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II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 23 July 2008

on measures by Germany to assist DHL and Leipzig Halle Airport

C 48/06 (ex N 227/06)

(notified under document number C(2008) 3512)

(Only the German text is authentic)

(Text with EEA relevance)

(2008/948/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the above Articles ⁽¹⁾, and having regard to these comments,

Whereas:

1. PROCEDURE

(1) On 5 April 2006 the German authorities notified arrangements concerning the establishment of the European hub of DHL Group at Leipzig-Halle Airport (LEJ). On 27 April 2006, the Commission requested further information to which Germany replied on 24 July 2006. Meetings between the Commission services, the Airport, DHL, and the German authorities took place on 26 July and on 21 August 2006.

(2) By letter dated 23 November 2006, the Commission informed Germany of its decision to initiate the procedure provided for in Article 88(2) of the Treaty in respect

of these measures. On 12 December 2006 Germany requested an extension of the deadline for its reply which was accepted by the Commission. Germany transmitted its comments on 23 February 2007.

(3) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Union* ⁽²⁾. The Commission invited interested parties to submit their comments on the measures in question within one month of the publication date.

(4) The Commission received comments on the subject from interested parties. It transmitted the comments to Germany by letter dated 16 May 2007. Germany was given the opportunity to respond to them within one month. The Commission received Germany's observations by letter dated 13 June 2007.

(5) At the request of the German authorities, a meeting took place on 18 June 2007 and on 25 September 2007. These meetings were followed by the dispatch of additional information, as requested by the Commission, on 19 October 2007 and on 18 December 2007.

(6) Germany sent additional supplementary information to the Commission by letters dated 7 December 2007, 17 March 2008 and 9 April 2008.

⁽¹⁾ OJ C 48, 2.3.2007, p. 7.

⁽²⁾ See footnote 1.

2. DETAILED DESCRIPTION OF THE FACTS

2.1. The parties

2.1.1. Flughafen Leipzig/Halle GmbH

- (7) Flughafen Leipzig/Halle GmbH (hereinafter Leipzig Airport) is a subsidiary of Mitteldeutsche Flughafen AG (hereinafter MFAG). MFAG holds a participation of 94 percent in Leipzig Airport. The remaining shares are owned by Land Sachsen and the communities Delitzsch, Leipziger Land, and Schkeuditz. The shareholders of MFAG are: 73 percent Land Sachsen, 14 percent Land Sachsen-Anhalt, 6 percent Stadt Dresden, 5 percent Stadt Halle, 2 percent Stadt Leipzig. There are no private shareholders.

2.1.2. DHL

- (8) DHL (owned by Deutsche Post AG) is one of the major express parcel operators with a worldwide turnover of EUR 18,2 billion in 2005. Its European hub is currently located at Brussels Airport (BRU). Following problems with regulatory permissions for night flights, DHL negotiated with several airports to find a new location for its European hub. The short list consisted of Leipzig, Brussels, and Vatry (XCR) (France). Finally, DHL decided to move its European hub to Leipzig by 2008.
- (9) It should be noted that the DHL investment has been the subject of a previous state aid decision (N 608/2003). On 20 April 2004 the Commission approved the maximum regional aid intensity of 28 percent for DHL's investments at the airport under the 1998 Multisectoral framework rules⁽³⁾. Land Sachsen granted an aid amount of EUR 70,8 million to DHL. On 2 July 2007 the Commission adopted a partially positive partially negative decision and approved an amount of EUR 1.58 million with respect to training aid granted by Freistaat Sachsen and Land Sachsen-Anhalt to DHL in relation to its operations at Leipzig Airport⁽⁴⁾.

2.2. Measures under investigation

- (10) The opening decision investigated the following three measures:
- (a) Capital contributions of about EUR 350 million to Leipzig Airport for financing the construction of the new southern runway;

- (b) The Framework agreement between Leipzig Airport, its parent company Mitteldeutsche Flughafen AG (MFAG) and DHL, which obliges the airport to construct the new southern runway, and to honour further assurances for the entire [...] (*)-year duration of the agreement, inter alia a continuous 24/7 air access on the southern runway;

- (c) The comfort letter issued by the Land Sachsen in favour of Leipzig Airport and DHL which guarantees that Land Sachsen will compensate DHL for damages up to EUR [...] in the event that DHL will no longer be able to operate as foreseen at the airport (e.g. if night flights will be banned by the regulatory authorities).

2.2.1. Capital Contributions

- (11) According to the information at the disposal of the Commission, the planned investments involving the new southern runway will be financed by a mix of equity contributions and long-term shareholder debt.
- (12) In the opening of investigative procedure the Commission calculated that the construction of the new southern runway would be financed by about EUR 350 million of public capital contributions.

2.2.2. The Framework agreement

- (13) This is one of two measures notified by Germany on grounds of legal certainty; Germany maintains that these two measures do not constitute State aid in favour of DHL because the public authorities follow the market-investor principle. The Framework agreement sets out what Leipzig Airport and MFAG guarantee to fulfil prior to the construction and operation of the new hub and subsequently for the operation of the hub. The Framework agreement also includes other agreements on the operation terms, the airport fees, and the lease of land.

2.2.2.1. Warranty for 24/7 airport operation

- (14) Under the Framework agreement (which has been signed on 21 September 2005) Leipzig Airport and MFAG have to fulfil the following conditions:

- (a) Prior to the operation of the new hub on 1 October 2007, Leipzig Airport must complete the construction of the southern runway and ensure that the 24/7 operation of the airport will be possible. If Leipzig Airport cannot fulfil the conditions precedent to the start of the new hub, Leipzig Airport and MFAG may become liable to pay compensation up to EUR [...] (according to section 5 of the framework agreement).

⁽³⁾ 1998 Multisectoral framework on regional aid for large investment projects (OL C 107, 7.4.1998, p. 7).

⁽⁴⁾ State Aid C 18/07 (ex N 874/06) — Training aid to DHL at Leipzig-Halle, Germany (not yet published in the Official Journal).

(*) Business secret.

(b) Subsequent to the start of operations at the new hub, Leipzig Airport must continue to ensure the 24/7 operation of the airport and provide sufficient capacity to ensure DHL's operations as agreed in the operating terms for the following [...] years. If Leipzig Airport cannot fulfil the conditions subsequent to the start of the new hub, Leipzig Airport and MFAG are liable to compensate all damages and losses which DHL incurs. If DHL is essentially limited in its operations, DHL will also have the right to terminate the contract and receive compensation for all direct and indirect costs of moving to an alternative airport (according to sections 8 and 9 of the framework agreement). Leipzig Airport and MFAG have thus an unlimited obligation to compensate DHL for any resulting losses and damages — independently of whether caused by circumstance within or outside of Leipzig Airport's control. Germany estimates that in case night flights were to be banned by the regulatory authorities and DHL had to relocate to another airport, Leipzig airport could be liable to pay DHL up to EUR [...].

2.2.2.2. Airport fee arrangements

- (15) The airport fees will be the major source of revenue for financing the new southern runway. It is estimated that DHL will pay about EUR [...] in 2008 which is the first full year for the operation of the new hub. The airport fees are agreed in a separate contract which is attached to the Framework agreement.
- (16) All air carriers — either DHL or any other carrier — will be entitled to the same landing fees. The amount of the landing fee will decrease with the total traffic volume of Leipzig Airport. Therefore an air carrier which only undertakes a small number of movements will pay the same landing fee as DHL which will apparently be the heaviest user of the airport.

2.2.2.3. Lease contracts

- (17) The airport has concluded two lease contracts with Deutsche Post Immobilien GmbH (hereinafter DPI) and a building lease contract with Deutsche Post Grundstücksvermietungsgesellschaft beta mbH & Co Objekt Leipzig KG (hereinafter DPBS) in respect of certain constructions at the airport. The latter companies are part of the Deutsche Post World Net group. They will rent the properties to DHL by separate contracts.
- (18) Leipzig Airport will build an apron which will exclusively be used by DHL. The construction costs are estimated to be about EUR [...]. Leipzig Airport will rent the apron to DPI at the following conditions:

- (a) DPI pays the interest for the financing of the costs for the land and the construction, and a yearly amortisation of [...] percent of the construction costs.
- (b) Leipzig Airport is obliged to raise a credit to finance the construction of the apron. Thereby, Leipzig Airport must solicit offers from three different banks including Postbank (which is also a member of Deutsche Post World Net group) and choose the most favourable offer.
- (c) The contract is concluded for [...] years. DPI will be able to terminate the contract after [...] years without any reason or if DHL terminates the Framework agreement. If the contract is terminated within the first [...] years, DPI is obliged to pay the rental charges for [...] years less rent already paid.

(19) The second lease contract concerns further ground handling areas which Leipzig Airport rents to DPI at the same conditions as with the foregoing lease contract. The construction costs are estimated to be about EUR [...].

(20) The building lease contract concerns the plot of land on which DHL constructs its premises. Leipzig Airport will rent the building right to DPI at the following conditions:

- (a) DPI pays a rent of EUR [...] for [...] m² which works out at about EUR [...] per m².
- (b) This rent is fixed until [...] and is then adjusted by [...] of the change of the general price index.

(21) The lease contract for the apron and the building lease contract include provisions so that DHL has an option to rent further designated land plots until [...]. These options are granted [...] until [...]. Afterwards DHL has to pay EUR [...] per m² to keep the option. This option price will increase until [...].

(22) Both contracts include the provision that these land plots — independently of whether DHL executes its option or not — shall not be rented to competitors of DHL. The following companies are explicitly mentioned: [...], and [...].

2.2.3. Comfort Letter

- (23) The comfort letter guarantees the financial viability of Leipzig Airport during the term of the framework agreement, and obliges Land Sachsen to pay damages of up to EUR [...] in the event that DHL can no longer use the airport as planned. In contrast to the framework agreement by which Leipzig Airport and MFAG grant DHL an unlimited warranty, DHL can only claim compensation up to EUR [...] from Land Sachsen under the comfort letter. Any compensation claims above EUR [...] can only be addressed to Leipzig Airport and MFAG. Pending Commission approval the comfort letter has not yet entered into force.

2.3. Initial assessment by the Commission

2.3.1. Existence of aid

2.3.1.1. Capital injection

- (24) In relation to the construction costs of the new southern runway the Commission expressed the opinion that Leipzig Airport should earn enough revenue from the investments in the new southern runway as to cover (at least) its incremental costs, an appropriate contribution to the fixed costs of the existing facilities. However, on the basis of the business plan submitted by the German authorities, the Commission came to the preliminary conclusion that the expected increase in revenue from the operation of the new southern runway will not cover its incremental costs and that therefore the investment therein constituted State aid.

2.3.1.2. Framework Agreement

- (25) The opening decision set out that DHL will benefit of State aid if Leipzig Airport has offered more favourable contract terms than a private undertaking would have done. A private airport operator would expect to earn sufficient revenues from the investments in the new southern runway to cover (at least) its incremental costs, and to make an appropriate contribution to the fixed costs of the existing facilities, as well as offering appropriate remuneration for the capital employed while reflecting the risks assumed under the Framework agreement.
- (26) The opening decision asserted that the expected increase in revenues from the operation of the new southern runway would not even cover its incremental construction costs and lead in 2006 to a loss of about EUR [...] (see paragraph 70 of the opening decision). Consequently, Leipzig Airport would not be able to finance the risks assumed under the Framework agreement out of its own revenues.
- (27) In conclusion, the opening decision raised serious doubts whether a private undertaking would have
- (a) Agreed on airport fees and lease contracts which do not even finance the incremental costs of the southern runway;
 - (b) Assumed the commitments of the Framework agreement which further decrease the expected profitability of the airport operations;
 - (c) Concluded lease contracts which do not seem to correspond to local market conditions and limit the business opportunities.

2.3.1.3. Comfort letter

- (28) Concerning the comfort letter, the Commission's opening decision stated that the conditions in the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees ⁽⁵⁾ (hereinafter Guarantee Notice), which sets out the circumstances under which a guarantee does not constitute State aid, have not been met. It is required *inter alia* that the guarantee would in principle be available at market conditions from the financial markets without any intervention by the State, and that the guarantee is remunerated at market value. The new Guarantee Notice ⁽⁶⁾, which entered into force on 20 June 2008, follows the same principle and repeats this requirement.
- (29) In the present case neither condition is met: Germany submitted that Leipzig Airport sought, but was unable to, cover the risks eventually addressed by the comfort letter through private financial institutions ⁽⁷⁾. And neither DHL nor the airport is under an obligation to pay a premium, at market value or otherwise, for the risk assumed by the Land Sachsen.

2.3.2. Compatibility of aid

2.3.2.1. Compatibility of capital injection

- (30) In relation to the investment by the Land Sachsen in the construction of the new runway through capital contributions to Leipzig Airport, the Commission initially concluded that these constituted State aid. The compatibility of such aid has to be assessed under Article 87(3) of the EC Treaty and the practice of the Commission as consolidated by the 'Community guidelines on financing of airports and start-up aid to airlines departing from regional airports' ⁽⁸⁾ (hereinafter 'the 2005 Guidelines')

2.3.2.2. Compatibility of aid to DHL

- (31) The Commission noted that DHL's investment into its new European hub at Leipzig Airport has been the subject of a previous state aid decision (N 608/03). The Commission approved the maximum regional aid intensity of 28 per cent for DHL's investments at the airport under the 1998 Multisectoral framework rules ⁽⁹⁾, whereupon the Land Sachsen granted an aid amount of EUR 70,8 m to DHL.

⁽⁵⁾ OJ C 71, 11.3.2000, p. 16 (paragraph 4.2).

⁽⁶⁾ OJ C 155, 20.6.2008, p. 10.

⁽⁷⁾ Submission from Germany, 21 July 2006, p. 7.

⁽⁸⁾ OJ C 312, 9.12.2005, p. 1.

⁽⁹⁾ 1998 Multisectoral framework on regional aid for large investment projects (OL C 107, 7.4.1998, p. 7).

- (32) As the Commission had already authorised the maximum regional aid intensity of 28 per cent for the DHL investments, any further aid — which DHL could be granted under the comfort letter or the Framework agreement — can not be considered compatible with the common market.

3. COMMENTS FROM GERMANY

3.1. Aid to the airport in connection with the infrastructure developments

3.1.1. *Background facts regarding the development of Leipzig Airport*

- (33) The German authorities stated that Leipzig Airport was originally built as a military base with one (Northern) runway. In 1960 a second (Southern) runway was added with the two runways forming a V-alignment. The alignment of this Southern runway was decided on the basis of the military airspace structure of the GDR. This design however did not take account of environmental or meteorological considerations: it did not provide favourable conditions for take-off and landing and the flight paths were directly above densely populated areas in North Leipzig and South Halle.
- (34) By 1980 defects began to appear in the Southern runway which had a detrimental effect on the airport. Remedial action was taken by laying a new concrete surface on top of the runway. By the early 1990s it became apparent that these renovation measures were inadequate — cracks in the new upper surface caused extensive spalling and major longitudinal distortions at both ends of the runway. The resulting buckling of the runway posed a serious safety risk and required high levels of maintenance.
- (35) After German reunification a master plan was put in place for the development of Leipzig Airport as a civil airport which envisaged the future construction of a two-runway system as a basis for action. In 1994, an Advisory Committee, on which the Federal Ministry of Transport, Land Sachsen and Land Sachsen-Anhalt were represented, was created to oversee the development of the airport's infrastructure. The committee was focused on whether the existing southern runway should be repaired before the construction of a new northern runway.
- (36) The decision to develop a system of two parallel runways was made in 1997. The first step in the development of this system was the re-construction of the northern runway which started immediately. At this stage steps were taken to enable the airport to support two runways; for example: the taxiway was aligned and the northern runway was levelled. Detailed plans for the rebuilding of the southern runway were drawn up in 2002 as the last step in the airport's long-term expansion programme.

This was to involve the renovation and realignment (through 20 degrees) of the existing southern runway.

- (37) The final decision on the specifications of the renovated southern runway was taken on 4 November 2004. It was nevertheless the result of a lengthy, formal and complex planning procedure. On that date preparatory construction measures were already underway, for example preliminary archaeological analyses of the ground, realignment work and the purchase of additional land.
- (38) The development of the airport also fits with Land Sachsen's Development Plan of December 2003, which identifies the optimisation of the runway system as express goals: both in terms of length and direction of the southern runway and in terms of adequate facilities for cargo handling.
- (39) Germany submits that by the stage that these decisions were taken it had become increasingly clear that well known companies in the air freight sector regarded the civil airport of Leipzig/Halle as an attractive location and that the development of the southern runway would have been carried out even if DHL had not set up its European hub in Leipzig. It also argues that the fact that it was not until 21 September 2005 that the framework agreement was concluded between DHL and Leipzig airport is further evidence that the decision to rebuild the southern runway was taken independently of DHL's intentions.

3.1.2. *Existence of Aid*

- (40) Germany disputes the Commission's assertion that state aid rules apply both to the operation and to the construction of regional airport infrastructure. It maintains that investment in infrastructure is not an economic activity but a matter for regional and economic policy. In this context, airports would not be 'undertakings' within the meaning of Article 87(1) EC. Germany argues that this is particularly important in relation to regional airports which would struggle to reach the necessary passenger volumes to become self-financing.
- (41) Germany disputes the Commission's interpretation of the *Aéroports de Paris* judgment on three grounds. Firstly, Germany argues that the reasoning of the Court is not such that Article 87 EC should be understood in the light of Article 82 EC. Secondly, Germany argues that the *Aéroports de Paris* judgment refers to the operation of an airport, not — as in Leipzig/Halle — to the construction of publicly accessible infrastructure. Finally, according to Germany, *Aéroports de Paris* dealt with an international hub whose economic situation fundamentally differs from that of a regional airport. It is commonly known that private financing is not a viable alternative to public financing for the funding of regional airport infrastructure.

- (42) Germany submits that the construction of the southern runway ought to be judged against the applicable Community rules 'Application of Article 92 and 93 of the EC Treaty and Article 61 of the EEA Agreement to State aids in the Aviation sector' ⁽¹⁰⁾ (hereinafter 'the 1994 Guidelines') which stipulate that 'The construction or enlargement of infrastructure projects (such as airports ...) represents a general measure of economic policy which cannot be controlled by the Commission under the Treaty rules on State aids' rather than the 2005 Guidelines, which subject airport operators to state aid rules. Germany argues that (a) the application of the latter set of Guidelines to this case violates the principle of non-retroactivity and (b) Paragraph 85 of the 2005 Guidelines confirms that they can only be applied from their date of publication in the *Official Journal* (9 December 2005). Given that the decision to finance the infrastructure was made before that date, Germany argues that the old guidelines must be applied.
- (43) Furthermore, a negative Commission decision would violate the principle of legitimate expectation. A prudent airport operator would not have foreseen that state-funding of regional airport infrastructure would be assessed against the rules on state aid. This assessment was first made in the 2005 Commission decisions involving *German regional airports* and *Antwerp Airport* ⁽¹¹⁾; which were adopted after the decision to rebuild the southern runway at Leipzig/Halle.
- (44) Germany further argues that in Decision C 27/07 concerning *Flughafen Berlin Schönefeld* ⁽¹²⁾ the Commission acknowledged that the *Aéroports de Paris* decision only refers to the management of an international hub. The Commission itself explicitly remarked in *Flughafen Berlin Schönefeld* that this approach was expanded to all kinds of airports by the 2005 Guidelines. Therefore the enlargement of the scope of application of State Aid law is not based on case law but on a political decision of the Commission from 2005, which cannot therefore be retroactively applied.
- (45) Finally, Germany argues that there is no recipient of state aid where the state transfers responsibility of the operation of infrastructure to a different body whose sole reason for existence is the administration of the infrastructure.
- (46) Germany states that in the event that this reasoning is not accepted, the 2005 Guidelines foresee that the financing of activities that normally fall within the State's sovereign responsibilities do not fall within the scope of state aid rules. This applies to the areas of safety, air traffic control, police, customs, air navigation etc (see section 3.1.4 below).
- (47) Germany points out that, according to the new state aid policy of the Commission, the airport operator can be an undertaking within the meaning of Article 87(1) EC and therefore recipient of aid. However, at the same time that operator shall be deemed to be the 'owner of the infrastructure' and donor of aid to DHL by the framework agreement. In its view these two roles are incompatible.
- 3.1.3. Application of the market economy investor principle
- (48) Germany maintains that this case is covered by the exemption in the 1994 guidelines, thus rendering an analysis of the facts under the market economy investor principle unnecessary. In the event that the Commission comes to the contrary conclusion, Germany conducted the following analysis of the market economy investor principle with reference to three scenarios:
- (1) status quo;
- (2) expansion without knowledge that DHL would base its operations at Leipzig Airport; and
- (3) expansion in the knowledge that DHL would base its operations at Leipzig Airport.
- (49) In this regard, Germany argues that the test must be applied to the situation on 9 December 2005, when the 2005 Guidelines came into force, rather than to the actual decision of the supervisory board of 4 November 2004. Thus Germany submits that the test is whether a private investor would have continued with the construction of the second runway rather than maintain the status quo given the known facts on 9 December 2005.
- (50) Germany's calculations, as presented below in recitals 55 and 56, are based on the Commission's calculations from the opening of procedure and the company's discounted value at the end of its lifetime (2042). A distinction is drawn between investments made before and after 9 December 2005.
- (51) *Status Quo*: The airport is reliant upon its two runways but operates within certain limitations: for example there is a weight restriction in place on the southern runway of 30 tonnes; the maximum hourly traffic is limited to 38-42 takeoffs and landings (amounting to around 30 000 annually); and there are only 60 aircraft parking bays.

⁽¹⁰⁾ OJ C 350, 10.12.1994, p. 5.

⁽¹¹⁾ Decision of 19 January 2005, N 644i/02 — German regional airports; Decision of 20 April 2005, N 355/04 — Antwerp Airport.

⁽¹²⁾ Decision of 10 July 2007, C 27/07 — Berlin Schönefeld Airport.

(52) *Expansion without knowledge that DHL would base its operations at Leipzig Airport:* Germany argues that even without DHL choosing to base its operations at Leipzig, the airport needed increased capacity to support higher levels of freight traffic and night flights due to the expected imposition of restrictions on night flights at Frankfurt/Main Airport. In 2012, an estimated 300 000 tonnes of air freight were expected to be displaced from Frankfurt/Main. This estimate is a quarter of the total volume of air freight and does not include the carrying of freight on passenger flights (which would not be impacted by the night flight restrictions). For the years 2013-2018, a further displacement of 100 000 tonnes of air freight is expected due to other airports reaching capacity restrictions. From 2019 onwards, the German authorities predict an annual growth rate of 3 %. They argue that this is a conservative estimate based on a report by ProTransAG ⁽¹³⁾ which forecasts annual growth rates of 8 to 10 % in the express services market.

(53) *Expansion with DHL:* For the scenario of an expansion with DHL the effects of the relocation of an express service provider to the airport Leipzig/Halle are particularly considered as from 2008. The forecast scenario 'Expansion with DHL' is stated to be a conservative one, a realistic middle scenario would reach a considerable better results. Hence the scenarios of expansion particularly differ in the early stage. Due to the establishment of DHL at the airport there is a considerably steeper increase of the development of sales.

(54) The development of the new southern runway is based on the same capital outlay in all scenarios, independently of the DHL settlement with earlier increases in turnover. Only the extension investments at the freight aprons are not made until 2012 in the scenario 'Expansion without DHL', according to the capacity requirements.

(55) In order to compare payment flows occurring at different times, the German authorities have in their calculations applied a discount factor of 6,5 % (this rate is adjusted for inflation, the nominal discount rate being 7 %). This discount factor was determined using the Capital Asset Pricing Model (hereinafter: CAPM) and was based on the following assumptions:

- (a) Risk-free rate at the end of 2005 of German government bonds of 3,75 %
- (b) Market risk premium (based on the risk of volatility or variation of the yield of a portfolio reflecting the overall market) of about 5 % based on an expert source ⁽¹⁴⁾
- (c) A 'beta' 'β' representing the relation between the market risk and the risk involved in a specific investment. The German authorities based their beta of regional airports in the published report of PriceWaterhouseCoopers amounting to 0,65.

⁽¹³⁾ Expert report commissioned by the competent national authority as part of the planning approval procedure.

⁽¹⁴⁾ Dimson E./Marsh P./Staunton M: Chapter 10, in Handbook of investments: Equity risk premium, Volume 1, 2007.

(d) A rate of inflation of approximately 0,50 % has been taken into consideration ⁽¹⁵⁾.

Table 1

Comparison of the 'Status Quo', 'Expansion without DHL' and 'Expansion with DHL' scenarios

(EUR thousand)

	(1)	(2)	(3)	(3-1)	(3-2)
	Status Quo	Expansion without DHL	Expansion with DHL	Difference	Difference
EBITDA 2006-2042	[...]	[...]	[...]	[...]	[...]
Investment costs 2006-2042	[...]	[...]	[...]	[...]	[...]
Discounted value of the company at the end of its lifetime	[...]	[...]	[...]	[...]	[...]
Sum	[...]	[...]	[...]	[...]	[...]

(56) Furthermore, the German authorities argue that a correction of the status quo scenario should be made in order to include purchase commitments and deconstruction costs. The airport had entered into obligations totalling EUR 108,3 million, which would have had to be paid out even if all construction work had been halted. Furthermore a return to 'status quo' would have necessitated deconstruction work costing an estimated EUR 100 million.

Table 2

Comparison of the 'Status Quo' and 'Expansion with DHL' scenarios, taking into account purchase commitments and deconstruction costs

(EUR thousand)

	(1)	(2)	(2-1)
	Status Quo	Expansion with DHL	Difference
EBITDA 2006-2042	[...]	[...]	[...]
Investment costs 2006-2042	[...]	[...]	[...]
Discounted value of the company at the end of the lifetime	[...]	[...]	[...]
Purchase commitments	[...]	[...]	[...]
Deconstruction costs	[...]	[...]	[...]
Sum	[...]	[...]	[...]

⁽¹⁵⁾ Discount factor (real discount rate) = [risk free rate + (market risk premium × β)] — rate of inflation.

- (57) Furthermore, the German authorities have informed the Commission by letters of 9 April 2008 that the previously carried out calculation in the context of the market economy principle include investments and operating costs with regard to security and safety measures that fall within the public policy remit and are outside the State aid control. Therefore, those costs should not be taken into account in the present calculation.

Table 3

Comparison of the 'Status Quo', 'Expansion without DHL' and 'Expansion with DHL' scenarios without the investment and operating costs into security and safety measures

(EUR thousand)

	(1)	(2)	(3)
	Status Quo	Expansion without DHL	Expansion with DHL
EBITDA 2006-2042	[...]	[...]	[...]
Investment costs 2006-2042	[...]	[...]	[...]
Discounted value of the company at the end of its lifetime	[...]	[...]	[...]
Sum	[...]	[...]	[...]

3.1.4. Non-commercial activities

- (58) While maintaining its position that the financing of the expansion of the southern runway at Leipzig/Halle Airport is a general economic measure which as such is, as a whole, not subject to state aid control, the German authorities have provided the Commission with information regarding investments undertaken within the measure under examination which in their opinion fall within the areas of safety, air traffic control, police, customs, air navigation etc (see Table below). These investments are detailed in recitals 58 to 69.

Table 4

Investments into security and safety measures 2006-2042 in EUR (nominal values)

(EUR)

Total amount of the investments into security and safety measures 2006-2042	Status quo	Extension without DHL	Extension with DHL
<i>Public Safety</i>		[...]	[...]
Fence	—	[...]	[...]
Fencestreet	—	[...]	[...]

(EUR)

Total amount of the investments into security and safety measures 2006-2042	Status quo	Extension without DHL	Extension with DHL
Control point 2	—	[...]	[...]
Control point 4	—	[...]	[...]
Control point 1	[...]	[...]	[...]
Security and control system	[...]	[...]	[...]
Access control system south	—	[...]	[...]
Integrated control center	[...]	[...]	[...]
Integrated control center equipment	[...]	[...]	[...]
Video equipment south	—	[...]	[...]
Veterinary border control	—	[...]	[...]
<i>Firefighting</i>		[...]	[...]
Interim fire brigade south	—	[...]	[...]
Firefighting and rescue equipment	[...]	[...]	[...]
<i>Operational Safety</i>		[...]	[...]
Uninterruptible Power Supply (UPS) Apron 4/5	—	[...]	[...]
Uninterruptible Power Supply (UPS) South/West	—	[...]	[...]
Uninterruptible Power Supply (UPS) South/East	—	[...]	[...]
Transformer station	—	[...]	[...]
High and low voltage cabling for German Weather Service (DWS)	—	[...]	[...]
High and low voltage cabling for German air traffic control (DFS)	—	[...]	[...]
<i>Navigation lights</i>		[...]	[...]
Navigation lights runway south	—	[...]	[...]
Navigation lights new aprons	—	[...]	[...]
Total	[...]	[...]	[...]

(59) In addition to investments, the German authorities draw the attention of the Commission to costs arising from the ongoing operational expenses (materials and personnel costs) for the relevant areas. They refer in this respect to the 2005 Guidelines, pursuant to which in general, 'activities that normally fall under State responsibility in the exercise of its official powers as a public authority' do not fall within the scope of the Guidelines (see points 33 and 54 of the Guidelines). The German authorities have deducted from these costs the revenue resulting from security charges according to § 8(3) of the Aviation Security Act (*Luftsicherheitsgesetz, hereinafter: LuftSiG*). This revenue concerns charges for the passenger control at the airport.

Table 5

Total operating security and safety cost and revenue 2006-2042 in EUR (nominal values)

(EUR)			
Operation security cost and revenue 2006-2042	Status quo	Extension without DHL	Extension with DHL
(1) material cost	[...]	[...]	[...]
(2) personnel cost	[...]	[...]	[...]
(3) depreciation	[...]	[...]	[...]
(4) other cost	[...]	[...]	[...]
(5) <i>Sum security cost</i> (1) + (2) + (3) + (4)	[...]	[...]	[...]
(6) <i>Security charges</i>	[...]	[...]	[...]
(7) Total (5)-(6)	[...]	[...]	[...]

Public Safety

(60) The safety facilities and the security measures carried out correspond to obligations for airport operators arising from national legislation, namely the Aviation Security Act (*LuftSiG*), as well as the Air Traffic Act (*Luftverkehrsgesetz, hereinafter: LuftVG*) and the recommendations of the International Civil Aviation Organisation (ICAO) regarding measures to avert danger to aviation in the planning, construction and operation of commercial airports.

(61) In order to avoid unauthorised access to the secured area of the airport all persons, vehicles and goods have to pass through access control points, which are equipped with secured gates, x-rays and hand probes. A security and control system is used to operate and supervise access to the security area. The security control centre also allows access to the hazard alert system (i.e. fire detectors and building technology centre etc.) and the access control system (i.e. burglary, hold-up alarm system, video control monitoring etc.). Because of the change in the alignment of the new southern runway it was necessary to re-build the perimeter fence and furthermore to construct two additional access control points (control points 2 and 4).

(62) Moreover, the security measures listed must be set out by the operator in an aviation security programme within the meaning of Article 5(4) of Regulation 2320/2002 ⁽¹⁶⁾ which must be presented for approval to the Aviation Safety Agency. The operator of a commercial airport is obliged to perform the security measures provided for in the approved aviation security programme. The aviation security programme of Leipzig/Halle Airport was approved by the Air Traffic Department of the Ministry for Economic Affairs and Labour of Land Sachsen on 25 October 2007. In order to comply with the obligations arising from the Aviation Security Act, the airport operates its own security department.

(63) As the airport has decided to permit goods traffic from non-EU countries according to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽¹⁷⁾ a veterinary border inspection post must be provided at the airport for the handling and possible storage of animal products and animals.

Firefighting

(64) The airport is obliged under law to provide fire prevention and rescue services. Airport fire prevention and rescue services are one of the pre-conditions in order to obtain an operating licence. In order to comply with the applicable regulations for fire fighting and rescue services it was necessary to provide the new southern runway with its own fire station. Leipzig/Halle airport is therefore equipped with two fire stations ⁽¹⁸⁾ located in the north and south areas of the airport respectively.

Operational safety/redundant electrical supply

(65) The airport is obliged to have a back-up electricity supply. Due to the regulatory requirements this can only be achieved with an Uninterruptible Power Supply (UPS). For this purpose, diesel dynamic UPS systems have been installed in each of the three navigation lighting stations on the southern runway.

(66) According to the German authorities, in order to secure the power supply including the redundancy capability and to create capacities for the establishment of further businesses on Leipzig/Halle Airport, it became necessary to expand the power supply. For this purpose, the construction of a transformer station at a cost of EUR 5 million was planned.

⁽¹⁶⁾ Establishing common rules in the field of civil aviation security (OJ L 355, 30.12.2002, p. 1).

⁽¹⁷⁾ OJ L 24, 30.1.1998, p. 9.

⁽¹⁸⁾ Both fire stations have identical technical equipment; a replacement investment is necessary after 15 years.

- (67) The airport also incurred expenses (i.e. high and low voltage cabling) relating to the new orientation of the southern runway in relation to its obligations under air traffic control regulations (§ 27(d) LuftVG) and in relation to its obligations vis-à-vis the German Weather Service (§ 27(f) LuftVG).

Navigation Lighting

- (68) In relation to navigation lighting the rules are set out in ICAO Annex 14 ⁽¹⁹⁾. In Germany, the 'General Principles of the Federation and the Länder on the marking and navigation lighting of airports with instrument flying' (*Gemeinsame Grundsätze des Bundes und der Länder über die Markierung und Befahrung von Flugplätzen mit Instrumentenflugverkehr*) apply these rules. The airport incurred expense in relation to the navigation lighting that had to be installed in relation to the new runway.
- (69) According to the German authorities the planned construction of further aprons in the years after 2010 will necessitate the provision of corresponding navigation lighting systems for the apron areas. They add that operational costs need to be taken into account (see table 4 above).

3.1.5. Compatibility of aid

- (70) In the event that the Commission considers that the investment constitutes State aid, Germany wishes to point out that the investments consist of 'existing aid' within the meaning of Regulation 659/1999 ⁽²⁰⁾, being 'aid which is deemed to be an existing aid because it can be established that at the time it was put into effect it did not constitute an aid, and subsequently became an aid due to the evolution of the common market'.
- (71) Germany also submits that rebuilding the southern runway was in the general interest within the meaning of Article 87(3) EC, and provides some argumentation in this regard. Germany states that construction of the new southern runway will increase the integration of national and international transport systems, and bring economic benefits to the region. International companies, which use express services to distribute their products, have located in the Halle/Leipzig region. The air cargo hub has already attracted a number of internationally active businesses to the region, which continue to create much-needed jobs. The freight hub generates a climate which is conducive to business and investment, and this, in turn, has a positive effect on employment. Germany refers to an analysis of Prof. Dr. Juenemann, which forecasts that the DHL hub in Leipzig/Halle alone will generate jobs for about 3 500 people directly and for about 7 000 people indirectly upon completion of the airport in 2008. Most of these jobs will be the result of specialised companies locating in the region because of the hub.
- (72) The new alignment of the southern runway also has environmental benefits. It avoids that in the future

densely populated areas in the North of Leipzig and in the South of Halle are over-flown. An area of Leipzig, which is located close to the airport grounds and at the head of the original southern runway, was particularly affected by noise. Because the take-off and approach paths of each runway were aligned differently, the noise pollution from aircraft was concentrated there. Furthermore, it is stated that by the new alignment of the southern runway damage to the environment in the densely populated conurbation Leipzig/Halle will be minimised.

- (73) In addition, the old southern runway was not facing in a direction with favourable meteorological conditions for take-off and landing. The most common prevailing wind direction, taken over the year and for individual months, is south-westerly. Consequently, there is a difference of around 20 degrees between the alignment of the old southern runway and the predominant wind direction. This can be disadvantageous with regard to disruptive crosswind components. The new alignment satisfies meteorological requirements, above all enabling CAT III (all-weather) instrument flight operations, something which was previously not possible. A distance of more than 2000 metres between the runways allows independent air traffic.
- (74) The German authorities assert that all planning decisions regarding the airport were made with a view to long-term demand, and the specific advantages of the airport, focussing increasingly on freight transport. Foremost amongst these advantages is the unrestricted night flight permission for both runways. There are extensive night flight restrictions at many European airports. Such restrictions significantly impact all air cargo operations, especially in the express sector, while the operation of an air cargo hub is only possible at airports without night flight restrictions.
- (75) Typically, however, such airports are located in thinly populated areas with deficient ground transport infrastructures. Leipzig airport offers the advantage of being integrated in an excellent road and rail network. The regional plan for western Sachsen published in 2001 illustrates the planned development of infrastructure in the area. According to the plan the airport should be developed so as to enhance the region as part of a transport network for national as well as international freight.
- (76) The airport is located at the intersection of two motorways which connect the main catchment areas with the airport in North-South and East-West direction. The road network is complemented by main roads which will be extended according to the development of the airport. The airport also has excellent rail connections. The ICE-Erfurt-Halle/Leipzig is located near to the airport and makes it easily accessible in combination with intercity and regional trains.

⁽¹⁹⁾ Annex to the Convention on International Civil Aviation.

⁽²⁰⁾ OJ L 83, 27.3.1999, p. 1.

- (77) In the view of the German authorities, this rare convergence of positive aspects is even more valuable considering the diminishing capacities and infrastructural shortcomings of other German airports. Thus Leipzig airport has decided, in contrast to other German airports, to specialise in the air cargo business — a niche market.
- (78) The air freight sector, especially express freight, is showing considerable growth rates. This development is forcing the larger express service providers to expand their operational capacities, while existing airport capacities continue to decline, and night flight restrictions are rising.
- (79) With regard to the Commission's misgivings about the viability of the southern runway renewal, the German authorities mention the decision in the Antwerp Airport case, where the Commission stated that in respect of regional airports, regional limitations may not allow airports to generate the revenues needed to provide adequate airport services or to maintain airports on economically viable terms. Therefore, to allow these airports to operate as regional access points in the public interest public financial support may be needed.
- (80) The availability of two independent runways is an indispensable precondition for the operation of a modern cargo airport. This is all the more true in the case of central hubs and express services. Without a second runway Leipzig airport could not function as an air cargo hub and not focus on the niche market of the express freight sector as described above. Passenger numbers are entirely irrelevant as to the question whether a system of parallel runways is necessary.
- (81) Because of the alignment of the old southern runway at the airport the old southern and the new northern runway could not operate at the same time. The take-off paths and the approach paths crossed at a point close to the airport, meaning that the German Air Traffic Control had to treat the two runways as if they were a single runway for flight operations. Furthermore adverse weather conditions or accidents could cause disruptions to the logistics chain. The availability of a second parallel runway is thus vital to guarantee the airport's uninterrupted operation, and to attract air freight service providers. This assessment was shared by the competent authority within the planning approval procedure for the rebuilding of the southern runway. The authority had obtained an expertise on the question if it was necessary to turn the southern runway parallel to the northern one, or if the runways could be used as a V-runway system. The outcome was that even for passenger flights the average delays because of the use of a V-runway system would not be acceptable, and air freight traffic would be impossible to handle. It was also found that the delays at an express freight hub would accumulate because the loading and unloading of air freight from aircraft which had landed late would inevitably affect the departure times of the other aircraft. The logistic chains at the gateways would collapse. The parallel runway system thus increases the flexibility of the airport, and renders it more attractive to potential users.
- (82) The planning authority confirmed after examining the relative merits of all the public interests concerned, that the plans for expansion made good economic sense and that the economic opportunities by far outweighed the risks. The planning authority came to the conclusion that there was, both macro-economically and micro-economically, a need for an infrastructure which would make the airport a central hub for air freight. Furthermore, the turning of the southern runway reduces the risk of collision. The Federal administrative Court upheld the planning decision in its judgement of 9 November 2006 and didn't find any errors of consideration in the decision.
- (83) The German authorities reiterate that the decision to rebuild the southern runway was made independent of and before DHL's decision to move its principal operations from Brussels to Leipzig. In fact DHL was only assured the use of the southern runway during two defined time-slots during the night (corresponding to a guaranteed share of [10-25] %, in terms of time, for use of the southern runway), while use of the runway is free to anyone in the remaining night-time hours, and during the day.
- (84) According to Germany, the measure does not therefore adversely affect Community trade since capacities in the market for air cargo transport — especially in the express sector — are currently extremely limited throughout Europe.

3.2. Aid to DHL

3.2.1. Framework agreement

3.2.1.1. Market conformity of guarantees provided by framework agreement

- (85) According to Germany, the airport has followed the market economy investor principle when signing the Framework Agreement because the positive effects and profitability of the agreement with DHL outweigh the risks and commitments assumed by the airport. The remaining risk assumed by Leipzig Airport regarding obligations in terms of capacity and operation is very low.
- (86) Germany is of the opinion that the airport acted as a private investor in first taking the decision to build the southern runway on 21 November 2004 and only a year later on 21 September 2005 to decide whether or not to sign the framework agreement. The relevant test is therefore whether the airport expected in 2005 to earn a higher cash-flow in the business scenario 'expansion with DHL' than in the alternative scenario 'expansion without DHL'. Due to the fact that the construction of the southern runway was already well advanced in September 2005, a stop of the works would not have been anymore an economically viable alternative.

