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## Information and Notices

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## I

*(Information)***COUNCIL****COUNCIL RESOLUTION****of 27 June 2002****on lifelong learning**

(2002/C 163/01)

THE COUNCIL OF THE EUROPEAN UNION,

Whereas

- (1) Education and training are an indispensable means for promoting social cohesion, active citizenship, personal and professional fulfilment, adaptability and employability. Lifelong learning facilitates free mobility for European citizens and allows the achievement of the goals and aspirations of European Union countries (i.e. to become more prosperous, competitive, tolerant and democratic). It should enable all persons to acquire the necessary knowledge to take part as active citizens in the knowledge society and the labour market.
- (2) The action set out in this resolution respects the Charter of Fundamental Rights of the European Union, and in particular its Article 14, which declares that everyone has the right to education and to have access to vocational and continuing training.
- (3) At the end of the European Year of Lifelong Learning in 1996, the Council adopted Conclusions on a strategy for lifelong learning, specifying a number of key principles for a lifelong learning strategy <sup>(1)</sup>.
- (4) The November 1997 extraordinary Luxembourg European Council introduced increased employability and ability for adaptation through training, as priority issues within its employment guidelines and lifelong learning has since then become a horizontal objective of the European employment strategy.
- (5) The March 2000 Lisbon European Council set the strategic objective for the European Union to become the world's most dynamic knowledge-based economy, which includes key elements such as the development of lifelong learning for everyone.
- (6) The June 2000 Feira European Council invited the Member States, the Council and the Commission, to identify coherent strategies and practical measures to promote lifelong learning, and to make it accessible to all. This was reaffirmed by the March 2001 Stockholm European Council. At the same occasion the Feira European Council reiterated the need to promote the involvement of social partners and to harness the full potential of public and private financing.
- (7) The Council (Education) gave its opinion on the employment package at its meeting of 29 November 2001, stressing the role of lifelong learning as a clear priority in national employment policies.
- (8) A report on lifelong learning was presented to the Ministers for Education of the Union and the candidate countries at their conference in Riga in June 2001. At this meeting, Ministers gave a mandate for a follow-up report on 'Quality indicators of lifelong learning', which will be presented at the meeting of Education Ministers in Bratislava in June 2002.
- (9) The adoption in February 2001 of the Council Report 'Objectives of the education and training systems' and the adoption in February 2002 of the work programme for this decade on the follow-up of this report constitute an important step in taking on the commitment to modernise and improve the quality of the education and training systems of the Member States.
- (10) The conclusions <sup>(2)</sup> approved by the Council (Education/Youth) of 14 February 2002 positively received the proposals in the Commission's White Paper 'A new impetus for European youth' for taking more account of specific aspects of youth in other Community actions such as lifelong learning.

<sup>(1)</sup> OJ C 7, 10.1.1997, p. 6.<sup>(2)</sup> OJ C 119, 22.5.2002, p. 6.

(11) The March 2002 Barcelona European Council, as a result of its conviction that lifelong learning constitutes a priority domain of the Lisbon strategy, requested that a Resolution concerning lifelong learning be adopted before the Seville European Council, taking into account the European employment strategy,

NOTES that, although Europe is a point of reference in many fields, and has the proven ability to convert ideas into innovative products and services, access to lifelong learning is still not a reality for many citizens.

STRESSES that lifelong learning must cover learning from the pre-school age to that of post-retirement, including the entire spectrum of formal, non-formal and informal learning. Furthermore, lifelong learning must be understood as all learning activity undertaken throughout life, with the aim of improving knowledge, skills and competences within a personal, civic, social and/or employment-related perspective. Finally, the principles in this context should be: the individual as the subject of learning, highlighting the importance of an authentic equality of opportunities, and quality in learning.

STRESSES the importance of the contribution of the youth sector towards defining global and coherent strategies on lifelong learning by highlighting the value of non-formal and informal learning in the youth field and by defining the priorities for lifelong learning in this context.

WELCOMES the Commission's Communication of November 2001 entitled 'Making a European area of lifelong learning a reality', which is based on the Memorandum of lifelong learning of November 2000 and the feedback from the wide consultation throughout Europe on this document. Furthermore, welcomes the fact that this Communication established lifelong learning as one of the guiding principles for education and training, and recognises the relevance of the building blocks for lifelong learning strategies and the priorities for action identified in the Communication.

REAFFIRMS:

1. that convergence of the Commission's Communication entitled 'Making a European area of lifelong learning a reality' with the work programme on the follow-up of the objectives of the education and training systems is to be promoted, in order to achieve a comprehensive and coherent strategy for education and training;
2. that lifelong learning should be enhanced by the actions and policies developed within the framework of the European employment strategy, the action plan for skills and mobility, the Socrates, Leonardo da Vinci and Youth Community programmes, the e-Learning initiative, and in the research and innovation actions, among others.

