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I

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

REGULATIONS

COMMISSION REGULATION (EC) No 920/2009**of 2 October 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 3 October 2009.

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

Done at Brussels, 2 October 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	29,4
	ZZ	29,4
0707 00 05	TR	127,2
	ZZ	127,2
0709 90 70	TR	110,1
	ZZ	110,1
0805 50 10	AR	81,0
	CL	103,4
	TR	91,1
	UY	88,0
	ZA	72,9
	ZZ	87,3
0806 10 10	BR	235,1
	EG	159,5
	TR	100,6
	US	152,0
	ZZ	161,8
0808 10 80	CL	85,7
	NZ	67,8
	US	83,8
	ZA	71,0
	ZZ	77,1
0808 20 50	AR	82,8
	CN	33,7
	TR	95,7
	ZA	76,1
	ZZ	72,1

⁽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 921/2009**of 1 October 2009****establishing a prohibition of fishing for tusk in EC and international waters of V, VI and VII by
vessels flying the flag of France**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required ⁽³⁾, lays down quotas for 2009.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2009.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2009 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

*Article 3***Entry into force**

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

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

Done at Brussels, 1 October 2009.

For the Commission

Fokion FOTIADIS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 261, 20.10.1993, p. 1.

⁽³⁾ OJ L 22, 26.1.2009, p. 1.

ANNEX

No	21/T&Q
Member State	France
Stock	USK/567EI.
Species	Tusk (<i>Brosme brosme</i>)
Zone	EC and international waters of V, VI and VII
Date	2.9.2009

DIRECTIVES

DIRECTIVE 2009/104/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 September 2009

concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

(codified version)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 137(2) thereof,

Having regard to the proposal from the Commission,

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

Having consulted the Committee of the Regions,

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

Whereas:

(1) Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.

(2) This Directive is an individual directive within the meaning of Article 16(1) of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and

health of workers at work ⁽⁵⁾. Therefore, the provisions of Directive 89/391/EEC are fully applicable to the scope of the use of work equipment by workers at work, without prejudice to more stringent or specific provisions contained in this Directive.

(3) Article 137(2) of the Treaty provides that the Council may adopt, by means of directives, minimum requirements for encouraging improvements, in particular, of the working environment so as to protect workers' health and safety.

(4) Pursuant to the said Article, such directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

(5) The provisions adopted pursuant to Article 137(2) of the Treaty do not preclude any Member State from maintaining or introducing more stringent measures for the protection of working conditions provided they are compatible with the Treaty.

(6) Compliance with the minimum requirements designed to guarantee a better standard of safety and health in the use of work equipment is essential in order to ensure the safety and health of workers.

(7) The improvement of occupational safety, hygiene and health is an objective which should not be subordinated to purely economic considerations.

(8) Work at a height may expose workers to particularly severe risks to their health and safety, notably to the risks of falls from a height and other serious occupational accidents, which account for a large proportion of all accidents, especially of fatal accidents.

⁽¹⁾ OJ C 100, 30.4.2009, p. 144.

⁽²⁾ Opinion of the European Parliament of 8 July 2008 (not yet published in the Official Journal) and Council Decision of 13 July 2009.

⁽³⁾ OJ L 393, 30.12.1989, p. 13.

⁽⁴⁾ See Annex III, Part A.

⁽⁵⁾ OJ L 183, 29.6.1989, p. 1.

- (9) This Directive constitutes a practical aspect of the realisation of the social dimension of the internal market.
- (10) Pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services ⁽¹⁾, Member States are required to notify the Commission of any draft technical regulations relating to machines, equipment and installations.
- (11) This Directive is the most appropriate means of achieving the desired objectives and does not go beyond what is necessary for that purpose.
- (12) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex III, Part B,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Directive, which is the second individual directive within the meaning of Article 16(1) of Directive 89/391/EEC, lays down minimum safety and health requirements for the use of work equipment by workers at work, as defined in Article 2.
2. The provisions of Directive 89/391/EEC are fully applicable to the whole scope referred to in paragraph 1, without prejudice to more stringent or specific provisions contained in this Directive.

Article 2

Definitions

For the purposes of this Directive, the following terms shall have the following meanings:

- (a) 'work equipment': any machine, apparatus, tool or installation used at work;
- (b) 'use of work equipment': any activity involving work equipment such as starting or stopping the equipment, its use, transport, repair, modification, maintenance and servicing, including, in particular, cleaning;

- (c) 'danger zone': any zone within or around work equipment in which an exposed worker is subject to a risk to his health or safety;
- (d) 'exposed worker': any worker wholly or partially in a danger zone;
- (e) 'operator': the worker or workers given the task of using work equipment.

CHAPTER II

EMPLOYERS' OBLIGATIONS

Article 3

General obligations

1. The employer shall take the measures necessary to ensure that the work equipment made available to workers in the undertaking or establishment is suitable for the work to be carried out or properly adapted for that purpose and may be used by workers without impairment to their safety or health.

In selecting the work equipment which he proposes to use, the employer shall pay attention to the specific working conditions and characteristics and to the hazards which exist in the undertaking or establishment, in particular at the workplace, for the safety and health of the workers, and any additional hazards posed by the use of the work equipment in question.

2. Where it is not possible in this way fully to ensure that work equipment can be used by workers without risk to their safety or health, the employer shall take appropriate measures to minimise the risks.

Article 4

Rules concerning work equipment

1. Without prejudice to Article 3, the employer shall obtain and/or use:
 - (a) work equipment which, if provided to workers in the undertaking or establishment for the first time after 31 December 1992, complies with:
 - (i) the provisions of any relevant Community directive which is applicable;
 - (ii) the minimum requirements laid down in Annex I, to the extent that no other Community directive is applicable or is so only partially;

⁽¹⁾ OJ L 204, 21.7.1998, p. 37.

(b) work equipment which, if already provided to workers in the undertaking or establishment by 31 December 1992, complies with the minimum requirements laid down in Annex I no later than 4 years after that date;

(c) without prejudice to point (a)(i), and by way of derogation from point (a)(ii) and point (b), specific work equipment subject to the requirements of point 3 of Annex I, which, if already provided to workers in the undertaking or establishment by 5 December 1998, complies with the minimum requirements laid down in Annex I, no later than 4 years after that date.

2. The employer shall take the measures necessary to ensure that, throughout its working life, work equipment is kept, by means of adequate maintenance, at a level such that it complies with point (a) or (b) of paragraph 1 as applicable.

3. Member States shall, after consultation with both sides of industry, and with due allowance for national legislation and/or practice, establish procedures whereby a level of safety may be attained corresponding to the objectives indicated by Annex II.

Article 5

Inspection of work equipment

1. The employer shall ensure that where the safety of work equipment depends on the installation conditions, it shall be subject to an initial inspection (after installation and before first being put into service) and an inspection after assembly at a new site or in a new location by competent persons within the meaning of national laws and/or practices, to ensure that the work equipment has been installed correctly and is operating properly.

2. In order to ensure that health and safety conditions are maintained and that deterioration liable to result in dangerous situations can be detected and remedied in good time, the employer shall ensure that work equipment exposed to conditions causing such deterioration is subject to:

- (a) periodic inspections and, where appropriate, testing by competent persons within the meaning of national laws and/or practices;
- (b) special inspections by competent persons within the meaning of national laws and/or practices each time that exceptional circumstances which are liable to jeopardise the safety of the work equipment have occurred, such as modification work, accidents, natural phenomena or prolonged periods of inactivity.

3. The results of inspections shall be recorded and kept at the disposal of the authorities concerned. They must be kept for a suitable period of time.

When work equipment is used outside the undertaking it shall be accompanied by physical evidence that the last inspection has been carried out.

4. Member States shall determine the conditions under which such inspections are made.

Article 6

Work equipment involving specific risks

When the use of work equipment is likely to involve a specific risk to the safety or health of workers, the employer shall take the measures necessary to ensure that:

- (a) the use of work equipment is restricted to those persons given the task of using it;
- (b) in the case of repairs, modifications, maintenance or servicing, the workers concerned are specifically designated to carry out such work.

Article 7

Ergonomics and occupational health

The workplace and position of workers while using work equipment and ergonomic principles shall be taken fully into account by the employer when applying minimum health and safety requirements.

Article 8

Informing workers

1. Without prejudice to Article 10 of Directive 89/391/EEC, the employer shall take the measures necessary to ensure that workers have at their disposal adequate information and, where appropriate, written instructions on the work equipment used at work.

2. The information and the written instructions shall contain at least adequate safety and health information concerning:

- (a) the conditions of use of work equipment;
- (b) foreseeable abnormal situations;
- (c) the conclusions to be drawn from experience, where appropriate, in using work equipment.

Workers shall be made aware of dangers relevant to them, work equipment present in the work area or site, and any changes affecting them, inasmuch as they affect work equipment situated in their immediate work area or site, even if they do not use such equipment directly.

3. The information and the written instructions shall be comprehensible to the workers concerned.

Article 9

Training of workers

Without prejudice to Article 12 of Directive 89/391/EEC, the employer shall take the measures necessary to ensure that:

- (a) workers given the task of using work equipment receive adequate training, including training on any risks which such use may entail;
- (b) workers referred to in Article 6(b) receive adequate specific training.

Article 10

Consultation of workers and workers' participation

Consultation and participation of workers and/or of their representatives on the matters covered by this Directive, including the Annexes thereto, shall take place in accordance with Article 11 of Directive 89/391/EEC.

CHAPTER III

MISCELLANEOUS PROVISIONS

Article 11

Amendment of the Annexes

1. The addition to Annex I of supplementary minimum requirements applicable to specific work equipment, as referred to in point 3 thereof, shall be adopted by the Council in accordance with the procedure laid down in Article 137(2) of the Treaty.

