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EN

Price:
EUR 3

⁽¹⁾ Text with EEA relevance

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II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
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EUROPEAN COMMISSION

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

Cases where the Commission raises no objections

(Text with EEA relevance)

(2012/C 121/01)

Date of adoption of the decision	22.2.2012
Reference number of State Aid	SA.30742 (N 137/10)
Member State	Lithuania
Region	Klaipėdos apskritis
Title (and/or name of the beneficiary)	Klaipėdos keleivių ir krovinių terminalas
Legal basis	Komisijos sprendimas K(2007) 3740 (2007 m. liepos 30 d.), patvirtinantis veiksmų programą „Ekonomikos augimas“ dėl Bendrijos paramos iš Europos regioninės plėtros fondo ir Sanglaudos fondo pagal Konvergencijos tikslą Lietuvos Respublikoje
Type of measure	Individual aid
Objective	Sectoral development, Regional development
Form of aid	Direct grant
Budget	EUR 17 900 000
Intensity	65 %
Duration (period)	1.2.2011-31.12.2012
Economic sectors	Transport
Name and address of the granting authority	Susisiekimo ministerija Gedimino Av. 17 LT-01505 Vilnius LIETUVA/LITHUANIA
Other information	—

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

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

Date of adoption of the decision	28.3.2012
Reference number of State Aid	SA.33054 (12/N)
Member State	United Kingdom
Region	—
Title (and/or name of the beneficiary)	Post Office Limited (POL): Compensation for net costs incurred to keep a non-commercially viable network for the period 2012-2015 and the continuation of a working capital facility
Legal basis	Post Office Network Subsidy Scheme (Amendment) Order 2011, Postal Services Act 2000, Industrial Development Act 1982
Type of measure	Individual aid
Objective	Services of general economic interest
Form of aid	Direct grant
Budget	Overall budget: GBP 1 155 million
Intensity	—
Duration (period)	1.4.2012-31.3.2015
Economic sectors	Post and telecommunications
Name and address of the granting authority	Department for Business, Innovation and Skills 1 Victoria Street London SW1H 0ET UNITED KINGDOM
Other information	—

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

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

Date of adoption of the decision	23.1.2012
Reference number of State Aid	SA.33868 (11/N)
Member State	Germany
Region	Thüringen
Title (and/or name of the beneficiary)	Staatliche Beihilfe Nr. 618/2007 — Deutschland Richtlinie des Freistaats Thüringen zur einzelbetrieblichen Technologieförderung
Legal basis	Richtlinie des Landes Thüringen zur einzelbetrieblichen Technologieförderung
Type of measure	Aid scheme
Objective	Research and development, Regional development
Form of aid	Direct grant

Budget	Annual budget: EUR 34,5 million Overall budget: EUR 207 million
Intensity	—
Duration (period)	Until 31.12.2013
Economic sectors	All sectors
Name and address of the granting authority	Thüringer Aufbaubank Gorkistraße 9 99084 Erfurt DEUTSCHLAND Postfach 90 02 44 99105 Erfurt DEUTSCHLAND
Other information	—

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

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

Date of adoption of the decision	22.2.2012
Reference number of State Aid	SA.34088 (11/N)
Member State	Poland
Region	Zachodniopomorskie
Title (and/or name of the beneficiary)	PKS w Świdwinie sp. z o.o.
Legal basis	1) Ustawa z dnia 30 sierpnia 1996 r. o komercjalizacji i prywatyzacji – art. 56 ust. 1 pkt 2; 2) Ustawa z dnia 29 kwietnia 2010 r. o zmianie ustawy o komercjalizacji i prywatyzacji oraz ustawy, Przepisy wprowadzające ustawę o finansach publicznych – art. 5; 3) Rozporządzenie Ministra Skarbu Państwa z dnia 6 kwietnia 2007 r. w sprawie pomocy publicznej na ratowanie i restrukturyzację przedsiębiorców
Type of measure	Individual aid
Objective	Restructuring of firms in difficulty
Form of aid	Direct grant
Budget	Overall budget: PLN 0,4 million
Intensity	50 %
Duration (period)	Until 31.12.2015
Economic sectors	Land transport and transport via pipelines

Name and address of the granting authority	Ministerstwo Skarbu Państwa ul. Krucza 36/Wspólna 6 00-522 Warszawa POLSKA/POLAND http://www.msp.gov.pl/
Other information	—

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

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

Date of adoption of the decision	27.2.2012
Reference number of State Aid	SA.34228 (12/N)
Member State	Spain
Region	País Vasco
Title (and/or name of the beneficiary)	Subvenciones destinadas a la consolidación, desarrollo y normalización de los medios de comunicación en euskera
Legal basis	Borrador de Orden, de 21 de diciembre de 2011, de la Consejera de Cultura, por la que se regula y convoca la concesión de subvenciones destinadas a la consolidación, desarrollo y normalización de los medios de la comunicación en euskera en el año 2012 (Convocatoria Hedabi-deak)
Type of measure	Aid scheme
Objective	Culture
Form of aid	Direct grant
Budget	Annual budget: EUR 4,875 million Overall budget: EUR 4,875 million
Intensity	65 %
Duration (period)	Until 31.12.2012
Economic sectors	Media
Name and address of the granting authority	Dirección de Promoción del Euskera Viceconsejería de Política Lingüística Departamento de Cultura Gobierno Vasco C/ Donostia, 1 01010 Vitoria-Gasteiz Álava, País Vasco ESPAÑA
Other information	—

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

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

MONETARY AGREEMENT
between the European Union and the Republic of San Marino
(2012/C 121/02)

THE EUROPEAN UNION,

and

THE REPUBLIC OF SAN MARINO,

Whereas:

- (1) On 1 January 1999, the euro replaced the currency of each Member State participating in the third stage of Economic and Monetary Union, among which Italy, pursuant to Council Regulation (EC) No 974/98 ⁽¹⁾ of 3 May 1998.
- (2) Before the introduction of the euro, Italy and the Republic of San Marino had concluded bilateral agreements on monetary matters, and lastly the *Convenzione monetaria tra la Repubblica Italiana e la Repubblica di San Marino*, concluded on 21 December 1991.
- (3) The Declaration No 6 annexed to the Final Act of the Treaty on European Union stated that the Community should facilitate the renegotiation of existing arrangements with the Republic of San Marino as might become necessary as a result of the introduction of the single currency.
- (4) The Italian Republic concluded on 29 November 2000, on behalf of the European Community, a Monetary Agreement with the Republic of San Marino ⁽²⁾.
- (5) In accordance with this Monetary Agreement, the Republic of San Marino uses the euro as its official currency and grants legal tender status to euro banknotes and coins. It should ensure that European Union (EU) rules on banknotes and coins denominated in euro — including those related to its protection against counterfeiting — are applicable within its territory. The Republic of San Marino shall undertake all the necessary measures to combat counterfeiting and to cooperate with the European Commission, the European Central Bank (ECB) and Europol. Until a cooperation agreement between Europol and the Republic of San Marino is signed, the Republic of San Marino shall cooperate with Europol via the competent Italian authorities in this area.
- (6) The Republic of San Marino should take particular account of the recommendations of the Financial Action Task Force (FATF), notably FATF calls to its members and FATF-style regional body members to apply necessary countermeasures against identified high risk jurisdictions. The Republic of San Marino, which is represented in the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, takes duly account of the recommendations made or to be made in the Republic of San Marino mutual evaluation reports so as to enhance its response to money laundering threats.
- (7) This Agreement does not impose any obligation on the ECB and national central banks to include the financial instruments of the Republic of San Marino in the list(s) of assets eligible for monetary policy operations of the European System of Central Banks.
- (8) The Republic of San Marino has a banking sector which expects to operate in closer connection with that of the euro area. Relevant EU banking and financial legislation, legislation concerning the prevention of money laundering, the prevention of fraud and counterfeiting of non-cash means of payment and statistical reporting requirements should therefore be made progressively applicable to the Republic of San Marino with a view to ensuring a more level playing field.
- (9) A Joint Committee composed of representatives of the Republic of San Marino, the Italian Republic, the Commission and the ECB should be established in order to examine the application of this Agreement, decide the annual ceiling for coin issuance and assess the measures taken by the Republic of San Marino for implementing relevant EU legislation.

⁽¹⁾ OJ L 139, 11.5.1998, p. 1.

⁽²⁾ OJ C 209, 27.7.2001, p. 1.

- (10) The Court of Justice of the European Union should be the judicial body in charge of settling any disputes which may arise from the application of the Agreement,

HAVE AGREED AS FOLLOWS:

Article 1

The Republic of San Marino shall be entitled to use the euro as its official currency in accordance with Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro⁽¹⁾ and Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro. The Republic of San Marino shall grant legal tender status to euro banknotes and coins.

Article 2

The Republic of San Marino shall not issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance have been agreed with the European Union. The conditions for issuing euro coins as from the entry into force of this Agreement are laid down in the following articles.

Article 3

The annual ceiling (in value terms) for the issuance of euro coins by the Republic of San Marino shall be calculated by the Joint Committee established by the present Agreement as the sum of:

- a fixed part, whose initial amount for the first year following the entry into force of this Agreement is set at EUR 2 600 000. The Joint Committee may revise annually the fixed part with a view to taking into account both inflation — on the basis of the HICP inflation of Italy in the last 12 months for which the data are available at the moment of the calculation — and the possible significant trends affecting the euro coins collector market,
- a variable part, corresponding to the average per capita coin issuance of the Italian Republic in the last 12 months for which the data are available multiplied by the number of inhabitants of San Marino.

Article 4

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

2. The Republic of San Marino shall notify in advance the draft national sides of its euro coins to the European Commission, which shall check their compliance with the EU rules.

⁽¹⁾ OJ L 162, 19.6.1997, p. 1.

Article 5

1. Euro coins issued by the Republic of San Marino shall be minted by the Istituto Poligrafico e Zecca dello Stato of the Italian Republic.

2. By derogation to paragraph 1, San Marino may have its coins minted by an EU mint striking euro coins other than the one mentioned in paragraph 1, with the agreement of the Joint Committee.

3. At least 70 % of euro coins intended for circulation shall be put into circulation at face value as of the year following the entry into force of this Agreement. This proportion shall reach 80 % after three years. Thereafter, the Joint Committee will regularly review the adequacy of this proportion.

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

Article 6

1. The volume of euro coins issued by the Republic of San Marino shall be added to the volume of coins issued by Italy for the purposes of European Central Bank approval of the total volume of the issue by the Italian Republic in accordance with Article 128(2) of the Treaty on the Functioning of the European Union.

2. No later than 1 September each year, the Republic of San Marino shall notify the European Commission and the Italian Republic of the volume and the face value of the euro coins that it intends to issue during the following year. It shall also inform the European Commission about the intended conditions of issuance of these coins, in particular the proportion of collector coins and the detailed arrangements for the introduction of circulation coins.

