></p> <p>Nominal value, translation at the foreign exchange market rate</p> <p>(b) <i>Special drawing rights</i></p> <p>Nominal value, translation at the foreign exchange market rate</p> <p>(c) <i>Other claims</i></p> <p>Nominal value, translation at the foreign exchange market rate</p>
2.2. Balances with banks and security investments, external loans and other external assets	<p>(a) <i>Balances with banks outside the euro area other than those under asset item "Other financial assets"</i></p> <p>Current accounts, fixed-term deposits, day-to-day money, reverse repo transactions</p>	<p>(a) <i>Balances with banks outside the euro area</i></p> <p>Nominal value, translation at the foreign exchange market rate</p>

Balance sheet item	Categorisation of contents of balance sheet items	Valuation principle
	<p>(b) <i>Security investments outside the euro area other than those under asset item "Other financial assets"</i></p> <p>Notes and bonds, bills, zero bonds, money market paper, equity instruments held as part of the foreign reserves, all issued by non-euro area residents</p> <p>(c) <i>External loans (deposits) to non-euro area residents other than those under asset item "Other financial assets"</i></p> <p>(d) <i>Other external assets</i></p> <p>Non-euro area banknotes and coins</p>	<p>(b)(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p> <p>(b)(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p> <p>(b)(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p> <p>(b)(iv) <i>Marketable equity instruments</i></p> <p>Market price and foreign exchange market rate</p> <p>(c) <i>External loans</i></p> <p>Deposits at nominal value, translated at the foreign exchange market rate</p> <p>(d) <i>Other external assets</i></p> <p>Nominal value, translation at the foreign exchange market rate</p>
<p>3. Claims on euro area residents denominated in foreign currency</p>	<p>(a) <i>Security investments inside the euro area other than those under asset item "Other financial assets"</i></p> <p>Notes and bonds, bills, zero bonds, money market paper, equity instruments held as part of the foreign reserves, all issued by euro area residents</p>	<p>(a)(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p> <p>(a)(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p>

Balance sheet item	Categorisation of contents of balance sheet items	Valuation principle
	<p>(b) <i>Other claims on euro area residents other than those under asset item "Other financial assets"</i></p> <p>Loans, deposits, reverse repo transactions, sundry lending</p>	<p>(a)(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p> <p>(a)(iv) <i>Marketable equity instruments</i></p> <p>Market price and foreign exchange market rate</p> <p>(b) <i>Other claims</i></p> <p>Deposits and other lending at nominal value, translated at the foreign exchange market rate</p>
<p>4. Claims on non-euro area residents denominated in euro</p>		
<p>4.1. Balances with banks, security investments and loans</p>	<p>(a) <i>Balances with banks outside the euro area other than those under asset item "Other financial assets"</i></p> <p>Current accounts, fixed-term deposits, day-to-day money, reverse repo transactions in connection with the management of securities denominated in euro</p> <p>(b) <i>Security investments outside the euro area other than those under asset item "Other financial assets"</i></p> <p>Equity instruments, notes and bonds, bills, zero bonds, money market paper, all issued by non-euro area residents</p> <p>(c) <i>Loans to non-euro area residents other than those under asset item "Other financial assets"</i></p>	<p>(a) <i>Balances with banks outside the euro area</i></p> <p>Nominal value</p> <p>(b)(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price</p> <p>Any premiums or discounts are amortised</p> <p>(b)(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(b)(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(b)(iv) <i>Marketable equity instruments</i></p> <p>Market price</p> <p>(c) <i>Loans outside the euro area</i></p> <p>Deposits at nominal value</p>

Balance sheet item	Categorisation of contents of balance sheet items	Valuation principle
	<p>(d) <i>Securities issued by entities outside the euro area other than those under asset item "Other financial assets"</i></p> <p>Securities issued by supranational or international organisations, e.g. the European Investment Bank, irrespective of their geographical location</p>	<p>(d)(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price</p> <p>Premiums/discounts are amortised</p> <p>(d)(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(d)(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p>
4.2. Claims arising from the credit facility under ERM II	Lending according to the ERM II conditions	Nominal value
5. Lending to euro area credit institutions related to monetary policy operations denominated in euro	Items 5.1 to 5.5: transactions according to the respective monetary policy instruments described in Annex I to Guideline ECB/2000/7 of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem ⁽¹⁾	
5.1. Main refinancing operations	Regular liquidity-providing reverse transactions with a weekly frequency and normally a maturity of one week	Nominal value or repo cost
5.2. Longer-term refinancing operations	Regular liquidity-providing reverse transactions with a monthly frequency and normally a maturity of three months	Nominal value or repo cost
5.3. Fine-tuning reverse operations	Reverse transactions, executed as ad hoc transactions for fine-tuning purposes	Nominal value or repo cost
5.4. Structural reverse operations	Reverse transactions adjusting the structural position of the Eurosystem vis-à-vis the financial sector	Nominal value or repo cost
5.5. Marginal lending facility	Overnight liquidity facility at a pre-specified interest rate against eligible assets (standing facility)	Nominal value or repo cost
5.6. Credits related to margin calls	Additional credit to credit institutions, arising from value increases of underlying assets regarding other credit to these credit institutions	Nominal value or cost

Balance sheet item	Categorisation of contents of balance sheet items	Valuation principle
6. Other claims on euro area credit institutions denominated in euro	Current accounts, fixed-term deposits, day-to-day money, reverse repo transactions in connection with the management of security portfolios under the asset item "Securities of euro area residents denominated in euro", including transactions resulting from the transformation of former foreign currency reserves of the euro area, and other claims. Correspondent accounts with non-domestic euro area credit institutions. Other claims and operations unrelated to monetary policy operations of the Eurosystem	Nominal value or cost
7. Securities of euro area residents denominated in euro		
7.1. Securities held for monetary policy purposes	Securities issued in the euro area held for monetary policy purposes. ECB debt certificates purchased for fine-tuning purposes	<p>(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price</p> <p>Any premiums or discounts are amortised</p> <p>(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p>
7.2. Other securities	Securities other than those under asset item 7.1 "Securities held for monetary policy purposes" and under asset item 11.3 "Other financial assets"; notes and bonds, bills, zero bonds, money market paper held outright, including government securities stemming from before EMU, denominated in euro. Equity instruments	<p>(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price</p> <p>Any premiums or discounts are amortised</p> <p>(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p>

Balance sheet item	Categorisation of contents of balance sheet items	Valuation principle
		(iv) <i>Marketable equity instruments</i> Market price
8. General government debt denominated in euro	Claims on government stemming from before EMU (non-marketable securities, loans)	Deposits/loans at nominal value, non-marketable securities at cost
9. Intra-Eurosystem claims		
9.1. Claims related to promissory notes backing the issuance of ECB debt certificates	Only an ECB balance sheet item Promissory notes issued by NCBs, due to the back-to-back agreement in connection with ECB debt certificates	Nominal value
9.2. Claims related to the allocation of euro banknotes within the Eurosystem	Claims related to the ECB's banknote issue, according to Decision ECB/2001/15 of 6 December 2001 on the issue of euro banknotes (2)	Nominal value
9.3. Other claims within the Eurosystem (net)	Net position of the following sub-items: (a) net claims arising from balances of TARGET2 accounts and correspondent accounts of NCBs, i.e. the net figure of claims and liabilities — see also liability item "Other liabilities within the Eurosystem (net)" (b) other intra-Eurosystem claims that may arise, including the interim distribution of ECB seigniorage income to NCBs	(a) Nominal value (b) Nominal value
10. Items in course of settlement	Settlement account balances (claims), including the float of cheques in collection	Nominal value
11. Other assets		
11.1. Coins of euro area	Euro coins	Nominal value
11.2. Tangible and intangible fixed assets	Land and buildings, furniture and equipment including computer equipment, software	Cost less depreciation Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life. The useful life is the period over which a fixed asset is expected to be available for use by the entity. Useful lives of individual material fixed assets may be reviewed on a systematic basis, if expectations differ from previous estimates. Major assets may comprise components with different useful lives. The lives of such components should be assessed individually.