ACKNOWLEDGES that priority should be given to the following:

- providing access to lifelong learning opportunities for all, regardless of age, including specific actions aimed at the most disadvantaged persons, those not participating in education and training, as well as migrants, as a means of facilitating their social integration,
- providing opportunities to acquire and/or update basic skills, including the new basic skills, such as IT skills, foreign languages, technological culture, entrepreneurship and social skills,
- the training, recruitment and updating of teachers and trainers for the development of lifelong learning,
- the effective validation and recognition of formal qualifications as well as non-formal and informal learning, across countries and educational sectors through increased transparency and better quality assurance,
- the high quality and broad accessibility of target group specific information, guidance and counselling concerning lifelong learning opportunities and their benefits,
- encouraging the representation of relevant sectors, including the youth sector, in existing or future networks and structures, working in this area;

INVITES THE MEMBER STATES WITHIN THE FRAMEWORK OF THEIR RESPONSIBILITIES:

1. to develop and implement comprehensive and coherent strategies reflecting the principles and building blocks identified in the Commission's Communication and involving all relevant players, in particular the social partners, civil society, local and regional authorities;
2. in conjunction with the European employment strategy, to mobilise the resources for such strategies and to promote lifelong learning for all, by:
  - setting targets for an increase in investment in human resources, including lifelong learning, and optimising use of available resources,
  - developing initiatives to stimulate private investment in learning,

- considering a more targeted use of Community funding resources, including the European Investment Bank;
3. to promote learning at the workplace, in cooperation with education and training establishments and the social partners;
  4. to improve the education and training of teachers and trainers involved in lifelong learning so that they acquire the necessary teaching skills for the knowledge society, thus promoting among other aims general access to language learning, access for all to ICTs, and increased participation in scientific and technical studies;
  5. to encourage cooperation and effective measures to validate learning outcomes, crucial for building bridges between formal, non-formal and informal learning and thus a prerequisite for the creation of a European area of lifelong learning;
  6. to develop target group specific information, guidance and advice including the provision of appropriate tools for making available information on education and training and job opportunities;
  7. to develop strategies for identifying and increasing the participation of groups excluded from the knowledge society as a result of low basic skill levels;
  8. to improve active participation in lifelong learning, including young people;
- INVITES THE COMMISSION:
1. to promote and coordinate, in close cooperation with the Council and in an integrated and convergent manner, the actions resulting from the Commission's Communication entitled 'Making a European area of lifelong learning a reality', through the work programme for the follow-up of the objectives of the education and training systems, other Community education and training instruments and the European employment strategy;
  2. to stimulate quality incentives and the exchange of good practices to foster efficient performance in all sectors involved in formal, non-formal and informal learning including by setting up a European database on good practices in the field of lifelong learning;
  3. to promote, in close cooperation with the Council and the Member States, increased cooperation in education and training based on the issues of transparency and quality assurance, in order to develop a framework for recognition of qualifications, building on the achievements of the Bologna process and promoting similar action in the area of vocational training. Such cooperation should ensure the active involvement of the social partners, vocational and educational training institutions and the other relevant stakeholders;
  4. to promote target group specific information and guidance actions that favour improved awareness of opportunities for learning and working throughout Europe;
  5. to promote the participation of candidate countries in the development of lifelong learning strategies;
  6. to enhance cooperation with relevant international organisations, e.g. the Council of Europe, the OECD and Unesco, in the development of lifelong learning policies and concrete actions;
  7. to prepare, in cooperation with the Member States, a progress report on the follow-up to its Communications and to this Resolution before the spring European Council of 2004.

INVITES the Member States and the Commission to suggest concrete actions to implement the content of this Resolution, by promoting cooperation between all key actors, and within the scope of the Treaty.

## COMMISSION

Euro exchange rates <sup>(1)</sup>

8 July 2002

(2002/C 163/02)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	0,9828	LVL	Latvian lats	0,5926
JPY	Japanese yen	116,8	MTL	Maltese lira	0,4156
DKK	Danish krone	7,4283	PLN	Polish zloty	4,0938
GBP	Pound sterling	0,6422	ROL	Romanian leu	32597
SEK	Swedish krona	9,1587	SIT	Slovenian tolar	226,2177
CHF	Swiss franc	1,4688	SKK	Slovak koruna	44,424
ISK	Iceland króna	84,96	TRL	Turkish lira	1630000
NOK	Norwegian krone	7,305	AUD	Australian dollar	1,7445
BGN	Bulgarian lev	1,947	CAD	Canadian dollar	1,497
CYP	Cyprus pound	0,57931	HKD	Hong Kong dollar	7,6657
CZK	Czech koruna	29,333	NZD	New Zealand dollar	2,0059
EEK	Estonian kroon	15,6466	SGD	Singapore dollar	1,7327
HUF	Hungarian forint	251,18	KRW	South Korean won	1169,53
LTL	Lithuanian litas	3,4533	ZAR	South African rand	9,998

<sup>(1)</sup> Source: reference exchange rate published by the ECB.

**Prior notification of a concentration****(Case COMP/M.2808 — BLSI/GeoPost)****Candidate case for simplified procedure**

(2002/C 163/03)

**(Text with EEA relevance)**

1. On 4 July 2002 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the undertaking GeoPost SA (GeoPost, France), belonging to the group La Poste (France), acquires, within the meaning of Article 3(1)(b) of the Regulation, joint control of the undertaking Masterlink Express Sp.Zoo (Masterlink, Poland), controlled by Baltic Logistic System International AB (BLSI, Sweden), belonging to the group Posten (Sweden), by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- GeoPost: Holding company of La Poste for the subsidiaries which provide rapid and express document, parcel and freight delivery services in France and several other European countries,
- BLSI: Holding company of Posten AB for the subsidiaries engaged in domestic and international parcel services in the Baltic States, Poland and Russia,
- Masterlink: Domestic and international rapid parcel services and domestic express parcel services in Poland.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Regulation (EEC) No 4064/89 <sup>(3)</sup>, it should be noted that this case is a candidate for treatment under the procedure set out in the notice.