2. Strictly technical adaptations of the Annexes shall be adopted, in accordance with the procedure laid down in Article 17(2) of Directive 89/391/EEC, as a result of:

- (a) the adoption of directives on technical harmonisation and standardisation of work equipment; and/or
- (b) technical progress, changes in international regulations or specifications or knowledge in the field of work equipment.

Article 12

Final provisions

Member States shall communicate to the Commission the text of the provisions of national law which they have already adopted or adopt in the field governed by this Directive.

Article 13

Directive 89/655/EEC, as amended by the Directives listed in Annex III, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex III, Part B.

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

Article 14

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

Article 15

This Directive is addressed to the Member States.

Done at Strasbourg, 16 September 2009.

For the European Parliament
The President
J. BUZEK

For the Council
The President
C. MALMSTRÖM

ANNEX I

MINIMUM REQUIREMENTS

(referred to in points (a)(ii) and (b) of Article 4(1))

1. General comment

The obligations laid down in this Annex apply having regard to this Directive and where the corresponding risk exists for the work equipment in question.

The following minimum requirements, inasmuch as they apply to work equipment in use, do not necessarily call for the same measures as the essential requirements concerning new work equipment.

2. General minimum requirements applicable to work equipment

- 2.1. Work equipment control devices which affect safety must be clearly visible and identifiable and appropriately marked where necessary.

Except where necessary for certain control devices, control devices must be located outside danger zones and in such a way that their operation cannot pose any additional hazard. They must not give rise to any hazard as a result of any unintentional operation.

If necessary, from the main control position, the operator must be able to ensure that no person is present in the danger zones. If this is impossible, a safe system such as an audible and/or visible warning signal must be given automatically whenever the machinery is about to start. An exposed worker must have the time and the means quickly to avoid hazards caused by the starting or stopping of the work equipment.

Control systems must be safe and must be chosen making due allowance for the failures, faults and constraints to be expected in the planned circumstances of use.

- 2.2. It must be possible to start work equipment only by deliberate action on a control provided for the purpose.

The same shall apply:

- to restart it after a stoppage for whatever reason,
- for the control of a significant change in the operating conditions (e.g. speed, pressure, etc.),

unless such a restart or change does not subject exposed workers to any hazard.

This requirement does not apply to restarting or a change in operating conditions as a result of the normal operating cycle of an automatic device.

- 2.3. All work equipment must be fitted with a control to stop it completely and safely.

Each work station must be fitted with a control to stop some or all of the work equipment, depending on the type of hazard, so that the equipment is in a safe state. The equipment's stop control must have priority over the start controls. When the work equipment or the dangerous parts of it have stopped, the energy supply of the actuators concerned must be switched off.

- 2.4. Where appropriate, and depending on the hazards the equipment presents and its normal stopping time, work equipment must be fitted with an emergency stop device.

- 2.5. Work equipment presenting risk due to falling objects or projections must be fitted with appropriate safety devices corresponding to the risk.

Work equipment presenting hazards due to emissions of gas, vapour, liquid or dust must be fitted with appropriate containment and/or extraction devices near the sources of the hazard.

- 2.6. Work equipment and parts of such equipment must, where necessary for the safety and health of workers, be stabilised by clamping or some other means.

- 2.7. Where there is a risk of rupture or disintegration of parts of the work equipment, likely to pose significant danger to the safety and health of workers, appropriate protection measures must be taken.
- 2.8. Where there is a risk of mechanical contact with moving parts of work equipment which could lead to accidents, those parts must be provided with guards or devices to prevent access to danger zones or to halt movements of dangerous parts before the danger zones are reached.

The guards and protection devices must:

- be of robust construction,
 - not give rise to any additional hazard,
 - not be easily removed or rendered inoperative,
 - be situated at sufficient distance from the danger zone,
 - not restrict more than necessary the view of the operating cycle of the equipment,
 - allow operations necessary in order to fit or replace parts and for maintenance work, restricting access only to the area where the work is to be carried out and, if possible, without removal of the guard or protection device.
- 2.9. Areas and points for working on, or maintenance of, work equipment must be suitably lit in line with the operation to be carried out.
- 2.10. Work equipment parts at high or very low temperature must, where appropriate, be protected to avoid the risk of workers coming into contact or coming too close.
- 2.11. Warning devices on work equipment must be unambiguous and easily perceived and understood.
- 2.12. Work equipment may be used only for operations and under conditions for which it is appropriate.
- 2.13. It must be possible to carry out maintenance operations when the equipment is shut down. If this is not possible, it must be possible to take appropriate protection measures for the carrying-out of such operations or for such operations to be carried out outside the danger zones.
- If any machine has a maintenance log, it must be kept up to date.
- 2.14. All work equipment must be fitted with clearly identifiable means to isolate it from all its energy sources.
- Reconnection must be presumed to pose no risk to the workers concerned.
- 2.15. Work equipment must bear the warnings and markings essential to ensure the safety of workers.
- 2.16. Workers must have safe means of access to, and be able to remain safely in, all the areas necessary for production, adjustment and maintenance operations.
- 2.17. All work equipment must be appropriate for protecting workers against the risk of the work equipment catching fire or overheating, or of discharges of gas, dust, liquid, vapour or other substances produced, used or stored in the work equipment.
- 2.18. All work equipment must be appropriate for preventing the risk of explosion of the work equipment or of substances produced, used or stored in the work equipment.
- 2.19. All work equipment must be appropriate for protecting exposed workers against the risk of direct or indirect contact with electricity.

3. Additional minimum requirements applicable to specific types of work equipment

3.1. Minimum requirements for mobile work equipment, whether or not self-propelled

3.1.1. Work equipment with ride-on workers must be fitted out in such a way as to reduce the risks for workers during the journey.

Those risks must include the risks of contact by workers with, or trapping by, wheels or tracks.

3.1.2. Where an inadvertent seizure of the drive unit between a mobile item of work equipment and its accessories or anything towed might create a specific risk, such work equipment must be equipped or adapted to prevent blockages of the drive units.

Where such a seizure cannot be avoided, every possible measure must be taken to avoid any adverse effects on workers.

3.1.3. Where drive shafts for the transmission of energy between mobile items of work equipment can become soiled or damaged by trailing on the ground, facilities must be available for fixing them.

3.1.4. Mobile work equipment with ride-on workers must be designed to restrict, under actual conditions of use, the risks arising from work equipment roll-over:

- by a protection structure designed to ensure that the equipment does not tilt by more than a quarter turn, or
- by a structure giving sufficient clearance around the ride-on workers if the tilting movement can continue beyond a quarter turn, or
- by some other device of equivalent effect.

These protection structures may be an integral part of the work equipment.

These protection structures are not required when the work equipment is stabilised during operation or where the design makes roll-over impossible.

Where there is a risk of a ride-on worker being crushed between parts of the work equipment and the ground, should the equipment roll over, a restraining system for the ride-on workers must be installed.

3.1.5. Fork-lift trucks carrying one or more workers must be adapted or equipped to limit the risk of the fork-lift truck overturning, e.g.:

- by the installation of an enclosure for the driver, or
- by a structure preventing the fork-lift truck from overturning, or
- by a structure ensuring that, if the fork-lift truck overturns, sufficient clearance remains between the ground and certain parts of the fork-lift truck for ride-on workers, or
- by a structure restraining the workers on the driving seat so as to prevent them from being crushed by parts of the fork-lift truck which overturns.

3.1.6. Self-propelled work equipment which may, when in motion, engender risks for persons must fulfil the following conditions:

- (a) the equipment must have facilities for preventing unauthorised start-up;
- (b) it must have appropriate facilities for minimising the consequences of a collision where there is more than one item of track-mounted work equipment in motion at the same time;

- (c) there must be a device for braking and stopping equipment. Where safety constraints so require, emergency facilities operated by readily accessible controls or automatic systems must be available for braking and stopping equipment in the event of failure of the main facility;
- (d) where the driver's direct field of vision is inadequate to ensure safety, adequate auxiliary devices must be installed to improve visibility;
- (e) work equipment designed for use at night or in dark places must be equipped with lighting appropriate to the work to be carried out and must ensure sufficient safety for workers;
- (f) work equipment which constitutes a fire hazard, either on its own or in respect of whatever it is towing or carrying, and which is liable to endanger workers must be equipped with appropriate fire-fighting appliances where such appliances are not available sufficiently nearby at the place of use;
- (g) remote-controlled work equipment must stop automatically once it leaves the control range;
- (h) remote-controlled work equipment which may in normal conditions engender a crushing or impact hazard must have facilities to guard against this risk, unless other appropriate devices are present to control the impact risk.

3.2. Minimum requirements for work equipment for lifting loads

3.2.1. When work equipment for lifting loads is installed permanently, its strength and stability during use must be ensured, having regard, in particular, to the loads to be lifted and the stress induced at the mounting or fixing point of the structures.

3.2.2. Machinery for lifting loads must be clearly marked to indicate its nominal load, and must where appropriate be fitted with a load plate giving the nominal load for each configuration of the machinery.

Accessories for lifting must be marked in such a way that it is possible to identify the characteristics essential for safe use.

Work equipment which is not designed for lifting persons but which might be so used in error must be appropriately and clearly marked to this effect.

3.2.3. Permanently installed work equipment must be installed in such a way as to reduce the risk of the load:

- (a) striking workers;
- (b) unintentionally drifting dangerously or falling freely;
- (c) being released unintentionally.

3.2.4. Work equipment for lifting or moving workers must be such as to:

- (a) prevent the risk of the car falling, where one exists, by means of suitable devices;
- (b) prevent the risk of the user himself falling from the car, where one exists;
- (c) prevent the risk of the user being crushed, trapped or struck, in particular through inadvertent contact with objects;
- (d) ensure that persons trapped in the car in the event of an incident are not exposed to danger and can be freed.

If, for reasons inherent in the site and in height differences, the risks referred to in point (a) cannot be avoided by any safety measures, an enhanced safety coefficient suspension rope must be installed and checked every working day.