- (87) Contrary to earlier submissions, Germany also introduces terminal values in the cash-flow calculations, seeking to demonstrate a higher profitability of the southern runway. The calculation of the terminal value is based on a linear expansion of the business results in the years 2038 — 2042 with an average revenue growth of 3 percent.
- (88) The introduction of the terminal values has a significant effect on the profitability of the business scenarios. While Germany calculates a discounted cash-flow for the period 2006 to 2042 of about EUR [...] for the expansion with DHL and of about — EUR [...] for the expansion without DHL, the terminal values — which are also discounted to 2006 — amount to about EUR [...] and respectively EUR [...]. As can be seen from these figures, the terminal values increase the profitability of the expansion scenario with DHL by a factor of almost [...] and turn the expansion without DHL from a loss-making into a profitable project with a cash-flow of about EUR [...].
- (89) Taking the difference in the calculated cash-flow between the two scenarios, Germany arrives at the conclusion that the expansion scenario with DHL yields in 2005 a cash-flow which is about EUR [...] higher than the expansion scenario without DHL ⁽²¹⁾.
- (90) Concerning the risk calculation, Germany advances the argument that risk insurance is common business practice and that, in the current case, the risk can be financed from cash-flow. Germany values the risk arising from the framework agreement at about EUR [...] in the event that night flight restrictions are put into place and suggests that this risk could be financed from the gain in cash-flow attributable to DHL ⁽²²⁾. A private investor would have accepted the compensation risk because the EUR [...] positive cash-flow for the expansion with DHL-scenario would be enough to cover the risk of compensation claim of EUR [...].
- (91) Besides this consideration for the risk of a night flight ban, Germany regards a discount rate of 6.5 percent as reasonable given that the revenues in the calculations are not adjusted to inflation and the low risks assumed by Leipzig Airport. This assessment is backed up by references to decisions of the UK airport regulator concerning the setting of airport fees for the period 2008 to 2013.
- These calculations relied on comparable costs of capital (in real terms and pre-tax) of 6.2 percent for Heathrow Airport and 6.7 percent for Gatwick Airport.
- (92) Furthermore, Germany emphasises that for assessing the proportionality of the Framework Agreement it has to be taken into account that (i) DHL assumes major business risks by investing about EUR 250 million in its new European hub and tying itself to Leipzig in the long term and (ii) Leipzig Airport would be compensated if DHL decided to stop its operations before the expiration of 15 years.
- (93) Germany concludes that signing the Framework Agreement carries a greater economic advantage than not signing it and, therefore, a private investor would have signed the Framework Agreement with DHL. Consequently, the Framework Agreement has no element of State aid.
- ### 3.2.1.2. Market conformity of lease contracts
- (94) Germany points out that a lease contract had to be agreed for the apron because the airport should always remain the owner of the infrastructure in order to guarantee the public access to the apron for reasons of air transport and planning rules, also in the case the contract with DHL is cancelled.
- (95) Regarding special provisions established in the above mentioned lease contracts giving DHL an option right to rent land plots adjacent to DHL's premises and explicitly forbidding renting those land plots to DHL competitors Germany documents firstly that Airport Leipzig possess a large number of land plots which are not adjacent to DHL's premises and are available for the location of competitors. Secondly, Germany puts forward that the reservation of adjacent land plots to DHL is in line with the principle of 'protection of the economic interests of tenants' as recognised by German rent law ⁽²³⁾.
- ### 3.2.1.3. Market conformity of airport fees
- (96) According to Germany the airport has acted like a private investor as the starting and landing fees agreed with DHL correspond to normal market conditions being even considered to be in upper boundary compared to what DHL pays in other European hubs (see also below the comments and documentation by DHL). Thus Germany submits that the landing fees charged to DHL at Leipzig airport are far from preferential.

⁽²¹⁾ This result can also be seen from the calculations in the annex which show that the cash-flow difference between running the southern runway with and without DHL amounts in 2005 to about EUR [...] (compare the cash-flows in columns (4) and (5) of Table 1). If you add to this amount the difference in terminal values between the two scenarios and carry the sum forward to 2006 at the discount rate of 6.5 percent you also arrive at EUR [...].

⁽²²⁾ Germany assumes that the compensation claims will linearly decrease over time as a result of the amortization of DHL's investments. Starting from the maximum of EUR [...] in year [...], this implies e.g. EUR [...] in year [...] and EUR [...] in year [...]. By assuming a probability of 25 percent for a ban of night flights, the expected nominal risk amounts to EUR [...] in year [...] and its discounted value to EUR [...]. This would be Germany's worst case scenario analysis as a change in law could only be applicable after 10-15 years (Submission from Germany, 23 February 2007, pp. 68 and 69).

⁽²³⁾ See submission of 23 February 2007 by Germany, footnote 68, for an extensive list of relevant jurisprudence and for an explanation of the 'protection of the economic interests of tenants' provision ('Konkurrenzschutzklausel').

3.2.1.4. Comfort letter

- (97) Germany holds firstly that the Land Sachsen is indirectly remunerated for the guarantee by way of the additional profit generated by the investments. Secondly, Germany considers that the issuing of comfort letters is standard business practice since the Land Sachsen granted the comfort letter of EUR [...] to DHL in exchange for the comfort letter of EUR [...] provided by Deutsche Post AG, DHL's parent company, to cover any possible claims of Leipzig Airport against DHL (e.g. DHL would be liable to pay a contractual indemnity equal to the sum of [...] years landing fees if it decided to quit Leipzig Airport during the first [...] years of the framework agreement).
- (98) Furthermore, Germany underlines that the comfort letter is subject to Commission approval, and has yet to enter into force.

4. COMMENTS FROM THIRD PARTIES

4.1. DHL

4.1.1. Aid to the airport

- (99) According to DHL, the doubts expressed by the Commission regarding the necessity of the construction of the new southern runway are in direct contradiction to the Commission's 2007 'Action Plan for Airport Capacity, Efficiency and Safety in Europe', which calls for existing capacities to be increased in a bid to tackle congestion at European airports. DHL stated that its own protracted search for a suitable hub supported the observation made by the Commission that capacities in this sector are stretched.
- (100) The expansion of Leipzig airport would render a significant contribution to meeting the capacity crisis. The Commission having identified air traffic as the 'engine' of economic growth, and air freight as the 'key' to growth in the Common market and foreign trade, an increase in the capacity of Leipzig airport is in the public interest of the Member states and the Community as a whole.
- (101) In the opinion of DHL, the upgrading or reconstruction of already existing secondary runways is much more rational than a completely new building of a runway on a totally green-field site. Using a system of parallel runways avoids delays and switching traffic to other airports. The avoidance of delays in the air freight transport and especially for the operation of central hubs for the express freight traffic is more of an issue than for passenger air traffic.
- (102) From DHL's point of view the most important advantages of the location of Leipzig/Halle airport are that there is no ban on night flights, the close network with railway

and road freight traffic and the availability of resident local labour resources. The development of runways involves the provision of necessary infrastructure for public transport as a service of a general interest. This applies particularly in the case of the new German Länder, as the reconstruction of the substandard transport infrastructure in these areas, was undoubtedly a public task in the public interest.

- (103) The complex planning approval adjudication for the southern runway ascertained that there was, both macro-economically and micro-economically, a need for the rebuilding of the southern runway. Therefore it can be excluded that the southern runway of the Leipzig/Halle airport was conceived and built in favour of DHL. This project was realised temporally and factually independently of DHL.
- (104) In addition DHL submits that in its opening decision the Commission failed to have due regard for the specific requirements of express freight logistics. Unlike passenger air travel which can be diverted to other airports at short notice, the rendering of express services necessitates the construction of hubs at levels of investment so high as to require permanent establishment. By its very nature express air freight, being an 'overnight service', is heavily reliant on permanently granted night flight slots. Therefore the categorisation by the Commission of a fundamental precondition as preferential treatment is to question the economic basis of all providers of express services.
- (105) DHL also argues that passing the financial responsibility for the southern runway on to DHL would impose an unacceptable disadvantage on it in the market for express services, since its competitors pay standard fees for cargo flights, without being burdened with investment costs for runways. In the opinion of DHL, the airport has acted like a private investor when signing the agreement as the starting and landing fees, the conditions agreed in the lease contract of the apron as well as in the building lease contract correspond to normal market conditions. The duration of the contract and the foreseen compensations are well-balanced. The guarantees given in the framework contract are justified for the nature of risks assumed and correspond to normal market conditions too. As regards the letter of comfort it has not been approved by the Commission yet and therefore it has not entered into force.

4.1.2. Aid to DHL

- (106) DHL argues that the framework agreement does not provide any preferential treatment for DHL and that it only contains monetary consideration and conditions which are customary in the market.

4.1.2.1. Market conformity of warranties provided by framework agreement

- (107) DHL argues that the Commission's questioning whether a private investor would have agreed to the liability obligation in the framework agreement is carried out without comparing the totally different economic risks of the parties.
- (108) The establishment of the central hub at the airport Leipzig/Halle represents for DHL not only an investment of more than EUR 250 m but also a complete economic dependence on the usage and the indispensable availability of night flight slots in the long term. In case that night flight slots are no longer available, not only the investment of EUR 250 m would be devalued but it would also lead to a long-term impairment of the entire worldwide DHL express service with non-foreseeable consequential damages. According to DHL, each private investor who tries to induce a major customer to make an establishment with major financial risks would have to consider such risks in the sense of 'do ut des' if it wants to win the customer.
- (109) Additionally, after the Airport's decision to build a second runway (which was taken independently from DHL), the Airports' risks are far lower than those of DHL. Thus, the very disproportionate distribution of economic risks can only be reflected in the liability provisions. Whereas DHL would suffer from excessive damages in case of a prohibition or reduction of night flights, the airport's damages would only amount to the loss of landing fees which would be easily replaceable by another user. However, a voluntary leave from DHL is already improbable because of the very high investment costs. Consequently, the liability provision in the framework agreement is objectively necessary and therefore also customary in the market.
- (110) The necessity of a warranty for an express service operator to conduct night flights is also documented in the published contract between SAB (operator of Liège Airport) and TNT concerning the establishment of a central hub by TNT:
- (a) The runways at Liège Airport are reserved for unlimited duration for 140 % of the activity volume of TNT at a specific point of time between 9 pm and 6 am (according to cipher 32.1 of the SAB-TNT contract). This clause, which goes far beyond the framework agreement in the present case as it warrants a capacity reserve at any time of 40 %, reflects only the objective necessity to warrant contractually and permanently essential night flight slots for the business to secure the high investments made.
 - (b) In addition to the above, SAB and the Region of Wallonia have accepted liability for all damages without limitation, including loss of profit, in case of

non-fulfilment of such warranty for 20 years (according to cipher 8.c of the SAB-TNT contract).

- (111) Furthermore, for DHL, the unequal distribution of damages' risks is reflected in the differing regulation concerning the amount and duration of the obligation to compensate: Whereas TNT holds the right to claim compensation from SAB for the whole contract duration in case of non-fulfilment of the warranty, the right to claim compensation from SAB decreases with the length of duration; in case of termination notice by TNT with the expiration of 10 years to the simple of the yearly average of the landing fees (according to cipher 10.3 c of the SAB-TNT contract).

4.1.2.2. Market conformity of lease arrangements

- (112) As far as the Commission criticises a missing connection of the rental fees to the locally customary real estate prices concerning the apron, DHL points out that the rental contract does not constitute an ordinary rental contract in legal terms. Based on its legal form and nature, a leasing agreement does not tie up with the locally customary rental fees but is orientated at the interest rate of the lessor's provided capital. A connection of the user fee to the locally customary rental fee would therefore be off-topic and cannot be found in comparable leasing contracts.
- (113) As far as the Commission criticises the airport's limited freedom of action resulting from the rental agreement to finance the investment costs through credits or equity, this criticism is based upon an unfounded interpretation of the rental agreement. As a matter of fact, the contract only obliges Leipzig Airport to obtain credit offers in order to receive an objective basis for the calculation of the user's fee and not to raise a credit. Thus, the airport is not obliged to make use of such offers but is free in the financing.
- (114) The Commission's consideration concerning the building lease interest seems to be based on wrong information of the size of the building lease area according to cipher 1.5 of the building lease contract. In fact, the area amounts to [...] m² so that instead of the assumed rent of [...] EUR/m² a rent of [...] EUR/m² is applicable. The Commission's assumed disproportion between building lease rent and option fees is therefore not given if the correct building lease area is taken into account.

4.1.2.3. Market conformity of airport fees

- (115) The Commission's considerations based upon the incremental costs of the southern runway have to be rejected as the southern runway has been constructed for the general public and not only for the use of DHL. Consequently, subject of control can only be the payable landing fees. In comparison with other European DHL

hub-airports Bergamo (BGY), Brussels (BRU), Cologne (CGN), and Nottingham (EMA), the landing fees at Leipzig Airport (LEJ) are [...] percent above average of the landing fees of European DHL hub-airports; in case of night flights landing fees remain [...] percent above average (see tables below). Compared with the currently effective landing fees at Vatry, DHL pays almost [...] times more for landing at Leipzig than at Vatry. Finally, all users of Leipzig airport pay the same landing fees. DHL concludes that there cannot be any doubt that landing fees are customary in the market.

Table 6

Landing fees for day flights

	A300	B757 (100 T)	B757 (93 T)	Durchschnitt
BGY	[...]	[...]	[...]	[...]
BRU	[...]	[...]	[...]	[...]
CGN	[...]	[...]	[...]	[...]
EMA	[...]	[...]	[...]	[...]
Durchschn. DHL-Hubs	[...]	[...]	[...]	[...]
Vatry	[...]	[...]	[...]	[...]
LEJ	[...]	[...]	[...]	[...]

The average fee is calculated based on the aircraft types (A300, B757) used by DHL.

Table 7

Landing fees for night flights

	A300	B757 (100 T)	B757 (93 T)	Durchschnitt
BGY	[...]	[...]	[...]	[...]
BRU	[...]	[...]	[...]	[...]
CGN	[...]	[...]	[...]	[...]
EMA	[...]	[...]	[...]	[...]
Durchschn. DHL-Hubs	[...]	[...]	[...]	[...]
Vatry	[...]	[...]	[...]	[...]
LEJ	[...]	[...]	[...]	[...]

The average fee is calculated based on the aircraft types (A300, B757) used by DHL.

4.2. Mitteldeutsche Flughafen AG

- (116) Mitteldeutsche Flughafen AG as owner of Leipzig Airport begins its observations by stating that it agrees completely with the observations made by the Federal Republic.

4.2.1. Aid to the Airport

- (117) In the opinion of the airport owner, the fact that companies are drawn to the airport shows that the site is suitable to meet demand. The development of Leipzig airport, and its integration into the regional transport network, were and are central to the region's growth, as supported by the European Union. The airport also meets the Europe-wide requirement for airport capacity creation for the preservation in order to maintain the EU's competitiveness in the air freight sector.

4.3. ADV — Working Group of German Airports**4.3.1. Aid to the Airport**

- (118) According to this trade body, Germany is heavily reliant on efficient transport links to global centres throughout the world. Because of the ever greater capital volume tied up in these goods, shorter transport times are more important. Over the last twenty years overnight delivery services have enjoyed dynamic growth — a trend which in light of continued globalisation is expected to continue. However, Germany is experiencing a shortage in the capacity to accommodate the large air freight carriers — a development which raises concerns for Europe as a whole. Night flight capacities at the three largest air cargo hubs in Frankfurt, Munich and Köln/Bonn are all but exhausted, and the situation is bound to deteriorate further when Frankfurt airport discontinues its night flight operations altogether. In the opinion of the working group this necessitates the creation of new capacities in order to safeguard the economy's competitiveness on the global market. The expansion of Leipzig airport meets this need while relieving other airports and enabling them to concentrate on passenger air travel. At the same time Leipzig airport is the cornerstone of economic development in Eastern Germany. According to the Working Group of German Airports the construction of a new southern runway at Leipzig airport was an urgent necessity.

4.4. Stadt Leipzig**4.4.1. Aid to the Airport**

- (119) According to the city of Leipzig, Leipzig's northern region is of fundamental importance to the international competitiveness of three of Germany's federal states as a commercial and economical centre. Thanks to the expansion of motorways, A-roads, a high-speed rail link and a commuter railway system, but most of all due to Leipzig airport, this logistics hub is being put into an excellent position to compete on a global level in the long term.

- (120) A study carried out by the city of Leipzig, the Chamber of Industry and Commerce, and the commercial transport centre shows that central Germany/greater Leipzig could benefit from the creation of 100 000 jobs in the logistics sector.
- (121) According to the city of Leipzig, the airport's southern runway is an essential public infrastructure facility of great significance not only to DHL, but to a large number of undertakings — due in particular to increasing night flight restrictions elsewhere. The relocation of DHL to Leipzig is deemed absolutely essential to attract other air freight companies, and to utilise the capacities of the airport's infrastructure.
- (122) The city of Leipzig also submits that the new southern runway creates a system of parallel entry lanes, thus removing air traffic from densely populated areas. According to the city of Leipzig, the airport could not have been upgraded without public financing. The same is said to be true of competing European airports.

4.5. Stadt Schkeuditz

4.5.1. Aid to the Airport

- (123) The city of Schkeuditz submits that it is set to become the focal point of significant regional development. Schkeuditz forms part of a supra-regional development axis, and over the past decade has become the centre of a modern transport system. These factors have afforded the city, particularly by Eastern German standards, extraordinary economic growth. Thanks to the excellent conditions at the site, this positive trend is expected to continue.
- (124) Regarding the second runway, the city of Schkeuditz points out that the airport had determined on 19 July 1991 that the pace of development in the region necessitated the re-construction of the second runway.

4.6. IHK Leipzig

4.6.1. Aid to the Airport

- (125) According to the Leipzig Chamber of Industry and Commerce, the State is charged with the provision of an adequate transport infrastructure, which gives it unrestricted control over its development and puts it under an obligation to exercise said control in the name of the people.
- (126) Since 1991, investments were made in the development of infrastructure and in the technical equipment of the airport. These measures were complemented by further investments of the public authorities to improve the railway and road infrastructure around the airport. The close link of air traffic, railway and road connections has transformed the airport into a European hub for passenger and air freight traffic. The airport meets the

latest requirements concerning a logistic site as to functionality, modernity and capacity. In 1993 the economy actors in Middle Germany began to agitate for the development of the airport.

- (127) Logistics have emerged as an independent service sector, growing about 6 % p.a. with considerable potential for further growth. The eastern enlargement of the European Union has put the region into centre of the European economic area. In the region the industrial cluster provides good business for logistic service providers. The chemical industry with approx. 25 000 employees in Middle Germany mainly demands services in railway and intermodal transport. Meanwhile automotive industry and its components suppliers with approx. 60 000 employees in 450 companies and the semiconductor industry with approx. 22 000 employees demand transport services, where time constraints are highly important.
- (128) Every major player in the logistics sector, which gravitates towards the major transport intersections, is present in the region, providing about 160 000 jobs. This corresponds to around six per cent of the region's total labour force. The Chamber of Industry and Commerce predicts the creation of an additional 100 000 jobs by the year 2015 from the region's transformation into a logistics hub. This figure corresponds to ten per cent of the total work force in this region.

4.6.2. Aid to DHL

- (129) In addition to DHL, the airport has attracted a number of other air freight and logistics companies. Thus it cannot be said that competitors are excluded from Leipzig airport nor that DHL is afforded a favourable position. Amongst the undertakings resident at the site are NATO's Strategic Airlift Interim Solution (SALIS) and the Russian cargo carrier Tesis, which operates an air service to China. A further intercontinental freight carrier at the airport is Jade Cargo International. On 13 April 2007 the World Cargo Center, with the capacity to handle 200 000 tonnes of cargo annually, was completed at the airport, further consolidating the site's identity as an air freight hub.

4.7. IHK Halle-Dessau

4.7.1. Aid to the Airport

- (130) The Halle-Dessau Chamber of Industry and Commerce (IHK) is the economic-political representation of interests of more than 52 000 business enterprises. According to the Chamber, in Germany, the provision and financing of said infrastructure is a matter for the state. This canon of European and German transport policy is echoed in the investments at issue in the current case.

(131) In the opinion of the Chamber, the airport development:

- (a) serves the implementation of the goals of the regional planning of Sachsen and Sachsen-Anhalt,
- (b) was examined and permitted in a complex public procedure, the results of which were affirmed by the German Federal Administrative Court,
- (c) improves the local conditions of the regional industry,
- (d) leads to a higher employment in a region of sustainable unemployment,
- (e) is built for use by the general aviation,
- (f) can satisfy the long-term demand at the airport Leipzig/Halle.

(132) In 1993 the IHK Halle-Dessau and IHK Leipzig released a common position paper concerning the airport. The two trade organisations requested inter alia for the construction of a system of two runways, 3 600 m each, to increase the capacity of the airport.

(133) Following German reunification, public investment into transport infrastructure contributed significantly to the region's economic transformation. The Commission has recognised the need to assist the region, parts of which are still Objective 1-areas, in overcoming its significant disadvantages. Thanks to significant private and public investment, particularly in infrastructure projects, the region is becoming internationally competitive.

(134) However, unemployment figures in the region are still twice the EU average. This shows that the region is in need of continued public investment, particularly into an improved infrastructure to help strengthen competitiveness and attract business. Only then can the region make a worthwhile contribution to the goals set out in the EU's Lisbon strategy.

4.7.2. Aid to DHL

(135) The Chamber of Industry and Commerce wishes to point out that the airport's modernisation has been a gradual, continuous process which began in the early 1990s. In a time-intensive process, each step had to be publicly assessed and approved. The southern runway was planned and built subject to these same conditions, and cannot be said to have been constructed for the sole benefit of DHL.

4.8. Ryanair

(136) Ryanair does not touch upon the specifics of this case but rather makes more 'general' points, voicing concern

that the Commission may not fully understand the airline-airport relationship, and recent developments in the air transport sector, thus arriving at a number of erroneous conclusions. Furthermore, Ryanair is concerned that the Commission will attempt to reinforce the flawed principles of the Charleroi decision and of the 'Guidelines on financing of airports and start-up aid to airlines departing from regional airports'.

4.9. Panalpina

(137) Panalpina has operated daily cargo flights from Leipzig to Moscow for more than a decade; Panalpina is committed to establishing Leipzig as their air freight hub, hoping to open a gateway to the Indian subcontinent and the Far East.

4.9.1. Aid to the Airport

(138) Panalpina expresses the fear that many of the larger European airports will dedicate any remaining capacity to passenger air traffic; Panalpina therefore appreciates a more cargo-focused airport. It also explains that while being located at the heart of Europe, Leipzig airport is far enough to the east to reduce flight times to and from Asia. The airport's 24-hour operation reflects the needs of the globalised supply chain of goods, and is one of its greatest assets.

(139) Panalpina commends the decision made in developing Leipzig into a cargo airport and in offering an infrastructure being capable in handling future air cargo flows around the clock. They are convinced that with the infrastructure and services provided at the airport Leipzig/Halle, more companies will settle in the vicinity of Leipzig, thus creating jobs. They assume that they have equal access to the overall infra and superstructure at the airport Leipzig/Halle to the same extent as other market participants have it.

4.10. Jade Cargo International

4.10.1. Aid to the Airport

(140) In light of the growing capacity crisis, the creation of new hubs is imperative. Since this infrastructure could not have been privately funded, Jade Cargo International submits that it disagrees with the Commission's demand for the operator to realise returns which a private investor would have expected. And the absence of such infrastructure would have negative effects not only in Germany's east, but in the EU as a whole.

- (141) Jade Cargo International would expect a negative Commission decision to threaten the existence of Leipzig airport, and of its own operations. This, in turn, would detrimentally affect other economic sectors. Since the expansion of the airport does not distort competition, but is in the general economic interest, Jade Cargo International pleads for a positive Commission decision.

4.10.2. *Aid to DHL*

- (142) According to Jade Cargo International, its own operations will benefit from the new southern runway, and it cannot agree with the Commission's reasoning that only DHL stands to profit from its construction. This erroneous conclusion is all the more incomprehensible in light of the fact that it is air traffic control, not the airport, which directs air traffic.

4.11. **Condor**

4.11.1. *Aid to the Airport*

- (143) Condor considers the airport is well connected to other transport modes. In their opinion, investments appropriate to requirements are more sensible at existing and already cross-linked airports (like Leipzig/Halle) than at smaller airports which do not have the needed conditions available.

4.11.2. *Aid to DHL*

- (144) According to Condor, investments in the expansion of Leipzig airport should raise no objections from the point of view of competition. The airport's modernised runway system will be available to every potential user. And given demand, modern, effective infrastructure is essential.

4.12. **Ruslan-Salis GmbH**

4.12.1. *Aid to the Airport*

- (145) According to Ruslan-Salis (an air-cargo operator), no other airport in Germany and especially Germany's east was found to be suitable for its operations. For them, 'assured access' and 'assured availability' to the needed transport capacity play a decisive role.
- (146) Among the factors taken into account when deciding to base its operations at Leipzig airport were the two-runway system, unrestricted 24-hour operation, direct rail and road links to every important destination in Central Europe and the repositioned and extended southern runway.
- (147) According to Ruslan-Salis, the runway was built for the use of the general public and is not dedicated infrastructure. This was necessary and proportional to relieve

bottle-necks in transport capacity, to fund the aviation sector and to achieve positive spill-over effects for the Leipzig-Halle-Merseburg-Dessau region.

4.12.2. *Aid to DHL*

- (148) Ruslan-Salis disagrees with the Commission's interpretation that the southern runway and its apron will be predominantly used by DHL. It also disagrees with the assertion that the financing, construction and operation of the runway as a 'dedicated infrastructure' was a commercial transaction between the owner of the infrastructure and its user, and must be assessed as any other commercial transaction. It is furthermore incorrect that the expected rise in air traffic volume at the heart of the decision to expand the airport can be traced mainly to DHL.
- (149) Ruslan-Salis uses the southern runway and any new infrastructures in the same way as DHL and any other company. No single user is afforded preferential treatment. The construction of the southern runway is in the general interest of any air cargo carrier operating at Leipzig airport. There is nothing to suggest that the infrastructure was dedicated to DHL, or that DHL enjoys any privileges.

4.13. **BARIG (Board of Airline Representatives in Germany e.v.)**

4.13.1. *Aid to the Airport*

- (150) The members of BARIG are airlines with distributional or operational presence in Germany. They point out that the European Commission had underlined that European hubs are highly overloaded. This especially applies to the air freight sector, where the gap between capacity and demand is increasing. The Commission has directly warned against a 'Capacity Crunch' in its communication of 24 January 2007 ('An Action-Plan for Capacity, Efficiency and Safety for airports in Europe' ⁽²⁴⁾). According to BARIG, a negative decision of the Commission would put the survival of the airport at risk.
- (151) In the opinion of BARIG, the concept of the 2005 Guidelines does not fit to situation at Leipzig airport, as the enlargement of a cargo airport is under consideration, whereas the Guidelines deal with the competition for passengers primarily.
- (152) To meet the capacity demands of the following years, cargo transport infrastructure has to be extended in a timely manner. If these investments are not financed by public funds, cargo airports would not be built or enlarged. Private investors would not make those investments.

⁽²⁴⁾ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions An action plan for airport capacity, efficiency and safety in Europe, 24 January 2007, COM(2006) 819 final.

4.14. Lufthansa AG

4.14.1. Aid to the airport

- (153) Lufthansa is in favour of the planned measures at Leipzig airport, including the rebuilding of the southern runway. The project is appropriate to need and economically sustainable. Lufthansa Cargo AG, a subsidiary of Deutsche Lufthansa AG, intends to carry out air freight services on a large scale to and from Leipzig. In addition to the hubs Frankfurt and Munich, Leipzig Airport is attractive for Lufthansa.
- (154) Lufthansa AG points out the growing market volume for air freight, and that for Germany a growth of about 5.3 per cent is predicted. That postulates that infrastructural conditions keep pace with the growth. The investments at Leipzig Airport comply with the infrastructural requirements of the airfreight industry in reference to dimension, modernity and possibilities of further expansion.
- (155) The parallel alignment of the runways allows for an economically reasonable optimisation of capacities and an increase of efficiency of the airport. This offers medium and long-term growth prospects for all users of the infrastructure.

4.15. ACD (Aircargo Club Deutschland)

4.15.1. Aid to the airport

- (156) The members of ACD act in managerial positions in the air freight sector. They add that in their opinion the air freight sector will further growth in the next years. This involves the apprehension that the existing infrastructure of airports is not sufficient.

4.15.2. Aid to DHL

- (157) ACD does not see any dependency of Leipzig Airport on DHL, as because of the strong economic development around Leipzig and Dresden there is a need for a capable airport in the region.

4.16. BDF (Bundesverband der Deutschen Fluggesellschaften)

4.16.1. Aid to the airport

- (158) The BDF represents German scheduled flights, charter and low cost carriers and in doing so advocates need-

based airport infrastructure. They opine that where there are bottlenecks of capacity at some German airports, whereas widely spread new small airports are developed, which are extensively public financed but contend for passengers. However, Leipzig Airport is not being developed for the benefit of one single user.

- (159) According to BDF, State involvement by investments in the field of infrastructure should demonstrate clear macroeconomic profit and a long-term efficiency, these conditions are fulfilled in the present case. There is a genuine demand of clients — passenger — and especially freight air carriers.

4.17. Cargolux

- (160) Cargolux uses Leipzig Airport as an offline station on its intercontinental all cargo flights departing from Luxembourg. The freight transported from Leipzig airport by Cargolux means a market share of 20.3 % of the total freight transported from this airport in 2006. Cargolux believes that it is one of the most important freight operators in Leipzig Airport and a relevant user of the infrastructures as well as a direct competitor of DHL.

4.17.1. Aid to the airport

- (161) According to Cargolux, the improvement of the infrastructure of regional airports is crucial for the development of air cargo traffic in Europe (due to the saturation of major passenger hubs). The amount of the required investments as well as the long amortisation periods makes these investments only possible under public support. Thus, Cargolux welcomes the public initiatives and investments in regional airports as generators of employment and as supporters of the European industry, the customers and the public order.

5. COMMENTS FROM GERMANY ON THIRD PARTY COMMENTS

- (162) In commenting on the third party comments the German authorities reiterated the arguments previously made, they underlined that all of the third party comments had been in favour of the airport and its development. They also pointed out that none of the third parties raised any objections to the DHL arrangement.

6. ASSESSMENT OF THE AID

6.1. Existence of Aid

(163) By virtue of Article 87(1) of the EC Treaty 'any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market'.

(164) The criteria laid down in Article 87(1) EC are cumulative. Therefore, in order to determine whether the notified measures constitute State aid within the meaning of Article 87(1) EC all of the following conditions need to be fulfilled. Namely, the financial support:

- (a) is granted by the State or through State resources;
- (b) favours certain undertakings or the production of certain goods;
- (c) distorts or threatens to distort competition; and
- (d) affects trade between Member States.

6.1.1. Existence of State aid to the airport — capital contribution

(165) As previously set out above in order to determine whether the notified measures constitute State aid within the meaning of Article 87(1) four conditions need to be fulfilled

6.1.1.1. Economic activity and notion of undertaking

(166) The Commission has to establish whether Leipzig Airport is an undertaking subject to EC competition law.

(167) It must first be noted that, according to settled case-law, the concept of an undertaking covers any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed ⁽²⁵⁾ and that any activity consisting in offering goods and services on a given

market is an economic activity ⁽²⁶⁾. As regards the existence or otherwise of State aid, it is necessary to determine whether the beneficiary is engaged in an economic activity ⁽²⁷⁾.

(168) Until recently, the development of airports was often determined by purely territorial considerations or, in some cases, military requirements. The operation of airports was organised as part of the administration rather than like a commercial undertaking. Competition between airports and airport operators was also limited. The liberalisation of the market for air transport services has also meant that there are more airlines flying to more airports thereby increasing competition between airports. Taking into account these conditions, the financing of airports and airport infrastructure had previously been considered as falling within the public policy remit and, in principle did not raise State aid issues.

(169) This situation has however changed in recent years. Although these land-use planning considerations and administrative structures may still persist in some cases, in many others airports have been transferred from State to regional control, in some cases to be operated by public companies, or even to the private sector. The process of transfer to the private sector has normally taken the form of privatisation or a progressive opening-up of capital. In recent years, private equity firms and investment and pension funds have shown a great interest in acquiring airports.

(170) The Community's airport industry has therefore undergone in the recent years fundamental organisational changes that reflect not only the active interest of private investors in the airport sector but also a change of attitude on the part of the public authorities regarding the contribution of private investment to airport development. This development has led to greater diversification and complexity of the functions undertaken by airports.

(171) These recent changes have also led to a change in the commercial relationships between airports. Whereas in the past airports were mostly managed as infrastructures with a view to ensuring accessibility and territorial development, in the last few years, more and more airports also have commercial objectives and are competing with each other in order to attract air traffic.

(172) The changing nature of airports has therefore to be reflected in the legal assessment of airport activities under State aid law. It is no longer possible to consider the operation and construction of airports as a task carried out by an administration, which in principle is outside the ambit of State aid control.

⁽²⁵⁾ Case C-35/96 *Commission v Italy* [1998] ECR I-3851, paragraph 36; Case C-41/90 *Höfner and Elser* [1991] ECR I-1979, paragraph 21; Case C-244/94 *Fédération Française des Sociétés d'Assurances v Ministère de l'Agriculture et de la Pêche* [1995] ECR I-4013, paragraph 14; Case C-55/96 *Job Centre* [1997] ECR I-7119, paragraph 21.

⁽²⁶⁾ Case 118/85 *Commission v Italy* [1987] ECR 2599, paragraph 7; Case 35/96 *Commission v Italy* [1998] ECR I-3851, paragraph 36.

⁽²⁷⁾ According to the European Court of Justice case law, any activity consisting in offering goods and services on a given market is an economic activity. See Case C-35/96 *Commission v Italy* [1998] ECR I-3851 and Cases C-180/98 to 184/98 *Pavlov* [2000] ECR I-6451.

- (173) The European Court, in the '*Aéroports de Paris*' case has also sought to clarify matters, stating that the operation of a big international airport consisting in the provision of airport services to airlines and to the various service providers within airports is an economic activity because it consists '*in the provision of airport facilities to airlines and the various service providers, in return for a fee at a rate freely fixed by the manager, and when the latter is public, does not fall within the exercise of its official powers as a public authority and is separable from its activities in the exercise of such powers*' ⁽²⁸⁾. Thus, the airport operator, in principle, is engaged in an economic activity within the meaning of Article 87(1) EC Treaty, to which the rules of State aid apply.
- (174) Given the ongoing developments of the sector, this approach has since been extended by the Commission to all kind of airports, including smaller ones (such as the one considered in the present decision) in its guidelines adopted in 2005. In the light of this recent transformation, the Commission considers that it is no longer possible *a priori* to exclude the application of State aid rules to airports as of 2000.
- (175) Pursuant to the '*Aéroports de Paris*' decision once an airport engages in economic activities, regardless of its legal status or the way in which it is financed, it constitutes an undertaking within the meaning of Article 87(1) of the EC Treaty, and the Treaty rules on State aid therefore apply ⁽²⁹⁾.
- (176) The judgement of the Court of Justice in this case clarifying that the management and operation of an airport constitutes an economic activity has lead the Commission to conclude that from the date of this judgment the State aid rules apply in this sector. Accordingly, there is therefore no retroactive application of the 2005 guidelines as the German authorities have argued, the Court has simply clarified (a clarification which applies *ad vitam aeternam*) on the fundamental concept of aid ⁽³⁰⁾.
- (177) In this regard the Commission notes that the infrastructure which is the subject of the present decision will be operated on a commercial basis by the airport manager; it is therefore commercially exploitable infrastructure. The airport operator will charge users rates for the use of this infrastructure rather than infrastructure being made available without charge to users in the common interest.
- (178) However, independently of its legal status not all the activities of an airport operator are necessarily of an economic nature. It is necessary to distinguish between its activities and to establish to what extent its activities are of an economic nature ⁽³¹⁾.
- (179) The European Court of Justice has held that activities that normally fall under State responsibility in the exercise of its official powers as a public authority are not of an economic nature and do not fall within the scope of the rules on State aid. Such activities include security, air traffic control, police, customs, etc. ⁽³²⁾. The financing has to be strictly limited to compensation of the costs to which they give rise and may not be used instead to fund other economic activities ⁽³³⁾.
- (180) Therefore the practice of the Commission ⁽³²⁾ is that in relation to functions falling within the public policy remit, the financing of these functions or of infrastructure directly related to these functions does not constitute State aid. This means that the financing of infrastructure for instance necessary for security reasons or essential for the control and supervision of the air navigation and airspace may fall within the public policy remit ⁽³⁴⁾.
- (181) In the case at hand the continuous losses of the airport and the infrastructural investments have been financed by the public shareholders' equity and long-term debts. The extension and the realignment of the second, southern runway were planned to boost the airport's position at the freight traffic market. However, this being said certain of the investments may fall within the public policy remit. The investments Germany considers falling within the public policy remit have been set out previously.
- (182) Having carried out an evaluation of the nature and the figures supplied by Germany in relation to investment and operational costs relating to the new southern runway, the Commission can conclude that in the present case certain costs fall within the public policy remit. These costs relate to security and police functions, fire and public safety measures, operational safety, German Weather Service and German Air Traffic Control. It is also the case that the users of the airport may also be charged for certain of these public policy measures.

⁽²⁸⁾ ECJ, *Aéroports de Paris* case, *loc. cit.*, paragraph 121 with further references.

⁽²⁹⁾ Cases C-159/91 and C-160/91, *Poucet v AGV and Pistre v Cancave* [1993] ECR I-637.

⁽³⁰⁾ In this context see the ruling of CFI of 12 February 2008 in Case T-289/03 *BUPA v Commission* (points 157 to 160).

⁽³¹⁾ Case C-364/92 *SAT Fluggesellschaft v Eurocontrol* [1994] ECR I-43.

⁽³²⁾ Commission Decision N 309/02 of 19 March 2003 Aviation security — compensation for costs incurred following the attacks of 11 September 2001.

⁽³³⁾ Case C-343/95 *Cali & Figli v Servizi ecologici porto di Genova* [1997] ECR I-1547; Commission Decision N 309/02 of 19 March 2003; Commission Decision N 438/02 of 16 October 2002, Aid in support of the public authority functions in the Belgian port sector.

⁽³⁴⁾ See Commission Decision N 620/06 of 7 March 2007 *Einrichtung des Regionallughafens Memmingen*.

(183) Therefore, to the extent that they fall within the public policy remit as set out above the costs in question may not amount to State aid within the meaning of Article 87(1) EC. However in the present case independently whether the Commission was to accept the approach advanced by the German authorities that none of the costs should be considered as State aid, the final assessment of the measure would not change. Even if these costs were to amount to state aid, such aid would be compatible aid (see below). Therefore the Commission does not have to reach a definitive conclusion on this question.

6.1.1.2. State resources and imputability to the State

(184) As has been stated by the Court ⁽³⁵⁾ for the measures to be qualified as State aid in the sense of Article 87(1) EC, (a) they have to derive from the State's resources, either indirectly or directly and (b) they have to be imputable to the State.

(185) In the case under discussion, at all material times the State exercised direct or indirect control on the resources under consideration. Leipzig Airport has financed the enlargement by equity contributions of the public shareholders and has received long-term loans from its parent company Mitteldeutsche Flughafen AG (hereinafter MFAG), which has only public shareholders.

(186) The decision to grant these State resources is imputable to public authorities: The supervisory board of MFAG, a publicly owned company, declared that sufficient equity will be raised to finance the expansion of the airport. The majority of the MFAG's Supervisory Board members are representatives of public authorities (e.g. Land Ministers, Mayors etc.).

6.1.1.3. Economic advantage

(187) The capital contributions and shareholder's loans previously mentioned reduce the investment costs that the airport operator would normally have to bear and therefore confer an advantage on the airport.

(188) However, it could be argued that the capital contributions granted to Leipzig Airport do not constitute State aid within the meaning of Article 87(1) EC if the market economy investor test can be shown to be applicable in this case.

(189) In this regard the European Court in the Stardust Marine Judgment declared 'capital placed directly or indirectly at the disposal of an undertaking by the State in circumstances which correspond to normal market conditions cannot be regarded as State aid' ⁽³⁶⁾.

(190) The Commission must then analyse whether Leipzig Airport's shareholders have acted as private investors in financing the expansion of the airport. It has to be assessed whether in similar circumstances a private investor operating under normal conditions of the market economy would have entered into the same or similar commercial arrangements as MFAG for the realignment of the southern runway.