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2808 — BLSI/GeoPost, to:

European Commission,  
Directorate-General for Competition,  
Directorate B — Merger Task Force,  
J-70,  
B-1049 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

<sup>(3)</sup> OJ C 217, 29.7.2000, p. 32.

**Non-opposition to a notified concentration****(Case COMP/M.2785 — Publicis/BCOM3)**

(2002/C 163/04)

**(Text with EEA relevance)**

On 18 June 2002 the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CEN' version of the CELEX database, under document No 302M2785. CELEX is the computerised documentation system of European Community law.

For more information concerning subscriptions please contact:

EUR-OP,  
Information, Marketing and Public Relations,  
2, rue Mercier,  
L-2985 Luxembourg.  
Tel. (352) 29 29 427 18, fax (352) 29 29 427 09.

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**Non-opposition to a notified concentration****(Case COMP/M.2703 — Merloni/GE/GDA JV)**

(2002/C 163/05)

**(Text with EEA relevance)**

On 4 March 2002 the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CEN' version of the CELEX database, under document No 302M2703. CELEX is the computerised documentation system of European Community law.

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L-2985 Luxembourg.  
Tel. (352) 29 29 427 18, fax (352) 29 29 427 09.

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**Notice pursuant to Article 5 of Council Regulation (EEC) No 1534/91 of 31 May 1991 on the application of Article 81(3) of the EC Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector**

(2002/C 163/06)

(Text with EEA relevance)

In accordance with Article 5 of Council Regulation (EEC) No 1534/91, the Commission invites interested parties to send their comments concerning the draft Commission Regulation (EC) published below on the application of Article 81(3) of the EC Treaty to certain categories of agreements in the insurance sector, no later than 30 September 2002, to:

European Commission  
 Directorate-General for Competition  
 Unit D1, Office J 70 2/56  
 B-1049 Brussels  
 Fax (32-2) 296 98 07  
 E-mail: Steve.Ryan@cec.eu.int.

**Draft Commission Regulation (EC) No .../...**  
**of ...**

**on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1534/91 of 31 May 1991 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector<sup>(1)</sup>, and in particular Article 1(1)(a), (b), (c) and (e) thereof,

Having published a draft of this Regulation<sup>(2)</sup>,

Having consulted the Advisory Committee on restrictive practices and dominant positions,

Whereas:

(1) Regulation (EEC) No 1534/91 empowers the Commission to apply Article 81(3) of the Treaty by regulation to certain categories of agreements, decisions and concerted practices in the insurance sector which have as their object cooperation with respect to:

- the establishment of common risk premium tariffs based on collectively ascertained statistics or the number of claims,

— the establishment of common standard policy conditions,

— the common coverage of certain types of risks,

— the settlement of claims,

— the testing and acceptance of security devices,

— registers of, and information on, aggravated risks.

(2) Pursuant to that Regulation, the Commission adopted Regulation (EEC) No 3932/92 of 21 December 1992 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector<sup>(3)</sup>. Regulation (EEC) No 3932/92, as amended by the Act of Accession of Austria, Finland and Sweden, expires on 31 March 2003.

(3) Regulation (EEC) No 3932/92, does not grant an exemption to agreements concerning the settlement of claims and registers of, and information on, aggravated risks. The Commission considered that it lacked sufficient experience in handling individual cases to make use of the power conferred by Regulation (EEC) No 1534/91 in those fields. This situation has not changed.

<sup>(1)</sup> OJ L 143, 7.6.1991, p. 1.

<sup>(2)</sup> OJ C 163, 9.7.2002.

<sup>(3)</sup> OJ L 398, 31.12.1992, p. 7.