Balance sheet item	Categorisation of contents of balance sheet items	Valuation principle
		<p>The cost of intangible assets includes the price for the acquisition of the intangible asset. Other direct or indirect costs are to be expensed</p> <p>Capitalisation of expenditure: limit based (below EUR 10 000 excluding VAT: no capitalisation)</p>
<p>11.3. Other financial assets</p>	<ul style="list-style-type: none"> — Participating interests and investments in subsidiaries, equities held for strategic/policy reasons — Securities including equities, and other financial instruments and balances including fixed-term deposits and current accounts held as an earmarked portfolio — Reverse repo transactions with credit institutions in connection with the management of securities portfolios under this item 	<p>(a) <i>Marketable equity instruments</i></p> <p>Market price</p> <p>(b) <i>Participating interests and illiquid equity shares, and any other equity instruments held as permanent investments</i></p> <p>Cost subject to impairment</p> <p>(c) <i>Investment in subsidiaries or significant interests</i></p> <p>Net asset value</p> <p>(d) <i>Marketable securities other than held to maturity</i></p> <p>Market price</p> <p>Premiums/discounts are amortised</p> <p>(e) <i>Marketable securities classified as held-to maturity or held as a permanent investment</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(f) <i>Non-marketable securities</i></p> <p>Cost subject to impairment</p> <p>(g) <i>Balances with banks and loans</i></p> <p>Nominal value, translated at the foreign exchange market rate if the balances/deposits are denominated in foreign currencies</p>
<p>11.4. Off-balance-sheet instruments revaluation differences</p>	<p>Valuation results of foreign exchange forwards, foreign exchange swaps, interest rate swaps, forward rate agreements, forward transactions in securities, foreign exchange spot transactions from trade date to settlement date</p>	<p>Net position between forward and spot, at the foreign exchange market rate</p>

Balance sheet item	Categorisation of contents of balance sheet items	Valuation principle
11.5. Accruals and prepaid expenditure	Income not due in, but assignable to the reported period. Prepaid expenditure and accrued interest paid (i.e. accrued interest purchased with a security)	Nominal value, foreign exchange translated at market rate
11.6. Sundry	(a) Advances, loans and other minor items. Loans on a trust basis (b) Investments related to customer gold deposits (c) Net pension assets	(a) Nominal value or cost (b) Market value (c) As per Article 22(3)
12. Loss for the year		Nominal value

(¹) OJ L 310, 11.12.2000, p. 1.

(²) OJ L 337, 20.12.2001, p. 52.

2. The table entitled 'Annual balance sheet of the ECB' in Annex II is replaced by the following:

'Annual balance sheet of the ECB

(EUR million) (1)

Assets (2)	Reporting year	Previous year	Liabilities	Reporting year	Previous year
1. Gold and gold receivables			1. Banknotes in circulation		
2. Claims on non-euro area residents denominated in foreign currency			2. Liabilities to euro area credit institutions related to monetary policy operations denominated in euro		
2.1. Receivables from the IMF			2.1. Current accounts (covering the minimum reserve system)		
2.2. Balances with banks and security investments, external loans and other external assets			2.2. Deposit facility		
3. Claims on euro area residents denominated in foreign currency			2.3. Fixed-term deposits		
4. Claims on non-euro area residents denominated in euro			2.4. Fine-tuning reverse operations		
4.1. Balances with banks, security investments and loans			2.5. Deposits related to margin calls		
4.2. Claims arising from the credit facility under ERM II			3. Other liabilities to euro area credit institutions denominated in euro		
5. Lending to euro area credit institutions related to monetary policy operations denominated in euro			4. ECB debt certificates issued		
5.1. Main refinancing operations			5. Liabilities to other euro area residents denominated in euro		
5.2. Longer-term refinancing operations			5.1. General government		
5.3. Fine-tuning reverse operations			5.2. Other liabilities		
5.4. Structural reverse operations			6. Liabilities to non-euro area residents denominated in euro		
5.5. Marginal lending facility			7. Liabilities to euro area residents denominated in foreign currency		
5.6. Credits related to margin calls			8. Liabilities to non-euro area residents denominated in foreign currency		
6. Other claims on euro area credit institutions denominated in euro			8.1. Deposits, balances and other liabilities		
7. Securities of euro area residents denominated in euro			8.2. Liabilities arising from the credit facility under ERM II		
7.1. Securities held for monetary policy purposes			9. Counterpart of special drawing rights allocated by the IMF		
7.2. Other securities			10. Intra-Eurosystem liabilities		
8. General government debt denominated in euro			10.1. Liabilities equivalent to the transfer of foreign reserves		
9. Intra-Eurosystem claims			10.2. Other liabilities within the Eurosystem (net)		
9.1. Claims related to promissory notes backing the issuance of ECB debt certificates			11. Items in course of settlement		
9.2. Claims related to the allocation of euro banknotes within the Eurosystem			12. Other liabilities		
9.3. Other claims within the Eurosystem (net)			12.1. Off-balance sheet instruments revaluation differences		
			12.2. Accruals and income collected in advance		

(EUR million) ⁽¹⁾

Assets ⁽²⁾			Liabilities		
	Reporting year	Previous year		Reporting year	Previous year
10. Items in course of settlement			12.3. Sundry		
11. Other assets			13. Provisions		
11.1. Coins of euro area			14. Revaluation accounts		
11.2. Tangible and intangible fixed assets			15. Capital and reserves		
11.3. Other financial assets			15.1. Capital		
11.4. Off-balance sheet instruments revaluation differences			15.2. Reserves		
11.5. Accruals and prepaid expenses			16. Profit for the year		
11.6. Sundry					
12. Loss for the year					
		Total assets		Total liabilities	

⁽¹⁾ The ECB may alternatively publish exact euro amounts, or amounts rounded in a different manner.

⁽²⁾ The table of assets may also be published above the table of liabilities.

GUIDELINES

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 17 July 2009

amending Guideline ECB/2006/16 on the legal framework for accounting and financial reporting in the European System of Central Banks**(ECB/2009/18)**

(2009/595/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

the European System of Central Banks⁽³⁾ needs to be amended in order to reflect these policy developments,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the Statute of the ESCB), and in particular Articles 12.1, 14.3 and 26.4 thereof,

HAS ADOPTED THIS GUIDELINE:

*Article 1***Amendments**

Having regard to the contribution of the General Council of the European Central Bank (ECB) pursuant to the second and third indents of Article 47.2 of the Statute of the ESCB,

Guideline ECB/2006/16 is amended as follows:

Whereas:

1. In Article 1(1) the following definition is added:

(1) Guideline ECB/2009/10 of 7 May 2009 amending Guideline ECB/2000/7 on monetary policy instruments and procedures of the Eurosystem⁽¹⁾ allows access to Eurosystem open market operations and standing facilities by credit institutions which, in view of their specific institutional nature under Community law, are subject to scrutiny of a standard comparable to supervision by competent national authorities.