ANNEX II

PROVISIONS CONCERNING THE USE OF WORK EQUIPMENT

(referred to in Article 4(3))

General comment

This Annex applies having regard to this Directive and where the corresponding risk exists for the work equipment in question.

1. General provisions for all work equipment

- 1.1. Work equipment must be installed, located and used in such a way as to reduce risks to users of the work equipment and for other workers, for example by ensuring that there is sufficient space between the moving parts of work equipment and fixed or moving parts in its environment and that all forms of energy and substances used or produced can be supplied or removed in a safe manner.
- 1.2. Work equipment must be erected or dismantled under safe conditions, in particular observing any instructions which may have been furnished by the manufacturer.
- 1.3. Work equipment which may be struck by lightning while being used must be protected by devices or appropriate means to counter the effects of lightning.

2. Provisions concerning the use of mobile equipment, whether or not self-propelled

- 2.1. Self-propelled work equipment shall be driven only by workers who have been appropriately trained in the safe driving of such equipment.
- 2.2. If work equipment is moving around in a work area, appropriate traffic rules must be drawn up and followed.
- 2.3. Organisational measures must be taken to prevent workers on foot coming within the area of operation of self-propelled work equipment.

If work can be done properly only if workers on foot are present, appropriate measures must be taken to prevent them from being injured by the equipment.

- 2.4. The transport of workers on mechanically driven mobile work equipment is authorised only where safe facilities are provided for that purpose. If work must be carried out during the journey, speeds must be adjusted as necessary.
- 2.5. Mobile work equipment with a combustion engine may not be used in working areas unless sufficient quantities of air presenting no health or safety risk to workers can be guaranteed.

3. Provisions concerning the use of work equipment for lifting loads**3.1. General considerations**

- 3.1.1. Work equipment which is mobile or can be dismantled and which is designed for lifting loads must be used in such a way as to ensure the stability of the work equipment during use under all foreseeable conditions, taking into account the nature of the ground.
- 3.1.2. Persons may be lifted only by means of work equipment and accessories provided for that purpose.

Without prejudice to Article 5 of Directive 89/391/EEC, exceptionally, work equipment which is not specifically designed for the purpose of lifting persons may be used for that purpose, provided appropriate action has been taken to ensure safety in accordance with national legislation and/or practice providing for appropriate supervision.

While workers are on work equipment designed for lifting loads the control position must be manned at all times. Persons being lifted must have reliable means of communication. In the event of danger, there must be reliable means of evacuating them.

- 3.1.3. Measures must be taken to ensure that workers are not present under suspended loads, unless such presence is required for the effective operation of the work.

Loads may not be moved above unprotected workplaces usually occupied by workers.

Where that is the case, if work cannot be carried out properly any other way, appropriate procedures must be laid down and applied.

- 3.1.4. Lifting accessories must be selected according to the loads to be handled, gripping points, attachment tackle and atmospheric conditions having regard to the mode and configuration of slinging. Lifting accessory tackle must be clearly marked so that users are aware of its characteristics where such tackle is not dismantled after use.

- 3.1.5. Lifting accessories must be stored in a way that ensures that they will not be damaged or degraded.

3.2. Work equipment for lifting non-guided loads

- 3.2.1. When two or more items of work equipment used for lifting non-guided loads are installed or erected on a site in such a way that their working radii overlap, appropriate measures must be taken to avoid collision between loads or the work equipment parts themselves.

- 3.2.2. When using mobile work equipment for lifting non-guided loads, measures must be taken to prevent the equipment from tilting, overturning or, as the case may be, moving or slipping. Checks must be carried out to ensure that these measures are executed properly.

- 3.2.3. If the operator of work equipment designed for lifting non-guided loads cannot observe the full path of the load either directly or by means of auxiliary equipment providing the necessary information, a competent person must be in communication with the operator to guide him and organisational measures must be taken to prevent collisions of the load which could endanger workers.

- 3.2.4. Work must be organised in such a way that, when a worker is attaching or detaching a load by hand, it can be done safely, in particular through the worker retaining direct or indirect control of the work equipment.

- 3.2.5. All lifting operations must be properly planned, appropriately supervised and carried out in such a way as to protect the safety of workers.

In particular, if a load has to be lifted simultaneously by two or more items of work equipment designed for lifting non-guided loads, a procedure must be established and applied to ensure good coordination on the part of the operators.

- 3.2.6. If work equipment designed for lifting non-guided loads cannot maintain its hold on the load in the event of a complete or partial power failure, appropriate measures must be taken to avoid exposing workers to any resultant risks.

Suspended loads must not be left unsupervised unless access to the danger zone is prevented and the load has been safely suspended and is safely held.

- 3.2.7. Open-air use of work equipment designed for lifting non-guided loads must be halted when meteorological conditions deteriorate to the point of jeopardising the safe use of the equipment and exposing workers to risks. Adequate protection measures, in particular measures to avoid work equipment turning over, must be taken to avoid any risks to workers.

4. Provisions concerning the use of work equipment provided for temporary work at a height

4.1. General provisions

- 4.1.1. If, pursuant to Article 6 of Directive 89/391/EEC and Article 3 of this Directive, temporary work at a height cannot be carried out safely and under appropriate ergonomic conditions from a suitable surface, the work equipment most suitable to ensure and maintain safe working conditions must be selected. Collective protection measures must be given priority over personal protection measures. The dimensions of the work equipment must be appropriate to the nature of the work to be performed and to the foreseeable stresses, and must allow passage without danger.

The most appropriate means of access to temporary workplaces at a height must be selected according to the frequency of passage, the height to be negotiated and the duration of use. The choice made must permit evacuation in the event of imminent danger. Passage in either direction between a means of access and platforms, decks or gangways must not give rise to any additional risks of falling.

- 4.1.2. Ladders may be used as work stations for work at a height only under circumstances in which, given point 4.1.1, the use of other, safer work equipment is not justified because of the low level of risk and by reason of either the short duration of use or existing features on site that the employer cannot alter.
- 4.1.3. Rope access and positioning techniques may be used only under circumstances where the risk assessment indicates that the work can be performed safely and where the use of other, safer work equipment is not justified.

Taking the risk assessment into account and depending in particular on the duration of the job and the ergonomic constraints, provision must be made for a seat with appropriate accessories.

- 4.1.4. Depending on the type of work equipment selected on the basis of the foregoing, the appropriate measures for minimising the risks to workers inherent in that type of equipment must be determined. If necessary, provision must be made for the installation of safeguards to prevent falls. These must be of suitable configuration and sufficient strength to prevent or arrest falls from a height and, as far as possible, to preclude injury to workers. Collective safeguards to prevent falls may be interrupted only at points of ladder or stairway access.
- 4.1.5. When the performance of a particular task requires the temporary removal of a collective safeguard designed to prevent falls, effective compensatory safety measures must be taken. The task may not be performed until such measures have been taken. Once the particular task has been finished, either definitively or temporarily, the collective safeguards to prevent falls must be reinstalled.
- 4.1.6. Temporary work at a height may be carried out only when the weather conditions do not jeopardise the safety and health of workers.

4.2. Specific provisions regarding the use of ladders

- 4.2.1. Ladders must be so positioned as to ensure their stability during use. Portable ladders must rest on a stable, strong, suitably-sized, immobile footing so that the rungs remain horizontal. Suspended ladders must be attached in a secure manner and, with the exception of rope ladders, in such a way that they cannot be displaced and swinging is prevented.
- 4.2.2. The feet of portable ladders must be prevented from slipping during use by securing the uprights at or near their upper or lower ends, by any anti-slip device or by any other arrangement of equivalent effectiveness. Ladders used for access must be long enough to protrude sufficiently beyond the access platform, unless other measures have been taken to ensure a firm handhold. Interlocking ladders and extension ladders must be used in such a way that the different sections are prevented from moving relative to one another. Mobile ladders must be prevented from moving before they are stepped on.
- 4.2.3. Ladders must be used in such a way that a secure handhold and secure support are available to workers at all times. In particular, if a load has to be carried by hand on a ladder, it must not preclude the maintenance of a safe handhold.

4.3. Specific provisions regarding the use of scaffolding

- 4.3.1. When a note of the calculations for the scaffolding selected is not available or the note does not cover the structural arrangements contemplated, strength and stability calculations must be carried out unless the scaffolding is assembled in conformity with a generally recognised standard configuration.
- 4.3.2. Depending on the complexity of the scaffolding chosen, an assembly, use and dismantling plan must be drawn up by a competent person. This may be in the form of a standard plan, supplemented by items relating to specific details of the scaffolding in question.
- 4.3.3. The bearing components of scaffolding must be prevented from slipping, whether by attachment to the bearing surface, provision of an anti-slip device or any other means of equivalent effectiveness, and the load-bearing surface must have a sufficient capacity. Steps must be taken to ensure that the scaffolding is stable. Wheeled scaffolding must be prevented by appropriate devices from moving accidentally during work at a height.
- 4.3.4. The dimensions, form and layout of scaffolding decks must be appropriate to the nature of the work to be performed and suitable for the loads to be carried, and must permit work and passage in safety. Scaffolding decks must be assembled in such a way that their components cannot move in normal use. There must be no dangerous gap between the deck components and the vertical collective safeguards designed to prevent falls.
- 4.3.5. When parts of a scaffolding are not ready for use, for example during assembly, dismantling or alteration, they must be marked with general warning signs in accordance with the national provisions transposing Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) ⁽¹⁾ and must be suitably delimited by physical means preventing access to the danger zone.
- 4.3.6. Scaffolding may be assembled, dismantled or significantly altered only under the supervision of a competent person and by workers who have received appropriate and specific training in the operations envisaged, addressing specific risks in accordance with Article 9, and more particularly in:
- (a) understanding of the plan for the assembly, dismantling or alteration of the scaffolding concerned;
 - (b) safety during the assembly, dismantling or alteration of the scaffolding concerned;
 - (c) measures to prevent the risk of persons or objects falling;
 - (d) safety measures in the event of changing weather conditions which could adversely affect the safety of the scaffolding concerned;
 - (e) permissible loads;
 - (f) any other risks which the abovementioned assembly, dismantling or alteration operations may entail.

