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I

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

REGULATIONS

COUNCIL REGULATION (EC) No 85/2009

of 19 January 2009

amending Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 161 third subparagraph thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament,

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

Having regard to the opinion of the Committee of the Regions,

Whereas:

- (3) The adaptation of certain provisions of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund⁽¹⁾ is necessary in order to facilitate the mobilisation of Community financial resources for the start-up of operational programmes and assisted projects within the framework of these programmes in such a manner as to accelerate implementation and the impact of such investments on the economy.
 - (4) It is necessary to strengthen the possibility of provision by the European Investment Bank (EIB) and the European Investment Fund (EIF) of assistance to Member States in the preparation and implementation of operational programmes.
 - (5) Taking account of the status of the EIB and EIF as financial entities recognised by the Treaty, when financial engineering operations are organised involving them as holding funds, it should be possible to directly award them a contract.
 - (6) In order to facilitate the use of financial engineering instruments, notably within the field of sustainable urban development, it is necessary to provide for the possibility of in-kind contributions being considered as eligible expenditure in the constitution of, or contributions to, funds.
 - (7) In order to support enterprises, and in particular small and medium-sized enterprises, it is also necessary to make more flexible the conditions governing the payment of advances within the framework of State aids under Article 87 of the Treaty.
- (1) The unprecedented crisis hitting international financial markets has brought about major challenges for the Community, which necessitates a rapid response in order to counter effects on the economy as a whole and, in particular, to support investments in order to promote growth and employment.
 - (2) The regulatory framework for the 2007-2013 programming period has been adopted with a view to achieving further simplification in the programming and management of the European Regional Development Fund, the European Social Fund and the Cohesion Fund, their effectiveness and subsidiarity in terms of their implementation.

⁽¹⁾ OJ L 210, 31.7.2006, p. 25.

- (8) In order to accelerate the implementation of major projects, it is necessary to allow expenditures relating to major projects which have not yet been adopted by the Commission to be included in expenditure declarations.
- (9) To bolster the financial resources of Member States thus facilitating the rapid start-up of operational programmes in a crisis context, it is necessary to amend the provisions concerning pre-financing.
- (10) The payment of a payment on account at the beginning of operational programmes should allow a regular cash flow and facilitate payments to beneficiaries during programme implementation. For this reason provisions should be established for such payments on account for the Structural Funds: 7,5 % (for Member States of the European Union as constituted before 1 May 2004) and 9 % (for the Member States that acceded to the European Union on or after 1 May 2004) in order to accelerate the implementation of operational programmes.
- (11) By reason of the principles of equality of treatment and of legal security, the amendments relating to Articles 56(2) and 78(1) should apply during the whole 2007-2013 programming period. Retroactive application is therefore necessary with effect from 1 August 2006, the date on which Regulation (EC) No 1083/2006 came into force. As the unprecedented crisis affecting international financial markets necessitates a rapid response in order to counter effects on the economy as a whole, other amendments should enter into force on the day following its publication in the *Official Journal of the European Union*.
- (12) Regulation (EC) No 1083/2006 should therefore be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1083/2006 is hereby amended as follows:

1. in Article 44, the second paragraph shall be amended as follows:

(a) point (b) shall be replaced by the following:

‘(b) when the agreement is not a public service contract within the meaning of applicable public

procurement law, the award of a grant, defined for this purpose as a direct financial contribution by way of donation to a financial institution without a call for proposals, if this is in accordance with a national law compatible with the Treaty;’

(b) the following point (c) shall be added:

‘(c) the award of a contract directly to the EIB or the EIF;’

2. in Article 46(1), the following second subparagraph shall be added:

‘The EIB or the EIF may, upon request of the Member States, take part in technical assistance activities referred to in the first subparagraph.’;

3. Article 56(2) shall be replaced by the following:

‘2. By way of derogation from paragraph 1, contributions in kind, depreciation costs and overheads may be considered as incurred expenditure by beneficiaries for the implementation of operations under the conditions laid down in the third subparagraph of this paragraph.

By way of derogation from paragraph 1, contributions in kind, as regards financial engineering instruments as defined in Article 78(6), first subparagraph, can be treated as expenditure paid at the constitution of the funds or holding funds or contributing to those funds or holding funds, under the conditions established in the third subparagraph of this paragraph.

Expenditure mentioned in the first and second subparagraphs must fulfil the following conditions:

- (a) the eligibility rules drawn up on the basis of paragraph 4 foresee the eligibility of such expenditure;
- (b) the amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices, without prejudice to provisions set out in specific Regulations;
- (c) in the case of contributions in kind, the co-financing from the Funds does not exceed the total of eligible expenditure, excluding the value of such contributions.’;

4. Article 78 shall be amended as follows:

- (a) the last sentence of the first subparagraph of Article 78(1) shall be replaced by the following:

‘Expenditure paid by beneficiaries shall be supported by receipted invoices or accounting documents of equivalent probative value, unless otherwise provided in specific Regulations for each Fund.’;

- (b) in Article 78(2) point (b) shall be deleted;

- (c) Article 78(4) shall be replaced by the following:

‘4. When, in application of Article 41(3), the Commission refuses to make a financial contribution to a major project, the expenditure declaration following the adoption of the Commission decision must be rectified accordingly.’;

5. in Article 82(1), second subparagraph, points (a), (b) and (c) shall be replaced by the following:

- ‘(a) for Member States of the European Union as constituted before 1 May 2004: in 2007 2 % of the contribution from the Structural Funds to the operational programme, in 2008 3 % of the contribution from the Structural

Funds to the operational programme, and in 2009 2,5 % of the contribution from the Structural Funds to the operational programme;

- (b) for Member States that acceded to the European Union on or after 1 May 2004: in 2007 2 % of the contribution from the Structural Funds to the operational programme, in 2008 3 % of the contribution from the Structural Funds to the operational programme and in 2009 4 % of the contribution from the Structural Funds to the operational programme;

- (c) if the operational programme falls under the European territorial cooperation objective and at least one of the participants is a Member State that acceded to the European Union on or after 1 May 2004, in 2007 2 % of the contribution from the ERDF to the operational programme, in 2008 3 % of the contribution from the ERDF to the operational programme and in 2009 4 % of the contribution from the ERDF to the operational programme.’.

Article 2

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

However, Article 1(3) and Article 1(4)(a) shall apply from 1 August 2006.

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

Done at Brussels, 19 January 2009.

For the Council

The President

P. GANDALOVIČ

COMMISSION REGULATION (EC) No 86/2009
of 28 January 2009
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 29 January 2009.

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

Done at Brussels, 28 January 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	JO	78,3
	MA	48,5
	TN	134,4
	TR	97,0
	ZZ	89,6
0707 00 05	JO	167,2
	MA	116,0
	TR	131,2
	ZZ	138,1
0709 90 70	MA	146,2
	TR	112,5
	ZZ	129,4
0709 90 80	EG	82,9
	ZZ	82,9
0805 10 20	EG	50,5
	IL	62,4
	MA	63,7
	TN	43,2
	TR	55,0
	ZZ	55,0
0805 20 10	IL	144,6
	MA	85,8
	TR	54,0
	ZZ	94,8
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	66,3
	EG	88,5
	IL	74,9
	JM	93,7
	PK	46,6
	TR	61,0
	ZZ	71,8
0805 50 10	EG	48,1
	MA	67,1
	TR	62,8
	ZZ	59,3
0808 10 80	CA	84,9
	CN	65,1
	MK	32,6
	US	101,9
	ZZ	71,1
0808 20 50	CL	115,7
	CN	34,8
	TR	40,0
	US	110,3
	ZA	119,5
	ZZ	84,1

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

COMMISSION REGULATION (EC) No 87/2009**of 28 January 2009****on the issue of licences for importing rice under the tariff quotas opened for the January 2009 subperiod by Regulation (EC) No 327/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 327/98 of 10 February 1998 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice ⁽³⁾, and in particular the first paragraph of Article 5 thereof,

Whereas:

- (1) Regulation (EC) No 327/98 opened and provided for the administration of certain import tariff quotas for rice and broken rice, broken down by country of origin and split into several subperiods in accordance with Annex IX to Regulation.
- (2) The January subperiod is the first subperiod for the quotas provided for under Article 1(1)(a), (b), (c) and (d) of Regulation (EC) No 327/98.
- (3) The notification sent in accordance with Article 8(a) of Regulation (EC) No 327/98 shows that, for the quotas with order numbers 09.4148 — 09.4154 — 09.4112 — 09.4116 — 09.4117 — 09.4118 — 09.4119 — 09.4166, the applications lodged in the first 10 working days of January 2009 under Article 4(1) of

that Regulation cover a quantity greater than that available. The extent to which import licences may be issued should therefore be determined and the allocation coefficient to be applied to the quantities applied for under the quotas concerned should be laid down.

- (4) It is also clear from the notification that, for the quotas with order numbers 09.4127 — 09.4128 — 09.4149 — 09.4150 — 09.4152 — 09.4153, the applications lodged in the first 10 working days of January 2009 under Article 4(1) of the Regulation cover a quantity less than that available.
- (5) The total quantities available for the following subperiod should therefore be set for the quotas with order numbers 09.4127 — 09.4128 — 09.4148 — 09.4149 — 09.4150 — 09.4152 — 09.4153 — 09.4154 — 09.4112 — 09.4116 — 09.4117 — 09.4118 — 09.4119 — 09.4166, in accordance with the first paragraph of Article 5 of Regulation (EC) No 327/98,

HAS ADOPTED THIS REGULATION:

Article 1

1. For import licence applications for rice under the quotas with order numbers 09.4148 — 09.4154 — 09.4112 — 09.4116 — 09.4117 — 09.4118 — 09.4119 — 09.4166 referred to in Regulation (EC) No 327/98 lodged in the first 10 working days of January 2009, licences shall be issued for the quantities requested, multiplied by the allocation coefficients set out in the Annex to this Regulation.