‘(i) “credit institution” means either: (a) a credit institution within the meaning of Articles 2 and 4(1)(a) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast)*, as implemented in national law, that is subject to supervision by a competent authority; or (b) another credit institution within the meaning of Article 101(2) of the Treaty that is subject to scrutiny of a standard comparable to supervision by a competent authority.

(*) OJ L 177, 30.6.2006, p. 1.’

(2) Decision ECB/2009/16 of 2 July 2009 on the implementation of the covered bond purchase programme⁽²⁾ provides for the establishment of a programme for the purchase of covered bonds.

2. Annexes IV to VIII to Guideline ECB/2006/16 are amended in accordance with the Annex to this Guideline.

(3) Guideline ECB/2006/16 of 10 November 2006 on the legal framework for accounting and financial reporting in

*Article 2***Entry into force**

This Guideline shall enter into force on 1 July 2009.

(1) OJ L 123, 19.5.2009, p. 99.

(2) OJ L 175, 4.7.2009, p. 18.

(3) OJ L 348, 11.12.2006, p. 1.

*Article 3***Addressees**

This Guideline applies to all Eurosystem central banks.

Done at Frankfurt am Main, 17 July 2009.

For the Governing Council of the ECB
The President of the ECB
Jean-Claude TRICHET

ANNEX

Annexes IV to VIII to Guideline ECB/2006/16 are amended as follows:

1. The table entitled 'Assets' in Annex I is replaced by the following:

'ASSETS

Balance sheet item ⁽¹⁾		Categorisation of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾	
Assets					
1.	1.	Gold and gold receivables	Physical gold, i.e. bars, coins, plates, nuggets in storage or "under way". Non-physical gold, such as balances in gold sight accounts (unallocated accounts), term deposits and claims to receive gold arising from the following transactions: (i) upgrading or downgrading transactions; and (ii) gold location or purity swaps where there is a difference of more than one business day between release and receipt	Market value	Mandatory
2.	2.	Claims on non-euro area residents denominated in foreign currency	Claims on counterparties resident outside the euro area including international and supranational institutions and central banks outside the euro area denominated in foreign currency		
2.1.	2.1.	Receivables from the International Monetary Fund (IMF)	<p>(a) <i>Drawing rights within the reserve tranche (net)</i></p> <p>National quota minus balances in euro at the disposal of the IMF. The No 2 account of the IMF (euro account for administrative expenses) may be included in this item or under the item "Liabilities to non-euro area residents denominated in euro"</p> <p>(b) <i>Special drawing rights</i></p> <p>Holdings of special drawing rights (gross)</p> <p>(c) <i>Other claims</i></p> <p>General arrangements to borrow, loans under special borrowing arrangements, deposits within the framework of the Poverty Reduction and Growth Facility</p>	<p>(a) <i>Drawing rights within the reserve tranche (net)</i></p> <p>Nominal value, translation at the foreign exchange market rate</p> <p>(b) <i>Special drawing rights</i></p> <p>Nominal value, translation at the foreign exchange market rate</p> <p>(c) <i>Other claims</i></p> <p>Nominal value, translation at the foreign exchange market rate</p>	<p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p>

Balance sheet item ⁽¹⁾		Categorisation of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾
Assets				
2.2.	2.2.	Balances with banks and security investments, external loans and other external assets		
		(a) <i>Balances with banks outside the euro area other than those under asset item "Other financial assets"</i> Current accounts, fixed-term deposits, day-to-day money, reverse repo transactions	(a) <i>Balances with banks outside the euro area</i> Nominal value, translation at the foreign exchange market rate	Mandatory
		(b) <i>Security investments outside the euro area other than those under asset item "Other financial assets"</i> Notes and bonds, bills, zero bonds, money market paper, equity instruments held as part of the foreign reserves, all issued by non-euro area residents	(b)(i) <i>Marketable securities other than held-to-maturity</i> Market price and foreign exchange market rate Any premiums or discounts are amortised	Mandatory
			(b)(ii) <i>Marketable securities classified as held-to-maturity</i> Cost subject to impairment and foreign exchange market rate Any premiums or discounts are amortised	Mandatory
			(b)(iii) <i>Non-marketable securities</i> Cost subject to impairment and foreign exchange market rate Any premiums or discounts are amortised	Mandatory
			(b)(iv) <i>Marketable equity instruments</i> Market price and foreign exchange market rate	Mandatory
		(c) <i>External loans (deposits) outside the euro area other than those under asset item "Other financial assets"</i>	(c) <i>External loans</i> Deposits at nominal value translated at the foreign exchange market rate	Mandatory
		(d) <i>Other external assets</i> Non-euro area banknotes and coins	(d) <i>Other external assets</i> Nominal value, translation at the foreign exchange market rate	Mandatory

Balance sheet item ⁽¹⁾		Categorisation of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾
Assets				
3.	3.	Claims on euro area residents denominated in foreign currency	<p>(a) <i>Security investments inside the euro area other than those under asset item "Other financial assets"</i></p> <p>Notes and bonds, bills, zero bonds, money market paper, equity instruments held as part of the foreign reserves, all issued by euro area residents</p> <p>(a)(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p> <p>(a)(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p> <p>(a)(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment and foreign exchange market rate</p> <p>Any premiums or discounts are amortised</p> <p>(a)(iv) <i>Marketable equity instruments</i></p> <p>Market price and foreign exchange market rate</p> <p>(b) <i>Other claims</i></p> <p>Deposits and other lending at nominal value, translated at the foreign exchange market rate</p> <p>Loans, deposits, reverse repo transactions, sundry lending</p>	<p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p>
4.	4.	Claims on non-euro area residents denominated in euro		
4.1.	4.1.	Balances with banks, security investments and loans	<p>(a) <i>Balances with banks outside the euro area other than those under asset item "Other financial assets"</i></p> <p>Current accounts, fixed-term deposits, day-to-day money. Reverse repo transactions in connection with the management of securities denominated in euro</p> <p>(a) <i>Balances with banks outside the euro area</i></p> <p>Nominal value</p>	Mandatory

Balance sheet item ⁽¹⁾	Categorisation of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾
Assets			
	<p>(b) <i>Security investments outside the euro area other than those under asset item "Other financial assets"</i></p> <p>Equity instruments, notes and bonds, bills, zero bonds, money market paper, all issued by non-euro area residents</p> <p>(c) <i>Loans outside the euro area other than those under asset item "Other financial assets"</i></p> <p>(d) <i>Securities other than those under asset item "Other financial assets", issued by entities outside the euro area</i></p> <p>Securities issued by supranational or international organisations e.g. the European Investment Bank, irrespective of their geographical location</p>	<p>(b)(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price</p> <p>Any premiums or discounts are amortised</p> <p>(b)(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(b)(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(b)(iv) <i>Marketable equity instruments</i></p> <p>Market price</p> <p>(c) <i>Loans outside the euro area</i></p> <p>Deposits at nominal value</p> <p>(d)(i) <i>Marketable securities other than held-to-maturity</i></p> <p>Market price</p> <p>Any premiums or discounts are amortised</p> <p>(d)(ii) <i>Marketable securities classified as held-to-maturity</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p> <p>(d)(iii) <i>Non-marketable securities</i></p> <p>Cost subject to impairment</p> <p>Any premiums or discounts are amortised</p>	<p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p> <p>Mandatory</p>
4.2.	4.2. Claims arising from the credit facility under ERM II	Lending according to the ERM II conditions	Nominal value
			Mandatory