- (4) On 12 May 1999, the Commission adopted a Report <sup>(1)</sup> to the Council and the European Parliament on the operation of Regulation (EEC) No 3932/92. On 15 December 1999, the Economic and Social Committee adopted an opinion on the Commission's report <sup>(2)</sup>. On 19 May 2000, the Parliament adopted a Resolution on the Commission's report <sup>(3)</sup>. On 28 June 2000, the Commission held a consultation meeting with interested parties, including representatives of the insurance sector and national competition authorities, on the Regulation.
- (5) A new Regulation should meet the two requirements of ensuring effective protection of competition and providing adequate legal security for undertakings. The pursuit of these objectives should take account of the need to simplify administrative supervision and the legislative framework to as great an extent as possible. Account must also be taken of the Commission's experience in this field since 1992, and the results of the consultations on the 1999 Report and consultations during the legislative process leading up to the adoption of this Regulation.
- (6) Regulation (EEC) No 1534/91 requires the exempting regulation of the Commission to define the categories of agreements, decisions and concerted practices to which it applies, to specify the restrictions or clauses which may, or may not, appear in the agreements, decisions and concerted practices, and to specify the clauses which must be contained in the agreements, decisions and concerted practices or the other conditions which must be satisfied.
- (7) Nevertheless, it is appropriate to move away from the approach of listing exempted clauses and to place greater emphasis on defining categories of agreements which are exempted up to a certain level of market power and on specifying the restrictions or clauses which are not to be contained in such agreements. This is consistent with an economics based approach which assesses the impact of agreements on the relevant market. However, it should be recognised that in the insurance sector there are certain types of collaboration involving all the undertakings on a relevant insurance market which can be regarded as normally satisfying the conditions laid down in Article 81(3).
- (8) For the application of Article 81(3) by regulation, it is not necessary to define those agreements which are capable of falling within Article 81(1). In the individual assessment of agreements under Article 81(1), account has to be taken of several factors, and in particular the market structure on the relevant market.
- (9) The benefit of the block exemption should be limited to those agreements for which it can be assumed with sufficient certainty that they satisfy the conditions of Article 81(3).
- (10) Collaboration between insurance undertakings or within associations of undertakings in the compilation of statistics on the number of claims, the number of individual risks insured, total amounts paid in respect of claims and the amount of capital insured makes it possible to improve the knowledge of risks and facilitates the rating of risks for individual companies. The same applies to their use to establish indicative pure premiums or, in the case of insurance involving capitalisation, frequency tables. Joint studies on the probable impact of extraneous circumstances that may influence the frequency or scale of claims, or the yield of different types of investments, should also be included. It is, however, necessary to ensure that the restrictions are only exempted to the extent to which they are necessary to attain these objectives. It is therefore appropriate to stipulate that concerted practices on commercial premiums — that is to say, the premiums actually charged to policyholders, comprising an element to cover administrative, commercial and other costs, plus a loading for contingencies or profit margins — are not exempted, and that even indicative pure premiums can serve only for reference purposes. Insofar as the joint calculation of indicative pure premiums and joint carrying-out of studies do not extend to the commercial premiums charged to policyholders and are of indicative nature, it can be expected that consumers will benefit from larger choice of suppliers given that market entry and the presence of a wider number of competitors on the market are facilitated.
- (11) Moreover, the broader the categories into which statistics gathered for the purposes of calculating pure premiums are grouped, the less leeway insurance undertakings have to calculate premiums on a narrower basis. It is therefore appropriate to limit the benefit of the block exemption to exchanges of statistics and joint calculation of indicative pure premiums to situations where the statistics used are grouped in the narrowest possible categories which are compatible with the inclusion in each category of a meaningful statistical sample.
- (12) Furthermore, since access to such calculations of pure premiums, and studies related to indicative risk premiums, is necessary both for insurance undertakings active on the geographic or product market in question and also for those considering entering that market, such insurance undertakings must be granted access to such calculations and studies on reasonable and non-discriminatory terms, as compared with insurance undertakings already present on that market. Such terms might for example include a commitment from an insurance undertaking not yet present on the market to provide statistical information on claims, should it ever enter the market. They might also include membership of the association of

<sup>(1)</sup> COM(1999) 192 final.

<sup>(2)</sup> CES 1139/99.

<sup>(3)</sup> PE A5 — 0104/00.

insurers responsible for producing the calculations, as long as access to such membership is itself available on reasonable and non-discriminatory terms to insurance undertakings not yet active on the market in question. However, any fee charged for access to such calculations or related studies to insurance undertakings which have not contributed to them, would not be considered reasonable for this purpose if it were so high as to constitute a barrier to entry on the market.

- (13) The reliability of jointly calculated pure premiums, and joint studies becomes greater as the amount of statistics on which they are based is increased. Insurers with high market shares may generate sufficient statistics internally to be able to calculate reliable pure premiums, but those with small market shares will not be able to do so, much less new entrants. The inclusion in such joint calculations and joint studies of information from all insurers on a market, including large ones, promotes competition by helping smaller insurers, and facilitates market entry. Given this specificity of the insurance sector, it is not appropriate to subject any exemption for such joint calculations and joint studies to market share thresholds.
- (14) Standard policy conditions or standard individual clauses for direct insurance and standard models illustrating the profits of a life assurance policy are necessary for the calculation of indicative pure and risk premiums since these must be calculated with reference to certain policy conditions. However, standard policy conditions must not lead either to the standardisation of products or to the creation of a significant imbalance between the rights and obligations arising from the contract. Accordingly, the exemption should only apply to standard policy conditions developed and agreed in conjunction with the joint calculation of pure premiums and joint studies related to risk premiums, and only in so far they are both necessary and exclusively used for such calculations or studies. Furthermore, it should apply on condition: that they are not binding, and serve only as models.
- (15) Standard policy conditions may not contain any systematic exclusion of specific types of risk without providing for the express possibility of including that cover by agreement and may not provide for the contractual relationship with the policyholder to be maintained for an excessive period or go beyond the initial object of the policy. This is without prejudice to obligations arising from Community or national law to include certain risks in certain policies.
- (16) In addition, it is necessary to stipulate that the common standard policy conditions must be generally available to any interested person, and in particular to the policyholder, so as to ensure that there is real transparency and therefore benefit for consumers.
- (17) The inclusion in an insurance policy of risks to which a significant number of policyholders is not simultaneously exposed may hinder innovation, given that the bundling of unrelated risks can be a disincentive for insurers to offer separate and specific insurance cover for them. A clause which imposes such comprehensive cover should therefore not be covered by the block exemption. Where there is a legal requirement on insurers to include in policies cover for risks to which a significant number of policyholders are not simultaneously exposed, then the inclusion in an indicative model contract of a standard clause reflecting such a legal requirement does not constitute a restriction of competition and falls outside the scope of Article 81(1).
- (18) The establishment of co-insurance or co-reinsurance groups (often called 'pools') designed to cover an unspecified number of risks does not restrict competition in the meaning of Article 81(1) of the Treaty if, in the absence of the group in question, none of the members of the group would be able to supply the category of insurance concerned (even if other insurers or groups of insurers do supply that category of insurance). Where the total subscription capacity of the group is greater than double the subscription capacity necessary to offer the category of insurance in question, with a level of cover sufficient to cover the risks concerned, then the group could be replaced by at least two competing groups, and therefore it may, depending on the level of market power, restrict competition within the meaning of Article 81(1).
- (19) The establishment of such co-insurance or co-reinsurance groups also does not restrict competition in the meaning of Article 81(1) of the Treaty if, in the absence of the group in question, only one of the members of the group would be able to supply the category of insurance in question, unless the subscription capacity of all the other members of the group taken together would be sufficient to offer the category of insurance in question, with a level of cover sufficient to cover the risks concerned. In that case, the group could be replaced by one group and one individual insurer, competing with each other, and therefore the group may, depending on the level of market power, restrict competition within the meaning of Article 81(1).
- (20) However, the establishment of any such co-insurance or co-reinsurance group may, depending on the level of market power, restrict competition within the meaning of Article 81(1) of the Treaty if, in the absence of the group in question, more than one of the members of the group would be able alone to supply the category of insurance in question.