The person supervising and the workers concerned must have available the assembly and dismantling plan referred to in point 4.3.2, including any instructions which it may contain.

4.4. Specific provisions regarding the use of rope access and positioning techniques

The use of rope access and positioning techniques must comply with the following conditions:

- (a) the system must comprise at least two separately anchored ropes, one as a means of access, descent and support (work rope) and the other as backup (security rope);

⁽¹⁾ OJ L 245, 26.8.1992, p. 23.

- (b) workers must be provided with and use an appropriate harness and must be connected by it to the security rope;
- (c) the work rope must be equipped with safe means of ascent and descent and have a self-locking system to prevent the user falling should he lose control of his movements. The security rope must be equipped with a mobile fall prevention system which follows the movements of the worker;
- (d) the tools and other accessories to be used by a worker must be secured to the worker's harness or seat or by some other appropriate means;
- (e) the work must be properly planned and supervised, so that a worker can be rescued immediately in an emergency;
- (f) in accordance with Article 9, the workers concerned must receive adequate training specific to the operations envisaged, in particular rescue procedures.

In exceptional circumstances where, in view of the assessment of risks, the use of a second rope would make the work more dangerous, the use of a single rope may be permitted, provided that appropriate measures have been taken to ensure safety in accordance with national legislation and/or practice.

ANNEX III

PART A

Repealed Directive with its successive amendments

(referred to in Article 13)

Council Directive 89/655/EEC
(OJ L 393, 30.12.1989, p. 13)

Council Directive 95/63/EC
(OJ L 335, 30.12.1995, p. 28)

Directive 2001/45/EC of the European Parliament and
of the Council
(OJ L 195, 19.7.2001, p. 46)

Directive 2007/30/EC of the European Parliament and
of the Council
(OJ L 165, 27.6.2007, p. 21)

Only as regards the reference made in point 3 of
Article 3 of Directive 89/655/EEC

PART B

List of time limits for transposition into national law

(referred to in Article 13)

Directive	Time limit for transposition
89/655/EEC	31 December 1992
95/63/EC	4 December 1998
2001/45/EC	19 July 2004 ⁽¹⁾
2007/30/EC	31 December 2012

⁽¹⁾ Member States shall have the right, as regards the implementation of point 4 of Annex II to Directive 89/655/EEC, to make use of a transitional period of not more than 2 years from 19 July 2004, in order to take account of the various situations which might arise from the practical implementation of Directive 2001/45/EC in particular by small and medium-sized enterprises.

ANNEX IV

Correlation table

Directive 89/655/EEC	This Directive
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 4a(1)	Article 5(1)
Article 4a(2), first and second indents	Article 5(2), points (a) and (b)
Article 4a(3)	Article 5(3)
Article 4a(4)	Article 5(4)
Article 5, first and second indents	Article 6, points (a) and (b)
Article 5a	Article 7
Article 6(1)	Article 8(1)
Article 6(2), first subparagraph, first, second and third indents	Article 8(2), first subparagraph, points (a), (b) and (c)
Article 6(2), second subparagraph	Article 8(2), second subparagraph
Article 6(3)	Article 8(3)
Article 7, first indent	Article 9, point (a)
Article 7, second indent	Article 9, point (b)
Article 8	Article 10
Article 9(1)	Article 11(1)
Article 9(2), first and second indents	Article 11(2), points (a) and (b)
Article 10(1)	—
Article 10(2)	Article 12
—	Article 13
—	Article 14
Article 11	Article 15
Annex I	Annex I
Annex II	Annex II
—	Annex III
—	Annex IV

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

DECISION No 922/2009/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 September 2009

on interoperability solutions for European public administrations (ISA)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first paragraph of Article 156 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) In accordance with Article 154 of the Treaty, to help achieve the objectives referred to in Articles 14 and 158 thereof and to enable citizens of the European Union, economic operators and regional and local communities to derive full benefit from the setting up of an area without internal frontiers, the Community should contribute to the establishment and development of trans-European networks by means of actions to promote the interconnectivity, interoperability and accessibility of those networks.

- (2) The Council stressed in its conclusions of 1 December 2005 on the Commission Communication entitled 'i2010 — A European Information Society for growth and employment' that more focused, effective and integrated policies regarding information and communication technologies (ICT) at both European and national levels are essential to achieving the goals of economic growth and productivity. The Commission was invited to encourage the efficient use of ICT in public services through the exchange of experience and to develop common approaches on key issues such as interoperability and effective use of open standards.

- (3) In its resolution of 14 March 2006 on a European information society for growth and employment ⁽⁴⁾, the European Parliament called for emphasis to be given to the issues of interoperability and best practices in public-sector electronic services for citizens and businesses, with the overriding objective of facilitating the free and unimpeded movement, establishment and employment of citizens in the Member States. The European Parliament also urged Member States to implement the i2010 initiatives and programmes in the reform of their public administrations in order to provide better, more efficient and more easily accessible services to their small and medium-sized enterprises (SMEs) and their citizens.

- (4) In the Manchester Ministerial Declaration of 24 November 2005, the Ministers responsible for ICT policies agreed, inter alia, to work together and with the Commission to share existing tools, common specifications, standards and solutions more effectively and to encourage the collaborative development of solutions where necessary.

- (5) In the Lisbon Ministerial Declaration of 19 September 2007, Ministers invited the Commission, inter alia, to facilitate cooperation among Member States and the Commission to define, develop, implement and monitor cross-border and cross-sectoral interoperability, and stated that future Community legislation should, in particular, anticipate and assess the impact of that legislation on ICT infrastructures and service transformation.

⁽¹⁾ Opinion of 25 February 2009 (not yet published in the Official Journal).

⁽²⁾ OJ C 200, 25.8.2009, p. 58.

⁽³⁾ Opinion of the European Parliament of 22 April 2009 (not yet published in the Official Journal) and Council Decision of 27 July 2009.

⁽⁴⁾ OJ C 291 E, 30.11.2006, p. 133.

- (6) With the rapid development of ICT, there is a risk that Member States opt for different or incompatible solutions and that new e-barriers could emerge that would impede the proper functioning of the internal market and the associated freedoms of movement. This could have negative effects on the openness and competitiveness of markets and on the delivery of some services of general interest to citizens and enterprises, whether economic or non-economic. Member States and the Commission should increase their efforts to avoid market fragmentation, achieve interoperability and promote commonly agreed ICT solutions, while ensuring the appropriate governance.
- (7) Citizens and enterprises would also benefit from common, reusable and interoperable solutions and interoperable administrative back-office processes, as those solutions and processes would promote the efficient and effective delivery of public services to citizens and enterprises across borders and sectors.
- (8) Continuous efforts are needed in order to ensure cross-border and cross-sectoral interoperability, to exchange experience, establish and maintain common and shared approaches, specifications, standards and solutions and to assess the ICT implications of Community legislation with a view to supporting efficient and effective cross-border interactions, inter alia, in the implementation of that legislation, while reducing administrative burdens and costs.
- (9) In order to meet these challenges, such efforts should be made through close cooperation, coordination and dialogue between the Commission and the Member States, in close interaction with the sectors responsible for the implementation of European Union policies and, where appropriate, with other stakeholders, giving due consideration to the priorities and the linguistic diversity of the European Union and to the development of common approaches on key issues such as interoperability and effective use of open standards.
- (10) Infrastructure services should be maintained and operated in a sustainable manner in accordance with Decision 2004/387/EC of the European Parliament and of the Council of 21 April 2004 on interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens (IDABC)⁽¹⁾, which requires the Commission to define mechanisms to ensure the financial and operational sustainability of infrastructure services. Such infrastructure services were agreed with Member States during the implementation of Decision No 1719/1999/EC of the European Parliament and of the Council of 12 July 1999 on a series of guidelines, including the identification of projects of common interest, for trans-European networks for the electronic interchange of data between administrations (IDA)⁽²⁾ and Decision No 1720/1999/EC of the European Parliament and of the Council of 12 July 1999 adopting a series of actions and measures in order to ensure interoperability of and access to trans-European networks for the electronic interchange of data between administrations (IDA)⁽³⁾ and during the implementation of the IDABC and other relevant programmes.
- (11) The IDABC programme comes to an end on 31 December 2009 and should be succeeded by a Community programme on interoperability solutions for European public administrations (the ISA programme) which meets the abovementioned challenges.
- (12) The ISA programme should be based on the experience gained from the IDA and IDABC programmes. The conclusions drawn from the evaluations of the IDABC programme, which address the relevance, efficiency, effectiveness, utility and coherence of that programme, should also be taken into account. Particular attention should also be paid to the needs expressed by the users. It has been demonstrated that a coordinated approach, by means of common and shared solutions established and operated in cooperation with Member States, can contribute to delivering faster and better quality results and to meeting administrative requirements. The activities under the IDA and IDABC programmes have already made important contributions to ensuring interoperability in support of the electronic exchange of information between European public administrations, with positive spillover effects on the single market, and are continuing to do so.
- (13) In order to avoid fragmentation and ensure a holistic approach, due consideration should be given to the European Interoperability Strategy and the European Interoperability Framework when priorities are set for the ISA programme.
- (14) Solutions established or operated under the ISA programme should be demand-driven and, as far as possible, form part of a consistent ecosystem of services facilitating interaction between European public administrations and ensuring, facilitating or enabling cross-border and cross-sectoral interoperability.
- (15) The ISA programme should ensure the availability of common frameworks, common services and generic tools in support of cross-border and cross-sectoral interaction between European public administrations and support sectors in assessing the ICT implications of Community legislation and in planning the implementation of relevant solutions.