Balance sheet item ⁽¹⁾		Category of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾
Assets				
5.	5.	Lending to euro area credit institutions related to monetary policy operations denominated in euro	Items 5.1 to 5.5: transactions according to the respective monetary policy instruments described in Annex I to Guideline ECB/2000/7 of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem ⁽³⁾	
5.1.	5.1.	Main refinancing operations	Regular liquidity-providing reverse transactions with a weekly frequency and normally a maturity of one week	Nominal value or repo cost Mandatory
5.2.	5.2.	Longer-term refinancing operations	Regular liquidity-providing reverse transactions with a monthly frequency and normally a maturity of three months	Nominal value or repo cost Mandatory
5.3.	5.3.	Fine-tuning reverse operations	Reverse transactions, executed as ad hoc transactions for fine-tuning purposes	Nominal value or repo cost Mandatory
5.4.	5.4.	Structural reverse operations	Reverse transactions adjusting the structural position of the Eurosystem vis-à-vis the financial sector	Nominal value or repo cost Mandatory
5.5.	5.5.	Marginal lending facility	Overnight liquidity facility at a pre-specified interest rate against eligible assets (standing facility)	Nominal value or repo cost Mandatory
5.6.	5.6.	Credits related to margin calls	Additional credit to credit institutions, arising from value increases of underlying assets regarding other credit to these credit institutions	Nominal value or cost Mandatory
6.	6.	Other claims on euro area credit institutions denominated in euro	Current accounts, fixed-term deposits, day-to-day money, reverse repo transactions in connection with the management of security portfolios under the asset item "Securities of euro area residents denominated in euro", including transactions resulting from the transformation of former foreign currency reserves of the euro area and other claims. Correspondent accounts with non-domestic euro area credit institutions. Other claims and operations unrelated to monetary policy operations of the Eurosystem. Any claims stemming from monetary policy operations initiated by an NCB prior to joining the Eurosystem	Nominal value or cost Mandatory

Balance sheet item ⁽¹⁾		Categorisation of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾
Assets				
7.	7.	Securities of euro area residents denominated in euro		
7.1.	7.1.	Securities held for monetary policy purposes	(i) <i>Marketable securities other than held-to-maturity</i> Market price Any premiums or discounts are amortised	Mandatory
			(ii) <i>Marketable securities classified as held-to-maturity</i> Cost subject to impairment Any premiums or discounts are amortised	Mandatory
			(iii) <i>Non-marketable securities</i> Cost subject to impairment Any premiums or discounts are amortised	Mandatory
7.2.	7.2.	Other securities	(i) <i>Marketable securities other than held-to-maturity</i> Market price Any premiums or discounts are amortised	Mandatory
			(ii) <i>Marketable securities classified as held-to-maturity</i> Cost subject to impairment Any premiums or discounts are amortised	Mandatory
			(iii) <i>Non-marketable securities</i> Cost subject to impairment Any premiums or discounts are amortised	Mandatory
			(iv) <i>Marketable equity instruments</i> Market price	Mandatory

Balance sheet item ⁽¹⁾		Categorisation of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾	
Assets					
8.	8.	General government debt denominated in euro	Claims on government stemming from before EMU (non-marketable securities, loans)	Deposits/loans at nominal value, non-marketable securities at cost	Mandatory
—	9.	Intra-Euro-system claims ⁽⁺⁾			
—	9.1.	Participating interest in ECB ⁽⁺⁾	Only an NCB balance sheet item The ECB capital share of each NCB according to the Treaty and the respective capital key and contributions according to Article 49.2 of the Statute of the ESCB	Cost	Mandatory
—	9.2.	Claims equivalent to the transfer of foreign reserves ⁽⁺⁾	Only an NCB balance sheet item Euro-denominated claims on the ECB in respect of initial and additional transfers of foreign reserves under the Treaty provisions	Nominal value	Mandatory
—	9.3.	Claims related to promissory notes backing the issuance of ECB debt certificates ⁽⁺⁾	Only an ECB balance sheet item. Promissory notes issued by NCBs, due to the back-to-back agreement in connection with ECB debt certificates	Nominal value	Mandatory
—	9.4.	Net claims related to the allocation of euro banknotes within the Euro-system ⁽⁺⁾ ^(*)	For the NCBs: net claim related to the application of the banknote allocation key i.e. including the ECB's banknote issue related intra-Eurosystem balances, the compensatory amount and its balancing accounting entry as defined by Decision ECB/2001/16 of 6 December 2001 on the allocation of monetary income of the national central banks of participating Member States from the financial year 2002 ⁽⁺⁾ For the ECB: claims related to the ECB's banknote issue, according to Decision ECB/2001/15	Nominal value	Mandatory

Balance sheet item ⁽¹⁾		Categorisation of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾	
Assets					
—	9.5.	Other claims within the Eurosystem (net) ^(*)	Net position of the following sub-items: (a) net claims arising from balances of TARGET2 accounts and correspondent accounts of NCBs i.e. the net figure of claims and liabilities — see also liability item “Other liabilities within the Eurosystem (net)” (b) claim due to the difference between monetary income to be pooled and redistributed. Only relevant for the period between booking of monetary income as part of the year-end procedures, and its settlement on the last working day in January each year (c) other intra-Eurosystem claims that may arise, including the interim distribution of ECB income on euro banknotes to NCBs ^(*)	(a) Nominal value (b) Nominal value (c) Nominal value	Mandatory Mandatory Mandatory
9.	10.	Items in the course of settlement	Settlement account balances (claims), including the float of cheques in collection	Nominal value	Mandatory
9.	11.	Other assets			
9.	11.1.	Coins of euro area	Euro coins if an NCB is not the legal issuer	Nominal value	Mandatory
9.	11.2.	Tangible and intangible fixed assets	Land and buildings, furniture and equipment including computer equipment, software	Cost less depreciation Depreciation rates: — computers and related hardware/software and motor vehicles: 4 years — equipment, furniture and plant in building: 10 years — building and capitalised major refurbishment expenditure: 25 years Capitalisation of expenditure: limit based (below EUR 10 000 excluding VAT: no capitalisation)	Recommended

Balance sheet item ⁽¹⁾		Categorisation of contents of balance sheet items	Valuation principle	Scope of application ⁽²⁾	
Assets					
9.	11.4.	Off-balance sheet instruments revaluation differences	Valuation results of foreign exchange forwards, foreign exchange swaps, interest rate swaps, forward rate agreements, forward transactions in securities, foreign exchange spot transactions from trade date to settlement date	Net position between forward and spot, at the foreign exchange market rate	Mandatory
9.	11.5.	Accruals and prepaid expenditure	Income not due in, but assignable to the reported period. Prepaid expenditure and accrued interest paid (i.e. accrued interest purchased with a security)	Nominal value, foreign exchange translated at market rate	Mandatory
9.	11.6.	Sundry	Advances, loans and other minor items. Revaluation suspense accounts (only balance sheet item during the year: unrealised losses at revaluation dates during the year, which are not covered by the respective revaluation accounts under the liability item "Revaluation accounts"). Loans on a trust basis. Investments related to customer gold deposits. Coins denominated in national euro area currency units. Current expense (net accumulated loss), loss of the previous year before coverage. Net pension assets	Nominal value or cost <i>Revaluation suspense accounts</i> Revaluation difference between average cost and market value, foreign exchange translated at market rate <i>Investments related to customer gold deposits</i> Market value	Recommended <i>Revaluation suspense accounts:</i> mandatory <i>Investments related to customer gold deposits:</i> mandatory
—	12.	Loss for the year		Nominal value	Mandatory

(*) Item to be harmonised. See recital 4 of this Guideline.