- (21) For new risks, where no historical information on claims exists, it is not possible to know in advance what subscription capacity is necessary to cover the risk, nor whether two or more co-insurance or co-reinsurance groups could coexist for the purposes of providing this type of insurance. A pooling arrangement for the insurance of such new risks can therefore be exempted for a limited period of time. Three years should constitute an adequate period for the constitution of sufficient historical information on claims to assess the necessity or otherwise of one single pool. This Regulation therefore grants an exemption to any such group which is newly created in order to cover a new risk, for the first three years of its existence.
- (22) For risks which are not new, it is recognised that such co-insurance and co-reinsurance groups which involve a restriction of competition can also, in certain limited circumstances, involve benefits such as to justify an exemption under Article 81(3), even if they could be replaced by two or more competing insurance entities. They may for example, allow their members to gain the necessary experience of the sector of insurance involved, they may allow cost savings, or reduction of premiums through joint reinsurance on advantageous terms. However, any exemption for such groups is not justified if the group in question benefits from a significant level of market power, since in those circumstances the restriction of competition deriving from the existence of the pool would normally outweigh any possible advantages.
- (23) This Regulation therefore grants an exemption to any such co-insurance or co-reinsurance group which has existed for more than three years, or which is not created in order to cover a new risk, on condition that the combined market shares of its members do not exceed the following thresholds: 25 % in the case of co-reinsurance groups, and 20 % in the case of co-insurance groups. The threshold for co-insurance groups is lower because the mechanism of co-insurance requires uniform policy conditions and commercial premiums, with the result that residual competition between members of a co-insurance group is particularly reduced.
- (24) These exemptions however only apply if the group in question meets the further conditions laid out in Article 8 of the present Regulation, which are intended to keep to a minimum the restrictions of competition between the members of the group.
- (25) Cooperation in the evaluation of security devices and of the undertakings installing and maintaining them is beneficial in so far as it removes the need for repeated individual evaluation. Accordingly, the Regulation should define the conditions under which the formulation of technical specifications and procedures for approving such security devices and the undertakings installing or maintaining them are exempted. The purpose of such conditions is to ensure that all manufacturers and installation and maintenance undertakings may apply for evaluation, and that the evaluation and approval are guided by objective and well-defined criteria, which may only relate to the performance of the devices and not to certain technologies to be used; as to installers or maintenance undertakings, only performance related criteria may be used.
- (26) Ideally, standards or technical specifications for all matters relating to security devices, and their assessment, certification, installation, and maintenance, would exist at European level, thus ensuring harmonisation and coherence within the single market. Where such European-level standards or technical specifications exist, agreements at national level are unnecessary and cannot be covered by the block exemption.
- (27) Where no such European-level standards or technical specifications exist, agreements between insurers laying down technical specifications or approval procedures that are used in one or several Member States should be exempted; however, experience has shown that differing national agreements among insurers on security devices or undertakings installing or maintaining security devices can make it difficult for policyholders to cover a certain risk if the security device or installer or maintenance undertaking used complies with the specifications or approval procedures set up by insurers of another Member State, but not with the specifications or approval procedures agreed by the insurers of the Member State where the risk is located. It is therefore appropriate to extend the benefit of the block exemption to any such national agreements only if they explicitly provide for the recognition of any other such national agreements and of the approval of a security device or an installer or maintenance undertaking in any other Member State.
- (28) Lastly, any agreements on security devices must not result in an exhaustive list of approved devices; each undertaking must remain free to accept devices and installation and maintenance undertakings not approved jointly.
- (29) If individual agreements exempted by this Regulation nevertheless have effects which are incompatible with Article 81(3), as interpreted by the administrative practice of the Commission and the case-law of the Court of Justice, the Commission may withdraw the benefit of the block exemption. This may occur in particular where studies on the impact of future developments are based on unjustifiable hypotheses; or where recommended standard policy conditions contain clauses which create, to the detriment of the policyholder, a significant imbalance between the rights and obligations arising from the contract; or where groups are used or managed in such a way as to give one or more participating undertakings the means of acquiring or reinforcing a position of significant market power on the relevant market, or if these groups result in market sharing.

(30) In order to facilitate the conclusion of agreements, some of which can involve significant investment decisions, the period of validity of this Regulation should be fixed at 10 years.

(31) This Regulation is without prejudice to the application of Article 82 of the Treaty.