⁽¹⁾ OJ L 144, 30.4.2004, p. 62 (Decision located in OJ L 181, 18.5.2004, p. 25).

⁽²⁾ OJ L 203, 3.8.1999, p. 1.

⁽³⁾ OJ L 203, 3.8.1999, p. 9.

- (16) Common frameworks should comprise, inter alia, common specifications, guidelines and methodologies and common strategies. Such frameworks should meet the requirements of existing Community legislation.
- (17) While ensuring the operation and improvement of existing common services established under the IDA and IDABC programmes and other similar initiatives, the ISA programme should support the establishment, industrialisation, operation and improvement of new common services in response to new needs and requirements.
- (18) Given the task of local and regional administrations in ensuring the effective functioning and interoperability of European public administrations, it is important that solutions take account of the needs of local and regional administrations.
- (19) While ensuring the improvement of existing reusable generic tools established under the IDA and IDABC programmes and other similar initiatives, the ISA programme should support the establishment, provision and improvement of new reusable generic tools in response to new needs or requirements, including those determined through an assessment of the ICT implications of Community legislation.
- (20) In the establishment, improvement or operation of common solutions the ISA programme should, where appropriate, build on or be accompanied by the sharing of experience and solutions and the exchange and promotion of good practices. In this context, compliance with the European Interoperability Framework and openness in standards and specifications should be promoted.
- (21) Solutions established or operated under the ISA programme should be based on the principle of technological neutrality and adaptability with a view also to ensuring that citizens, enterprises and administrations are free to choose the technology to be used.
- (22) The principles of security, privacy and protection of personal data should be applied in all activities covered by the ISA programme.
- (23) While the involvement of all Member States in actions under the ISA programme should be encouraged, actions initiated by a number of Member States should be possible. Member States not involved in such actions should be encouraged to join at a later stage.
- (24) The ISA programme should contribute to implementing any i2010 follow-on initiative, and, in order to avoid any duplication of effort, should take into consideration other Community programmes in the field of ICT, notably the ICT Policy Support Programme of the Competitiveness and Innovation Framework Programme (2007 to 2013) as provided for in Decision No 1639/2006/EC of the European Parliament and of the Council ⁽¹⁾.
- (25) Interaction with the private sector and other entities has already demonstrated its efficiency and added value. Therefore, synergies with these stakeholders should be sought in order, where appropriate, to give priority to solutions available on, and sustained by, the market. In this context, the existing practice of organising conferences, workshops, and other meetings in order to interact with these stakeholders should be continued. The continued use of electronic platforms should also be promoted further. Any other appropriate means of maintaining contact with these stakeholders should likewise be used.
- (26) The ISA programme should be implemented in accordance with Community public procurement rules.
- (27) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (28) The ISA programme should be regularly monitored and evaluated in order to allow for readjustments.
- (29) International cooperation should be encouraged and in this respect the ISA programme should also be open to participation by the countries of the European Economic Area and candidate countries. Cooperation with other third countries and international organisations or bodies should also be encouraged, notably within the framework of the Euro-Mediterranean Partnership and Eastern Partnership and with neighbouring countries, in particular those of the Western Balkans and of the Black Sea region.
- (30) The possibility of using pre-accession funds to facilitate the participation of candidate countries in the ISA programme and of co-financing by the Structural Funds and the users for the use of common frameworks and generic tools established or improved by the ISA programme should be further explored.

⁽¹⁾ OJ L 310, 9.11.2006, p. 15.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

- (31) In order to ensure the sound management of the financial resources of the Community and to avoid needless proliferation of equipment, repetition of investigations and divergent approaches, it should be possible to use solutions established or operated by the ISA programme in non-Community initiatives, provided that no costs are incurred for the general budget of the European Union, and the main Community objective of the solution is not compromised.
- (32) This Decision lays down for the multiannual programme a financial envelope which is to constitute the prime reference, within the meaning of point 37 of the Inter-institutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾, for the budgetary authority during the annual budgetary procedure. This envelope should also cover expenditure related to preparatory, monitoring, control, audit and evaluation measures directly required for the management of the programme and the achievement of its objectives, and in particular studies, meetings of experts, information and publication measures, expenses linked to ICT systems and networks for the exchange and processing of information, together with all other technical and administrative assistance expenditures that the Commission may incur for the management of the programme.
- (33) Since the objective of this Decision, namely to facilitate the efficient and effective electronic cross-border and cross-sectoral interaction between European public administrations enabling the delivery of electronic public services supporting the implementation of Community policies and activities, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the proposed action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective,

HAVE DECIDED AS FOLLOWS:

Article 1

Subject matter and objective

1. This Decision establishes, for the period 2010-2015, a programme on interoperability solutions for European public administrations, including local and regional administrations and Community institutions and bodies, providing common and shared solutions facilitating interoperability (the ISA programme).
2. The objective of the ISA programme is to support cooperation between European public administrations by facilitating

the efficient and effective electronic cross-border and cross-sectoral interaction between such administrations, including bodies performing public functions on their behalf, enabling the delivery of electronic public services supporting the implementation of Community policies and activities.

Article 2

Definitions

For the purposes of this Decision, the following definitions shall apply:

- (a) 'interoperability' means the ability of disparate and diverse organisations to interact towards mutually beneficial and agreed common goals, involving the sharing of information and knowledge between the organisations, through the business processes they support, by means of the exchange of data between their respective ICT systems;
- (b) 'solutions' means common frameworks, common services and generic tools;
- (c) 'common frameworks' means strategies, specifications, methodologies, guidelines and similar approaches and documents;
- (d) 'common services' means operational applications and infrastructures of a generic nature which meet common user requirements across policy areas;
- (e) 'generic tools' means reference platforms, shared and collaborative platforms, common components and similar building blocks which meet common user requirements across policy areas;
- (f) 'actions' means studies, projects and accompanying measures;
- (g) 'accompanying measures' means strategic and awareness-raising measures, measures in support of the management of the ISA programme and measures in relation to the sharing of experience and the exchange and promotion of good practices.

Article 3

Activities

The ISA programme shall support and promote:

- (a) the establishment and improvement of common frameworks in support of cross-border and cross-sectoral interoperability;

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

- (b) the assessment of the ICT implications of proposed or adopted Community legislation and planning for the introduction of ICT systems to support the implementation of such legislation;
- (c) the operation and improvement of existing common services and the establishment, industrialisation, operation and improvement of new common services, including the interoperability of public key infrastructures (PKI);
- (d) the improvement of existing reusable generic tools and the establishment, provision and improvement of new reusable generic tools.

Article 4

General principles

Actions launched or continued under the ISA programme shall be based on the following principles:

- (a) technological neutrality and adaptability;
- (b) openness;
- (c) reusability;
- (d) privacy and protection of personal data; and
- (e) security.

Article 5

Actions

1. The Community shall, in cooperation with the Member States, implement the actions specified in the rolling work programme established under Article 9, in accordance with the implementation rules laid down in Article 8. Such actions shall be implemented by the Commission.
2. A study shall have one phase and be concluded by the final report.
3. A project shall, where appropriate, have three phases:
 - (a) the inception phase, which leads to the establishment of the project charter;
 - (b) the execution phase, the end of which shall be marked by the execution report; and
 - (c) the operational phase, which starts when a solution is made available for use.

The relevant project phases shall be defined when the action is included in the rolling work programme.

4. The implementation of the ISA programme shall be supported by accompanying measures.

Article 6

Project charter and execution report

1. The project charter shall comprise a description of:
 - (a) the scope, objectives and problem or opportunity, including the expected beneficiaries and benefits of a solution and the quantitative and qualitative indicators for measuring such benefits;
 - (b) the approach, including the organisational aspects of the project, such as phases, outputs and milestones, and measures to facilitate multilingual communication;
 - (c) stakeholders and users, and the related governance structure;
 - (d) details of the solution, including its coherence and dependencies in relation to other solutions, a breakdown of anticipated costs, timing and requirements and an estimate of the total costs of ownership, including, if any, the annual operational costs;
 - (e) features of the solution; and
 - (f) constraints, including security and data protection requirements.
2. The execution report shall comprise a description of:
 - (a) the scope, objectives and problem or opportunity measured against the project charter;
 - (b) the project effectiveness, including a measurement of achievements, incurred costs, actual timing and requirements against the project charter, an analysis of the expected return on investment and the total costs of ownership, including the annual operational costs;
 - (c) organisational aspects, including the suitability of the applied governance structure and, where appropriate, recommendations concerning a post-execution governance structure;
 - (d) where appropriate, the proposed plan for rolling out the solution at the operational phase and the service level indicators; and
 - (e) the end-user and technical support material available.

*Article 7***Solutions**

1. Common frameworks shall be established and maintained by means of studies.

Studies shall also serve as a means of supporting the assessment of the ICT implications of proposed or adopted Community legislation and the planning for introduction of solutions to support the implementation of such legislation.

2. Studies shall be published and forwarded to the European Parliament committees responsible as a basis for any future legislative amendments necessary to ensure the interoperability of the ICT systems used by European public administrations.

3. Generic tools shall be established and maintained by means of projects. Projects shall likewise be a means of establishing, industrialising, operating and maintaining common services.

*Article 8***Implementation rules**

1. In the implementation of the ISA programme due consideration shall be given to the European Interoperability Strategy and the European Interoperability Framework.

2. Involvement of the largest possible number of Member States in a study or project shall be encouraged. A study or project shall be open for accession at any stage, and Member States not involved in a study or project shall be encouraged to join at a later stage.

3. In order to ensure interoperability between national and Community systems, common frameworks, common services and generic tools shall be specified with reference to existing European standards or publicly available or open specifications for information exchange and service integration.