(191) In doing so the Commission has to bear in mind, that '[...] the conduct of a private investor with which the intervention of the public investor pursuing economic policy aims must be compared need not be the conduct of an ordinary investor laying out capital with a view to realising a profit in the relatively short term, it must at least be the conduct of a private holding company or a private group of undertakings pursuing a structural policy — whether general or sectorial — and guided by prospects of profitability in the longer term' ⁽³⁷⁾.

(192) In this particular case in relation to the investments relating to the new southern runway the German authorities appear to call into question the applicability of the market economy investor test. They argue that the test is not applicable to transport infrastructure because there are no comparable private investors. According to the German authorities, private investors have no interest in airports, especially where large renewal investments are necessary.

(193) The Commission cannot agree with this view. The private investor market test cannot be excluded because the private sector would not be involved in financing airport infrastructure ⁽³⁸⁾. An economically difficult situation does not absolve the public investor from acting as reasonably as a private investor in the same situation would have done.

(194) The Court declared in the Stardust Marine Judgment that, '[...] in order to examine whether or not the State has adopted the conduct of a prudent investor operating in a market economy, it is necessary to place oneself in the context of the period during which the financial support measures were taken in order to assess the economic rationality of the State's conduct, and thus to refrain from any assessment based on a later situation' ⁽³⁹⁾.

⁽³⁵⁾ See Case C-482/99 *France v Commission (Stardust Marine)* [2002] ECR I-4397.

⁽³⁶⁾ Stardust Marine Judgement, paragraph 69.

⁽³⁷⁾ Case C-305/89 *Alfa Romeo* [1991] ECR I-1603, paragraph 20.

⁽³⁸⁾ Which in any case is not true, see for example the construction of the privately owned airport of Ciudad Real, Spain.

⁽³⁹⁾ Stardust Marine Judgement, paragraph 71.

- (195) The decisive point of time is the date when the decision for investment was taken. The applicability of the private market investor test does not arise from the 2005 Guidelines but from the development of EC case-law and the decisions of the European Commission ⁽⁴⁰⁾.
- (196) Therefore, notwithstanding the assertions of the German authorities, in order to be able to apply the private investor test the Commission has to substitute itself for the public authority in question at the time the decision to make the investment was taken.
- (197) In November 2004 when Leipzig Airport decided to start the construction works for the southern runway DHL had not yet entered into a legally binding commitment to move to Leipzig Airport. To have a conservative profitability assessment, the following analysis will make a comparison between 'Status quo' and 'Expansion without DHL' and will disregard 'Expansion with DHL'.
- (198) The German authorities argue that Leipzig Airport acted like a private market investor. The German authorities submit that the realignment of the southern runway has helped to reduce the losses of Leipzig Airport and in the medium to long term, the financed investments allow to reach the break-even point.
- (199) The German authorities need to be able to prove that the public authorities acted in a way that would be acceptable to a private investor. However, according to the information provided to the Commission, it is not ascertainable that the realignment of the southern runway was the most favourable solution for economic purposes.
- (200) The conduct of an investor in a market economy is guided by prospects of profitability ⁽⁴¹⁾. The market investor test will normally be satisfied where the structure and future prospects for the company are such that a normal return, by way of dividend payments or capital appreciation by reference to a comparable private undertaking, can be expected within a reasonable period.
- (201) The assessment should leave aside any positive repercussions on the economy of the region in which the airport is located, since the Commission assesses whether the given measure constitutes aid by considering whether 'in similar circumstances a private shareholder, having regard to the foresee ability of obtaining a return and leaving aside all social, regional-policy and sectoral considerations, would have subscribed the capital in question' ⁽⁴²⁾.
- (202) As the Commission already in the 'Charleroi' decision pointed out, 'one cannot consider as consistent with the principle of private investor in a market economy any commitments made by an airport operator for which it cannot be proven that the airport activity as such will produce reasonable profits within a reasonable time. It goes without saying that any positive effects on the economy of the Region surrounding the airport cannot in any case be included in this evaluation, which is aimed at determining whether or not the intervention conceals elements of aid' ⁽⁴³⁾.
- (203) As the Court held in its judgments, 'a private shareholder may reasonably subscribe the capital necessary to secure the survival of an undertaking which is experiencing temporary difficulties but is capable of becoming profitable again, possibly after a reorganisation' ⁽⁴⁴⁾. However, as to the Court, 'when injections of capital by a public investor disregard any prospect of profitability, even in the long term, such provision of capital must be regarded as aid ...' ⁽⁴⁵⁾.
- (204) As previously mentioned Germany has submitted a business plan for the realignment of the southern runway. On the basis of the included income data and cost figures the Commission can review whether Leipzig Airport acted like a private investor with regard to financing, building and operating of the southern runway.
- (205) Germany presented the business plans for three scenarios,
- (a) 'Expansion with DHL': Rebuilding of the southern runway, DHL comes to Leipzig Airport;
 - (b) 'Status quo': No rebuilding or realignment of the southern runway;
 - (c) 'Expansion without DHL': Rebuilding of the southern runway, DHL does not come to Leipzig Airport.
- (206) The business plans are based on the following assumptions, cost figures and income data as provided by the German authorities for the period from 2006 until 2042, no terminal value for the time after 2042 is specified.
- (207) As previously stated the Commission cannot take into consideration the 'Expansion with DHL' scenario in determining the conformity of the investments with the MEIP ⁽⁴⁶⁾.

⁽⁴⁰⁾ See recitals 166 to 180 above.

⁽⁴¹⁾ Case T-296/97 *Alitalia v Commission* [2000] ECR II-3871, paragraph 84; C-305/89 *Italy v Commission* [1991] ECR I-1603, paragraph 20.

⁽⁴²⁾ See 2005 Guidelines, paragraph 46.

⁽⁴³⁾ Commission Decision *Charleroi* C 516/04 of 12 February 2004, paragraph 169.

⁽⁴⁴⁾ Case 234/84 *Belgium v Commission* [1986] ECR 2263, paragraph 15, Case 303/88 *Italy v Commission* [1991] ECR I-1433, paragraph 21.

⁽⁴⁵⁾ Case 303/88 *Italy v Commission* [1991] ECR I-1433, paragraph 22.

⁽⁴⁶⁾ See above, paragraph 197.

(208) The forecast development of sales for the scenario 'Expansion without DHL' is based on two main assumptions: The investor expects a displacement effect of night-flight restrictions at Frankfurt/Main Airport in 2012, and capacity bottlenecks at other airports will lead to further growth between 2013 and 2018. The provisions of the enlargement were deemed necessary in order to ensure sufficient capacity to meet the expected growth of air freight. However, while the increasing demand for air freight traffic from Leipzig airport is mentioned as the reason for investment, this is not justified by in the present case by a specific cost-benefit-analysis.

(209) The risk of overcapacity existed when the decision to rebuild the southern runway was taken. Vacancy costs resulting from possible overcapacity (e.g. without DHL) would not be compensated. However, the presented calculations do not seem to take this risk into consideration.

(210) The following table ⁽⁴⁷⁾ summarises the cash-flow calculations in relation to the two different scenarios 'Status quo' and 'Expansion without DHL'. These calculations are based on the business scenarios submitted by Germany which assume *inter alia* a growth rate of at least three percent for the air cargo business.

Table 8

Cash-flow calculations

(EUR million)			
Cash-flow calculations (*)	(A) Airport Status Quo	(B) Airport Expansion without DHL	(C) = (B) — (A) Southern runway without DHL
(1) EBITDA (2006-2042)	[...]	[...]	[...]
(2) EBITDA Safety Measures	[...]	[...]	[...]
(3) EBITDA (2006-2042) corrected (1) + (2)	[...]	[...]	[...]
(4) Investments costs (2006-2042)	[...]	[...]	[...]
(5) Investments costs Safety measures (2006-2042)	[...]	[...]	[...]
(6) Investments costs 2005	[...]	[...]	[...]

⁽⁴⁷⁾ There are a number of differences between the cash flow calculations in the current decision and in the decision to open the investigation. These differences can be explained as follows. While the opening decision discounted revenues and costs to 2006, the current calculations take 2005 as reference year because the decision to build the southern runway was taken in November 2004, and construction started in early 2005. The Commission learnt from the German submission to the opening that additional investment costs of EUR [...] were incurred in 2005, which further increase the cash-flow losses. These investment costs were included.

(EUR million)			
Cash-flow calculations (*)	(A) Airport Status Quo	(B) Airport Expansion without DHL	(C) = (B) — (A) Southern runway without DHL
(7) Cash flow 2005-2042 (3) + (4) + (5) + (6)	[...]	[...]	[...]

(*) All values discounted to 2005; discounting rate = 6,5 %.

(211) The Commission firstly notes that it has taken into account the total amount of the investment and operational costs for security and safety measures for the purposes of the Cash-flow calculations. However, as previously explained (see recitals 180 to 183) part of these expenses (operations and also investment costs) may represent measures which fall within the public policy remit

(212) This fact notwithstanding, the cash-flow of the airport for the period 2005-2042 totals to approximately [negative cashflow] euro. The Commission cannot therefore accept that a market economy investor would have decided to make the investment in the construction of the southern runway.

(213) The calculations show that Scenario B generates a cash-flow lower than Scenario A by about EUR [100-200] million. Building the southern runway reduces the cash flow in real terms, which is at disposal for the financing of the pre-existing facilities.

(214) As the airport has still to finance the existing capital assets amounting to EUR 642 million (book value 2005), it will not reach the required EBITDA to refinance completely the existing capital assets in Scenario B. On the basis of the presented cash flow calculations it cannot be assumed that the business operations of Leipzig Airport will reach break-even in the future. It cannot therefore be assumed that the Southern runway would have been built by a private investor on the basis of Scenario B.

(215) On this basis the Commission can conclude that the public authorities do not have a well founded expectation of a financial return on the investment in question and although it is their intention to make the airport more attractive to users and therefore more profitable, they are not guided by prospects of profitability in the longer term ⁽⁴⁸⁾. Rather the aim of the public financing is, as explicitly indicated by the German authorities, regional development, and an increase in the accessibility of the region, the creation of jobs and environmental purposes (i.e. noise reduction).

⁽⁴⁸⁾ Case C-305/89 *Italy v Commission* ('Alfa Romeo') [1991] ECR I-1603, paragraph 20.

(216) The Commission concludes that a private investor, even one operating at the scale of a group in a broader economic context, could not, in the normal circumstances of a market economy and even in the longer term, have expected an acceptable return on the capital invested in the case at hand.

(217) In these circumstances the Commission is entitled to consider that a private investor, even one pursuing a comprehensive long-term policy without regard to immediate returns, would not, in the normal circumstances of a market economy, have made the injections of capital in question.

(218) Furthermore, and without prejudice to the arguments set out and the conclusions reached above the Commission is obliged to observe that the discount rate applied by the German authorities in their calculations of 6.5 % (see point 117) implies that the calculations assume a very low risk investment premium of approximately 3.25 % based on a beta factor of 0.65. A beta of 0.65 means that if the value of the overall market decreases by 1 %, the value of the investment decreases by 0.65 %, which implies a lower volatility of the investment than the overall capital market and therefore results in a lower risk.

(219) In this regard, the Commission notes that some expert sources provide beta for aerospace and airport development in Europe based on statistical data of between 0.81 and 1.26 ⁽⁴⁹⁾. These beta factors are calculated for international airports (mainly hub-airports) with good access to capital markets because of their listing on the stock exchange. The Commission considers that investments into smaller airports such as in the present case would give rise to a higher level of risk because of their size. Furthermore, in the present case the airport is publicly owned and its access to capital markets is limited, moreover, it is dependent on the support provided by its public shareholders. Therefore, the Commission notes that in addition to a higher beta factor a so-called 'illiquidity premium' should have been taken into account by the German authorities in their calculation but was not. If it had been taken into consideration the interest rates would have been higher and the net present value of the cash flow would have been at a lower level.

6.1.1.4. Specificity

(220) Article 87(1) EC requires that a measure, in order to be defined as State aid, favours 'certain undertakings or the production of certain goods'. In the case at issue, the Commission notes that the advantages in question were granted to Leipzig airport only. The public funding is directed at a single undertaking. The capital contributions granted by public authorities have not been made available to any competing airports. Thus it is a selective within the meaning of Article 87(1) EC.

6.1.1.5. Distortion of competition and affectation of trade

(221) When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade, the latter must be regarded as affected by that aid. In accordance with settled case law ⁽⁵⁰⁾, for a measure to distort competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.

(222) As previously explained, the operation of an airport is an economic activity ⁽⁵¹⁾. Competition takes place not only between air carriers but also between airports. In the case at hand, these are inter alia undertakings possibly offering the requested premises to become a hub for air freight traffic.

(223) Any economic advantage which the airport Leipzig/Halle receives from the financing of the southern runway would strengthen its position vis-à-vis its competitors on the European market of providers of airport services. Therefore, the public funding under examination distorts or threatens to distort competition and affects trade between the Member States

6.1.1.6. Conclusion

(224) For the reasons set out above the Commission concludes that the public financing of the development of the southern runway at Leipzig-Halle airport involves State aid within the meaning of Article 87(1) EC Treaty.

6.1.2. Existence of State aid to DHL — Framework Agreement and Comfort Letter

(225) As already explained in the opening decision (see recitals 42 to 46), the Commission considers that the measures under assessment are granted by State resources and are liable to distort competition.

6.1.2.1. Transfer of State resources

(226) The concept of State aid applies to any advantage, granted directly or indirectly, financed out of State resources, granted by the State itself or by any intermediary body acting by virtue of powers conferred on it.

⁽⁴⁹⁾ See Damodaran Online, <http://pages.stern.nyu.edu/~adamodar/>.

⁽⁵⁰⁾ Case T-214/95 *Het Vlaamse Gewest v Commission* [1998] ECR II-717.

⁽⁵¹⁾ See above, paragraph 166ff.

(227) It is evident that the Framework Agreement and letter of comfort are financed by State resources and the decisions to grant them are imputable to public authorities: MFAG's supervisory board authorised on 3 June 2004 the conclusion of the Framework agreement. The majority of MFAG's supervisory board members are representatives of public authorities (e.g. finance ministers of Sachsen and Sachsen-Anhalt, mayors of Leipzig, Dresden, and Halle). The letter of comfort was signed by the finance minister of Land Sachsen on 21 December 2005.

6.1.2.2. Distortion of competition and affectation of trade

(228) To the extent that the measures grant a selective advantage to DHL and Leipzig Airport, the Commission considers that they are liable to distort competition and affect trade between Member States.

(229) It is also evident that the express parcel business is a market in which companies from different Member States compete. Any economic advantage which DHL receives from the listed public measures will strengthen its position vis-à-vis its competitors on the European express parcel market.

(230) As this assessment remained undisputed by Germany and third parties, the following discussion will focus on the extent to which the Framework agreement and the comfort letter favour DHL.

6.1.2.3. Economic advantages for DHL through Framework Agreement

(231) The Commission will analyse for each of the offered services — warranties, lease, and airport services — whether the Framework Agreement offers an appropriate remuneration which a private investor would have accepted.

(i) **Warranties**

(232) The Framework Agreement does not offer any explicit premium payments for the provided warranties. The only possible source of remuneration will be the incremental cash-flow which the airport may earn from the construction and operation of the southern runway. The Commission will therefore, firstly, calculate the incremental cash-flow for the southern runway. Secondly, the Commission will check whether this incremental cash-flow provides a sufficient remuneration for the warranties provided.

(233) A private investor would have decided whether to enter into the Framework Agreement along with whether to build the southern runway, thus the reference date for the private investor test must be November 2004, before the date construction works started. As explained above

(see recital 215 and following), the Commission holds that a private investor would not have wilfully damaged his negotiating position by sinking investment costs into the southern runway prior to the conclusion of a contract for its use. The cash-flow calculations clearly show that the southern runway without having DHL coming to Leipzig Airport would not have been a viable business alternative because an incremental cash-flow loss of about EUR [...] would have resulted (see column 5 in Annex 1). Therefore by first constructing the southern runway, and then signing the Framework Agreement, the airport did not act as a private investor would have. The scenario 'expansion without DHL' was only feasible due the granting of substantial aid. Therefore the scenario cannot be used as a point of reference for the private market investor test.

(234) The Commission will therefore retain its approach developed in the opening decision to calculate the incremental cash-flow for the construction of the southern runway by taking the difference of the cash-flows resulting from the expansion scenario with DHL and the status-quo scenario (operation of the existing northern runway only).

(235) The calculation starts in 2005 when the airport incurred the first investment costs of about EUR [...] for the southern runway of which the Commission only became aware after the opening decision.

(236) The cash-flow calculation will not go beyond 2042 and not include the terminal values proposed by Germany, because, according to an earlier submission by Germany⁽⁵²⁾, the useful life of a runway amounts to about 30 years. Furthermore, a private investor would not be willing to finance the southern runway if it did not yield a satisfactory return in its prime — the first 37 years of operation from 2005 until 2042. Therefore the cash-flow analysis will only cover this time period for the purpose of assessing the effect of the investment on the airport's profitability.

(237) The proposed terminal values are also disregarded because they lack credibility. The terminal values are based on an infinite rent which grows annually by 3 percent. Such a calculation is not realistic because a runway has a limited capacity and revenues cannot grow infinitely. This leads e.g. to the paradoxical result in Germany's calculation for the expansion scenario with DHL that the discounted terminal value is five times as high as the airport's discounted cash-flow for 2005 to 2042⁽⁵³⁾.

(238) As explained in more detail in Annex 1, the calculations of the discounted incremental cash-flow of the southern runway show in 2005 that the revenues fall short of the investment costs by about EUR [...] for the period 2005 to 2042 (see column 4 in Annex 1).

⁽⁵²⁾ Submission from Germany, 21 July 2006, p. 12.

⁽⁵³⁾ See the calculations provided by Germany (recital 88 above).

- (239) The airport will therefore not be able to finance any risk costs out of the cash-flow of the southern runway. Risk insurance could only be said to be accepted business practice if the project was profitable and the airport could refinance the risk, as it is not the case.
- (240) In offering unlimited warranties for the operation of the airport subsequent to the start of the DHL hub (according to sections 8 and 9 of the Framework Agreement), the airport takes over risks which it cannot control. As explained in more detail in recitals 17 to 19 of the opening decision, the airport is neither able to control the preferential access of DHL to the southern runway (which falls under the responsibility of the public flight control) nor the introduction of night flight restriction (which is the responsibility of public authorities).
- (241) Germany itself calculates that the risk of a night flight ban puts a financial cost of about EUR [...] on the airport. This leads consequently to an increase of the cash-flow loss to EUR [...] (see column 4 of annex 1). Even though it is clear that the airport cannot finance the risk costs out of its own revenues, the Commission would nevertheless like to point out that these EUR [...] can only be seen as a lowest end of the scale. Among other flaws in the calculation, Germany neglects that the airport would go into bankruptcy if it had to pay an amount of EUR [...] or EUR [...] to compensate DHL for the costs of moving to another airport due to a night flight ban. Additionally, the calculations by Germany do not take account of the other warranted risks (e.g. access to southern runway which is controlled by public flight control).
- (242) Finally, the Commission wants to emphasise that the calculations would still show a negative cash-flow even if the Commission followed Germany's argument that security and safety costs of EUR [...] fell within the public policy remit and had therefore to be excluded from the airport's costs⁽⁵⁴⁾. As shown in column 4 of annex 1, a substantial loss of EUR [...] would also remain in this scenario.
- (243) Although the above calculations are sufficient to prove that a private investor would not have granted such an unlimited warranty, the Commission would nevertheless like to add that closer scrutiny would establish even higher losses. As Germany pointed out, the UK regulator used a cost of capital (in real terms and pre-tax) of 6,2 percent for Heathrow Airport and 6,7 percent for Gatwick Airport in his calculations to set airport fees for the period 2008 to 2013. While both Heathrow and Gatwick Airport can rely on a substantial demand for flights into and from London, Leipzig Airport faces excess capacity and has to compete with other airports for attract low-cost passenger and cargo airlines. As Leipzig Airport is therefore exposed to higher market risks than Heathrow or Gatwick Airport, a cost of capital (in real terms and pre-tax) higher than 6,5 percent would seem appropriate.
- (244) Additionally, the fact that — according to Germany⁽⁵⁵⁾ — private financial institutions were not ready to hedge the risks which result from the warranty for the operation of the airport subsequent to the start of the DHL hub confirms that no private operator would have offered such an unlimited warranty to cover risks which he cannot control.
- (245) Arguments advanced by Germany and DHL that the mutual provision of warranties between contracting parties is usual business practice are not more than a general statement and are therefore irrelevant because the above calculations show clearly that in the particular case Leipzig Airport is just not able to finance the offered warranties out of its own resources. A private investor would only enter a contract which yields a profit and does not deteriorate its financial position.
- (246) To conclude, the Commission would like to return to Germany's argument that — given the southern runway was already constructed — a private investor would have signed the framework agreement because the cash-flow was higher with than without DHL. Germany's argument misses the essential point that — as shown above — the risk costs cannot be financed out of own revenues. To be able to offer the warranties to DHL, Leipzig Airport must resort to the capital which has been contributed for the construction of the southern runway. However, as the foregoing section has established, these capital contributions themselves constitute aid. Therefore, whatever the timing of the analysis, it comes down to the result that the warranties have necessarily been financed by aid.
- (ii) **Lease contracts**
- (247) Taking note of the comments by DHL and Germany, the Commission considers that the lease contracts do not provide financial advantages to DHL because of the following reasons:
- (a) The lease contracts for the apron and the further ground handling areas are based on market interest rates and Leipzig Airport is not limited in its choice of financing.
 - (b) The reservation of certain land plots to DHL seems to constitute a customary provision in German rental law and does not — in any case — prevent the location of competitors at Leipzig Airport because a large number of land plots are still available to them.
- (iii) **Airport fee arrangement**
- (248) Taking note of the comments by DHL and Germany, the Commission considers that the airport fee arrangements do not provide financial advantages to DHL because of the following reasons:
- (a) DHL pays the same fees as other users of Leipzig Airport.

⁽⁵⁴⁾ The amount of EUR [...] is the discounted sum of the operating and investment costs for safety and security measures which the airport plans to undertake for the southern runway. Annex 1 also lists the net present values of the safety and security and security costs for the other business scenarios.

⁽⁵⁵⁾ Submission from Germany, 21 July 2006, p. 7.

- (b) As it can be seen from the comparison of airport fees which DHL has submitted, the airport fees charged by Leipzig Airport are [...] to [...] percent higher than at other competing cargo airports in Europe. The Commission has therefore no basis to conclude that the airport fee arrangement is not market conform.

6.1.2.4. Economic advantages for DHL through comfort letter

- (249) The Guarantee Notice sets out criteria which ensure that a guarantee does not constitute State aid. Two essential cumulative conditions are:

- (a) The guarantee could in principle be obtained on market conditions from the financial markets.

- (b) The market premium for the guarantee is paid.

- (250) The comfort letter — by which Land Sachsen assumes (i) to provide sufficient capital to Leipzig Airport and MFAG to fulfil the commitments given in the Framework Agreement and (ii) to be directly liable for DHL's compensation claims up to EUR [...] m — fulfils neither of these two criteria:

- (a) According to Germany ⁽⁵⁶⁾, Leipzig Airport sought, but was unable to cover the risks eventually addressed by the comfort letter through private financial institutions.

- (b) As neither DHL nor MFAG nor Leipzig Airport is obliged to pay any premium for the comfort letter, the risk exposure of Land Sachsen is not directly remunerated.

- (251) Furthermore, it can also not be said that Land Sachsen is indirectly remunerated as shareholder of Leipzig Airport because the airport's share value will effectively decrease due to the cash-flow losses of the expansion with DHL. By the same token, any arguments about proportionality between the comfort letters granted by Land Sachsen and Deutsche Post AG are irrelevant because the incremental cash-flow for the southern runway is just not sufficient to finance the risk exposure of the airport and its owners.

6.1.2.5. Conclusions on existence and lawfulness of State aid to DHL

- (252) The Commission finds that the (i) unlimited warranties granted by the Framework Agreement (according to sections 8 and 9); and (ii) the comfort letter constitute aid in the meaning of Article 87(1) EC Treaty because the Land Sachsen, MFAG, and Leipzig Airport hedge business risks for DHL at terms which a private investor would not have accepted. Without public support Leipzig Airport would have neither been able to finance the southern runway nor to enter into the Framework Agreement with DHL.

- (253) As the Framework agreement had been signed and put into effect before Germany notified it, the unlimited warranties granted by the Framework Agreement constitute unlawful aid in contravention of Article 88(3) EC Treaty.

6.2. Compatibility of aid

6.2.1. Compatibility of aid to the airport

- (254) As set out above the total amount of the investments will be financed from public resources which (although some of the public financing may be destined for public policy expenditure) for the purposes of the present decision involves State aid ⁽⁵⁷⁾.

- (255) The Commission must establish if the aid can be found compatible with the common market. Article 87(3) of the Treaty provides for certain exemptions to the general rule of incompatibility set out in Article 87(1) of the Treaty.

- (256) In this regard, the '2005 Guidelines' provide a framework for assessing whether aid to airports may be declared compatible pursuant to Article 87(3)(c). They mention a number of criteria which the Commission takes into account in this regard.

- (257) The Commission must examine in particular, according to paragraph 61 of the 2005 guidelines, whether:

- (a) the construction and operation of the infrastructure meets a clearly defined objective of general interest (regional development, accessibility, etc.);

- (b) the infrastructure is necessary and proportional to the objective which has been set;

⁽⁵⁶⁾ Submission from Germany, 21 July 2006, p. 7.

⁽⁵⁷⁾ The aid intensity cannot be precisely calculated as the Commission cannot exclude that the notional private investor would have reduced its exposure by investing a lower amount.

- (c) the infrastructure has satisfactory medium-term prospects for use, in particular as regards the use of existing infrastructure;
- (d) all potential users of the infrastructure have access to it in an equal and non-discriminatory manner;
- (e) the development of trade is not affected to an extent contrary to the Community interest.
- (i) **construction and operation of the infrastructure meets a clearly defined objective of general interest (regional development, accessibility, etc.)**
- (258) The project aims at the creation of a new air-freight hub and multimodal cargo centre based on the airport. The air freight sector, in particular express freight, is showing considerable growth rates. Air freight carriers are expanding their operational capacities. However, the three main air-freight hubs in Germany — Frankfurt Main, Munich and Köln/Bonn are facing night flight capacity constraints. In the event that Frankfurt Main Airport should have to discontinue its night flight operations or decrease the number of the night flights, Germany would face a serious air-freight capacity crunch.
- (259) In this context, the investment is in line with the Commission's 2007 *Action Plan for Airport Capacity* ⁽⁵⁸⁾, which notes that 'given the expected traffic evolution, Europe will face an **ever growing gap** between capacity and demand' for airports and concludes that this 'capacity crunch at airports poses a **threat** to the safety, efficiency and competitiveness of all actors involved in the air transport supply chain' ⁽⁵⁹⁾. In the same *Action Plan*, the Commission highlights the need not only for more efficient use of existing runways, but also for 'support for new infrastructure' and underlines the importance of regional airports in order to address this capacity crunch.
- (260) The envisaged project forms part of the strategy for the development of the airport contained in the Trans-European Transport Network Outline Plan (2020 horizon) from 2004 as a 'Community connecting point'. The airport is located in the region of Middle Germany (close to five major Trans-European transport axes and Pan-European corridors) between the axes from North to South Europe (i.e. Federal motorway A 9) and from the West to Eastern Europe (i.e. Federal motorway A 14) with an access to excellent rail and road network. The access to rail and road network facilitates intermodality of freight transport and results in more efficient and environmentally friendly transport, and furthermore, contributes to sustainable development. Therefore the project is in line with the 'development of an integrated European air transport network' as set out in Point 12 of the abovementioned *Action Plan* which notes that 'it would be desirable to unlock existing latent capacity at regional airports provided that Member States respect Community legal instruments relating to state aids'.
- (261) It is foreseen that the implementation of the project will have a positive impact on the entire region and will significantly influence its economic and social development. It will in particular improve access to the Region and increase its attractiveness for investors and visitors. This should have a positive on employment bearing in mind that unemployment is significantly higher in the Leipzig-Halle region than the national average.
- (262) The investment work at stake will facilitate a better, safer, more environmentally friendly and more rational use of the existing infrastructure and will therefore improve airport safety, security and efficiency. The new alignment of the southern runway avoids that in the future densely populated areas in the north of Leipzig and in the south of Halle are over-flown. In particular, an area of Leipzig, which is located close to the airport grounds at the head of the original southern runway, was affected by the noise because of the location of take-off and approach paths. In addition, the old southern runway was not facing in a direction with favourable meteorological conditions for take-off and landing. The most common prevailing wind direction, taken over the year and for individual months, is south-west. This can be disadvantageous with regard to disruptive crosswind components. The new alignment satisfies meteorological requirements enabling ILS CAT III (all weather) instrument flight operations. Furthermore, the distance between the two runways allows independent operation of air traffic, which was not the case previously for safety reasons because of risk of collision.
- (263) The Commission can therefore conclude that the construction and operation of the infrastructure meets a clearly defined objective of general interest, being the development of an airport with a large air freight component in line with EU policy in this respect due account being taken of regional and environmental aspects and that this criterion of compatibility is fulfilled in the present case.
- (ii) **the infrastructure is necessary and proportional to the objective which has been set**
- (264) The figures provided by the German authorities clearly show that the airport as currently laid out cannot meet expected growth foreseen in either passenger or freight traffic. As previously mentioned, it is expected that the airport will experience a gradual but significant increase in passenger and freight traffic over the lifetime of the new southern runway. In 2006 the airport handled 2.3 million passengers and according to estimates it will serve about 6-7 million passengers in 2010. Further increase is expected in the future in the freight traffic operations in particular with regard to further night flights restrictions at other German airports (i.e. Frankfurt Main, Köln/Bonn etc.).

⁽⁵⁸⁾ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions An action plan for airport capacity, efficiency and safety in Europe, 24 January 2007, COM(2006) 819 final.

⁽⁵⁹⁾ Action Plan, point 7 and box in page 3.

- (265) For various reasons the old southern runway was considered as deficient infrastructure not suitable for purpose. First, it has to be recalled that in the present case the old southern runway was built between 1957 and 1960. The alignment of the old southern runway was decided on the basis of the military airspace structure of the former German Democratic Republic and not the meteorological requirements for aviation. Around 1980, defects (i.e. cracks in the pavement slabs, spalling and washout of the runway bed) had already started to appear. In order to rectify these defects, a new concrete surface was built on top of the damaged runway in 1983/84. However, the new concrete surface was not connected to the original surface and the renewal of the runway was only superficial and proved to be inadequate.
- (266) This inadequacy became particularly apparent from 1990 on, when the runway was used much more often. For example, cracks in the lower surface created cracks in the new upper surface causing extensive spalling and major longitudinal distortions at both ends of the runway which resulted in pavement buckling. Buckling of the pavement poses a serious danger to aviation safety when pavement blowups occur in summer as a result of higher temperatures. The consequences of this were an increasing level of damage and expensive and disproportional maintenance.
- (267) In addition, the original southern runway was 2 500 m long and as such could only be used for short-haul flights. It could not be used for fully loaded aircraft weighing more than 30 t. Consequently, the efficiency of Leipzig Airport was seriously impaired (aircraft of the types Boeing B 747, B 767 and McDonnell Douglas MD 11 when fully fuelled and loaded require runways of between 2 925 m und 3 320 m for take-off). This deficiency also significantly increases the likelihood of interruptions in operations (e.g. in the event of the northern runway being closed). Also from the aviation safety perspective it was necessary to adapt the alignment of the old southern runway. Even with aircraft landing in the westerly direction, the two runways could not operate in parallel because there was always a possibility that approaching planes would have to abort the landing and take off again in order to avoid a collision. Therefore, the German Air Traffic Control Service (Deutsche Flugsicherung GmbH, DFS) had to treat the two runways as if they were a single runway for flight operations.
- (268) In view of the conditions mentioned above, the maximum number of take-offs and landings which could occur on the original runway was calculated and a simulation conducted on the basis of the forecast flight schedule for a freight hub at Leipzig Airport. The results of the simulation of the forecast flight schedule showed there would be significant time delays for planes taking off and landing during peak hours. Planes landing could, on average, expect to wait around 21 minutes (in both directions of operation) and planes departing around six minutes. In specific cases, there were even delays of between 30 minutes and one hour for landings, and up to 18 minutes for take-offs.
- (269) As noted previously, the capacity of the airport to obtain finance other than from or through the intercession of its public shareholders is very limited and therefore an aid intensity of 100 % was necessary. The German authorities have been able to show that all of the infrastructure that they will undertake and finance are necessary to attain the goals that they have set and the project is not disproportionately large or elaborate.
- (270) Thus, taking all of the above considerations into account the Commission can reach the conclusion that the infrastructure in question is necessary and proportional to the objectives which have been set.
- (iii) ***the infrastructure has satisfactory medium-term prospects for use, in particular as regards the use of existing infrastructure***
- (271) Due to its location in the centre of Europe and its surrounding market of approximately 7 million persons within 100 km of the airport and its location next to excellent road and rail infrastructure the airport has large growth potential. As previously stated, the air freight sector is showing considerable growth rates (i.e. average growth rate in international passenger transport between 2002 and 2006 of approximately 7.4 % and on the freight side 6.2 %) ⁽⁶⁰⁾. However, the current airport capacities are facing night flight constraints.
- (272) With regard to the freight growth at Leipzig airport the German authorities expect high growth rates in the first years and as from 2013 an average growth rate of 3 %. In comparison, IATA expects an average annual growth rate for 2007-2011 for passengers of about 5.1 % and freight of 4.8. The German authorities forecasted (in 1999) about 4 million passengers in 2004 and 6-7 million passengers in 2010. According to the German authorities a more recent study expects an increase from 2.1 million passengers in 2005 to 4.8 million passengers per year.
- (273) Thus, in the medium term, the new infrastructure offers good perspectives for use, especially in relation to existing infrastructure, which the planned works will optimise.
- (iv) ***all potential users of the infrastructure have access to it in an equal and non-discriminatory manner***
- (274) As indicated by the German authorities, all potential users (airlines) will have access to the new infrastructure on an equal and non-discriminatory basis. DHL will use the new southern runway only 19 % of the time amounting to only 9.4 % of the overall capacity of the airport as a whole. With regard to the use of the runway capacity by DHL the Commission notes, that in most

⁽⁶⁰⁾ IATA, Passenger and freight forecasts 2007 to 2011, October 2007.

(hub) airports it is not unusual that the incumbent airline utilise approximately 60 — 80 % of the overall runway capacity, effectively functioning as anchor tenants. This phenomenon is also becoming more prevalent in the low cost sector in their use of regional or secondary airports.

(275) The reservation of certain time frames (in effect slots) to DHL reflects the commercial reality of the express cargo business. Moreover, in the present case, Leipzig Airport is not a congested airport ('slot-constrained' airport) and therefore, there are no capacity restrictions. This means that the reservation of certain time frames does not have a negative impact on DHL's competitors. This has been largely confirmed by the observations received from cargo operators and passenger air carriers (i.e. Panalpina, Jade Cargo International, Ruslan-Salis, Lufthansa Cargo, CARGOLUX Condor etc.).

(276) With regard to the allocation of time frames (or slots) in Leipzig/Halle airport as with most (uncongested) airports the available slots are allocated on a 'first come first served' basis. Intrinsic to the operation of all airports is the concept that the air carriers retain the slots that they have received. This is referred to as 'grand-father rights'. The allocation of slots to DHL at this uncongested airport and the possibility for DHL to retain these slots is therefore not an advantage to DHL in State aid terms

(277) It should however be recalled that such 'rights' cannot derogate from Community or national law. In this regard, the Commission takes this opportunity to remind the German authorities that in the case of congestion of Leipzig/Halle airport they must carry out a capacity analysis in accordance with the provisions of Council Regulation No 95/93 (as amended) on common rules for the allocation of slots at Community airports ⁽⁶¹⁾.

(278) In the view of the above the Commission can conclude that all potential users of the infrastructure have access to it in an equal and non-discriminatory manner.

(v) *the development of trade is not affected to an extent contrary to the Community interest*

(279) The airport falls in category C, as defined by paragraph 15 of the 2005 Guidelines. Although there will be an impact on competition and trade at Community level, the Commission has to determine if this is to an extent contrary to the Common interest.

(280) The Commission firstly notes that the new southern runway while it optimises capacity at the airport is not

more than a replacement for a pre-existing runway which was not optimally positioned.

(281) As previously referred to, the main cargo airports in Germany with which Leipzig-Halle competes are facing capacity or night flight restrictions and therefore future competition is unlikely. There is therefore little or no risk of distortion of competition with these airports.

(282) As previously indicated, when DHL was canvassing for possible European hubs it settled on a short-list of Leipzig/Halle, Vatry and Brussels. In this regard the Commission notes that neither Brussels nor Vatry has commented during the opening of procedure. The Commission also notes that no other European airport has indicated during the opening of procedure that the development of Leipzig/Halle airport as set out above gives them cause for concern. Nor has the Commission identified specific competition concerns vis-à-vis any other EU airport.

(283) On the basis of the above, the Commission can therefore conclude that the development of trade is not affected to an extent contrary to the common interest.

6.2.2. *Incompatibility of the unlimited warranties under the Framework agreement and the comfort letter*

(284) As DHL has already benefited from the maximum amount of investment aid permissible under Article 87(3)(a) EC Treaty, the aid which DHL receives by the Framework Agreement and the comfort letter constitutes operating aid.

(285) According to the regional aid guidelines ⁽⁶²⁾, operating aid is normally prohibited. Exceptionally, such aid may be granted in regions eligible under the derogation in Article 87(3)(a) EC Treaty provided that certain strict conditions are fulfilled ⁽⁶³⁾. As Germany has not provided any evidence that these conditions are met, the Commission finds that the operating aid to DHL is not compatible under Article 87(3)(a) EC Treaty.

(286) In absence of information proving the opposite, the Commission finds also that the aid to DHL does not fulfil any other objective of common interest. Therefore, as none of the exceptions provided by Article 87(2) and Article 87(3) EC Treaty are applicable, the unlimited warranties granted by the Framework Agreement and the comfort letter have to be considered as incompatible with the common market.

⁽⁶²⁾ Guidelines on national regional aid 2007-2013, OJ C 54, 4.3.2006.

⁽⁶³⁾ In particular, operating aid has to target bottlenecks in regional development, to be proportional to the specific handicaps it seeks to alleviate, to be digressive, and to be limited in time.

⁽⁶¹⁾ OJ L 14, 22.1.1993, p. 1.

6.2.3. Elimination of incompatible aid granted to DHL

- (287) According to the Court of Justice's established case-law, the Commission is competent to decide that the state concerned must abolish or alter aid ⁽⁶⁴⁾ when it has found that it is incompatible with the common market. The Court has also consistently held that the obligation on a state to abolish aid regarded by the Commission as being incompatible with the common market is designed to re-establish the previously existing situation ⁽⁶⁵⁾. In this context, the Court has established that that objective is attained once the recipient has repaid the amounts granted by way of unlawful aid, thus forfeiting the advantage which it had enjoyed over its competitors on the market, and the situation prior to the payment of the aid is restored ⁽⁶⁶⁾.
- (288) Following that case-law, Article 14(1) of Regulation (EC) No 659/99 ⁽⁶⁷⁾ laid down that: 'where negative decisions are taken in respect of unlawful aid, the Commission shall decide that the Member State concerned shall take all necessary measures to recover the aid from the beneficiary (...). The Commission shall not require recovery of the aid if this would be contrary to a general principle of Community law'.
- (289) To ensure that DHL does not enjoy any economic advantages out of the incompatible aid measures, the Commission considers three actions as necessary:
- (a) The comfort letter must not be implemented.
 - (b) The unlimited warranties must be abolished.
 - (c) As the unlimited warranties have covered the period from 1 October 2007 (which is the operations start date of the DHL hub) onwards, the aid which has already been put at the disposal of DHL must be recovered.
- (290) For the calculation of the aid element which has already been put at the disposal of DHL, the Commission would firstly like to note that, according to the case-law of the Court of Justice, no provision of Community law requires the Commission, when ordering the recovery of aid declared incompatible with the common market, to fix the exact amount of the aid to be recovered. It is sufficient for the Commission's decision to include information enabling the recipient to work out himself, without overmuch difficulty, that amount ⁽⁶⁸⁾.
- (291) To quantify the aid element, the warranty fee needs to be calculated for the first months of the DHL hub opera-

tions starting on 1 October 2007 until the abolition of the unlimited warranty. It has to be asked which fee would a private insurance have demanded on 21 September 2005, when the framework agreement was signed, for the period from 1 October 2007 until the abolition of the unlimited warranty. In a competitive insurance market, the warranty fee will be equal to the expected risk costs which the warranty has to cover.