3. Upon the signature of this Agreement, the Republic of San Marino shall communicate the information as mentioned in paragraph 2 for the year following the date of entry into force of the Agreement.

Article 7

1. This Agreement does not prejudice the right of the Republic of San Marino to continue issuing gold coins denominated in scudi.

2. Collector coins and gold coins denominated in scudi issued by the Republic of San Marino shall not be legal tender in the European Union.

Article 8

1. The Republic of San Marino shall undertake to adopt all appropriate measures, through direct transposition or possibly equivalent actions, with a view to implementing the EU legal acts and rules listed in the Annex to this Agreement, in the field of:

(a) euro banknotes and coins;

(b) banking and financial law, in particular in relation to the activity and supervision of the institutions concerned;

(c) prevention of money laundering, prevention of fraud and counterfeiting of cash and non-cash means of payment, medals and tokens and statistical reporting requirements. Regarding legislation on the collection of statistical information, the detailed rules of implementation and the technical adaptations (including the appropriate derogations taking into account the specific status of San Marino) shall be agreed with the European Central Bank not later than 18 months before the required start of the statistical reporting;

(d) the measures necessary for the use of the euro as a single currency adopted under Article 133 of the Treaty on the Functioning of the European Union.

2. The legal acts and rules referred to in paragraph 1 shall be implemented by the Republic of San Marino in accordance with the deadlines specified in the Annex, which run as of the entry into force of this Agreement.

3. The ceiling referred to in Article 3:

(a) shall be automatically and temporarily cut by 1/3 if and when a deadline specified in the Annex is not met, for as long as the EU legal acts or rules concerned have not been adopted;

(b) may be temporarily cut by 1/2 on a decision of the Council acting by qualified majority on a proposal from the Commission and after having heard representatives of the Republic of San Marino if and when the Republic of San Marino fails during more than two years to comply with one or several EU legal acts or rules listed in the Annex, that it has adopted within the agreed deadline.

The ceiling shall be restored to its normal level using the same procedure as soon as the Republic of San Marino has adopted the appropriate measures to address the issues at the origin of the temporary cut.

4. The Republic of San Marino may request technical assistance of the entities constituting the delegation of the European Union in order to facilitate implementation of relevant EU legislation.

5. The Annex shall be amended by the Commission once a year or more often if deemed appropriate, with a view to taking into account the new relevant EU legal acts and rules and the amendments to the existing ones. The Joint Committee shall thereafter decide on appropriate and reasonable deadlines for the implementation by the Republic of San Marino of the new legal acts and rules added to the Annex.

6. The Joint Committee may, in exceptional cases, revise an existing deadline specified in the Annex.

7. The updated Annex shall be published in the *Official Journal of the European Union*.

Article 9

Credit institutions and, where appropriate, other financial institutions authorised to carry out their activities in the territory of the Republic of San Marino may have access to interbank settlement and payment and securities settlement systems in the euro area under appropriate terms and conditions to be determined by the Bank of Italy, in agreement with the European Central Bank.

Article 10

1. The Court of Justice of the European Union shall have exclusive competence for settling any dispute between the parties which may arise from the application of this Agreement and which have not been solved within the Joint Committee.

2. If the European Union, represented by the European Commission and acting on a recommendation by the EU delegation in the Joint Committee, or the Republic of San Marino considers that the other party has not fulfilled an obligation under this Agreement, it may bring the matter before the Court of Justice. The judgment of the Court shall be binding on the parties, which shall take the necessary measures to comply with the judgment within a period to be decided by the Court in its judgment.

Article 11

1. A Joint Committee shall be established. It shall be composed of representatives of the Republic of San Marino and of the European Union. The Joint Committee shall adopt its Rules of Procedure by consensus. The delegation of the European Union shall be composed of representatives of the European Commission and of the Italian Republic, together with the representatives of the European Central Bank.

2. The Joint Committee shall meet at least once a year. The Chair shall rotate on an annual basis between a representative of the European Union and a representative of the Republic of San Marino. The Joint Committee shall adopt its decisions unanimously.
3. The Joint Committee shall exchange views and information and adopt the decisions referred to in Articles 3, 5 and 8. It shall examine the measures taken by the Republic of San Marino and shall endeavour to solve any disputes resulting from the implementation of this Agreement.
4. The European Union shall be the first to chair the Joint Committee upon the entry into force of this Agreement, as laid down in Article 13.

Article 12

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

Article 13

This Agreement shall enter into force on the first day of the month following the date on which the Parties have notified each other that their ratification, conclusion or adoption procedures have been completed in accordance with the rules applicable to each Party.

Article 14

The Monetary Agreement of 29 November 2000 shall be repealed from the date of entry into force of the present Agreement. References to the Agreement of 29 November 2000 shall be understood as references to the present Agreement.

Done at Brussels on 27 March 2012 in two originals in the English language.

For the European Union

Olli REHN

*Vice-President of the European Commission in charge of
Economic and Monetary Affairs and the Euro*

For the Republic of San Marino

Antonella MULARONI

Minister of Foreign Affairs

ANNEX

LEGAL PROVISIONS TO BE IMPLEMENTED	DEADLINE FOR IMPLEMENTATION (APPLICABLE SINCE THE ENTRY INTO FORCE OF THE AGREEMENT)
Prevention of money laundering	
<p>Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15)</p> <p>Amended by:</p> <p>Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007, p. 1)</p> <p>Directive 2008/20/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as regards the implementing powers conferred on the Commission (OJ L 76, 19.3.2008, p. 46)</p> <p>Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7)</p> <p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120)</p> <p>Supplemented by:</p> <p>Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime (OJ L 332, 18.12.2007, p. 103)</p> <p>Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (OJ L 214, 4.8.2006, p. 29)</p> <p>Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345, 8.12.2006, p. 1)</p> <p>Corrigendum to Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345, 8.12.2006) (OJ L 323, 8.12.2007, p. 59)</p> <p>Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (OJ L 309, 25.11.2005, p. 9)</p> <p>Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (OJ L 182, 5.7.2001, p. 1)</p>	1 year

Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information (OJ L 271, 24.10.2000, p. 4)	1 year
Prevention of fraud and counterfeiting	
Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181, 4.7.2001, p. 6) Amended by: Council Regulation (EC) No 44/2009 of 18 December 2008 amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 17, 22.1.2009, p. 1)	1 year
Council Decision 2003/861/EC of 8 December 2003 concerning analysis and cooperation with regard to counterfeit euro coins (OJ L 325, 12.12.2003, p. 44)	1 year
Council Regulation (EC) No 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins (OJ L 373, 21.12.2004, p. 1) Amended by: Council Regulation (EC) No 46/2009 of 18 December 2008 amending Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins (OJ L 17, 22.1.2009, p. 5)	1 year
Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (OJ L 140, 14.6.2000, p. 1) Amended by: Council Framework Decision 2001/888/JHA of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (OJ L 329, 14.12.2001, p. 3)	1 year
Council Decision 2001/887/JHA of 6 December 2001 on the protection of the euro against counterfeiting (OJ L 329, 14.12.2001, p. 1)	1 year
Council Framework Decision 2001/413/JHA of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment (OJ L 149, 2.6.2001, p. 1)	1 year
Rules on euro banknotes and coins	
Council Regulation (EC) No 975/98 of 3 May 1998 on denominations and technical specifications of euro coins intended for circulation (OJ L 139, 11.5.1998, p. 6) Amended by: Council Regulation (EC) No 423/1999 of 22 February 1999 amending Regulation (EC) No 975/98 on denominations and technical specifications of euro coins intended for circulation (OJ L 52, 27.2.1999, p. 2)	1 year
Council conclusions of 10 May 1999 on the quality management system for euro coins	1 year
Council conclusions of 23 November 1998 and of 5 November 2002 on collector coins	1 year

Commission Recommendation 2009/23/EC of 19 December 2008 on common guidelines for the national sides and the issuance of euro coins intended for circulation (C(2008) 8625) (OJ L 9, 14.1.2009, p. 52)	1 year
Communication from the Commission 2001/C 318/03 of 22 October 2001 on copyright protection of the common face design of the euro coins (C(2001) 600 final) (OJ C 318, 13.11.2001, p. 3)	1 year
Regulation (EU) No 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins unfit for circulation (OJ L 339, 22.12.2010, p. 1)	1 year
Guideline of the European Central Bank ECB/2003/5 of 20 March 2003 on the enforcement of measures to counter non-compliant reproductions of euro banknotes and on the exchange and withdrawal of euro banknotes (OJ L 78, 25.3.2003, p. 20)	1 year
Decision of the European Central Bank ECB/2003/4 of 20 March 2003 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes (OJ L 78, 25.3.2003, p. 16)	1 year
Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions (OJ L 318, 27.11.1998, pp. 4-7)	1 year
Decision of the European Central Bank ECB/2010/14 of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes (OJ L 267, 9.10.2010, p. 1)	1 year
Banking and financial legislation	
Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 241, 2.9.2006, pp. 26-58)	6 years
Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive (OJ L 241, 2.9.2006, pp. 1-25)	6 years
Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers (OJ L 43, 14.2.1997, pp. 25-30)	6 years
Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) (OJ L 177, 30.6.2006, p. 201)	4 years
Amended by:	
Directive 2008/23/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, as regards the implementing powers conferred on the Commission (OJ L 76, 19.3.2008, p. 54)	
Commission Directive 2009/27/EC of 7 April 2009 amending certain Annexes to Directive 2006/49/EC of the European Parliament and of the Council as regards technical provisions concerning risk management (OJ L 94, 8.4.2009, p. 97)	
Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management (OJ L 302, 17.11.2009, p. 97)	

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

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

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

4 years

Amended by:

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

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

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

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

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

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

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

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

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

<p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120)</p>	
<p>Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7)</p>	4 years
<p>Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007, p. 1)</p> <p>Corrigendum to Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007) (OJ L 187, 18.7.2009, p. 5)</p> <p>Amended by:</p> <p>Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management (OJ L 302, 17.11.2009, p. 97)</p>	4 years
<p>Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1)</p> <p>Corrigendum to Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 60, 3.3.1987, p. 17)</p> <p>Amended by:</p> <p>Directive 2001/65/EC of the European Parliament and of the Council of 27 September 2001 amending Directives 78/660/EEC, 83/349/EEC and 86/635/EEC as regards the valuation rules for the annual and consolidated accounts of certain types of companies as well as of banks and other financial institutions (OJ L 283, 27.10.2001, p. 28)</p> <p>Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings (OJ L 178, 17.7.2003, p. 16)</p> <p>Directive 2006/46/EC of the European Parliament and of the Council of 14 June 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings (OJ L 224, 16.8.2006, p. 1)</p>	4 years
<p>Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes (OJ L 135, 31.5.1994, p. 5)</p> <p>Amended by:</p> <p>Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees (OJ L 79, 24.3.2005, p. 9)</p>	4 years

Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay (OJ L 68, 13.3.2009, p. 3)	
Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding-up of credit institutions (OJ L 125, 5.5.2001, p. 15)	6 years
Council Directive 89/117/EEC of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents (OJ L 44, 16.2.1989, p. 40)	6 years
<p>Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1)</p> <p>Amended by:</p> <p>Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees (OJ L 79, 24.3.2005, p. 9)</p> <p>Directive 2008/25/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, as regards the implementing powers conferred on the Commission (OJ L 81, 20.3.2008, p. 40)</p> <p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120)</p>	6 years
<p>Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1)</p> <p>Corrigendum to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 45, 16.2.2005, p. 18)</p> <p>Amended by:</p> <p>Directive 2006/31/EC of the European Parliament and of the Council of 5 April 2006 amending Directive 2004/39/EC on markets in financial instruments, as regards certain deadlines (OJ L 114, 27.4.2006, p. 60)</p> <p>Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (OJ L 247, 21.9.2007, p. 1)</p> <p>Directive 2008/10/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2004/39/EC on markets in financial instruments, as regards the implementing powers conferred on the Commission (OJ L 76, 19.3.2008, p. 33)</p>	6 years

<p>Directive 2010/78/EU of the European Parliament and of the Council amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120)</p> <p>Supplemented by:</p> <p>Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 241, 2.9.2006, p. 26)</p> <p>Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive (OJ L 241, 2.9.2006, p. 1)</p>	
<p>Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 (OJ L 266, 9.10.2009, p. 11)</p>	6 years
<p>Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43)</p> <p>Amended by:</p> <p>Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims (OJ L 146, 10.6.2009, p. 37)</p>	6 years
<p>Commission Recommendation 97/489/EC of 30 July 1997 concerning transactions by electronic payment instruments and in particular the relationship between issuer and holder (OJ L 208, 2.8.1997, p. 52)</p>	6 years
<p>Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investment compensation schemes (OJ L 84, 26.3.1997, p. 22)</p>	6 years
<p>Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45)</p> <p>Amended by:</p> <p>Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims (OJ L 146, 10.6.2009, p. 37)</p> <p>Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120)</p>	6 years

Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120)	4 years
Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12)	4 years
Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84)	4 years
Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1)	4 years
Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board (OJ L 331, 15.12.2010, p. 162)	4 years
Legislation on collection of statistical information (Article 6.1 of the mandate)	
Regulation (EC) No 25/2009 of the European Central Bank of 19 December 2008 concerning the balance sheet of the monetary financial institutions sector (Recast) (ECB/2008/32) (OJ L 15, 20.1.2009, p. 14) Amended by: Regulation (EU) No 883/2011 of 25 August 2011 amending Regulation (EC) No 25/2009 concerning the balance sheet of the monetary financial institutions sector (Recast) (ECB/2008/32) (OJ L 228, 3.9.2011, p. 13)	4 years
Regulation (EC) No 63/2002 of the European Central Bank of 20 December 2001 concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2001/18) (OJ L 10, 12.1.2002, p. 24) Amended by: Regulation (EU) No 674/2010 of the European Central Bank of 23 July 2010 amending Regulation (EC) No 63/2002 (ECB/2001/18) concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2010/7) (OJ L 196, 28.7.2010, p. 23) Regulation (EC) No 290/2009 of the European Central Bank of 31 March 2009 amending Regulation (EC) No 63/2002 (ECB/2001/18) concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2009/7) (OJ L 94, 8.4.2009, p. 75) Regulation (EC) No 2181/2004 of the European Central Bank of 16 December 2004 amending Regulation (EC) No 2423/2001 (ECB/2001/13) concerning the consolidated balance sheet of the monetary financial institutions sector and Regulation (EC) No 63/2002 (ECB/2001/18) concerning statistics on interest rates applied by monetary financial institutions to deposits and loans vis-à-vis households and non-financial corporations (ECB/2004/21) (OJ L 371, 18.12.2004, p. 42)	4 years
Guideline of the European Central Bank ECB/2007/9 of 1 August 2007 on monetary, financial institutions and markets statistics (recast) (OJ L 341, 27.12.2007, p. 1)	4 years

Corrigendum to the Guideline of the European Central Bank ECB/2007/9 of 1 August 2007 on monetary, financial institutions and markets statistics (recast) (OJ L 84, 26.3.2008, p. 393)

Amended by:

Guideline of the European Central Bank ECB/2008/31 of 19 December 2008 amending Guideline ECB/2007/9 on monetary, financial institutions and markets statistics (recast) (OJ L 53, 26.2.2009, p. 76)

Guideline of the European Central Bank ECB/2009/23 of 4 December 2009 amending Guideline ECB/2007/9 on monetary, financial institutions and markets statistics (OJ L 16, 21.1.2010, p. 6)

Guideline of the European Central Bank ECB/2011/13 of 25 August 2011 amending Guideline ECB/2007/9 on monetary, financial institutions and markets statistics (OJ L 228, 3.9.2011, p. 37)

Guideline of the European Central Bank ECB/2002/7 of 21 November 2002 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts (OJ L 334, 11.12.2002, p. 24)

Amended by:

Guideline of the European Central Bank ECB/2005/13 of 17 November 2005 amending Guideline ECB/2002/7 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts (OJ L 30, 2.2.2006, p. 1)

Guideline of the European Central Bank ECB/2006/6 of 20 April 2006 amending Guideline ECB/2002/7 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts (OJ L 115, 28.4.2006, p. 46)

Guideline of the European Central Bank ECB/2007/13 of 15 November 2007 amending Guideline ECB/2002/7 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts (OJ L 311, 29.11.2007, p. 47)

Guideline of the European Central Bank ECB/2008/6 of 26 August 2008 amending Guideline ECB/2002/7 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts (OJ L 259, 27.9.2008, p. 12)

4 years

Non-opposition to a notified concentration
(Case COMP/M.6513 — Avenance Italy/Gemeaz Cusin)

(Text with EEA relevance)

(2012/C 121/03)

On 23 March 2012, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32012M6513. EUR-Lex is the on-line access to the European law.

Non-opposition to a notified concentration

(Case COMP/M.6479 — MNV/Rába)

(Text with EEA relevance)

(2012/C 121/04)

On 11 April 2012, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32012M6479. EUR-Lex is the on-line access to the European law.
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Non-opposition to a notified concentration**(Case COMP/M.6533 — Goldman Sachs/Advent International/TransUnion Corp)****(Text with EEA relevance)**

(2012/C 121/05)

On 17 April 2012, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32012M6533. EUR-Lex is the on-line access to the European law.
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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

25 April 2012

(2012/C 121/06)

1 euro =

Currency	Exchange rate	Currency	Exchange rate
USD US dollar	1,3206	AUD Australian dollar	1,2771
JPY Japanese yen	107,35	CAD Canadian dollar	1,3016
DKK Danish krone	7,4399	HKD Hong Kong dollar	10,2468
GBP Pound sterling	0,81940	NZD New Zealand dollar	1,6217
SEK Swedish krona	8,8958	SGD Singapore dollar	1,6440
CHF Swiss franc	1,2018	KRW South Korean won	1 506,66
ISK Iceland króna		ZAR South African rand	10,2555
NOK Norwegian krone	7,5625	CNY Chinese yuan renminbi	8,3269
BGN Bulgarian lev	1,9558	HRK Croatian kuna	7,5325
CZK Czech koruna	24,804	IDR Indonesian rupiah	12 149,96
HUF Hungarian forint	287,83	MYR Malaysian ringgit	4,0408
LTL Lithuanian litas	3,4528	PHP Philippine peso	56,314
LVL Latvian lats	0,6993	RUB Russian rouble	38,7490
PLN Polish zloty	4,1738	THB Thai baht	40,859
RON Romanian leu	4,3765	BRL Brazilian real	2,4784
TRY Turkish lira	2,3417	MXN Mexican peso	17,3461
		INR Indian rupee	69,3910

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

Commission communication concerning the procedure laid down by Article 1(4) of Council Directive 96/67/EC
(2012/C 121/07)

According to the provisions of Article 1(4) of Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports ⁽¹⁾, the Commission is required to publish, for information, a list of the airports referred to in the Directive.

	Airports whose annual traffic is more than 2 million passenger movements or 50 000 tonnes of freight in 2010	Other airports open to commercial traffic in 2010
Austria	Wien/Schwechat	Linz, Graz, Salzburg, Klagenfurt, Innsbruck
Belgium	Brussels National, Charleroi–Brussels South, Liège–Bierset, Oostende–Brugge	Antwerpen, Kortrijk–Wevelgem
Bulgaria	Sofia	Varna, Burgas, Plovdiv, Gorna Oriahovitza
Cyprus	Larnaca	Paphos
Czech Republic	Praha/Ruzyně	Bmo/Tuřany, Karlovy Vary, Mnichovo Hradiště, Ostrava Mošnov, Pardubice, Olomouc, Benešov, Broumov, Břeclav, Bubovice, Česká Lípa, České Budějovice, Dvůr Králové nad Labem, Frýdlant nad Ostravicí, Havlíčkův Brod, Hodkovice nad Mohelkou, Hořice, Hosín, Hradec Králové, Hranice, Cheb, Chomutov, Chotěboř, Chrudim, Jaroměř, Jičín, Jihlava, Jindřichův Hradec, Kladno, Klatovy, Kolín, Krnov, Křižanov, Kyjov, Letkov, Letňany, Mariánské lázně, Medlánky, Mikulovice, Mladá Boleslav, Moravská Třebová, Most, Nové Město nad Metují, Panenský Týnec, Plasy, Podbořany, Policka, Příbram, Příbyslav, Rakovník, Raná, Roudnice, Sazená, Skuteč, Slaný, Soběslav, Staňkov, Strakonice, Strunkovice, Šumperk, Tábor, Točná, Toužím, Ústí nad Orlicí, Velké Pončí, Vlašim, Vrchlabí, Vysoké Mýto, Vyškov, Zábřeh, Zbraslavice, Žamberk
Denmark	Copenhagen Airport, Billund Airport	Aalborg Airport, Aarhus Airport, Esbjerg Airport, Bornholm Airport, Karup Airport, Sønderborg Airport, Thisted Airport, Roskilde Airport
Estonia		Lennart Meri Tallinn, Tartu, Pärnu, Kärkla, Kuressaare
Finland	Helsinki–Vantaa	Enontekiö, Halli, Helsinki–Malmi, Ivalo, Joensuu, Jyväskylä, Kajaani, Kauhava, Kemi–Tornio, Kittilä, Kokkola–Pietarsaari, Kuopio, Kuusamo, Lappeenranta, Maarianhamina, Oulu, Pori, Savonlinna, Rovaniemi, Tampere–Pirkkala, Turku, Utti, Vaasa, Varkaus, Mikkeli, Seinäjoki
France	Paris–CDG, Paris–Orly, Nice–Côte d'Azur, Lyon–Saint Exupéry, Marseille–Provence, Toulouse–Blagnac, Bâle–Mulhouse, Bordeaux–Mérignac, Nantes–Atlantique, Beauvais–Tille	Pointe-à-Pitre–Le Raizet, Strasbourg Entzheim, Martinique Aimé Césaire, La Réunion Roland Garros, Montpellier–Méditerranée, Lille Lesquin, Ajaccio Napoléon Bonaparte, Bastia Poretta, Biarritz–Anglet–Bayonne, Brest–Bretagne, Pau Pyrénées, Hyères Le Palyvestre, Tarbes–Lourdes–Pyrénées, Grenoble Isère, Carcassonne, Rennes St Jacques, Perpignan–Rives-altes, Figari Sud Corse, Cayenne Rochambeau, Clermont–Ferrand–Auvergne, Limoges, Calvi Ste Catherine, Bergerac Roumanière, Chambéry/Aix-les-Bains, Dzaoudzi Pamandzi, Metz Nancy Lorraine, St Martin Grand Case,

⁽¹⁾ OJ L 272, 25.10.1996, p. 36.