4. The establishment or improvement of solutions shall, where appropriate, build on or be accompanied by the sharing of experience and the exchange and promotion of good practices.

5. In order to avoid duplication and to speed up the establishment of solutions, results achieved by other relevant Community and Member State initiatives shall be taken into account, where appropriate.

In order to maximise synergies and ensure complementary and combined efforts, actions shall, where appropriate, be coordinated with other relevant Community initiatives.

6. The initiation of actions, the definition of the phases of such actions and the establishment of project charters and execution reports shall be carried out and monitored by the Commission as part of the implementation of the rolling work programme established in accordance with Article 9.

*Article 9***Rolling work programme**

1. The Commission shall establish a rolling work programme to implement actions, for the duration of the application of this Decision.

2. The Commission shall approve the rolling work programme and, at least once a year, any amendment thereof.

3. Without prejudice to Article 10(4), the management procedure referred to in Article 12(2) shall apply in respect of the approval by the Commission of the rolling work programme and any amendments thereof.

4. For each action, the rolling work programme shall, where appropriate, include:

(a) a description of the scope, objectives, problem or opportunity, expected beneficiaries and benefits and the organisational and technical approach;

(b) a breakdown of the anticipated costs and, where appropriate, the milestones to be reached.

5. A project may be included in the rolling work programme in any of its phases.

*Article 10***Budgetary provisions**

1. Funds shall be released on the basis of the achievement of the following specific milestones:

(a) for the initiation of a study, an accompanying measure or the inception phase of a project, the inclusion of the action in the rolling work programme;

(b) for the initiation of the execution phase of a project, the project charter;

(c) for the initiation of the subsequent operational phase of a project, the execution report.

2. Milestones to be reached during the execution phase and the operational phase, if any, shall be defined in the rolling work programme.

3. Where a project is included in the rolling work programme in its execution or operational phase, funds shall be released upon the inclusion of that project in the rolling work programme.

4. Amendments to the rolling work programme concerning budgetary allocations of more than EUR 400 000 per action shall be adopted in accordance with the management procedure referred to in Article 12(2).

5. The ISA programme shall be implemented in accordance with Community public procurement rules.

Article 11

Community financial contribution

1. The establishment and improvement of common frameworks and generic tools shall be funded fully by the ISA programme. The use of such frameworks and tools shall be financed by the users.

2. The establishment, industrialisation and improvement of common services shall be funded fully by the ISA programme. The operation of such services shall be funded fully by the ISA programme to the extent that their use may serve Community interests. In other cases, use of those services, including their operation on a decentralised basis, shall be financed by the users.

3. Accompanying measures shall be funded fully by the ISA programme.

Article 12

Committee

1. The Commission shall be assisted by the committee on Interoperability Solutions for European Public Administrations (the ISA Committee).

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

Article 13

Monitoring and evaluation

1. The Commission shall regularly monitor the implementation of the ISA programme. It shall explore synergies with complementary Community programmes.

The Commission shall report annually to the ISA Committee on the implementation of the ISA programme.

2. Solutions shall be subject to a review every two years.

3. The ISA programme shall be subject to an interim evaluation and a final evaluation, the results of which shall be communicated to the European Parliament and the Council by 31 December 2012 and 31 December 2015 respectively. In this context the responsible committee of the European Parliament may invite the Commission to present the evaluation results and answer questions put by its members.

The evaluations shall examine issues such as the relevance, effectiveness, efficiency, utility, sustainability and coherence of the ISA programme's actions and shall assess performance against the objective of the ISA programme and the rolling work programme. The final evaluation shall, in addition, examine the extent to which the ISA programme has achieved its objective.

The evaluations shall also examine the benefits of the actions to the Community for the advancement of common policies, identify areas for potential improvement and verify synergies with other Community initiatives in the area of cross-border and cross-sectoral interoperability.

Article 14

Interaction with stakeholders

The Commission shall bring together relevant stakeholders for the purposes of exchanging views among themselves and with the Commission on issues addressed by the ISA programme. To this end, the Commission shall organise conferences, workshops and other meetings. The Commission shall also make use of electronic interactive platforms and may use any other means for interaction which it considers appropriate.

Article 15

International cooperation

1. The ISA programme shall be open to participation, within the framework of their respective agreements with the Community, by the countries of the European Economic Area and the candidate countries.

2. Cooperation with other third countries and international organisations or bodies shall be encouraged, notably within the framework of the Euro-Mediterranean Partnership and Eastern Partnership and with neighbouring countries, in particular those of the Western Balkans and of the Black Sea region. Related costs shall not be covered by the ISA programme.

3. The ISA programme shall promote, where appropriate, reuse of its solutions by third countries.

*Article 16***Non-Community initiatives**

Without prejudice to other Community policies, solutions established or operated by the ISA programme may be used by non-Community initiatives, provided that no extra costs are incurred for the general budget of the European Union and the main Community objective of the solution is not compromised.

*Article 17***Financial provisions**

1. The financial envelope for the implementation of the Community action under this Decision for the period from 1 January 2010 to 31 December 2015 shall be EUR 164 100 000, of which EUR 103 500 000 is for the period from 1 January 2010 until 31 December 2013.

For the period following 31 December 2013, the amount shall be deemed to be confirmed if it is consistent for this phase with the financial framework in force for the period commencing in 2014.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

*Article 18***Entry into force**

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

It shall apply from 1 January 2010 until 31 December 2015.

Done at Strasbourg, 16 September 2009.

For the European Parliament

The President

J. BUZEK

For the Council

The President

C. MALMSTRÖM

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 21 September 2009

appointing one Greek member of the European Economic and Social Committee

(2009/731/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 259 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 167 thereof,

Having regard to Decision 2006/651/EC, Euratom ⁽¹⁾,

Having regard to the proposal of the Greek Government,

Having regard to the opinion of the Commission,

Whereas a member's seat on the European Economic and Social Committee has become vacant following the resignation of Mr Konstantinos POUPAKIS,

Article 1

Mr Fotis AGADAKOS, Deputy Secretary of Finance of the General Worker's Confederation of Greece, is hereby appointed as a member of the European Economic and Social Committee for the remainder of the current term of office, which runs until 20 September 2010.

Article 2

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

Done at Brussels, 21 September 2009.

For the Council

The President

T. BILLSTRÖM

⁽¹⁾ OJ L 269, 28.9.2006, p. 13.

COUNCIL DECISION
of 21 September 2009
appointing one Belgian member of the European Economic and Social Committee
(2009/732/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 259 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 167 thereof,

Having regard to Decision 2006/651/EC, Euratom ⁽¹⁾,

Having regard to the proposal of the Belgian Government,

Having regard to the opinion of the Commission,

Whereas a member's seat on the European Economic and Social Committee has become vacant following the resignation of Mr Josly PIETTE,

Article 1

Mr Claude ROLIN, Secrétaire général de la Confédération des Syndicats chrétiens de Belgique (CSC) — Groupe des salariés (Groupe II), is hereby appointed as a member of the European Economic and Social Committee for the remainder of the current term of office, which runs until 20 September 2010.

Article 2

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

Done at Brussels, 21 September 2009.

For the Council

The President

T. BILLSTRÖM

⁽¹⁾ OJ L 269, 28.9.2006, p. 13.

COUNCIL DECISION
of 21 September 2009
appointing one Austrian member of the European Economic and Social Committee
(2009/733/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 259 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 167 thereof,

Having regard to Decision 2006/524/EC, Euratom ⁽¹⁾,

Having regard to the proposal of the Austrian Government,

Having regard to the opinion of the Commission,

Whereas a member's seat on the European Economic and Social Committee has become vacant following the resignation of Ms Evelyn REGNER,

Article 1

Mr Oliver RÖPKE, Leiter des ÖGB Europabüros in Brüssel — Employees (Group II), is hereby appointed as a member of the European Economic and Social Committee for the remainder of the current term of office, which runs until 20 September 2010.

Article 2

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

Done at Brussels, 21 September 2009.

For the Council
The President
T. BILLSTRÖM

⁽¹⁾ OJ L 207, 28.7.2006, p. 30.

GUIDELINES

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 17 September 2009

amending Guideline ECB/2007/2 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2)**(ECB/2009/21)**

(2009/734/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

HAS ADOPTED THIS GUIDELINE:

Having regard to the Treaty establishing the European Community, and in particular the first and fourth indents of Article 105(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 3.1 and Articles 17, 18 and 22 thereof,

Whereas:

- (1) The Governing Council of the European Central Bank (ECB) adopted Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) ⁽¹⁾ governing TARGET2 which is characterised by a single technical platform called the Single Shared Platform (SSP).
- (2) Amendments should be made to Guideline ECB/2007/2: (a) in view of the new release of the SSP; (b) to clarify the specific oversight location principles that entities offering services in euro are required to comply with; (c) to introduce a derogation in relation to bilateral arrangements with ancillary systems which open Payments Module accounts and cannot be subject to pledge or set-off of claims; (d) to reflect a number of other technical and editorial improvements and clarifications; and (e) to delete provisions relating to migration to TARGET2 which no longer apply,

Article 1

Guideline ECB/2007/2 is amended as follows:

1. in Article 2, the definition of ‘ancillary system’ is replaced by the following:

— “ancillary system (AS)” means a system managed by an entity established in the EEA that is subject to supervision and/or oversight by a competent authority and complies with the oversight requirements for the location of infrastructures offering services in euro, as amended from time to time and published on the ECB website (*), in which payments and/or financial instruments are exchanged and/or cleared while the resulting monetary obligations are settled in TARGET2 in accordance with this Guideline and a bilateral arrangement between the ancillary system and the relevant Eurosystem CB,

(*) The Eurosystem’s current policy for the location of infrastructure is set out in the following statements, which are all available on the ECB website at www.ecb.europa.eu: (a) the “Policy statement on euro payment and settlement systems located outside the euro area” of 3 November 1998; (b) “The Eurosystem’s policy line with regard to consolidation in central counterparty clearing” of 27 September 2001; (c) “The Eurosystem policy principles on the location and operation of infrastructures settling in euro-denominated payment transactions” of 19 July 2007; and (d) “The Eurosystem policy principles on the location and operation of infrastructures settling euro-denominated payment transactions: specification of ‘legally and operationally located in the euro area’” of 20 November 2008.”