2. The total quantities available under the quotas with order numbers 09.4127 — 09.4128 — 09.4148 — 09.4149 — 09.4150 — 09.4152 — 09.4153 — 09.4154 — 09.4112 — 09.4116 — 09.4117 — 09.4118 — 09.4119 — 09.4166 referred to in Regulation (EC) No 327/98 for the next subperiod are set out in the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 37, 11.2.1998, p. 5.

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

Done at Brussels, 28 January 2009.

For the Commission
Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

ANNEX

Quantities to be allocated for the July 2008 subperiod and quantities available for the following subperiod under Regulation (EC) No 327/98

- (a) Quota of wholly milled or semi-milled rice falling within CN code 1006 30 provided for in Article 1(1)(a) of Regulation (EC) No 327/98:

Origin	Order number	Allocation coefficient for the January 2009 subperiod	Total quantities available for April 2009 subperiod (kg)
United States of America	09.4127	— ⁽²⁾	22 545 000
Thailand	09.4128	— ⁽²⁾	8 738 852
Australia	09.4129	— ⁽³⁾	1 019 000
Other origins	09.4130	— ⁽³⁾	1 805 000

- (b) Quota for husked rice falling within CN code 1006 20 provided for in Article 1(1)(b) of Regulation (EC) No 327/98:

Origin	Order number	Allocation coefficient for the January 2009 subperiod	Total quantities available for July 2009 subperiod (kg)
All countries	09.4148	1,690006 %	0

- (c) Quota for broken rice falling within CN code 1006 40 provided for in Article 1(1)(c) of Regulation (EC) No 327/98:

Origin	Order number	Award coefficient for January 2009 subperiod	Total quantities available for July 2009 subperiod (kg)
Thailand	09.4149	— ⁽²⁾	31 370 790
Australia	09.4150	— ⁽¹⁾	16 000 000
Guyana	09.4152	— ⁽¹⁾	11 000 000
United States of America	09.4153	— ⁽²⁾	6 215 000
Other origins	09.4154	1,449194 %	6 000 010

- (d) Quota for wholly milled or semi-milled rice falling within CN code 1006 30 provided for in Article 1(1)(d) of Regulation (EC) No 327/98:

Origin	Order number	Allocation coefficient for the January 2009	Total quantities available for July 2009 subperiod (kg)
Thailand	09.4112	1,298370 %	0
United States of America	09.4116	2,081253 %	0
India	09.4117	1,315789 %	0
Pakistan	09.4118	1,072615 %	0
Other origins	09.4119	1,092084 %	0
All countries	09.4166	1,002539 %	17 011 012

⁽¹⁾ No award coefficient applied for this subperiod: no licence applications were notified to the Commission.

⁽²⁾ Applications cover quantities less than or equal to the quantities available: all applications are therefore acceptable.

⁽³⁾ No quantity available for this subperiod.

COMMISSION REGULATION (EC) No 88/2009**of 28 January 2009****setting the allocation coefficient for the issuing of import licences applied for from 19 to 23 January 2009 for sugar products under tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 950/2006 of 28 June 2006 laying down detailed rules of application for the 2006/07, 2007/08 and 2008/09 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements ⁽²⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Applications for import licences were submitted to the competent authorities in the period from 19 to 23 January 2009 in accordance with Commission Regulation (EC) No 950/2006 and/or Council Regulation (EC) No 508/2007 of 7 May 2007 opening tariff quotas for imports into Bulgaria and Romania of raw cane sugar for

supply to refineries in the marketing years 2006/07, 2007/08 and 2008/09 ⁽³⁾, for a total quantity equal to or exceeding the quantity available for order number 09.4332 (2008-2009).

- (2) In these circumstances, the Commission should establish an allocation coefficient for licences to be issued in proportion to the quantity available and/or inform the Member States that the limit established has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

Licences shall be issued within the quantitative limits set in the Annex to this Regulation in respect of import licence applications submitted from 19 to 23 January 2009, in accordance with Article 4(2) of Regulation (EC) No 950/2006 and/or Article 3 of Regulation (EC) No 508/2007.

Article 2

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

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

Done at Brussels, 28 January 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 1.

⁽³⁾ OJ L 122, 11.5.2007, p. 1.

ANNEX

ACP/India Preferential Sugar
Chapter IV of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 19.1.2009-23.1.2009: percentage of requested quantity to be granted	Limit
09.4331	Barbados	100	Reached
09.4332	Belize	100	
09.4333	Côte d'Ivoire	100	
09.4334	Republic of the Congo	100	
09.4335	Fiji	100	
09.4336	Guyana	100	
09.4337	India	0	Reached
09.4338	Jamaica	100	Reached
09.4339	Kenya	100	
09.4340	Madagascar	100	
09.4341	Malawi	100	
09.4342	Mauritius	100	
09.4343	Mozambique	0	Reached
09.4344	Saint Kitts and Nevis	—	Reached
09.4345	Suriname	—	
09.4346	Swaziland	0	
09.4347	Tanzania	100	
09.4348	Trinidad and Tobago	100	
09.4349	Uganda	—	
09.4350	Zambia	100	Reached
09.4351	Zimbabwe	100	

ACP/India Preferential Sugar
Chapter IV of Regulation (EC) No 950/2006
July-September 2009 marketing year

Order No	Country	Week of 19.1.2009-23.1.2009: percentage of requested quantity to be granted	Limit
09.4331	Barbados	—	Reached
09.4332	Belize	—	
09.4333	Côte d'Ivoire	—	
09.4334	Republic of the Congo	—	
09.4335	Fiji	—	
09.4336	Guyana	—	
09.4337	India	0	
09.4338	Jamaica	—	
09.4339	Kenya	—	
09.4340	Madagascar	—	
09.4341	Malawi	—	
09.4342	Mauritius	—	
09.4343	Mozambique	100	
09.4344	Saint Kitts and Nevis	—	
09.4345	Suriname	—	
09.4346	Swaziland	100	
09.4347	Tanzania	—	
09.4348	Trinidad and Tobago	—	
09.4349	Uganda	—	
09.4350	Zambia	—	
09.4351	Zimbabwe	—	

Complementary sugar
Chapter V of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 19.1.2009-23.1.2009: percentage of requested quantity to be granted	Limit
09.4315	India	—	
09.4316	ACP Protocol signatory countries	—	

CXL Concessions Sugar
Chapter VI of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 19.1.2009-23.1.2009: percentage of requested quantity to be granted	Limit
09.4317	Australia	0	Reached
09.4318	Brazil	0	Reached
09.4319	Cuba	0	Reached
09.4320	Other third countries	0	Reached

Balkans sugar
Chapter VII of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 19.1.2009-23.1.2009: percentage of requested quantity to be granted	Limit
09.4324	Albania	100	Reached
09.4325	Bosnia and Herzegovina	0	
09.4326	Serbia and Kosovo (*)	100	
09.4327	Former Yugoslav Republic of Macedonia	100	
09.4328	Croatia	100	

(*) As defined by United Nations Security Council Resolution 1244 of 10 June 1999.

Exceptional import sugar and industrial import sugar
Chapter VIII of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Type	Week of 19.1.2009-23.1.2009: percentage of requested quantity to be granted	Limit
09.4380	Exceptional	—	
09.4390	Industrial	100	

Additional EPA sugar
Chapter VIIIa of Regulation (EC) No 950/2006
2008/09 marketing year

Order No	Country	Week of 19.1.2009-23.1.2009: percentage of requested quantity to be granted	Limit
09.4431	Comoros, Madagascar, Mauritius, Seychelles, Zambia, Zimbabwe	100	
09.4432	Burundi, Kenya, Rwanda, Tanzania, Uganda	100	
09.4433	Swaziland	100	
09.4434	Mozambique	0	Reached
09.4435	Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago	0	Reached
09.4436	Dominican Republic	0	Reached
09.4437	Fiji, Papua New Guinea	100	

Import of sugar under the transitional tariff quotas opened for Bulgaria and Romania

Article 1 of Regulation (EC) No 508/2007

2008/09 marketing year

Order No	Type	Week of 19.1.2009-23.1.2009: percentage of requested quantity to be granted	Limit
09.4365	Bulgaria	0	Reached
09.4366	Romania	100	

COMMISSION REGULATION (EC) No 89/2009**of 28 January 2009****opening the tariff quota for the year 2009 for the importation into the European Community of certain goods originating in Norway resulting from the processing of agricultural products covered by Council Regulation (EC) No 3448/93**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾, and in particular Article 7(2) thereof,

Having regard to Council Decision 2004/859/EC of 25 October 2004 concerning the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Norway on Protocol 2 to the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway ⁽²⁾, and in particular Article 3 thereof,

Whereas:

(1) Protocol 2 to the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway ⁽³⁾, and Protocol No 3 to the EEA Agreement ⁽⁴⁾, determine the trade arrangements for certain agricultural and processed agricultural products between the contracting parties.