(32) In accordance with the principle of the primacy of Community law, no measure taken pursuant to national laws on competition should prejudice the uniform application throughout the common market of the Community competition rules or the full effect of any measures adopted in implementation of those rules, including this Regulation,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### EXEMPTION AND DEFINITIONS

##### Article 1

##### Exemption

Pursuant to Article 81(3) of the Treaty and subject to the provisions of this Regulation, it is hereby declared that Article 81(1) of the Treaty shall not apply to agreements entered into between two or more undertakings in the insurance sector (hereinafter referred to as 'the parties' and which relate to the conditions under which the parties seek or achieve cooperation with respect to:

- (a) the joint calculation of indicative pure premiums or the establishment and distribution of mortality tables, and tables showing the frequency of illness, accident and invalidity, in connection with insurance involving an element of capitalisation;
- (b) the joint carrying-out of studies for the purposes of determining indicative risk premiums, and the distribution of their results;
- (c) the joint establishment and distribution of non-binding policy conditions for direct insurance which are developed and agreed in conjunction with the calculations and/or studies referred to in Article 1(a) and (b) above and only in so far they are both necessary and exclusively used for such calculations or studies;
- (d) the joint establishment and distribution of non-binding models illustrating the profits to be realised from an insurance policy involving an element of capitalisation;
- (e) the setting-up and operation of groups of insurance undertakings or of insurance undertakings and reinsurance

undertakings for the common coverage of a specific category of risks in the form of co-insurance or co-reinsurance; and

(f) the establishment, recognition and distribution of:

- technical specifications for security devices,
- procedures for assessing and approving the compliance of security devices with such specifications,
- rules or codes of practice for the installation and maintenance of security devices, and
- rules for the evaluation and approval of undertakings which install or maintain security devices.

##### Article 2

##### Definitions

For the purposes of the present Regulation, the following definitions shall apply:

1. 'Agreement' means an agreement, a decision of an association of undertakings or a concerted practice.
2. 'Participating undertakings' means undertakings party to the agreement and their respective connected undertakings.
3. 'Connected undertakings' means:
  - (a) undertakings in which a party to the agreement, directly or indirectly:
    - (i) has the power to exercise more than half the voting rights; or
    - (ii) has the power to appoint more than half the members of the supervisory board, board of management or bodies legally representing the undertaking; or
    - (iii) has the right to manage the undertaking's affairs;
  - (b) undertakings which directly or indirectly have, over a party to the agreement, the rights or powers listed in (a);
  - (c) undertakings in which an undertaking referred to in (b) has, directly or indirectly, the rights or powers listed in (a);

- (d) undertakings in which a party to the agreement together with one or more of the undertakings referred to in (a), (b) or (c), or in which two or more of the latter undertakings, jointly have the rights or powers listed in (a);
- (e) undertakings in which the rights or the powers listed in (a) are jointly held by:
- (i) parties to the agreement or their respective connected undertakings referred to in (a) to (d); or
- (ii) one or more of the parties to the agreement or one or more of their connected undertakings referred to in (a) to (d) and one or more third parties.
4. 'Risk premium' means the estimated cost of covering a specified risk in the future, to the exclusion of any administrative or commercial costs or fiscal or parafiscal contributions, and not taking into account either revenues from investments or anticipated profits.
5. 'Pure premium' means the average cost of covering a specified risk in the past, to the exclusion of any administrative or commercial costs or fiscal or parafiscal contributions, and not taking into account revenues from investments nor anticipated profits.
6. 'Standard policy conditions' refers to any clauses contained in model or reference insurance policies prepared jointly by insurers or by bodies or associations of insurers.
7. 'Co-insurance groups' means groups set up by insurance undertakings which:
- agree to underwrite in the name and for the account of all the participants the insurance of a specified risk category, or
  - entrust the underwriting and management of the insurance of a specified risk category in their name and on their behalf to one of the insurance undertakings, to a common broker or to a common body set up for this purpose.
8. 'Co-reinsurance groups' means groups set up by insurance undertakings, possibly with the assistance of one or more reinsurance undertakings:
- in order to reinsure mutually all or part of their liabilities in respect of a specified risk category,
  - incidentally, to accept in the name and on behalf of all the participants the reinsurance of the same category of risks.
9. 'New risk' means a risk for which no historical information on claims exists which could be used to calculate pure premiums.
10. 'Security devices' refers both to components and equipment designed for loss prevention and reduction, and to systems formed from such elements.

## CHAPTER II

## JOINT CALCULATION OF INDICATIVE PURE PREMIUMS AND CARRYING OUT OF STUDIES

## Article 3

## Conditions for exemption

The exemptions provided for in Article 1(a) and (b) shall apply on condition that:

- (a) all indicative pure premiums and tables are based on the assembly of data, spread over a number of risk-years chosen as an observation period, which relate to identical or comparable risks in sufficient number to constitute a base which can be handled statistically and which will yield figures on (*inter alia*):
- the number of claims during the said period,
  - the number of individual risks insured in each risk-year of the chosen observation period,
  - the total amounts paid or payable in respect of claims arisen during the said period,
  - the total amount of capital insured for each risk-year during the chosen observation period;
- (b) the calculations, tables or study results, when compiled and distributed, include a statement that they are purely illustrative;
- (c) the calculations tables or study results do not include in any way elements for contingencies, income deriving from reserves, administrative or commercial costs;
- (d) the calculations, tables or study results do not identify the insurance undertakings concerned;
- (e) in the calculations or tables the statistics are grouped in the narrowest possible categories which are compatible with the inclusion in each category of a meaningful statistical sample;

- (f) the calculations, tables or study results are made available on reasonable and non-discriminatory terms, to any insurance undertaking which requests a copy of them, including insurance undertakings which are not active on the geographical or product market to which those calculations, tables or study results refer;
- (g) that the studies concern only the probable impact of general circumstances external to the interested undertakings on the frequency or scale of claims, or the profitability of different types of investment.