- (292) Germany has already provided an estimate of the expected risk costs of EUR [...] for the complete [...] years duration of the framework agreement. As already explained before, these risk costs result from the following calculation:
- (a) Germany assumes that the compensation claims will linearly decrease over time as a result of the amortisation of DHL's investments. Starting from the maximum of EUR [...] in year [...], this implies e.g. EUR [...] in year [...] and EUR [...] in year [...].
 - (b) To simplify the analysis, Germany does not use a continuous probability distribution for the risk of a night flight ban but assumes that after half of the contract period — in year [...] — a night flight restriction will be introduced with a probability of [...] percent. Multiplying the nominal damage claims of EUR [...] in year [...] by the probability of [...] percent gives expected nominal risk of EUR [...] in year [...] and a discounted value to EUR [...] for the expected risk costs.
- (293) The Commission considers that for having a correct estimate of the risk costs, Germany has to change the following elements in its calculation:
- (a) Contrary to Germany's assumption, certain parts of DHL's compensation claims will remain stable over time (e.g. costs for removal of equipment, damage claims by DHL clients for late delivery, etc.). The development of the nominal damage claims over time must accordingly be adjusted.
 - (b) Germany's calculation only focuses on the risk of a night flight ban. However, the warranty also covers daily operational risks (e.g. preferred use of the southern runway). These risks must therefore be included in the calculation. The damage claims due to operational risks and their probability of entry must be estimated and the resulting net present value of these risk costs must be calculated.

⁽⁶⁴⁾ Case C-70/72, *Commission v Germany*, [1973] ECR 00813, point 13.

⁽⁶⁵⁾ Joined Cases C-278/92, C-279/92 and C-280/92 *Spain v Commission*, [1994] ECR I-4103, point 75.

⁽⁶⁶⁾ Case C-75/97, *Belgium v Commission*, [1999] ECR I-030671 points 64-65.

⁽⁶⁷⁾ OJ L 83, 27.3.1999, p. 1.

⁽⁶⁸⁾ See, in particular, Case C-480/98 *Spain v Commission* [2000] ECR I-8717, point 25, and Case C-415/03, *Commission v Greece*, [2005] ECR 0000, point 39.

(c) While the Commission could accept the simplified analysis proposed by Germany as regards the probability for the risk of a night flight ban, as regards the daily operational risks, the Commission considers that the probability must be estimated on an annual basis. The time-series of the expected yearly damage claims must be discounted to arrive at the net present value for the daily operational risk.

(294) Based on the re-estimated risk costs for the complete period of the framework agreement, Germany will have to accordingly apportion the risk costs to arrive at the warranty fee for the period from 1 October 2007 until the abolition of the unlimited warranty.

7. CONCLUSION

7.1. In relation to the aid to the airport

(295) The Commission considers that the measure in question, which allows Leipzig-Halle airport to realise the investment project in accordance with the conditions described previously, is not prejudicial to the common interest and that the five criteria set out in the Guidelines have been satisfied in the present case.

7.2. In relation to the aid to DHL

(296) The Commission finds that the unlimited warranties granted by the Framework Agreement and (the comfort letter constitute aid in the meaning of Article 87(1) EC Treaty because the Land Sachsen, MFAG, and Leipzig Airport hedge business risks for DHL at terms which a private investor would not have accepted.

(297) As DHL has already benefited from the maximum amount of investment aid permissible under Article 87(3)(a) EC Treaty, the Commission considers that the unlimited warranties granted by the Framework Agreement and the comfort letter have to be considered as incompatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Germany is planning to implement amounting to EUR 350 million in relation to the construction of a new runway and related airport infrastructure at Leipzig Halle Airport is compatible with the common market under Article 87(3)(c) of the EC Treaty.

Article 2

The State aid which Germany is planning to implement by granting the comfort letter in favour of DHL is incompatible with the common market. The aid may accordingly not be implemented.

Article 3

The State aid which Germany granted to DHL in the form of unlimited warranties (according to sections 8 and 9 of the Framework Agreement) is incompatible with the common market. These unlimited warranties granted by the Framework Agreement must accordingly be abolished.

Article 4

1. Germany shall recover the part of the aid referred to in Article 3 which has already been put at the disposal of DHL (i.e. the warranty fee for the period from 1 October 2007 until the abolition of the unlimited warranties).

2. The sums to be recovered shall bear interest from the date on which they were put at the disposal of the beneficiary until their actual recovery.

3. The interest shall be calculated on a compound basis in accordance with Chapter V of Regulation (EC) No 794/2004 and to Regulation (EC) No 271/2008 amending Regulation (EC) No 794/2004.

Article 5

1. Recovery of the aid referred to in Article 3 which has already been put at the disposal of DHL shall be immediate and effective.

2. Germany shall ensure that this decision is implemented within four months following the date of notification of this Decision.

Article 6

1. Within two months following notification of this Decision, Germany shall submit the following information to the Commission:

- (a) the total amount (principal and recovery interests) to be recovered from the beneficiary;
- (b) a detailed description of the measures already taken and planned to comply with this Decision;
- (c) documents demonstrating that the beneficiary has been ordered to repay the aid.

2. Germany shall keep the Commission informed of the progress of the national measures taken to implement this Decision until recovery of the aid referred to in Article 3 which has already been put at the disposal of DHL has been completed. It shall immediately submit, on simple request by the Commission, information on the measures already taken and planned to comply with this Decision. It shall also provide detailed information concerning the amounts of aid and recovery interest already recovered from the beneficiary

Article 7

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 July 2008.

For the Commission

Antonio TAJANI
Vice President

Neelie KROES
Member of the Commission

ANNEX

Cash-flow calculations for aid to DHL

Table 1

Cash-flow calculations

(EUR million)

Cash-flow calculations (*)		(1) Airport Status Quo	(2) Airport Expansion with DHL	(3) Airport Expansion without DHL	(4)=(2)-(1) Southern runway with DHL	(5)=(3)-(1) Southern runway without DHL
EBITDA ⁽¹⁾ (2006-2042)	a	[...]	[...]	[...]	[...]	[...]
Investment costs (2006-2042)	b	[...]	[...]	[...]	[...]	[...]
Investment costs 2005	c	[...]	[...]	[...]	[...]	[...]
Cash-flow 2005	d=a+b+c	[...]	[...]	[...]	[...]	[...]
Risk costs (**)	e	[...]	[...]	[...]	[...]	[...]
Risk-adjusted cash-flow 2005	f=d+e	[...]	[...]	[...]	[...]	[...]
Correction for security and safety costs						
Security and safety cost (operating + investment costs) (**)	g	[...]	[...]	[...]	[...]	[...]
Corrected cash-flow 2005	h=f+g	[...]	[...]	[...]	[...]	[...]

⁽¹⁾ Earnings before interest, taxes, depreciation and amortisation.

(*) All values discounted to 2005.

(**) Calculated by Germany.

Calculation of the cash-flow for the southern runway

Germany submitted 3 different scenarios for the development of the 2006-2042 cash-flows of Leipzig Airport:

- *Airport — Status quo*: The southern runway is not built. The airport operations continue on the existing northern runway.
- *Airport — Expansion with DHL*: The southern runway is built and DHL begins operating its European hub in 2008.
- *Airport — Expansion without DHL*: The southern runway is built but DHL does not move to Leipzig and another operator will be attracted to the airport after 2010.

Based on the differences in cash-flows, the expected profitability of the southern runway is calculated thus:

- *Southern runway with DHL*: This column shows the cash-flow difference between the expansion with DHL and the status quo.
- *Southern runway without DHL*: This column shows the cash-flow difference between the expansion without DHL and the status quo.

Difference between cash-flow calculations of the opening and the current calculations

- While the *opening* decision discounted revenues and costs to 2006, the current calculations take 2005 as reference year because the decision to build the southern runway was taken in November 2004, and construction started in early 2005.
- The Commission learnt from the German submission to the opening that *additional investment costs of EUR [...]* were incurred in 2005, which further increase the cash-flow losses. These investment costs were included.

Cash-flow calculations show substantial losses for southern runway

- The construction and operation of the southern runway with DHL yields a discounted *cash-flow loss* of about EUR [...] in 2005. The discounted *cash-flow loss* for the expansion without DHL amounts to EUR [...].
 - Finally, the *risk costs of EUR [...]* (as calculated by Germany) increase the *cash-flow losses* to EUR [...] for the southern runway with DHL. It is thereby important to note that the estimated risk costs of EUR [...] merely represent lowest end of the scale since the Germany does not quantify all risks assumed by the airport and builds its calculations on very questionable assumptions.
 - Even if the Commission followed Germany's argument that *security and safety costs of EUR [...]* fell within the public policy remit and had therefore to be excluded from the calculation for the southern runway, a substantial *cash-flow loss of EUR [...]* would remain.
-

COMMISSION DECISION

of 6 November 2008

adopting a multiannual Community programme pursuant to Council Regulation (EC) No 199/2008 establishing a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy

(2008/949/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy ⁽¹⁾, and in particular Articles 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 199/2008 establishes a Community framework for the collection, management and use of data for the purpose of forming a solid basis for scientific analyses of fisheries and of providing for the formulation of sound scientific advice for the implementation of the common fisheries policy (hereinafter referred to as the CFP).
- (2) Member States should establish multiannual national programmes for the collection, management and use of data in accordance with the multiannual Community programme.

- (3) It is therefore necessary to establish a multiannual Community programme covering the collection of information needed to support scientific analysis required in the framework of the CFP and the management and use of this information.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for Fisheries and Aquaculture.

HAS DECIDED AS FOLLOWS:

Sole Article

The multiannual Community programme referred to in Article 3(1) of Regulation (EC) No 199/2008 is defined in the Annex.

Done at Brussels, 6 November 2008.

For the Commission

Joe BORG

Member of the Commission

⁽¹⁾ OJ L 60, 5.3.2008, p.1.

ANNEX

MULTIANNUAL COMMUNITY PROGRAMME

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

1. For the purpose of this Community Programme the following definitions shall apply:
 - (a) **Active vessels:** vessels that have been engaged in any fishing operation (more than zero days) during a calendar year. A vessel that has not been engaged in fishing operations during a year is considered 'inactive'.
 - (b) **Concurrent sampling:** sampling all or a predefined assemblage of species, simultaneously in a vessel's catches or landings.
 - (c) **Days at sea:** any continuous period of 24 hours (or part thereof) during which a vessel is present within an area and absent from port.
 - (d) **Fleet segment:** a group of vessels with the same length class (LOA) and predominant fishing gear during the year, according to the Appendix III. Vessels may have different fishing activities during the reference period, but might be classified in only one fleet segment.
 - (e) **Fishing days:** each day is attributed to the area where the most fishing time was spent during the relevant day at sea. However, for passive gears, if no operation took place from the vessel during a day while at least one (passive) gear remained at sea, that day will be associated to the area where the last setting of a fishing gear was carried out on that fishing trip.
 - (f) **Fishing trip:** means any voyage by a fishing vessel from a land location to a landing place, excluding non-fishing trips (a trip by a fishing vessel from a location to a land location during which it does not engage in fishing activities and during which any gear on board is securely lashed and stowed and not available for immediate use).
 - (g) **Metier:** a group of fishing operations targeting a similar (assemblage of) species, using similar gear, during the same period of the year and/or within the same area and which are characterised by a similar exploitation pattern.
 - (h) **Population of vessels:** all vessels in the Community Fishing Fleet Register as defined in Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register ⁽¹⁾.
 - (i) **Selected species:** species of relevance for management purposes and for which a request is made by an international scientific body or a regional fisheries management organisation.
 - (j) **Soaking time:** time calculated from the point where each individual unit of gear has been set, to the time when the same unit starts to be removed.
2. For the following terms, the Food and Agriculture Organization of the United Nations (www.fao.org/fi/glossary/default.asp) and STECF definitions shall apply: anadromous species, catadromus species, catches, cephalopods, crustaceans, deep water species, demersal fish, demersal species, exploitation pattern, finfish, freshwater species, gears, landings, discards, large pelagic fish, molluscs, other activity than fishing, pelagic fish, small pelagic fish, target species.

CHAPTER II

CONTENTS AND METHODOLOGY

A. Contents of the Community programme

The Community programme comprises of the following modules:

1. Module of evaluation of the fishing sector:

The data collection programme for the fishing sector contains the following sections:

- (a) Section for the collection of economic variables;
- (b) Section for the collection of biological variables;
- (c) Section for the collection of transversal variables;
- (d) Section for research surveys at sea.

⁽¹⁾ OJ L 5, 9.1.2004, p. 25.

2. Module of evaluation of the economic situation of the aquaculture and processing industry sectors:
 - (a) Section for the collection of economic data for the aquaculture sector;
 - (b) Section for the collection of economic data for the processing industry.
3. Module of evaluation of the effects of the fishing sector on the marine ecosystem.
4. Module for management and use of the data covered by the data collection framework.

B. Precision levels and sampling intensities

1. Where it is not possible to define quantitative targets for sampling programmes, neither in terms of precision levels, nor in terms of sample size, pilot surveys in the statistical sense shall be established. Such pilot surveys shall evaluate the importance of the problem and shall also address the utility of future more detailed surveys, and the cost-effectiveness relationship of such detailed surveys.
2. Where quantitative targets can be defined, they may be specified either directly by sample sizes or sampling rates, or by the definition of the levels of precision and of confidence to be achieved.
3. Where reference is made to a sample size or to a sampling rate in a population defined in statistical terms, the sampling strategies shall be at least as efficient as Simple Random Sampling. Such sampling strategies shall be described within the corresponding national programmes.
4. Where reference is made to precision/confidence level the following distinction shall apply:
 - (a) **Level 1:** level making it possible to estimate a parameter either with a precision of plus or minus 40 % for a 95 % confidence level or a coefficient of variation (CV) of 20 % used as an approximation;
 - (b) **Level 2:** level making it possible to estimate a parameter either with a precision of plus or minus 25 % for a 95 % confidence level or a coefficient of variation (CV) of 12,5 % used as an approximation;
 - (c) **Level 3:** level making it possible to estimate a parameter either with a precision of plus or minus 5 % for a 95 % confidence level or a coefficient of variation (CV) of 2,5 % used as an approximation.

CHAPTER III

MODULE OF EVALUATION OF THE FISHING SECTOR

A. Collection of economic variables

1. Variables

1. Variables to be collected are listed in Appendix VI. All economic variables are to be collected on an annual basis with the exception of those identified as transversal variables as defined in Appendix VIII and those identified in order to measure the effects of the fishery on the marine ecosystem as defined in Appendix XIII which are to be collected at more disaggregated levels. The population is all vessels in the Community Fishing Fleet Register on 1 January. All economic variables have to be collected for active vessels. For each vessel for which economic variables defined in Appendix VI are collected, the corresponding transversal variables defined in Appendix VIII have also to be collected.
2. For inactive vessels only capital value (Appendix VI), fleet (Appendix VI) and capacity (Appendix VIII) shall be collected.
3. National currencies shall be transformed into euros using the average annual exchange rates available from the European Central Bank (ECB).

2. Disaggregation levels

1. Economic variables shall be reported for each fleet segment (Appendix III) and supra region (Appendix II). Six length classes (using the overall length measurement (LOA)) are defined. However Member States are free to further disaggregate length classes if appropriate.
2. The dominance criteria shall be used to allocate each vessel to a segment based on the number of fishing days used with each gear. If a fishing gear is used by more than the sum of all the others (i.e. a vessel spends more than 50 % of its fishing time using that gear), the vessel shall be allocated to that segment. If not, the vessel shall be allocated to the following fleet segment:
 - (a) 'vessels using Polyvalent active gears' if it only uses active gears;
 - (b) 'vessels using Polyvalent passive gears' if it only uses passive gears;
 - (c) 'vessels using active and passive gears'.

3. In cases where a vessel operates in more than one supra region as defined in Appendix II, Member States shall explain in their national programme to which supra region the vessel is allocated.
4. In cases where a fleet segment has less than 10 vessels:
 - (a) Clustering may be necessary in order to design the sampling plan and to report economic variables;
 - (b) Member States shall report which fleet segments have been grouped at the national level and shall justify the clustering on the basis of statistical analysis;
 - (c) In their annual report, Member States shall report the number of sampled vessels for each fleet segment regardless of any clustering made to collect or provide the data;
 - (d) Regional coordination meetings shall define homogeneous clustering methodology at the level of supra regions so that economic variables are comparable.

3. *Sampling strategy*

1. Member States shall describe their methodologies used for estimating each economic variable, including quality aspects, in their national programmes.
2. Member States shall ensure consistency and comparability of all economic variables when derived from different sources (e.g. surveys, fleet register, logbooks, sales notes).

4. *Precision levels*

1. Member States shall include in their annual report information on the quality (accuracy and precision) of estimates.

B. **Collection of biological variables**

B1. ***Metier-related variables***

1. *Variables*

1. Sampling must be performed in order to evaluate the quarterly length distribution of species in the catches, and the quarterly volume of discards. Data shall be collected by metier referred to as level 6 of the matrix defined in Appendix IV (1 to 5) and for the stocks listed in Appendix VII.
2. Where relevant additional biological sampling programmes of the unsorted landings have to be carried out in order to estimate:
 - (a) the share of the various stocks in these landings for herring in the Skagerrak IIIA-N, Kattegat IIIa-S, and Eastern North Sea separately and salmon in the Baltic Sea;
 - (b) the share of the various species for those group of species that are internationally assessed, e.g. megrim, anglerfishes and elasmobranchs;

2. *Disaggregation level*

1. In order to optimise the sampling programmes, the metiers defined in Appendix IV (1 to 5) may be merged. When metiers are merged (vertical merging), statistical evidence shall be brought regarding the homogeneity of the combined metiers. Merging of neighbouring cells corresponding to fleet segments of the vessels (horizontal merging) shall be supported by statistical evidence. Such horizontal merging shall be done primarily by clustering neighbouring vessel LOA classes, independently of the dominant fishing techniques, when appropriate to distinguish different exploitation patterns. Regional agreement on mergers shall be sought at the relevant regional coordination meeting and endorsed by STECF.
2. At national level, one metier defined at level 6 of the matrix in Appendix IV (1 to 5) may be further disaggregated into several more precise strata, i.e. distinguishing different target species. Such further stratification shall be done respecting the two following principles:
 - (a) the strata defined at national level do not overlap the metiers defined in Appendix IV (1 to 5);
 - (b) the strata defined at national level must, in their entirety comprise of all the fishing trips of the metier defined at level 6.

3. The spatial units for metier sampling are defined by level 3 of Appendix I for all the regions with the following exceptions:
 - (a) the Baltic Sea (ICES areas III b-d), Mediterranean Sea and the Black Sea, where the resolution shall be level 4;
 - (b) Regional Fisheries Management Organisations units, providing they are metier-based (in the absence of such definitions, Regional Fisheries Management Organisations shall proceed to appropriate mergers).
4. For the purpose of collection and aggregation of data, spatial sampling units may be clustered by regions as referred to in Article 1 of Commission Regulation (EC) No 665/2008 ⁽¹⁾ after agreement by the relevant regional coordination meetings.
- (5) For parameters referred to in Chapter III section B/B1 1. (2), data shall be provided quarterly and be consistent with the fleet fishing activity matrix described in Appendix IV (1 to 5).

3. Sampling strategy

1. For the landings:

- (a) The Member State on whose territory the first sale take place, shall be responsible for ensuring that biological sampling occurs according to the standards defined in this Community Programme. If necessary, Member States shall cooperate with the authorities of non EU third countries to set up biological sampling programmes for the landings carried out by vessels flying the third country's flag.
- (b) For sampling purpose, only the major metiers need be considered. In order to identify the metiers to be sampled, the following ranking system shall be used at level 6 of the matrix in Appendix IV (1 to 5) on a national basis by Member States using as reference the average values of the two previous years and:
 - The metier cells shall first be ranked according to their share in the total commercial landings. The shares are then to be cumulated, starting with the largest, until a cut-off level of 90 % is reached. All metiers belonging to the top 90 % shall be selected for sampling,
 - The exercise shall then be repeated according to the total value of the commercial landings and repeated a third time according to the total effort in days-at-sea. The metiers in the top 90 % not belonging to the previous top 90 % shall be added to the selection,
 - STECF may add to the selection the metiers not picked up by the ranking system but of special importance in terms of management.
- (c) The sampling unit shall be the fishing trip and the number of fishing trips to be sampled shall ensure good coverage of the metier.
- (d) Precision values and ranking system are referenced at the same level as the sampling programmes, i.e. at the national metier level for data that are collected through national programmes and at regional metier level for data that are collected through regionally coordinated sampling programmes.
- (e) The sampling intensity shall be proportionate to the relative effort and variability in the catches of that metier. The minimum number of fishing trips to be sampled shall never be less than one fishing trip per month during the fishing season for fishing trips of less than two weeks and one fishing trip per quarter otherwise.
- (f) When sampling a fishing trip, the species shall be sampled concurrently as follows:
 - Each species within a region as defined in Appendix II, shall be classified within a group according to the following rules:
 - **Group 1:** Species that drive the international management process including species under EU management plans or EU recovery plans or EU long term multiannual plans or EU action plans for conservation and management based on Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽²⁾,

⁽¹⁾ OJ L 186, 15.7.2008, p. 3.

⁽²⁾ OJ L 358, 31.12.2002, p. 59.

- **Group 2:** Other internationally regulated species and major non-internationally regulated by-catch species,
 - **Group 3:** All other by-catch (fish and shellfish) species. The list of Group 3 species shall be established at the regional level by the relevant regional coordination meeting and agreed by STECF.
- (g) Allocation of species to Group 1 and 2 is specified in Appendix VII. The choice of the sampling scheme shall depend on the diversity of species to sample and the operational conditions under which sampling takes place. The sampling design per metier must consider both the periodicity of the sampling events and the sampling scheme to apply. Possible sampling schemes, as described in the following table, comprise:
- **Scheme 1:** comprehensive sampling of all species,
 - **Scheme 2:** within each time stratum, the sampling events are split in two parts. One part of the sampling events (x %) considers sampling of all species on shore whereas the other part of the sampling events (100-x %) considers only sampling of all Group 1 species,
 - **Scheme 3:** within each time stratum, the sampling events are split in two parts. One part of the sampling events (x %) considers sampling of all Group 1 and Group 2 species on shore, whereas the other part of the sampling events (100-x %) considers only sampling of Group 1 species. In this scheme, Group 3 species have to be sampled at sea.

Table 1

Summary of the schemes to be used for concurrent sampling.

Sampling scheme	Frequency	Group 1	Group 2	Group 3
Scheme 1	Every sampling event	✓	✓	✓
Scheme 2	x % of sampling events	✓	✓	✓
	(100-x) % of sampling events	✓		
Scheme 3	x % of sampling events	✓	✓	Sampling at sea
	(100-x) % of sampling events	✓		

- (h) For any given sample, the sampling scheme shall be recorded (Table 1) along with information on how complete the sampling is:
- When sampling a species, the number of individuals measured must ensure quality and accuracy of resultant length frequency. The number of length classes within a sample may be estimated from the approximate length range within it and, from this, the number of fish measured shall lie between $3 \times$ number of length classes and $5 \times$ number of length classes as a first approximation, in the absence of any statistical optimisation of the sampling design.
- (i) Other sampling procedures could be used on the condition that there is scientific evidence showing that these procedures will achieve the same objectives as the ones described in point 3(1)(g).
- (j) A summary of the sampling protocols carried out by Member States shall be made available to STECF through the national programmes for each metier sampled.
2. For the discards:
- (a) The ranking system referred to in Chapter III section B/B1 3 (1) (b), shall be used to select the metiers in order to estimate discards. In any case, where discards of a given metier are estimated to exceed 10 % of the total volume of catches and this metier is not picked up by the ranking system this metier shall be sampled.
 - (b) The sampling unit shall be the fishing trip and the number of fishing trips to be sampled shall ensure good coverage of the metier.

- (c) Precision values and the ranking system are referenced at the same level as the sampling programmes, i.e. at the national metier level for data that are collected through national programmes and at regional metier level for data that are collected through regionally coordinated sampling programmes.
 - (d) The sampling intensity shall be proportionate to the relative effort and/or the variability in catches of the metier. The minimum number of fishing trips to be sampled shall not be less than two fishing trips per quarter.
 - (e) Discards will be monitored for the Group 1, 2 and 3 species, defined in Chapter III section B/B1/3. 1 (f), to estimate the quarterly average weight of discards. Furthermore:
 - Discards must be the subject of a quarterly estimate of the length distributions when they represent on an annual basis, either more than 10 % of the total catches by weight or more than 15 % of the catches in numbers for the Group 1 and Group 2 species,
 - When discards take place for species length ranges which are not represented in the landings, age-reading must take place in accordance with the rules set out in Appendix VII.
 - (f) Where relevant, pilot surveys as referred to in Chapter II B (1) shall be carried out.
 - (g) A summary of the sampling protocols carried out by Member States shall be made available to STECF through the national programmes for each metier sampled.
3. For the recreational fisheries:
- (a) For the recreational fisheries targeting the species listed in Appendix IV (1 to 5), Member States shall evaluate the quarterly weight of the catches.
 - (b) Where relevant, pilot surveys as referred to in Chapter II B (1) shall be carried out to estimate the importance of the recreational fisheries mentioned in point 3(3)(a).

4. Precision levels

1. For the landings:

- (a) The precision level 2 shall be targeted at the stock level for both Group 1 and Group 2 species. If necessary, specific stock-based samples shall be added if metier-based sampling fails to provide the appropriate precision for length distributions at the stock level.

2. For the discards:

- (a) Data related to quarterly estimates of discards length and age composition for Group 1 and Group 2 species must lead to a precision of level 1.
- (b) Weight estimates of Group 1, 2 and 3 species must lead to a precision of level 1.

3. For the recreational fisheries:

- (a) Data related to annual estimates of the catches in volumes must lead to a precision of level 1.

5. Exemption rules

1. If Member States can not reach levels of precision referred to in Chapter III section B/B1/4 2 (a) and (b) and 3(a), or only at excessive costs, they can obtain, based on STECF recommendation, derogation from the Commission to reduce the precision level, sampling frequency or to implement a pilot survey provided this request is fully documented and scientifically proven.

B2. Stock-related variables

1. Variables

1. For stocks listed in Appendix VII, the following variables have to be collected:

- (a) individual information on age;
- (b) individual information on length;
- (c) individual information on weight;

- (d) individual information on sex;
 - (e) individual information on maturity;
 - (f) individual information on fecundity;
- using the sampling scheme provided in this Appendix VII.
2. The collection of all individual information referred to in paragraph (1) shall be associated with the corresponding information on space and time stratum.
 3. For wild salmon stocks in the index rivers, as defined by ICES, running into the Baltic Sea III b-d, the following variables have to be collected:
 - (a) information on abundance of smolt;
 - (b) information on abundance of parr;
 - (c) information on number of ascending individuals.

2. *Disaggregation level*

1. The necessary disaggregation levels as well as the collection periodicity for all variables and the sampling intensities for age are specified in Appendix VII. For sampling strategies and sampling intensities, the rules established in Chapter II section B (Precision levels and sampling intensities) shall apply.

3. *Sampling strategy*

1. Wherever possible, age-reading shall be performed on commercial catches in order to estimate the age composition by species and, where relevant, the growth parameters. Where this is not possible, Member States shall justify why in their national programmes.
2. If cooperation between Member States ensures that the overall estimate of the parameters listed in Appendix VII reach the necessary precision level, each Member State shall ensure that its own contribution to the common dataset is sufficient to reach that precision level.

4. *Precision levels*

1. For stocks of species that can be aged, average weights and lengths for each age shall be estimated at a precision level 3, up to such an age that accumulated landings for the corresponding ages account for at least 90 % of the national landings for the relevant stock.
2. For stocks for which age reading is not possible, but for which a growth curve can be estimated, average weights and lengths for each pseudo age (e.g. derived from the growth curves) shall be estimated with a precision of level 2, up to such an age that accumulated landings for the corresponding ages account for at least 90 % of the national landings for the relevant stock.
3. For maturity, fecundity and sex ratios, a choice may be made between reference to age or length, provided that Member States which have to conduct the corresponding biological sampling, have agreed the following:
 - (a) For maturity and fecundity, calculated as proportion of mature fish, precision of level 3 must be achieved within the age and/or length range, the limits of which correspond to a 20 % and 90 % of mature fish;
 - (b) For sex ratio, calculated as proportion of females, precision of level 3 must be achieved, up to such an age or length that cumulated landings for the corresponding ages or lengths account for at least 90 % of the national landings for this stock.

5. *Exemptions rules*

1. The national programme of a Member State may exclude the estimation of the stock related variables for stocks for which TACs and quota have been defined under the following conditions:
 - (a) The relevant quota must correspond to less than 10 % of the Community share of the TAC or to less than 200 tonnes on average during the previous three years;
 - (b) The sum of relevant quotas of Member States whose allocation is less than 10 %, must account for less than 25 % of the Community share of the TAC.

2. If the condition set out in above point 1(a) is fulfilled, but not the condition set out in point 1(b), the relevant Member States may set up a coordinated programme to achieve, for their joint landings, a joint sampling scheme, or Member States may individually set up other national sampling schemes leading to the same precision.
3. If appropriate, the national programmes may be adjusted until 1 February of each year to take into account the exchange of quotas between Member States.
4. For stocks for which TACs and quotas have not been defined and which are outside the Mediterranean Sea, the same rules established under point 5(1) apply on the basis of the average landings of the previous three years and with reference to the total Community landings from a stock.
5. For stocks in the Mediterranean Sea, the landings by weight of a Mediterranean Member State for a species corresponding to less than 10 % of the total Community landings from the Mediterranean Sea, or to less than 200 tonnes, except for Bluefin tuna.

C. Collection of transversal variables

1. Variables

1. Variables to be collected are listed in Appendix VIII. Data shall be provided according to the periodicity stated in that Appendix.
2. Some delays may occur between information provided on the fleet segmentation and on the fishing effort.

2. Disaggregation level

1. The disaggregation level is given in Appendix VIII in accordance with the criteria defined in Appendix V.
2. The degree of aggregation shall correspond to the most disaggregated level required. A grouping of cells within this scheme may be made provided that an appropriate statistical analysis demonstrates its suitability. Such mergers must be approved by the relevant regional coordination meeting.

3. Sampling strategy

1. Wherever possible, transversal data shall be collected in an exhaustive way. Where this is not possible, Member States shall specify the sampling procedures within their national programmes.

4. Precision levels

1. Member States shall include in their annual report information on the quality (accuracy and precision) of the data.

D. Research surveys at sea

1. All surveys listed in Appendix IX shall be covered.
2. Member States shall guarantee within their national programmes, continuity with previous survey designs.
3. Notwithstanding points 1 and 2, Member States may propose a modification in the survey effort or sampling design, provided that this does not negatively affect the quality of the results. Acceptance by the Commission of any modification shall be conditional to STECF approval.

CHAPTER IV

MODULE OF EVALUATION OF THE ECONOMIC SITUATION OF THE AQUACULTURE AND THE PROCESSING INDUSTRY SECTORS

A. Collection of economic data for the aquaculture sector

1. Variables

1. All variables listed in Appendix X are to be collected on an annual basis per segment according to the segmentation set out in Appendix XI.
2. The statistical unit shall be the 'enterprise' defined as the lowest legal entity for accounting purposes.

3. The population shall refer to enterprises whose primary activity is defined according to the Eurostat definition under NACE Code 05.02: 'Fish Farming'.
4. National currencies shall be transformed into euro using the average annual exchange rate available from the European Central Bank (ECB).

2. Disaggregation level

1. Data shall be segmented by species and technique for aquaculture, as mentioned in Appendix XI. Member States may further segment by size of enterprise or other relevant criteria, if necessary.
2. Collection of data for freshwater species is not mandatory. However, if this data is collected, Member States shall follow the segmentation set out in Appendix XI.

3. Sampling strategy

1. Member States shall describe their methodologies for estimating each economic variable, including quality aspects, in their national programmes.
2. Member States shall ensure consistency and comparability of all economic variables when derived from different sources (e.g. questionnaires, financial accounts).

4. Precision levels

1. Member States shall include in their annual report information on the quality (accuracy and precision) of estimates.

B. Collection of economic data concerning the processing industry

1. Variables

1. All variables listed in Appendix XII are to be collected on an annual basis for the population.
2. The population shall refer to enterprises whose main activity is defined according to the Eurostat definition under NACE Code 15.20: 'Processing and preserving of fish and fish products'.
3. As a guideline, the national codes applied by Member States under Council Regulations (EC) No 852/2004 of 29 April 2004 on the hygiene of foodstuffs ⁽¹⁾, (EC) No 853/2004 of 29 April 2004 on hygiene rules for food of animal origin ⁽²⁾ and (EC) No 854/2004 of 29 April 2004 on the organisation of official controls on products of animal origin intended for human consumption ⁽³⁾, shall additionally be used as a means of cross checking and identifying enterprises classified under NACE code 15.20.
4. National currencies shall be transformed into euro using the average annual exchange rate available from the European Central Bank (ECB).

2. Disaggregation level

1. The statistical unit for collection of data shall be the 'enterprise' as defined as the lowest legal entity for accounting purposes.
2. For enterprises that carry out fish processing but not as a main activity, it is mandatory to collect the following data, in the first year of each programming period:
 - (a) number of enterprises;
 - (b) turnover attributed to fish processing.

⁽¹⁾ OJ L 139, 30.4.2004, p. 1.

⁽²⁾ OJ L 139, 30.4.2004, p. 55.

⁽³⁾ OJ L 139, 30.4.2004, p. 206.

3. Sampling strategy

1. Member States shall describe their methodologies for estimating each economic variable, including quality aspects, in their national programmes.
2. Member States shall ensure consistency and comparability of all economic variables when derived from different sources (e.g. questionnaires, financial accounts).

4. Precision levels

1. Member States shall include in their annual report information on the quality (accuracy and precision) of estimates.

CHAPTER V

MODULE OF EVALUATION OF THE EFFECTS OF THE FISHERIES SECTOR ON THE MARINE ECOSYSTEM*1. Variables*

1. To allow the calculation of the indicators listed in Appendix XIII, data specified in this Appendix shall be collected on an annual basis with the exception of those which are specified to be collected at more disaggregated levels.
2. Data specified in Appendix XIII shall be collected at national level in order to allow end-users to calculate the indicators at the relevant geographical scale, as given in Appendix II.

2. Disaggregation level

1. The disaggregation level set out in the specifications laid down in Appendix XIII shall be applied.

3. Sampling strategy

1. Member States shall apply the recommendations set out in the specifications laid down in Appendix XIII.

4. Precision levels

1. Member States shall apply the recommendations set out in the specifications laid down in Appendix XIII.

CHAPTER VI

MODULE FOR MANAGEMENT AND USE OF THE DATA COVERED BY THE DATA COLLECTION FRAMEWORK**A. Management of the data**

1. With regard to the data covered by this Community Programme, this section covers the development of data bases, data input (storage), data quality control and validation, and data processing from primary data into detailed or aggregated data as referred to in Article 17(1) of Regulation (EC) No 199/2008.
2. It shall include the transformation process of the primary socioeconomic data into metadata referred to in Article 13(b) of Regulation (EC) No 199/2008.
3. Member States shall guarantee that, upon request by the Commission, the information on the transformation process referred to in paragraph 2 can be provided.

B. Use of the data

1. The section covers the production of sets of data and their use to support scientific analysis as a basis for advice to fisheries management as referred to in Article 18(1)a of Regulation (EC) No 199/2008.
2. It shall include biological parameter estimates (age, weight, sex, maturity and fecundity) for stocks listed in Appendix VII, preparation of sets of data for stock assessments and bio-economic modelling and corresponding scientific analysis.

List of appendices

Appendix No	Title
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II	Geographical stratification by region
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IV	Fishing activity (metier) by region
V	Disaggregation levels used for the collection of data
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IX	List of research surveys at sea
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Appendix I

Geographic stratification by Regional Fisheries Management Organisations

	I.C.E.S.	N.A.F.O	I.C.C.A.T	G.F.C.M.	C.C.A.M.L.R.	IOTC	Other
Level 1	Area	Area	FAO Area	Area e.g. 37 Mediterranean and Black sea	Area e.g. 48	FAO Area	FAO Area
Level 2	Sub-area e.g. 27.IV North Sea	Sub-area e.g. 21.2 Labrador	FAO Sub-area	Sub-area e.g. 37.1 Western	Sub-area e.g. 48.1 Antarctic Peninsula	FAO Sub-area	FAO Sub-area
Level 3	Division e.g. 27.IV c	Division e.g. 21.2 H	Division 5° × 5°	Division e.g. 37.1.2 Gulf of Lions	Division e.g. 58.5.1 Kerguelen islands	Division 5° × 5°	Division 5° × 5°
Level 4	Subdivision e.g. 27.III.c.22			GSA e.g. GSA 1			
Level 5	Rectangle 30' × 1°	Rectangle	Rectangle 1° × 1°		Rectangle 30' × 1°	Rectangle 1° × 1°	Rectangle 1° × 1°

Appendix II

Geographical stratification by region

	Sub-region/Fishing ground ⁽¹⁾	Region	Supra region
Level	1	2	3
	Cluster of spatial units on level 4 as defined in Appendix I (ICES subdivision)	Baltic Sea (ICES areas III b-d)	Baltic Sea (ICES areas III b-d), North Sea (ICES areas IIIa, IV and VIId) and Eastern Arctic (ICES areas I and II), and North Atlantic (ICES areas V-XIV and NAFO areas).
	Cluster of spatial units on level 3 as defined in Appendix I (ICES Division)	North Sea (ICES areas IIIa, IV and VIId) and Eastern Arctic (ICES areas I and II)	
	Cluster of spatial units on level 3 as defined in Appendix I (ICES/NAFO Division)	North Atlantic (ICES areas V-XIV and NAFO areas)	
	Cluster of spatial units on level 4 as defined in Appendix I (GSA)	Mediterranean Sea and Black Sea	Mediterranean Sea and Black Sea
	RFMOs sampling sub-areas (except GFCM)	Other regions where fisheries are operated by EU vessels and managed by RFMOs to which the Community is contracting party or observer (e.g. ICCAT, IOTC, CECAF, etc.)	Other regions

⁽¹⁾ Sub-regions or fishing grounds are established by Member States for the first programming period (2009-2010); they may be redefined by regional coordination meetings and agreed by STECF if necessary. This level should be consistent with existing geographical divisions.

Appendix III

Fleet segmentation by region

		Length classes (LOA) ⁽¹⁾					
		0-< 10 m 0-< 6 m	10-< 12 m 6-< 12 m	12-< 18 m	18-< 24 m	24-< 40 m	40 m or larger
Active Vessels							
Using 'Active' gears	Beam trawlers						
	Demersal trawlers and/or demersal seiners						
	Pelagic trawlers						
	Purse seiners						
	Dredgers						
	Vessel using other active gears						
	Vessels using Polyvalent 'active' gears only						
Using 'Passive' gears	Vessels using hooks	⁽²⁾	⁽²⁾				
	Drift and/or fixed netters						
	Vessels using Pots and/or traps						
	Vessels using other Passive gears						
	Vessels using Polyvalent 'passive' gears only						
Using Polyvalent gears	Vessels using active and passive gears						
Inactive vessels							

⁽¹⁾ For vessels less than 12 metres in the Mediterranean Sea and the Black sea, the length categories are 0-< 6, 6-< 12 metres. For all other regions, the length categories are defined as 0-< 10, 10-< 12 metres.

⁽²⁾ Vessels less than 12 metres using passive gears in the Mediterranean Sea and the Black Sea may be disaggregated by gear type.