(1) The numbering in the first column relates to the balance sheet formats given in Annexes V, VI and VII (weekly financial statements and consolidated annual balance sheet of the Eurosystem). The numbering in the second column relates to the balance sheet format given in Annex VIII (annual balance sheet of a central bank). The items marked with a "(*)" are consolidated in the Eurosystem's weekly financial statements.

(2) The composition and valuation rules listed in this Annex are considered mandatory for the ECB's accounts and for all material assets and liabilities in NCBS' accounts for Eurosystem purposes, i.e. material to the Eurosystem's operation.

(3) OJ L 310, 11.12.2000, p. 1.

(4) OJ L 337, 20.12.2001, p. 55.

2. The table entitled 'Consolidated weekly financial statement of the Eurosystem: format to be used for publication after quarter-end' in Annex V shall be replaced by the following:

'Consolidated weekly financial statement of the Eurosystem: format to be used for publication after quarter-end

(EUR million)

Assets ⁽¹⁾	Balance as at ...	Difference compared to last week due to		Liabilities	Balance as at ...	Difference compared to last week due to	
		transactions	quarter-end adjustments			transactions	quarterly-end adjustments
1. Gold and gold receivables				1. Banknotes in circulation			
2. Claims on non-euro area residents denominated in foreign currency				2. Liabilities to euro area credit institutions related to monetary policy operations denominated in euro			
2.1. Receivables from the IMF				2.1. Current accounts (covering the minimum reserve system)			
2.2. Balances with banks and security investments, external loans and other external assets				2.2. Deposit facility			
3. Claims on euro area residents denominated in foreign currency				2.3. Fixed-term deposits			
4. Claims on non-euro area residents denominated in euro				2.4. Fine-tuning reverse operations			
4.1. Balances with banks, security investments and loans				2.5. Deposits related to margin calls			
4.2. Claims arising from the credit facility under ERM II				3. Other liabilities to euro area credit institutions denominated in euro			
5. Lending to euro area credit institutions related to monetary policy operations denominated in euro				4. Debt certificates issued			
5.1. Main refinancing operations				5. Liabilities to other euro area residents denominated in euro			
5.2. Longer-term refinancing operations				5.1. General government			
5.3. Fine-tuning reverse operations				5.2. Other liabilities			
5.4. Structural reverse operations				6. Liabilities to non-euro area residents denominated in euro			
5.5. Marginal lending facility				7. Liabilities to euro area residents denominated in foreign currency			
5.6. Credits related to margin calls				8. Liabilities to non-euro area residents denominated in foreign currency			
6. Other claims on euro area credit institutions denominated in euro				8.1. Deposits, balances and other liabilities			
7. Securities of euro area residents denominated in euro				8.2. Liabilities arising from the credit facility under ERM II			
7.1. Securities held for monetary policy purposes				9. Counterpart of special drawing rights allocated by the IMF			
7.2. Other securities				10. Other liabilities			
8. General government debt denominated in euro				11. Revaluation accounts			
9. Other assets				12. Capital and reserves			
Total assets				Total liabilities			

Totals/sub-totals may not add up, due to rounding.

⁽¹⁾ The table of assets may also be published above the table of liabilities.

3. The table entitled 'Consolidated weekly financial statement of the Eurosystem: format to be used for publication during the quarter' in Annex VI is replaced by the following:

'Consolidated weekly financial statement of the Eurosystem: format to be used for publication during the quarter

(EUR million)

Assets ⁽¹⁾	Balance as at ...	Difference compared to last week due to	Liabilities	Balance as at ...	Difference compared to last week due to
1. Gold and gold receivables			1. Banknotes in circulation		
2. Claims on non-euro area residents denominated in foreign currency			2. Liabilities to euro area credit institutions related to monetary policy operations denominated in euro		
2.1. Receivables from the IMF			2.1. Current accounts (covering the minimum reserve system)		
2.2. Balances with banks and security investments, external loans and other external assets			2.2. Deposit facility		
3. Claims on euro area residents denominated in foreign currency			2.3. Fixed-term deposits		
4. Claims on non-euro area residents denominated in euro			2.4. Fine-tuning reverse operations		
4.1. Balances with banks, security investments and loans			2.5. Deposits related to margin calls		
4.2. Claims arising from the credit facility under ERM II			3. Other liabilities to euro area credit institutions denominated in euro		
5. Lending to euro area credit institutions related to monetary policy operations denominated in euro			4. Debt certificates issued		
5.1. Main refinancing operations			5. Liabilities to other euro area residents denominated in euro		
5.2. Longer-term refinancing operations			5.1. General government		
5.3. Fine-tuning reverse operations			5.2. Other liabilities		
5.4. Structural reverse operations			6. Liabilities to non-euro area residents denominated in euro		
5.5. Marginal lending facility			7. Liabilities to euro area residents denominated in foreign currency		
5.6. Credits related to margin calls			8. Liabilities to non-euro area residents denominated in foreign currency		
6. Other claims on euro area credit institutions denominated in euro			8.1. Deposits, balances and other liabilities		
7. Securities of euro area residents denominated in euro			8.2. Liabilities arising from the credit facility under ERM II		
7.1. Securities held for monetary policy purposes			9. Counterpart of special drawing rights allocated by the IMF		
7.2. Other securities			10. Other liabilities		
8. General government debt denominated in euro			11. Revaluation accounts		
9. Other assets			12. Capital and reserves		
Total assets			Total liabilities		

Totals/sub-totals may not add up, due to rounding.

⁽¹⁾ The table of assets may also be published above the table of liabilities.'