(2) Protocol 3 to the EEA Agreement, as amended by Decision No 138/2004 of the EEA Joint Committee ⁽⁵⁾, provides for a zero duty applying to certain waters containing added sugar or other sweetening matter or flavoured, classified under CN code 2202 10 00 and certain other non-alcoholic beverages containing sugar, classified under CN code ex 2202 90 10.

(3) The zero duty for the waters and other beverages in question has been temporarily suspended for Norway by the Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Norway on Protocol No 2 to the bilateral Free Trade Agreement between the European Economic

Community and the Kingdom of Norway ⁽⁶⁾, hereinafter referred to as 'the Agreement', approved by Decision 2004/859/EC. According to point IV of the Agreed Minutes of the Agreement, duty-free imports of goods of the CN codes 2202 10 00 and ex 2202 90 10 originating in Norway are to be permitted only within the limits of a duty-free quota while a duty is to be paid for imports outside the quota allocation.

(4) Commission Regulation (EC) No 93/2008 ⁽⁷⁾ withdrew the temporary suspension of the duty-free regime for the period 1 January to 31 December 2008 for the importation into the Community of certain goods of the CN codes 2202 10 00 and ex 2202 90 10 originating in Norway.

(5) It is necessary to open the tariff quota for the year 2009 for the soft drinks in question. The last annual quota for 2007 for the products in question was opened by Commission Regulation (EC) No 1795/2006 ⁽⁸⁾. No annual quota was opened for 2008. The quota volume for 2009 should therefore remain the same as for 2007.

(6) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁹⁾, lays down rules for the management of tariff quotas. It is appropriate to provide that the tariff quota opened by this Regulation is to be managed in accordance with those rules.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for horizontal questions concerning trade in processed products not listed in Annex I,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 2009, the Community tariff quota set out in the Annex is opened for the goods originating in Norway which are listed in that Annex under the conditions specified therein.

⁽¹⁾ OJ L 318, 20.12.1993, p. 18.

⁽²⁾ OJ L 370, 17.12.2004, p. 70.

⁽³⁾ OJ L 171, 27.6.1973, p. 2.

⁽⁴⁾ OJ L 22, 24.1.2002, p. 34.

⁽⁵⁾ OJ L 342, 18.11.2004, p. 30.

⁽⁶⁾ OJ L 370, 17.12.2004, p. 72.

⁽⁷⁾ OJ L 28, 1.2.2008, p. 12.

⁽⁸⁾ OJ L 341, 7.12.2006, p. 17.

⁽⁹⁾ OJ L 253, 11.10.1993, p. 1.

2. The rules of origin mutually applicable to the goods set out in the Annex shall be as set out in Protocol 3 of the bilateral Free Trade Agreement between the European Economic Community and the Kingdom of Norway.

3. For quantities imported above the quota volume, a preferential duty of 0,047 EUR/liter shall apply.

Article 2

The Community tariff quota referred to in Article 1(1) shall be managed by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 3

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

It shall apply from 1 January 2009.

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

Done at Brussels, 28 January 2009.

For the Commission

Günter VERHEUGEN

Vice-President

ANNEX

Tariff quota for 2009 applicable upon import into the Community of goods originating in Norway

Order No	CN code	Product description	Annual quota volume for 2009	Rate of duty applicable within the limits of the quota	Rate of the duty applicable above the quota volume
09.0709	2202 10 00	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	17,303 million litres	Exemption	0,047 EUR/litre
	ex 2202 90 10	Other non-alcoholic beverages containing sugar (sucrose or invert sugar)			

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 18 December 2008

appointing four members of the Management Board of the European Medicines Agency (EMA)

(2009/75/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency ⁽¹⁾, and in particular Article 65(1) and Article 65(4) thereof,

Having regard to the list of candidates drawn up by the Commission on 16 September 2008,

Having regard to the opinion of the European Parliament,

HAS DECIDED AS FOLLOWS:

Article 1

Ms Mary G. BAKER, born in London (United Kingdom) on 27 October 1936,

Mr Mike O'DONOVAN, born in London (United Kingdom) on 26 September 1946,

Ms Lisette TIDDENS-ENGWIRDA, born in Amsterdam (Netherlands) on 25 June 1950

and

Mr Henk VAARKAMP, born in Terschuur (Netherlands) on 22 June 1950,

are hereby appointed members of the Management Board of the European Medicines Agency (EMA) for a period of three years.

Article 2

The date on which the three-year period referred to in Article 1 will commence shall be determined by the Management Board of the European Medicines Agency (EMA).

Done at Brussels, 18 December 2008.

For the Council
The President
M. BARNIER

⁽¹⁾ OJ L 136, 30.4.2004, p. 1.

COUNCIL DECISION

of 20 January 2009

amending Decision 1999/70/EC concerning the external auditors of the national central banks, as regards the external auditor of the Bank Ċentrali ta' Malta/Central Bank of Malta

(2009/76/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty establishing the European Community, and in particular to Article 27(1) thereof,

Having regard to Recommendation ECB/2008/19 of the European Central Bank of 5 December 2008 to the Council of the European Union on the external auditors of the Central Bank of Malta ⁽¹⁾,

Whereas:

- (1) The accounts of the European Central Bank (ECB) and of the national central banks of the Eurosystem shall be audited by independent external auditors recommended by the ECB's Governing Council and approved by the Council of the European Union.
- (2) The mandate of the current external auditors of the Bank Ċentrali ta' Malta/Central Bank of Malta will end after the audit for the financial year 2008. It is therefore necessary to appoint external auditors as from the financial year 2009.
- (3) The ECB's Governing Council has recommended that KPMG should be appointed as the external auditors for the financial years 2009 to 2013.

- (4) It is appropriate to follow the recommendation of the ECB's Governing Council and amend Council Decision 1999/70/EC ⁽²⁾ accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

Article 1(15) of Decision 1999/70/EC shall be replaced by the following:

'15. KPMG is hereby approved as the external auditors of Bank Ċentrali ta' Malta/Central Bank of Malta for the financial years 2009 to 2013.'

Article 2

This Decision shall be notified to the ECB.

Article 3

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

Done at Brussels, 20 January 2009.

*For the Council**The President*

M. KALOUSEK

⁽¹⁾ OJ C 322, 17.12.2008, p. 1.

⁽²⁾ OJ L 22, 29.1.1999, p. 69.

COMMISSION

COMMISSION DECISION

of 23 January 2009

establishing the Committee of European Securities Regulators

(Text with EEA relevance)

(2009/77/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Regulators, the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors (hereinafter 'the Committees of Supervisors') in an increasingly integrated European financial market. A clear framework for the activities of these Committees in the area of supervisory convergence and cooperation was deemed necessary.

Whereas:

(1) As part of the so-called Lamfalussy process, the Commission adopted Decision 2001/527/EC of 6 June 2001 establishing the Committee of European Securities Regulators ⁽¹⁾ (hereinafter 'the Committee'). The Committee took up its duties on 7 June 2001, serving as an independent body for reflection, debate and advice of the Commission in the securities field.

(2) Fulfilling the provisions of 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 ⁽²⁾, the Commission carried out a review of the Lamfalussy process in 2007 and presented its assessment in a Communication of 20 November 2007 entitled 'Review of the Lamfalussy process — Strengthening supervisory convergence' ⁽³⁾.

(3) In the Communication, the Commission pointed out the importance of the Committee of European Securities

(4) While reviewing the functioning of the Lamfalussy process, the Council invited the Commission to clarify the role of the Committees of Supervisors and consider all different options to strengthen the working of those Committees, without unbalancing the current institutional structure or reducing the accountability of supervisors ⁽⁴⁾.

(5) At its meeting of 13 and 14 March 2008, the European Council called for swift improvements to the functioning of the Committees of Supervisors ⁽⁵⁾.

(6) On 14 May 2008 ⁽⁶⁾, the Council invited the Commission to revise the Commission Decisions establishing the Committees of Supervisors so as to ensure coherence and consistency in their mandates and tasks as well as to strengthen their contributions to supervisory cooperation and convergence. The Council noted that specific tasks could be explicitly given to the Committees to foster supervisory cooperation and convergence, and enhance their role in assessing risks to financial stability. Therefore a reinforced legal framework regarding the role and tasks of the Committee in this respect should be provided.

⁽¹⁾ OJ L 191, 13.7.2001, p. 43.

⁽²⁾ OJ L 79, 24.3.2005, p. 9.

⁽³⁾ COM(2007) 727 final.

⁽⁴⁾ Council Conclusions 15698/07 of 4 December 2007.

⁽⁵⁾ Council Conclusions 7652/1/08 Rev 1.

⁽⁶⁾ Council Conclusions 8515/3/08 Rev 3.

