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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1368/2006**of 27 June 2006****amending Regulation (EC) No 1035/2001 establishing a catch documentation scheme for *Dissostichus spp.***

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

(1) Council Regulation (EC) No 1035/2001 of 22 May 2001 establishing a catch documentation scheme for *Dissostichus spp.* ⁽²⁾ implements the catch documentation scheme adopted by the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as 'CCAMLR') at its eighteenth Annual Meeting in November 1999.

(2) The CCAMLR adopted a number of amendments to the scheme and to a related resolution aiming at improving the control of landings, imports, exports, re-exports and transshipments of *Dissostichus spp.* and at harmonising the implementation thereof.

(3) Regulation (EC) No 1035/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1035/2001 is hereby amended as follows:

1. The following points shall be added to Article 3:

'(d) "import" means the physical entering or bringing of a catch into any part of the geographical territory under the control of a State, except where the catch is landed

or transhipped within the definitions of "landing" or "transhipment" set out in points (e) and (f);

(e) "landing" means the initial transfer of catch in its harvested or processed form from a vessel to dockside or to another vessel in a port or free trade zone where the catch is certified by an authority of the Port State as landed;

(f) "transhipment" means:

— the transfer of a catch in its harvested or processed form from a vessel to another vessel or means of transport, and, where such transfer takes place within the territory under the control of a Port State, for the purpose of effecting its removal from that State,

— temporarily placing a catch on land or an artificial structure to facilitate such transfer where the catch is not landed within the definition of point (e);

(g) "export" means any movement of a catch in its harvested or processed form from territory under the control of a State or free trade zone of landing, or, where that State or free trade zone forms part of a customs union, any other Member State of this customs union;

(h) "re-export" means any movement of a catch in its harvested or processed form from territory under the control of the State, free trade zone, or Member State of a customs union of import unless that State, free trade zone, or any Member State of that customs union of import is the first place of import, in which case the movement is an export within the definition in point (g);

(i) "Port State" means the State that has control over a particular port area or free trade zone for the purposes of landing, transhipment, importing, exporting and re-exporting and whose authority serves as the authority for landing or transhipment certification.'

⁽¹⁾ OJ C 304 E, 1.12.2005, p. 18.

⁽²⁾ OJ L 145, 31.5.2001, p. 1. Regulation as amended by Regulation (EC) No 669/2003 (OJ L 97, 15.4.2003, p. 1).

2. Article 4 shall be replaced by the following:

'Article 4

1. Member States shall require, as a condition of a licence or a permit authorising a vessel to harvest *Dissostichus spp.*, that the vessel only land catches in States which are Contracting Parties to CCAMLR or which otherwise apply the catch documentation scheme.

2. Member States shall attach to licences and permits authorising vessels to harvest *Dissostichus spp.* the names of all CCAMLR Contracting Parties and States which have notified the CCAMLR Secretariat that they apply the catch documentation scheme.

3. Member States shall take all necessary measures to ensure that whenever *Dissostichus spp.* is landed or transhipped, their flag vessels authorised to engage in harvesting *Dissostichus spp.* have duly completed a catch document.'

3. In Article 10(1)(b), the first indent shall be replaced by the following:

'— a signed and stamped validation by a responsible official of the Port State of landing or free trade zone who is acting under the direction of either the customs or fisheries authorities of the Port State and is competent with regard to the validation of *Dissostichus spp.* catch documents, and'.

4. In Article 12(1), the first indent shall be replaced by the following:

'— a signed and stamped validation by a responsible official of the Port State of landing or free trade zone who is acting under the direction of either the customs or fisheries authorities of the Port State and is competent with regard to the validation of *Dissostichus spp.* catch documents, and'.

5. Article 22 shall be replaced by the following:

'Article 22

By 15 March, 15 June, 15 September and 15 December of each year Member States shall communicate to the Commission a summary list of the catch documents issued in or received into their territory in respect of landings, imports, exports, re-exports and transshipments including the following data: Document Identification Numbers; date of landing, import, export, re-export or transshipment; weights landed, imported, exported, re exported or transhipped; origin and destination.'

6. Annexes I, II and III shall be replaced by the text in the Annex of this Regulation.

Article 2

This Regulation shall enter into force on the 20th 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 Luxembourg, 27 June 2006.

For the Council
The President
J. PRÖLL

ANNEX

'ANNEX I

DISSOSTICHUS CATCH DOCUMENT AND DISSOSTICHUS RE-EXPORT DOCUMENT

The catch document and re-export document shall include the following information:

1. A specific identification number, consisting of:
 - (i) a four-digit number consisting of the two-digit International Standards Organisation (ISO) country code, followed by the last two digits of the year for which the document is issued;
 - (ii) three-digit sequence number (beginning with 001) to denote the order in which the catch document forms are issued.
2. The following information:
 - (i) the name, address, telephone and fax numbers of the authority which issued the catch document form;
 - (ii) the name, home port, national registration number and call sign of the vessel and, if applicable, its IMO/Lloyd's registration number;
 - (iii) the number of the licence or permit issued to the vessel, as applicable;
 - (iv) the weight of each *Dissostichus* species landed or transhipped by product type, and
 - (a) by CCAMLR statistical sub-area or division if caught in the Convention area, and/or
 - (b) by the Food and Agriculture Organisation of the United Nations (FAO) statistical area, sub-area or division if caught outside the Convention area;
 - (v) the dates within which the catch was taken;
 - (vi) in the case of landing, the date and the port at which the catch was landed; or in the case of transhipment, the date and the name of the vessel, its flag and national registration number (for Community vessels, the internal registration number in the fleet register allocated to the vessel in accordance with Article 5 of Commission Regulation (EC) No 2090/98 of 30 September 1998 concerning the fishing vessel register of the Community);
 - (vii) the name, address, telephone and fax numbers of the receiver or receivers of the catch and the amount of each species and product type received; and
 - (viii) the transport details in the export section of the *Dissostichus* catch document and in the re-export section of the *Dissostichus* re-export document as appropriate:
 1. if by sea:
 - container(s) number(s) or, if more than one container, a list of container numbers on an attachment signed and stamped for validation by the authority validating the *Dissostichus* catch document or the *Dissostichus* re-export document; or
 - vessel name; and
 - bill of lading number, date and place of issue
 2. if by air:
 - flight number, airway bill number, place and date of issue
 3. if by other means (ground transportation):
 - truck registration number and nationality; or
 - railway transport number; and
 - date and place of issue.

ANNEX II

<i>DISSOSTICHUS</i> CATCH DOCUMENT						
Document Number					Flag State Confirmation Number	
PRODUCTION SECTION						
1. Issuing Authority of Document						
Name		Address			Tel. Fax	
2. Fishing Vessel Name		Home Port & Registration Number		Call Sign		IMO/Lloyd's Number (if issued)
3. Licence Number (if issued)				Fishing dates for catch under this document		
				4. From:		5. To:
6. Description of Fish (Landed/Transhipped)					7. Description of Fish Sold	
Species	Type	Estimated Weight to be Landed (kg)	Area Caught (*)	Verified Weight Landed (kg)	Net Weight Sold (kg)	Recipient name, address, telephone, fax and signature.
						Recipient Name:
						Signature:
						Address:
						Tel.
						Fax
Species: TOP <i>Dissostichus elegonoides</i> , TOA <i>Dissostichus mawsoni</i>						
Type: WHO Whole; HAG Headed and gutted; HAT Headed and tailed; FLT Fillet; HGT Headed, gutted, tailed; OTH Other (specify)						
8. Landing/Transshipment Information: I certify that the above information is complete, true and correct. If any <i>Dissostichus spp.</i> was taken in the Convention Area, I certify that it was taken in a manner which is consistent with CCAMLR conservation measures.						
Master of Fishing Vessel or Authorised Representative (print in block letters)		Signature and Date		Landing/Transshipment Port and Country/Area		Date of Landing/Transshipment
9. Certificate of Transshipment: I certify that the above information is complete, true and correct to the best of my knowledge.						
Master of Receiving Vessel		Signature		Vessel Name		Call Sign
						IMO/Lloyd's Number (if issued)
Transshipment within a Port Area: counter signature by Port Authority if appropriate						
Name		Authority		Signature		Seal (Stamp)
10. Certificate of Landing: I certify that the above information is complete, true and correct to the best of my knowledge.						
Name	Authority	Signature	Address	Tel.	Port of Landing	Date of Landing
						Seal (Stamp)
EXPORT SECTION — TRANSPORT DETAILS						
If by sea/air:		Container number (if more than one — attach list)				
If no container:		Vessel name: OR				
		Flight number; AND				
		Bill of lading/airway bill number; AND				
		Date and place of issue				
If ground transport:		Truck registration number and nationality; OR				
		Railway transport number; AND				
		Date and place of issue				

11. Description of Fish Exported			12. Exporter Declaration: I certify that the above information is complete, true and correct to the best of my knowledge.			
Species	Product Type	Net Weight	Name	Address	Signature	Export Licence (if issued)
			13. Export Government Authority Validation: I certify that the above information is complete, true and correct to the best of my knowledge.			
			Name/Title	Signature	Date	Country of export seal (Stamp)
14. IMPORT SECTION						
Name of Importer			Address			
Point of Unlading:			Address		State/Province	Country
			City			

(*) Report FAO Statistical Area/Sub-area/Division where catch was taken and indicate whether the catch was taken on the high seas or within an EEZ.