4. The table entitled 'Consolidated annual balance sheet of the Eurosystem' in Annex VII is replaced by the following:

'Consolidated annual balance sheet of the Eurosystem

(EUR million)

Assets ⁽¹⁾			Liabilities		
	Reporting year	Previous year		Reporting year	Previous year
1. Gold and gold receivables			1. Banknotes in circulation		
2. Claims on non-euro area residents denominated in foreign currency			2. Liabilities to euro area credit institutions related to monetary policy operations denominated in euro		
2.1. Receivables from the IMF			2.1. Current accounts (covering the minimum reserve system)		
2.2. Balances with banks and security investments, external loans and other external assets			2.2. Deposit facility		
3. Claims on euro area residents denominated in foreign currency			2.3. Fixed-term deposits		
4. Claims on non-euro area residents denominated in euro			2.4. Fine-tuning reverse operations		
4.1. Balances with banks, security investments and loans			2.5. Deposits related to margin calls		
4.2. Claims arising from the credit facility under ERM II			3. Other liabilities to euro area credit institutions denominated in euro		
5. Lending to euro area credit institutions related to monetary policy operations denominated in euro			4. Debt certificates issued		
5.1. Main refinancing operations			5. Liabilities to other euro area residents denominated in euro		
5.2. Longer-term refinancing operations			5.1. General government		
5.3. Fine-tuning reverse operations			5.2. Other liabilities		
5.4. Structural reverse operations			6. Liabilities to non-euro area residents denominated in euro		
5.5. Marginal lending facility			7. Liabilities to euro area residents denominated in foreign currency		
5.6. Credits related to margin calls			8. Liabilities to non-euro area residents denominated in foreign currency		
6. Other claims on euro area credit institutions denominated in euro			8.1. Deposits, balances and other liabilities		
7. Securities of euro area residents denominated in euro			8.2. Liabilities arising from the credit facility under ERM II		
7.1. Securities held for monetary policy purposes			9. Counterpart of special drawing rights allocated by the IMF		
7.2. Other securities			10. Other liabilities		
8. General government debt denominated in euro			11. Revaluation accounts		
9. Other assets			12. Capital and reserves		
Total assets			Total liabilities		

Totals/sub-totals may not add up, due to rounding.

⁽¹⁾ The table of assets may also be published above the table of liabilities.'

5. The table entitled 'Annual balance sheet of a central bank' in Annex VIII is replaced by the following:

'Annual balance sheet of a central bank' (1)

(EUR million) (2)

Assets (3)	Reporting year	Previous year	Liabilities	Reporting year	Previous year
1. Gold and gold receivables			1. Banknotes in circulation (*)		
2. Claims on non-euro area residents denominated in foreign currency			2. Liabilities to euro area credit institutions related to monetary policy operations denominated in euro		
2.1. Receivables from the IMF			2.1. Current accounts (covering the minimum reserve system)		
2.2. Balances with banks and security investments, external loans and other external assets			2.2. Deposit facility		
3. Claims on euro area residents denominated in foreign currency			2.3. Fixed-term deposits		
4. Claims on non-euro area residents denominated in euro			2.4. Fine-tuning reverse operations		
4.1. Balances with banks, security investments and loans			2.5. Deposits related to margin calls		
4.2. Claims arising from the credit facility under ERM II			3. Other liabilities to euro area credit institutions denominated in euro		
5. Lending to euro area credit institutions related to monetary policy operations denominated in euro			4. Debt certificates issued		
5.1. Main refinancing operations			5. Liabilities to other euro area residents denominated in euro		
5.2. Longer-term refinancing operations			5.1. General government		
5.3. Fine-tuning reverse operations			5.2. Other liabilities		
5.4. Structural reverse operations			6. Liabilities to non-euro area residents denominated in euro		
5.5. Marginal lending facility			7. Liabilities to euro area residents denominated in foreign currency		
5.6. Credits related to margin calls			8. Liabilities to non-euro area residents denominated in foreign currency		
6. Other claims on euro area credit institutions denominated in euro			8.1. Deposits, balances and other liabilities		
7. Securities of euro area residents denominated in euro			8.2. Liabilities arising from the credit facility under ERM II		
7.1. Securities held for monetary policy purposes			9. Counterpart of special drawing rights allocated by the IMF		
7.2. Other securities					
8. General government debt denominated in euro					

(EUR million) ⁽²⁾

Assets ⁽³⁾			Liabilities		
	Reporting year	Previous year		Reporting year	Previous year
9. Intra-Eurosystem claims			10. Other liabilities		
9.1. Participating interest in ECB			10.1. Liabilities equivalent to the transfer of foreign reserves		
9.2. Claims equivalent to the transfer of foreign reserves			10.2. Liabilities related to promissory notes backing the issuance of ECB debt certificates		
9.3. Claims related to promissory notes backing the issuance of ECB debt certificates			10.3. Net liabilities related to the allocation of euro banknotes within the Eurosystem (*)		
9.4. Net claims related to the allocation of euro banknotes within the Eurosystem (*)			10.4. Other liabilities within the Eurosystem (net) (*)		
9.5. Other claims within the Eurosystem (net) (*)			11. Items in course of settlement		
10. Items in course of settlement			12. Other liabilities		
11. Other assets			12.1. Off-balance sheet instruments revaluation differences		
11.1. Coins of euro area			12.2. Accruals and income collected in advance (*)		
11.2. Tangible and intangible fixed assets			12.3. Sundry		
11.3. Other financial assets			13. Provisions		
11.4. Off-balance sheet instruments revaluation differences			14. Revaluation accounts		
11.5. Accruals and prepaid expenses (*)			15. Capital and reserves		
11.6. Sundry			15.1. Capital		
12. Loss for the year			15.2. Reserves		
			16. Profit for the year		
Total assets			Total liabilities		

Totals/sub-totals may not add up, due to rounding.

⁽¹⁾ The disclosure relating to euro banknotes in circulation, remuneration of net intra-Eurosystem claims/liabilities resulting from the allocation of euro banknotes within the Eurosystem, and monetary income should be harmonised in NCBS' published annual financial statements. The items to be harmonised are indicated with an asterisk in Annexes IV, VIII and IX.

⁽²⁾ Central banks may alternatively publish exact euro amounts, or amounts rounded in a different manner.

⁽³⁾ The table of assets may also be published above the table of liabilities.'

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

POLITICAL AND SECURITY COMMITTEE DECISION EUJUST LEX/1/2009

of 3 July 2009

appointing the Head of Mission for the European Union Integrated Rule of Law Mission for Iraq,
EUJUST LEX

(2009/596/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 25 thereof,

Article 1

Mr Stephen WHITE is hereby appointed as Head of Mission of the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX, with effect from 1 July 2009.

Having regard to Council Joint Action 2009/475/CFSP of 11 June 2009 on the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX ⁽¹⁾, and in particular Article 9(2) thereof,

Article 2

This Decision shall take effect on the day of its adoption.

Whereas:

It shall apply until 31 December 2009.

(1) On 11 June 2009, the Council adopted Joint Action 2009/475/CFSP on the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX. That Joint Action expires on 30 June 2010.

Done at Brussels, 3 July 2009.

(2) Article 9(2) of Joint Action 2009/475/CFSP authorises the Political and Security Committee to take decisions regarding the appointment of the Head of Mission.

For the Political and Security Committee

(3) Mr Stephen WHITE should be appointed as Head of Mission of EUJUST LEX until 31 December 2009,

The President

O. SKOOG

⁽¹⁾ OJ L 156, 19.6.2009, p. 57.

COUNCIL DECISION 2009/597/CFSP

of 27 July 2009

on the signing and provisional application of the Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Operation Atalanta)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 24 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

- (1) On 10 November 2008, the Council adopted Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast ⁽¹⁾ (Operation Atalanta).
- (2) Article 10(3) of that Joint Action provides that detailed modalities for the participation by third States shall be the subject of agreements concluded in accordance with Article 24 of the Treaty.
- (3) Following authorisation by the Council on 13 September 2004, the Presidency, assisted by the Secretary-General of the Council of the European Union/High Representative for the Common Foreign and Security Policy, negotiated an Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in Operation Atalanta (the Agreement).
- (4) The Agreement should be signed, subject to its conclusion.
- (5) The provisions of the Agreement should be applied on a provisional basis, pending its entry into force,

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Operation Atalanta) is hereby approved on behalf of the European Union, subject to the conclusion of the Agreement.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the European Union, subject to its conclusion.