⁽¹⁾ OJ L 237, 8.9.2007, p. 1.

2. in Article 8, the following paragraph 4 is added:

‘4. By derogation from paragraph 3, bilateral arrangements with ancillary systems that use the PI, but only settle payments for the benefit of their customers, shall be in conformity with:

(a) Annex II, with the exception of Title V, Article 36 and Appendices VI and VII; and

(b) Article 18 of Annex IV.’;

3. Article 13 is deleted;

4. Article 15 is replaced by the following:

‘Article 15

Miscellaneous and transitional provisions

1. Accounts opened outside the PM by a participating NCB for credit institutions and ancillary systems shall be governed by the rules of such participating NCB, subject to the provisions of this Guideline which relate to Home Accounts and other decisions of the Governing Council. Accounts opened outside the PM by a participating NCB for entities other than credit institutions and ancillary systems shall be governed by the rules of such participating NCB.

2. During its transition period, each Eurosystem CB may continue to settle payments and other transactions on its Home Accounts, including the following:

(a) payments between credit institutions;

(b) payments between credit institutions and ancillary systems; and

(c) payments in relation to Eurosystem open market operations.

3. On expiry of the transition period, the following shall cease:

(a) registration as an addressable BIC holder by a Eurosystem CB, in the case of entities referred to in Article 4(1)(a) and (b) of Annex II;

(b) indirect participation with a Eurosystem CB; and

(c) settlement on Home Accounts of all payments mentioned in paragraph 2(a) to (c).’;

5. Annexes II, III and IV to Guideline ECB/2007/2 are amended in accordance with the Annex to this Guideline.

Article 2

Entry into force

1. This Guideline shall enter into force on 22 September 2009.

2. Article 1(1) and paragraphs 1(1)(a), 1(2) and 2 of the Annex to this Guideline shall apply from 23 October 2009.

3. The other provisions of this Guideline shall apply from 23 November 2009.

Article 3

Addressees and implementing measures

1. This Guideline applies to all Eurosystem central banks.

2. The national central banks of the Member States that have adopted the euro shall by 9 October 2009 send to the ECB the measures by which they intend to comply with this Guideline.

Done at Frankfurt am Main, 17 September 2009.

For the Governing Council of the ECB

The President of the ECB

Jean-Claude TRICHET

ANNEX

1. Annex II to Guideline ECB/2007/2 is amended as follows:

(1) Article 1 is amended as follows:

(a) the definition of 'ancillary system' is replaced by the following:

— "ancillary system (AS)" means a system managed by an entity established in the European Economic Area (EEA) that is subject to supervision and/or oversight by a competent authority and complies with the oversight requirements for the location of infrastructures offering services in euro, as amended from time to time and published on the ECB website (*), in which payments and/or financial instruments are exchanged and/or cleared while the resulting monetary obligations are settled in TARGET2 in accordance with Guideline ECB/2007/2 and a bilateral arrangement between the ancillary system and the relevant CB,

(*) The Eurosystem's current policy for the location of infrastructure is set out in the following statements, which are all available on the ECB website at www.ecb.europa.eu: (a) the "Policy statement on euro payment and settlement systems located outside the euro area" of 3 November 1998; (b) "The Eurosystem's policy line with regard to consolidation in central counterparty clearing" of 27 September 2001; (c) "The Eurosystem policy principles on the location and operation of infrastructures settling in euro-denominated payment transactions" of 19 July 2007; and (d) "The Eurosystem policy principles on the location and operation of infrastructures settling euro-denominated payment transactions: specification of 'legally and operationally located in the euro area' " of 20 November 2008.;

(b) the definition of 'technical malfunction of TARGET2' is replaced by the following:

— "technical malfunction of TARGET2" means any difficulty, defect or failure in the technical infrastructure and/or the computer systems used by TARGET2-[insert CB/country reference], or any other event that makes it impossible to execute and complete the same-day processing of payments in TARGET2-[insert CB/country reference].;

(2) Article 4(2)(d) is replaced by the following:

'(d) entities managing ancillary systems and acting in that capacity; and';

(3) Article 9 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Unless otherwise requested by the participant, its BIC(s) shall be published in the TARGET2 directory.;

(b) the following paragraph 5 is added:

'5. Participants acknowledge that the [insert name of CB] and other CBs may publish participants' names and BICs. In addition, names and BICs of indirect participants registered by participants may be published and participants shall ensure that indirect participants have agreed to such publication.;

(4) Article 12(1) is replaced by the following:

'1. The [insert name of CB] shall open and operate at least one PM account for each participant. Upon request by a participant acting as a settlement bank, the [insert name of CB] shall open one or more sub-accounts in TARGET2-[insert CB/country reference] to be used for dedicating liquidity.;

(5) the following Article 14(3) is inserted:

'3. The SSP determines the timestamp for the processing of payment orders on the basis of the time when it receives and accepts the payment order.;

(6) Article 15 is replaced by the following:

'Article 15

Priority rules

1. Instructing participants shall designate every payment order as one of the following:

- (a) normal payment order (priority class 2);
- (b) urgent payment order (priority class 1); or
- (c) highly urgent payment order (priority class 0).

If a payment order does not indicate the priority, it shall be treated as a normal payment order.

2. Highly urgent payment orders may only be designated by:

- (a) CBs; and
- (b) participants, in cases of payments to and from CLS International Bank and liquidity transfers in relation to ancillary system settlement using the Ancillary System Interface.

All payment instructions submitted by an ancillary system through the Ancillary System Interface to debit or credit the participants' PM accounts shall be deemed to be highly urgent payment orders.

3. Liquidity transfer orders initiated via the ICM are urgent payment orders.

4. In the case of urgent and normal payment orders, the payer may change the priority via the ICM with immediate effect. It shall not be possible to change the priority of a highly urgent payment order.';

(7) Article 17(5) is replaced by the following:

'5. After receipt of the reservation request the [insert name of CB] shall check whether the amount of liquidity on the participant's PM account is sufficient for the reservation. If this is not the case, only the liquidity available on the PM account shall be reserved. The rest of the requested liquidity shall be reserved if additional liquidity becomes available.';

(8) the following Article 17a is inserted:

'Article 17a

Standing instructions for liquidity reservation and dedication of liquidity

1. Participants may predefine the default amount of liquidity reserved for highly urgent or urgent payment orders via the ICM. Such standing instruction or a change to such instruction shall take effect from the next business day.

2. Participants may predefine via the ICM the default amount of liquidity set aside for ancillary system settlement. Such standing instruction or a change to such instruction shall take effect from the next business day. Participants shall be deemed to have instructed the [insert name of CB] to dedicate liquidity on their behalf if the relevant ancillary system so requests.';

(9) Article 21 is replaced by the following:

'Article 21

Settlement and return of queued payment orders

1. Payment orders that are not settled immediately in the entry disposition shall be placed in the queues in accordance with the priority to which they were designated by the relevant participant, as referred to in Article 15.

2. To optimise the settlement of queued payment orders, the [insert name of CB] may use the optimisation procedures described in Appendix I.

3. Except for highly urgent payment orders, the payer may change the queue position of payment orders in a queue (i.e. reorder them) via the ICM. Payment orders may be moved either to the front or to the end of the respective queue with immediate effect at any time during daytime processing, as referred to in Appendix V.

4. At the request of a payer, the [insert name of CB] or, in the case of an AL group, the CB of the AL group manager may decide to change the queue position of a highly urgent payment order (except for highly urgent payment orders in the context of settlement procedures 5 and 6) provided that this change would not affect the smooth settlement by ancillary systems in TARGET2 or would not otherwise give rise to systemic risk.

5. Liquidity transfer orders initiated in the ICM shall be immediately returned as non-settled if there is insufficient liquidity. Other payment orders shall be returned as non-settled if they cannot be settled by the cut-off times for the relevant message type, as specified in Appendix V.;

(10) Article 24(7) is replaced by the following:

'7. The procedure for obtaining authorisation to use the AL mode, set out in Article 25(4) and (5), shall apply *mutatis mutandis* to the procedure for obtaining authorisation to use the CAI mode. The CAI group manager shall not address an executed CAI mode agreement to the managing NCB.;

(11) in Article 37, paragraphs 2 and 3 are replaced by the following:

'2. The [insert name of CB] shall freeze the balance on the sub-account of the participant upon communication by the ancillary system (via a "start-of-cycle" message). Where applicable, the [insert name of CB] shall thereafter increase or reduce the frozen balance by crediting or debiting cross-system settlement payments to or from the sub-account or crediting liquidity transfers to the sub-account. Such freezing shall expire upon communication by the ancillary system (via an "end-of-cycle" message).