ANNEX III

DISSOSTICHUS RE-EXPORT DOCUMENT				
RE-EXPORT SECTION		Re-exporting Country:		
1. Description of Fish				
Species	Type of Product	Net Weight Exported (kg)	Dissostichus Catch Document Number Attached	
Species: TOP <i>Dissostichus eleginoides</i> , TOA <i>Dissostichus mawsoni</i>				
Type: WHO Whole; HAG Headed and gutted; HAT Headed and tailed; FLT Fillet; HGT Headed, gutted, tailed; OTH Other (specify)				
EXPORT SECTION — TRANSPORT DETAILS				
If by sea/air:	Container number (if more than one — attach list)			
If no container:	Vessel name: OR			
	Flight number; AND			
	Bill of lading/airway bill number; AND			
	Date and place of issue			
If ground transport:	Truck registration number and nationality; OR			
	Railway transport number; AND			
	Date and place of issue			
2. Re-Exporter Certification: I certify that the above information is complete, true and correct to the best of my knowledge and that the above product comes from product certified by the attached <i>Dissostichus</i> Catch Document(s)				
Name	Address	Signature	Date	Export Licence (if issued)
3. Re-Export Government Authority Validation: I certify that the above information is complete, true and correct to the best of my knowledge.				
Name/Title	Signature	Date	Seal (Stamp)	
4. IMPORT SECTION				
Name of Importer		Address		
Point of Unloading:	City	State/Province	Country	

(*) Report FAO Statistical Area/Sub-area/Division where catch was taken and indicate whether the catch was taken on the high seas or within an EEZ.

COMMISSION REGULATION (EC) No 1369/2006**of 15 September 2006****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 Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 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 the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 September 2006.

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

Done at Brussels, 15 September 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 15 September 2006 establishing the 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	052	76,9
	096	41,9
	999	59,4
0707 00 05	052	90,1
	999	90,1
0709 90 70	052	96,6
	999	96,6
0805 50 10	388	61,4
	524	55,9
	528	50,6
	999	56,0
0806 10 10	052	75,2
	220	32,1
	624	104,9
	999	70,7
0808 10 80	388	91,0
	400	92,1
	508	88,7
	512	92,2
	720	82,6
	800	164,0
	804	99,1
0808 20 50	999	101,4
	052	114,6
	388	84,4
0809 30 10, 0809 30 90	999	99,5
	052	122,6
	999	122,6
0809 40 05	052	86,8
	066	39,8
	098	33,4
	624	128,2
	999	72,1

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1370/2006**of 15 September 2006****derogating from Regulations (EC) No 800/1999 and (EC) No 1043/2005 as regards products exported to Lebanon in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾ and in particular the first subparagraph of Article 8(3) and Article 20 thereof,

Having regard to Regulation (EEC) No 2771/75 of the Council of 29 October 1975 on the common organisation of the market in eggs ⁽²⁾ and in particular Article 3(2), Article 8(13) and Article 15 thereof and the corresponding Articles of the other Regulations on the common organisation of the markets in agricultural products,

Whereas:

- (1) The rules concerning the system of export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty are laid down in Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products ⁽³⁾ and Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽⁴⁾.
- (2) Exceptional circumstances prevailing in Lebanon have seriously damaged the economic interests of certain exporters and the situation thus created has adversely affected export opportunities under the conditions laid down in Regulations (EC) No 800/1999 and (EC) No 1043/2005.
- (3) It is therefore necessary to limit those harmful effects by adopting special measures and extending certain time

limits laid down in Regulations (EC) No 800/1999 and (EC) No 1043/2005 in respect of export procedures which could not be completed because of the aforementioned circumstances. In particular, the time limit for leaving the customs territory of the Community provided for in Regulation (EC) No 800/1999 should be extended to enable operators who have already completed the relevant customs export formalities or placed the goods in question under customs control to benefit from more flexible arrangements. Similarly, the limit on the validity of refund certificates provided for by Regulation (EC) No 1043/2005 should be extended in certain instances.

- (4) The benefit of those derogations should be reserved for operators who can prove, in particular on the basis of export documents or the documents referred to in Article 1(2) of Council Regulation (EEC) No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC ⁽⁵⁾ without prejudice to the application of the other provisions of that Regulation, that they were prevented from carrying out export operations within the specified period by the aforementioned circumstances.
- (5) In order to remedy the harmful effects on all operators who may have been affected by the exceptional circumstances in Lebanon, this Regulation should apply as from 1 July 2006.
- (6) The measures provided for by this Regulation are in conformity with the opinion of the Management Committee for Horizontal Questions concerning trade in processed agricultural products not covered by Annex I,

HAS ADOPTED THIS REGULATION:

Article 1

1. By way of derogation from the first subparagraph of Article 39(2) of Regulation (EC) No 1043/2005, the validity of refund certificates issued pursuant to that Regulation whose term of validity expires on 31 July 2006 or 31 August 2006 shall, on application by the holder, be extended until 30 September 2006 for the amount of the exports not carried out.

⁽¹⁾ OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

⁽²⁾ OJ L 282, 1.11.1975, p. 49. Regulation last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽³⁾ OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 671/2004 (OJ L 105, 14.4.2004, p. 5).

⁽⁴⁾ OJ L 172, 5.7.2005, p. 24. Regulation as last amended by Regulation (EC) No 544/2006 (OJ L 94, 1.4.2006, p. 24).

⁽⁵⁾ OJ L 388, 30.12.1989, p. 18. Regulation as last amended by Regulation (EC) No 2154/2002 (OJ L 328, 5.12.2002, p. 4).

Where the system of advance fixing of refund is applied, the refund rate in force on the day on which the application for advance fixing was lodged shall apply to goods exported during the extended period of validity of the refund certificate.

2. By way of derogation from Article 7(1) and Article 34(1) of Regulation (EC) No 800/1999, the 60-day time limit for leaving the customs territory of the Community shall, on application by the exporter, be extended to 150 days for goods for which customs export formalities were completed by 20 July 2006 at the latest.

3. The 10 % and 15 % increases referred to in Article 25(1) and in the second subparagraph of Article 35(1) respectively of Regulation (EC) No 800/1999 shall not apply to exports carried out by 20 July 2006 at the latest under the derogation provided for in Article 46 of Regulation (EC) No 1043/2005 or to those carried out under certificates applied for by 20 July 2006 at the latest.

If entitlement to refund is lost due to the exceptional circumstances in Lebanon, the penalty provided for by Article 51(1)(a) of Regulation (EC) No 800/1999 shall not apply.

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

Done at Brussels, 15 September 2006.

For the Commission
Günter VERHEUGEN
Vice-President

Article 2

Article 1 shall apply to the agricultural products exported in the form of goods not covered by Annex I to the Treaty referred to in Article 1(1) of Regulation (EC) No 1043/2005, in so far as the exporter concerned can prove to the satisfaction of the competent authorities that the goods were destined for Lebanon.

In making their appraisal, the competent authorities shall rely, in particular, on the export declaration or on the commercial documents referred to in Article 1(2) of Regulation (EEC) No 4045/89.

Article 3

By 31 January 2007 Member States shall notify the Commission of the amounts for which refund certificates whose term of validity expires on 31 July 2006 and 31 August 2006 were extended as provided for in Article 1(1).

Article 4

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

It shall apply from 1 July 2006.

COMMISSION REGULATION (EC) No 1371/2006**of 15 September 2006****fixing the minimum selling prices for butter for the 16th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/99 as regards measures for the disposal of cream, butter and concentrated butter on the Community market ⁽²⁾, the intervention agencies may sell by standing invitation to tender certain quantities of butter from intervention stocks that they hold and may grant aid for cream, butter and concentrated butter. Article 25 of that Regulation lays down that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further laid down

that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure. The amount of the processing security as referred to in Article 28 of Regulation (EC) No 1898/2005 should be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 16th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005 the minimum selling prices for butter from intervention stocks and the amount of the processing security, as referred to in Articles 25 and 28 of that Regulation respectively, are fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 16 September 2006.

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

Done at Brussels, 15 September 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

ANNEX

Minimum selling prices for butter and processing security for the 16th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005*(EUR/100 kg)*

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	206	210	—	—
		Concentrated	204,1	—	—	—
Processing security		Unaltered	45	45	—	—
		Concentrated	45	—	—	—

COMMISSION REGULATION (EC) No 1372/2006**of 15 September 2006****fixing the maximum aid for cream, butter and concentrated butter for the 16th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/99 as regards measures for the disposal of cream, butter and concentrated butter on the Community market ⁽²⁾, the intervention agencies may sell by standing invitation to tender certain quantities of butter of intervention stocks that they hold and may grant aid for cream, butter and concentrated butter. Article 25 of that Regulation lays down that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further laid down

that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure. The amount of the processing security as referred to in Article 28 of Regulation (EC) No 1898/2005 should be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 16th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005 the amount of the maximum aid for cream, butter and concentrated butter and the amount the processing security, as referred to in Articles 25 and 28 of that Regulation respectively, are fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 16 September 2006.