Appendix IV

Fishing activity (metier) by region

1. Baltic Sea (ICES Subdivisions 22-32)

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24 < 40	40 & +
Fishing activity	Trawls	Bottom trawls	Bottom otter trawl (OTB)	Crustaceans	^(a)						
				Demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Freshwater species	^(a)						
			Multi-rig otter trawl (OTT)	Crustaceans	^(a)						
				Demersal fish	^(a)						
				Small pelagic fish	^(a)						
			Bottom pair trawl (PTB)	Demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Freshwater species	^(a)						
		Pelagic trawls	Midwater otter trawl (OTM)	Demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Freshwater species	^(a)						
			Midwater pair trawl (PTM)	Demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Freshwater species	^(a)						

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24 < 40	40 & +
	Hooks and Lines	Rods and Lines	Hand and Pole lines (LHP) (LHM)	Finfish	^(a)						
		Longlines	Drifting longlines (LLD)	Small pelagic fish	^(a)						
				Anadromous species	^(a)						
			Set longlines (LLS)	Demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Freshwater species	^(a)						
				Anadromous species	^(a)						
				Catadromous species	^(a)						
			Pots and Traps (FPO) ^(c)	Demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Freshwater species	^(a)						
				Anadromous species	^(a)						
				Catadromous species	^(a)						
	Traps	Traps	Fyke nets (FYK) ^(c)	Demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Freshwater species	^(a)						
				Anadromous species	^(a)						
				Catadromous species	^(a)						
			Stationary uncovered pound nets (FPN)	Demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Freshwater species	^(a)						
				Anadromous species	^(a)						
				Catadromous species	^(a)						

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)						
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24 < 40	40 & +	
	Nets	Nets	Trammel net (GTR)	Demersal fish	^(a)							
				Small pelagic fish	^(a)							
				Freshwater species	^(a)							
			Set gillnet (GNS)	Demersal fish	^(a)							
				Small pelagic fish	^(a)							
				Freshwater species	^(a)							
				Anadromous species	^(a)							
				Catadromous species	^(a)							
	Seines	Surrounding nets	Purse seine (PS)	Small pelagic fish	^(a)							
			Seines	Fly shooting seine (SSC)	Demersal fish	^(a)						
		Freshwater species			^(a)							
		Anchored seine (SDN)		Demersal fish	^(a)							
			Small pelagic fish	^(a)								
		Pair seine (SPR)	Demersal fish	^(a)								
		Beach and boat seine (SB) (SV)	Finfish	^(a)								
		Fishing activity missing information			Fishing activity missing information							
Other activity than fishing			Other activity than fishing									
Inactive			Inactive									
Recreational fisheries			Only for these species: Salmon, Cod, Eels	Not applicable	All vessel classes (if any) combined							

^(a) As defined in Council Regulations (EC) No 88/98 and (EC) No 2187/2005.

^(b) The retained part of the catch should be classified by target assemblage (crustaceans, demersal fish, etc.) at a trip level or at a fishing operation level when possible, and sorted by weight or by total value in the case of valuable species (e.g. *Nephrops*, *shrimps*). The target assemblage that comes up at the first position should be considered as the target assemblage to be reported in the matrix.

^(c) Including eel in the management units as specified in Council Regulation (EC) No 1100/2007.

Remark:

Where relevant, pilot studies shall be carried out to establish protocols for the monitoring of inland eel fisheries.

2. North Sea (ICES areas IIIa, IV and VIId) and Eastern Arctic (ICES areas I and II)

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(a)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24- < 40	40 & +
Fishing activity	Dredges	Dredges	Boat dredge (DRB)	Molluscs	^(a)						
			Mechanised/ Suction dredge (HMD)	Molluscs	^(a)						
	Trawls	Bottom trawls	Bottom otter trawl (OTB)	Molluscs	^(a)						
				Crustaceans	^(a)						
				Demersal fish	^(a)						
				Mixed crustaceans and demersal fish	^(a)						
				Mixed cephalopods and demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Deep-water species	^(a)						
				Mixed pelagic and demersal fish	^(a)						
				Mixed demersal and deep water species	^(a)						
			Multi-rig otter trawl (OTT)	Molluscs	^(a)						
				Crustaceans	^(a)						
				Demersal fish	^(a)						
				Deep-water species	^(a)						
				Mixed crustaceans and demersal fish	^(a)						
				Mixed pelagic and demersal fish	^(a)						
			Bottom pair trawl (PTB)	Demersal fish	^(a)						
				Crustaceans	^(a)						
				Small pelagic fish	^(a)						
			Beam trawl (TBB)	Crustaceans	^(a)						
				Demersal fish	^(a)						
				Mixed crustaceans and demersal fish	^(a)						
		Pelagic trawls	Midwater otter trawl (OTM)	Small pelagic fish	^(a)						
				Demersal fish	^(a)						
			Midwater pair trawl (PTM)	Small pelagic fish	^(a)						
				Demersal fish	^(a)						

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24- < 40	40 & +
	Hooks and Lines	Rods and Lines	Hand and Pole lines (LHP) (LHM)	Finfish	^(a)						
		Longlines	Set longlines (LLS)	Demersal fish	^(a)						
	Traps	Traps ^(c)	Pots and Traps (FPO)	Molluscs	^(a)						
				Crustaceans	^(a)						
				Finfish	^(a)						
			Fyke nets (FYK)	Catadromous species	^(a)						
	Nets	Nets	Trammel net (GTR)	Demersal fish	^(a)						
			Set gillnet (GNS)	Small pelagic fish	^(a)						
				Demersal fish	^(a)						
				Crustaceans	^(a)						
			Driftnet (GND)	Small pelagic fish	^(a)						
				Demersal fish	^(a)						
	Seines	Surrounding nets	Purse seine (PS)	Small pelagic fish	^(a)						
		Seines	Fly shooting seine (SSC)	Demersal fish	^(a)						
			Anchored seine (SDN)	Demersal fish	^(a)						
			Pair seine (SPR)	Demersal fish	^(a)						
			Beach and boat seine (SB) (SV)	Finfish	^(a)						
	Other gear	Other gear	Glass eel fishing	Glass eel	^(a)						
	Misc. (Specify)	Misc. (Specify)			^(a)						
Other activity than fishing				Other activity than fishing							
Inactive				Inactive							
Recreational fisheries				Only for these species: Cod, Eels	Not applicable	All vessel classes (if any) combined					

^(a) As defined in Council Regulations (EEC) No 1899/85, (EEC) No 1638/87 and Council Regulation (EC) No 850/98, Commission Regulations (EC) No 2056/2001 and (EC) No 494/2002 and Council Regulation (EC) No 40/2008.

^(b) The retained part of the catch should be classified by target assemblage (crustaceans, cephalopods, demersal fish, etc.) at a trip level or at a fishing operation level when possible, and sorted by weight or by total value in the case of valuable species (e.g. *Nephrops*, *Tunas*). The target assemblage that comes up at the first position should be considered as the target assemblage to be reported in the matrix.

^(c) Including eel in the management units as specified in Council Regulation (EC) No 1100/2007.

Remark:

Where relevant, pilot studies shall be carried out to establish protocols for the monitoring of inland eel fisheries.

3. North Atlantic (ICES areas V-XIV and NAFO areas)

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24- < 40	40 & +
Fishing activity	Dredges	Dredges	Boat dredge (DRB)	Molluscs	^(a)						
			Mechanised/ Suction dredge (HMD)	Molluscs	^(a)						
	Trawls	Bottom trawls	Bottom otter trawl (OTB)	Molluscs	^(a)						
				Crustaceans	^(a)						
				Demersal fish	^(a)						
				Mixed crustaceans and demersal fish	^(a)						
				Mixed cephalopods and demersal fish	^(a)						
				Small pelagic fish	^(a)						
				Deep-water species	^(a)						
				Mixed pelagic and demersal fish	^(a)						
				Mixed demersal and deep water species	^(a)						
			Multi-rig otter trawl (OTT)	Molluscs	^(a)						
				Crustaceans	^(a)						
				Demersal fish	^(a)						
				Deep-water species	^(a)						
				Mixed crustaceans and demersal fish	^(a)						
				Mixed pelagic and demersal fish	^(a)						
			Bottom pair trawl (PTB)	Demersal fish	^(a)						
				Crustaceans	^(a)						
				Small pelagic fish	^(a)						
			Beam trawl (TBB)	Crustaceans	^(a)						
				Demersal fish	^(a)						
				Mixed crustaceans and demersal fish	^(a)						
				Mixed demersal and cephalopods	^(a)						
	Pelagic trawls	Midwater otter trawl (OTM)		Small pelagic fish	^(a)						
				Demersal fish	^(a)						
		Midwater pair trawl (PTM)		Small pelagic fish	^(a)						
				Large pelagic fish	^(a)						
				Demersal fish	^(a)						

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24- < 40	40 & +
	Hooks and Lines	Rods and Lines	Hand and Pole lines (LHP) (LHM)	Finfish	^(a)						
				Cephalopods	^(a)						
			Trolling lines (LTL)	Large pelagic fish	^(a)						
		Longlines	Drifting longlines (LLD)	Large pelagic fish	^(a)						
				Demersal fish	^(a)						
				Deep-water species	^(a)						
			Set longlines (LLS)	Deep-water species	^(a)						
				Demersal fish	^(a)						
	Traps	Traps ^(c)	Pots and Traps (FPO)	Molluscs	^(a)						
				Crustaceans	^(a)						
				Finfish	^(a)						
			Fyke nets (FYK)	Catadromous species	^(a)						
				Demersal species	^(a)						
			Stationary uncovered pound nets (FPN)	Large pelagic fish	^(a)						
	Nets	Nets	Trammel net (GTR)	Demersal fish	^(a)						
			Set gillnet (GNS)	Small pelagic fish	^(a)						
				Demersal fish	^(a)						
				Crustaceans	^(a)						
				Deep-water species	^(a)						
			Driftnet (GND)	Small pelagic fish	^(a)						
				Demersal fish	^(a)						
	Seines	Surrounding nets	Purse seine (PS)	Small pelagic fish	^(a)						
				Large pelagic fish	^(a)						
		Seines	Fly shooting seine (SSC)	Demersal fish	^(a)						
			Anchored seine (SDN)	Demersal fish	^(a)						
			Pair seine (SPR)	Demersal fish	^(a)						
			Beach and boat seine (SB) (SV)	Finfish	^(a)						
	Other gear	Other gear	Glass eel fishing	Glass eel	^(a)						
	Misc. (Specify)	Misc. (Specify)			^(a)						

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24- < 40	40 & +
Other activity than fishing				Other activity than fishing							
Inactive				Inactive							
Recreational fisheries				Only for these species: Salmon, Seabass, Eels (for ICES areas only)	Not applicable	All vessel classes (if any) combined					

^(a) As defined in Regulation (EC) No 850/98, in Council Regulation (EC) No 2549/2000, Commission Regulations (EC) No 2056/2001, (EC) No 494/2002 and Council Regulation (EC) No 1386/2007, and in Regulation (EC) No 40/2008.

^(b) The retained part of the catch should be classified by target assemblage (crustaceans, cephalopods, demersal fish, etc.) at a trip level or at a fishing operation level when possible, and sorted by weight or by total value in the case of valuable species (e.g. *Nephrops*, *Tunas*). The target assemblage that comes up at the first position should be considered as the target assemblage to be reported in the matrix.

^(c) Including eel in the management units as specified in Regulation (EC) No 1100/2007.

Remark:

Where relevant, pilot studies shall be carried out to establish protocols for the monitoring of inland eel fisheries.

4. Mediterranean Sea and Black Sea

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(c)	Mesh size and other selective devices	< 6	6- < 12	12- < 18	18- < 24	24- < 40	40 & +
Fishing activity	Dredges	Dredges	Boat dredge (DRB)	Molluscs	^(a)						
	Trawls	Bottom trawls	Bottom otter trawl (OTB)	Demersal species	^(a)						
				Deep water species ^(b)	^(a)						
				Mixed demersal species and deep water species ^(b)	^(a)						
			Multi-rig otter trawl (OTT)	Demersal species	^(a)						
			Bottom pair trawl (PTB)	Demersal species	^(a)						
			Beam trawl (TBB)	Demersal species	^(a)						
		Pelagic trawls	Midwater otter trawl (OTM)	Mixed demersal and pelagic species	^(a)						
			Pelagic pair trawl (PTM)	Small pelagic fish	^(a)						

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(a)	Mesh size and other selective devices	< 6	6 - < 12	12 - < 18	18 - < 24	24 - < 40	40 & +
	Hooks and Lines	Rods and Lines	Hand and Pole lines (LHP) (LHM)	Finfish	^(a)						
				Cephalopods	^(a)						
			Trolling lines (LTL)	Large pelagic fish	^(a)						
		Longlines	Drifting longlines (LLD)	Large pelagic fish	^(a)						
			Set longlines (LLS)	Demersal fish	^(a)						
	Traps	Traps ^(d)	Pots and Traps (FPO)	Demersal species	^(a)						
			Fyke nets (FYK)	Catadromous species	^(a)						
				Demersal species	^(a)						
			Stationary uncovered pound nets (FPN)	Large pelagic fish	^(a)						
	Nets	Nets	Trammel net (GTR)	Demersal species	^(a)						
			Set gillnet (GNS)	Small and large pelagic fish	^(a)						
				Demersal species	^(a)						
			Driftnet (GND)	Small pelagic fish	^(a)						
				Demersal fish	^(a)						
	Seines	Surrounding nets	Purse seine (PS)	Small pelagic fish	^(a)						
				Large pelagic fish	^(a)						
			Lampara nets (LA)	Small and large pelagic fish	^(a)						
		Seines	Fly shooting seine (SSC)	Demersal species	^(a)						
			Anchored seine (SDN)	Demersal species	^(a)						
			Pair seine (SPR)	Demersal species	^(a)						
			Beach and boat seine (SB) (SV)	Demersal species	^(a)						
	Other gear	Other gear	Glass eel fishing	Glass eel	^(a)						
	Misc. (Specify)	Misc. (Specify)			^(a)						

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(c)	Mesh size and other selective devices	< 6	6- < 12	12- < 18	18- < 24	24- < 40	40 & +
Other activity than fishing				Other activity than fishing							
Inactive				Inactive							
Recreational fisheries				Only for these species: Bluefin tuna, Eels	Not applicable	All vessel classes (if any) combined					

^(a) As defined in Council Regulation (EC) No 1967/2006.

^(b) Referring only to red shrimps *Aristaeomorpha foliacea* and *Aristeus antennatus*, species not included in the definition of deep sea species given by Council Regulation (EC) No 2347/2002.

^(c) The retained part of the catch should be classified by target assemblage (crustaceans, cephalopods, demersal fish, etc.) at a trip level or at a fishing operation level when possible, and sorted by weight or by total value in the case of valuable species (e.g. *Nephrops*, *Tunas*). The target assemblage that comes up at the first position should be considered as the target assemblage to be reported in the matrix.

^(d) Including eel in the management units as specified in Regulation (EC) No 1100/2007.

Remark:

Where relevant, pilot studies shall be carried out to establish protocols for the monitoring of inland eel fisheries.

5. Other regions where fisheries are operated by EU vessels and managed by RFMOs to which the Community is contracting party or observer (e.g. ICCAT, IOTC, CECAF, etc.)

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24- < 40	40 & +
Fishing activity	Trawls	Bottom trawls	Bottom otter trawl (OTB)	Crustaceans	^(a)						
				Demersal fish	^(a)						
				Mixed cephalopods and demersal fish	^(a)						
			Multi-rig otter trawl (OTT)	Crustaceans	^(a)						
		Pelagic trawls	Midwater otter trawl (OTM)	Small pelagic fish	^(a)						
	Hooks and Lines	Rods and Lines	Hand and Pole lines (LHP) (LHM)	Large pelagic fish	^(a)						
				Demersal fish	^(a)						
		Longlines	Drifting longlines (LLD)	Large pelagic fish	^(a)						
			Set longlines (LLS)	Demersal fish	^(a)						
	Traps	Traps	Pots and Traps (FPO)	Crustaceans	^(a)						
				Finfish	^(a)						

Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	LOA classes (m)					
Activity	Gear classes	Gear groups	Gear type	Target assemblage ^(b)	Mesh size and other selective devices	< 10	10- < 12	12- < 18	18- < 24	24- < 40	40 & +
	Nets	Nets	Trammel net (GTR)	Demersal fish	^(a)						
			Set gillnet (GNS)	Demersal fish	^(a)						
			Driftnet (GND)	Demersal fish	^(a)						
	Seines	Surrounding nets	Purse seine (PS)	Small pelagic fish	^(a)						
				Large pelagic fish	^(a)						
	Misc. (Specify)	Misc. (Specify)			^(a)						
Other activity than fishing				Other activity than fishing							
Inactive				Inactive							

^(a) As defined in Council Regulations (EC) No 600/2004, (EC) No 830/2004, (EC) No 115/2006, (EC) No 563/2006, (EC) No 764/2006, (EC) No 805/2006, (EC) No 1562/2006, (EC) No 1563/2006, (EC) No 1801/2006, (EC) No 2027/2006, (EC) No 450/2007, (EC) No 753/2007, (EC) No 893/2007, (EC) No 894/2007, (EC) No 1386/2007, (EC) No 1446/2007, (EC) No 31/2008, (EC) No 241/2008 and (EC) No 242/2008.

^(b) The retained part of the catch should be classified by target assemblage (crustaceans, cephalopods, demersal fish, etc.) at a trip level or at a fishing operation level where possible, and sorted by weight or by total value in the case of valuable species (e.g. *Nephrops*, *Tunas*). The target assemblage that comes up at the first position should be considered as the target assemblage to be reported in the matrix.

Appendix V

Disaggregation levels used for the collection of data

		Sub regions or fishing grounds	Regions	Supra regions
		1	2	3
Metier Fleet segment (Cell)	A	A1	A2	A3
Metier	B	B1	B2	B3
Fleet segment	C	C1	C2	C3

Remark:

Considering the place where the fishing activity occurs could refer to sub regions, regions or supra regions the appendix summarises the different levels for the collection of data (or disaggregation levels).

Appendix VI

List of economic variables

Variable group	Variable	Specification for the collection of data ⁽¹⁹⁾	Unit	Definition Structural Business Statistics (SBS) Commission Regulation (EC) No 2700/98	Guideline
Income	Gross value of landings	Transversal	EUR	12 11 0 excl. para 4	
	Income from leasing out quota or other fishing rights		EUR	12 11 0 excl. para 4	
	Direct subsidies ⁽¹⁾		EUR	12 11 0 excl. para 4	
	Other income ⁽²⁾		EUR	12 11 0 excl. para 4	
Personnel costs	Wages and salaries of crew ⁽³⁾		EUR	13 31 0	
	Imputed value of unpaid labour ⁽⁴⁾		EUR	13 32 0	
			EUR		
Energy costs	Energy costs ⁽⁵⁾		EUR	20 11 0 (13 11 0)	
Repair and maintenance costs	Repair and maintenance costs ⁽⁶⁾		EUR	(13 11 0)	ESA ⁽²⁰⁾ 3.70 e) (1) (2)
Other operational costs	Variable costs ⁽⁷⁾		EUR	(13 11 0)	
	Non-variable costs ⁽⁸⁾		EUR	(13 11 0)	
	Lease/rental payments for quota or other fishing rights		EUR	(13 11 0)	
Capital costs	Annual depreciation ⁽⁹⁾		EUR		ESA 6.02. to 6.05
Capital value	Value of physical capital: depreciated replacement value ⁽¹⁰⁾		EUR		ESA 7.09. to 7.24
	Value of physical capital: depreciated historical value ⁽¹⁰⁾		EUR		ESA 7.09. to 7.24
	Value of quota and other fishing rights ⁽¹¹⁾		EUR		ESA 7.09. to 7.24
Investments	Investments in physical capital ⁽¹²⁾		EUR	15 11 0	ESA 3.102. to 3.111
Financial position	Debt/asset ratio ⁽¹³⁾		%		
Employment	Engaged crew ⁽¹⁴⁾		Number	16 11 0; 16 13 0 16 13 1; 16 13 2 16 13 5; 16 14 0 16 15 0	ESA 11.32. to 11.34
	FTE National ⁽¹⁵⁾		Number	16 11 0; 16 13 0 16 13 1; 16 13 2 16 13 5; 16 14 0 16 15 0	ESA 11.32. to 11.34
	FTE harmonised ⁽¹⁶⁾		Number	16 11 0; 16 13 0 16 13 1; 16 13 2 16 13 5; 16 14 0 16 15 0	ESA 11.32. to 11.34

Variable group	Variable	Specification for the collection of data ⁽¹⁹⁾	Unit	Definition Structural Business Statistics (SBS) Commission Regulation (EC) No 2700/98	Guideline
Fleet	Number	Transversal	Number	N/A	N/A
	Mean LOA	Transversal	Metres	N/A	N/A
	Mean vessel's tonnage	Transversal	GT	N/A	N/A
	Mean vessel's power	Transversal	kW	N/A	N/A
	Mean age	Transversal	Years	N/A	N/A
Effort	Days at sea	Transversal	Days	N/A	N/A
	Energy consumption		Litres	N/A	N/A
Number of fishing enterprises/units	Number of fishing enterprises/units ⁽¹⁷⁾	By size category: 1) owned vessel 2) 2-5 owned vessels 3) > 5 owned vessels	Number	N/A	N/A
Production value per species	Value of landings per species	Transversal	EUR	N/A	N/A
	Average price per species ⁽¹⁸⁾	Transversal	EUR/kg	N/A	N/A

⁽¹⁾ Includes direct payments, e.g. compensation for stopping fishing, refunds of fuel duty or similar lump sum compensation payments. Excludes social benefit payments, indirect subsidies, e.g. reduced duty on inputs such as fuel, investment subsidies.

⁽²⁾ Includes other income from use of the vessel, e.g. recreational fishing, tourism, oil rig duty, etc. also insurance payments for damage/loss of gear/vessel.

⁽³⁾ Including social security costs.

⁽⁴⁾ For example, the vessel owner's own labour. Chosen methodology should be explained by the Member State in their national programme.

⁽⁵⁾ Excluding lubrication oil. Broken down by type if possible (petrol, diesel, biofuel, etc.).

⁽⁶⁾ Gross costs of maintenance and repairs to vessel and gear.

⁽⁷⁾ Includes all purchased inputs (goods and services) related to fishing effort and/or catch/landings.

⁽⁸⁾ Includes purchased inputs not related to effort and/or catch/landings (including leased equipment).

⁽⁹⁾ Estimated according to (the proposed PIM methodology in the capital valuation report of study No FISH/2005/03: 'IREPA Onlus Coordinator, 2006. Evaluation of the capital value, investments and capital costs in the fisheries sector Study No FISH/2005/03, 203 p.'). The data and estimation procedures should be explained in the national programme.

⁽¹⁰⁾ Value of the vessel, i.e. the hull, engine, all onboard equipment and the gear. Estimated according to (the proposed PIM methodology in the capital valuation report of study No FISH/2005/03 'IREPA Onlus Coordinator, 2006. Evaluation of the capital value, investments and capital costs in the fisheries sector Study No FISH/2005/03, 203 p.'). The data and estimation procedures should be explained in the national programme.

⁽¹¹⁾ Where appropriate. Methodology for estimation to be explained in the national programme.

⁽¹²⁾ Improvements to existing vessel/gear during the given year.

⁽¹³⁾ % debt in relation to total capital value (as defined above).

⁽¹⁴⁾ Number of jobs on board, equal to the average number of persons working for and paid by the vessel. This includes temporary crew as well as rotation crew (See report of Study FISH/2005/14, 'LEI WAGENINGENUR Coordinator, 2006. Calculation of labour including full-time equivalent (FTE) in fisheries Study No FISH/2005/14, 142 p.').

⁽¹⁵⁾ Full-time equivalent (FTE) based on the national reference level for FTE working hours of the crew members on board the vessel (excluding resting time) and the working hours onshore. If the annual working hours per crew member exceed the reference level, the FTE equals 1 per crew member. If not, the FTE equals the ratio between the hours worked and the reference level (The methodology should be in accordance with the Study FISH/2005/14, 'LEI WAGENINGENUR Coordinator, 2006. Calculation of labour including full-time equivalent (FTE) in fisheries Study No FISH/2005/14, 142 p.' and amended by the SGECA 07-01 report (15-19 January 2007, Salerno, 21 p. + annexes) and should be explained in the national programmes.).

⁽¹⁶⁾ Full-time equivalent (FTE) based on a threshold of 2 000 hours per FTE using the same methodology referred to in footnote 15.

⁽¹⁷⁾ Situation at 1st of January as defined in the fleet register. Shared ownership (involving more than one person) should be regarded as one unit.

⁽¹⁸⁾ Prices in euro per kilo live weight.

⁽¹⁹⁾ Economic variables are to be collected on an annual basis at the C3 level (Appendix V) with the exception of those identified as transversal variables and collected at more disaggregated levels (as defined in the Appendix VIII) and periodicity.

⁽²⁰⁾ ESA refers to European System of Accounts 1995 (Council Regulation (EC) No 2223/96, Regulation (EC) No 1267/2003 of the European Parliament and of the Council, Eurostat ESA 1995 manual).

Appendix VII

List of biological variables with species sampling specification

(Y = Yearly; T = every three years)

Species (Engl.)	Species (Latin)	Area/Stock	Species group (°)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
ICES areas I, II								
European eel	<i>Anguilla anguilla</i>	I, II	G1	(^b)	T	T	T	
Tusk	<i>Brosme brosme</i>	I, II	G2	250	T	T	T	
Atlanto-Scandian herring	<i>Clupea harengus</i>	I, II,V	G1	25	Y	Y	Y	
Cod	<i>Gadus morhua</i>	I, II	G1	125	Y	Y	Y	
Haddock	<i>Melanogrammus aeglefinus</i>	I, II	G1	125	Y	Y	Y	
Blue whiting	<i>Micromesistius poutassou</i>	I-IX, XII, XIV	G1	25	Y	Y	Y	
Northern shrimp	<i>Pandalus borealis</i>	I, II	G1		Y	Y	Y	
Saithe	<i>Pollachius virens</i>	I, II	G1	125	Y	Y	Y	
Greenland halibut	<i>Reinhardtius hippoglossoides</i>	I, II	G1	50	Y	Y	Y	
Mackerel	<i>Scomber scombrus</i>	II, IIIa, IV, V, VI, VII, VIII, IX	G1	25	Y	Y	Y	
Golden redfish	<i>Sebastes marinus</i>	I, II	G1	125	Y	Y	Y	
Deep sea redfish	<i>Sebastes mentella</i>	I, II	G1	125	Y	Y	Y	
Horse mackerel	<i>Trachurus trachurus</i>	IIa, IVa, Vb, VIa, VIIa-c, e-k, VIIIabde	G2	25	T	T	T	
Capelin	<i>Mallotus villosus</i>	I, II	G2					
Salmon	<i>Salmo salar</i>	I, II	G1	250	T	T	T	

Skagerrak and Kattegat — ICES area IIIa

Sand eel	<i>Ammodytidae</i>	IIIa	G2	50				
European eel	<i>Anguilla anguilla</i>	IIIa	G1	(^b)	T	T	T	
Herring	<i>Clupea harengus</i>	IV, VIId, IIIa/22-24, IIIa	G1	25	Y	Y	Y	
Roundnose grenadier	<i>Coryphaenoides rupestris</i>	IIIa	G2	100	T	T	T	
Grey gurnard	<i>Eutrigla gurnardus</i>	IIIa	G2	250	T	T	T	
Cod	<i>Gadus morhua</i>	IV, VIId, IIIaN	G1	250	Y	Y	Y	
Cod	<i>Gadus morhua</i>	IIIaS	G1	125	Y	Y	Y	
Witch flounder	<i>Glyptocephalus cynoglossus</i>	IIIa	G2	250	T	T	T	
Dab	<i>Limanda limanda</i>	IIIa	G2	125				
Haddock	<i>Melanogrammus aeglefinus</i>	IV, IIIa	G1	125	Y	Y	Y	
Whiting	<i>Merlangius merlangus</i>	IIIa	G2	125	T	T	T	

Species (Engl.)	Species (Latin)	Area/Stock	Species group (*)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Hake	<i>Merluccius merluccius</i>	IIIa, IV, VI, VII, VIIIab	G1	125	Y	Y	Y	
Blue whiting	<i>Micromesistius poutassou</i>	I-IX, XII, XIV	G1	25	Y	Y	Y	
Norway lobster	<i>Langoustine norvegicus</i>	Functional unit	G1		Y	Y	Y	
Northern shrimp	<i>Pandalus borealis</i>	IIIa, IVa East	G1		Y	Y	Y	
Plaice	<i>Pleuronectes platessa</i>	IIIa	G1	250	Y	Y	Y	
Saithe	<i>Pollachius virens</i>	IV, IIIa, VI	G1	125	Y	Y	Y	
Turbot	<i>Psetta maxima</i>	all areas	G2	250	T	T	T	
Mackerel	<i>Scomber scombrus</i>	II, IIIa, IV, V, VI, VII, VIII, IX	G1	25	Y	Y	Y	
Brill	<i>Scophthalmus rhombus</i>	IIIa	G2	125	T	T	T	
Sole	<i>Solea solea</i>	IIIa, 22	G1	250	Y	Y	Y	
Sprat	<i>Sprattus sprattus</i>	IIIa	G1	500	Y	Y	Y	
Sharks	<i>Squalidae</i>	IIIa N	G1					
Norway pout	<i>Trisopterus esmarki</i>	IV, IIIa	G2	25				

Baltic Sea— ICES Subdivisions 22-32

European eel	<i>Anguilla anguilla</i>	IIIb-d	G1	(b)	T	T	T	
Herring	<i>Clupea harengus</i>	22-24 IIIa/25-27, 28.2, 29, 32/28.1/30/31	G1	25	Y	Y	Y	
Common whitefish	<i>Coregonus lavaretus</i>	IIIId	G2	250	T	T	T	
Pike	<i>Esox lucius</i>	IIIId	G2	250	T	T	T	
Cod	<i>Gadus morhua</i>	22-24/25-32	G1	125	Y	Y	Y	
Dab	<i>Limanda limanda</i>	22-32	G2	125	T	T	T	
Perch	<i>Perca fluviatilis</i>	IIIId	G2	250	T	T	T	
Flounder	<i>Platichthys flesus</i>	22-32	G2	250	T	T	T	
Plaice	<i>Pleuronectes platessa</i>	22-32	G2	250	T	T	T	
Turbot	<i>Psetta maxima</i>	22-32	G2	250	T	T	T	
Salmon	<i>Salmo salar</i>	22-31/32	G1	250	Y	Y	Y	
Sea trout	<i>Salmo trutta</i>	22-32	G2	250	T	T	T	
Pike-perch	<i>Sander lucioperca</i>	IIIId	G2	250	T	T	T	
Brill	<i>Scophthalmus rhombus</i>	22-32	G2	125	T	T	T	

Species (Engl.)	Species (Latin)	Area/Stock	Species group (*)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Sprat	<i>Sprattus sprattus</i>	22-32	G1	50	Y	Y	Y	
Sole	<i>Solea solea</i>	22	G1	125	Y	Y	Y	

North Sea and Eastern Channel — ICES areas IV, VIIId

Sand eel	<i>Ammodytidae</i>	IV	G2	25				
European eel	<i>Anguilla anguilla</i>	IV, VIIId	G1	(^b)	T	T	T	
Catfish	<i>Anarhichas spp.</i>	IV	G2	250				
Argentine	<i>Argentina spp.</i>	IV	G2	50				
Red gurnard	<i>Aspitrigla cuculus</i>	IV	G2	250	T	T	T	
Tusk	<i>Brosme brosme</i>	IV, IIIa	G2	250	T	T	T	
Herring	<i>Clupea harengus</i>	IV, VIIId, IIIa	G1	25	Y	Y	Y	
Common shrimp	<i>Crangon crangon</i>	IV, VIIId	G2		T	T	T	
Sea bass	<i>Dicentrarchus labrax</i>	IV, VIIId	G2	125	T	T	T	
Grey gurnard	<i>Eutrigla gurnardus</i>	IV	G2	250	T	T	T	
Cod	<i>Gadus morhua</i>	IV, VIIId, IIIa	G1	125	Y	Y	Y	
Witch flounder	<i>Glyptocephalus cynoglossus</i>	IV	G2	250	T	T	T	
Blue-mouth rockfish	<i>Helicolenus dactylopterus</i>	IV	G2	250	T	T	T	
Four-spot megrim	<i>Lepidorhombus boscii</i>	IV, VIIId	G2	50	T	T	T	
Megrim	<i>Lepidorhombus whiffiagonis</i>	IV, VIIId	G2	50	T	T	T	
Dab	<i>Limanda limanda</i>	IV, VIIId	G2	125	T	T	T	
Black-bellied angler	<i>Lophius budegassa</i>	IV, VIIId	G1	125	Y	Y	Y	
Anglerfish	<i>Lophius piscatorius</i>	IIIa, IV, VI	G1	125	Y	Y	Y	
Roughhead grenadier	<i>Macrourus berglax</i>	IV, IIIa	G2	250	T	T	T	
Haddock	<i>Melanogrammus aeglefinus</i>	IV, IIIa	G1	125	Y	Y	Y	
Whiting	<i>Merlangius merlangus</i>	IV, VIIId	G1	125	Y	Y	Y	
Hake	<i>Merluccius merluccius</i>	IIIa, IV, VI, VII, VIIIab	G1	125	Y	Y	Y	
Blue whiting	<i>Micromesistius poutassou</i>	I-IX, XII, XIV	G1	25	Y	Y	Y	
Lemon sole	<i>Microstomus kitt</i>	IV, VIIId	G2	100	T	T	T	
Blue ling	<i>Molva dypterygia</i>	IV, IIIa	G1	125	T	T	T	
Ling	<i>Molva molva</i>	IV, IIIa	G2	125	T	T	T	
Red mullet	<i>Mullus barbatus</i>	IV, VIIId	G2	125	T	T	T	
Striped red mullet	<i>Mullus surmuletus</i>	IV, VIIId	G2	125	T	T	T	

Species (Engl.)	Species (Latin)	Area/Stock	Species group (*)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Norway lobster	<i>Langoustine norvegicus</i>	all functional units	G1		Y	Y	Y	
Northern shrimp	<i>Pandalus borealis</i>	IIIa, IVa East/IVa/IV	G1		T	T	T	
Common scallop	<i>Pecten maximus</i>	VIIId	G2		T	T	T	
Greater forkbeard	<i>Phycis blennoides</i>	IV	G2	50	T	T	T	
Forkbeard	<i>Phycis phycis</i>	IV	G2	50	T	T	T	
Flounder	<i>Platichthys flesus</i>	IV	G2	125	T	T	T	
Plaice	<i>Pleuronectes platessa</i>	IV	G1	50	Y	Y	Y	
Plaice	<i>Pleuronectes platessa</i>	VIIId	G1	125	Y	Y	Y	
Saithe	<i>Pollachius virens</i>	IV, IIIa, VI	G1	125	Y	Y	Y	
Turbot	<i>Psetta maxima</i>	IV, VIIId	G2	250	T	T	T	
Thornback ray	<i>Raja clavata</i>	IV, VIIId	G1		T	T	T	
Spotted ray	<i>Raja montagui</i>	IV, VIIId	G1		T	T	T	
Cuckoo ray	<i>Raja naevus</i>	IV, VIIId	G1		T	T	T	
Starry ray	<i>Raja radiata</i>	IV, VIIId	G1		T	T	T	
Other rays and skates	<i>Rajidae</i>	IV, VIIId	G1					
Greenland halibut	<i>Reinhardtius hippoglossoides</i>	IV	G2	250	T	T	T	
Salmon	<i>Salmo salar</i>	IV	G1	250	T	T	T	
Mackerel	<i>Scomber scombrus</i>	II, IIIa, IV, V, VI, VII, VIII, IX	G1	25	Y	Y	Y	
Brill	<i>Scophthalmus rhombus</i>	IV, VIIId	G2	125	T	T	T	
Redfish	<i>Sebastes mentella</i>	IV	G1	125	Y	Y	Y	
Deepwater shark	<i>Shark-like Selachii</i>	IV	G1		T	T	T	
Small shark	<i>Shark-like Selachii</i>	IV, VIIId	G1		T	T	T	
Sole	<i>Solea solea</i>	IV	G1	250	Y	Y	Y	
Sole	<i>Solea solea</i>	VIIId	G1	250	Y	Y	Y	
Sprat	<i>Sprattus sprattus</i>	IV/VIIde	G1	50	T	T	T	
Spurdog	<i>Squalus acanthias</i>	IV, VIIId	G1		T	T	T	
Horse mackerel	<i>Trachurus trachurus</i>	IIa, IVa, Vb, VIa, VIIa-c, e-k, VIIIabde/IIIa, IVbc, VIIId	G2	25	T	T	T	T
Tub gurnard	<i>Trigla lucerna</i>	IV	G2	250	T	T	T	

Species (Engl.)	Species (Latin)	Area/Stock	Species group (*)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Norway pout	<i>Trisopterus esmarki</i>	IV, IIIa	G2	25				
John Dory	<i>Zeus faber</i>	IV, VIIId	G2	250	T	T	T	
North East Atlantic and Western Channel — ICES areas V, VI, VII (excluding d), VIII, IX, X, XII, XIV								
Smoothhead	<i>Alepocephalus bairdii</i>	VI, XII	G2		T	T	T	
Sand eel	<i>Ammodytidae</i>	VIa	G2	25				
European eel	<i>Anguilla anguilla</i>	all areas	G1	(b)	T	T	T	
Scabbardfish	<i>Aphanopus spp.</i>	all areas	G1	50	Y	Y	Y	
Argentine	<i>Argentina spp.</i>	all areas	G2	50	T	T	T	
Meagre	<i>Argyrosomus regius</i>	all areas	G2	50	T	T	T	
Red gurnard	<i>Aspitrigla cuculus</i>	all areas	G2	250	T	T	T	
Alfonsinos	<i>Beryx spp.</i>	all areas, excluding X and IXa	G1	50	Y	Y	Y	
Alfonsinos	<i>Beryx spp.</i>	IXa and X	G1	125	T	T	T	
Edible crab	<i>Cancer pagurus</i>	all areas	G2		T	T	T	
Gulper shark	<i>Centrophorus granulosus</i>	all areas	G1		T	T	T	
Leafscale gulper shark	<i>Centrophorus squamosus</i>	all areas	G1		T	T	T	
Portuguese dogfish	<i>Centroscymnus coelolepis</i>	all areas	G1		T	T	T	
Herring	<i>Clupea harengus</i>	VIa/VIaN/VIa S, VIIbc/VIIa/VIIj	G1	25	Y	Y	Y	
Conger	<i>Conger conger</i>	all areas, excluding X	G2	25	T	T	T	
Conger	<i>Conger conger</i>	X	G2	125	T	T	T	
Roundnose grenadier	<i>Coryphaenoides rupestris</i>	all areas	G1	100	Y	Y	Y	
Birdbeak dogfish	<i>Deania calcea</i>	all areas	G1		Y	Y	Y	
Sea bass	<i>Dicentrarchus labrax</i>	all areas, excluding IX	G2	125	T	T	T	
Sea bass	<i>Dicentrarchus labrax</i>	IX	G2	125	T	T	T	
Wedge sole	<i>Dicologlossa cuneata</i>	VIIIc, IX	G2	100				
Anchovy	<i>Engraulis encrasicolus</i>	IXa (only Cádiz)	G1	125	T	T	T	T
Anchovy	<i>Engraulis encrasicolus</i>	VIII	G1	125	Y	Y	Y	Y
Grey gurnard	<i>Eutrigla gurnardus</i>	VIIId, e	G2	250	T	T	T	
Cod	<i>Gadus morhua</i>	Va/Vb/VIa/VIb/VIIa/VIIe-k	G1	125	Y	Y	Y	
Witch	<i>Glyptocephalus cynoglossus</i>	VI, VII	G2	50				
Bluemouth rockfish	<i>Helicolenus dactylopterus</i>	all areas	G2	100				

Species (Engl.)	Species (Latin)	Area/Stock	Species group (*)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Lobster	<i>Homarus gammarus</i>	all areas	G2		T	T	T	
Orange roughy	<i>Hoplostethus atlanticus</i>	all areas	G1	50	Y	Y	Y	
Silver scarbbardfish	<i>Lepidopus caudatus</i>	IXa	G2		T	T	T	
Four-spot megrim	<i>Lepidorhombus boscii</i>	VIIIc, IXa	G1	250	Y	Y	Y	
Megrim	<i>Lepidorhombus whiffiagonis</i>	VI/VII, VIIIabd/VIIIc, IXa	G1	125	Y	Y	Y	
Dab	<i>Limanda limanda</i>	VIIe/VIIa, f-h	G2	125	T	T	T	
Common squid	<i>Loligo vulgaris</i>	all areas, excluding VIIIc, IXa	G2					
Common squid	<i>Loligo vulgaris</i>	VIIIc, IXa	G2		T	T	T	
Black-bellied angler	<i>Lophius budegassa</i>	IV, VI/VIIb-k, VIIIabd	G1	125	Y	Y	Y	
Black-bellied angler	<i>Lophius budegassa</i>	VIIIc, IXa	G1	125	Y	Y	Y	
Anglerfish	<i>Lophius piscatorius</i>	IV, VI/VIIb-k, VIIIabd	G1	125	Y	Y	Y	
Anglerfish	<i>Lophius piscatorius</i>	VIIIc, IXa	G1	125	Y	Y	Y	
Capelin	<i>Mallotus villosus</i>	XIV	G2	50				
Haddock	<i>Melanogrammus aeglefinus</i>	Va/Vb	G1	125	Y	Y	Y	
Haddock	<i>Melanogrammus aeglefinus</i>	VIa/VIb/VIIa/VIIb-k	G1	125	Y	Y	Y	
Whiting	<i>Merlangius merlangus</i>	VIII/IX, X	G2	25	T	T	T	
Whiting	<i>Merlangius merlangus</i>	Vb/VIa/VIb/VIIa/VIIe-k	G1	250	Y	Y	Y	
Hake	<i>Merluccius merluccius</i>	IIIa, IV, VI, VII, VIIIab/VIIIc, IXa	G1	125	Y	Y	Y	
Wedge sole	<i>Microchirus variegatus</i>	all areas	G2	50				
Blue whiting	<i>Micromesistius poutassou</i>	I-IX, XII, XIV	G1	25	Y	Y	Y	
Lemon sole	<i>Microstomus kitt</i>	all areas	G2	100	T	T	T	
Blue ling	<i>Molva dypterygia</i>	all areas, excluding X	G1	125	T	T	T	
Blue ling	<i>Molva dypterygia</i>	X	G1	125	T	T	T	
Ling	<i>Molva molva</i>	all areas	G2	125	T	T	T	
Striped red mullet	<i>Mullus surmuletus</i>	all areas	G2	125	T	T	T	
Norway lobster	<i>Langoustine norvegicus</i>	VI Functional unit	G1		Y	Y	Y	
Norway lobster	<i>Langoustine norvegicus</i>	VII Functional unit	G1		Y	Y	Y	
Norway lobster	<i>Langoustine norvegicus</i>	VIII, IX Functional unit	G1		Y	Y	Y	