3. By confirming the freezing of the balance on the participant's sub-account, the [insert name of CB] guarantees to the ancillary system payment up to the amount of this particular balance. By confirming, where applicable, the increase or reduction of the frozen balance upon crediting or debiting cross-system settlement payments to or from the sub-account or crediting liquidity transfers to the sub-account, the guarantee is automatically increased or reduced in the amount of the payment. Without prejudice to the abovementioned increase or reduction of the guarantee, the guarantee shall be irrevocable, unconditional and payable on first demand. If the [insert name of CB] is not the ancillary system's CB, the [insert name of CB] shall be deemed instructed to issue the abovementioned guarantee to the ancillary system's CB.;

(12) Appendix I is amended as follows:

(a) paragraph 2 is amended as follows:

(i) the table in subparagraph 1 is replaced by the following:

Message Type	Type of use	Description
MT 103	Mandatory	Customer payment
MT 103+	Mandatory	Customer payment (Straight Through Processing)
MT 202	Mandatory	Bank-to-bank payment
MT 202COV	Mandatory	Cover payments
MT 204	Optional	Direct debit payment
MT 011	Optional	Delivery notification
MT 012	Optional	Sender notification
MT 019	Mandatory	Abort notification
MT 900	Optional	Confirmation of debit
MT 910	Optional	Confirmation of credit
MT 940/950	Optional	(Customer) statement message'

(ii) the following subparagraph 5 is added:

‘(5) MT 202COV messages shall be used for making cover payments, i.e. payments made by correspondent banks to settle (cover) credit transfer messages which are submitted to a customer's bank by other, more direct means. Customer details contained in MT 202COV shall not be displayed in the ICM.’;

(b) paragraph 8 is amended as follows:

(i) subparagraph 4(b) is replaced by the following:

‘(b) user-to-application mode (U2A)

U2A permits direct communication between a participant and the ICM. The information is displayed in a browser running on a PC system (SWIFT Alliance WebStation or another interface, as may be required by SWIFT). For U2A access the IT infrastructure has to be able to support cookies and JavaScript. Further details are described in the ICM User Handbook.’;

(ii) subparagraph 5 is replaced by the following:

‘(5) Each participant shall have at least one SWIFT Alliance WebStation, or another interface, as may be required by SWIFT, to have access to the ICM via U2A.’;

(13) Appendix II is amended as follows:

paragraph 2 is replaced by the following:

‘2. Conditions for compensation offers

(a) A payer may submit a claim for an administration fee and interest compensation if, due to a technical malfunction of TARGET2 a payment order was not settled on the business day on which it was accepted.

(b) A payee may submit a claim for an administration fee if due to a technical malfunction of TARGET2 it did not receive a payment that it was expecting to receive on a particular business day. The payee may also submit a claim for interest compensation if one or more of the following conditions are met:

(i) in the case of participants that have access to the marginal lending facility: due to a technical malfunction of TARGET2, a payee had recourse to the marginal lending facility; and/or

(ii) in the case of all participants: it was technically impossible to have recourse to the money market or such refinancing was impossible on other, objectively reasonable grounds.’;

(14) Appendix III is amended as follows:

in the terms of reference for country opinions for non-EEA participants in TARGET2, paragraph 3.6.a is replaced by the following:

‘3.6.a. Assignment of rights or deposit of assets for collateral purposes, pledge and/or repo

Assignments for collateral purposes will be valid and enforceable under the laws of [jurisdiction]. Specifically, the creation and enforcement of a pledge or repo under the [insert reference to the relevant arrangement with the CB] will be valid and enforceable under the laws of [jurisdiction].’;

(15) Appendix IV is amended as follows:

paragraph 1(b) is replaced by the following:

‘(b) All references to specific times in this Appendix are to the local time at the seat of the ECB, i.e. Central European Time (CET (*)).

(*) CET takes into account the change to Central European Summer Time.’;

(16) Appendix V is replaced by the following:

'Appendix V

OPERATING SCHEDULE

1. TARGET2 is open on all days, except Saturdays, Sundays, New Year's Day, Good Friday and Easter Monday (according to the calendar applicable at the seat of the ECB), 1 May, Christmas Day and 26 December.
2. The reference time for the system is the local time at the seat of the ECB, i.e. CET.
3. The current business day is opened during the evening of the previous business day and operates to the following schedule:

Time	Description
6.45-7.00	Business window to prepare daytime operations (*)
7.00-18.00	Daytime processing
17.00	Cut-off time for customer payments (i.e. payments where the originator and/or the beneficiary of a payment is not a direct or indirect participant as identified in the system by the use of an MT 103 or MT 103+ message)
18.00	Cut-off time for interbank payments (i.e. payments other than customer payments)
18.00-18.45 (**)	End-of-day processing
18.15 (**)	General cut-off time for the use of standing facilities
(Shortly after) 18.30 (***)	Data for the update of accounting systems are available to CBs
18.45-19.30 (***)	Start-of-day processing (new business day)
19.00 (***)-19.30 (**)	Provision of liquidity on the PM account
19.30 (***)	"Start-of-procedure" message and settlement of the standing orders to transfer liquidity from the PM accounts to the sub-account(s)/mirror account (ancillary system-related settlement)
19.30 (***)-22.00	Execution of additional liquidity transfers via the ICM before the ancillary system sends the "start-of-cycle" message; settlement period of night-time ancillary system operations (only for ancillary system settlement procedure 6)
22.00-1.00	Technical maintenance period
1.00-6.45	Settlement procedure of night-time ancillary system operations (only for ancillary system settlement procedure 6)

(*) Daytime operations means daytime processing and end-of-day processing.

(**) Ends 15 minutes later on the last day of the Eurosystem reserve maintenance period.

(***) Starts 15 minutes later on the last day of the Eurosystem reserve maintenance period.

4. The ICM is available for liquidity transfers from 19.30 ⁽¹⁾ until 18.00 the next day, except during the technical maintenance period from 22.00 until 1.00.
5. The operating hours may be changed in the event that business continuity measures are adopted in accordance with paragraph 5 of Appendix IV.

⁽¹⁾ Starts 15 minutes later on the last day of the Eurosystem reserve maintenance period.;

2. Annex III to Guideline ECB/2007/2 is amended as follows:

paragraph 2(e) is replaced by the following:

‘(e) entities other than those falling within subparagraphs (a) and (b) that manage ancillary systems and act in that capacity, provided that the arrangements for granting intraday credit to such entities have been submitted to the Governing Council in advance and have been approved by the Governing Council.’;

3. Annex IV to Guideline ECB/2007/2 is amended as follows:

(1) paragraph 11(5) is replaced by the following:

‘(5) The settlement banks and ASs shall have access to information via the ICM. The ASs shall be notified on completion or failure of the settlement based on the selected option — single or global notification. If they so request, settlement banks shall be notified of the successful settlement via a SWIFT MT 900 or MT 910 message.’;

(2) paragraph 14(7)(c) is replaced by the following:

‘(c) SWIFT orders that go via an MT 202 message, which may only be submitted during the running of settlement procedure 6 and only during daytime processing. Such orders shall be settled immediately.’;

(3) paragraph 14(9) is replaced by the following:

‘(9) Under settlement procedure 6, dedicated liquidity on the sub-accounts shall be frozen as long as the AS processing cycle is running (starting with a “start-of-cycle” message and ending with an “end-of-cycle” message, both to be sent by the AS) and released thereafter. The frozen balance can be changed during the processing cycle as a result of cross-system settlement payments or if a settlement bank transfers liquidity from its PM account. The ASCB shall notify the AS of the reduction or increase of liquidity on the sub-account as a result of cross-system settlement payments. If the AS so requests, the ASCB shall also notify it of the increased liquidity on the sub-account as a result of liquidity transfer by the settlement bank.’;

(4) paragraph 14(12) is replaced by the following:

‘(12) Cross-system settlement between two interfaced ASs can only be initiated by an AS (or its ASCB on its behalf) whose participant’s sub-account is debited. The payment instruction is settled by debiting the amount indicated in the payment instruction from the sub-account of a participant of the AS initiating the payment instruction and crediting the sub-account of a participant of another AS.

The AS initiating the payment instruction and the other AS shall be notified on completion of the settlement. If they so request, settlement banks shall be notified of successful settlement via a SWIFT MT 900 or 910 message.’;

(5) paragraph 14(13) is replaced by the following:

‘(13) Cross-system settlement from an AS using the interfaced model to an AS using the integrated model can be initiated by the AS using the interfaced model (or its ASCB on its behalf). The payment instruction is settled by debiting the amount indicated in the payment instruction from the sub-account of a participant of the AS using the interfaced model and crediting the mirror account used by the AS using the integrated model. The payment instruction cannot be initiated by the AS using the integrated model whose mirror account will be credited.

The AS initiating the payment instruction and the other AS shall be notified on completion of the settlement. If they so request, settlement banks shall be notified of successful settlement via a SWIFT MT 900 or 910 message.’;

(6) paragraph 14(17) is replaced by the following:

‘(17) Cross-system settlement between two ASs using the integrated model can only be initiated by an AS (or its ASCB on its behalf) whose mirror account is debited. The payment instruction is settled by debiting the amount indicated in the payment instruction from the mirror account used by the AS initiating the payment instruction and crediting the mirror account used by another AS. The payment instruction cannot be initiated by the AS whose mirror account will be credited.

The AS initiating the payment instruction and the other AS shall be notified on completion of the settlement. If they so request, settlement banks shall be notified of successful settlement via a SWIFT MT 900 or 910 message.;

(7) paragraph 14(18) is replaced by the following:

'(18) Cross-system settlement from an AS using the integrated model to an AS using the interfaced model can be initiated by the AS using the integrated model (or its ASCB on its behalf). The payment instruction is settled by debiting the amount indicated in the payment instruction from the mirror account used by the AS using the integrated model and crediting the sub-account of a participant of another AS. The payment instruction cannot be initiated by the AS using the interfaced model whose participant's sub-account will be credited.

The AS initiating the payment instruction and the other AS shall be notified on completion of the settlement. If they so request, settlement banks shall be notified of successful settlement via a SWIFT MT 900 or 910 message.;

(8) paragraph 15(3) is replaced by the following:

'(3) The settlement period (till) makes it possible to allocate a limited period of time for AS settlement in order not to prevent or delay the settlement of other AS-related or TARGET2 transactions. If any payment instruction is not settled until the "till" time is reached or within the defined settlement period, these payment instructions are either returned or, in the case of settlement procedures 4 and 5, the guarantee fund mechanism may be activated. The settlement period (till) can be specified for settlement procedures 1 to 5.'

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