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

Done at Brussels, 15 September 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

ANNEX

Maximum aid for cream, butter and concentrated butter and processing security for the 16th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005

(EUR/100 kg)

Formula		A		B	
Incorporation procedure		With tracers	Without tracers	With tracers	Without tracers
Maximum aid	Butter $\geq 82\%$	18,5	15	—	15
	Butter $< 82\%$	—	14,63	—	—
	Concentrated butter	22	18,5	22	18,5
	Cream	—	—	10	6,3
Processing security	Butter	20	—	—	—
	Concentrated butter	24	—	24	—
	Cream	—	—	11	—

COMMISSION REGULATION (EC) No 1373/2006**of 15 September 2006****fixing the maximum aid for concentrated butter for the 16th individual invitation to tender opened under the standing invitation to tender provided for in Regulation (EC) No 1898/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Article 47 of Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/99 as regards measures for the disposal of cream, butter and concentrated butter on the Community market ⁽²⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter. Article 54 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 %.
- (2) An end-use security provided for in Article 53(4) of Regulation (EC) No 1898/2005 is to be lodged to

ensure the taking over of the concentrated butter by the retail trade.

- (3) In the light of the tenders received, the maximum aid should be fixed at the appropriate level and the end-use security should be determined accordingly.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 16th individual tender under the standing invitation to tender opened in accordance with Regulation (EC) No 1898/2005 the maximum amount of the aid for concentrated butter with a minimum fat content of 96 %, as referred to in Article 47(1) of that Regulation, is fixed at 19,8 EUR/100 kg,

The end-use security provided for in Article 53(4) of Regulation (EC) No 1898/2005 is fixed at 22 EUR/100 kg.

Article 2

This Regulation shall enter into force on 16 September 2006.

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

Done at Brussels, 15 September 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

COMMISSION REGULATION (EC) No 1374/2006**of 15 September 2006****fixing the minimum selling price for butter for the 48th individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2771/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10(c) thereof,

Whereas:

- (1) Pursuant to Article 21 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽²⁾, intervention agencies have put up for sale by standing invitation to tender certain quantities of butter held by them.
- (2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no

award, in accordance with Article 24a of Regulation (EC) No 2771/1999.

- (3) In the light of the tenders received, a minimum selling price should be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 48th individual invitation to tender pursuant to Regulation (EC) No 2771/1999, in respect of which the time limit for the submission of tenders expired on 12 September 2006, the minimum selling price for butter is fixed at 235,00 EUR/100 kg.

Article 2

This Regulation shall enter into force on 16 September 2006.

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

Done at Brussels, 15 September 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 1802/2005 (OJ L 290, 4.11.2005, p. 3).

COMMISSION REGULATION (EC) No 1375/2006**of 15 September 2006****fixing the import duties in the cereals sector applicable from 16 September 2006**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10 of Regulation (EC) No 1784/2003 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Pursuant to Article 10(3) of Regulation (EC) No 1784/2003, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

- (3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Regulation (EC) No 1784/2003 as regards import duties in the cereals sector.
- (4) The import duties are applicable until new duties are fixed and enter into force.
- (5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in Annex I to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 16 September 2006.

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

Done at Brussels, 15 September 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1110/2003 (OJ L 158, 27.6.2003, p. 12).

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EC) No 1784/2003 applicable from 16 September 2006

CN code	Description	Import duty ⁽¹⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	9,94
1005 10 90	Maize seed other than hybrid	44,07
1005 90 00	Maize other than seed ⁽²⁾	44,07
1007 00 90	Grain sorghum other than hybrids for sowing	14,93

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3/t, where the port of unloading is on the Mediterranean Sea, or

— EUR 2/t, where the port of unloading is in Ireland, the United Kingdom, Denmark, Estonia, Latvia, Lithuania, Poland, Finland, Sweden or the Atlantic coasts of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flat-rate reduction of EUR 24/t, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(31.8.2006-14.9.2006)

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	145,41 (***)	73,94	161,96	151,96	131,96	116,18
Gulf premium (EUR/t)	—	18,84	—			—
Great Lakes premium (EUR/t)	13,68	—	—			—

(*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(**) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(***) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight/cost: Gulf of Mexico–Rotterdam: 25,17 EUR/t; Great Lakes–Rotterdam: 30,92 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
-
- 0,00 EUR/t (SRW2).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 December 2005

declaring a concentration compatible with the common market and the functioning of the EEA Agreement

(Case COMP/M.3696 — E.ON/MOL)

(notified under document number C(2005) 5593)

(Only the English text is authentic)

(Text with EEA relevance)

(2006/622/EC)

On 21 December 2005 the Commission adopted a Decision in a merger case under Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) ⁽¹⁾, and in particular Article 8(2) of that Regulation. A non-confidential version of the full Decision can be found in the authentic language of the case and in the working languages of the Commission on the website of the Directorate-General for Competition, at the following address: http://ec.europa.eu/comm/competiton/index_en.html

I. SUMMARY

(1) This case concerns the acquisition by E.ON (Germany) of two subsidiaries of MOL, an integrated Hungarian oil and gas company, which are active in the wholesale, marketing and trading of gas, and the storage of gas. MOL also has a put option for two years to sell its gas transmission subsidiary to E.ON.

(2) MOL already has, prior to the transaction, an almost exclusive control over the access to gas resources and gas infrastructures in Hungary. MOL owns the gas transmission network, all Hungarian gas storage facilities and has a quasi-monopoly position on the gas wholesale markets. MOL is already today the 'gatekeeper' for gas resources (both imports and domestic production) and gas infrastructure. This gatekeeper position will now be taken over by E.ON.

(3) The essential change brought by the proposed transaction is that E.ON, unlike MOL, has strong market positions in

the retail supply of gas and electricity in Hungary. Therefore, except for the transmission and gas production businesses of MOL, the current transaction will create a vertically integrated entity along the gas and electricity supply chains in Hungary.

(4) The Commission's market investigation has established that, owing to the new entity's nearly exclusive control over gas resources (mostly of Russian origin) available in Hungary and its vertical integration in the gas and electricity markets, the transaction would lead to a serious risk of foreclosure of competitors on the downstream gas and electricity markets. As mentioned, contrary to MOL, E.ON is active downstream of the gas wholesale market, in the retail and distribution of gas and electricity (through its control of two out of six regional gas distribution companies and of three out of six regional electricity distribution companies) as well as in the generation of electricity. This would lead to a change of incentives of the new entity vis-à-vis its downstream competitors. The new entity would thus have both the ability and the incentive to discriminate against its competitors in the downstream markets both in the gas and in the electricity sectors.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

- (5) In order to remove the competition concerns identified during the procedure, E.ON submitted on 20 October 2005 a package of commitments. On 16 November 2005, E.ON submitted revised commitments. The final commitments were submitted on 8 December 2005. The Commission believes that the undertakings, substantially improved following the market test compared to E.ON's initial offer, meet the concerns expressed by third parties as regards the need to ensure sufficient liquidity of gas on the Hungarian wholesale gas market at price and conditions which will allow third parties to compete effectively with the new entity on the downstream gas and electricity markets in Hungary.
- (6) A clearance decision with conditions and obligations pursuant to Article 8(2) of the Merger Regulation is therefore proposed for adoption.

II. EXPLANATORY MEMORANDUM

A. THE PARTIES

- (7) E.ON Ruhrgas International AG ('E.ON') belongs to the E.ON group of companies, a privately owned energy group with a focus on the supply of electricity and gas.
- (8) MOL Hungarian Oil and Gas ('MOL', Hungary) is an integrated oil and gas group which is primarily active in Hungary on the markets for natural gas, oils, fuels and chemicals. It is a public company listed on the Budapest stock exchange. The Hungarian State still owns 12 % of share capital, plus a golden share.

B. THE OPERATION

- (9) The present case concerns a concentration by which E.ON acquires control of MOL Földgázellátó Rt. ('MOL WMT') and MOL Földgáztároló Rt. ('MOL Storage'). E.ON will also acquire MOL's shareholdings in Panrusgáz Magyar-Orosz Gázipari Rt. ('Panrusgáz'), a joint venture company between OAO Gazprom (Russia) and MOL.
- (10) Mol Földgázszállító Rt. ('MOL Transmission'), another solely-controlled subsidiary of MOL, is not acquired by E.ON through the present transaction. MOL is instead granted a put option under which MOL can require E.ON to purchase a 25 % plus 1 share or a 75 % minus 1 share interest in MOL Transmission during the next two years.
- (11) Finally, MOL retains control over its gas exploration and production business (the MOL upstream gas Exploration and Production division ('MOL E & P')). However, as part of the transaction, MOL and MOL WMT have entered into a new long-term gas supply agreement for the gas produced by MOL E & P (the 'Supply Agreement').