	Airports whose annual traffic is more than 2 million passenger movements or 50 000 tonnes of freight in 2010	Other airports open to commercial traffic in 2010
		Lorient–Lann–Bihoue, Nîmes/Arles Camargue, La Rochelle Île de Ré, St Barthélémy, Dinard–Pleurtuit–St-Malo, Rodez Marcillac, St Pierre Pierrefonds, Quimper–Cornouaille, Tours–Val de Loire, Poitiers–Biard–Futuroscope, Paris Le Bourget, Caen Carpiquet, Béziers–Vias, Deauville Normandie, Annecy–Meythet, Le Havre Octeville, St Pierre–Pointe Blanche, Lannion, Avignon Caumont, Castres Mazamet, Angoulême, Agen La Garenne, Maripasoula, Rouen–Vallée de Seine, Aurillac Tronquières, Brive Souillac, St Etienne Bouthéon, Cannes Mandelieu, Miquelon, Saint Nazaire Montoir, Dijon Bourgogne
Germany	Berlin–Tegel, Schönefeld, Bremen, Düsseldorf, Frankfurt–Main, Hahn, Hamburg, Hannover–Langenhagen, Köln–Bonn, Leipzig, München, Nürnberg, Stuttgart, Weeze	Augsburg, Altenburg–Nobitz, Borkum, Braunschweig, Dortmund, Dresden, Erfurt, Friedrichshafen, Heringsdorf, Hof–Plauen, Karlsruhe–Baden–Baden, Kassel–Calden, Kiel–Holtenau, Lübeck–Blankensee, Mannheim City, Memmingen, Mönchengladbach, Münster–Osnabrück, Paderborn–Lippstadt, Saarbrücken–Ensheim, Rostock–Laage, Schwerin–Parchim, Siegerland, Westerland–Sylt, Zweibrücken ⁽¹⁾
Greece	Athens, Iraklio, Thessaloniki, Rodos	Corfu–Kerkyra, Kos, Chania, Zante, Alexandroupolis, Aktio, Araxos, Kalamata, Kalymnos, Kastoria, Kavala, Kozani, Aghialos, Astypalaia, Chios, Ioannina, Ikaria, Karpathos, Kasos, Kastelorizo, Kefalonia, Kithira, Leros, Limnos, Mykonos, Milos, Mytilene, Naxos, Paros, Samos, Santorini, Syros, Sitia, Skiathos, Skyros
Hungary	Budapest Ferihegy	Pécs–Pogány Repülőtér, Győr–Pér Repülőtér, Fly Balaton Repülőtér Sármellék, Airport Debrecen
Ireland	Dublin Airport, Cork Airport	Shannon Airport, Donegal Airport, Ireland West Airport Knock, Kerry Airport, Galway Airport, Sligo Airport, Waterford Airport
Italy	Roma–Fiumicino, Milano–Malpensa, Milano–Linate, Bergamo Orio al Serio, Venezia Tessera, Catania Fontanarossa, Napoli Capodichino, Bologna Borgo Panigale, Roma–Ciampino, Palermo Punta Raisi, Pisa San Giusto, Cagliari Elmas, Torino Caselle, Verona Villafranca, Bari Palese, Treviso	Firenze, Lamezia Terme, Olbia, Alghero, Genova, Brindisi, Trapani, Trieste, Forlì, Reggio Calabria, Ancona, Pescara, Rimini, Parma, Brescia, Lampedusa, Pantelleria, Cuneo, Perugia, Foggia, Crotone, Bolzano, Elba, Grosseto, Salerno, Albenga, Siena, Taranto, Tortoli
Latvia	Riga International Airport	Liepaja Airport, Ventspils Airport
Lithuania		Vilnius International Airport, Palanga International Airport, Kaunas International Airport, Siauliai Military Airport
Luxembourg	Luxembourg–Findel	
Malta	Luqa–Malta International Airport	
Netherlands	Amsterdam–Schiphol, Maastricht–Aachen, Eindhoven	Groningen–Eelde, Rotterdam
Poland	Chopina w Warszawie, Kraków–Balice, Katowice–Pyrzowice, Gdańsk im. Lecha Wałęsy	Wrocław–Strachowice, Poznań–Ławica, Łódź–Lublinek, Szczecin–Goleniów, Bydgoszcz–Szwedero, Rzeszów–Jasionka, Zielona Góra–Babimost

	Airports whose annual traffic is more than 2 million passenger movements or 50 000 tonnes of freight in 2010	Other airports open to commercial traffic in 2010
Portugal	Lisboa, Faro, Oporto, Madeira	Ponta Delgada, Porto Santo, Horta, Santa Maria, Graciosa, Pico, São Jorge, Flores, Corvo, Bragança, Vila Real, Cascais, Lajes
Romania	Aeroportul Internațional Henri Coandă-București, Aeroportul Internațional București Băneasa-Aurel Vlaicu	Aeroportul Internațional Timișoara-Traian Vuia, Aeroportul Internațional Mihail Kogălniceanu-Constanța, Aeroportul Arad, Aeroportul George Enescu-Bacău, Aeroportul Baia Mare, Aeroportul Cluj-Napoca, Aeroportul Craiova, Aeroportul Iași, Aeroportul Oradea, Aeroportul Satu Mare, Aeroportul Sibiu, Aeroportul Ștefan cel Mare-Suceava, Aeroportul Târgu Mureș-Transilvania, Aeroportul Tulcea-Delta Dunării, Aeroportul Tuzla
Slovakia		Bratislava, Košice, Piešťany, Sliač, Poprad, Žilina
Slovenia		Airport Jože Pučnik Ljubljana, Airport Edvard Rusjan Maribor, Airport Portorož
Spain	Alicante, Barcelona, Bilbao, Fuerteventura, Girona, Gran Canaria, Ibiza, Lanzarote, Madrid/Barajas, Málaga, Menorca, Palma de Mallorca, Santiago de Compostela, Sevilla, Tenerife Norte, Tenerife Sur, Valencia	Asturias, Coruña (A), Jerez, Murcia/San Javier, Reus, Vigo, Vitoria, Zaragoza, Albacete, Algeciras/Helipuerto, Almería, Badajoz, Burgos, Ceuta/Helipuerto, Ciudad Real, Córdoba, Madrid/Cuatro Vientos, Madrid/Torrejón, Gomera (La), Granada, Hierro (El), Huesca-Pirineos, León, Lleida/Alguaire, Logroño, Melilla, Palma (La), Pamplona, Sabadell, Salamanca, San Sebastián, Santander, Son Bonet, Valladolid
Sweden	Göteborg-Landvetter, Stockholm-Arlanda, Stockholm/Skavsta, Stockholm/Bromma	Arvidsjaur, Arvika, Borlänge, Eskilstuna, Falköping, Gällivare, Gällivare/Vassare, Gävle, Göteborg/Säve, Hagfors, Halmstad, Hemavan Tärnaby, Hultsfred-Vimmerby, Jönköping, Kalmar, Karlsborg, Karlskoga, Karlstad, Kiruna, Kiruna/Luosajärvi, Kramfors-Sollefteå, Kristianstad, Lidköping, Linköping/Malmen, Linköping/Saab, Ljungbyhed, Luleå/Kallax, Lycksele, Malmö/Sturup, Mora/Siljan, Norrköping/Kungsängen, Oskarshamn, Pajala-Ylläs, Ronneby, Skellefteå, Skövde, Stockholm/Västerås, Storuman, Strömstad/Näsinga, Sundsvall-Härnösand, Sveg, Sätenäs, Söderhamn, Torsby/Fryklunda, Trollhättan-Vänersborg, Umeå, Uppsala, Vidsel, Vilhelmina, Visby, Växjö/Kronoberg, Åre-Östersund, Ängelholm, Örebro, Örnköldsvik
United Kingdom	Heathrow, Gatwick, Stansted, Manchester, Luton, Edinburgh, Birmingham, Glasgow, Bristol, Liverpool, Newcastle, Prestwick, East Midlands International, Southampton, Belfast International, London City, Aberdeen, Belfast City, Leeds Bradford	Barra, Benbecula, Biggin Hill, Blackpool, Bournemouth, Cambridge, Campbeltown, Cardiff Wales, City of Derry, Doncaster Sheffield, Durham Tees Valley, Exeter, Farnborough, Gloucestershire, Humberside, Inverness, Islay, Isles of Scilly, Kirkwall, Lands End, Lerwick, Lydd, Manston, Newquay, Norwich, Oxford, Penzance Heliport, Plymouth, Scatsa, Shoreham, Southend, Stornoway, Sumburgh, Tiree, Wick

(¹) Airports whose annual traffic is under 10 000 passengers a year are not listed.

COURT OF AUDITORS

Special Report No 4/2012 ‘Using Structural and Cohesion Funds to co-finance transport infrastructures in seaports: an effective investment?’

(2012/C 121/08)

The European Court of Auditors hereby informs you that Special Report No 4/2012 ‘Using Structural and Cohesion Funds to co-finance transport infrastructures in seaports: an effective investment?’ has just been published.

The report can be accessed for consultation or downloading on the European Court of Auditors’ website:
<http://eca.europa.eu>

A hard copy version of the report may be obtained free of charge on request to the Court of Auditors:

European Court of Auditors
Unit ‘Audit: Production of Reports’
12, rue Alcide de Gasperi
1615 Luxembourg
LUXEMBOURG

Tel. +352 4398-1

E-mail: eca-info@eca.europa.eu

or by filling in an electronic order form on EU-Bookshop.

NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

Invitation to submit comments pursuant to Article 1(2) in Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice on the sale of Narvik municipality's entitlement to concession power to Narvik Energi AS ('NEAS')

(2012/C 121/09)

By means of Decision No 393/11/COL of 14 December 2011, reproduced in the authentic language on the pages following this summary, the EFTA Surveillance Authority initiated proceedings pursuant to Article 1(2) in Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. The Norwegian authorities have been informed by means of a copy of the decision.

By means of this notice the EFTA Surveillance Authority gives the EFTA States, EU Member States and interested parties notice to submit their comments on the measure in question within one month of the date of publication to:

EFTA Surveillance Authority
Registry
Rue Belliard/Belliardstraat 35
1040 Bruxelles/Brussel
BELGIQUE/BELGIË

The comments will be communicated to the Norwegian authorities. The identity of the interested party submitting the comments may be withheld following a request in writing stating the reasons for the request.

SUMMARY

Procedure

By letter dated 7 January 2009, a complaint was filed against Narvik municipality ('the municipality') regarding the sale of Narvik municipality's entitlement to concession power to Narvik Energi AS ('NEAS'). The letter was received and registered by the Authority on 14 January 2009 (Event No 504391).

By letter dated 16 July 2009 (Event No 519710), the Authority requested additional information from the Norwegian authorities. By letter dated 2 October 2009 (Event No 532247), the Norwegian authorities replied to the information request.

Assessment of the measure

Narvik Municipality and Narvik Energi AS entered into a contract on 16 October 2000 on the basis of which the municipality sold its concession power rights to NEAS for 50,5 years for NOK 126 million. The Authority has assessed the likelihood of whether the transaction was completed in accordance with the market economy investor principle, i.e., if the municipality sold the concession power entitlement for its market value, and the price and terms of the transaction would have been acceptable for a private investor operating in a market economy.

The Authority has doubts regarding the benchmark to compare the contract in question. Moreover, there were significant regulatory and market risks which could affect key variables/assumptions in the valuation models used to assess the price of the entitlement. As a result, the value estimates provided by external advisors ranged from approximately NOK 70 million to NOK 145 million. The relatively large value range could indicate that there is uncertainty about the actual market value of the asset over a period of 50 years.

Moreover, the Authority has noted that no open and competitive tender procedure was organised *ex ante*, and no *ex post* price adjustment clauses were included in the contract.

The Authority invites the Norwegian authorities to provide sufficient information to demonstrate that the contract was entered into according to the market economy investor principle and that it therefore did not entail State aid.

Conclusion

In light of the above considerations, the Authority has doubts whether the contract between the municipality and NEAS is in line with the market economy investor principle, and therefore at this stage cannot exclude that the above mentioned agreement did not involve State aid within the meaning of Article 61(1) of the EEA Agreement.

Therefore, the Authority has decided to open the formal investigation procedure in accordance with Article 1(2) of the EEA Agreement. Interested parties are invited to submit their comments within one month from publication of this notice in the *Official Journal of the European Union*.

EFTA SURVEILLANCE AUTHORITY DECISION

No 393/11/COL

of 14 December 2011

to initiate the procedure provided for in Article 1(2) of Part I of Protocol 3 to the Surveillance and Court Agreement with regard to the sale of Narvik municipality's entitlement to concession power to Narvik Energi AS

(Norway)

THE EFTA SURVEILLANCE AUTHORITY ('the Authority'),

HAVING REGARD to the Agreement on the European Economic Area ('the EEA Agreement'), in particular to Article 61 and Protocol 26 thereof,

HAVING REGARD to Protocol 3 to the Surveillance and Court Agreement ('Protocol 3 SCA'), in particular to Article 1(2) of Part I and Articles 4(4) and 13(1) of Part II,

HAVING REGARD to the Authority's Decision of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3 ⁽¹⁾.

Whereas:

I. FACTS

1. Procedure

- (1) By letter dated 7 January 2009, a complaint was filed against Narvik municipality ('the municipality') regarding the sale of Narvik municipality's entitlement to concession power to Narvik Energi AS ('NEAS'). The letter was received and registered by the Authority on 14 January 2009 (Event No 504391).
- (2) By letter dated 16 July 2009 (Event No 519710), the Authority requested additional information from the Norwegian authorities. By letter dated 2 October 2009 (Event No 532247), the Norwegian authorities replied to the information request.

2. The complaint

- (3) According to the complaint, on 16 October 2000 the municipality entered into a contract with NEAS for the sale of 128 GWh of annual concession power for a period of 50,5 years. For this, NEAS paid the municipality one upfront lump sum of NOK 126 million. The contract, that was entered into after negotiation between the contracting parties and without a competitive tender procedure, contained no index adjustment or other price adjustment clauses.

⁽¹⁾ Decision 195/04/COL, 14.7.2004 published in OJ C 139, 25.5.2006, p. 57 and EEA Supplement No 26, 25.5.2006, p. 1 as amended by Decision 319/05/COL, 14.12.2005 published in OJ C 286, 23.11.2006, p. 9 and EEA Supplement No 57, 23.11.2006, p. 31.

- (4) The complainant further alleges that the decision to enter into the contract was adopted by Narvik Municipal Council on the basis of incorrect and/or incomplete information. Allegedly expert reports critical of the duration of the contract and the inherent difficulty in establishing a market price for electricity were not disclosed to the Municipal Council prior to taking the decision to enter into the contract.
- (5) The complainant argues that the market price for the concession power over the contract period is significantly higher than NOK 126 million. Therefore the contract involves State aid.
- (6) The contract that forms the subject of the complaint is entitled 'Lease of concession power for a period of 50,5 years ...' ⁽²⁾. However, throughout this Decision the Authority will refer to the contract as a contract of sale of Narvik municipality's entitlement to concession power. The Authority will, in its preliminary assessment, assess not only the contract but also all supplementary agreements to it, as well as any other circumstances surrounding and related to the sale.

3. Background

3.1. Concession power regime

- (7) Any municipality which has hydropower production within its borders is entitled to receive an annual amount of concession power from concessionaires for waterfall exploitation.
- (8) The system of concession power is laid down in Section 2(12) of the Industrial Licensing Act ⁽³⁾ and Section 12(15) of the Waterfalls Regulation Act ⁽⁴⁾.
- (9) Each municipality's entitlement to concession power is decided on the basis of its 'general electric power supply needs' ⁽⁵⁾ and can be up to 10 per cent of a plant's yearly production. The legal basis for the municipalities' right to concession power, referred to above, states that municipalities may dispose of the concession power as they see fit (irrespective of the fact that the amount to which they are entitled is calculated on the basis of their 'general electric power supply needs').
- (10) The price paid by the municipalities for the concession power is determined on an annual basis by the Ministry of Energy and Petroleum (MEP). The municipalities also carry the costs of feeding the concession power into the grid.
- (11) The majority of the municipality's concession power entitlements are due for assessment in 2019.

3.2. Narvik municipality and the contract with Narvik Energi AS

- (12) Narvik municipality is located in the county of Nordland. NEAS is a company that is active in the production and sale of electricity. NEAS was 100 per cent owned by the municipality until 2001, when the municipality reduced its ownership stake in the company to 50,01 per cent.
- (13) In 1999, Narvik municipality had the right to purchase approximately 128 GWh of concession power annually. Approximately 10 per cent of this concession power was generated by NEAS, while the remaining 90 per cent was generated by other hydropower companies within the municipality (in which Narvik municipality had no stake).
- (14) Historically, the municipality had sold its concession power to NEAS under short- or longer-term contracts.
- (15) After the expiry of a three-year contract on 31 December 1998, the parties could not reach an agreement as to the prolongation of the contract. Until the concession power price for 1999 was published on 26 March 1999, the municipality therefore sold its concession power on a power exchange at spot prices.

⁽²⁾ Event No 532254, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 1: 'Avtale mellom Narvik kommune og Narvik Energi AS om leie av konsesjonskraft for en periode av 50,5 år og om at konsesjonskraften anvendes som tinginnskudd ved aksjekapitalutvidelse i Narvik Energi AS.'

⁽³⁾ http://www.regjeringen.no/Upload/OED/Vedlegg/Lover%20og%20reglement/Act_No_16_of_14_-December_1917.pdf

⁽⁴⁾ http://www.regjeringen.no/Upload/OED/Vedlegg/Lover%20og%20reglement/Act_No_17%20of_14_-December_1917.pdf

⁽⁵⁾ According to the Norwegian Water Resources and Energy Directorate, this includes electric power for industry, agriculture and households, but not power for power intensive industries and wood conversion.

- (16) In March 1999, with knowledge of the concession power price for that year, the municipality arranged a tender procedure for the sale of its concession power for the remainder of 1999. On 30 March 1999, the Municipal Council sold this concession power to the highest bidder, Kraftinor, for a price of NOK 109,50/MWh. Since the municipality itself paid NOK 111,10/MWh plus feeding costs of NOK 20/MWh for the concession power, the municipality incurred a loss of approximately NOK 2,3 million under this contract (compared to a budgeted surplus of NOK 3,5 million).
- (17) According to the Norwegian authorities, electricity prices had been falling for several years and had reached their lowest point in 1998, but had picked up again in 1999. In 1999, the difference between concession power price and market price was, however, relatively small.
- (18) Due to the volatile and relatively low electricity spot prices, it was decided in a Municipal Council meeting held on 30 March 1999 that a long-term strategy for the future handling of the municipality's concession power was to be developed and presented to the Municipal Council in August 1999.
- (19) On 15 October 1999, the municipal administration proposed a strategy for the future handling of the concession power to the Municipal Council executive committee ('Executive Committee').
- (20) On 19 October 1999, the Executive Committee confirmed the proposal of the administration and recommended to the Municipal Council that the overall goal for handling the municipality's concession power should be 'to maximize return on a long-term basis in order to obtain a stable planning horizon with less uncertainty from year to year ⁽⁶⁾.' The proposed strategy for achieving this goal had four elements:
1. Concession power is sold to the highest bidder on long-term contracts with a fixed return, however with adjustment clauses that give additional returns if the prices are substantially higher than the projected prices in the contract period;
 2. Concession power is sold under different contracts of different lengths to diversify risk;
 3. The mayor is granted power of attorney to enter into agreements according to the strategy decided by the Municipal Council; and
 4. Profits from the sale of the concession power is deposited into a fund to be dispersed according to decisions by the Municipal Council.
- (21) The strategy proposal was discussed on 25 November 1999 as Municipal Council Case 99/52 ('Strategy for handling of concession power').
- (22) The Municipal Council confirmed the recommendation of the Executive Committee with one adjustment, suggested by the mayor and confirmed by way of an amendment to the strategy: instead of the mayor being explicitly 'granted power of attorney to enter into agreements according to the strategy decided by the Municipal Council', the final decision stated that 'as a first step in executing this strategy, NEAS is invited to discuss their interest in the matter as outlined in their letter to the municipality dated 9 November ⁽⁷⁾.'
- (23) The letter from NEAS dated 9 November questioned the proposed strategy of selling the concession power under different contracts of different lengths to spread risk. Instead, NEAS suggested one long-term contract ('for example 50 years' ⁽⁸⁾) and was open to including a price adjustment clause in the contract with Narvik Municipality.
- (24) According to the documentation provided by the Norwegian authorities, NEAS had also proposed this type of contract earlier in the process. In a letter dated 15 April 1999, NEAS had approached the municipality stating its interest in entering into a long-term contract regarding the concession power, primarily through a purchase with an upfront lump sum payment, or alternatively as a long-term lease — suggested initially at 60 years — with annual payments to Narvik Municipality ⁽⁹⁾.
- (25) Aside from the issue of the concession power, there were also discussions about NEAS' future role in the market, and the municipality's role as the owner of NEAS ⁽¹⁰⁾.