#### Article 4

##### Agreements not covered by the exemption

The exemption provided for in Article 1 shall not apply where participating undertakings enter into an undertaking or commitment among themselves, or oblige other undertakings, not to use calculations or tables that differ from those established pursuant to Article 1(a), or not to depart from the results of the studies referred to in Article 1(b).

#### CHAPTER III

##### NON-BINDING STANDARD POLICY CONDITIONS FOR DIRECT INSURANCE AND MODELS

#### Article 5

##### Conditions for exemption

1. The exemption provided for in Article 1(c) shall apply on condition that the standard policy conditions:

- (a) are established and distributed with an explicit statement that they are non-binding;
- (b) expressly mention that participating undertakings are free to offer different policy conditions to their customers; and
- (c) are accessible to any interested person and provided simply upon request.

2. The exemption provided for in Article 1(d) shall apply on condition that the non-binding models are established and distributed only by way of guidance.

#### Article 6

##### Agreements not covered by the exemption

1. The exemption provided for in Article 1(c) shall not apply where the standard policy conditions contain clauses which:

- (a) impose comprehensive cover including risks to which a significant number of policyholders are not simultaneously exposed, without prejudice to legally imposed obligations;

(b) indicate the amount of the cover or the part which the policyholder must pay himself ('the excess');

(c) allow the insurer to maintain the policy in the event that he cancels part of the cover, increases the premium without the risk or the scope of the cover being changed (without prejudice to indexation clauses), or otherwise alters the policy conditions without the express consent of the policyholder;

(d) allow the insurer to modify the term of the policy without the express consent of the policyholder;

(e) impose on the policyholder in the non-life assurance sector a contract period of more than three years;

(f) impose a renewal period of more than one year where the policy is automatically renewed unless notice is given upon the expiry of a given period;

(g) require the policyholder to agree to the reinstatement of a policy which has been suspended on account of the disappearance of the insured risk, if he is once again exposed to a risk of the same nature;

(h) require the policyholder to obtain cover from the same insurer for different risks;

(i) require the policyholder, in the event of disposal of the object of insurance, to make the acquirer take over the insurance policy;

(j) exclude or limit the cover of a risk if the policyholder uses security devices, or installing or maintenance undertakings, which are compatible with the relevant specifications agreed by an association or associations of insurers in one or several other Member States or at the European level.

2. The exemption provided for in Article 1(c) shall not benefit undertakings or associations of undertakings which agree, or agree to oblige other undertakings, not to apply conditions other than standard policy conditions established pursuant to an agreement between the participating undertakings.

3. Without prejudice to the establishment of specific insurance conditions for particular social or occupational categories of the population, the exemption provided for in Article 1(c) shall not apply to agreements decisions and concerted practices which exclude the coverage of certain risk categories because of the characteristics associated with the policyholder.

4. The exemption provided for in Article 1(d) shall not apply where, without prejudice to legally imposed obligations, the non-binding models include only specified interest rates or contain figures indicating administrative costs.

5. The exemption provided for in Article 1(d) shall not benefit undertakings or associations of undertakings which concert or undertake among themselves, or oblige other undertakings, not to apply models illustrating the benefits of an insurance policy other than those established pursuant to an agreement between the participating undertakings.

#### CHAPTER IV

### COMMON COVERAGE OF CERTAIN TYPES OF RISKS

#### Article 7

#### Market share threshold and duration of exemption

1. As concerns co-insurance or co-reinsurance groups which are newly created in order to cover a new risk, the exemption provided for in Article 1(e) shall apply for a period of three years from the date of the first establishment of the group, regardless of the market share of the group.

2. As concerns co-insurance or co-reinsurance groups which do not fall within the scope of the first paragraph (for the reason that they have been in existence for over three years or have not been created in order to cover a new risk), the exemption provided for in Article 1(e) shall apply on condition that the insurance products underwritten within the grouping arrangement by the participating undertakings or on their behalf do not, in any of the markets concerned, represent:

- (a) in the case of co-insurance groups, more than 20 % of the relevant market;
- (b) in the case of co-reinsurance groups, more than 25 % of the relevant market.

#### Article 8

#### Conditions for exemption

The exemption provided for in Article 1(e) shall apply on condition that:

- (a) each participating undertaking has the right to withdraw from the group, subject to a period of notice of not more than one year, without incurring any sanctions;
- (b) the rules of the group do not oblige any member of the group to insure or reinsure through the group any risk of the type covered by the group;
- (c) the rules of the group do not restrict the activity of the group or its members to the insurance or reinsurance of

risks located in any particular geographical part of the European Union;

- (d) the agreement does not limit output or sales;
- (e) the agreement does not allocate markets or customers;
- (f) the members of a co-reinsurance group do not agree on any other premium than the risk premium.