- (7) The Committee should serve as an independent advisory group of the Commission in the securities field.
- (8) The Committee should also contribute to the common and uniform day-to-day implementation of Community legislation and its consistent application by the supervisory authorities.
- (9) The Committee does not have any regulatory powers at Community level. It should carry out peer reviews, promote best practices and issue non-binding guidelines, recommendations and standards in order to increase convergence across the Community.
- (10) Enhanced bilateral and multilateral supervisory cooperation depends on the mutual understanding and trust between supervisory authorities. The Committee should contribute to the improvement of such cooperation.
- (11) The Committee should also foster supervisory convergence across the Community. In order to be more specific about this objective, an indicative and open-ended list of tasks to be carried out by the Committee should be established.
- (12) In order to resolve disputes of a cross-border nature between supervisory authorities, in particular within colleges of supervisors, a voluntary and non-binding mediation mechanism should be provided by the Committee.
- (13) To benefit from the expertise acquired by the Committee and without prejudice to the powers of supervisory authorities, the supervisory authorities should be able to refer matters to the Committee with a view to obtaining its non-binding opinion.
- (14) The exchange of information between the supervisory authorities is fundamental to their functions. It is central for the efficient supervision of securities markets and for financial stability. Whilst the securities legislation imposes clear legal obligations on supervisory authorities to cooperate and exchange information, the Committee should facilitate practical day-to-day exchange of information between them, subject to relevant confidentiality provisions set out in the applicable legislation.
- (15) In order to reduce the duplication of supervisory tasks and thereby streamline the supervisory process as well as reduce the burden imposed on market participants, the Committee should facilitate the delegation of tasks between supervisory authorities, in particular in cases specified in the relevant legislation.
- (16) With a view to fostering convergence and consistency across the colleges of supervisors and thereby ensuring a level playing field, the Committee should monitor their functioning without constraining the independence of the members of the college.
- (17) Quality, comparability and consistency of supervisory reporting are central to the cost-efficiency of Community supervisory arrangements and the compliance burden on cross-border institutions. The Committee should contribute to ensuring that overlap and duplication is eliminated and that the reporting data is comparable and of appropriate quality.
- (18) Financial systems in the Community are closely linked and events in one Member State can have a significant impact on financial institutions and markets in other Member States. The continuing emergence of financial conglomerates and the blurring of distinctions between the activities of firms in the banking, securities and insurance sectors give rise to additional supervisory challenges at national and Community level. In order to safeguard financial stability, a system is needed at the level of the Committee, the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors in order to identify potential risks, across borders and across sectors, at an early stage and, where necessary, inform the Commission and the other Committees. Furthermore, it is essential that the Committee ensures that finance ministries and national central banks of the Member States are informed. The Committee has its role to play in this respect by identifying risks in the securities sectors and regularly reporting on the outcome to the Commission. The Council should also be informed of these assessments. The Committee should also cooperate with the European Parliament and provide it with periodic information on the situation in the securities sector. The Committee should not, in this context, disclose information on individual supervised entities.
- (19) In order to adequately deal with cross-sector issues, the activities of the Committee should be coordinated with those of the Committee of European Banking Supervisors, the Committee of European Insurance and Occupational Pensions Supervisors and the Banking Supervision Committee of the European System of Central Banks. This is of particular importance in addressing possible cross-sectoral risks to financial stability.

- (20) To avoid duplication of work, to prevent inconsistencies, to keep the Committee abreast of progress and to give it the opportunity to exchange information with the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors with regard to supervision of financial conglomerates, the Committee may participate in the Joint Committee on Financial Conglomerates.
- (21) Given the globalisation of financial services and the increased importance of international standards, the Committee should also foster dialogue and cooperation with supervisors outside the Community.
- (22) The accountability of the Committee towards the Community Institutions is of high importance and should be of a well established standard while respecting the independence of supervisors.
- (23) The Committee should draw up its own rules of procedure and fully respect the prerogatives of the institutions and the institutional balance established by the Treaty. The enhanced framework of the activities of the Committee should be accompanied by improved working processes. To this end, if consensus cannot be reached, decisions should be taken by qualified majority corresponding to the rules set out in the Treaty.
- (24) For reasons of legal security and clarity Decision 2001/527/EC should be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

An independent advisory group on securities in the Community, called 'the Committee of European Securities Regulators' (hereinafter 'the Committee') is hereby established.

Article 2

The Committee shall advise the Commission, in particular as regards the preparation of draft implementing measures in the field of securities, including those relating to undertakings for collective investment in transferable securities (UCITS), on its own initiative or at the request of the Commission.

Where the Commission requests advice from the Committee, it may lay down a time limit within which the Committee shall provide such advice. Such time limit shall be laid down taking into account the urgency of the matter.

Article 3

The Committee shall fulfil the tasks assigned to it and contribute to the common and uniform implementation and

consistent application of Community legislation by issuing non-binding guidelines, recommendations and standards.

Article 4

1. The Committee shall enhance cooperation between national supervisory authorities in the securities field and foster the convergence of Member States' supervisory practices and approaches throughout the Community. To this effect, it shall carry out, at least, the following tasks:

- (a) mediate or facilitate mediation between supervisory authorities in cases specified in the relevant legislation or at the request of a supervisory authority;
- (b) provide opinions to supervisory authorities in cases specified in the relevant legislation or at their request;
- (c) promote the effective bilateral and multilateral exchange of information between supervisory authorities subject to applicable confidentiality provisions;
- (d) facilitate the delegation of tasks between supervisory authorities, in particular by identifying tasks which can be delegated and by promoting best practices;
- (e) contribute to ensuring the efficient and consistent functioning of colleges of supervisors in particular through setting guidelines for the operational functioning of colleges, monitoring the coherence of the practices of the different colleges and sharing best practices;
- (f) contribute to developing high quality and common supervisory reporting standards;
- (g) review the practical application of the non-binding guidelines, recommendations and standards issued by the Committee.

2. The Committee shall review the Member States' supervisory practices and assess their convergence on an ongoing basis. The Committee shall report annually on progress achieved and identify the remaining obstacles.

3. The Committee shall develop new practical convergence tools to promote common supervisory approaches.

Article 5

1. The Committee shall monitor and assess developments in the securities sector and, where necessary, inform the Committee of European Banking Supervisors, the Committee of European Insurance and Occupational Pensions Supervisors and the Commission. The Committee shall ensure that the finance ministries and national central banks of the Member States are informed about potential or imminent problems.

2. The Committee shall, at least twice a year, provide to the Commission assessments of micro-prudential trends, potential risks and vulnerabilities in the securities sector.

The Committee shall include in these assessments a classification of the main risks and vulnerabilities and indicate to what extent such risks and vulnerabilities pose a threat to financial stability and, where necessary, propose preventative or remedial actions.

The Council shall be informed of these assessments.

3. The Committee shall have in place procedures enabling the supervisory authorities to react promptly. Where appropriate, the Committee shall facilitate a joint assessment amongst supervisors within the Community on risks and vulnerabilities which may negatively affect the stability of the financial system of the Community.

4. The Committee shall ensure an adequate coverage of cross-sectoral developments, risks and vulnerabilities by closely cooperating with the Committee of European Banking Supervisors, the Committee of European Insurance and Occupational Pensions Supervisors and the Banking Supervision Committee of the European System of Central Banks.

Article 6

1. The Committee shall contribute to the development of common supervisory practices in the field of securities as well as on a cross-sectoral basis in close cooperation with the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors.

2. To this effect, it shall in particular establish sectoral and cross-sectoral training programmes, facilitate personnel exchanges and encourage competent authorities to intensify the use of secondment schemes, joint inspection teams and supervisory visits and other tools.

3. The Committee shall, as appropriate, develop new instruments to promote the development of common supervisory practices.

4. The Committee shall enhance cooperation with the supervisory authorities of third countries, in particular by their participation in common training programmes.

Article 7

1. The Committee shall be composed of high-level representatives from the national public authorities competent in the field of securities, including UCITS. Each Member State shall

designate a high-level representative from its competent authority to participate in the meetings of the Committee.

2. The Commission shall be present at the meetings of the Committee and shall designate a high-level representative to participate in its debates.

3. The Committee shall elect a chairperson from among its members.

4. The Committee may invite experts and observers to attend its meetings.

Article 8

1. The members of the Committee shall be required not to disclose information covered by the obligation of professional secrecy. All participants in the discussions shall be obliged to comply with the applicable rules of professional secrecy.

2. Whenever discussion of an item on the agenda entails the exchange of confidential information concerning a supervised institution, participation in such discussion may be restricted to members directly involved.

Article 9

1. The Committee shall regularly inform the Commission about the outcome of its activities. It shall have regular contacts with the European Securities Committee established by Commission Decision 2001/528/EC⁽¹⁾ and the competent Committee of the European Parliament.

2. The Committee shall ensure cross-sectoral consistency of work in the financial services sectors by regular and close cooperation with the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors.

3. The chairperson of the Committee shall have regular contact with the chairpersons of the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors, at least once a month.

Article 10

The Committee may set up working groups. The Commission shall be invited to the meetings of the working groups as an observer.

Article 11

The Committee may participate in the Joint Committee on Financial Conglomerates.

⁽¹⁾ OJ L 191, 13.7.2001, p. 45.

Article 12

Before transmitting its opinion to the Commission, the Committee shall, at an early stage, consult market participants, consumers and end-users extensively and in an open and transparent manner. The Committee shall publish the results of the consultations, unless the respondent requests otherwise.

Article 13

The Committee shall establish an annual work programme and transmit it to the Council, the European Parliament and the Commission by the end of October each year. The Committee shall periodically and at least annually inform the Council, the European Parliament and the Commission on the achievement of the activities set out in the work programme.

Article 14

The Committee shall work by consensus of its members. If no consensus can be reached, decisions shall be taken by qualified majority. The votes of the representatives of the Members of the Committee shall correspond to the votes of the Member States as laid down in Articles 205(2) and (4) of the Treaty.

Members of the Committee which do not follow the guidelines, recommendation, standards and other measures agreed by the Committee shall be prepared to present the reasons for this choice.

Article 15

The Committee shall adopt its own rules of procedure and organise its own operational arrangements.