⁽⁶⁾ Event No 532250, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 13: 'Narvik kommunens konsesjonskraft håndteres ut fra hva som gir størst mulig avkastning på lang sikt. Målet er samtidig å gi kommunen en mer stabil planleggingshorisont gjennom å redusere usikkerheten fra år til år.'

⁽⁷⁾ Event No 532250, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 6.

⁽⁸⁾ Event No 532250, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 12.

⁽⁹⁾ Event No 532249, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 7.

⁽¹⁰⁾ See footnote 8.

- (26) According to the Norwegian authorities, NEAS was at the time observing extensive regional consolidation amongst power companies and the entry of national/international operators into local markets. NEAS needed to strengthen its equity base in order to acquire shares in other electricity companies, particularly Nordkraft AS. NEAS had also signed letters of intent with Hålogaland Kraft AS and Vesterålskraft AS, two local power companies, to form a regional production company and a regional energy transportation company. These changes were planned to take effect as of 1 January 2001. In order for NEAS to be able to complete these transactions with a combination of equity and borrowed capital, Narvik Municipality — NEAS' sole owner — was expected to inject additional equity into NEAS.
- (27) On 16 December 1999, the Municipal Council discussed Case 99/65 ('Sale of equity positions').
- (28) In this meeting, the Municipal Council assessed both its ownership position in NEAS and the above-mentioned capital needs of NEAS. It was decided that the municipality's ownership stake in NEAS, the capital needs of NEAS and the handling of concession power, should be assessed jointly by a negotiation team consisting of the mayor, the deputy mayor, the leader of the opposition, as well as the director, the deputy director and the head of procurement of the municipal administration ('the negotiation team'). The negotiation team was given the responsibility of implementing the decisions in Cases 99/52 and 99/65, and to make a recommendation to the Executive Committee.
- (29) During the winter and spring of 2000, both the municipality and NEAS sought external advice concerning the valuation of the concession power, the implications of the municipality injecting capital into NEAS, as well as the municipality reducing its ownership position in NEAS.
- (30) NEAS engaged Arthur Andersen ('AA') to make an assessment of the value of the concession power. AA's report was delivered on 20 May 1999. It estimated a net present value ('NPV') of the concession power transferred for 50 years to be in the range of NOK 71,4-117,4 million with a base case value of NOK 87,7 million ⁽¹¹⁾.
- (31) NEAS also commissioned a value assessment from Deloitte & Touche ('DT'). In its report dated 3 May 2000, DT estimated the NPV of the concession power, again for 50 years, to be approximately NOK 110-130 million ⁽¹²⁾.
- (32) Narvik Municipality, on the other hand, initially asked Danske Securities ('DS') to assess whether Narvik Municipality should transfer its concession power to NEAS as a part of a restructuring process in NEAS, or if Narvik Municipality should sell the power independently. DS concluded, in a report dated 14 February 2000, that there were no economic or strategic reasons for transferring the concession power to NEAS. DS also — 'on its own initiative' ⁽¹³⁾ — made a value assessment of a 50-year contract, and concluded that such a contract had a value in the range of NOK 80-145 million.
- (33) DS was subsequently commissioned to perform a second assessment of the value of the concession power. In order to do so, it contacted three market participants — Statkraft SF, CBF Kraftmegling AS, and Norwegian Energy Brokers AS — and asked how they would value a 50-year concession power contract. Based on the responses, DS concluded, in a report dated 23 February 2000, that the NPV of the concession power was in the range of NOK 100-140 million ⁽¹⁴⁾.
- (34) In addition to external advice, there were also internal assessments made by the head of procurement at the municipality.
- (35) In the first assessment presented to the Executive Committee in October 1999, he concluded that the overall risk for the municipality was high for long-term contracts defined as contracts between 10 and 40 years ⁽¹⁵⁾.
- (36) In his second assessment, presented to the negotiation team on 16 March 2000, various options for handling the concession power were discussed. By this time, however, the negotiation team had narrowed the scope of his mandate ⁽¹⁶⁾.

⁽¹¹⁾ Event No 532252, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 1 onwards.

⁽¹²⁾ Event No 532252, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 38 onwards.

⁽¹³⁾ Event No 532252, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 28.

⁽¹⁴⁾ Event No 532252, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 16 onwards.

⁽¹⁵⁾ Event No 532250, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 14 onwards.

⁽¹⁶⁾ His mandate was narrowed to only assessing, *inter alia*, risk, time to settlement, tax implications and profit maximization for three scenarios (all involving Narvik Municipality transferring the concession power right to NEAS for a 50-year period and Narvik Municipality reducing its ownership stake in NEAS from 100 per cent to 51 per cent).

- (37) Notwithstanding this, in his second assessment, the head of procurement continued to focus on the importance of the length of the contract. His assessment of the marginal value of the entitlement to concession power over time was that '... to enter into a very long contract such as 50 years gives very little additional value for us as sellers compared to a shorter contract (for example 20 years with NOK 83 million) ⁽¹⁷⁾.' After internal discussions regarding the advantages and disadvantages of a long-term contract, the negotiation team made its recommendation to the Municipal Council: it recommended a contract with a duration of 50,5 years as appropriate to reduce the municipality's risk and to provide a long-term planning horizon.
- (38) On 22 May 2000, the Municipal Council decided that the municipality should sell its entitlement to concession power to NEAS for 50,5 years and reduce its ownership in NEAS by as much as 49 percent by the end of 2000 ⁽¹⁸⁾. From the information presented by the Norwegian Authorities, the above-mentioned independent expert reports were referred to in the memorandum distributed to the council members prior to taking the decision, but copies of the reports appear not to have been distributed ⁽¹⁹⁾.
- (39) The contract was entered into on 16 October 2000. The municipality sold its entitlement to annual concession power to NEAS for 50,5 years for the price of NOK 126 million with all attached rights and obligations ⁽²⁰⁾. No price adjustment mechanism was included in the contract, and the price was to be paid as one upfront lump sum.
- (40) By a supplementary agreement dated 29 November 2000, the parties agreed that NOK 60 million would be paid to the municipality in cash, whereas the remaining NOK 66 million was to be injected into NEAS (at the time 100 % owned by the Municipality) as an equity contribution in kind.
- (41) In 2001, the municipality reduced its ownership in NEAS to 50,01 per cent.

3.3. *Comments by the Norwegian authorities*

- (42) The Norwegian Authorities are of the opinion that the contract with NEAS was concluded at market terms and that only the final arrangement regarding how the consideration was to be structured, as reflected in supplementary agreement of 29 November 2000, was influenced by the municipality's ownership interest in NEAS. The Norwegian Authorities point out that according to the decision of the Municipal Council dated 25 November 1999, it was an absolute precondition for the conclusion of any agreement with NEAS that the power would be sold on market terms ⁽²¹⁾.
- (43) Since there was considerable uncertainty associated with price developments on both the revenue and cost side, and since there was also certain political uncertainty associated with the concession power regime in general, a long-term contract was deemed to offer the best stability in relation to future revenues.
- (44) The Norwegian Authorities further argue that it was appropriate for no price adjustment clause to be included, since the purchase price was paid as one lump sum, and not on an ongoing basis.

II. ASSESSMENT

1. The presence of State aid

- (45) Article 61(1) of the EEA Agreement reads as follows:

'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.'

- (46) In the following, the Authority will assess the likelihood of whether the municipality has granted State aid to NEAS in connection with the sale of its entitlement to 128 GWh of annual concession power for a period of 50,5 years and at the price of NOK 126 million.

⁽¹⁷⁾ Event No 532250, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 27.

⁽¹⁸⁾ See footnote 11.

⁽¹⁹⁾ Event No 532252, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 6.

⁽²⁰⁾ Event No 532254, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 1 onwards.

⁽²¹⁾ Event No 532250, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 22.

1.1. *Economic advantage*

- (47) When governments make financial transactions and investments, the European Court of Justice has stated that in order to confirm whether a State measure constitutes aid, it is necessary to establish whether the recipient undertaking receives an economic advantage, which it would not have obtained under normal market conditions ⁽²²⁾. In order to assess the presence of an economic advantage, the Commission has developed the principle of a (hypothetical) market economy investor ⁽²³⁾.
- (48) If the transaction in question was carried out in accordance with the market economy investor principle, i.e., if the municipality sold the entitlement to concession power for its market value, and the price and terms of the transaction would have been acceptable for a prudent private investor operating in a market economy, the transaction would not confer an economic advantage on NEAS and thus not involve the grant of State aid. On the contrary, State aid could be involved if the transaction was not carried out at market price.
- (49) In making this assessment, the Authority cannot replace the municipality's commercial judgement with its own, which implies that the municipality, as the owner of the concession power right, must enjoy a wide margin of discretion. However, while the Authority fully recognises the right for public authorities to operate in the market on commercial terms, it should be assessed whether a similar agreement would have been concluded by a private market investor.
- (50) An assessment of the price and terms of the contract between the municipality and NEAS should be based on the information available to the municipality at the time of the conclusion of the contract. Generally, an informed *ex ante* assessment would be sufficient to exclude the presence of State aid, even if the assumptions used in the assessment prove to be wrong with hindsight.
- (51) In the following, the Authority will therefore assess whether a private investor would have entered into a contract to sell the entitlement to 128 GWh of concession power, every year for 50,5 years, for one upfront lump sum payment of NOK 126 million, and without a competitive tender procedure and without including any price adjustment clauses in the contract.
- (52) Throughout the preliminary assessment, the Authority will be mindful of the context in which the transaction was entered into. From the information provided by the Norwegian Authorities, the Authority understands that at the time the contract was entered into the municipality was in a situation where it needed both access to liquidity (in order to meet its loan obligations), as well as capital to inject into NEAS.