#### CHAPTER V

### SECURITY DEVICES

#### Article 9

#### Conditions for exemption

The exemption provided for in Article 1(f) shall apply on condition that:

- (a) the technical specifications and compliance assessment procedures are precise, technically justified and in proportion to the performance to be attained by the security device concerned;
- (b) the rules for the evaluation of installation undertakings and maintenance undertakings are objective, relate to their technical competence and are applied in a non-discriminatory manner;
- (c) such specifications and rules are established and distributed with an accompanying statement that insurance undertakings are free in individual cases to accept other security devices or approve other installation and maintenance undertakings which do not comply with these technical specifications or rules;
- (d) such specifications and rules are provided simply upon request to any interested person;
- (e) such specifications include a classification based on the level of performance obtained;
- (f) a request for an assessment may be submitted at any time by any applicant;
- (g) the evaluation of conformity does not impose on the applicant any expenses that are disproportionate to the costs of the approval procedure;
- (h) the devices and installation undertakings and maintenance undertakings that meet the assessment criteria are certified to this effect in a non-discriminatory manner within a period of six months of the date of application, except where technical considerations justify a reasonable additional period;

- (i) the fact of compliance or approval is certified in writing; information, including insurance cover provided or insured risk value, may be used to establish the market share of the undertaking concerned;
- (j) the grounds for a refusal to issue the certificate of compliance are given in writing by attaching a duplicate copy of the records of the tests and controls that have been carried out;
- (k) the grounds for a refusal to take into account a request for assessment are provided in writing;
- (l) the specifications and rules are applied by bodies observing the appropriate provisions of norms in the series EN 45000;
- (m) any technical specifications, rules, procedures or codes of practice which are adopted by an association or associations of insurance or reinsurance undertakings in one or several Member States explicitly recognise as equally valid any such technical specifications, rules, procedures or codes of practice adopted by national associations of insurance or reinsurance undertakings in other Member States;
- (n) any technical specifications, rules, procedures or codes of practice which are adopted by an association or associations of insurance or reinsurance undertakings in one or several Member States explicitly and automatically recognise as equally valid any approval of a security device or installing and maintenance undertaking issued by an association of insurance or reinsurance undertakings in another Member State.
- (b) the market share shall be calculated on the basis of data relating to the preceding calendar year;
- (c) the market share held by the undertakings referred to in Article 2(3)(e) of shall be apportioned equally to each undertaking having the rights or the powers listed in Article 2(3)(a).
2. If the market share referred to in Article 7(2)(a) is initially not more than 20 % but subsequently rises above this level without exceeding 25 %, the exemption provided for in Article 1 shall continue to apply for a period of two consecutive calendar years following the year in which the 20 % threshold was first exceeded.
3. If the market share referred to in Article 7(2)(a) is initially not more than 20 % but subsequently rises above 25 %, the exemption provided for in Article 1 shall continue to apply for one calendar year following the year in which the level of 25 % was first exceeded.
4. The benefit of paragraphs 2 and 3 may not be combined so as to exceed a period of two calendar years.
5. If the market share referred to in Article 7(2)(b) is initially not more than 25 % but subsequently rises above this level without exceeding 30 %, the exemption provided for in Article 1 shall continue to apply for a period of two consecutive calendar years following the year in which the 25 % threshold was first exceeded.
6. If the market share referred to in Article 7(2)(b) is initially not more than 25 % but subsequently rises above 30 %, the exemption provided for in Article 1 shall continue to apply for one calendar year following the year in which the level of 30 % was first exceeded.
7. The benefit of paragraphs 5 and 6 may not be combined so as to exceed a period of two calendar years.

#### Article 10

#### Agreements not covered by the exemption

The exemption provided for in Article 1(f) shall not apply to technical specifications, rules, procedures or codes of practice adopted by an association or associations of insurance or reinsurance undertakings in one or several Member States if there exist equivalent technical specifications, rules, procedures or codes of practice at European level.

#### CHAPTER VI

#### MISCELLANEOUS PROVISIONS

#### Article 11

#### Application of the market share threshold

1. For the purposes of applying the market share threshold provided for in Article 7(2) the following rules shall apply:
- (a) the market share shall be calculated on the basis of the gross premium income; if gross premium income data are not available, estimates based on other reliable market

#### Article 12

#### Withdrawal

The Commission may withdraw the benefit of this Regulation, pursuant to Article 7 of Regulation (EEC) No 1534/91, where either on its own initiative or at the request of a Member State or of a natural or legal person claiming a legitimate interest, it finds in a particular case that an agreement to which the exemption provided for in Article 1 applies nevertheless has effects which are incompatible with the conditions laid down in Article 81(3) of the Treaty, and in particular where:



(a) studies to which the exemption in Article 1(b) applies are based on unjustifiable hypotheses,

(b) standard policy conditions to which the exemption in Article 1(c) applies contain clauses which create, to the detriment of the policyholder, a significant imbalance between the rights and obligations arising from the contract;

(c) in relation to the common coverage of certain types of risks to which the exemption in Article 1(e) applies, one of the two following situations occurs:

- one or more participating undertakings exercises a determining influence on the commercial policy of more than one group on the same market,
- the setting-up or operation of a group results, through the conditions governing admission, the definition of the risks to be covered, the agreements on retrocession or by any other means, in the sharing of the markets for the insurance products concerned or for neighbouring products.

#### Article 13

##### **Transitional period**

The prohibition laid down in Article 81(1) of the Treaty shall not apply during the period from 1 April 2003 to 30 September 2003 in respect of agreements already in force on 31 March 2003 which do not satisfy the conditions for exemption provided for in this Regulation but which satisfy the conditions for exemption provided for in Regulation (EEC) No 3932/92.

#### Article 14

##### **Period of validity**

This Regulation shall enter into force on 1 April 2003. It shall expire on 31 March 2013.

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

Done at Brussels, ...

*For the Commission*

...

*Member of the Commission*

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