Species (Engl.)	Species (Latin)	Area/Stock	Species group (*)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Common octopus	<i>Octopus vulgaris</i>	all areas, excluding VIIIc, IXa	G2		T	T	T	
Common octopus	<i>Octopus vulgaris</i>	VIIIc, IXa	G2					
Pandalid shrimps	<i>Pandalus spp.</i>	all areas	G2					
White shrimp	<i>Parapenaeus longirostris</i>	IXa	G2		T	T	T	
Greater forkbeard	<i>Phycis blennoides</i>	all areas	G2	50	T	T	T	
Forkbeard	<i>Phycis phycis</i>	all areas	G2	50	T	T	T	
Plaice	<i>Pleuronectes platessa</i>	VIIa/VIIe/VIIIfg	G1	100	Y	Y	Y	
Plaice	<i>Pleuronectes platessa</i>	VIIbc/VIIh-k/VIII, IX, X	G1	25	Y	Y	Y	
Pollack	<i>Pollachius pollachius</i>	all areas except IX, X	G2	25	T	T	T	
Pollack	<i>Pollachius pollachius</i>	IX, X	G2	500	T	T	T	
Saithe	<i>Pollachius virens</i>	Va/Vb/IV, IIIa, VI	G1	125	Y	Y	Y	
Saithe	<i>Pollachius virens</i>	VII, VIII	G2	125	T	T	T	
Wreckfish	<i>Polyprion americanus</i>	X	G2	125				
Turbot	<i>Psetta maxima</i>	all areas	G2	250	T	T	T	
Blond ray	<i>Raja brachyura</i>	all areas	G1		T	T	T	
Thornback ray	<i>Raja clavata</i>	all areas	G1		T	T	T	
Spotted ray	<i>Raja montagui</i>	all areas	G1		T	T	T	
Cuckoo ray	<i>Raja naevus</i>	all areas	G1		T	T	T	
Other rays and skates	<i>Rajidae</i>	all areas	G1					
Greenland halibut	<i>Reinhardtius hippoglossoides</i>	V, XIV/VI	G1	250	Y	Y	Y	
Salmon	<i>Salmo salar</i>	all areas	G1	250				
Sardine	<i>Sardina pilchardus</i>	VIIIabd/VIIIc, IXa	G1	50	Y	Y	Y	T
Brill	<i>Scophthalmus rhombus</i>	all areas	G2	125	T	T	T	
Spanish mackerel	<i>Scomber japonicus</i>	VIII, IX	G2	25	T	T	T	
Mackerel	<i>Scomber scombrus</i>	II, IIIa, IV, V, VI, VII, VIII, IX	G1	25	Y	Y	Y	T
Golden redfish	<i>Sebastes marinus</i>	ICES Sub-areas V, VI, XII, XIV & NAFO SA 2 + (Div. 1F + 3K).	G1	250	Y	Y	Y	
Deep sea redfish	<i>Sebastes mentella</i>	ICES Sub-areas V, VI, XII, XIV & NAFO SA 2 + (Div. 1F + 3K)	G1	250	Y	Y	Y	
Cuttlefish	<i>Sepia officinalis</i>	all areas	G2		T	T	T	

Species (Engl.)	Species (Latin)	Area/Stock	Species group ^(a)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Sole	<i>Solea solea</i>	VIIa/VIIfg	G1	250	Y	Y	Y	
Sole	<i>Solea solea</i>	VIIbc/VIIhjk/Ixa/ VIIIc	G1	250	Y	Y	Y	
Sole	<i>Solea solea</i>	VIIe	G1	250	Y	Y	Y	
Sole	<i>Solea solea</i>	VIIIab	G1	250	Y	Y	Y	
Sea breams (in plural)	<i>Sparidae</i>	all areas	G2	50				
Sea bream	<i>Pagellus bogaraveo</i>	IXa, X	G1	250	T	T	T	
Spurdog	<i>Squalus acanthias</i>	all areas	G1		T	T	T	
Mediterranean horse mackerel	<i>Trachurus mediterraneus</i>	VIII, IX	G2	25	T	T	T	
Blue jack mackerel	<i>Trachurus picturatus</i>	X	G2	25	T	T	T	
Horse mackerel	<i>Trachurus trachurus</i>	IIa, IVa, Vb, VIa, VIIa-c, e-k, VIIIabde/X	G2	25	T	T	T	T
Horse mackerel	<i>Trachurus trachurus</i>	VIIIc, IXa	G2	25	T	T	T	T
Pouting	<i>Trisopterus spp.</i>	all areas	G2	25				
John Dory	<i>Zeus faber</i>	all areas	G2	250	T	T	T	

Mediterranean Sea and Black Sea

European eel	<i>Anguilla anguilla</i>	all areas	G1	^(b)	T	T	T	
Giant red shrimp	<i>Aristeomorpha foliacea</i>	all areas	G1		Y	Y	Y	
Red shrimp	<i>Aristeus antennatus</i>	all areas	G1		Y	Y	Y	
Bogue	<i>Boops boops</i>	1.3, 2.1, 2.2, 3.1, 3.2	G2		T	T	T	
Dolphinfish	<i>Coryphaena hippurus</i>	all areas	G2	500 ^(c)	T	T	T	
Dolphinfish	<i>Coryphaena equiselis</i>	all areas	G2					
Sea bass	<i>Dicentrarchus labrax</i>	all areas	G2	100	T	T	T	
Horned octopus	<i>Eledone cirrosa</i>	1.1, 1.3, 2.1, 2.2, 3.1	G2		T	T	T	
Musky octopus	<i>Eledone moschata</i>	1.3, 2.1, 2.2, 3.1	G2		T	T	T	
Anchovy	<i>Engraulis encrasicolus</i>	all areas	G1	50	Y	Y	Y	
Grey gurnard	<i>Eutrigla gurnardus</i>	2.2, 3.1	G2	250	T	T	T	
Squid	<i>Illex spp.</i> , <i>Todarodes spp.</i>	all areas	G2		T	T	T	
Billfish	<i>Istiophoridae</i>	all areas	G1		T	T	T	
Common squid	<i>Loligo vulgaris</i>	all areas	G2		T	T	T	
Black-bellied angler	<i>Lophius budegassa</i>	1.1, 1.2, 1.3, 2.2, 3.1	G2	250	T	T	T	
Anglerfish	<i>Lophius piscatorius</i>	1.1, 1.2, 1.3, 2.2, 3.1	G2	250	T	T	T	
Hake	<i>Merluccius merluccius</i>	all areas	G1	125	Y	Y	Y	
Blue whiting	<i>Micromesistius poutassou</i>	1.1, 3.1	G2	250	T	T	T	

Species (Engl.)	Species (Latin)	Area/Stock	Species group (*)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Grey mullets	<i>Mugilidae</i>	1.3, 2.1, 2.2, 3.1	G2					
Red mullet	<i>Mullus barbatus</i>	all areas	G1	125	Y	Y	Y	
Striped red mullet	<i>Mullus surmuletus</i>	all areas	G1	125	Y	Y	Y	
Norway lobster	<i>Langoustine norvegicus</i>	all areas	G1		Y	Y	Y	
Common octopus	<i>Octopus vulgaris</i>	all areas	G2		T	T	T	
Pandora	<i>Pagellus erythrinus</i>	all areas	G2	125	T	T	T	
White shrimp	<i>Parapenaeus longirostris</i>	all areas	G1		Y	Y	Y	
Caramote prawn	<i>Penaeus kerathurus</i>	3.1	G2		T	T	T	
Thornback ray	<i>Raja clavata</i>	1.3, 2.1, 2.2, 3.1	G1		T	T	T	
Brown ray	<i>Raja miraletus</i>	1.3, 2.1, 2.2, 3.1	G1		T	T	T	
Atlantic bonito	<i>Sarda sarda</i>	all areas	G2	50 (e)	T	T	T	
Sardine	<i>Sardina pilchardus</i>	all areas	G1	50	Y	Y	Y	
Mackerel	<i>Scomber spp.</i>	all areas	G2	50	T	T	T	
Cuttlefish	<i>Sepia officinalis</i>	all areas ¹	G2		T	T	T	
Sharks	<i>Shark-like Selachii</i>	all areas	G1		T	T	T	
Sole	<i>Solea vulgaris</i>	1.2, 2.1, 3.1	G1	250	Y	Y	Y	
Gilthead sea bream	<i>Sparus aurata</i>	1.2, 3.1	G2		T	T	T	
Picarels	<i>Spicara smaris</i> .	2.1, 3.1, 3.2	G2	100	T	T	T	
Mantis shrimp	<i>Squilla mantis</i>	1.3, 2.1, 2.2	G2		T	T	T	
Albacore	<i>Thunnus alalunga</i>	all areas	G2	125 (e)	T	T	T	
Bluefin tuna	<i>Thunnus thynnus</i>	all areas	G1	125 (e)	T	T	T	
Mediterranean horse mackerel	<i>Trachurus mediterraneus</i>	all areas	G2	100	T	T	T	
Horse mackerel	<i>Trachurus trachurus</i>	all areas	G2	100	T	T	T	
Tub gurnard	<i>Trigla lucerna</i>	1.3, 2.2, 3.1	G2		T	T	T	
Clam	<i>Veneridae</i>	2.1, 2.2	G2		T	T	T	
Sword fish	<i>Xiphias gladius</i>	all areas	G1	125 (e)	T	T	T	
Sprat	<i>Sprattus sprattus</i>	Black Sea	G1		T	T	T	
Mediterranean horse mackerel	<i>Trachurus mediterraneus</i>	Black Sea	G1		T	T	T	
Anchovy	<i>Engraulis encrasicolus</i>	Black Sea	G1		T	T	T	
Turbot	<i>Psetta maxima</i>	Black Sea	G1		T	T	T	

Species (Engl.)	Species (Latin)	Area/Stock	Species group (*)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Piked dogfish	<i>Squalus acanthias</i>	Black Sea	G1		T	T	T	
Horse mackerel	<i>Trachurus trachurus</i>	Black Sea	G1		T	T	T	

NAFO areas

Cod	<i>Gadus morhua</i>	2J 3KL	G1	125	Y	Y	Y	
Cod	<i>Gadus morhua</i>	3M	G1	125	Y	Y	Y	
Cod	<i>Gadus morhua</i>	3NO	G1	125	Y	Y	Y	
Cod	<i>Gadus morhua</i>	3Ps	G2	125	T	T	T	
Cod	<i>Gadus morhua</i>	SA 1	G1	125	Y	Y	Y	
Witch flounder	<i>Glyptocephalus cynoglossus</i>	3NO	G2		T	T	T	
American plaice	<i>Hippoglossoides platessoides</i>	3LNO	G1	100	Y	Y	Y	
American plaice	<i>Hippoglossoides platessoides</i>	3M	G1	100	T	T	T	
Yellowtail flounder	<i>Limanda ferruginea</i>	3LNO	G2		T	T	T	
Grenadier	<i>Macrouridae</i>	SA 2+3	G2	250	T	T	T	
Pandalid shrimp	<i>Pandalus spp.</i>	3L	G1		Y	Y	Y	
Pandalid shrimp	<i>Pandalus spp.</i>	3M	G1		Y	Y	Y	
Rays and skates	<i>Raja spp.</i>	SA 3	G1		T	T	T	
Greenland halibut	<i>Reinhardtius hippoglossoides</i>	3KLMNO	G1	200	Y	Y	Y	
Greenland halibut	<i>Reinhardtius hippoglossoides</i>	SA 1	G1	200	Y	Y	Y	
Salmon	<i>Salmo salar</i>	ICES Sub-area XIV & NAFO Sub-area 1	G1	500	Y	Y	Y	
Redfish	<i>Sebastes spp.</i>	3LN	G1					
Redfish	<i>Sebastes spp.</i>	3M	G1	50				
Redfish	<i>Sebastes spp.</i>	3O	G1					
Redfish	<i>Sebastes mentella.</i>	SA 1	G1	250	Y	Y	Y	

Highly migratory species Atlantic, Indian and Pacific Oceans

Frigate tuna	<i>Auxis rochei.</i>		G2		T	T	T	
Atlantic back skipjack	<i>Euthynnus toutes leseteratus</i>		G2		T	T	T	
Billfish	<i>Istiophoridae</i>		G1		T	T	T	
Shortfin mako	<i>Isurus oxyrinchus</i>		G1		T	T	T	
Skipjack tuna	<i>Katsuwonus pelamis</i>		G1		T	T	T	

Species (Engl.)	Species (Latin)	Area/Stock	Species group ^(a)	Age no/ 1 000 t	Weight	Sex	Maturity	Fecundity
Porbeagle	<i>Lamna nasus</i>		G1		T	T	T	
Blue shark	<i>Prionace glauca</i>		G1		T	T	T	
Atlantic bonito	<i>Sarda sarda</i>		G1		T	T	T	
Sharks	<i>Selachii</i>		G1		T	T	T	
Other sharks	<i>Squaliformes</i>		G1		T	T	T	
Albacore	<i>Thunnus alalunga</i>		G1		T	T	T	
Yellowfin tuna	<i>Thunnus albacares</i>		G1		T	T	T	
Bigeye tuna	<i>Thunnus obesus</i>		G1		T	T	T	
Bluefin tuna	<i>Thunnus thynnus</i>		G1		T	T	T	
Swordfish	<i>Xiphias gladius</i>		G1		T	T	T	

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Black scabbardfish	<i>Aphanopus carbo</i>	Madeira	G1		T	T	T	
Anchovy	<i>Engraulis encrasicolus</i>	Morocco	G1		T	T	T	
Silver scabbardfish	<i>Lepidopus caudatus</i>	Mauritania	G2					
Common squid	<i>Loligo vulgaris</i>	all areas	G2		T	T	T	
Hake	<i>Merluccius spp.</i>	all areas	G1		T	T	T	
Common octopus	<i>Octopus vulgaris</i>	all areas	G1		T	T	T	
Deepwater rose shrimp	<i>Parapenaeus longirostris</i>	all areas	G1		T	T	T	
Southern pink shrimp	<i>Farfantepenaeus notialis</i>	all areas	G1		T	T	T	
Sardine	<i>Sardina pilchardus</i>	all areas	G1		T	T	T	
Round sardinella	<i>Sardinella aurita</i>	all areas	G1		T	T	T	
Short-body sardinella	<i>Sardinella maderensis</i>	all areas	G1		T	T	T	
Chub mackerel	<i>Scomber japonicus</i>	Madeira	G1					
Chub mackerel	<i>Scomber japonicus</i>	all areas except Madeira	G1		T	T	T	
Cuttlefish	<i>Sepia hierredda</i>	all areas	G1		T	T	T	
Cuttlefish	<i>Sepia officinalis</i>	all areas	G1		T	T	T	
Horse mackerel	<i>Trachurus spp.</i>	all areas	G1		T	T	T	

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Red snapper	<i>Lutjanus purpureus</i>	French Guiana EEZ	G2		T	T	T	
Penaeus shrimp	<i>Penaeus subtilis</i>	French Guiana EEZ	G1		Y	Y	Y	

^(a) See section Chapter III section B/B1/3. (1) (f).

^(b) Age analysis for European eel (*Anguilla anguilla*) shall be set at a minimum of five individuals per cm length intervals. A minimum of 100 individuals shall be analysed per management unit as specified in Regulation (EC) No 1100/2007 for yellow and silver eels separately.

^(c) Periodicity for age is every three years (first year starting in 2008) and shall be carried out together with weight, maturity and sex estimates.

List of transversal variables with sampling specification

Heading	Variable	Specification	Unit	Gear (Level 2 in the matrix)	Disaggregation Level ⁽⁴⁾	Reference period
Capacity						
	Number of vessels				C3	Annually
	GT, kW, Vessel Age ⁽¹⁾				C3	Annually
Effort						
	Number of vessels				B1	Monthly
	Days at sea	See definition in Chapter I	Days	All gears	B1 and C3	Monthly
	Hours fished ⁽²⁾		Hours	Dredges and Trawls	A1 ⁽⁶⁾	Monthly
	Fishing days	See definition in Chapter I	Days	All gears	All cells ⁽⁶⁾	Monthly
	kW * Fishing days			Dredges and Trawls	All cells ⁽⁶⁾	Monthly
	GT * Fishing days			Dredges and Trawls	All cells ⁽⁶⁾	Monthly
	Number of trips ⁽²⁾		Number	All gears	All cells ⁽⁶⁾	Monthly
	Number of rigs ⁽²⁾		Number	Multi-rig (level 4)	A1 ⁽⁶⁾	Monthly
	Number of fishing operations ⁽²⁾		Number	Purse Seines	A1 ⁽⁶⁾	Monthly
	Number of nets/Length ⁽²⁾			Nets	A1 ⁽⁶⁾	Monthly
	Number of hooks, Number of lines ⁽²⁾		Number	Hook and Lines	A1 ⁽⁶⁾	Monthly
	Numbers of pots, traps ⁽²⁾		Number	Traps	A1 ⁽⁶⁾	Monthly
	Soaking time ⁽²⁾		Hours	All Passive gears	A1 ⁽⁶⁾	Monthly

Heading	Variable	Specification	Unit	Gear (Level 2 in the matrix)	Disaggregation Level ⁽⁴⁾	Reference period
Landings						
	Value of landings total and per commercial species ⁽³⁾		EUR		B1 and C1	Monthly
	Live weight of landings total and per species		Tonnes		A1 ⁽⁶⁾	Monthly
	Prices by commercial species ⁽³⁾		EUR/kg		B2 and C2	Monthly, Annually
	Conversion factor per species					Annual update

⁽¹⁾ As defined in Commission Regulation (EC) No 26/2004.

⁽²⁾ Some adjustments could be proposed by regional coordination meetings.

⁽³⁾ If it is not possible to directly allocate landings from one trip into métiers, then this allocation should be based on rules agreed by STECF.

⁽⁴⁾ The disaggregation levels refer to appendix V (nb: the reference for métier or fishing activity is the level 6 of the Appendix IV (1-5)).

⁽⁵⁾ If possible, price data should be collected at the level A1 (see Appendix V) in order to calculate immediately the value of landings at this same level.

⁽⁶⁾ For some variables, the disaggregation level of A is enough because $\sum_i A_{ij} = B_i \dots$ and $\sum_j A_{ij} = C_j$ (example: Hours fished), for others, $\sum_i A_{ij} \neq B_i \dots$ and $\sum_j A_{ij} \neq C_j$ (for example Fishing days, where two or more métiers can be practised during the same fishing day and accounted more than once).

Appendix IX

List of research surveys at sea

Name of the survey	Acronym	Area	Period	Main targeted species etc	Survey effort
					Days (Maximum)
Baltic Sea (ICES areas IIIb-d)					
Baltic International Trawl Survey	BITS Q1 BITS Q4	IIIaS, IIIb-d	1st and 4th Quarter	Cod and other demersal species	160
Baltic International Acoustic Survey (Autumn)	BIAS	IIIa, IIIb-d	Sept-Oct	Herring and sprat	115
Gulf of Riga Acoustic Herring Survey	GRAHS	IIId	3rd Quarter	Herring	10
Sprat Acoustic Survey	SPRAS	IIId	May	Sprat and herring	60
Rügen Herring Larvae Survey	RHLS	IIId	March-June	Herring	50
North Sea (ICES areas IIIa, IV and VIId) and Eastern Arctic (ICES areas I and II)					
International Bottom Trawl Survey	IBTS Q1 IBTS Q3	IIIa, IV	1st and 3rd Quarter	Haddock, Cod, Saithe, Herring, Sprat, Whiting, Mackerel, Norway pout.	315
North Sea Beam Trawl Survey	BTS	IVb,IVc,VIIId	3rd Quarter	Plaice, Sole	65
Demersal Young Fish Survey	DYFS	Coasts of NS	3rd and 4th Quarter	Plaice, sole, brown shrimp	145
Sole Net Survey	SNS	IVb, IVc	3rd Quarter	Sole, Plaice	20
North Sea Sandeels Survey	NSSS	IVa, IVb	4th Quarter	Sandeels	15
International Ecosystem Survey in the Nordic Seas	ASH	IIa	May	Herring, Blue whiting	35
Redfish Survey in the Norwegian Sea and adjacent waters	REDNOR	II	August-September	Redfish	35
Mackerel Egg Survey (Triennial)	NSMEGS	IV	May-July	Mackerel egg production	15
Herring Larvae Survey	IHLS	IV, VIIId	1st and 3rd Quarter	Herring, Sprat Larvae	45
NS Herring Acoustic Survey	NHAS	IIIa, IV, VIa	June, July	Herring, Sprat	105
Nephrops TVsurvey (FU 3&4)	NTV3&4	IIIA	2nd or 3rd Quarter	Nephrops	15
Nephrops TVsurvey (FU 6)	NTV6	IVb	September	Nephrops	10

Name of the survey	Acronym	Area	Period	Main targeted species etc	Survey effort
					Days (Maximum)
Nephrops TVsurvey (FU 7)	NTV7	IVa	2nd or 3rd Quarter	Nephrops	20
Nephrops TVsurvey (FU 8)	NTV8	IVb	2nd or 3rd Quarter	Nephrops	10
Nephrops TVsurvey (FU 9)	NTV9	IVa	2nd or 3rd Quarter	Nephrops	10

North Atlantic (ICES Areas V-XIV and NAFO areas)

International Redfish Trawl and Acoustic Survey (Biennial)	REDTAS	Va, XII, XIV; NAFO SA 1-3	June/July	Redfish	30
Flemish Cap Groundfish Survey	FCGS	3M	July	Demersal species	35
Greenland Groundfish Survey	GGs	XIV, NAFO SA1	October/November	Cod, redfish and other demersal species	55
3LNO Groundfish survey	PLATUXA	3LNO	2nd and 3rd Quarter	Demersal species	55
Western IBTS 4th quarter (including Porcupine survey)	IBTS Q4	VIa, VII, VIII, IXa	4th Quarter	Demersal species	215
Scottish Western IBTS	IBTS Q1	VIa, VIIa	March	Gadoids, herring, mackerel	25
ISBCBTS September	ISBCBTS	VIIa f g	September	Sole, Plaice	25
WCBTS	VIIe BTS	VIIe	October	Sole, Plaice, Anglerfish, Lemon sole	10
Blue whiting survey		VI, VII	1st and 2nd Quarter	Blue whiting	45
International Mackerel and Horse Mackerel Egg Survey (Triennial)	MEGS	VIa, VII, VIII, IXa	January-July	Mackerel, Horse Mackerel egg production	310
Sardine, Anchovy Horse Mackerel Acoustic Survey		VIII, IX	March-April-May	Sardine, Anchovy, Mackerel, Horse Mackerel abundance indices	95
Sardine DEPM (Triennial)		VIIIc, IXa	2nd and 4th Quarter	Sardine SSB and use of CUFES	135
Spawning/Pre-spawning Herring acoustic survey		VIa, VIIa-g	July, Sept, Nov, March, Jan	Herring, Sprat	155
Biomass of Anchovy	BIOMAN	VIII	May	Anchovy SSB (DEP)	25
Nephrops UWTV survey (offshore)	UWTV (FU 11-13)	VIa	2nd or 3rd Quarter	Nephrops	20

Name of the survey	Acronym	Area	Period	Main targeted species etc	Survey effort
					Days (Maximum)
Nephrops UWTV Irish Sea	UWTV (FU 15)	VIIa	August	Nephrops	10
Nephrops UWTV survey Aran Grounds	UWTV (FU 17)	VIIb	June	Nephrops	10
Nephrops UWTV survey Celtic Sea	UWTV (FU 20-22)	VIIg, h, j	July	Nephrops	10
Nephrops TV survey Offshore Portugal	UWTV (FU 28-29)	IXa	June	Nephrops	20

Mediterranean waters and Black Sea

Mediterranean International bottom trawl survey	MEDITS	37(1, 2, 3.1, 3.2)	2nd and 3rd Quarter	Demersal species	410
Pan-Mediterranean pelagic survey	MEDIAS	37(1.1, 1.2, 2.1, 2.2, 3.1)	2nd, 3rd and 4th Quarter	Small pelagic species	185
Bottom Trawl Survey		Black Sea	2nd and 4th Quarter	Turbot	40
Pelagic Trawl Survey		Black Sea	2nd and 4th Quarter	Sprat and Whiting	40

List of economic variables for the aquaculture sector

Variable group	Variable	Specification	Unit	Definition Structural Business Statistics (SBS) Commission Regulation (EC) No 2700/98	Guideline
Income	Turnover	Per species	EUR	12 11 0	
	Subsidies ⁽¹⁾		EUR		
	Other income		EUR		
Personnel costs	Wages and salaries ⁽²⁾		EUR	13 31 0	
	Imputed value of unpaid labour ⁽³⁾		EUR		
Energy costs	Energy costs		EUR	20 11 0	
Raw material costs	Livestock costs		EUR		SBS (13 11 0)
	Feed costs		EUR		SBS (13 11 0)
Repair and maintenance costs	Repair and maintenance		EUR		SBS (13 11 0)
Other operational costs	Other operational costs ⁽⁴⁾		EUR		SBS (13 11 0)
Capital costs ⁽⁵⁾	Depreciation of capital		EUR		ESA ⁽⁶⁾ 6.02. to 6.05.
	Financial costs, net ⁽⁷⁾		EUR		
Extraordinary costs, net	Extraordinary costs, net		EUR		
Capital value ⁽⁸⁾	Total value of assets		EUR EUR	43 30 0	ESA 7.09. to 7.24.
Investments	Net Investments ⁽⁹⁾		EUR EUR	15 11 0 15 21 0	ESA 3.102. to 3.111.
Debt ⁽¹⁰⁾	Debt		EUR		
Raw material volume ⁽¹¹⁾	Livestock		Tonne		
	Fish Feed		Tonne		

Variable group	Variable	Specification	Unit	Definition Structural Business Statistics (SBS) Commission Regulation (EC) No 2700/98	Guideline
Volume of sales ⁽¹²⁾	Volume of sales	Per species	Tonne ⁽¹³⁾		
Employment	Number of persons employed	By gender	Number	16 11 0	
	FTE National ⁽¹⁴⁾	By gender ⁽¹⁵⁾	Number	16 14 0	
Number of enterprises	Number of enterprises	By size category where the number of persons employed is: (SBS 16.11.0) is: 1. ≤ 5 2. 6-10 3. > 10	Number	11 11 0	

⁽¹⁾ Includes direct payments, e.g. compensation for stopping trading, refunds of fuel duty or similar lump sum compensation payments; excludes social benefit payments and indirect subsidies, e.g. reduced duty on inputs such as fuel or investment subsidies.

⁽²⁾ Including social security costs.

⁽³⁾ Chosen methodology should be explained by the Member State in their national programme.

⁽⁴⁾ Packaging costs are included in other operational costs.

⁽⁵⁾ Chosen methodology should be explained by the Member State in their national programme.

⁽⁶⁾ ESA refers to European System of Accounts 1995 (Regulation (EC) No 2223/96, Regulation (EC) No 1267/2003, Eurostat ESA 1995 manual).

⁽⁷⁾ Interest costs of capital; interest on the national five-year Government bonds may be used as proxy for financial costs.

⁽⁸⁾ At the end of the year.

⁽⁹⁾ Purchase and sale of assets during the year.

⁽¹⁰⁾ At the end of the fiscal year.

⁽¹¹⁾ The variable for raw material volume should correspond to the variable on raw material cost.

⁽¹²⁾ The variable for production volume should correspond to the variable on turnover value.

⁽¹³⁾ Conversion factors from numbers to tonnes should be stated in the national programme.

⁽¹⁴⁾ FTE National is number of full time equivalent estimated from a national threshold.

⁽¹⁵⁾ Optional.

Sector segmentation to be applied for the collection of aquaculture data

	Fish farming techniques ⁽¹⁾				Shellfish farming techniques ⁽¹⁾			
	Land-based farms			Cages				
	Hatcheries and nurseries ⁽²⁾	On growing	Combined ⁽³⁾	Cages ⁽⁴⁾	Rafts	Long line	Bottom ⁽⁵⁾	Other
Salmon								
Trout								
Sea bass & Sea bream								
Carp								
Other freshwater fish								
Other marine fish								
Mussel								
Oyster								
Clam								
Other shellfish								

⁽¹⁾ Enterprises should be segmented according to their main farming technique.

⁽²⁾ Hatcheries and nurseries are defined as places for the artificial breeding, hatching and rearing through the early life stages of aquatic animals. For statistical purposes, hatcheries are limited to the production of fertilised eggs. Further juveniles stages of aquatic animals are considered being produced in nurseries. When hatcheries and nurseries are closely associated, statistics shall refer only to the latest juvenile stage produced (COM (2006) 864 of 19 July 2007).

⁽³⁾ Combined is defined as enterprises using hatcheries, nurseries and on growing techniques.

⁽⁴⁾ Cages are defined as open or covered enclosed structures constructed with net, mesh or any porous material allowing natural water interchange. These structures may be floating, suspended or fixed to the substrate but still permitting water interchange from below (COM (2006) 864 of 19 July 2007).

⁽⁵⁾ 'Bottom' techniques cover shellfish farming in inter-tidal areas (directly on the ground or surelevated).

List of economic variables for the processing industry sector

Variable group	Variable	Specification	Unit	Definition Structural Business Statistics (SBS) Commission Regulation (EC) No 2700/98	Guidelines
Income	Turnover		EUR	12 11 0	
	Subsidies ⁽¹⁾		EUR		
	Other income		EUR		
Personnel costs	Wages and salaries of staff ⁽²⁾		EUR	13 31 0	
	Imputed value of unpaid labour ⁽³⁾		EUR		
Energy costs	Energy costs		EUR	20 11 0	SBS 13 11 0
Raw material costs	Purchase of fish and other raw material for production		EUR		SBS 13 11 0
Other operational costs	Other operational costs ⁽⁴⁾		EUR		SBS 13 11 0
Capital costs ⁽⁵⁾	Depreciation of capital		EUR		ESA ⁽⁶⁾ 6.02 to 6.05
	Financial costs, net ⁽⁷⁾		EUR		
Extraordinary costs, net	Extraordinary costs, net		EUR		
Capital value ⁽⁸⁾	Total value of assets		EUR	43 30 0	ESA 7.09 to 7.24
Net Investments	Net Investments ⁽⁹⁾		EUR	15 11 0 15 21 0	ESA 3.102 to 3.111
Debt ⁽¹⁰⁾	Debt		EUR		
Employment	Number of persons employed	By gender	Number	16 11 0	
	FTE National ⁽¹¹⁾	By gender ⁽¹²⁾	Number	16 14 0	

Variable group	Variable	Specification	Unit	Definition Structural Business Statistics (SBS) Commission Regulation (EC) No 2700/98	Guidelines
Number of enterprises	Number of enterprises	By size category where the number of persons employed (16.11.0) is: 1. ≤ 10 2. 11-49 3. 50-249 4. > 250	Number	11 11 0	

⁽¹⁾ Includes direct payments. Excludes social benefit payments and indirect subsidies.

⁽²⁾ Including social security costs.

⁽³⁾ Chosen methodology should be explained by the Member State in their national programme.

⁽⁴⁾ Packaging costs are included in other operational costs.

⁽⁵⁾ Chosen methodology should be explained in the national programme.

⁽⁶⁾ ESA refers to European System of Accounts 1995 (Regulation (EC) No 2223/96, Regulation (EC) No 1267/2003, Eurostat ESA 1995 manual).

⁽⁷⁾ Interest costs of capital; interest on the national 5 years Government bonds may be used as proxy for financial costs.

⁽⁸⁾ Total accumulated value of all net investments in the enterprise at the end of the year.

⁽⁹⁾ Purchase and Sale of assets during the year.

⁽¹⁰⁾ At the end of the year.

⁽¹¹⁾ Methodology should be as discussed in the report of Study FISH/2005/14, 'LEI WAGENINGENUR Coordinator, 2006. Calculation of labour including full-time equivalent (FTE) in fisheries Study No FISH/2005/14, 142 p'.

⁽¹²⁾ Optional.

Definition of environmental indicators to measure the effects of fisheries on the marine ecosystem

Code specification	Indicator ^(a)	Definition	Data required	Precision level
1	Conservation status of fish species	Indicator of biodiversity to be used for synthesising, assessing and reporting trends in the biodiversity of vulnerable fish species	Species, length and abundance from fisheries-independent research survey(s) for relevant marine region. Accurate reporting of these indicators requires that all species that contribute to the indicator are consistently and reliably identified. Survey catches shall be fully sorted (not sub-sampled) to ensure that all individuals of every species that contributes to the indicator are recorded but sub sampling is allowed in length measurements where duly justified.	Research survey should cover largest proportion of the marine region over the longest available time period. The indicator would be survey specific. The methods require that surveys are conducted annually in the same area with a standard gear.
2	Proportion of large fish	Indicator for the proportion of large fish by weight in the assemblage, reflecting the size structure and life history composition of the fish community.		
3	Mean maximum length of fishes	Indicator for the life history composition of the fish community		
4	Size at maturation of exploited fish species	Indicator of the potential 'genetic effects' on a population	Individual measurements of age, length, sex and maturity from fisheries-independent research survey(s) for relevant marine region.	At least 100 individuals per age class but more fish will improve the power of this indicator.
5	Distribution of fishing activities	Indicator of the spatial extent of fishing activity. It would be reported in conjunction with the indicator for 'Aggregation of fishing activity'.	Position and vessel registration data based on VMS Available within two months of position reports being received, with all positions linked to the level 6 for the métier classification (see Appendix IV (1-5)). This does not include vessels below 15 m.	Preference for position reports every half hour.
6	Aggregation of fishing activities	Indicator of the extent to which fishing activity is aggregated. It would be reported in conjunction with the indicator for 'Distribution of fishing activity'.		
7	Areas not impacted by mobile bottom gears	Indicator of the area of seabed that has not been impacted by mobile bottom fishing gears in the last year. It responds to changes in the distribution of bottom fishing activity resulting from catch controls, effort controls or technical measures (including MPA established in support of conservation legislation) and to the development of any other human activities that displace fishing activity (e.g. wind farms).		

Code specification	Indicator ^(*)	Definition	Data required	Precision level
8	Discarding rates of commercially exploited species	Indicator of the rate of discarding of commercially exploited species in relation to landings.	Species, length and abundance of catches and discards based on respectively logbooks and observer trips processed separately. Data linked to the level 6 for the metier classification (see Appendix IV (1-5)).	As specified in this Community Programme for discards
9	Fuel efficiency of fish capture	Indicator of the relationship between fuel consumption and the value of landed catch. It will provide information on trends in the fuel efficiency of different fisheries.	Value of landings and cost of fuel. Value calculated as the product of landings by species and prices. Cost of fuel as defined in this Community Programme. The indicator should be calculated for each metier based on the level 6 for the metier classification (see Appendix IV (1-5)) by region, quarter and year.	As specified in this Community Programme.

^(*) See Commission Staff Working Document (SEC(2008) 449) for specification and calculation of the indicators.

GUIDELINES

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 11 September 2008

on data collection regarding the euro and the operation of the Currency Information System 2

(ECB/2008/8)

(2008/950/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular Article 106(1) and (2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'ESCB Statute'), and in particular Articles 5 and 16 thereof,

Whereas:

- (1) Article 106(1) of the Treaty and Article 16 of the ESCB Statute provide that the European Central Bank (ECB) has the exclusive right to authorise the issue of euro banknotes within the Community.
- (2) Article 106(2) of the Treaty provides that Member States may issue coins subject to approval by the ECB of the volume of the issue. Therefore, the ECB adopts annual decisions approving the volume of coin issuance by the Member States which have adopted the euro (hereinafter the 'participating Member States').
- (3) Article 5 of the ESCB Statute provides that in order to perform the tasks of the European System of Central Banks (ESCB) the ECB, assisted by the national central banks, should collect the necessary statistical information, which encompasses statistical information in the area of euro banknote and coin issuance. Also, the ECB needs to collect information for the purpose of Article 237(d) of the Treaty, which entrusts the ECB with the task of monitoring the compliance of the ESCB national central banks with their obligations under the Treaty and the Statute. These obligations include compliance with the prohibition established by Article 101 of the Treaty and implemented by Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104

and 104b(1) of the Treaty ⁽¹⁾. In particular, Article 6 of Council Regulation (EC) No 3603/93 provides that 'the holding by the [...] national central banks of coins issued by the public sector and credited to the public sector shall not be regarded as a credit facility within the meaning of Article 104 of the Treaty where the amount of these assets remains at less than 10 % of the coins in circulation'.

- (4) Without prejudice to the competences of the Member States with regard to the issuance of euro coins, and taking into account the essential role of the national central banks of the participating Member States (hereinafter the 'NCBs') in the distribution of euro coins, to perform the tasks described above, the ECB, together with NCBs need to collect data on euro banknotes and coins. Such data collection should facilitate decision-making in the area of euro banknote and coin issuance, e.g. by providing the ECB, NCBs, the Commission of the European Communities and national coin-issuing authorities with information enabling them to, in accordance with their respective competences: (i) plan the production of euro banknotes and coins; (ii) coordinate the issuance of euro banknotes and coins; and (iii) coordinate transfers of euro banknotes between NCBs, and of euro coins between the participating Member States. This data collection should also enable the ECB to monitor compliance with its decisions in the areas of euro banknote and coin issuance.
- (5) On 16 December 2004, the Governing Council adopted the banknote recycling framework (BRF), Section 2.7 of which provides for credit institutions and other professional cash handlers to fulfil reporting obligations

⁽¹⁾ OJ L 332, 31.12.1993, p. 1.

to NCBs. In the same context, it was also decided that NCBs should implement the BRF by the means available to them, such as legislative instruments and agreements, by the end of 2006, a time limit which was subsequently extended by later Governing Council decisions. At the latest from the date of implementation of the BRF, however, NCBs should be receiving data reported pursuant to the BRF from credit institutions and other professional cash handlers in their jurisdictions and be in a position to report them to the ECB.

- (6) To achieve the abovementioned objectives, the data on euro banknotes and coins should include information on: (i) the issuance of euro banknotes and coins; (ii) the quantity and quality of euro banknotes and coins in circulation; (iii) the stocks of euro banknotes and coins held by the entities involved in their issuance; (iv) operational activities relating to euro banknotes and coins of the entities involved in their issuance, including credit institutions operating a notes-held-to-order scheme on behalf of an NCB and credit institutions operating an extended custodial inventory programme on behalf of the ECB and one or more NCBs; (v) the operational activities relating to banknotes of credit institutions and other professional cash handlers which recycle euro banknotes pursuant to the BRF; and (vi) the cash infrastructure.

- (7) To enhance the collection of data and to enable the dissemination of information based on them, on 22 November 2007 the Governing Council agreed to implement the Currency Information System 2 (hereinafter the 'CIS 2') replacing the Currency Information System which was established with the introduction of euro banknotes and coins and which has provided both the ECB and NCBs with the relevant currency-related data since 2002, pursuant to a separate ECB legal act on data collection relating to the Currency Information System.

- (8) It is necessary for the efficient and smooth operation of the CIS 2 to ensure the regular and timely availability of consistent data. The reporting obligations of NCBs and the ECB therefore need to be laid down in this Guideline, with provision for a short period of parallel reporting under the existing arrangements and the CIS 2.

- (9) Guideline ECB/2006/9 of 14 July 2006 on certain preparations for the euro cash changeover and on frontloading and sub-frontloading of euro banknotes and coins outside the euro area ⁽¹⁾ established the legal framework which enables a future Eurosystem NCB to borrow, procure or produce euro banknotes and coins for the purpose of frontloading and sub-frontloading them prior

to the cash changeover in its Member State. Guideline ECB/2006/9 provides for specific reporting obligations to apply to such future Eurosystem NCBs, which need to be specified in greater detail in the context of the CIS 2.