1.1.1. *Contract for the sale of the municipality's entitlement to annual concession power to NEAS*

- (53) As described in section 3.1 of Part I above, the concession power regime gives the municipality the right to purchase 128 GWh of concession power annually, at a price determined by the Ministry of Energy and Petroleum. This price is meant to reflect the long-term costs of a representative power plant, and is presumed in the long run to be lower than the average market prices.
- (54) Municipalities may dispose of this concession power as they see fit, including using it for its own needs or selling the electricity in the market. Furthermore, the municipality can choose to sell the electricity in the spot market ⁽²⁴⁾, or on the basis of short- or longer-term contracts. If the municipality decides to sell the electricity on short- or longer-term contracts it is necessary, in order to exclude State aid, to sell the electricity at market terms.
- (55) A point of departure would therefore be to identify any possible market prices ('benchmark prices') to which the contract in question could have been compared. Any benchmark price should, ideally, be based on contracts of similar type and duration ⁽²⁵⁾. In this regard, the Authority observes that financial derivatives contracts ⁽²⁶⁾ for the Nordic power markets, as offered by NASDAQ OMX Commodities Europe, are limited to a maximum duration of six years ⁽²⁷⁾.

⁽²²⁾ Case C-39/94 *SFEI v La Poste* [2006] ECR I-3547, para. 60.

⁽²³⁾ The market economy investor principle is described in more depth in the Authority's guidelines for State aid to public enterprises in the manufacturing sector and public authorities holdings.

⁽²⁴⁾ Spot market transactions through an electricity exchange are presumed not to include State aid because the market price is determined efficiently in a competitive market.

⁽²⁵⁾ Namely, bilateral wholesale concession power contracts entered into prior to or around the same time.

⁽²⁶⁾ Futures, forward, option and CfD.

⁽²⁷⁾ <http://www.nasdaqomxcommodities.com/about/>

- (56) Reference can also be made to long-term power contracts entered into between electricity companies and energy intensive companies. These contracts are different from financial contracts and thus are not immediately comparable, but it is important to note that the duration of these contracts normally does not exceed 25-30 years, and they usually include price adjustment mechanisms.
- (57) It is not clear from the information provided by the Norwegian authorities whether or not there is a market — and thus benchmark prices — for contracts of similar type and duration as the contract in the present case. If there are no benchmark prices, and thus no well-functioning market for contracts of comparable type and duration, this may be an indication that buyers and/or sellers of concession power find the risk of entering into contracts of this duration too high. However, the long duration of the contract is in itself insufficient to establish that the transaction was not in line with the market economy investor principle.
- (58) Therefore, the Authority must assess the risks and uncertainties involved in the contract in the present case, and ask whether or not these risks have been assessed by the municipality in a manner presumed acceptable to a market investor. In order to do so, it is appropriate to assess at least two sources of uncertainty/risk that affect the market price of the concession power entitlements: *regulatory risks* and *market risks*.

1.1.1.1. Regulatory risks

- (59) According to information provided by the Norwegian authorities, the majority of the municipality's concession power entitlements are due for assessment in 2019. *A priori*, it is not possible for the Authority to determine what, if any, changes may be made to the regime. However, it is evident that any changes that are made to the entitlements — such as increasing or decreasing the volume of the municipality's concession power entitlements, changing how the concession power price is calculated or changing the structure of the right to concession power — may affect the market price of concession power entitlements.
- (60) This regulatory risk was identified by two external advisors consulted in the process leading up to the signing of the contract. The municipality instructed law firm Hjort DA ('Hjort') to assess *inter alia* the tax implications of selling the concession power entitlements. Hjort suggested that 50-year contracts are highly unusual, even for the energy sector, and argued that 'there is therefore reason to be critical about the value judgments that are/will be made, will be able to capture the long period as is suggested ⁽²⁸⁾.' Hjort also stated that the actual volume of the concession power entitlement may change over time, and pointed to the regulatory risk involved in the review of the concessions.
- (61) The same risks were also reflected in a report from Danske Securities AS ('DS'), which was commissioned by the municipality to perform a value assessment of the concession power entitlements (the second assessment referred to in section 3.2 of Part I above). DS asked three market participants to put a value on a 50-year concession power contract. It follows from the report that questions could be raised whether Statkraft SF would enter into an agreement longer than until 2019, when the majority of the municipality's concession power entitlements were due for assessment, because of the risk inherent in this process ⁽²⁹⁾.
- (62) Given that 60 per cent of the contract period in the present case is beyond 2019, the market price of a long-term contract such as the one between the municipality and NEAS is exposed to regulatory risk. It is the Authority's preliminary view that the effects of this risk are ambiguous, ultimately depending on whether or not the changes may be favourable to the beneficiaries of the concession power entitlements.

1.1.1.2. Market risks

- (63) In order to establish a market value of an entitlement to 128 GWh of annual concession power, with revenue and costs occurring 50 years into the future, a market investor would normally apply a discounted cash flow analysis ('DCF') method. This method projects future cash flows (revenues and costs) and discounts them, using a weighted average cost of capital ('WACC') as a discount factor, to arrive at a net present value ('NPV') of the future cash flows. Under normal circumstances, this NPV would reflect the market price of the underlying asset.

⁽²⁸⁾ Event No 532252, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 32.

⁽²⁹⁾ Event No 532252, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 17.

- (64) In the current case, there are in particular five variables that affect the NPV of the concession power entitlement: (i) the annual concession power cost, (ii) the cost of feeding electricity into the grid, (iii) the total volume of concession power, (iv) the market price of electricity, and (v) the discount factor.

Variables (i)-(iii) affecting the NPV of the concession power

- (65) The first three variables — the annual concession power cost, the cost of feeding electricity into the grid and the total volume of concession power — are all exposed to the regulatory risk described above.
- (66) As regards the first variable (the price of the concession power), it appears from the information provided by the Norwegian authorities that this price is reasonably predictable. It is assumed that there will be limited, if any, real increases in the concession power price over the duration of the contract ⁽³⁰⁾.
- (67) Concerning the second variable (the cost of feeding the electricity into the grid), it is the Authority's understanding that this cost has been relatively constant over time and is predicted to remain steady in real terms over time. In addition, this cost amounts to approximately NOK 0,02 per KWh, and is thus of lesser importance relative to the other variables when calculating the net present value.
- (68) As for the third variable (the total volume of concession power available to the municipality), the municipality anticipates a continued right to 128 GWh annually for the foreseeable future, and a constant amount of electricity is also assumed in the valuation models developed by the external advisors. Concerning the volume of electricity, however, the Authority raises two specific questions:
- (i) whether the contract in question was entered into on the basis of valuations of 128 GWh or 116 GWh (the latter being only the volume of concession power not generated by NEAS itself); and
 - (ii) what volume was contractually sold by the municipality to NEAS.
- (69) As regards the first question, both the AA report and the first DT value assessment used 116 GWh, being the concession power generated by electricity companies other than NEAS. The value assessment by DS also used 116 GWh, and they explicitly stated in their final report that:
- ‘... [w]e have assumed a volume of 116 GWh, though we cannot understand the reason why concession power delivered by NEAS itself should not be included in the calculations ⁽³¹⁾.’
- (70) To illustrate this point, on 4 October 2000 (and thus just prior to signing the contract), NEAS had the value of the concession power reassessed by DT. By this point, DT had concluded that the value of the contract was NOK 150-170 million and not 110-130 million, as stated earlier in May 2000 ⁽³²⁾. It appears that this change was partly due to the minor adjustment of some of the assumptions used in the NPV calculation (amongst others the discount factor and the electricity prices), but it was also updated to reflect the value of 128 GWh of concession power and not 116 GWh. This second report was not disclosed to the municipality prior to it entering into the contract.
- (71) If incorrect assumptions about the volume have been used when determining the price of the contract, approximately 12 GWh of concession power generated each year by NEAS appear to have been transferred to NEAS without any apparent remuneration to the municipality. An economic advantage could thus have been conferred upon NEAS.
- (72) As regards the second question, the Authority finds reason to point out an apparent uncertainty as regards how the risk of future changes in the volume of concession power would be handled between the contracting parties.
- (73) Concession power is defined in the contract as the total volume of concession power to which the municipality is entitled from the three current concessionaires (Article 1) ⁽³³⁾. This suggests that the risk of any changes in the volume is transferred to NEAS. However, it is stipulated in Article 2 that in total the concession power is 128 GWh annually, which leaves open the question of what happens if that volume of the concession power entitlement is increased or decreased in the future.

⁽³⁰⁾ Price is only adjusted for expected inflation (CPI) To illustrate this point, in their valuation model DT adjusted the concession power price with 75 per cent of CPI over the life of the contract in their base case, and simulated results at 50 and 100 per cent of CPI respectively, to assess the sensitivity of the value assessment to changes in this assumption.

⁽³¹⁾ See footnote 13.

⁽³²⁾ Event No 532253, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 1 onwards.

⁽³³⁾ Statkraft SF, Nordkraft AS and NEAS.

- (74) The two remaining variables — i.e. the market price of electricity and the discount factor — greatly impact the net present value of the concession power entitlement. These two variables were identified by DT as the factors to which the value estimates of the entitlement were especially sensitive to marginal adjustments.

Variables (iv)-(v) affecting the NPV of the concession power

- (75) The fourth variable (the market price of electricity) is considered to be highly volatile, resulting in uncertainty about future price developments, in particular over time. This is reflected in the fact that the expert reports referred to above only project future electricity prices approximately 10 years forward, beyond which electricity prices are assumed constant in real terms⁽³⁴⁾. This uncertainty of future electricity prices is, as mentioned previously, also reflected in the fact that financial contracts on the Nordic power markets are limited to a maximum duration of six years.
- (76) The fifth variable (the discount rate) used in the present value calculations is the weighted average cost of capital, which is meant to capture the riskiness of the cash flows. The discount rate reflects both the time value of money (investors normally have a time preference and would rather have cash up front than having to wait, therefore they must be compensated for this delay), as well as a risk premium. Moreover, and similarly to the fourth variable (the market price of electricity), it may be difficult to accurately predict, for example, inflation and interest rates 50 years into the future⁽³⁵⁾.

Preliminary conclusion on market risks

- (77) To illustrate the importance of the above variables in the valuation process, DT estimated that a one per cent increase in the return on capital requirement (WACC) would reduce the value of the concession power entitlement by NOK 22 million, while a one per cent reduction in the return on capital requirement would increase the value by NOK 29 million⁽³⁶⁾. The value was also very sensitive to changes in electricity spot prices: a NOK 0,01 change in real spot prices over a 10 year period relative to the estimated prices in the model would change the value by NOK 16 million⁽³⁷⁾.
- (78) As a result, the value estimates by the external advisors ranged from approximately NOK 70 million to NOK 145 million⁽³⁸⁾. The relatively large range indicates uncertainty about the actual market value of the concession power entitlement over a period of 50 years.