With regard to decisions concerning amendments to the rules of procedure and elections to and dismissals from the Board of the Committee, the rules of procedure may foresee decision-making procedures that are different from those set out in Article 14.

Article 16

Decision 2001/527/EC is repealed.

Article 17

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 23 January 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

COMMISSION DECISION
of 23 January 2009
establishing the Committee of European Banking Supervisors
(Text with EEA relevance)
(2009/78/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

(1) As part of the so-called Lamfalussy process, the Commission adopted Decision 2004/5/EC of 5 November 2003 establishing the Committee of European Banking Supervisors⁽¹⁾ (hereinafter the Committee). The Committee took up its duties on 1 January 2004, serving as an independent body for reflection, debate and advice of the Commission in the field of banking regulation and supervision.

(2) Fulfilling the provisions of 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⁽²⁾, the Commission carried out a review of the Lamfalussy process in 2007 and presented its assessment in a Communication of 20 November 2007 entitled 'Review of the Lamfalussy process — Strengthening supervisory convergence'⁽³⁾.

(3) In the Communication, the Commission pointed out the importance of the Committee of European Securities Regulators, the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors (hereinafter the Committees of Supervisors) in an increasingly integrated European financial market. A clear framework for the activities of these Committees in the area of supervisory convergence and cooperation was deemed necessary.

(4) While reviewing the functioning of the Lamfalussy process, the Council invited the Commission to clarify the role of the Committees of Supervisors and consider all different options to strengthen the working of those

Committees, without unbalancing the current institutional structure or reducing the accountability of supervisors⁽⁴⁾.

(5) At its meeting on 13 and 14 March 2008, the European Council called for swift improvements to the functioning of the Committees of Supervisors⁽⁵⁾.

(6) On 14 May 2008⁽⁶⁾, the Council invited the Commission to revise the Commission Decisions establishing the Committees of Supervisors so as to ensure coherence and consistency in their mandates and tasks as well as to strengthen their contributions to supervisory cooperation and convergence. The Council noted that specific tasks could be explicitly given to the Committees to foster supervisory cooperation and convergence, and their role in assessing risks to financial stability. Therefore a reinforced legal framework regarding the role and tasks of the Committee in this respect should be provided.

(7) The composition of the Committee should reflect the organisation of banking supervision and should also take account of the role of central banks as regards the overall stability of the banking sector at national and Community level. The respective rights of the different categories of participants should be clearly identified. In particular, chairmanship and voting rights should be reserved to the competent supervisory authorities of each Member State. Participation in confidential discussions about individual supervised institutions should, where appropriate, be restricted to the competent supervisory authorities and to the central banks entrusted with specific operational responsibilities for supervision of the supervised institutions concerned.

(8) The Committee should serve as an independent advisory group of the Commission in the field of banking supervision.

(9) The Committee's mandate should cover the supervision of financial conglomerates. To avoid duplication of work, to prevent any inconsistencies, to keep the Committee abreast of progress, and to give it the opportunity to exchange information, the collaboration with the Committee of European Insurance and Occupational Pensions Supervisors in the supervision of financial conglomerates should be exercised in the Joint Committee on Financial Conglomerates.

⁽¹⁾ OJ L 3, 7.1.2004, p. 28.

⁽²⁾ OJ L 79, 24.3.2005, p. 9.

⁽³⁾ COM(2007) 727 final.

⁽⁴⁾ Council Conclusions 15698/07 of 4 December 2007.

⁽⁵⁾ Council Conclusions 7652/1/08 Rev 1.

⁽⁶⁾ Council Conclusions 8515/3/08 Rev 3.

- (10) The Committee should also contribute to the common and uniform day-to-day implementation of Community legislation and its consistent application by the supervisory authorities.
- (11) The Committee does not have any regulatory powers at Community level. It should carry out peer reviews, promote best practices and issue non-binding guidelines, recommendations and standards in order to increase convergence across the Community.
- (12) Enhanced bilateral and multilateral supervisory cooperation depends on the mutual understanding and trust between supervisory authorities. The Committee should contribute to the improvement of such cooperation.
- (13) The Committee should also foster supervisory convergence across the Community. In order to be more specific about this objective, an indicative and open-ended list of tasks to be carried out by the Committee should be established.
- (14) In order to resolve disputes of a cross-border nature between supervisory authorities, in particular within colleges of supervisors, a voluntary and non-binding mediation mechanism should be provided by the Committee.
- (15) To benefit from the expertise acquired by the Committee and without prejudice to the powers of supervisory authorities, the supervisory authorities should be able to refer matters to the Committee with a view to obtaining its non-binding opinion.
- (16) The exchange of information between the supervisory authorities is fundamental to their functions. It is central for the efficient supervision of banking groups and for financial stability. Whilst the banking legislation imposes clear legal obligations on supervisory authorities to cooperate and exchange information, the Committee should facilitate practical day-to-day exchange of information between them, subject to relevant confidentiality provisions set out in the applicable legislation.
- (17) In order to reduce the duplication of supervisory tasks and thereby streamline the supervisory process as well as reduce the burden imposed on banking groups, the Committee should facilitate the delegation of tasks between supervisory authorities, in particular in cases specified in the relevant legislation.
- (18) With a view to fostering convergence and consistency across the colleges of supervisors and thereby ensuring a level playing field, the Committee should monitor their functioning without constraining the independence of the members of the college.
- (19) Quality, comparability and consistency of supervisory reporting are central to the cost-efficiency of Community supervisory arrangements and the compliance burden on cross-border institutions. The Committee should contribute to ensuring that overlap and duplication is eliminated and that the reporting data is comparable and of appropriate quality.
- (20) Financial systems in the Community are closely linked and events in one Member State can have a significant impact on financial institutions and markets in other Member States. The continuing emergence of financial conglomerates and the blurring of distinctions between the activities of firms in the banking, securities and insurance sectors give rise to additional supervisory challenges at national and Community level. In order to safeguard financial stability, a system is needed at the level of the Committee, the Committee of European Securities Regulators and the Committee of European Insurance and Occupational Pensions Supervisors in order to identify potential risks, across borders and across sectors, at an early stage and, where necessary, inform the Commission and the other Committees. Furthermore, it is essential that the Committee ensures that finance ministries and national central banks of the Member States are informed. The Committee has its role to play in this respect by identifying risks in the banking sector and regularly reporting on the outcome to the Commission. The Council should also be informed of these assessments. The Committee should also cooperate with the European Parliament and provide it with periodic information on the situation in the banking sector. The Committee should not, in this context, disclose information on individual supervised entities.
- (21) In order to adequately deal with cross-sector issues, the activities of the Committee should be coordinated with those of the Committee of European Securities Regulators, the Committee of European Insurance and Occupational Pensions Supervisors and the Banking Supervision Committee of the European System of Central Banks. This is of particular importance in addressing possible cross-sectoral risks to financial stability.
- (22) Given the globalisation of financial services and the increased importance of international standards, the Committee should also foster dialogue and cooperation with supervisors outside the Community.
- (23) The accountability of the Committee towards the Community Institutions is of high importance and should be of a well established standard while respecting the independence of supervisors.

- (24) The Committee should draw up its own rules of procedure and fully respect the prerogatives of the institutions and the institutional balance established by the Treaty. The enhanced framework of the activities of the Committee should be accompanied by improved working processes. To this end, if consensus cannot be reached, decisions should be taken by qualified majority corresponding to the rules set out in the Treaty.
- (25) For reasons of legal security and clarity Decision 2004/5/EC should be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

An independent advisory group on banking supervision in the Community, called 'the Committee of European Banking Supervisors' (hereinafter the Committee), is hereby established.

Article 2

The Committee shall advise the Commission, in particular as regards the preparation of draft implementing measures in the field of banking activities and in the field of financial conglomerates, on its own initiative or at the request of the Commission.

Where the Commission requests advice from the Committee, it may lay down a time limit within which the Committee shall provide such advice. Such time limit shall be laid down taking into account the urgency of the matter.

Article 3

The Committee shall fulfil the tasks assigned to it and contribute to the common and uniform implementation and consistent application of Community legislation by issuing non-binding guidelines, recommendations and standards.

Article 4

1. The Committee shall enhance cooperation between national supervisory authorities in the field of banking and foster the convergence of Member States' supervisory practices and approaches throughout the Community. To this effect, it shall carry out, at least, the following tasks:

- (a) mediate or facilitate mediation between supervisory authorities in cases specified in the relevant legislation or at the request of a supervisory authority;
- (b) provide opinions to supervisory authorities in cases specified in the relevant legislation or at their request;
- (c) promote the effective bilateral and multilateral exchange of information between supervisory authorities subject to applicable confidentiality provisions;

- (d) facilitate the delegation of tasks between supervisory authorities, in particular by identifying tasks which can be delegated and by promoting best practices;
- (e) contribute to ensuring the efficient and consistent functioning of colleges of supervisors in particular through setting guidelines for the operational functioning of colleges, monitoring the coherence of the practices of the different colleges and sharing best practices;
- (f) contribute to developing high-quality and common supervisory reporting standards;
- (g) review the practical application of the non-binding guidelines, recommendations and standards issued by the Committee.

2. The Committee shall review the Member States' supervisory practices and assess their convergence on an ongoing basis. The Committee shall report annually on progress achieved and identify the remaining obstacles.