Article 3

In accordance with Article 10(2) of the Agreement, the Agreement shall be applied on a provisional basis from the date of its signature, pending its entry into force.

Article 4

This Decision shall take effect on the day of its adoption.

Article 5

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

Done at Brussels, 27 July 2009.

*For the Council**The President*

C. BILDT

⁽¹⁾ OJ L 301, 12.11.2008, p. 33.

AGREEMENT

between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Operation Atalanta)

THE EUROPEAN UNION (EU),

of the one part, and

THE REPUBLIC OF CROATIA,

of the other part,

hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT:

- the adoption by the Council of the European Union of Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast ⁽¹⁾ (operation Atalanta),
- the invitation by the EU to the Republic of Croatia to participate in the EU-led operation,
- the successful completion of the Force Generation process and the recommendation by the EU Operation Commander and the EU Military Committee to agree on the participation of the Republic of Croatia's forces in the EU-led operation,
- the Political and Security Committee Decision ATALANTA/2/2009 of 21 April 2009 on the acceptance of third States' contributions to the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta) ⁽²⁾ and the Political and Security Committee Decision ATALANTA/3/2009 of 21 April 2009 on the setting up of the Committee of Contributors for the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta) ⁽³⁾, both as amended by Political and Security Committee Decision ATALANTA/5/2009 of 10 June 2009 ⁽⁴⁾,
- the decision by the Republic of Croatia of 3 April 2009 to participate in Operation Atalanta,

HAVE AGREED AS FOLLOWS:

Article 1

Participation in the operation

1. The Republic of Croatia shall associate itself with Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (operation Atalanta), and with any Joint Action or Decision by which the Council of the European Union decides to extend the EU military crisis management operation, in accordance with the provisions of this Agreement and any required implementing arrangements.

2. The contribution of the Republic of Croatia to operation Atalanta is without prejudice to the decision-making autonomy of the European Union.

3. The Republic of Croatia shall ensure that its forces and personnel participating in the EU military crisis management operation undertake their mission in conformity with:

- Joint Action 2008/851/CFSP and possible subsequent amendments,
- the Operation Plan,
- any implementing measures.

4. Forces and personnel seconded to the operation by the Republic of Croatia shall carry out their duties and conduct themselves solely with the interest of the EU military crisis management operation in mind.

⁽¹⁾ OJ L 301, 12.11.2008, p. 33.

⁽²⁾ OJ L 109, 30.4.2009, p. 52.

⁽³⁾ OJ L 119, 14.5.2009, p. 40.

⁽⁴⁾ OJ L 148, 11.6.2009, p. 34.

5. The Republic of Croatia shall inform the EU Operation Commander in due time of any change to its participation in the operation.

Article 2

Status of forces

1. The status of the forces and personnel contributed to operation Atalanta by the Republic of Croatia shall be governed by the agreement on the status of forces concluded between the European Union and Somalia, Djibouti or any other country in the region with which such an agreement will have been concluded for the purposes of the operation, or by the unilateral declaration on the status of forces issued by Kenya or any country in the region which will have issued such a declaration for the purposes of the operation.

2. The status of the forces and personnel contributed to headquarters or command elements located outside the joint operation area, shall be governed by arrangements between the Host State of the headquarters and command elements concerned and the Republic of Croatia.

3. Without prejudice to the agreement on the status of forces referred to in paragraph 1, the Republic of Croatia shall exercise jurisdiction over its forces and personnel participating in the EU military crisis management operation.

4. The Republic of Croatia shall be responsible for answering any claims linked to the participation in operation Atalanta, from or concerning any of its forces and personnel. The Republic of Croatia shall be responsible for bringing any action, in particular legal or disciplinary, against any of its forces and personnel, in accordance with its laws and regulations.

5. The Republic of Croatia undertakes to make a declaration as regards the waiver of claims against any State participating in operation Atalanta, and to do so when signing this Agreement.

6. European Union Member States undertake to make a declaration as regards the waiver of claims, for the participation of the Republic of Croatia in operation Atalanta, and to do so when signing this Agreement.

Article 3

Conditions of transfer of persons arrested and detained with a view to their prosecution

If the Republic of Croatia exercises its jurisdiction upon persons having committed or suspected of having committed acts of piracy, or acts of armed robbery in Somali territorial waters, the transfer of persons arrested with a view to their prosecution and detained by European Union-led naval force (EUNAVFOR) and seized property in the possession of EUNAVFOR, from EUNAVFOR to the Republic of Croatia, shall be carried out

under the conditions set out in Annex, which forms an integral part of this Agreement.

Article 4

Classified information

The provisions of the Agreement between the European Union and the Republic of Croatia on security procedures for the exchange of classified information⁽¹⁾ shall apply in the context of operation Atalanta.

Article 5

Chain of command

1. All forces and personnel participating in the EU military crisis management operation shall remain under the full command of their national authorities.

2. National authorities shall transfer the Operational and Tactical command and/or control of their forces and personnel to the EU Operation Commander. The EU Operation Commander is entitled to delegate his authority.

3. The Republic of Croatia shall have the same rights and obligations in terms of the day-to-day management of the operation as participating European Union Member States.

4. The EU Operation Commander may — following consultations with the Republic of Croatia — at any time request the withdrawal of the Republic of Croatia's contribution.

5. A Senior Military Representative (SMR) shall be appointed by the Republic of Croatia to represent its national contingent in the EU military crisis management operation. The SMR shall consult with the EU Force Commander on all matters affecting the operation and shall be responsible for day-to-day contingent discipline.

Article 6

Financial aspects

1. The Republic of Croatia shall assume all the costs associated with its participation in the operation unless the costs are subject to common funding as provided for in the legal instruments referred to in Article 1(1) of this Agreement, as well as in Council Decision 2008/975/CFSP of 18 December 2008 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena)⁽²⁾.

2. Operation Atalanta shall provide logistic support to the Croatian contingent on a cost reimbursement basis under the conditions provided in the implementing arrangements referred to in Article 7. Administrative management of related expenditure shall be entrusted to Athena.

⁽¹⁾ OJ L 116, 29.4.2006, p. 74.

⁽²⁾ OJ L 345, 23.12.2008, p. 96.

3. In the event of death, injury, loss or damage to natural or legal persons from the State(s) in which the operation is conducted, the Republic of Croatia shall, when its liability has been established, pay compensation under the conditions foreseen in the agreement on status of forces, if available, as referred to in Article 2(1) of the Agreement.

Article 7

Arrangements to implement the Agreement

Any necessary technical and administrative arrangements in pursuance of the implementation of this Agreement shall be concluded between the Secretary-General of the Council of the European Union/High Representative for the Common Foreign and Security Policy or the EU Operation Commander and the appropriate authorities of the Republic of Croatia.

Article 8

Non compliance

Should one of the Parties fail to comply with its obligations laid down in the previous Articles, the other Party shall have the right to terminate this Agreement by serving a notice of one month.

Article 9

Dispute settlement

Disputes concerning the interpretation or application of this Agreement shall be settled by diplomatic means between the Parties.