C. RELEVANT MARKETS

RELEVANT NATURAL GAS MARKETS

(a) *Relevant product markets*

- (12) Taking into consideration the specificities of the Hungarian gas markets, the Commission has identified the following relevant product markets in the gas sector:
- (i) Transmission of gas;
 - (ii) Distribution of gas;
 - (iii) Storage of gas;
 - (iv) Supply of gas to traders;
 - (v) Supply of gas to Regional Distribution Companies ('RDCs');
 - (vi) Supply of gas to large power plants;
 - (vii) Supply of gas to large industrial customers (with an hourly consumption exceeding 500 m³/hour);
 - (viii) Supply of gas to small industrial and commercial customers (with an hourly consumption below 500 m³/hour); and
 - (ix) Supply of gas to residential customers.
- (13) Since 1 July 2004, all non-residential customers have become eligible customers free to choose their supplier under Hungarian law. Residential customers will become eligible on 1 July 2007 at the latest.
- (14) The Hungarian natural gas sector is characterised by a hybrid model, with the coexistence of a regulated segment of the market (or 'public utility market'), resulting from the old gas regime in Hungary, and a liberalized segment of the market (or 'open segment of the market'). In the regulated segment of the market, the public utility wholesaler (MOL WMT) is under an obligation by law to cover the full natural gas demand for public utility purposes of the RDCs, whereas the RDCs are under an obligation to source their natural gas needs for their public utility customers exclusively from the public utility wholesaler (at regulated prices). The RDCs, the public utility suppliers, have in turn the exclusive right and obligation to supply the customers situated in their territory at regulated prices. Eligible customers have the choice between remaining supplied within a public utility contract by their historic gas supplier (their RDC or the public utility wholesaler, MOL WMT if the customer was supplied directly by MOL WMT) or terminating their public utility contract and purchasing their gas requirements from a trader or importing natural gas themselves. It is expected that this hybrid model will disappear after July 2007.

- (15) The market investigation has confirmed that there exists a separate product market for the supply of gas to traders in Hungary, on which importers/producers sell gas to traders, and traders sell each other gas, for onwards supply on the open segment of the market. On the regulated segment of the market, the RDCs have the obligation to purchase gas for their public utility needs from the public utility wholesaler (MOL WMT).

(b) Geographical markets

- (16) (In the present case the investigation has shown that all affected markets are national in scope with the exception of the markets for the distribution of gas and the supply of gas to residential customers, which are at present sub-national in scope (i.e. confined to specific distribution areas within Hungary).

RELEVANT ELECTRICITY MARKETS

(a) Relevant product markets

- (17) Taking into consideration the specificities of the Hungarian markets, the Commission has identified the following relevant product markets in the electricity sector:

(i) Transmission of electricity;

(ii) Distribution of electricity;

(iii) The provision of balancing power;

(iv) Wholesale supply of electricity to traders;

(v) Wholesale supply of electricity to the public utility wholesaler;

(vi) Wholesale supply of electricity to RDCs;

(vii) Retail supply of electricity to medium and large commercial and industrial customers;

(viii) Retail supply of electricity to small commercial and industrial customers; and

(ix) Retail supply of electricity to residential customers.

- (18) The Hungarian electricity sector is also characterised by a hybrid model, including a regulated segment and an open segment. On 1 July 2004, all non-residential customers became eligible customers. Residential customers will become eligible on 1 July 2007. As in the gas sector, eligible customers have the right, but not the obligation

to switch suppliers, and may thus stay with their respective regional supplier in the context of a public utility contract. There are however more customers that have switched to the open segment of the market in the electricity sector than in the gas sector. In June 2005, the open segment represented 32 % of the total Hungarian electricity consumption.

(b) Geographical markets in electricity

- (19) In the present case, most of the affected markets are national in scope with the exception of the market for the distribution of electricity and the retail supply of electricity to residential customers, which are at present sub-national in scope (i.e. confined to specific distribution areas within Hungary).

D. COMPETITIVE ASSESSMENT

GAS MARKETS

(a) MOL WMT holds a dominant position in the wholesale supply of gas in Hungary

- (20) Due to its previous position as legal monopolist, MOL WMT holds a dominant position in the wholesale supply of gas to RDCs and to traders in Hungary. While MOL WMT retains its former monopoly rights on the regulated segment of the market, the Commission's investigation has revealed the existence of significant barriers to entry on the open segment of the Hungarian gas market. The main barrier faced by new entrants in Hungary is the difficulty of access to competitive sources of gas, and the lack of liquidity of the Hungarian gas wholesale market.

- (21) In particular, MOL WMT controls and will keep controlling access to domestic gas resources and to competitive imports.

- (22) Hungarian domestic gas production is not negligible and amounted to approximately 3 bcm in 2004, accounting for about 20 % of the total national gas consumption. The investigation has also shown that Hungarian gas is competitive compared to imported gas.

- (23) Although MOL E & P is not being acquired by E.ON under the proposed transaction, MOL E & P and MOL WMT have entered into a 10-year supply agreement for the domestic gas produced by MOL E & P as part of the transaction. Under the terms of this supply agreement, the volumes of gas to be supplied by MOL E & P to MOL WMT are set by reference to MOL E & P's production forecasts. The Commission has found that no domestic gas will be available for third parties [...], as the contracted volumes correspond to MOL E & P's production forecasts and that the quantities available for third parties for the remainder of the contract will be at most [27-37 %] of MOL E & P's production forecasts.

(24) Imports account for 80 % of total gas consumption in Hungary and are expected to increase, as domestic production is declining. There are two entry points from which to import gas, the Eastern entry point (Beregovo, at the Ukrainian border) and the Western entry point (HAG, at the Austrian border).

(25) The investigation has shown that all gas imported in Hungary — and the only competitive source of gas — is gas from Russia (i.e., sourced from Gazprom), or gas from a CIS country (in particular Turkmenistan) transiting through Russia and Ukraine (i.e., via transit pipelines under the control of Gazprom). Alternative gas sources are not expected to be available in Hungary before 2012 when the NABUCCO pipeline (bringing gas from the Middle East and Caspian area) becomes operational.

(26) Prior to the liberalisation, MOL had a monopoly to import gas into Hungary. In order to secure its gas supply, MOL WMT has entered into long-term supply agreements with a duration of up to [...] (until [...]) with Panrusgáz, Gaz de France ('GdF'), E.ON and Bothli-Trade (Bothli-Trade has assigned this contract to EMFESZ, the only new entrant so far on the Hungarian gas market). The gas purchased by MOL WMT from E.ON and GdF, imported through the Western entry point, is physically Russian gas and is approximately [27-37 %] more expensive than the gas purchased from Gazprom via Panrusgáz or from EMFESZ.

(27) The market investigation has shown that it is currently difficult for new entrants to get access to Russian gas in parallel to MOL WMT's existing contracts. It appears that there would be no incentive on the part of Gazprom to sell 'more' gas for exports to Hungary, other than the gas necessary to cover the 'supply gap' between the future increase in the Hungarian demand and the demand already covered by the existing long-term import contracts of MOL WMT.

(28) Gazprom already supplies through Panrusgáz, its joint venture with MOL, gas quantities covering most of the needs of Hungary. The Commission believes that it is not possible to purchase gas from Gazprom to compete with MOL WMT. First, Gazprom has no incentive to sell gas to another gas trader at a cheaper price as the quantities would simply displace the quantities it already sells for the Hungarian market. Secondly, any gas Gazprom would sell at a more expensive price would not be competitive in Hungary.

(29) In addition, MOL WMT enjoys and will keep enjoying significant incumbency advantages vis-à-vis potential new entrants in terms of security of supply, cost of transmission and storage of gas, notably thanks to its large customer base and significant volume of sales.

(30) For these reasons, already prior to the transaction, MOL WMT is dominant on the various Hungarian gas wholesale markets (gas supply to RDCs, gas supply to traders, gas supply to power plants).

(b) *Impact on the Hungarian gas markets*

Supply of gas

— *The new entity will have the ability and incentive to foreclose access to wholesale gas to its competitors (RDCs and traders) on the market for gas supply to small industrial and commercial customers*

(31) The essential change brought about by the transaction is that E.ON, unlike MOL, is active in the retail supply of gas to small industrial and commercial customers through its RDCs. The merger will thus result in the creation of a vertically integrated company, active both in gas wholesaling and in gas retailing. Immediately after the transaction, the new entity is likely to have the ability and incentive to foreclose its actual and potential competitors on the downstream market for the supply of gas to small industrial and commercial customers, as its competitors would have to rely on the new entity to procure their wholesale gas.

(32) Following the merger, the new entity will have the ability to foreclose access to gas and raise its rivals' costs in various ways. In the regulated segment of the market, where prices are regulated, the new entity could engage in non-price discrimination (such as delays in supply, reduction in quality of service, lack of flexibility, unwillingness to renegotiate, etc.). In the open segment of the market, it could directly increase the wholesale price of gas to traders and/or engage in non-price discrimination.

(33) E.ON, through its RDCs, has a market share of around [15-25 %] on the market for gas supply to small industrial and commercial customers. The Commission's analysis indicates that the new entity's incentive to raise the costs of rivals and its optimal foreclosure strategy is likely to evolve with the regulatory environment.

(i) Immediately after the transaction: as long as both retail prices to small industrial and commercial customers and wholesale gas prices are regulated, the new entity will have an incentive to raise the costs to rival RDCs through non-price discrimination. Simultaneously, it is likely to increase the price of wholesale gas to independent traders to capture customers that switch to the open segment of the market.