3. The Committee shall develop new practical convergence tools to promote common supervisory approaches.

Article 5

1. The Committee shall monitor and assess developments in the banking sector and, where necessary, inform the Committee of European Securities Regulators, the Committee of European Insurance and Occupational Pensions Supervisors and the Commission. The Committee shall ensure that the finance ministries and national central banks of the Member States are informed about potential or imminent problems.

2. The Committee shall, at least twice a year, provide assessments to the Commission of micro-prudential trends, potential risks and vulnerabilities in the banking sector.

The Committee shall include in these assessments a classification of the main risks and vulnerabilities and indicate to what extent such risks and vulnerabilities pose a threat to financial stability and, where necessary, propose preventative or remedial actions.

The Council shall be informed of these assessments.

3. The Committee shall have in place procedures enabling the supervisory authorities to react promptly. Where appropriate, the Committee shall facilitate a joint assessment amongst supervisors within the Community on risks and vulnerabilities which may negatively affect the stability of the financial system of the Community.

4. The Committee shall ensure an adequate coverage of cross-sectoral developments, risks and vulnerabilities by closely cooperating with the Committee of European Securities Regulators, the Committee of European Insurance and Occupational Pensions Supervisors and the Banking Supervision Committee of the European System of Central Banks.

Article 6

1. The Committee shall contribute to the development of common supervisory practices in the field of banking as well as on a cross-sectoral basis in close cooperation with the Committee of European Securities Regulators and the Committee of European Insurance and Occupational Pensions Supervisors.

2. To this effect, it shall in particular establish sectoral and cross-sectoral training programmes, facilitate personnel exchanges and encourage competent authorities to intensify the use of secondment schemes, joint inspection teams and supervisory visits and other tools.

3. The Committee shall, as appropriate, develop new instruments to promote the common supervisory practices.

4. The Committee shall enhance cooperation with the supervisory authorities of third countries, in particular by their participation in common training programmes.

Article 7

1. The Committee shall be composed of high-level representatives from the following organisations:

- (a) the national public authorities competent for the supervision of credit institutions, hereinafter 'the competent supervisory authorities';
- (b) the national central banks entrusted with specific operational responsibilities for the supervision of individual credit institutions alongside a competent supervisory authority;
- (c) the central banks which are not directly involved in the supervision of individual credit institutions, including the European Central Bank.

2. Each Member State shall designate high-level representatives to participate in the meetings of the Committee. The European Central Bank shall designate a high level representative to participate in the Committee.

3. The Commission shall be present at the meetings of the Committee and shall designate a high-level representative to participate in its debates.

4. The Committee shall elect a chairperson from among the representatives of the competent supervisory authorities.

5. The Committee may invite experts and observers to attend its meetings.

Article 8

1. The members of the Committee shall be required not to disclose information covered by the obligation of professional secrecy. All participants in the discussions shall be obliged to comply with the applicable rules of professional secrecy.

2. Whenever discussion of an item on the agenda entails the exchange of confidential information concerning a supervised institution, participation in such discussion may be restricted to the competent supervisory authorities directly involved and the national central banks entrusted with specific operational responsibilities for the supervision of the individual credit institutions concerned.

Article 9

1. The Committee shall regularly inform the Commission about the outcome of its activities. It shall have regular contacts with the European Banking Committee established by Commission Decision 2004/10/EC ⁽¹⁾ and the competent Committee of the European Parliament.

2. The Committee shall ensure cross-sectoral consistency of work in the financial services sectors by regular and close co-operation with the Committee of European Securities Regulators and the Committee of European Insurance and Occupational Pensions Supervisors.

3. The chairperson of the Committee shall meet the chairpersons of the Committee of European Securities Regulators and of the Committee of European Insurance and Occupational Pensions Supervisors at least once a month.

Article 10

The Committee may set up working groups. The Commission shall be invited to the meetings of the working groups as an observer.

⁽¹⁾ OJ L 3, 7.1.2004, p. 36.

Article 11

The Committee shall cooperate in the area of supervision of financial conglomerates with the Committee of European Insurance and Occupational Pensions Supervisors in a Joint Committee on Financial Conglomerates.

The Commission and the European Central Bank shall be invited to the meetings of the Joint Committee on Financial Conglomerates as observers.

Article 12

Before transmitting its opinion to the Commission, the Committee shall, at an early stage, consult market participants, consumers and end-users extensively and in an open and transparent manner. The Committee shall publish the results of the consultations, unless the respondent requests otherwise.

When providing advice on provisions applicable to both credit institutions and investment firms, the Committee shall consult all authorities which are competent for the supervision of investment firms and are not already represented in the Committee.

Article 13

The Committee shall draw up an annual work programme and transmit it to the Council, the European Parliament and the Commission by the end of October each year. The Committee shall periodically and at least annually inform the Council, the European Parliament and the Commission on the achievement of the activities set out in the work programme.

Article 14

The Committee shall work by consensus of its members. If no consensus can be reached, decisions shall be taken by qualified

majority. The votes of the representatives of the Members of the Committee shall correspond to the votes of the Member States as laid down in Articles 205(2) and (4) of the Treaty.

Members of the Committee which do not follow the guidelines, recommendations, standards and other measures agreed by the Committee shall be prepared to present the reasons for this choice.

Article 15

The Committee shall adopt its own rules of procedure and organise its own operational arrangements.

With regard to decisions concerning amendments to the rules of procedure and elections to and dismissals from the Board of the Committee, the rules of procedure may foresee decision-making procedures that are different from those set out in Article 14.

Article 16

Decision 2004/5/EC is repealed.

Article 17

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 23 January 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

COMMISSION DECISION
of 23 January 2009
establishing the Committee of European Insurance and Occupational Pensions Supervisors
(Text with EEA relevance)
(2009/79/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

all different options to strengthen the working of those Committees, without unbalancing the current institutional structure or reducing the accountability of supervisors ⁽⁴⁾.

- (5) At its meeting of 13 and 14 March 2008, the European Council called for swift improvements to the functioning of the Committees of Supervisors ⁽⁵⁾.
- (6) On 14 May 2008 ⁽⁶⁾, the Council invited the Commission to revise the Commission Decisions establishing the Committees of Supervisors so as to ensure coherence and consistency in their mandates and tasks as well as to strengthen their contributions to supervisory cooperation and convergence. The Council noted that specific tasks could be explicitly given to the Committees to foster supervisory cooperation and convergence, and their role in assessing risks to financial stability. Therefore a reinforced legal framework regarding the role and tasks of the Committee in this respect should be provided.
- (7) The Committee should serve as an independent advisory group of the Commission in the insurance, reinsurance and occupational pensions fields. However, as regards the occupational pensions field, while the Committee should consider the regulatory and supervisory aspects relating to such arrangements, it should not address labour and social law aspects, such as the organisation of occupational regimes, and in particular, issues relating to compulsory membership (affiliation) or collective agreements.
- (8) The Committee's mandate should cover the supervision of financial conglomerates. To avoid duplication of work, to prevent any inconsistencies, to keep the Committee abreast of progress, and to give it the opportunity to exchange information, the collaboration with the Committee of European Banking Supervisors in the supervision of financial conglomerates should be exercised in the Joint Committee on Financial Conglomerates.
- (9) The Committee should also contribute to the common and uniform day-to-day implementation of Community legislation and its consistent application by the supervisory authorities.
- (1) As part of the so-called Lamfalussy process, the Commission adopted Decision 2004/6/EC of 5 November 2003 establishing the Committee of European Insurance and Occupational Pensions Supervisors ⁽¹⁾ (hereinafter 'the Committee'). The Committee took up its duties on 24 November 2003, serving as an independent body for reflection, debate and advice of the Commission in the insurance, reinsurance and occupational pensions fields.
- (2) Fulfilling the provisions of 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 ⁽²⁾, the Commission carried out a review of the Lamfalussy process in 2007 and presented its assessment in a Communication of 20 November 2007 entitled 'Review of the Lamfalussy process — Strengthening supervisory convergence' ⁽³⁾.
- (3) In the Communication, the Commission pointed out the importance of the Committee of European Securities Regulators, the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors (hereinafter 'the Committees of Supervisors') in an increasingly integrated European financial market. A clear framework for the activities of these Committees in the area of supervisory convergence and cooperation was deemed necessary.
- (4) While reviewing the functioning of the Lamfalussy process, the Council invited the Commission to clarify the role of the Committees of Supervisors and consider

⁽¹⁾ OJ L 3, 7.1.2004, p. 30.

⁽²⁾ OJ L 79, 24.3.2005, p. 9.

⁽³⁾ COM(2007) 727 final.

⁽⁴⁾ Council Conclusions 15698/07 of 4 December 2007.

⁽⁵⁾ Council Conclusions 7652/1/08 Rev 1.

⁽⁶⁾ Council Conclusions 8515/3/08 Rev 3.