Article 10

Entry into force

1. This Agreement shall enter into force on the first day of the first month after the Parties have notified each other of the completion of the internal procedures necessary for this purpose.

2. This Agreement shall be provisionally applied from the date of signature.

3. This Agreement shall remain in force for the duration of the Republic of Croatia's contribution to the operation.

Done at Brussels on 27 July 2009 in two originals in the English language.

For the European Union

For the Republic of Croatia



ANNEX

Provisions on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy or acts of armed robbery in Somalia's territorial sea, and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to the Republic of Croatia and for their treatment after such transfer

1. Definitions

For the purposes of this Agreement:

- (a) 'Piracy' means piracy as defined in Article 101 of UNCLOS;
- (b) 'Armed robbery' means acts as defined in paragraph (a) when committed in a coastal State's territorial sea within the area of the Operation;
- (c) 'Transferred person' means any person suspected of intending to commit, committing, or having committed, acts of piracy or armed robbery transferred by EUNAVFOR to the Republic of Croatia under this Agreement.

2. General principles

- (a) The Republic of Croatia may accept, upon the request of EUNAVFOR, the transfer of persons detained by EUNAVFOR in connection with piracy or armed robbery and associated seized property by EUNAVFOR and submit such persons and property to its competent authorities for the purpose of investigation and prosecution.
- (b) EUNAVFOR shall, when acting under this Agreement, only transfer persons to the competent law enforcement authorities of the Republic of Croatia.
- (c) The Republic of Croatia confirms that persons transferred under these provisions, both prior to and following transfer, shall be treated humanely and in accordance with international human rights obligations, including the prohibition against torture and cruel, inhumane and degrading treatment or punishment, the prohibition of arbitrary detention and in accordance with the requirement to have a fair trial.

3. Treatment, prosecution and trial of transferred persons

- (a) Any transferred person shall be treated humanely and shall not be subject to torture or cruel, inhuman or degrading treatment or punishment, shall receive adequate accommodation and nourishment, access to medical treatment and shall be able to carry out religious observance.
- (b) Any transferred person shall be brought promptly before a judge or other officer authorised by law to exercise judicial power, who shall decide without delay on the lawfulness of his detention and shall order his release if the detention is not lawful.
- (c) Any transferred person shall be entitled to trial within a reasonable time or to release.
- (d) In the determination of any criminal charge against him, any transferred person shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
- (e) Any transferred person charged with a criminal offence shall be presumed innocent until proved guilty according to law.
- (f) In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - 1. to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - 2. to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - 3. to be tried without undue delay;
 - 4. to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

5. to examine, or have examined, all evidence against him, including affidavits of witnesses who conducted the arrest, and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 6. to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 7. not to be compelled to testify against himself or to confess guilt.
- (g) Any transferred person convicted of a crime shall be permitted the right to have his conviction and sentence reviewed by or appealed to a higher tribunal in accordance with the law of Republic of Croatia.
- (h) The Republic of Croatia shall not transfer any transferred person to any other State for the purposes of investigation or prosecution without prior written consent from EUNAVFOR.
4. Death penalty
- No transferred person shall be sentenced or liable to the death penalty or be the subject of an application for the death penalty.
5. Records and notifications
- (a) Any transfer shall be the subject of an appropriate document signed by a representative of EUNAVFOR and a representative of the competent authorities of the Republic of Croatia law enforcement authorities.
- (b) EUNAVFOR shall provide detention records to the Republic of Croatia with regard to any transferred person. These records shall include, so far as possible, the physical condition of the transferred person while in detention, the time of transfer to the Republic of Croatia's authorities, the reason for his detention, the time and place his detention commenced, and any decisions taken with regard to his detention.
- (c) The Republic of Croatia shall be responsible for keeping an accurate account of any transferred person, including but not limited to keeping records of any seized property, the person's physical condition, the location of his place of detention, any charges against him and any significant decisions taken in the course of his prosecution and trial.
- (d) These records shall be available to representatives of the EU and EUNAVFOR upon request in writing to the Ministry of Foreign Affairs of the Republic of Croatia.
- (e) In addition, the Republic of Croatia shall notify EUNAVFOR of the place of detention of any person transferred under this Agreement, any deterioration of his physical condition and of any allegations of alleged improper treatment. Representatives of the EU and EUNAVFOR shall have access to any person transferred under this Agreement as long as such persons are in custody and shall be entitled to question them.
- (f) At their request, national and international humanitarian agencies shall be allowed to visit persons transferred under this Agreement.
- (g) For the purposes of ensuring that EUNAVFOR is able to provide timely assistance to the Republic of Croatia, with attendance of witnesses from EUNAVFOR and the provision of relevant evidence, the Republic of Croatia shall notify EUNAVFOR of its intention to initiate criminal trial proceedings against any transferred person and the timetable for provision of evidence, and the hearing of evidence.
6. EUNAVFOR Assistance
- (a) EUNAVFOR, within its means and capabilities, shall provide all assistance to the Republic of Croatia with a view to the investigation and prosecution of transferred persons.
- (b) In particular, EUNAVFOR shall:
1. hand over detention records drawn up pursuant to paragraph 5(b) of these provisions;
 2. process any evidence in accordance with the requirements of the competent authorities of the Republic of Croatia as agreed in the implementing arrangements described in paragraph 8 below;
 3. endeavour to produce statements of witnesses or affidavits by EUNAVFOR personnel involved in any incident in relation to which persons have been transferred under these provisions;
 4. hand over all relevant seized property in the possession of EUNAVFOR.

7. Relationship to other rights of transferred persons

Nothing in these provisions is intended to derogate or may be construed as derogating from any rights that a transferred person may have under applicable domestic or international law.

8. Implementing arrangements

(a) For the purposes of the application of these provisions, operational, administrative and technical matters may be the subject of implementing arrangements to be approved between the competent authorities of the Republic of Croatia on the one hand and the competent EU authorities as well as the competent authorities of the States providing a national contingent for EUNAVFOR on the other hand.

(b) Implementing arrangements may, inter alia, cover:

1. The identification of competent law enforcement authorities of the Republic of Croatia to which EUNAVFOR may transfer persons.
 2. The detention facilities where transferred persons will be held.
 3. The handling of documents, including those related to the gathering of evidence, which shall be handed over to the competent law enforcement authorities of the Republic of Croatia upon transfer of a person.
 4. Points of contacts for notifications.
 5. Forms to be used for transfers.
-

European Central Bank

2009/594/EC:

- ★ **Decision of the European Central Bank of 17 July 2009 amending Decision ECB/2006/17 on the annual accounts of the European Central Bank (ECB/2009/19)** 54

GUIDELINES

European Central Bank

2009/595/EC:

- ★ **Guideline of the European Central Bank of 17 July 2009 amending Guideline ECB/2006/16 on the legal framework for accounting and financial reporting in the European System of Central Banks (ECB/2009/18)** 65

III *Acts adopted under the EU Treaty*

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

2009/596/CFSP:

- ★ **Political and Security Committee Decision EUJUST LEX/1/2009 of 3 July 2009 appointing the Head of Mission for the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX** 82

2009/597/CFSP:

- ★ **Council Decision 2009/597/CFSP of 27 July 2009 on the signing and provisional application of the Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Operation Atalanta)** 83

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