1.1.1.3. Competitive tender ex ante and/or price adjustment clauses ex post ('safety valves')

- (79) In the absence of benchmark prices against which the contract in question could be compared, and in light of the uncertainty concerning key variables/assumptions in the valuation models used to assess the value of the concession power entitlement, the Authority questions whether a market investor would have taken further steps to establish the market value.
- (80) One way to increase the likelihood that the municipality sold the concession power at market prices would have been to use a competitive and unconditional tender procedure. A competitive bidding process would have allowed the market value of the concession power entitlement to be determined *ex ante*. Moreover, if the municipality allowed interested parties to make bids without stipulating a fixed duration, this would more likely have revealed the true market price of the underlying assets over the lifetime of the asset, which may have revealed whether a 50-year contract was the optimal length in order to 'maximize return on a long-term basis'⁽³⁹⁾.
- (81) The Authority has, in that regard, taken note of the decision by the Municipal Council of 25 November 1999, in which a competitive tender procedure was expected to be part of the strategy when selling the concession power rights:

'Concession power is sold to the highest bidder on long-term contracts with a fixed return ... Concession power is sold under different contracts with different length to diversify risk.' (underlining by the Authority)

⁽³⁴⁾ Price only adjusted for expected inflation (CPI).

⁽³⁵⁾ This is reflected in the fact that both SSB and the Norwegian Central Bank only make predictions on economic indicators such as inflation and interest rates approximately 5-10 years forward, see for example: http://www.norgesbank.no/pages/87289/Figurer_foredrag_reg_nett_11_11_2011.pdf

⁽³⁶⁾ Event No 532252, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 41.

⁽³⁷⁾ See footnote 32.

⁽³⁸⁾ Excluding the last study by DT, which estimated a value in the range of NOK 150-170 million.

⁽³⁹⁾ Event No 532250, Enclosure to the Norwegian authorities' letter of 2.10.2009, p. 13. This would be important because the independent advisers involved in the valuation process only assessed the value of the concession power for a period of 50 years, and did not necessarily assess how to 'maximize return on a long-term basis.'

- (82) If the municipality had sold the entitlement to the highest bidder, potentially to a company other than NEAS, it would seem that the municipality would subsequently still have capital available to inject into NEAS, which was part of the reason for selling it in the first place.
- (83) In addition to using a competitive tender process, another way to safeguard that the transaction was carried out at market terms would have been to require some form of price adjustment clause in the contract *ex-post*, to provide for potential fluctuations in electricity prices resulting in them deviating significantly from the forecasted prices used in the valuation models. This would also have been in line with the decision of 25 November 1999, that was the foundation of the transaction, in which it was stated that:

'Concession power is sold ... with adjustment clauses that gives additional returns if the prices are substantially higher than the projected prices in the contract period.' (underlining by the Authority)

- (84) Accordingly, it is the Authority's preliminary view that the lack of competitive tender procedure and/or the insertion of price adjustment clauses in the contract entails that we cannot exclude that the transaction involved State aid.

1.1.1.4. Conclusion

- (85) In light of the information provided by the Norwegian authorities, the Authority is in doubt whether the terms of the contract between the municipality and NEAS concerning the sale of the entitlement to annual concession power for 50,5 years for the sum of NOK 126 million can be considered in line with the market economy investor principle. Therefore, the Authority cannot rule out that an advantage was granted to NEAS as a result of this transaction. If the entitlement was sold for a price below its market value, an economic advantage was granted to NEAS.

1.2. Presence of State resources

- (86) The Authority understands that the price of NOK 126 million was paid by NEAS to the Municipality of Narvik by way of NOK 60 million paid to the municipality in cash, and NOK 66 million injected into NEAS (at the time 100 % owned by the Municipality) as an equity contribution in kind.
- (87) If the price NEAS paid for the entitlement was lower than the actual market price of the asset, the difference would represent foregone revenue for the municipality.

1.3. Favouring certain undertakings or the production of certain goods

- (88) A selective economic advantage is considered to exist when it is found that a measure does not apply generally to all the undertakings in an EEA State ⁽⁴⁰⁾. In the present case, the aid measure appears to be selective in that it favours NEAS in comparison to other undertakings as only NEAS signed the contract with the municipality. The contract was the result of individual negotiations between the municipality and NEAS.

1.4. Distortion of competition and effect on trade between Contracting Parties

- (89) The measure must distort competition and affect trade between the Contracting Parties of the EEA Agreement in order to be State aid.
- (90) A support measure granted by the State would strengthen the position of NEAS vis-à-vis other undertakings that are competitors active in the same business areas of production and sale of electricity. Any grant of aid strengthens the position of the beneficiary vis-à-vis its competitors and accordingly distorts competition within the meaning of Article 61(1) EEA. To the extent that the company is active in areas subject to intra-EEA trade, the requirements of Article 61(1) EEA for a measure to constitute State aid are fulfilled.
- (91) According to a report by the power exchange Nord Pool ⁽⁴¹⁾, by the year 2000 there was a well-functioning Nordic power market. An effect on trade between the Contracting Parties as a result of the aid measure cannot, therefore, be excluded.

⁽⁴⁰⁾ Case C-256/97 *DM Transport SA* [1999] ECR I-3913, para. 27.

⁽⁴¹⁾ Nord Pool, 'Trade at Nord Pool ASA's financial market', 8 March 2010, http://www.nasdaqomxcommodities.com/digitalAssets/69/69445_tradenordpoolfinancialmarket.pdf

2. Procedural requirements

- (92) Pursuant to Article 1(3) of Part I of Protocol 3 SCA, 'the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. ... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision'.
- (93) The Norwegian authorities did not notify the contract between the municipality of Narvik and NEAS to the Authority. Therefore, the Authority concludes that if the measure constitutes State aid, the Norwegian authorities have not respected their obligations pursuant to Article 1(3) of Part I of Protocol 3 SCA.

3. Compatibility of the aid

- (94) Measures caught by Article 61(1) EEA are generally incompatible with the functioning of the EEA Agreement, unless they qualify for a derogation under Article 61(2) or (3) EEA.
- (95) Article 61(2) EEA is not applicable to the aid in question, which is not designed to achieve any of the aims listed in this provision. Nor does Article 61(3)(a) or Article 61(3)(b) EEA apply to the present case. Furthermore, the aid does not appear to facilitate the development of certain economic activities or certain economic areas, further to Article 61(3)(c) EEA.
- (96) The Authority has so far not received any information that would indicate that the sale of concession power to NEAS is compatible with Article 61(1) of the EEA Agreement. The Authority therefore doubts that the transaction under assessment can be justified under the State aid provisions of the EEA Agreement.

4. Conclusion

- (97) On the basis of the facts and assessment above, the Authority cannot exclude the possibility that the contract relating to the sale by Narvik municipality of its entitlement to annual concession power for 50,5 years to Narvik Energi AS, for the sum of NOK 126 million, constitutes State aid within the meaning of Article 61(1) of the EEA Agreement. Furthermore, the Authority has doubts that this measure can be regarded as complying with Article 61(2) or (3) of the EEA Agreement. The Authority thus doubts that the measure is compatible with the functioning of the EEA Agreement.
- (98) Consequently, and in accordance Article 4(4) of Part II of Protocol 3 SCA, the Authority is obliged to open the procedure provided for in Article 1(2) of Part I of Protocol 3 SCA. The decision to open proceedings is without prejudice to the final decision of the Authority, which may conclude that the measure in question is compatible with the functioning of the EEA Agreement.
- (99) In light of the foregoing considerations, the Authority, acting under the procedure laid down in Article 1(2) of Part I of Protocol 3 SCA, invites the Norwegian authorities to submit their comments within one month of the date of receipt of this Decision. The Authority specifically asks the Norwegian Authorities to reply to the two questions raised in paragraphs 68 to 73 of this Decision.
- (100) In light of the foregoing considerations, the Authority requests the Norwegian authorities, within one month of receipt of this Decision, to provide all documents, information and data needed for the assessment of the compatibility of the sale of Narvik municipality's entitlement to concession power to NEAS.
- (101) The Authority invites the Norwegian authorities to forward a copy of this Decision to the potential recipient of the aid immediately.
- (102) The Authority would like to remind the Norwegian authorities that, according to the provisions of Protocol 3 SCA, any incompatible aid unlawfully put at the disposal of the beneficiary will have to be recovered, unless this recovery would be contrary to a general principle of law,

HAS ADOPTED THIS DECISION:

Article 1

The formal investigation procedure, provided for in Article 1(2) of Part I of Protocol 3 to the Surveillance and Court Agreement, is initiated against Norway regarding the sale of Narvik municipality's entitlement to annual concession power for 50,5 years to Narvik Energi AS, for the sum of NOK 126 million.

Article 2

The Norwegian authorities are invited, pursuant to Article 6(1) of Part II of Protocol 3, to submit their comments on the opening of the formal investigation procedure within one month of the notification of this Decision.

Article 3

The Norwegian authorities are requested to provide, within one month of the notification of this Decision, all documents, information and data needed for the assessment of the compatibility of the aid measure.

Article 4

This Decision is addressed to the Kingdom of Norway.

Article 5

Only the English version of this Decision is authentic.

Done at Brussels, 14 December 2011.

For the EFTA Surveillance Authority

Oda Helen SLETNES
President

Sverrir Haukur GUNNLAUGSSON
College Member

V

(Announcements)

ADMINISTRATIVE PROCEDURES

EUROPEAN PERSONNEL SELECTION OFFICE (EPSO)

NOTICE OF OPEN COMPETITION

(2012/C 121/10)

The European Personnel Selection Office (EPSO) is organising the following open competition:

EPSO/AD/232/12 — Head of unit (AD 12) with Bulgarian as his/her main language in the field of legal translation

The competition notice is published in Official Journal C 121 A of 26 April 2012 in Bulgarian only.

Further details can be found on the EPSO website: <http://eu-careers.eu>

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.6557 — AGC Glass Europe/Interpane International Glas)

(Text with EEA relevance)

(2012/C 121/11)

1. On 17 April 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking AGC Glass Europe SA, ('AGC', Belgium), controlled by Asahi Glass Co., Ltd ('Asahi', Japan), acquires within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the whole of the undertakings Interpane International Glas GmbH (Germany) and Interpane Glass Holding AG (Switzerland) (together, 'Interpane') by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for AGC: production and processing of flat glass for the building, automotive, solar and specialist industries,
- for Asahi: glass, electronics, display, chemical, ceramic and other operations,
- for Interpane: manufacture and processing of architectural glass.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope the EC Merger Regulation. However, the final decision on this point is reserved.

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by e-mail to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6557 — AGC Glass Europe/Interpane International Glas, to the following address:

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

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

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

European Commission

2012/C 121/11	Prior notification of a concentration (Case COMP/M.6557 — AGC Glass Europe/Interpane International Glas) ⁽¹⁾	39
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⁽¹⁾ Text with EEA relevance

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