- (10) The Committee does not have any regulatory powers at Community level. It should carry out peer reviews, promote best practices and issue non-binding guidelines, recommendations and standards in order to increase convergence across the Community.
- (11) Enhanced bilateral and multilateral supervisory cooperation depends on the mutual understanding and trust between supervisory authorities. The Committee should contribute to the improvement of such cooperation.
- (12) The Committee should also foster supervisory convergence across the Community. In order to be more specific about this objective, an indicative and open-ended list of tasks to be carried out by the Committee should be established.
- (13) In order to resolve disputes of a cross-border nature between supervisory authorities, in particular within colleges of supervisors, a voluntary and non-binding mediation mechanism should be provided by the Committee.
- (14) To benefit from the expertise acquired by the Committee and without prejudice to the powers of supervisory authorities, the supervisory authorities should be able to refer matters to the Committee with a view to obtaining its non-binding opinion.
- (15) The exchange of information between the supervisory authorities is fundamental to their functions. It is central for the efficient supervision of insurance groups and for financial stability. Whilst the insurance legislation imposes clear legal obligations on supervisory authorities to cooperate and exchange information, the Committee should facilitate practical day-to-day exchange of information between them, subject to relevant confidentiality provisions set out in applicable legislation.
- (16) In order to reduce the duplication of supervisory tasks and thereby streamline the supervisory process as well as reduce the burden imposed on insurance groups, the Committee should facilitate the delegation of tasks between supervisory authorities, in particular in cases specified in the relevant legislation.
- (17) With a view to fostering convergence and consistency across the colleges of supervisors and thereby ensuring a level playing field, the Committee should monitor their functioning without constraining the independence of the members of the college.
- (18) Quality, comparability and consistency of supervisory reporting are central to the cost-efficiency of Community supervisory arrangements and the compliance burden on cross-border institutions. The Committee should contribute to ensuring that overlap and duplication is eliminated and that the reporting data is comparable and of appropriate quality.
- (19) Financial systems in the Community are closely linked and events in one Member State can have a significant impact on financial institutions and markets in other Member States. The continuing emergence of financial conglomerates and the blurring of distinctions between the activities of firms in the banking, securities and insurance sectors give rise to additional supervisory challenges at national and Community level. In order to safeguard financial stability, a system is needed at the level of the Committee, the Committee of European Banking Supervisors and the Committee of European Securities Regulators in order to identify potential risks, across borders and across sectors, at an early stage and, where necessary, inform the Commission and the other Committees. Furthermore, it is essential that the Committee ensures that finance ministries and national central banks of the Member States are informed. The Committee has its role to play in this respect by identifying risks in the insurance, reinsurance and occupational pension sectors and regularly reporting on the outcome to the Commission. The Council should also be informed of these assessments. The Committee should also cooperate with the European Parliament and provide it with periodic information on the situation in the insurance sector. The Committee should not, in this context, disclose information on individual supervised entities.
- (20) In order to adequately deal with cross-sector issues, the activities of the Committee should be coordinated with those of the Committee of European Securities Regulators, the Committee of European Banking Supervisors and the Banking Supervision Committee of the European System of Central Banks. This is of particular importance in addressing possible cross-sectoral risks to financial stability.
- (21) Given the globalisation of financial services and the increased importance of international standards, the Committee should also foster dialogue and cooperation with supervisors outside the Community.
- (22) The accountability of the Committee towards the Community Institutions is of high importance and should be of a well established standard while respecting the independence of supervisors.

- (23) The Committee should draw up its own rules of procedure and fully respect the prerogatives of the institutions and the institutional balance established by the Treaty. The enhanced framework of the activities of the Committee should be accompanied by improved working processes. To this end, if consensus cannot be reached, decisions should be taken by qualified majority corresponding to the rules set out in the Treaty.
- (24) For reasons of legal security and clarity Decision 2004/6/EC should be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

An independent advisory group on insurance and occupational pensions in the Community, called 'the Committee of European Insurance and Occupational Pensions Supervisors' (hereinafter 'the Committee'), is hereby established.

Article 2

The Committee shall advise the Commission, in particular as regards the preparation of draft implementing measures in the fields of insurance, reinsurance, occupational pensions and financial conglomerates, on its own initiative or at the request of the Commission.

Where the Commission requests advice from the Committee, it may lay down a time limit within which the Committee shall provide such advice. Such time limit shall be laid down taking into account the urgency of the matter.

Article 3

The Committee shall fulfil the tasks assigned to it and contribute to the common and uniform implementation and consistent application of Community legislation by issuing guidelines, recommendations and standards.

Article 4

1. The Committee shall enhance cooperation between national supervisory authorities in the insurance, reinsurance and occupational pensions fields and foster the convergence of Member States' supervisory practices and approaches throughout the Community. To this effect, it shall carry out, at least, the following tasks:

- (a) mediate or facilitate mediation between supervisory authorities in cases specified in the relevant legislation or at the request of a supervisory authority;

- (b) provide opinions to supervisory authorities in cases specified in the relevant legislation or at their request;
- (c) promote the effective bilateral and multilateral exchange of information between supervisory authorities subject to applicable confidentiality provisions;
- (d) facilitate the delegation of tasks between supervisory authorities, in particular by identifying tasks which can be delegated and by promoting best practices;
- (e) contribute to ensuring the efficient and consistent functioning of colleges of supervisors in particular through setting guidelines for the operational functioning of colleges, monitoring the coherence of the practices of the different colleges and sharing best practices;
- (f) contribute to developing high quality and common supervisory reporting standards;
- (g) review the practical application of the non-binding guidelines, recommendations and standards issued by the Committee.

2. The Committee shall review the Member States' supervisory practices and assess their convergence on an ongoing basis. The Committee shall report annually on progress achieved and identify the remaining obstacles.

3. The Committee shall develop new practical convergence tools to promote the common supervisory approaches.

Article 5

1. The Committee shall monitor and assess developments in the insurance, reinsurance and occupational pensions sector and, where necessary, inform the Committee of European Securities Regulators, the Committee of European Banking Supervisors and the Commission. The Committee shall ensure that the finance ministries and national central banks of the Member States are informed about potential or imminent problems.

2. The Committee shall, at least twice a year, provide to the Commission assessments of micro-prudential trends, potential risks and vulnerabilities in the insurance, reinsurance and occupational pensions sector.

The Committee shall include in these assessments a classification of the main risks and vulnerabilities and indicate to what extent such risks and vulnerabilities pose a threat to financial stability and, where necessary, propose preventative or remedial actions.

The Council shall be informed of these assessments.

3. The Committee shall have in place procedures enabling the supervisory authorities to react promptly. Where appropriate, the Committee shall facilitate a common position within the Community on risks and vulnerabilities which may negatively affect the stability of the financial system of the Community.

4. The Committee shall ensure an adequate coverage of cross-sectoral developments, risks and vulnerabilities by closely cooperating with the Committee of European Securities Regulators, the Committee of European Banking Supervisors and the Banking Supervision Committee of the European System of Central Banks.

Article 6

1. The Committee shall contribute to the development of common supervisory practices in the field of insurance, reinsurance and occupational pensions as well as on a cross-sectoral basis in close cooperation with the Committee of European Securities Regulators and the Committee of European Banking Supervisors.

2. To this effect, it shall in particular establish sectoral and cross-sectoral training programmes, facilitate personnel exchanges and encourage competent authorities to intensify the use of secondment schemes, joint inspection teams and supervisory visits and other tools.

3. The Committee shall, as appropriate, develop new instruments to promote the development of common supervisory practices.

4. The Committee shall enhance cooperation with the supervisory authorities of third countries, in particular by their participation in common training programmes.

Article 7

1. The Committee shall be composed of high-level representatives from the national public authorities competent in the field of supervision of insurance, reinsurance and occupational pensions. Each Member State shall designate a high level representative from its competent authorities to participate in the meetings of the Committee.

2. The Commission shall be present at meetings of the Committee and shall designate a high level representative to participate in its debates.

3. The Committee shall elect a chairperson from among its members.

4. The Committee may invite experts and observers to attend its meetings.

5. The Committee shall not address labour and social law aspects such as the organisation of occupational regimes, in particular compulsory membership and collective agreements.

Article 8

1. The members of the Committee shall be required not to disclose information covered by the obligation of professional secrecy. All participants in the discussions shall be obliged to comply with the applicable rules of professional secrecy.

2. Whenever discussion of an item on the agenda entails the exchange of confidential information concerning a supervised institution, participation in such discussion may be restricted to members directly involved.

Article 9

1. The Committee shall regularly inform the Commission about the outcome of its activities. It shall have regular contacts with the European Insurance and Occupational Pensions Committee established by Commission Decision 2004/9/EC⁽¹⁾ and the competent Committee of the European Parliament.

2. The Committee shall ensure cross-sectoral consistency of work in the financial services sectors by regularly and closely cooperating with the Committee of European Securities Regulators and the Committee of European Banking Supervisors.

3. The chairperson of the Committee shall have regular contact with the chairpersons of the Committee of European Securities Regulators and of the Committee of European Banking Supervisors, at least once a month.

Article 10

The Committee may set up working groups. The Commission shall be invited to the meetings of the working groups as an observer.

Article 11

The Committee shall cooperate in the area of supervision of financial conglomerates with the Committee of European Banking Supervisors in a Joint Committee on Financial Conglomerates.

The Commission and the European Central Bank shall be invited to the meetings of the Joint Committee on Financial Conglomerates as observers.

⁽¹⁾ OJ L 3, 7.1.2004, p. 34.

Article 12

Before transmitting its opinion to the Commission, the Committee shall, at an early stage, consult market participants, consumers and end-users extensively and in an open and transparent manner. The Committee shall publish the results of the consultations, unless the respondent requests otherwise.

Article 13

The Committee shall establish an annual work programme and transmit it to the Council, the European Parliament and the Commission by the end of October each year. The Committee shall periodically and at least annually inform the Council, the European Parliament and the Commission on the achievement of the activities set out in the work programme.

Article 14

The Committee shall work by consensus of its members. If no consensus can be reached, decisions shall be taken by qualified majority. The votes of the representatives of the Members of the Committee shall correspond to the votes of the Member States as laid down in Articles 205(2) and (4) of the Treaty.