(ii) In July 2007: regulated prices are expected to be suppressed. At that point all eligible customers will have to switch to the open segment of the market. It is then likely that the new entity will have an incentive to foreclose all its downstream rivals on the market for the supply of gas to small industrial and commercial customers either by increasing the cost of gas or by reducing the quality of supply, whatever is optimal.

(34) As a result, competitors of the new entity are likely to be marginalised, thereby allowing the new entity to gain increased market power on the downstream market for the supply of gas to small industrial and commercial customers. This input foreclosure is also likely to discourage new entries in this market as potential entrants will not expect to be in a position to contract gas supplies with the new entity under terms and conditions similar to those applicable to E.ON's affiliates. The Commission thus considers that the merger will significantly impede competition on the market for gas supply to small industrial and commercial customers.

— *The new entity will have the ability and incentive to foreclose access to wholesale gas to its competitors (RDCs and traders) on the market for gas supply to residential customers*

(35) E.ON currently has a market share of around [15-25 %] on the market for gas supply to residential customers in Hungary. As in the market for gas supply to small industrial and residential customers, the new entity will have the ability and incentive to foreclose access to gas to its downstream competitors on the market for gas supply to residential customers, thereby significantly impeding competition thereon.

(36) In the present case, since residential customers will become eligible in July 2007, i.e. only 18 months after the adoption of the present decision, the Commission considers that the main anticompetitive effects resulting from the merger will occur as from that date.

(37) In addition to these future anticompetitive effects, the merger is also likely to produce immediate effects by (i) weakening rival retailers on the neighbouring and closely related market for the supply of gas to small industrial and commercial customers (which are likely entrants on the residential customer market); and (ii) discouraging potential new entrants to prepare their entry on the market (as market entry needs to be prepared well in advance).

— *The new entity will acquire a dominant position in the supply of gas to large industrial customers*

(38) MOL WMT and RDCs have only been indirect competitors on the market for gas supply to large industrial customers as, on the regulated segment of the market, MOL WMT can only supply customers directly connected to the transmission network. In addition, RDCs are obliged to source their gas from MOL WMT. So far few customers have been able to obtain better offers on the open segment of the market from traders such as EMFESZ because regulated prices have remained quite low.

(39) As of July 2007, the hybrid model and regulated prices will disappear for large industrial customers. Although MOL WMT, as a gas trader, would have been able to gain more large industrial customers connected to distribution networks, the merger results in the addition of MOL WMT's and E.ON's significant customer portfolios (for E.ON, through its controlled RDCs (KÖGÁZ, DDGÁZ) and, arguably, of FÖGÁZ, about which it has privileged information), to the new entity will therefore immediately gain access to a significant customer base (a combined market share of around [40-50 %] as opposed to its current competitor EMFESZ and to potential entrants.

(40) For these reasons the Commission takes the view that the merger will significantly impede competition on the market for gas supply to large industrial customers through the creation of a dominant position.

Storage of gas

(41) MOL Storage is the only company able to offer gas storage services in Hungary. Access to storage is essential for any gas supplier to be active on the gas wholesale and retail markets, essentially in order to manage the seasonal fluctuations in the demand of its customers. The Commission believes that as a result of the merger, the new entity will have the ability and incentive to reinforce its gas input foreclosure strategy by adopting discriminatory behaviour in granting access to storage, even in a scenario of fully regulated prices for storage services (as required under the resolution of the Hungarian Energy Office approving the transaction).

(42) The new entity may also control the development of new storage capacities in Hungary in view of (i) MOL Storage's call option to purchase depleted fields from MOL E & P; and (ii) MOL's incentive to favour MOL Storage in selling depleted fields of MOL E & P due to its remaining 25 % shareholding in MOL Storage.

Transmission of gas

- (43) MOL Transmission owns and manages the high pressure grid in Hungary. The 25 %+1 minority shareholding that MOL would retain in MOL WMT gives MOL Transmission an incentive to reinforce the gas input foreclosure strategy to the detriment of E.ON's competitors downstream through discriminatory behaviour in granting access to the transmission network.

ELECTRICITY MARKETS

- (44) The Commission's market investigation has also identified competition concerns on various electricity markets, resulting from the vertical integration of MOL WMT's activities in the upstream market of gas supply to large power plants with E.ON's activities in the downstream markets of electricity generation/wholesale and electricity retail.

- (45) Whereas MOL is not active in the electricity markets, E.ON has made significant investment in the electricity sector in Hungary since 1995. The group is currently active at the generation level with a small size gas-fired power plant in Debrecen (95 MW), and at the wholesale and retail supply level with ownership of three out of the six electricity RDCs and the electricity trading company E.ON EK. In addition, E.ON controls various companies involved in electricity retail supply in neighbouring countries.

- (46) Prior to the transaction, MOL WMT is already dominant in the market for the supply of gas to large power plants. The fundamental change brought about by the transaction is that the new entity not only has the ability but is now also likely to have the incentive to exploit its position as gatekeeper of gas resources in Hungary to foreclose its actual and potential competitors on the downstream electricity markets of wholesale supply of electricity to traders, retail supply of electricity to medium and large industrial and commercial customers, retail supply of electricity to small industrial and commercial customers, and retail supply of electricity to residential customers.

Electricity generation/wholesale

- (47) Total generation capacity in Hungary is approximately 8 000 MW in 2005, to be compared with the country's peak load of 6 350 MW (in 2004). The Hungarian electricity generation is split between nuclear energy (1 800 MW installed capacity) and lignite, gas and coal power plants (5 700 MW installed capacity). Almost 40 % of electricity consumed in Hungary is generated by the

Paksi nuclear power plant, the remaining 60 % is mainly generated by power plants burning hydrocarbons (lignite, gas and coal) and by imports. The major part of the large power plants' capacity is booked under long-term power purchase agreements ('PPAs') with MVM, the Hungarian electricity incumbent and public utility wholesaler. The market investigation has established that the total capacity booked under PPAs amounted to 4 000-5 000 MW in 2005.

- (48) It is estimated that significant new electricity generation capacity (5 000 MW or 60 % of current installed capacity) will be needed in Hungary by 2020 to replace old power plants (3 500 MW) and to satisfy the increase in demand. Accordingly, Hungarian electricity generation capacity should increase from 8 000 MW to approximately 10 500 MW.

- (49) The Commission's market investigation on existing new power plants projects in Hungary has established that gas will be the predominant fuel for new power plants. The Hungarian energy regulator considers that gas-fired power plants could reach approximately 60 % of new generation capacity.

- (50) Electricity imports into Hungary are essentially made by electricity traders for transit or to supply medium and large customers. MVM, the public utility wholesaler, accounted for [30-40 %] of electricity imports in 2003. E.ON was the second largest importer, ahead of other electricity traders, with [10-20 %] of imports. According to a 2005 study of MAVIR, the electricity transmission operator, Hungarian electricity imports are expected to decline over the next 10 years, while the total electricity demand will continue to increase in Hungary. The share of electricity imports in the total electricity demand would therefore decline while the share of domestic production would increase.

- (51) Prior to the transaction, MOL WMT already has a dominant position in the market for the supply of gas to large power plants. Following the transaction, the new entity will thus have the ability to determine its competitors' power plants gas supply conditions (prices, rules for nomination, take-or-pay penalties, interruptibility, etc.) and to discriminate against rival power generators in several ways.

- (52) The Commission's investigation has shown that, immediately after the transaction, E.ON is likely to pursue two strategies to strengthen its position in both electricity generation/wholesale supply and electricity retail supply in Hungary.

- (53) As regards new power plants, E.ON is likely to increase the cost of gas to its competitors' new gas-fired power plants, with the aim to deter these rivals from building new gas-fired power plants and to favour its own new power plants projects. This strategy would be attractive for E.ON in view of its strong interest in expanding significantly its power generation capacity in Hungary. E.ON may also discriminate against new gas-fired power plants that do not supply its downstream electricity retail affiliates. This strategy would be economically rational as it would provide E.ON with a certain degree of control over the electricity generation/wholesale market and additional competitive advantage on the electricity retail market.
- (54) As regards existing power plants, the new entity is likely to implement the same foreclosure strategies with the objective of limiting their ability to compete on the open segment of the generation/wholesale market and to eventually induce them to exit the market. Several market players have expressed the concern that E.ON would then seek to acquire their assets.
- (55) In the future liberalized regulatory framework characterized by greater power generation capacity available on the open segment of the market (and by E.ON's larger share in power generation), the foreclosure strategies described above will be even more effective and therefore damaging. They would reduce the ability of rival gas-fired power plants to compete and limit the scope for the development of the competitive electricity wholesale market.
- (56) E.ON's strategy would lead to a slower and less competitive development of new generation capacity in Hungary starting immediately after the transaction (compared to a situation where new power plants would be built by distinct market players) and ultimately to higher electricity wholesale prices. It would thus impede effective competition on the market for generation/wholesale supply of electricity to traders.
- (57) E.ON's strategy on the electricity generation/wholesale market would significantly impede competition on all the markets for the retail supply of electricity. This impact would first result of the non-competitive development in new generation capacity and higher wholesale prices. Second, the new entity's likely strategy to link the gas supply and electricity purchase of gas-fired power plants would reduce the ability of rival electricity retailers to source competitive electricity and would increase the new entity's already strong market power in electricity retail. Finally, the Commission's market investigation has indicated that dual offers (gas and electricity) are likely to play an important role in Hungary. According to the Commission, E.ON will have the ability and incentive immediately after the transaction to prevent any other company active in electricity retail from developing dual offers by foreclosing access to gas resources to those competitors willing to pursue this marketing strategy, thereby significantly impeding competition on the markets for the supply of electricity to small industrial and commercial and residential customers.
- (58) E.ON's strategy on the electricity generation/wholesale market would significantly impede competition on all the markets for the retail supply of electricity. This impact would first result of the non-competitive development in new generation capacity and higher wholesale prices. Second, the new entity's likely strategy to link the gas supply and electricity purchase of gas-fired power plants would reduce the ability of rival electricity retailers to source competitive electricity and would increase the new entity's already strong market power in electricity retail. Finally, the Commission's market investigation has indicated that dual offers (gas and electricity) are likely to play an important role in Hungary. According to the Commission, E.ON will have the ability and incentive immediately after the transaction to prevent any other company active in electricity retail from developing dual offers by foreclosing access to gas resources to those competitors willing to pursue this marketing strategy, thereby significantly impeding competition on the markets for the supply of electricity to small industrial and commercial and residential customers.