- (10) Both the ECB and the NCB users of the CIS 2 should have access to the web-based CIS 2 application and to the reporting module to enable efficient and effective use of CIS 2 data and achieve a high level of transparency. Eligible third parties should be granted limited access to CIS 2 data to enhance the flow of information between the ECB and the European Commission as well as NCBs and the national coin-issuing authorities.
- (11) Given that the CIS 2 is a flexible system for handling new data, it is necessary to establish a simplified procedure to implement technical amendments to the Annexes to this Guideline efficiently. Furthermore, due to its technical nature, it should be possible to amend the specifications of the CIS 2 transmission mechanism by using the same simplified procedure. Therefore, the Executive Board should be delegated the powers to make certain amendments to this Guideline and its Annexes and should inform the Governing Council of such amendments.
- (12) Following the positive decision taken by the Council of the European Union on the abrogation of the derogation for Slovakia on 8 July 2008, and in accordance with Article 3.5 of the Rules of Procedure of the European Central Bank, the Governor of Národná banka Slovenska has been invited to observe the relevant deliberations of the Governing Council on this Guideline.

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

1. For the purposes of this Guideline:

- (a) 'banknote recycling framework' (BRF) means the framework for banknote recycling laid down in the document entitled 'Recycling of euro banknotes: framework for the detection of counterfeits and fitness sorting by credit institutions and other professional cash handlers' adopted by the Governing Council on 16 December 2004 and published on the ECB's website on 6 January 2005, as modified from time to time, as well as the documents relating to the deadlines for its implementation at national level;

⁽¹⁾ OJ L 207, 28.7.2006, p. 39.

- (b) 'credit institution' means a credit institution as defined in Article 4(1)(a) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions ⁽¹⁾;
- (c) 'CIS 2' means the system comprising: (i) the central database installed at the ECB to store all the relevant information on euro banknotes, euro coins, cash infrastructure and the BRF collected pursuant to this Guideline; (ii) the web-based online application which allows flexible configuration of the system and provides information on the data delivery and validation status, revisions and various types of reference data and system parameters; (iii) the reporting module for viewing and analysing the collected data; and (iv) the CIS 2 transmission mechanism;
- (d) 'frontloading' means the physical delivery of euro banknotes and coins by a future Eurosystem NCB to eligible counterparties in the territory of a future participating Member State during the frontloading/sub-frontloading period;
- (e) 'sub-frontloading' means the delivery of frontloaded euro banknotes and coins by an eligible counterparty to professional third parties in the territory of a future participating Member State during the frontloading/sub-frontloading period. Sub-frontloading for the purpose of this Guideline includes the supply of euro coins in starter kits to the general public;
- (f) 'future Eurosystem NCB' means the national central bank of a future participating Member State;
- (g) 'eligible third parties' means the European Commission, the national treasuries, mints and appointed public or private agencies of the national treasuries of the participating Member States;
- (h) 'CIS 2 transmission mechanism' means the ESCB XML Data Integration (EXDI) application. The EXDI application is used to transmit data messages between NCBs, future Eurosystem NCBs and the ECB in confidence, independently of the technical infrastructure (e.g. computer networks and software applications) supporting it;
- (i) 'data message' means a file containing monthly or semi-annual data of an NCB or future Eurosystem NCB for one reporting period or, in the case of revisions, one or several reporting periods in a data format compatible with the CIS 2 transmission mechanism;
- (j) 'future participating Member State' means a non-participating Member State that has fulfilled the conditions set for the adoption of the euro and in relation to which a decision on the abrogation of the derogation (pursuant to Article 122(2) of the Treaty) has been taken;
- (k) 'working day' means any day on which both the ECB and a reporting NCB are open for business;
- (l) 'accounting data' means the unadjusted value of euro banknotes in circulation corrected by the amount of unremunerated claims vis-à-vis credit institutions operating an extended custodial inventory programme at the close of a reporting period in accordance with Article 10(2)(a) and (b) of Guideline ECB/2006/16 of 10 November 2006 on the legal framework for accounting and financial reporting in the European System of Central Banks ⁽²⁾;
- (m) 'data event' means an event recorded in the CIS 2 which triggers the sending of notification from the CIS 2 to one or more NCBs and the ECB. A data event occurs: (i) when an NCB has sent a monthly or semi-annual data message to the CIS 2 triggering a feedback message to that NCB and the ECB; (ii) when the data messages of all NCBs have been successfully validated for a new reporting period triggering a status report message from the CIS 2 to NCBs and the ECB; or (iii) when, following the sending of a status report message, a revised data message for an NCB is successfully validated by the CIS 2 triggering a revision notification to NCBs and the ECB.
2. Technical terms used in the Annexes to this Guideline are defined in the annexed Glossary.

Article 2

Collection of data relating to euro banknotes

1. NCBs shall report to the ECB the CIS 2 data relating to euro banknotes, i.e. the data items specified in Sections 1 to 4 of the table in Part 1 of Annex I on a monthly basis, while observing the booking rules specified in Part 3 of Annex I.
2. NCBs shall transmit the data identified as category 1 data and event-driven data in Annex V relating to euro banknotes no later than the sixth working day of the month following the reporting period.
3. NCBs shall transmit the data identified as category 2 data in Annex V relating to euro banknotes no later than the 10th working day of the month following the reporting period.
4. The first transmission of data relating to euro banknotes shall take place in October 2008.

⁽¹⁾ OJ L 177, 30.6.2006, p. 1.

⁽²⁾ OJ L 348, 11.12.2006, p. 1.

5. NCBs shall use the CIS 2 transmission mechanism to transmit data relating to euro banknotes to the ECB pursuant to this Guideline.

Article 3

Collection of data relating to euro coins

1. NCBs shall collect CIS 2 data relating to euro coins, i.e. the data items specified in Sections 1 to 5 of the table in Part 1 of Annex II, from the relevant eligible third parties involved in euro coin issuance in their Member States.

2. NCBs shall report to the ECB the CIS 2 data relating to euro coins, i.e. the data items specified in Sections 1 to 6 of the table in Part 1 of Annex II on a monthly basis, while observing the booking rules specified in Part 3 of Annex II.

3. The requirements of Article 2(2) to (5) shall apply *mutatis mutandis* to the transmission of data relating to euro coins referred to in paragraph 1.

Article 4

Collection of data relating to cash infrastructure and the BRF

1. NCBs shall provide the ECB with the data relating to cash infrastructure, as specified in Annex III, on a semi-annual basis.

2. For the first time on the dates referred to in paragraph 7 and then on a semi-annual basis, NCBs shall provide the ECB with the data relating to the BRF, as specified in Annex III. The data provided to the ECB shall be based on data that NCBs have been able to obtain from credit institutions and other professional cash handlers pursuant to Section 2.7 of the BRF and the document entitled 'Data collection from credit institutions and other professional cash handlers under the framework for bank-note recycling' ⁽¹⁾.

3. NCBs shall use the CIS 2 transmission mechanism to transmit data relating to cash infrastructure and the BRF referred to in paragraphs 1 and 2.

4. Each year, at the latest by the sixth working day of October, NCBs shall transmit the data referred to in paragraphs 1 and 2 in respect of the reporting period from January to June of that year.

5. Each year, at the latest by the sixth working day of April, the NCBs shall transmit the data referred to in paragraphs 1 and 2 in respect of the reporting period from July to December of the previous year.

⁽¹⁾ As published on the ECB's website in January 2006.

6. The first transmission of data relating to cash infrastructure, i.e. the data items specified in Sections 1.1 to 1.4, 2.1 and 2.3 to 2.6 of the table in Annex III, shall take place in October 2008.

7. The first transmission of data relating to the BRF, i.e. data items specified in Sections 2.2, 2.7 to 2.10 and 3 of the table in Annex III, shall take place as follows:

- (a) in October 2008 for the Nationale Bank van België/Banque Nationale de Belgique, the Deutsche Bundesbank, the Banque centrale du Luxembourg, De Nederlandsche Bank, the Oesterreichische Nationalbank and Suomen Pankki;
- (b) in October 2009 for Banka Slovenije;
- (c) in October 2010 for the Banque de France, the Central Bank of Cyprus and the Central Bank of Malta; and
- (d) in October 2011 for the Bank of Greece, the Banco de España, the Banca d'Italia, the Central Bank and Financial Services Authority of Ireland and the Banco de Portugal.

Article 5

Collection of data from future Eurosystem NCBs relating to their euro cash changeover

1. An NCB shall include in the contractual arrangements which it concludes with a future Eurosystem NCB pursuant to Article 3(3) of Guideline ECB/2006/9, specific provisions entailing that further to the reporting obligations laid down in that Guideline, the future Eurosystem NCB shall report to the ECB on a monthly basis the data items specified in Sections 4 and 5 of the table in Annex I and Sections 4 and 7 of the table in Annex II, while observing *mutatis mutandis* the booking rules specified in Part 3 of Annex I and Part 3 of Annex II, relating to any euro banknotes and/or coins which it borrows from and has had delivered to it by an NCB. Where a future Eurosystem NCB has not concluded such contractual arrangements with an NCB, the ECB shall conclude such contractual arrangements with that future Eurosystem NCB, including the reporting obligations referred to in this Article.

2. The first transmission of data relating to euro banknotes and/or coins as referred to in paragraph 1 shall take place no later than the sixth working day of the month following the month in which the future Eurosystem NCB first receives or produces such euro banknotes or coins.

3. The requirements of Article 2(2) and (5) shall apply *mutatis mutandis* to the transmission of data relating to euro banknotes and coins referred to in paragraph 1.

*Article 6***Maintenance of reference data and system parameters**

1. The ECB shall enter the reference data and system parameters referred to in Annex IV into the CIS 2 and shall maintain them.
2. The ECB shall take appropriate measures to ensure that those data and system parameters are complete and correct.
3. NCBs shall transmit to the ECB in a timely manner the system parameters specified in Sections 2.1 and 2.2 of the table in Annex IV: (i) on the entry into force of this Guideline; and (ii) on any subsequent change to the system parameters.

*Article 7***Completeness and correctness of data transmissions**

1. NCBs shall take appropriate measures to ensure the completeness and correctness of data required pursuant to this Guideline before transmitting them to the ECB. As a minimum, they shall perform the completeness checks set out in Annex V and the correctness checks set out in Annex VI.
2. Each NCB shall use applicable CIS 2 data to produce national net-issuance figures for euro banknotes. Each NCB shall then reconcile these figures with its accounting data prior to transmitting the CIS 2 data to the ECB.
3. The ECB shall ensure that the completeness and correctness checks specified in Annexes V and VI are carried out by the CIS 2 before the data are stored in the central database of the CIS 2.
4. The ECB shall verify NCBs' reconciliation of the national net-issuance figures for euro banknotes, as referred to in paragraph 2 and reported in the CIS 2, with the respective accounting data, and shall consult with the relevant NCBs in the event of any discrepancies.
5. If an NCB identifies an inconsistency in its CIS 2 data after such data have been transmitted to the ECB, that NCB shall send the corrected data to the ECB via the CIS 2 transmission mechanism without undue delay.

*Article 8***Access to the CIS 2**

1. On receipt of a written request and subject to the conclusion of the separate contractual arrangements described in paragraph 2, the ECB shall grant access to the CIS 2: (i) for up to four individual users for each NCB, each future Eurosystem NCB and for the European Commission in its capacity as eligible third party; and (ii) for one individual user for each other eligible

third party. The access granted to any eligible third party user shall be limited to data relating to euro coins and shall be granted in the first quarter of 2009. The ECB shall reasonably consider written requests for access to the CIS 2 for additional individual users, subject to availability and capacity.

2. The responsibility for the technical user management of individual users shall be laid down in separate contractual arrangements: (i) between the ECB and an NCB for its individual users and the individual users of the eligible third parties in the jurisdiction of the NCB's Member State; (ii) between the ECB and a future Eurosystem NCB for the latter's individual users; and (iii) between the ECB and the European Commission for its individual users. The ECB may also incorporate in these contractual arrangements references to user management arrangements, security standards and licensing conditions applicable to the CIS 2.

*Article 9***Automatic notifications of data events**

The ECB shall ensure that the CIS 2 sends, via the CIS 2 transmission mechanism, automatic notifications of data events to NCBs which request to be sent such automatic notifications.

*Article 10***Transmission of CIS 2 data to NCBs**

1. NCBs that wish to receive and store all NCBs' and future Eurosystem NCBs' CIS 2 data in their local applications outside the CIS 2 shall send the ECB a written request for regular automatic transmissions of such data from the CIS 2.
2. The ECB shall ensure that the CIS 2 sends the data to NCBs which request the service referred to in paragraph 1 via the CIS 2 transmission mechanism.

*Article 11***Role of the Executive Board**

1. The Executive Board shall be responsible for the day-to-day management of the CIS 2.
2. In accordance with Article 17.3 of the Rules of Procedure of the European Central Bank, the Executive Board shall be delegated the powers to:
 - (a) make technical amendments to the Annexes to this Guideline and to the specifications of the CIS 2 transmission mechanism, after taking into account the views of the Banknote Committee and the Information Technology Committee; and to

(b) alter the dates for the first transmissions of data pursuant to this Guideline, in the event of a decision of the Governing Council to extend the transitional period applicable to an NCB for implementing the BRF, and after taking into account the views of the Banknote Committee.

3. The Executive Board shall notify the Governing Council of any amendments made pursuant to paragraph 2 without undue delay and shall abide by any decision adopted by the Governing Council on the matter.

Article 12

Entry into force

This Guideline shall enter into force on 1 October 2008.

Article 13

Addressees

This Guideline applies to all Eurosystem central banks.

Done at Frankfurt am Main, 11 September 2008.

For the Governing Council of the ECB

The President of the ECB

Jean-Claude TRICHET

Data items												Data source
Number and name of data item	Total number of banknotes	Series/variant breakdown	Denomination breakdown	ECI bank breakdown ⁽¹⁾	'From NCB' breakdown	'To NCB' breakdown	'From stock type' breakdown ⁽²⁾	'To stock type' breakdown ⁽³⁾	Quality breakdown ⁽⁴⁾	'Allocated to production year' breakdown ⁽⁵⁾	Planning breakdown ⁽⁶⁾	
4. Data items related to banknote movements												
4.1	Printing works' delivery of new production to responsible NCB											responsible NCB
4.2	Transfer of banknotes		⁽⁷⁾			receiving NCB						responsible/supplying NCB
4.3	Receipt of banknotes		⁽⁷⁾			responsible/supplying NCB						receiving NCB
5. Data items for future Eurosystem NCBs												
5.1	Ante legal tender stocks											future Eurosystem NCB
5.2	Frontloading											front-loaded eligible counterparties
5.3	Sub-frontloading											

⁽¹⁾ The data are broken down by each ECI bank.

⁽²⁾ Information is provided on the stock type from which the transferred banknotes have been taken at the supplying NCB, i.e. production (delivery from printing works), Eurosystem Strategic Stock (ESS) or logistical stocks (LS).

⁽³⁾ Information is provided on the stock type to which the banknotes have been transferred at the receiving NCB, i.e. ESS or LS.

⁽⁴⁾ Information is provided on whether the transferred banknotes were new, fit, unprocessed or unfit banknotes. If banknotes with more than one quality type are transferred, while the other breakdowns are identical, a separate movement is reported for each quality type.

⁽⁵⁾ Information is provided on the calendar year to which the production has been allocated in a separate ECB legal act on banknote production. If the banknotes delivered relate to different separate ECB legal acts on banknote production, each of which refers to a different calendar year, while the other breakdowns are identical, separate deliveries are reported.

⁽⁶⁾ Information is provided on whether the transfer was scheduled in accordance with a separate ECB legal act on banknote production, or an ad hoc transfer.

⁽⁷⁾ The entities indicated as the data source may determine the breakdown by series and variant for mixed bundles or mixed packets containing banknotes of different series and/or variants by statistical methods.

PART 2*Specification of euro banknote data items*

For all data items, NCBs and future Eurosystem NCBs report the figures in terms of pieces as integer figures, irrespective of whether they are positive or negative.

1. Cumulative data items

Cumulative data are figures aggregated over all reporting periods starting with the first delivery from a printing works before the introduction of a new series, variant or denomination until the close of the reporting period

1.1	Created banknotes	Banknotes which have been: (i) produced pursuant to a separate ECB legal act on banknote production; (ii) delivered to the NCB's LS or ESS and held by the NCB; and (iii) registered in the NCB's cash management system (¹). Banknotes transferred to, or held by, NHTO banks and ECI banks, including banknotes destroyed (data items 1.2 and 1.3) remain part of the NCB's created banknotes
1.2	Banknotes destroyed online	Created banknotes which have been destroyed on a banknote sorting machine with an integrated shredder after authentication and fitness sorting, either by the NCB or on the NCB's behalf
1.3	Banknotes destroyed offline	Created banknotes which have been destroyed after authentication and fitness sorting by means other than a banknote sorting machine with an integrated shredder, either by the NCB or on the NCB's behalf, e.g. mutilated banknotes or banknotes which have been rejected by banknote sorting machines for whatever reason. These data exclude any banknotes destroyed online (data item 1.2)

2. Data items related to banknote stocks

These data items, as stock data, refer to the close of the reporting period

(A) <i>Stocks held by the Eurosystem</i>		
2.1	Eurosystem Strategic Stock of new banknotes	New banknotes which form part of the ESS and are held by the NCB on behalf of the ECB
2.2	Eurosystem Strategic Stock of fit banknotes	Fit banknotes which form part of the ESS and are held by the NCB on behalf of the ECB
2.3	Logistical stocks of new banknotes held by NCB	New banknotes belonging to the NCB's LS and held by the NCB (at its head office and/or at branch level). This figure does not include new banknotes which form part of the ESS
2.4	Logistical stocks of fit banknotes held by NCB	Fit banknotes belonging to the NCB's LS and held by the NCB (at its head office and/or at branch level). This figure does not include fit banknotes which form part of the ESS
2.5	Stocks of unfit banknotes (to be destroyed) held by NCB	Unfit banknotes which the NCB holds, and which have not yet been destroyed
2.6	Stocks of unprocessed banknotes held by NCB	Banknotes which the NCB holds, and which have not yet been authenticated and fitness sorted by an NCB on banknote sorting machines or manually. Banknotes which have been authenticated and fitness sorted by NHTO banks, ECI banks or any other credit institutions or professional cash handlers and subsequently returned to the NCB form part of this data item until the NCB has processed such banknotes

(B) <i>Stocks held by NHTO banks</i>		
These data items refer to an NHTO scheme that an NCB may establish in its jurisdiction. Data sourced from individual NHTO banks are reported by the NCB aggregated for all NHTO banks. These stocks do not belong to banknotes in circulation		
2.7	Logistical stocks of new banknotes held by NHTO banks	New banknotes transferred from the NCB which NHTO banks hold
2.8	Logistical stocks of fit banknotes held by NHTO banks	Fit banknotes either transferred from the NCB or returned from circulation and deemed as fit by NHTO banks in accordance with the BRF, which NHTO banks hold
2.9	Stocks of unfit banknotes held by NHTO banks	Banknotes deemed as unfit by NHTO banks in accordance with the BRF, which NHTO banks hold
2.10	Stocks of unprocessed banknotes held by NHTO banks	Banknotes which NHTO banks hold, and which have not been authenticated and fitness sorted by NHTO banks
(C) <i>Stocks held by ECI banks</i>		

These data items refer to an ECI programme. These stocks do not belong to banknotes in circulation

2.11	Logistical stocks of new banknotes held by ECI banks	New banknotes transferred from the NCB which an ECI bank holds
2.12	Logistical stocks of fit banknotes held by ECI banks	Fit banknotes either transferred from the NCB or returned from circulation and deemed as fit by an ECI bank in accordance with the BRF, which the ECI bank holds
2.13	Stocks of unfit banknotes held by ECI banks	Banknotes deemed as unfit by an ECI bank in accordance with the BRF and which the ECI bank holds
2.14	Stocks of unprocessed banknotes held by ECI banks	Banknotes which an ECI bank holds, and which have not been authenticated and fitness sorted by the ECI bank
2.15	Logistical stocks of banknotes in transit to or from ECI banks	Banknotes supplied by an NCB to an ECI bank (or to a cash in transit (CIT) company acting on behalf of an ECI bank) which at the close of the reporting period are still in transit to the ECI bank's premises, and any banknotes to be received by an NCB from an ECI bank (or from a CIT company acting on behalf of an ECI bank) which at the close of the reporting period are still in transit, i.e. which have left the ECI bank's premises but have not yet reached the NCB
(D) <i>Cross-check data items</i>		
2.16	Eurosystem Strategic Stock earmarked for transfer	New and fit banknotes of the ESS held by the NCB which are reserved for transfers pursuant to separate ECB legal acts on banknote production and the management of banknote stocks. The NCB may transfer the banknotes to the LS or ESS of one or more NCBs, or to its own LS. Until the banknotes are physically transferred, they form part of the new or fit ESS held by the NCB (either data item 2.1 or 2.2)
2.17	Logistical stocks earmarked for transfer	New and fit banknotes of the LS of the NCB which are reserved for transfers pursuant to separate ECB legal acts on banknote production and the management of banknote stocks. The NCB may transfer the banknotes to the LS or ESS of one or more NCBs, or to the ESS held by the NCB. Until the banknotes are physically transferred, they form part of its new or fit LS (either data item 2.3 or 2.4)

2.18	Eurosysteem Strategic Stock earmarked to be received	New and fit banknotes which are to be transferred to the ESS held by the NCB (as receiving NCB) by one or more other NCBs, a printing works or from the NCB's own LS pursuant to separate ECB legal acts on banknote production and the management of banknote stocks
2.19	Logistical stocks earmarked to be received	New and fit banknotes which are to be transferred to the LS of the NCB (as receiving NCB) by one or more other NCBs, a printing works or from the ESS held by the NCB pursuant to separate ECB legal acts on banknote production and the management of banknote stocks

3. Data items related to operational activities

These data items, as flow data, cover the entire reporting period

(A) Operational activities of NCBs		
3.1	Banknotes issued by NCB	New and fit banknotes withdrawn by third parties at NCB counters irrespective of whether the withdrawn banknotes have been debited from a customer's account or not. This data item excludes transfers to NHTO banks (data item 3.2) and ECI banks (data item 3.3)
3.2	Banknotes transferred from NCB to NHTO banks	New and fit banknotes which the NCB has transferred to NHTO banks
3.3	Banknotes transferred from NCB to ECI banks	New and fit banknotes which the NCB has transferred to ECI banks
3.4	Banknotes returned to NCB	Banknotes returned from circulation to the NCB, irrespective of whether the returned banknotes have been credited to a customer's account or not. This data item excludes banknotes transferred to the NCB by NHTO banks (data item 3.5), or ECI banks (data item 3.6)
3.5	Banknotes transferred from NHTO banks to NCB	Banknotes which NHTO banks have transferred to the NCB
3.6	Banknotes transferred from ECI banks to NCB	Banknotes which ECI banks have transferred to the NCB
3.7	Banknotes processed by NCB	Banknotes authenticated and fitness sorted by the NCB on banknote sorting machines or manually. These data represent the stocks of unprocessed banknotes (data item 2.6) of the previous reporting period + banknotes returned from circulation (data item 3.4) + banknotes transferred from NHTO banks to NCB (data item 3.5) + banknotes transferred from ECI banks to NCB (data item 3.6) + unprocessed banknotes received from other NCBs (subset of data item 4.3) — unprocessed banknotes transferred to other NCBs (subset of data item 4.2) — stocks of unprocessed banknotes of the current reporting period (data item 2.6)
3.8	Banknotes sorted as unfit by NCB	Banknotes processed by the NCB and sorted as unfit in accordance with a separate ECB legal act on banknote processing by NCBs
(B) Operational activities of NHTO banks		
3.9	Banknotes put into circulation by NHTO banks	Banknotes put into circulation by NHTO banks, i.e. the total withdrawals at NHTO banks
3.10	Banknotes returned to NHTO banks	Banknotes returned from circulation to NHTO banks, i.e. the total deposits at NHTO banks

3.11	Banknotes processed by NHTO banks	Banknotes authenticated and fitness sorted by NHTO banks on banknote sorting machines or manually in accordance with the BRF. These data represent the stocks of unprocessed banknotes (data item 2.10) of the previous reporting period + banknotes returned to NHTO banks (data item 3.10) — unprocessed banknotes transferred from NHTO banks to NCB — stocks of unprocessed banknotes (data item 2.10) of the current reporting period
3.12	Banknotes sorted as unfit by NHTO banks	Banknotes processed by NHTO banks and sorted as unfit in accordance with the BRF
<i>(C) Operational activities of ECI banks</i>		
3.13	Banknotes put into circulation by ECI banks	Banknotes put into circulation by an ECI bank, i.e. the total withdrawals at the ECI bank
3.14	Banknotes returned to ECI banks	Banknotes returned from circulation to an ECI bank, i.e. the total deposits at the ECI bank
3.15	Banknotes processed by ECI banks	Banknotes authenticated and fitness sorted by an ECI bank on banknote sorting machines or manually in accordance with the BRF. These data represent the stocks of unprocessed banknotes (data item 2.14) of the previous reporting period + banknotes returned to the ECI bank (data item 3.14) — stocks of unprocessed banknotes (data item 2.14) of the current reporting period
3.16	Banknotes sorted as unfit by ECI banks	Banknotes processed by an ECI bank and sorted as unfit in accordance with the BRF

4. Data items related to banknote movements

These data items, as flow data, cover the entire reporting period

4.1	Printing works' delivery of new production to responsible NCB	New banknotes which have been produced pursuant to a separate ECB legal act on banknote production and which have been delivered from a printing works to the NCB (as the NCB responsible for production), or via the NCB (as the NCB responsible for production) to another NCB
4.2	Transfer of banknotes	Banknotes transferred from the NCB to any other NCB or internally from its own LS to the ESS held by the NCB, or vice versa
4.3	Receipt of banknotes	Banknotes received by the NCB from any other NCB or transferred internally from its own LS to the ESS held by the NCB, or vice versa

5. Data items for future Eurosystem NCBs

These data items refer to the close of the reporting period

5.1	Ante legal tender stocks	Euro banknotes held by the future Eurosystem NCB for the purpose of the cash changeover
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5.2	Frontloading	Euro banknotes frontloaded by the future Eurosystem NCB to eligible counterparties fulfilling the requirements to receive euro banknotes for the purpose of frontloading in advance of the cash changeover pursuant to Guideline ECB/2006/9
5.3	Sub-frontloading	Euro banknotes sub-frontloaded by eligible counterparties to professional third parties pursuant to Guideline ECB/2006/9 and held by those professional third parties at their premises in advance of the cash changeover

(¹) Any banknotes which have been created and subsequently marked as specimen banknotes are deducted from this data item.

PART 3

CIS 2 booking rules for euro banknote movements

1. Introduction

This part lays down the common booking rules for banknote deliveries from printing works, transfers between NCBs and transfers between different stock types within the same NCB in order to ensure the consistency of data in the CIS 2. Future Eurosystem NCBs apply these rules *mutatis mutandis*.

2. Transaction types

There are four transaction types for banknote movements:

- Transaction type 1 (*direct delivery*): direct delivery of new banknotes from a printing works to the responsible NCB which is at the same time the receiving NCB.
- Transaction type 2 (*indirect delivery without interim storage*): indirect delivery of new banknotes from a printing works via the responsible NCB to another NCB. The banknotes are delivered to the receiving NCB by the responsible NCB, without interim storage at the responsible NCB.
- Transaction type 3 (*indirect delivery with interim storage*): indirect delivery of new banknotes from a printing works via the responsible NCB to another NCB. The banknotes are stored for at least one day at the responsible NCB before they are transported by the responsible NCB to the receiving NCB.
- Transaction type 4 (*transfer*): transfer of (new, fit, unprocessed or unfit) stocks of banknotes between (i) two different NCBs (as supplying and receiving NCB), with or without a change of the stock type (LS/ESS); or (ii) different stock types within one NCB.

3. Reconciliation of data relating to banknote movements

The two NCBs involved in a banknote movement clarify bilaterally the quantities and breakdowns of the data to be reported, if needed.

To synchronise the supplying and receiving NCBs' bookings, each banknote movement is only booked by the supplying and the receiving NCB on completion of the banknote movement, i.e. when the receiving NCB has confirmed receipt of the banknotes and registered them in its local cash management system. If the banknotes arrive late in the evening on the last working day of the month and cannot be registered in the local cash management system of the receiving NCB on that day, the supplying and the receiving NCBs must agree bilaterally whether to book the banknote movement in the current month or in the following month.

4. Earmarking of banknotes for banknote movements

For CIS 2 purposes, the time horizon in the context of earmarking is the number of months to be taken into account when determining the banknote stocks which are either earmarked as being reserved for transfer or earmarked for expected receipt. For expected deliveries from printing works, as stipulated in a separate ECB legal act on banknote production, 'stocks earmarked to be received' are booked, even though the banknotes may not yet have been produced and could still be subject to unforeseen events which could delay or otherwise affect delivery. The length of the time horizon is defined in a separate ECB legal act on the management of banknote stocks.

5. Booking rules

In the tables below, a '+' indicates that an increase is booked and a '-' indicates that a decrease is booked in the CIS 2.

5.1. Booking rules for transaction type 1

Number and name of data item		Delivery to ESS		Delivery to LS	
		Pursuant to a separate ECB legal act on banknote production	After delivery from printing works	Pursuant to a separate ECB legal act on banknote production	After delivery from printing works
1.1	Created banknotes		+		+
2.1	ESS of new banknotes		+		
2.3	LS of new banknotes held by NCB				+
2.18	ESS earmarked to be received	+ (*)	–		
2.19	LS earmarked to be received			+ (*)	–
4.1	Printing works' delivery of new production to responsible NCB		+ with 'to stock type' = ESS		+ with 'to stock type' = LS

(*) Within the defined time horizon for earmarking.

5.2. Booking rules for transaction type 2

Number and name of data item		Delivery to ESS			Delivery to LS		
		Responsible NCB	Receiving NCB		Responsible NCB	Receiving NCB	
		After delivery from printing works/responsible NCB to receiving NCB	Pursuant to a separate ECB legal act on banknote production	On receipt from responsible NCB	After delivery from printing works/responsible NCB to receiving NCB	Pursuant to a separate ECB legal act on banknote production	On receipt from responsible NCB
1.1	Created banknotes			+			+
2.1	ESS of new banknotes			+			

Number and name of data item		Delivery to ESS			Delivery to LS		
		Responsible NCB	Receiving NCB		Responsible NCB	Receiving NCB	
		After delivery from printing works/responsible NCB to receiving NCB	Pursuant to a separate ECB legal act on banknote production	On receipt from responsible NCB	After delivery from printing works/responsible NCB to receiving NCB	Pursuant to a separate ECB legal act on banknote production	On receipt from responsible NCB
2.3	LS of new banknotes held by NCB						+
2.18	ESS earmarked to be received		+	—			
2.19	LS earmarked to be received					+	—
4.1	Printing works' delivery of new production to responsible NCB	+ with 'to stock type' = ESS			+ with 'to stock type' = LS		
4.2	Transfer of banknotes	+ with: 'to NCB' = receiving NCB, 'from stock type' = production, 'to stock type' = ESS, quality = new, planning = scheduled			+ with: 'to NCB' = receiving NCB, 'from stock type' = production, 'to stock type' = LS, quality = new, planning = scheduled		
4.3	Receipt of banknotes			+ with: 'from NCB' = responsible NCB, 'to stock type' = ESS, quality = new			+ with: 'from NCB' = responsible NCB, 'to stock type' = LS, quality = new

(*) Within the defined time horizon for earmarking.

— For the month during which the delivery from the printing works to the receiving NCB took place, first, the fulfilment of the printing works' delivery obligation towards the responsible NCB is recorded by providing data under data item 4.1 ('printing works' delivery of new production to the responsible NCB'). Second, the transfer of the new banknotes by the responsible NCB to the receiving NCB is recorded by providing data under data item 4.2 ('transfer of banknotes').

5.3. Booking rules for transaction type 3 with target stock type ESS

Number and name of data item		Responsible NCB	Receiving NCB	Responsible NCB	Receiving NCB
		After delivery from printing works to responsible NCB	Pursuant to a separate ECB legal act on banknote production	After transfer to receiving NCB	On receipt from responsible NCB
1.1	Created banknotes	+		–	+
2.1	ESS of new banknotes	+		–	+
2.16	ESS earmarked for transfer	+ (*)		–	
2.18	ESS earmarked to be received		+ (*)		–
4.1	Printing works' delivery of new production to responsible NCB	+ with 'to stock type' = ESS			
4.2	Transfer of banknotes			+ with: 'to NCB' = receiving NCB, 'from stock type' = production, 'to stock type' = ESS, quality = new, planning = scheduled	
4.3	Receipt of banknotes				+ with: 'from NCB' = responsible NCB, 'to stock type' = ESS, quality = new

(*) Within the defined time horizon for earmarking.

— The differences between transaction type 3 and transaction type 2 in terms of CIS 2 bookings are: (i) that the banknotes received from the printing works are booked by the responsible NCB as 'created banknotes' and added to the ESS or the LS of the responsible NCB for the duration of the interim storage; and (ii) that after delivery from printing works they are earmarked for transfer for the duration of the interim storage and within the time horizon for earmarking.

5.4. Booking rules for transaction type 3 with target stock type LS

Number and name of data item		Responsible NCB	Receiving NCB	Responsible NCB	Receiving NCB
		After delivery from printing works to responsible NCB	Pursuant to a separate ECB legal act on banknote production	After transfer to receiving NCB	On receipt from responsible NCB
1.1	Created banknotes	+		–	+
2.3	LS of new banknotes held by NCB	+		–	+
2.17	LS earmarked for transfer	+ (*)		–	
2.19	LS earmarked to be received		+ (*)		–
4.1	Printing works' delivery of new production to responsible NCB	+ with 'to stock type' = LS			
4.2	Transfer of banknotes			+ with: 'to NCB' = receiving NCB, 'from stock type' = production, 'to stock type' = LS, quality = new, planning = scheduled	
4.3	Receipt of banknotes				+ with: 'from NCB' = responsible NCB, 'to stock type' = LS, quality = new

(*) Within the defined time horizon for earmarking.

— The differences between transaction type 3 and transaction type 2 in terms of CIS 2 bookings are: (i) that the banknotes received from the printing works are booked by the responsible NCB as 'created banknotes' and added to the ESS or the LS of the responsible NCB for the duration of the interim storage; and (ii) that after delivery from printing works they are earmarked for transfer for the duration of the interim storage and within the time horizon for earmarking.

5.5. Booking rules for transaction type 4 (new and fit banknotes)

Number and name of data item		Supplying NCB	Receiving NCB	Supplying NCB	Receiving NCB
		Following decision for transfer		After transfer to receiving NCB	On receipt from responsible NCB
1.1	Created banknotes			–	+
2.1	ESS of new banknotes			–	+
2.2	ESS of fit banknotes			or: –	or: +
2.3	LS of new banknotes held by NCB			or: –	or: +
2.4	LS of fit banknotes held by NCB			or: –	or: +
2.16	ESS earmarked for transfer	+ (*)		–	
2.17	LS earmarked for transfer	or: + (*)		or: –	
2.18	ESS earmarked to be received		+ (*)		–
2.19	LS earmarked to be received		or: + (*)		or: –
4.2	Transfer of banknotes			+	
				with 'to NCB' = receiving NCB	
4.3	Receipt of banknotes				+
					with 'from NCB' = supplying NCB

(*) Within the defined time horizon for earmarking.

— Data items 4.2 ('transfer of banknotes') and 4.3 ('receipt of banknotes') are completed with information on: (i) the target stock type (ESS/LS); (ii) the quality breakdown (new/fit); and (iii) the planning breakdown (scheduled/ad hoc).

5.6. Booking rules for transaction type 4 (unprocessed and unfit banknotes)

Number and name of data item		Supplying NCB	Receiving NCB
		After transfer to receiving NCB	On receipt from responsible NCB
1.1	Created banknotes	–	+
2.5	Stocks of unfit banknotes (to be destroyed) held by NCB	–	+
2.6	Stocks of unprocessed banknotes held by NCB	or: –	or: +
4.2	Transfer of banknotes	+ with: 'to NCB' = receiving NCB, 'from stock type' = LS, 'to stock type' = LS, planning = ad hoc	
4.3	Receipt of banknotes		+ with: 'from NCB' = supplying NCB, 'to stock type' = LS

- Data items 4.2 ('transfer of banknotes') and 4.3 ('receipt of banknotes') are completed with information on whether the banknotes transferred were unprocessed or unfit.
- No earmarking of unprocessed or unfit banknote stocks is carried out.

Data items								Data source
Number and name of data item	Total number of coins	Total face value of coins	Series breakdown	Denomination breakdown	Entity breakdown ⁽¹⁾	'From Member State' breakdown	'To Member State' breakdown	
4.	Data items related to coin movements							Coin-issuing entities ⁽²⁾
4.1	Transfer of circulation coins						receiving Member State	
4.2	Receipt of circulation coins					supplying Member State		
5.	Data items for calculation of national gross issuance							Coin-issuing entities ⁽²⁾
5.1	Credited stocks of circulation coins held by coin-issuing entities							
5.2	Number of credited collector coins held by coin-issuing entities							
5.3	Value of credited collector coins held by coin-issuing entities							
6.	Additional data items							Coin-issuing entities ⁽²⁾
6.1	Surplus of coins ⁽³⁾							
6.2	Shortage of coins ⁽³⁾							NCB
6.3	Value of stocks credited to the legal issuer(s) by NCB							

Data items								Data source
Number and name of data item	Total number of coins	Total face value of coins	Series breakdown	Denomination breakdown	Entity breakdown ⁽¹⁾	'From Member State' breakdown	'To Member State' breakdown	
7.	Data items for future participating Member States							future Eurosystem NCB and coin-issuing third parties ⁽⁴⁾ future Eurosystem NCB frontloaded eligible counter- parties
7.1	Ante legal tender stocks							
7.2	Frontloading							
7.3	Sub-frontloading							

⁽¹⁾ The data are broken down by the relevant coin-issuing entities, i.e. NCB, mint, treasury, appointed public agency and/or appointed private agency.

⁽²⁾ Coin-issuing entities are the NCB, mints, treasury, appointed public agencies and/or appointed private agencies.

⁽³⁾ The data are provided on a voluntary basis.

⁽⁴⁾ Coin-issuing third parties are mints, treasury, appointed public agencies and appointed private agencies.

PART 2*Specification of euro coin data items*

For data items 1.3, 5.3 and 6.3, the figures are reported in terms of value and with two decimal places, irrespective of whether they are positive or negative. For the remaining data items, the figures are reported in terms of pieces as integer figures, irrespective of whether they are positive or negative.