Members of the Committee which do not follow the guidelines, recommendations, standards and other measures agreed by the

Committee shall be prepared to present the reasons for this choice.

Article 15

The Committee shall adopt its own rules of procedure and organise its own operational arrangements.

With regard to decisions concerning amendments to the rules of the procedure and elections to and dismissals from the Board of the Committee, the rules of procedure may foresee decision-making procedures that are different from those set out in Article 14.

Article 16

Decision 2004/6/EC is repealed.

Article 17

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 23 January 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

IV

(Other acts)

EUROPEAN ECONOMIC AREA

THE EEA JOINT COMMITTEE

DECISION OF THE EEA JOINT COMMITTEE

No 127/2008

of 5 December 2008

amending Annex VII (Mutual recognition of professional qualifications) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex VII to the Agreement was amended by Decision of the EEA Joint Committee No 50/2008 of 25 April 2008 ⁽¹⁾.
- (2) Commission Regulation (EC) No 755/2008 of 31 July 2008 amending Annex II to Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 1 (Directive 2005/36/EC of the European Parliament and of the Council) of Annex VII to the Agreement:

— **32008 R 0755:** Commission Regulation (EC) No 755/2008 of 31 July 2008 (OJ L 205, 1.8.2008, p. 10).'

Article 2

The text of Regulation (EC) No 755/2008 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

⁽¹⁾ OJ L 223, 21.8.2008, p. 47.

⁽²⁾ OJ L 205, 1.8.2008, p. 10.

Article 3

This Decision shall enter into force on 6 December 2008, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*) or on the date of entry into force of Decision of the EEA Joint Committee No 142/2007 of 26 October 2007, whichever is the later.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 5 December 2008.

For the EEA Joint Committee

The President

H.S.H. Prinz Nikolaus von LIECHTENSTEIN

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 128/2008
of 5 December 2008
amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XIII to the Agreement was amended by Decision of the EEA Joint Committee No 119/2008 of 7 November 2008 ⁽¹⁾.
- (2) Commission Directive 2008/65/EC of 27 June 2008 amending Directive 91/439/EEC on driving licences ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 24a (Council Directive 91/439/EEC) of Annex XIII to the Agreement:

‘— **32008 L 0065**: Commission Directive 2008/65/EC of 27 June 2008 (OJ L 168, 28.6.2008, p. 36).’

Article 2

The text of Directive 2008/65/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 6 December 2008, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 5 December 2008.

For the EEA Joint Committee
The President

H.S.H. Prinz Nikolaus von LIECHTENSTEIN

⁽¹⁾ OJ L 339, 18.12.2008, p. 110.

⁽²⁾ OJ L 168, 28.6.2008, p. 36.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 129/2008
of 5 December 2008
amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XIII to the Agreement was amended by Decision of the EEA Joint Committee No 119/2008 of 7 November 2008 ⁽¹⁾.
- (2) Commission Decision 2008/217/EC of 20 December 2007 concerning a technical specification for interoperability relating to the 'infrastructure' subsystem of the trans-European high-speed rail system ⁽²⁾ is to be incorporated into the Agreement.
- (3) Commission Decision 2008/231/EC of 1 February 2008 concerning the technical specification of interoperability relating to the operation subsystem of the trans-European high-speed rail system adopted referred to in Article 6(1) of Council Directive 96/48/EC and repealing Commission Decision 2002/734/EC ⁽³⁾ is to be incorporated into the Agreement.
- (4) Decision 2008/217/EC repeals Commission Decision 2002/732/EC ⁽⁴⁾, which is incorporated into the Agreement and which is consequently to be repealed under the Agreement.
- (5) Decision 2008/231/EC repeals Commission Decision 2002/734/EC ⁽⁵⁾, which is incorporated into the Agreement and which is consequently to be repealed under the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XIII to the Agreement shall be amended as follows:

1. the text of point 37ac (Commission Decision 2002/732/EC) shall be replaced by the following:

'32008 D 0217: Commission Decision 2008/217/EC of 20 December 2007 concerning a technical specification for interoperability relating to the "infrastructure" subsystem of the trans-European high-speed rail system (OJ L 77, 19.3.2008, p. 1).';

2. the text of point 37ae (Commission Decision 2002/734/EC) shall be replaced by the following:

'32008 D 0231: Commission Decision 2008/231/EC of 1 February 2008 concerning the technical specification of interoperability relating to the operation subsystem of the trans-European high-speed rail system adopted referred to in Article 6(1) of Council Directive 96/48/EC and repealing Commission Decision 2002/734/EC (OJ L 84, 26.3.2008, p. 1).'

⁽¹⁾ OJ L 339, 18.12.2008, p. 110.

⁽²⁾ OJ L 77, 19.3.2008, p. 1.

⁽³⁾ OJ L 84, 26.3.2008, p. 1.

⁽⁴⁾ OJ L 245, 12.9.2002, p. 143.

⁽⁵⁾ OJ L 245, 12.9.2002, p. 370.

Article 2

The texts of Decisions 2008/217/EC and 2008/231/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 6 December 2008, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 5 December 2008.

For the EEA Joint Committee

The President

H.S.H. Prinz Nikolaus von LIECHTENSTEIN

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 130/2008
of 5 December 2008
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by Decision of the EEA Joint Committee No 126/2008 of 7 November 2008 ⁽¹⁾.
- (2) Council Regulation (EC) No 362/2008 of 14 April 2008 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the 2009 list of target secondary variables on material deprivation ⁽²⁾ is to be incorporated into the Agreement.
- (3) Commission Regulation (EC) No 365/2008 of 23 April 2008 adopting the programme of ad hoc modules, covering the years 2010, 2011 and 2012, for the labour force sample survey provided for by Council Regulation (EC) No 577/98 ⁽³⁾ is to be incorporated into the Agreement.
- (4) Commission Regulation (EC) No 377/2008 of 25 April 2008 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community as regards the codification to be used for data transmission from 2009 onwards, the use of a sub-sample for the collection of data on structural variables and the definition of the reference quarters ⁽⁴⁾ is to be incorporated into the Agreement.
- (5) Commission Regulation (EC) No 391/2008 of 30 April 2008 amending Regulation (EC) No 102/2007 adopting the specifications of the 2008 ad hoc module on the labour market situation of migrants and their immediate descendants ⁽⁵⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XXI to the Agreement shall be amended as follows:

1. the following point shall be inserted after point 18w (Regulation (EC) No 452/2008 of the European Parliament and of the Council):

'18x. **32008 R 0362:** Council Regulation (EC) No 362/2008 of 14 April 2008 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the 2009 list of target secondary variables on material deprivation (OJ L 112, 24.4.2008, p. 1).';

⁽¹⁾ OJ L 339, 18.12.2008, p. 119.

⁽²⁾ OJ L 112, 24.4.2008, p. 1.

⁽³⁾ OJ L 112, 24.4.2008, p. 22.

⁽⁴⁾ OJ L 114, 26.4.2008, p. 57.

⁽⁵⁾ OJ L 117, 1.5.2008, p. 15.

2. the following points shall be inserted after point 18al (Commission Regulation (EC) No 207/2008):

'18am. **32008 R 0365**: Commission Regulation (EC) No 365/2008 of 23 April 2008 adopting the programme of ad hoc modules, covering the years 2010, 2011 and 2012, for the labour force sample survey provided for by Council Regulation (EC) No 577/98 (OJ L 112, 24.4.2008, p. 22).

18an. **32008 R 0377**: Commission Regulation (EC) No 377/2008 of 25 April 2008 implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community as regards the codification to be used for data transmission from 2009 onwards, the use of a sub-sample for the collection of data on structural variables and the definition of the reference quarters (OJ L 114, 26.4.2008, p. 57).';

3. the following shall be added in point 18ak (Commission Regulation (EC) No 102/2007):

‘, as amended by:

— **32008 R 0391**: Commission Regulation (EC) No 391/2008 of 30 April 2008 (OJ L 117, 1.5.2008, p. 15).’

Article 2

The texts of Regulations (EC) No 362/2008, (EC) No 365/2008, (EC) No 377/2008 and (EC) No 391/2008 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 6 December 2008, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 5 December 2008.

For the EEA Joint Committee

The President

H.S.H. Prinz Nikolaus von LIECHTENSTEIN

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 131/2008
of 5 December 2008
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by Decision of the EEA Joint Committee No 126/2008 of 7 November 2008 ⁽¹⁾.
- (2) Commission Regulation (EC) No 747/2008 of 30 July 2008 amending Regulation (EC) No 716/2007 of the European Parliament and of the Council on Community statistics on the structure and activity of foreign affiliates, as regards the definitions of characteristics and the implementation of NACE Rev. 2 ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following shall be added in point 19x (Regulation (EC) No 716/2007 of the European Parliament and of the Council) of Annex XXI to the Agreement:

‘, as amended by:

- **32008 R 0747**: Commission Regulation (EC) No 747/2008 of 30 July 2008 (OJ L 202, 31.7.2008, p. 20).’

Article 2

The text of Regulation (EC) No 747/2008 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 6 December 2008, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee ⁽³⁾.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 5 December 2008.

For the EEA Joint Committee

The President

H.S.H. Prinz Nikolaus von LIECHTENSTEIN

⁽¹⁾ OJ L 339, 18.12.2008, p. 119.

⁽²⁾ OJ L 202, 31.7.2008, p. 20.

⁽³⁾ No constitutional requirements indicated.