E. COMMITMENTS

- (59) In order to remove the competition concerns described above on the gas and electricity markets, E.ON submitted on 20 October 2005 a package of commitments. On 16 November 2005, the E.ON submitted revised commitments and on 8 December, the final version of the commitments was submitted. The Commission believes that the undertakings, substantially improved following the market test compared to the parties' initial offer, meet the concerns expressed by third parties as regards the need to ensure sufficient liquidity of gas on the Hungarian wholesale gas market at price and conditions which will allow third parties to compete effectively with the new entity on the downstream gas and electricity markets in Hungary.

UNBUNDLING

- (60) First, pursuant to the commitments, MOL will divest its remaining shareholdings of 25 % + 1 share in MOL Storage and MOL WMT within six months following the date of closing. In addition, MOL will not to acquire direct or indirect minority stakes in MOL WMT and MOL Storage for a period of 10 years as long as E.ON is a majority shareholder of these companies.
- (61) The divestiture of MOL's 25 % shareholdings in MOL Storage and MOL WMT pursuant to the commitments removes the concerns stemming from the structural links between MOL and E.ON. The market test has, to a large extent, welcomed the severing of the structural links between the parties.

Electricity retail

- (57) E.ON is clearly the leading player in the retail supply of electricity in Hungary. It is the only group with strong positions in both the regulated segment (with three out of six RDCs) and the open segment (E.ON EK is one of the three largest electricity traders in Hungary), with a market share around [40-50 %].

(62) Secondly, pursuant to the commitments, MOL will not exercise the put option for the 25 % + 1 share interest in MOL Transmission. In addition, MOL will not sell to E.ON or any of its affiliates, for a period of 10 years as long as E.ON is a majority shareholder of MOL WMT and MOL Storage, a share interest in MOL Transmission that would not result in the acquisition of sole or joint control over MOL Transmission by E.ON.

(63) This remedy will provide the competent competition authorities with the opportunity to review the creation of any structural link between the new entity and MOL Transmission (notably if the put option is exercised) in the framework of the market conditions prevailing at such time.

GAS RELEASE AND CONTRACT RELEASE

(64) E.ON undertakes to implement a gas release program in Hungary by way of business-to-business internet auctions. The gas release program foresees eight annual auctions of 1 bcm of gas (in 2006, 2007, 2008, 2009, 2010, 2011, 2012 and 2013) and will have a duration of nine years until July 2015. The Hungarian Energy Office and a Monitoring Trustee will supervise the auctions and the implementation of the gas release program.

(65) In addition, E.ON undertakes to assign to a third party (the 'Third Party') half of the contract between MOL WMT and MOL E & P for the supply of domestic gas ('Supply Contract') within six months from the date of the closing. Once the contract assignment becomes effective, the Third Party will take over all the rights and obligations of MOL WMT under the Supply Agreement for the part assigned to it. The assignment will become effective at the beginning of the gas year 2007 (July 2007) and will be valid for the whole duration of the Supply Contract, until July 2015. The part of the Supply Contract to be assigned represents approximately 7.6-10 bcm of gas in total, with the volumes to be released in the first year amounting to 1.2 bcm.

(66) To assess properly whether the gas release and the contract release commitments submitted by the parties are suitable to remove the competition concerns identified during the procedure, the Commission has reviewed existing similar programs in various European countries and carried out a market test with Hungarian gas and electricity operators.

(67) The Commission has reached the conclusion that the gas release program and the contract release as offered by the parties, incorporating the amendments and improvements proposed by third party respondents to the market test,

are sufficient to remove all the competition concerns resulting from the transaction. In particular, the combination of the gas release program and the contract release will ensure that all market participants (whether gas customers or traders) will have the ability to source their gas needs under competitive and non-discriminatory conditions and, for at least a significant part, independently from the merged entity.

(68) The Commission considers that the total volumes of gas to be released are suitable to create sufficient liquidity of gas on the Hungarian wholesale gas markets so as to ensure that effective competition can develop and remain sustainable on the downstream gas and electricity markets. The total quantities of gas to be released through both remedies are significant in comparison to other existing gas release programs (2 bcm on a yearly basis, or up to 14 % of total Hungarian domestic consumption).

(69) The duration of the gas release program and contract release (until July 2015) will ensure that sufficient liquidity will be available for a sufficiently long time until the market structure and competitive conditions have changed. Furthermore, the price mechanism foreseen for both the gas release program and the contract release will ensure that successful bidders will obtain gas at the same (or possibly better in the case of the gas release program) competitive conditions as the new entity. The Commission considers this pricing mechanism is attractive for third parties and will provide good incentives to participate actively in the gas release program's auctions.

(70) With respect to the gas release program, the Commission believes that the program offered by the parties is designed, as regards its main features (volumes, duration, price mechanism) and in its more technical features (size of lots, duration of contracts, flexibility rules) largely in line with the criteria considered to be most relevant for the successful implementation of gas release programs. The detailed rules for the effective implementation of the auction and the gas supply contracts will be elaborated by the parties under the scrutiny of the Hungarian Energy Office, and submitted to the Commission for its approval.

(71) With respect to the contract release, the Commission believes that the Third Party assignee of the contract release will constitute a sizeable and sustainable competitive force in the Hungarian gas markets. It will have sufficient long-term gas resources to develop its position on the Hungarian gas markets and introduce liquidity on these markets

ACCESS TO STORAGE

- (72) E.ON undertakes to grant access to storage capacities at regulated prices and conditions to gas customers and traders that purchase gas directly through the gas release program or the contract release. In particular, E.ON undertakes to offer access to sufficient storage capacities for those end users and wholesalers even if they purchase gas for the first time (for new customers) or develop an increased demand for storage (as the current regulatory framework only guarantees transfer to the new supplier of the storage capacity up to the existing consumption of existing customers).
- (73) The Commission considers that this commitment is sufficient to grant an effective and non-discriminatory access to the storage capacities for the relevant gas quantities and will enable traders and customers to structure

the acquired gas according to their own or their customers' needs. The commitment on storage will contribute to make the gas and contract release attractive for third parties.

F. CONCLUSION

- (74) For the reasons mentioned above, considered individually or together, the Commission has come to the conclusion that the commitments submitted by E.ON are sufficient to address the competition concerns raised by this concentration.
- (75) The Commission's Decision therefore has declared the notified transaction compatible with the common market and the functioning of the EEA Agreement pursuant to Article 8(2) of the Merger Regulation.
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(Acts adopted under Title V of the Treaty on European Union)

COUNCIL JOINT ACTION 2006/623/CFSP

of 15 September 2006

on the establishment of a EU-team to contribute to the preparations of the establishment of a possible international civilian mission in Kosovo, including a European Union Special Representative component (ICM/EUSR Preparation Team)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular Article 14 and Article 25, third subparagraph, thereof,

Whereas:

- (1) Pursuant to United Nations Security Council Resolution (UNSCR) 1244, a process to determine the future status of Kosovo led by the UN Status Envoy Mr Martti Ahtisaari was launched at the beginning of November 2005. The success of this process is essential not only for providing a clearer perspective for the people of Kosovo but also for the overall stability of the region.
- (2) The United Nations will remain fully engaged in Kosovo until the end of UNSCR 1244. However, the UN has indicated that it will no longer take the lead in a post-status presence. The EU has a vital interest in a positive result of this process, as well as the responsibility and the means to contribute to such an outcome. The EU has declared that it stands ready to enhance its role in Kosovo following status settlement. The EU will thus have to undertake an important role in Kosovo in a complex environment.
- (3) The Stabilisation and Association Process is the strategic framework for the EU's policy towards the western Balkan region, and its instruments are open to Kosovo, including a European partnership, political and technical dialogue under the SAP Tracking Mechanism, and related Community assistance programmes.
- (4) On 12 July 2006 the SG/HR Solana and Commissioner Rehn submitted their report on 'The Future EU Role and Contribution in Kosovo' to the Council. The report analysed the nature, size and responsibilities of a future international engagement, the EU's role after status settlement, and practical means to realise Kosovo's future EU perspective, without prejudice to the outcome of the Status negotiations.
- (5) The Report stressed that the future international civilian mission in Kosovo (ICM) should be based on a UN SC Resolution. It should ensure the implementation of non-military aspects of the status settlement. The ICM will work with the Kosovo authorities to support implementation of the status settlement, exercising intervention powers if needed.
- (6) The Report recommended that the head of the ICM, who will be the international community representative (ICR) nominated by the UNSC, should be 'double-hatted' as EU Special Representative (EUSR). The ICR/EUSR will assume the central coordinating role with other international actors on all issues relating to the implementation of the status settlement and establish appropriate mechanisms. He/she will be an EU national appointed at the time of the status settlement. An important part of his/her mandate should be to play a major role in the establishment of the ICM during the transitional period between the status decision and the end of UNMIK's mandate.
- (7) The Report also recommended that an EU team to contribute to the preparations of the ICM, including the EUSR component, should be established as soon as possible. The European Commission should be fully associated to this effort. The ICM preparations should be carried out in close cooperation with other key international actors (notably UNOSEK, UNMIK, US).
- (8) In a letter to the SG/HR on 11 August 2006 the acting UN SRSG for Kosovo Steven P. Schook welcomed the EU's engagement in the discussions on the future international engagement in Kosovo and invited the EU to deploy an ICM/EUSR Preparation Team to Pristina.

- (9) On 10 April 2006, the Council adopted Joint Action 2006/304/CFSP⁽¹⁾ on the establishment of an EU Planning Team (EUPPT Kosovo), regarding a possible EU crisis management operation in Kosovo; the activities of the ICM/EUSR Preparation Team should be closely co-ordinated with those of EUPPT Kosovo.
- (10) In accordance with the guidelines of the European Council meeting at Nice on 7 to 9 December 2000, this Joint Action should determine the role of the SG/HR, in accordance with Articles 18(3) and 26 of the Treaty.
- (11) Article 14(1) of the Treaty calls for the indication of a financial reference amount for the whole period of implementation of the Joint Action. The indication of amounts to be financed by the general budget of the European Union illustrates the will of the legislative authority and is subject to the availability of commitment appropriations during the respective budget year.
- (12) The mandate of the ICM/EUSR Preparation Team will be implemented in the context of a situation where stability is not fully secured and which could harm the objectives of the Common Foreign and Security Policy as set out in Article 11 of the Treaty,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Objectives

1. The European Union hereby establishes a team to contribute to the preparations of the establishment of a possible international civilian mission in Kosovo, including a European Union Special Representative component (ICM/EUSR Preparation Team). The ICM/EUSR Preparation Team shall be operational no later than end September 2006.
2. The objectives of the ICM/EUSR Preparation Team shall be:
 - to contribute to the preparations of the establishment of a possible international civilian mission, in cooperation with the international community and the Kosovo institutions, and in close coordination with UNMIK regarding both its plans to complete the implementation of UNSCR 1244 and any necessary transitional arrangements towards a possible ICM,
 - to prepare, in full cooperation with the European Commission, as well as in consultation with the interna-

tional community and the Kosovo institutions, the elements for the future EU contribution to a possible ICM,

- Ensuring, without prejudice to Community competences and to the mandate of EUPPT Kosovo, a comprehensive, coherent and integrated EU role in Kosovo with regard to timely preparation of the EU's support for the implementation of a status settlement.

Article 2

Tasks

In order to carry out its objectives the ICM/EUSR Preparation Team shall focus on the following tasks:

1. conducting a close dialogue, particularly through the informal ICM task force, with all key local and international partners on their views regarding the preparations of a possible ICM;
2. initiating, with international partners and in consultation with UNOSEK, work on identifying possible elements for functions, structure and personnel strength for a possible ICM, including division of responsibilities and contributions among international actors and any transitional arrangements;
3. initiating work on identifying all necessary elements for the EU contribution to a possible ICM, including an EUSR component;
4. conducting close coordination with all relevant local and international partners, as set out in Article 10.

Article 3

Structure

The ICM/EUSR Preparation Team shall have an office of the Head of the ICM/EUSR Preparation Team in Pristina, a team of advisors and an administration team. The ICM/EUSR Preparation Team will be gradually deployed, taking into account the progress of the status talks.

Article 4

Head of the ICM/EUSR Preparation Team and staff

1. Mr Torbjörn Sohlström is hereby appointed Head of the ICM/EUSR Preparation Team.
2. The Head of the ICM/EUSR Preparation Team shall be responsible for managing and coordinating the ICM/EUSR Preparation Team's activities.

⁽¹⁾ OJ L 112, 26.4.2006, p. 19.

3. The Head of the ICM/EUSR Preparation Team shall assume the day-to-day management of the ICM/EUSR Preparation Team and shall be responsible for staff and disciplinary matters. For seconded personnel, disciplinary action shall be exercised by the national or EU authority concerned.

4. The ICM/EUSR Preparation Team shall primarily consist of civilian staff seconded by Member States or EU institutions. Each Member State or EU institution shall bear the costs related to any of the seconded staff seconded by it including salaries, medical coverage, travel expenses to and from Kosovo, and allowances other than per diems.

5. The ICM/EUSR Preparation Team may also recruit international staff and local staff on a contractual basis, as required.

6. While remaining under the authority of their sending Member States or EU institutions, all staff in the ICM/EUSR Preparation Team shall carry out their duties and act in the sole interest of the EU supporting action. All staff shall respect the security principles and minimum standards established by the Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations ⁽¹⁾ (hereafter referred to as Council's security regulations).

Article 5

Chain of command

1. The structure of the ICM/EUSR Preparation Team shall have a unified chain of command.

2. The PSC shall provide the political control and strategic direction to the ICM/EUSR Preparation Team.

3. The SG/HR shall give guidance to the Head of the ICM/EUSR Preparation Team.

4. The Head of the ICM/EUSR Preparation Team shall lead the ICM/EUSR Preparation Team and assume its day-to-day management.

5. The Head of the ICM/EUSR Preparation Team shall report to the SG/HR.

Article 6

Political control and strategic direction

1. The PSC shall exercise, under the responsibility of the Council, the political control and strategic direction of the ICM/EUSR Preparation Team.

⁽¹⁾ OJ L 101, 11.4.2001, p. 1. Decision as last amended by Decision 2005/952/EC (OJ L 346, 29.12.2005, p. 18).

2. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25(3) of the Treaty on European Union. This authorisation shall include the powers to appoint a Head of the ICM/EUSR Preparation Team, upon a proposal from the SG/HR. The powers of decision with respect to the objectives and termination of the ICM/EUSR Preparation Team shall remain vested in the Council.

3. The PSC shall receive reports at regular intervals and may request specific reports by the Head of the ICM/EUSR Preparation Team on the implementation of the tasks mentioned in Article 2 and on the coordination with other actors referred to in Article 10. The PSC may invite the Head of the ICM/EUSR Preparation Team to its meetings, as appropriate.

4. The PSC shall report to the Council at regular intervals.

Article 7

Participation of third States

Without prejudice to the decision-making autonomy of the EU and its single institutional framework, acceding States shall be invited to contribute to the ICM/EUSR Preparation Team provided that they bear the cost of the staff seconded by them, including salaries, medical coverage, allowances, high-risk insurance and travel expenses to and from the mission area, and contribute to the running costs of the ICM/EUSR Preparation Team, as appropriate.

Article 8

Security

1. The Head of the ICM/EUSR Preparation Team shall be responsible for the security of the ICM/EUSR Preparation Team and shall, in consultation with the Security Office of the General Secretariat of the Council, be responsible for ensuring compliance with minimum security requirements applicable to the mission.

2. The ICM/EUSR Preparation Team shall have a dedicated security officer reporting to the Head of the ICM/EUSR Preparation Team.

Article 9

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to ICM/EUSR Preparation Team shall be EUR 869 000.

2. The expenditure financed by the amount referred to in paragraph 1 shall be managed in accordance with the rules and procedures applicable to the general budget of the EU, with the exception that any pre-financing shall not remain the property of the Community.

3. The Head of ICM/EUSR Preparation Team shall report fully to, and be supervised by, the Commission on the activities undertaken in the framework of his contract. To this end, the Head of the ICM/EUSR Preparation Team shall sign a contract with the Commission.

4. The financial arrangements shall respect the operational requirements of the ICM/EUSR Preparation Team.

5. Expenditure shall be eligible as from the date of entry into force of this Joint Action.

Article 10

Coordination with other actors

1. The Head of the ICM/EUSR Preparation Team shall, together with international partners, and in close consultation with UNMIK, carry forward work in the informal ICM Task Force.

2. The ICM/EUSR Preparation Team shall meet regularly with EUPT Kosovo and with other EU actors in order to ensure close coordination and coherence in the preparation of the planning for the EU's post-status engagement.

3. Close coordination between the EU and all relevant actors, including the UN/UNMIK, UNOSCE, the OSCE, NATO/KFOR as well as other key actors such as the US and Russia, will continue to ensure complementarity and synergy of the efforts of the international community. To this end, the Head of the ICM/EUSR Preparation Team shall play an active role in the informal Steering Board for future arrangements in Pristina.

4. In performing his/her duties the Head of the ICM/EUSR Preparation Team shall participate in the EU coordination mechanisms established in Pristina, Kosovo.

5. All EU Member States shall be kept fully informed on the coordination process.

Article 11

Status of staff of the ICM/EUSR Preparation Team

1. Where required, the status of the ICM/EUSR Preparation Team staff in Kosovo, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of the ICM/EUSR Preparation Team shall be agreed in accordance with the procedure laid down in Article 24 of the Treaty on European Union. The SG/HR, assisting the Presidency, may negotiate such an agreement on its behalf.

2. The Member State or EU institution having seconded a staff member shall be responsible for answering any claims linked to the secondment, from or concerning the staff member. The Member State of EU institution in question shall be responsible for bringing any action against the secondee.

3. The conditions of employment and the rights and obligations of international and local contracted staff shall be laid down in the contracts between the Head of the ICM/EUSR Preparation Team and the staff member.

Article 12

Community action

The Council and the Commission shall, each in accordance with its respective powers, ensure consistency between the implementation of this Joint Action and external activities of the Community in accordance with the second subparagraph of Article 3 of the Treaty on European Union. The Council and the Commission shall cooperate to this end.

Article 13

Release of classified information

1. The SG/HR shall be authorised to release to NATO/KFOR EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the action, in accordance with the Council's security regulations.

2. The SG/HR shall be authorised to release to the UN/UNMIK and the OSCE, in accordance with the operational needs of the ICM/EUSR Preparation Team, EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the action, in accordance with the Council's security regulations. Local arrangements shall be drawn up for this purpose.

3. The SG/HR shall be authorised to release to third parties associated with this Joint Action EU non-classified documents related to the deliberations of the Council with regard to the action covered by the obligation of professional secrecy pursuant to Article 6(1) of Council Decision 2004/338/EC, Euratom of 22 March 2004 adopting the Council's Rules of Procedure ⁽¹⁾.

Article 14

Entry into force and expiry

1. This Joint Action shall enter into force on the date of its adoption.

2. It shall expire on 31 March 2007 or on the day of the appointment of an EUSR for Kosovo if the appointment of an EUSR occurs before 31 March 2007.

Article 15

Publication

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

Done at Brussels, 15 September 2006.

For the Council

The President

E. TUOMIOJA

⁽¹⁾ OJ L 106, 15.4.2004, p. 22. Decision as last amended by Decision 2006/34/EC, Euratom (OJ L 22, 26.1.2006, p. 32).

COUNCIL COMMON POSITION 2006/624/CFSP**of 15 September 2006****amending Common Position 2005/440/CFSP concerning restrictive measures against the Democratic Republic of Congo**

THE COUNCIL OF THE EUROPEAN UNION,

violations of international law involving the targeting of children in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement.

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

(5) Common Position 2005/440/CFSP should be amended accordingly.

Whereas:

(1) Following the adoption by the United Nations Security Council on 18 April 2005 of Resolution 1596 (2005) (UNSCR 1596 (2005)), the Council adopted on 13 June 2005 Common Position 2005/440/CFSP ⁽¹⁾ concerning restrictive measures against the Democratic Republic of Congo.

(6) The Community measures applicable to the individuals targeted under this Common Position are set out in Council Regulation (EC) No 1183/2005 of 18 July 2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo ⁽³⁾,

(2) On 29 November 2005, the Council adopted Decision 2005/846/CFSP ⁽²⁾ implementing Common Position 2005/440/CFSP, inserting in the Annex to that Common Position the list of persons subject to the measures imposed by UNSCR 1596 (2005).

HAS ADOPTED THIS COMMON POSITION:

Article 1

Article 3 of Common Position 2005/440/CFSP shall be replaced by the following:

(3) On 21 December 2005, the United Nations Security Council adopted Resolution 1649 (2005) (UNSCR 1649 (2005)) extending the measures imposed by UNSCR 1596 (2005) to political and military leaders of foreign armed groups operating in the Democratic Republic of Congo who impede the disarmament and the voluntary repatriation or resettlement of combatants belonging to those groups, and to political and military leaders of Congolese militias receiving support from outside the Democratic Republic of Congo and in particular those operating in Ituri, who impede the participation of their combatants in disarmament, demobilisation and reintegration processes.

'Article 3

In accordance with UNSCR 1596 (2005), UNSCR 1649 (2005) and UNSCR 1698 (2006) restrictive measures should be imposed against the following persons, as designated by the Sanctions Committee:

(4) On 31 July 2006, the United Nations Security Council adopted Resolution 1698 (2006) (UNSCR 1698 (2006)) extending the measures imposed by UNSCR 1596 (2005) to political and military leaders recruiting or using children in armed conflict in violation of applicable international law and to individuals committing serious

— persons who act in violation of the arms embargo,

— political and military leaders of foreign armed groups operating in the Democratic Republic of Congo who impede the disarmament and the voluntary repatriation or resettlement of combatants belonging to those groups,

⁽¹⁾ OJ L 152, 15.6.2005, p. 22.

⁽²⁾ OJ L 314, 30.11.2005, p. 35.

⁽³⁾ OJ L 193, 23.7.2005, p. 1. Regulation as amended by Commission Regulation (EC) No 84/2006 (OJ L 14, 19.1.2006, p. 14).

- political and military leaders of Congolese militias receiving support from outside the Democratic Republic of Congo and in particular those operating in Ituri, who impede the participation of their combatants in disarmament, demobilisation and reintegration processes,
- political and military leaders recruiting or using children in armed conflict in violation of applicable international law,
- individuals committing serious violations of international law involving the targeting of children in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement.

The relevant persons are listed in the Annex to this Common Position.'

Article 2

This Common Position shall take effect on the date of its adoption.

Article 3

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

Done at Brussels, 15 September 2006.

For the Council

The President

E. TUOMIOJA

COUNCIL COMMON POSITION 2006/625/CFSP**of 15 September 2006****concerning a prohibition on the sale or supply of arms and related materiel and on the provision of related services to entities or individuals in Lebanon in accordance with UNSC Resolution 1701 (2006)**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS COMMON POSITION:

Article 1

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

- (1) On 7 August 2006, the Government of Lebanon decided to deploy the Lebanese armed forces in South Lebanon and to request the assistance of additional forces for the United Nations Interim Force in Lebanon (UNIFIL) as needed, to facilitate the entry of the Lebanese armed forces into the region and restated its intention to strengthen the Lebanese armed forces with materiel as needed to enable it to perform its duties.
- (2) On 11 August 2006, the United Nations Security Council adopted Resolution 1701 (2006) (UNSCR 1701 (2006)) welcoming the decision of the Government of Lebanon to deploy its armed forces in South Lebanon as well as the commitment of the Government of Lebanon to extend its authority over its full territory, through its own legitimate armed forces. With a view to enabling the Government of Lebanon to exercise its full sovereignty over all Lebanese territory, so that there will be no weapons without the consent of the Government of Lebanon and no authority other than that of the Government of Lebanon, UNSCR 1701 (2006), *inter alia*, prohibits the sale or supply of arms and related materiel of all types as well as the provision of technical training or assistance related to the provision, manufacture, maintenance or use of arms and related materiel to any entity or individual in Lebanon unless authorised by the Government of Lebanon or by UNIFIL in the performance of its mission.
- (3) The prohibition on the provision of assistance related to the sale or supply of arms and related materiel should also cover financing and financial assistance.
- (4) Action by the Community is needed in order to implement certain measures,

1. The direct or indirect sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned to any entity or individual in Lebanon by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

2. It shall be prohibited:

- (a) to provide technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, directly or indirectly to any natural or legal person, entity or body in, or for use in, Lebanon;
- (b) to provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance for any sale, supply, transfer or export of arms and related materiel, or for the provision of related technical assistance, brokering services and other services, directly or indirectly to any natural or legal person, entity or body in, or for use in, Lebanon;
- (c) to participate, knowingly or intentionally, in activities the object or effect of which is to circumvent the prohibition referred to at points (a) or (b).

Article 2

1. Article 1 shall not apply to the sale, supply, transfer or export of arms and related materiel or the provision of technical assistance, financing and financial assistance, brokering services and other services related to arms and related materiel, provided that

- (a) the goods or services are not supplied, directly or indirectly, to any militia for whose disarmament the UN Security Council has called in its Resolutions 1559 (2004) and 1680 (2006), and

(b) the transaction has been authorised by the Government of Lebanon or UNIFIL, or

(c) the goods or services are for the use by UNIFIL in the performance of its mission or by the Lebanese armed forces.

2. The sale, supply, transfer or export of arms and related materiel or the provision of technical assistance, financing and financial assistance, brokering services and other services referred to in paragraph 1 shall be subject to an authorisation granted by the competent authorities of the Member States.

Article 3

This Common Position shall take effect on the date of its adoption.

Article 4

This Common Position shall be reviewed no later than 12 months after its adoption, taking into account determinations of the Security Council, and every 12 months thereafter.

Article 5

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

Done at Brussels, 15 September 2006.

For the Council,
The President
E. TUOMIOJA