1. Data items related to coins in circulation

These data items refer to the close of the reporting period

1.1	National net issuance of circulation coins	NCBs calculate the national net issuance of circulation coins using the following equivalent formulae: <i>Formula 1</i> National net issuance = cumulative total coins issued to the public (cumulative data item 3.1) — cumulative total coins returned from the public (cumulative data item 3.2) <i>Formula 2</i> National net issuance = created coins — cumulative total deliveries (cumulative data item 4.1) + cumulative total receipts (cumulative data item 4.2) — created stocks — destroyed coins
1.2	National net issuance of collector coins (number)	Total number of collector coins put into circulation, aggregated over all denominations. NCBs calculate this figure using <i>mutatis mutandis</i> the same formulae as for data item 1.1, except that cumulative total deliveries and cumulative total receipts do not apply
1.3	National net issuance of collector coins (value)	Total face value of collector coins put into circulation, aggregated over all denominations. NCBs calculate this figure using <i>mutatis mutandis</i> the same formulae as for data item 1.1 above, except that cumulative total deliveries and cumulative total receipts do not apply

2. Data items related to coin stocks

These data items refer to the close of the reporting period

2.1	Coin stocks	Circulation coins which are held by the NCB and coin-issuing third parties in so far as they exist in the participating Member State, irrespective of whether the coins are: (i) neither created nor credited to the legal issuer(s); (ii) created but not credited to the legal issuer(s); or (iii) created and credited to the legal issuer(s). Coin stocks held by mints cover only coins which have passed final quality checks, irrespective of their packaging and delivery status. Stocks of coins sorted as unfit but not yet destroyed are reported
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3. Data items related to operational activities

These data items, as flow data, cover the entire reporting period

3.1	Coins issued to the public	Circulation coins which have been delivered and debited (sold) by the NCB and coin-issuing third parties to the public
3.2	Coins returned from the public	Circulation coins which have been deposited by the public with the NCB and coin-issuing third parties
3.3	Processed coins	Circulation coins checked for authenticity and fitness by the NCB and coin-issuing third parties

3.4	Coins sorted as unfit	Circulation coins processed and sorted as unfit by the NCB and coin-issuing third parties
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4. Data items related to coin movements

These data items, as flow data, cover the entire reporting period

4.1	Transfer of circulation coins	Circulation coins delivered at face value by the NCB and coin-issuing third parties of the (future) participating Member State to coin-issuing entities of other (future) participating Member States
4.2	Receipt of circulation coins	Circulation coins received at face value by the NCB and coin-issuing third parties of the (future) participating Member State from coin-issuing entities of other (future) participating Member States

5. Data items for calculation of national gross issuance

These data items, as stock data, refer to the close of the reporting period. In participating Member States where the NCB is the only coin-issuing entity, the sum of the face values of the stocks described in data items 5.1 and 5.3 is identical to the face value reported under data item 6.3

5.1	Credited stocks of circulation coins held by coin-issuing entities	Circulation coins credited to the legal issuer(s) and held by the NCB and coin-issuing third parties
5.2	Number of credited collector coins held by coin-issuing entities	Total number of collector coins credited to the legal issuer(s) and held by the NCB and coin-issuing third parties
5.3	Value of credited collector coins held by coin-issuing entities	Total face value of collector coins credited to the legal issuer(s) and held by the NCB and coin-issuing third parties

6. Additional data items

These data items, as stock data, refer to the close of the reporting period

6.1	Surplus of coins	Circulation coins in excess of a certain maximum level of coin stocks at national level. These coin stocks are available for delivery to other (future) participating Member States on request. The NCB, in cooperation with the legal issuer if applicable, determines the maximum level of coin stocks
6.2	Shortage of coins	Shortage of circulation coins below a certain minimum level of coin stocks at national level. The NCB, in cooperation with the legal issuer if applicable, determines the minimum level of coin stocks
6.3	Value of stocks credited to the legal issuer(s) by NCB	The NCB's stocks of circulation and collector coins which are credited to legal issuer(s), irrespective of their legal tender status. This includes stocks credited to the legal issuer of the Member State of the NCB and stocks which have been received from other participating Member States against face value (the coins received are credited to the legal issuer of the supplying Member State, but become part of the credited stocks of the receiving NCB). Deliveries and/or receipts at production cost have no impact on this data item

7. Data items for future participating Member States

These data items refer to the close of the reporting period

7.1	Ante legal tender stocks	Euro circulation coins held by a future Eurosystem NCB and coin-issuing third parties of the future participating Member State for the purpose of the cash changeover
7.2	Frontloading	Euro circulation coins held by eligible counterparties fulfilling the requirements to receive euro circulation coins for the purpose of frontloading in advance of the cash changeover pursuant to Guideline ECB/2006/9
7.3	Sub-frontloading	Euro circulation coins sub-frontloaded by eligible counterparties to professional third parties, pursuant to Guideline ECB/2006/9. For the purpose of CIS 2 reporting this includes euro coins provided in starter kits to the general public

PART 3

CIS 2 booking rules for euro coin movements between (future) participating Member States

1. Introduction

This part lays down the common booking rules for coin movements between the participating Member States, in particular between NCBs, to ensure the consistency of data in the CIS 2 on the national net and gross issuance of coins. As coin transfers may involve both NCBs/future Eurosystem NCBs and coin-issuing third parties, these are referred to together consistently hereafter under the heading 'Member States'.

Future participating Member States apply these rules *mutatis mutandis*.

2. Coin movements between supplying and receiving Member States

For coin transfers between Member States a distinction is made between transfer at face value and transfer at production cost. In both cases transfers between the coin-issuing entities of the supplying Member State and receiving Member State do not lead to a change of the national net issuance.

In the following tables of this section a '+' indicates that an increase is booked and a '-' indicates that a decrease is booked in the CIS 2.

2.1. Booking rules for transfers of circulation coins at face value

Number and name of data item		Supplying Member State	Receiving Member State
2.1	Coin stocks	–	+
4.1	Transfer of circulation coins	+	
4.2	Receipt of circulation coins		+
5.1	Credited stocks of circulation coins held by coin-issuing entities	(–) (see note (c) below)	+ (see note (d) below)
6.3	Value of stocks credited to the legal issuer(s) by NCB	(–) (see note (c) below)	+ (see note (d) below)

(a) 'Coins issued to the public' in the supplying Member State (data item 3.1) and 'coins returned from the public' in the receiving Member State (data item 3.2) remain unchanged.

(b) The accounts relating to 'created' coins within the cash management systems of the supplying Member State and the receiving Member State remain unchanged (where applicable).

- (c) 'Credited stocks of circulation coins held by coin-issuing entities' (data item 5.1) in the supplying Member State are either decreased if the delivered coins were previously credited to the legal issuer in the supplying Member State, or remain unchanged if the delivered coins were previously created but not credited to the legal issuer.
- (d) 'Credited stocks of circulation coins held by coin-issuing entities' (data item 5.1) in the receiving Member State are increased, because the received coins represent credited coins (i.e. credited to the legal issuer of the supplying Member State).
- (e) The above bookings affect the national gross issuance as follows:
 - Supplying Member State: unchanged if the delivered coins have previously been created and credited to the legal issuer, or increased if the delivered coins have previously been created but not credited to the legal issuer.
 - Receiving Member State: unchanged.

2.2. Booking rules for movements of circulation coins at production cost

Number and name of data item		Supplying Member State	Receiving Member State
2.1	Coin stocks	—	+

- (a) No bookings are made under 'transfer and receipt of circulation coins'.
- (b) Movements at production cost have no effect on the national gross issuance in the supplying and the receiving Member State.

2.3. Reconciliation of data relating to coin movements

Section 3 of Part 3 of Annex I on the reconciliation of data relating to banknote movements applies *mutatis mutandis*.

ANNEX III

Data on cash infrastructure and the BRF

For all data items the figures are to be reported as positive integer figures.

1. Data items on NCB related cash infrastructure

These data items refer to the close of the reporting period

1.1	Number of NCB branches	All NCB branches providing cash services to credit institutions and other professional customers
1.2	Storage capacity	Total secure banknote storage capacity of the NCB, in millions of banknotes and calculated on the basis of the EUR 20 denomination
1.3	Sorting capacity	Total banknote sorting capacity (i.e. total maximum theoretical throughput) of the NCB's banknote sorting machines which are in operation, in thousands of banknotes per hour and calculated on the basis of the EUR 20 denomination
1.4	Transport capacity	Total transport capacity (i.e. maximum loading capacity) of the NCB's armoured trucks in use, in thousands of banknotes and calculated on the basis of the EUR 20 denomination

2. Data items on general cash infrastructure and BRF

These data items refer to the close of the reporting period

2.1	Number of branches of credit institutions	All credit institution branches established in the participating Member State providing retail or wholesale cash services
2.2	Number of remote branches of credit institutions	All credit institution branches which qualify as 'remote branches' under the BRF ⁽¹⁾
2.3	Number of CIT companies	All cash in transit (CIT) companies established in the participating Member State, which transport cash ⁽²⁾ ⁽³⁾
2.4	Number of cash centres not owned by NCB	All cash centres established in the participating Member State, which are owned by credit institutions, CIT companies and other professional cash handlers ⁽²⁾ ⁽³⁾
2.5	Number of automated teller machines (ATM) run by credit institutions	All ATMs run under the responsibility of credit institutions established in the participating Member State, irrespective of who refills such ATMs
2.6	Number of other ATMs	All ATMs run by entities other than credit institutions established in the participating Member State (e.g. 'retail ATMs' or 'convenience ATMs') ⁽²⁾
2.7	Number of customer-operated cash recycling machines (CRM) run by credit institutions	All customer-operated CRMs in the participating Member State run by credit institutions ⁽¹⁾
2.8	Number of customer-operated cash-in machines run by credit institutions	All customer-operated cash-in machines in the participating Member State run by credit institutions ⁽¹⁾
2.9	Number of staff-operated banknote handling machines run by credit institutions	All staff-operated banknote handling machines in the participating Member State used for recycling purposes by credit institutions ⁽¹⁾

2.10	Number of staff-operated back-office banknote sorting machines run by other professional cash handlers	All staff-operated banknote sorting machines in the participating Member State used for recycling purposes by other professional cash handlers to which the BRF applies, which are established in such Member State
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3. BRF operational data items ⁽⁴⁾

These data items, as flow data, cover the entire reporting period and are reported in terms of pieces with denomination breakdown

3.1	Number of banknotes recycled to customers by credit institutions	Banknotes which have been received by credit institutions from customers, processed on back-office banknote sorting machines in accordance with the BRF and either dispensed to customers or are still held for the purpose of dispensing them to customers
3.2	Number of banknotes recycled to customers by other professional cash handlers	Banknotes which have been received by other professional cash handlers from credit institutions, processed on back-office banknote sorting machines in accordance with the BRF by other professional cash handlers and either supplied to credit institutions or are still held for the purpose of supplying to credit institutions
3.3	Number of banknotes processed on back-office banknote sorting machines run by credit institutions	Banknotes authenticated and fitness-checked on staff-operated back-office banknote sorting machines run by credit institutions established in the participating Member State
3.4	Number of banknotes processed on back-office banknote sorting machines run by other professional cash handlers	Banknotes authenticated and fitness-checked on staff-operated back-office banknote sorting machines run by other professional cash handlers established in the participating Member State
3.5	Number of banknotes sorted as unfit on back-office banknote sorting machines run by credit institutions	Banknotes sorted as unfit on staff-operated back-office banknote sorting machines run by credit institutions established in the participating Member State
3.6	Number of banknotes sorted as unfit on back-office banknote sorting machines run by other professional cash handlers	Banknotes sorted as unfit on staff-operated back-office banknote sorting machines run by other professional cash handlers established in the participating Member State

⁽¹⁾ All credit institutions to which the BRF applies, which are established in the participating Member State.

⁽²⁾ Reporting of data depends on their availability in the participating Member State. NCBs inform the ECB on the extent of their reporting.

⁽³⁾ NCBs provide data covering, as a minimum, credit institutions and/or CIT companies to which the BRF applies. NCBs inform the ECB on the extent of their reporting.

⁽⁴⁾ Banknotes recycled at remote bank branches are excluded.

ANNEX IV

CIS 2 reference data and system parameters maintained by the ECB

The ECB enters the reference data and system parameters, together with their validity periods. This information is visible to all NCB and future Eurosystem NCB users. Reference data and system parameters relating to euro coins are moreover visible to all eligible third party users.

1. Reference data

1.1	Approved coin issuance	The approved volumes, in terms of value, of euro circulation coins and euro collector coins which a (future) participating Member State is allowed to issue during a specific calendar year pursuant to the applicable coin issuance decision ⁽¹⁾
1.2	Benchmarks for logistical stocks of banknotes	Amounts of LS per denomination and NCB, which are used as a reference for annual production planning in accordance with a separate ECB legal act on the management of banknote stocks. In addition, operating margins relating to these amounts are entered and maintained per denomination and NCB
1.3	Capital key shares	The shares of the NCBs in the ECB's capital key calculated on the basis of Decision ECB/2006/21 ⁽²⁾ and expressed as a percentage

2. System parameters

2.1	NCB attributes	Information on: (i) the existence of NHTO schemes in the participating Member States; (ii) the different coin-issuing entities operating in the participating Member States; (iii) the status of NCBs and future Eurosystem NCBs with regard to their scope of reporting of CIS 2 data to the ECB; (iv) whether NCBs receive automatic notifications of data event; and (v) whether NCBs receive regular automatic transmission of all NCBs' and future Eurosystem NCBs' CIS 2 data
2.2	ECI bank-NCB relationships	Names of individual ECI banks and an indication of the NCB managing such ECI banks and supplying them with euro banknotes
2.3	Series/variant/denomination status	Information on whether individual denominations of banknote and coin series, and banknote variants, have not yet become legal tender (pre-legal tender status), are legal tender or have ceased to be legal tender (post-legal tender status)
2.4	Data item attributes	For all data items defined in Annexes I-III, information on: (i) which breakdown levels exist; (ii) whether the data item is a category 1, category 2 or event-driven data item; and (iii) whether data item is reported by an NCB and/or future Eurosystem NCB
2.5	Plausibility tolerance levels	Specification of the tolerance levels that are applied for the individual correctness checks defined in Annex VI

⁽¹⁾ Applicable coin issuance decision means the annual ECB decision(s) on the approval of the volume of coin issuance for a specific year, the latest of which is Decision ECB/2007/16 of 23 November 2007 on the approval of the volume of coin issuance in 2008, OJ L 317, 5.12.2007, p. 81.

⁽²⁾ Decision ECB/2006/21 of 15 December 2006 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital, OJ L 24, 31.1.2007, p. 1.

ANNEX V

Completeness checks for data sent by NCBs and future Eurosystem NCBs**1. Introduction**

Data sent by NCBs and future Eurosystem NCBs are checked for completeness in the CIS 2. Due to the different nature of the data items a distinction is made between, on one hand, category 1 and category 2 data items for which data must be reported for each reporting period and, on the other hand, event-driven data items which only need to be provided if the underlying event occurs during the reporting period.

The CIS 2 checks whether all category 1 and category 2 data items are present in the first data message sent by an NCB for a reporting period, taking into account the system parameters relating to NCB attributes and ECI-NCB relationships described in Section 2 of the table in Annex IV. If at least one category 1 data item is missing or incomplete, the CIS 2 rejects this first data message, and the NCB has to resend the data message. If the category 1 data items are complete but at least one category 2 data item is missing or incomplete in an NCB's first data message, the CIS 2 accepts the first data message and stores it in the central database, but a warning is shown in the web-based online application for each affected data item. This warning is visible to all ECB, NCB and future Eurosystem NCB users, and in case of coins, visible to all eligible third party users. Warnings are visible until the NCB concerned sends one or more revised data messages which complete the data missing in the first data message. For event-driven data items the CIS 2 does not run any completeness checks.

2. Completeness checks for euro banknote data

Number and name of data item(s)		Series/variant breakdown and denomination breakdown	ECI bank breakdown	Data item type
1.1 — 1.3	Cumulative data items	all combinations with legal tender status	—	category 1
		any combinations with pre-legal tender and post-legal tender statuses		event-driven
2.1 — 2.6	Stocks held by the Eurosystem	all combinations with legal tender status	—	category 1
		any combinations with pre-legal tender and post-legal tender statuses		event-driven
2.7 — 2.10	Stocks held by NHTO banks	all combinations with legal tender status	—	category 1
		any combinations with pre-legal tender and post-legal tender statuses		event-driven
2.11 — 2.15	Stocks held by ECI banks	all combinations with legal tender status	all ECI banks managed by the NCB	category 1
		any combinations with post-legal tender status		event-driven
2.16 — 2.19	Cross-check data items	any combinations with legal tender and pre-legal tender statuses	—	event-driven
3.1	Banknotes issued by NCB	all combinations with legal tender status	—	category 1

Number and name of data item(s)		Series/variant breakdown and denomination breakdown	ECI bank breakdown	Data item type
3.2	Banknotes transferred from NCB to NHTO banks	all combinations with legal tender status	—	category 1
		any combinations with pre-legal tender status		event-driven
3.3	Banknotes transferred from NCB to ECI banks	any combinations with legal tender status	all ECI banks managed by the NCB	event-driven
3.4	Banknotes returned to NCB	all combinations with legal tender status	—	category 1
		any combinations with post-legal tender status		event-driven
3.5	Banknotes transferred from NHTO banks to NCB	all combinations with legal tender status	—	category 1
		any combinations with pre-legal tender and post-legal tender statuses		event-driven
3.6	Banknotes transferred from ECI banks to NCB	any combinations with legal tender status	all ECI banks managed by the NCB	event-driven
		any combinations with post-legal tender status		event-driven
3.7	Banknotes processed by NCB	all combinations with legal tender status	—	category 1
3.8	Banknotes sorted as unfit by NCB	all combinations with legal tender status	—	category 1
3.9	Banknotes put into circulation by NHTO banks	all combinations with legal tender status	—	category 1
3.10	Banknotes returned to NHTO banks	all combinations with legal tender status	—	category 1
		any combinations with post-legal tender status		event-driven
3.11	Banknotes processed by NHTO banks	all combinations with legal tender status	—	category 1
3.12	Banknotes sorted as unfit by NHTO banks	all combinations with legal tender status	—	category 1
3.13	Banknotes put into circulation by ECI banks	all combinations with legal tender status	all ECI banks managed by the NCB	category 1

Number and name of data item(s)		Series/variant breakdown and denomination breakdown	ECI bank breakdown	Data item type
3.14	Banknotes returned to ECI banks	all combinations with legal tender status	all ECI banks managed by the NCB	category 1
		any combinations with post-legal tender status	all ECI banks managed by the NCB	event-driven
3.15	Banknotes processed by ECI banks	all combinations with legal tender status	all ECI banks managed by the NCB	category 2
3.16	Banknotes sorted as unfit by ECI banks	all combinations with legal tender status	all ECI banks managed by the NCB	category 2
4.1	Printing works' delivery of new production to responsible NCB	any combinations with legal tender and pre-legal tender statuses	—	event-driven
4.2	Transfer of banknotes	any combinations with legal tender, pre-legal tender and post-legal tender statuses	—	event-driven
4.3	Receipt of banknotes	any combinations with legal tender, pre-legal tender and post-legal tender statuses	—	event-driven
5.1 — 5.3	Data items for future Eurosystem NCBs	any combinations with legal tender and pre-legal tender statuses	—	event-driven

3. Completeness checks for euro coin data

Number and name of data item(s)		Series breakdown and denomination breakdown	Entity breakdown	Data item type
1.1	National net issuance of circulation coins	all combinations with legal tender status	—	category 1
		any combination with post-legal tender status		event-driven
1.2	National net issuance of collector coins (number)	—	—	category 2
1.3	National net issuance of collector coins (value)	—	—	category 2

Number and name of data item(s)		Series breakdown and denomination breakdown	Entity breakdown	Data item type
2.1	Coin stocks	all combinations with legal tender status	all coin-issuing third parties from which the NCB collects coin stock data	category 1
		any combinations with pre-legal tender or post-legal tender statuses		event-driven
3.1	Coins issued to the public	all combinations with legal tender status	all coin-issuing third parties from which the NCB collects coin flow data	category 1
3.2	Coins returned from the public	all combinations with legal tender status	all coin-issuing third parties from which the NCB collects coin flow data	category 1
		any combinations with post-legal tender status		event-driven
3.3	Processed coins	all combinations with legal tender status	all coin-issuing third parties from which the NCB collects coin flow data	category 2
3.4	Coins sorted as unfit	all combinations with legal tender status	all coin-issuing third parties from which the NCB collects coin flow data	category 2
4.1	Transfer of circulation coins	any combinations with legal tender or post-legal tender statuses	—	event-driven
4.2	Receipt of circulation coins	any combinations with legal tender or post-legal tender statuses	—	event-driven
5.1	Credited stocks of circulation coins held by coin-issuing entities	all combinations with legal tender status	—	category 2
		any combinations with pre-legal tender or post-legal tender statuses	—	event-driven
5.2	Number of credited collector coins held by coin-issuing entities	—	—	category 2
5.3	Value of credited collector coins held by coin-issuing entities	—	—	category 2

Number and name of data item(s)		Series breakdown and denomination breakdown	Entity breakdown	Data item type
6.1	Surplus of coins	any combinations with legal tender status	—	event-driven
6.2	Shortage of coins	any combinations with legal tender status	—	event-driven
6.3	Value of stocks credited to the legal issuer(s) by NCB	—	—	category 1
7.1 — 7.3	Data items for future participating Member States	any combinations with legal tender or pre-legal tender statuses	—	event-driven

4. Completeness checks for cash infrastructure data and BRF data

Number and name of data item	Denomination breakdown	Data item type
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Data items on NCB-related cash infrastructure

1.1	Number of NCB branches	—	category 2
1.2	Storage capacity	—	category 2
1.3	Sorting capacity	—	category 2
1.4	Transport capacity	—	category 2

Data items on general cash infrastructure and BRF

2.1	Number of branches of credit institutions	—	category 2
2.2	Number of remote branches of credit institutions	—	event-driven
2.3	Number of CIT companies	—	event-driven
2.4	Number of cash centres not owned by NCB	—	event-driven
2.5	Number of automated teller machines (ATM) run by credit institutions	—	category 2
2.6	Number of other ATMs	—	event-driven
2.7	Number of customer-operated cash recycling machines (CRM) run by credit institutions	—	event-driven
2.8	Number of customer-operated cash-in machines run by credit institutions	—	event-driven

Number and name of data item		Denomination breakdown	Data item type
2.9	Number of staff-operated bank-note handling machines run by credit institutions	—	event-driven
2.10	Number of staff-operated back-office banknote sorting machines run by other professional cash handlers	—	event-driven
BRF operational data items			
3.1	Number of banknotes recycled to customers by credit institutions	all denominations for which there is at least one series/variant/denomination combination with legal tender status for at least one month within the reporting period	event-driven
3.2	Number of banknotes recycled to customers by other professional cash handlers	all denominations for which there is at least one series/variant/denomination combination with legal tender status for at least one month within the reporting period	event-driven
3.3	Number of banknotes processed on back-office banknote sorting machines run by credit institutions	all denominations for which there is at least one series/variant/denomination combination with legal tender status for at least one month within the reporting period	event-driven
3.4	Number of banknotes processed on back-office banknote sorting machines run by other professional cash handlers	all denominations for which there is at least one series/variant/denomination combination with legal tender status for at least one month within the reporting period	event-driven
3.5	Number of banknotes sorted as unfit on back-office banknote sorting machines run by credit institutions	all denominations for which there is at least one series/variant/denomination combination with legal tender status for at least one month within the reporting period	event-driven
3.6	Number of banknotes sorted as unfit on back-office banknote sorting machines run by other professional cash handlers	all denominations for which there is at least one series/variant/denomination combination with legal tender status for at least one month within the reporting period	event-driven

ANNEX VI

Correctness checks for data sent by NCBs and future Eurosystem NCBs**1. Introduction**

Data sent by NCBs and future Eurosystem NCBs to the ECB are checked for correctness in the CIS 2, which distinguishes between two types of checks, 'must-checks' and 'should-checks'.

A 'must-check' is a correctness check which must be passed without exceeding the threshold for the tolerance level. If a 'must-check' is failed, the underlying data are treated as incorrect and the CIS 2 rejects the entire data message sent by that NCB. The threshold is 1 % for correctness checks with an 'equal to' operator ⁽¹⁾, and zero for the remaining correctness checks.

A 'should-check' is a correctness check for which a threshold of 3 % for the tolerance level is applied. If this threshold is exceeded, this has no impact on the acceptance of the data message in the CIS 2, but a warning is shown in the web-based online application for this correctness check. This warning is visible to all NCB and future Eurosystem NCB users, and in the case of coins, it is visible to all eligible third party users.

Correctness checks are conducted for banknotes and coins with legal tender status and separately for each combination of series and denomination. For banknotes they are also conducted for each combination of variant and denomination, if such variants exist. Correctness checks for data on banknote transfers (checks 5.1 and 5.2) and for data on coin transfers (check 6.6) are also conducted for pre-legal tender and post-legal tender statuses.

2. Correctness check on the national net issuance of banknotes

If a new series, variant or denomination becomes legal tender, this correctness check is performed from the first reporting period in which the series/variant/denomination is legal tender. The national net issuance for the previous reporting period (t-1) is zero in this case.

2.1. National net issuance of banknotes (should-check)

Operators	Number and name of data item	Reporting period	Breakdowns and reporting NCB
National net issuance according to the stock method for period t			
-			
National net issuance according to the stock method for period (t-1)			
=			
	3.1 Banknotes issued by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
+	3.9 Banknotes put into circulation by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
+ Σ	3.13 Banknotes put into circulation by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k
-	3.4 Banknotes returned to NCB	t	Series/variant-i, denomination-j, reporting NCB-k
-	3.10 Banknotes returned to NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
- Σ	3.14 Banknotes returned to ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k

⁽¹⁾ The allowed maximum difference between the left side and the right side of an equation must not exceed the absolute value of the equation side with the greater absolute value multiplied by the threshold. The correctness check verifies whether: Absolute value ('left side' — 'right side') is less than or equal to the allowed maximum difference.

Example:

'left side' = 190; 'right side' = 200; threshold = 1 %; allowed maximum difference: $200 \times 1 \% = 2$;

The correctness check verifies whether: Absolute value $(190 - 200) \leq 2$

In this example: Absolute value $(190 - 200) = 10$. As a result, the correctness check fails.

— The national net issuance according to the stock method is calculated as shown in the table below.

Operators	Number and name of data item	Reporting period	Breakdowns and reporting NCB
National net issuance according to the stock method for period t =			
	1.1 Created banknotes	t	Series/variant-i, denomination-j, reporting NCB-k
—	1.2 Banknotes destroyed on-line	t	Series/variant-i, denomination-j, reporting NCB-k
—	1.3 Banknotes destroyed off-line	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.1 Eurosystem Strategic Stock of new banknotes	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.2 Eurosystem Strategic Stock of fit banknotes	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.3 Logistical stocks of new banknotes held by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.4 Logistical stocks of fit banknotes held by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.5 Stocks of unfit banknotes (to be destroyed) held by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.6 Stocks of unprocessed banknotes held by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.7 Logistical stocks of new banknotes held by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.8 Logistical stocks of fit banknotes held by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.9 Stocks of unfit banknotes held by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
—	2.10 Stocks of unprocessed banknotes held by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
— Σ	2.11 Logistical stocks of new banknotes held by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k
— Σ	2.12 Logistical stocks of fit banknotes held by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k
— Σ	2.13 Stocks of unfit banknotes held by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k
— Σ	2.14 Stocks of unprocessed banknotes held by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k
— Σ	2.15 Logistical stocks of banknotes in transit to or from ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k

3. Correctness check on banknote stocks

The correctness checks on banknote stocks are only applied from the second reporting period that an NCB reports CIS 2 data to the ECB.

If a series, variant or denomination becomes legal tender, these correctness checks are only applied from the second reporting period in which this series, variant or denomination is legal tender.

For NCBs which have recently adopted the euro (i.e. former future Eurosystem NCBs) the correctness checks on banknote stocks are applied from the second reporting period after adoption of the euro.

3.1. Development of new banknotes in the Eurosystem Strategic Stock (must-check)

Operators	Number and name of data item	Reporting period	Breakdowns and reporting NCB
	2.1 Eurosystem Strategic Stock of new banknotes	t	Series/variant-i, denomination-j, reporting NCB-k
=			
	2.1 Eurosystem Strategic Stock of new banknotes	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	4.1 Printing works' delivery of new production to responsible NCB	t	Series/variant-i, denomination-j, reporting NCB-k where 'to stock type' = ESS
+ Σ	4.3 Receipt of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where quality = new AND 'to stock type' = ESS
- Σ	4.2 Transfer of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where quality = new AND ('from stock type' = ESS OR 'from stock type' = production) AND 'to stock type' = ESS

— Before new ESS banknotes can be issued, they are transferred to the LS of the issuing NCB.

3.2. Development of fit banknotes in the Eurosystem Strategic Stock (must-check)

Operators	Number and name of data item	Reporting period	Breakdowns and reporting NCB
	2.2 Eurosystem Strategic Stock of fit banknotes	t	Series/variant-i, denomination-j, reporting NCB-k
=			
	2.2 Eurosystem Strategic Stock of fit banknotes	t-1	Series/variant-i, denomination-j, reporting NCB-k
+ Σ	4.3 Receipt of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where quality = fit AND 'to stock type' = ESS
- Σ	4.2 Transfer of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where quality = fit AND 'from stock type' = ESS

— Before fit ESS banknotes can be issued, they are transferred to the LS of the issuing NCB.

3.3. *Development of logistical stocks of new and fit banknotes (should-check)*

Operators	Number and name of data item	Reporting period	Breakdowns and reporting NCB
	2.3 Logistical stocks of new banknotes held by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
+	2.4 Logistical stocks of fit banknotes held by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
=			
	2.3 Logistical stocks of new banknotes held by NCB	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	2.4 Logistical stocks of fit banknotes held by NCB	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	4.1 Printing works' delivery of new production to responsible NCB	t	Series/variant-i, denomination-j, reporting NCB-k where 'to stock type' = LS
+ Σ	4.3 Receipt of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where quality = new or fit AND 'to stock type' = LS
- Σ	4.2 Transfer of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where (quality = new or fit AND 'from stock type' = LS) OR (quality = new AND 'from stock type' = production AND 'to stock type' = LS)
-	3.1 Banknotes issued by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
+	3.7 Banknotes processed by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
-	3.8 Banknotes sorted as unfit by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
-	3.2 Banknotes transferred from NCB to NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
- Σ	3.3. Banknotes transferred from NCB to ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k

3.4. *Development of stocks of unprocessed banknotes (should-check)*

Operators	Number and name of data item	Reporting periods	Breakdowns and reporting NCB
	2.6 Stocks of unprocessed banknotes held by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
=			
	2.6 Stocks of unprocessed banknotes held by NCB	t-1	Series/variant-i, denomination-j, reporting NCB-k
-	3.7 Banknotes processed by NCB	t	Series/variant-i, denomination-j, reporting NCB-k

Operators	Number and name of data item	Reporting periods	Breakdowns and reporting NCB
+	3.4 Banknotes returned to NCB	t	Series/variant-i, denomination-j, reporting NCB-k
+	3.5 Banknotes transferred from NHTO banks to NCB	t	Series/variant-i, denomination-j, reporting NCB-k
+ Σ	3.6 Banknotes transferred from ECI banks to NCB	t	Series/variant-i, denomination-j, reporting NCB-k
+ Σ	4.3 Receipt of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where quality = unprocessed
- Σ	4.2 Transfer of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where quality = unprocessed

- All receipts of unprocessed banknotes are booked at the receiving NCB with 'to stock type' = LS.
- All transfers of unprocessed banknotes are booked at the supplying NCB with 'from stock type' = LS and with 'to stock type' = LS.

3.5. Development of banknote stocks held by NHTO banks (should-check)

Operators	Number and name of data item	Reporting periods	Breakdowns and reporting NCB
	2.7 Logistical stocks of new banknotes held by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
+	2.8 Logistical stocks of fit banknotes held by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
+	2.9 Stocks of unfit banknotes held by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
+	2.10 Stocks of unprocessed banknotes held by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
=			
	2.7 Logistical stocks of new banknotes held by NHTO banks	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	2.8 Logistical stocks of fit banknotes held by NHTO banks	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	2.9 Stocks of unfit banknotes held by NHTO banks	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	2.10 Stocks of unprocessed banknotes held by NHTO banks	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	3.2 Banknotes transferred from NCB to NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
+	3.10 Banknotes returned to NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
-	3.5 Banknotes transferred from NHTO banks to NCB	t	Series/variant-i, denomination-j, reporting NCB-k
-	3.9 Banknotes put into circulation by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k

- For the purpose of this Guideline, all banknotes returned from circulation to NHTO banks are included in data item 2.10 ('stocks of unprocessed banknotes held by NHTO banks') until they are processed.

3.6. Development of unprocessed banknote stocks held by ECI banks (should-check)

Operators	Number and name of data item	Reporting period	Breakdowns and reporting NCB
	2.14 Stocks of unprocessed banknotes held by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k, ECI bank-m
=			
	2.14 Stocks of unprocessed banknotes held by ECI banks	t-1	Series/variant-i, denomination-j, reporting NCB-k, ECI bank-m
–	3.15 Banknotes processed by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k, ECI bank-m
+	3.14 Banknotes returned to ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k, ECI bank-m

- For the purpose of this Guideline, all banknotes returned from circulation to ECI banks are included in data item 2.14 ('stocks of unprocessed banknotes held by ECI banks') until they are processed.

3.7. Development of banknote stocks held by future Eurosystem NCBs (must-check)

Operators	Number and name of data item	Reporting periods	Breakdowns and reporting NCB
	5.1 Ante legal tender stocks	t	Series/variant-i, denomination-j, reporting NCB-k
+	5.2 Frontloading	t	Series/variant-i, denomination-j, reporting NCB-k
=			
	5.1 Ante legal tender stocks	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	5.2 Frontloading	t-1	Series/variant-i, denomination-j, reporting NCB-k
+	4.1 Printing works' delivery of new production to responsible NCB	t	Series/variant-i, denomination-j, reporting NCB-k
+	Σ 4.3 Receipt of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where 'from NCB' ≠ reporting NCB-k
–	Σ 4.2 Transfer of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k where 'to NCB' ≠ reporting NCB-k

4. Correctness checks on operational banknote activities

4.1. Banknotes sorted as unfit by NCBs (must-check)

Number and name of data item	Reporting periods	Breakdowns and reporting NCB
3.8 Banknotes sorted as unfit by NCB	t	Series/variant-i, denomination-j, reporting NCB-k
≤		
3.7 Banknotes processed by NCB	t	Series/variant-i, denomination-j, reporting NCB-k

4.2. Banknotes sorted as unfit by NHTO banks (must-check)

Number and name of data item	Reporting period	Breakdowns and reporting NCB
3.12 Banknotes sorted as unfit by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k
≤		
3.11 Banknotes processed by NHTO banks	t	Series/variant-i, denomination-j, reporting NCB-k

4.3. Banknotes sorted as unfit by ECI bank (must-check)

Number and name of data item	Reporting periods	Breakdowns and reporting NCB
3.16 Banknotes sorted as unfit by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k, ECI bank-m
≤		
3.15 Banknotes processed by ECI banks	t	Series/variant-i, denomination-j, reporting NCB-k, ECI bank-m

5. Correctness checks on banknote transfers

5.1. Transfers between different stock types within an NCB (must-check)

Conditions	Number and name of data item	Reporting periods	Breakdowns and reporting NCB
IF	4.2 Transfer of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k, 'to NCB'-m, 'from stock type'-u, 'to stock type'-v, quality-x, planning-y where NCB-k = NCB-m
THEN	4.2 Transfer of banknotes	t	stock type-u ≠ stock type-v

5.2. Reconciliation for individual banknote transfers between (future Eurosystem) NCBs (should-check)

Operators	Number and name of data item	Reporting periods	Breakdowns and reporting NCB
Σ	4.2 Transfer of banknotes	t	Series/variant-i, denomination-j, reporting NCB-k, 'to NCB'-m, quality-n, 'to stock type'-p
=			
	4.3 Receipt of banknotes	t	Series/variant-i, denomination-j, reporting NCB-m, 'from NCB'-k, quality-n, 'to stock type'-p

— Banknotes supplied by an NCB or a future Eurosystem NCB should be equal to banknotes received by another NCB or another future Eurosystem NCB.

6. Correctness checks on coins

6.1. Development of national net issuance of coins (should-check)

Operators	Number and name of data item	Reporting periods	Breakdowns and reporting NCB
	1.1 National net issuance of circulation coins	t	series-i, denomination-j, reporting NCB-k
=			
	1.1 National net issuance of circulation coins	t-1	series-i, denomination-j, reporting NCB-k
+ Σ	3.1 Coins issued to the public	t	series-i, denomination-j, reporting NCB-k
- Σ	3.2 Coins returned from the public	t	series-i, denomination-j, reporting NCB-k

- This correctness check is applied from the second reporting period that an NCB reports CIS 2 data to the ECB.
- If a new series or denomination becomes legal tender, this check is performed from the first reporting period in which this series or denomination is legal tender. The national net issuance for the previous reporting period (t-1) is zero in this case.

6.2. Reconciliation of coin stocks (must-check)

Operators	Number and name of data item	Reporting periods	Breakdowns and reporting NCB
Σ	2.1 Coin stocks	t	series-i, denomination-j, reporting NCB-k
$\geq$			
	5.1 Credited stocks of circulation coins held by coin-issuing entities	t	series-i, denomination-j, reporting NCB-k

- The CIS 2 collects data on stocks (data item 2.1), regardless of whether they are credited to legal issuer(s) or not. The total stocks for all coin-issuing entities which physically hold them within a participating Member State must be greater than or equal to the stocks credited to the legal issuer of that Member State or the legal issuers of other participating Member States.

6.3. Comparison of overall credited stocks with NCB's credited stocks (must-check)

Operators	Number and name of data item	Reporting periods	Other details
Σ	5.1 Credited stocks of circulation coins held by coin-issuing entities	t	reporting NCB-k As data item 5.1 is reported in terms of numbers, the individual figures are multiplied by the respective face values
+	5.3 Value of credited collector coins held by coin-issuing entities	t	reporting NCB-k

Operators	Number and name of data item	Reporting periods	Other details
$\geq$			
	6.3 Value of stocks credited to the legal issuer(s) by NCB	t	reporting NCB-k

6.4. Coin processing (must-check)

Number and name of data item	Reporting periods	Breakdowns and reporting NCB
3.4 Coins sorted as unfit	t	series-i, denomination-j, reporting NCB-k, entity-m
$\leq$		
3.3 Processed coins	t	series-i, denomination-j, reporting NCB-k, entity-m

6.5. Check on surpluses and shortages (must-check)

Conditions	Name of data item	Reporting periods	Breakdowns and reporting NCB
IF	6.1 Surplus of coins	t	denomination-j, reporting NCB-k
> 0			
THEN	6.2 Shortage of coins	t	denomination-j, reporting NCB-k
Must be 0 or without entry			

6.6. Reconciliation for individual coin transfers between (future) participating Member States (should-check)

Number and name of data item	Reporting periods	Breakdowns and reporting NCB
4.1 Transfer of circulation coins	t	series-i, denomination-j, reporting NCB-k, 'to Member State'-m
$=$		
4.2 Receipt of circulation coins	t	series-i, denomination-j, reporting NCB-m, 'from Member State'-k

- Coins supplied by a (future) participating Member State should be equal to coins received by another (future) participating Member State.

GLOSSARY

This Glossary defines technical terms used in the Annexes to this Guideline.

'Banknote series': means a number of denominations of euro banknotes defined as a series in Decision ECB/2003/4 of 20 March 2003 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes ⁽¹⁾ or in a subsequent ECB legal act (i.e. the first series of euro banknotes as launched on 1 January 2002 consists of the denominations EUR 5, EUR 10, EUR 20, EUR 50, EUR 100, EUR 200 and EUR 500), whereby euro banknotes that have revised technical specifications or a revised design (e.g. a different signature for different Presidents of the ECB) only constitute a new banknote series if referred to as such in an amendment to Decision ECB/2003/4 or in another ECB legal act.

'Banknotes in circulation': means all euro banknotes issued by the Eurosystem and put into circulation by the NCBs at a certain point in time, which for the purposes of this Guideline also includes the banknotes put into circulation by NHTO banks and ECI banks. It is equal to the aggregated national net issuance of euro banknotes. It should be noted that the concept of 'banknotes in circulation' is not applied at national level because it cannot be determined whether banknotes put into circulation in one participating Member State are circulating in that Member State or whether they have been returned from circulation to other NCBs, NHTO banks or ECI banks.

'Banknote variant': within a banknote series means a sub-series comprising of one or more euro banknote denominations with upgraded security features and/or a revised design.

'Cash centre': means a centralised secure facility where euro banknotes and/or euro circulation coins are handled after transportation from different sites.

'Circulation coins': means euro coins defined as having legal tender status throughout the euro area in accordance with Council Regulation (EC) No 975/98 of 3 May 1998 on denominations and technical specifications of euro coins intended for circulation ⁽²⁾ (i.e. for the first series of euro coins as launched on 1 January 2002 EUR 0,01, EUR 0,02, EUR 0,05, EUR 0,10, EUR 0,20, EUR 0,50, EUR 1 and EUR 2). Euro circulation coins include coins with a special finish or quality and/or packaging and commemorative euro circulation coins. The latter usually commemorate an event or a personality and are issued at face value for a limited period and in limited quantities.

'Coin-issuing entities': means any body entrusted by the national legal issuer of euro coins with the task of putting euro coins into circulation, or the legal issuer itself. Coin-issuing entities can include the NCB, mints, the treasury, appointed public agencies and appointed private agencies. Those coin-issuing entities with the exception of the NCB are also referred to as 'coin-issuing third parties'.

'Coin series': means a number of denominations of euro coins defined as a series in Regulation (EC) No 975/98 or in a subsequent Community legal act (i.e. the first series of euro coins as launched on 1 January 2002 consists of the denominations EUR 0,01, EUR 0,02, EUR 0,05, EUR 0,10, EUR 0,20, EUR 0,50, EUR 1 and EUR 2), whereby euro coins that have revised technical specifications or a revised design (e.g. amendments to the European map on the common side) only constitute a new coin series if referred to as such in an amendment to Regulation (EC) No 975/98 or in another Community legal act.

'Coins in circulation': means the aggregated national net issuance of euro circulation coins (data item 1.1). It should be noted that the concept of 'coins in circulation' is not applied at national level because it cannot be determined whether coins put into circulation in a participating Member State are circulating there and whether they have been returned from circulation to coin-issuing entities in other participating Member States. Euro collector coins are not included as these coins are only legal tender in the Member State of issuance.

'Collector coins': means euro coins that are only legal tender in the participating Member State of issuance and are not intended for circulation. Their face value, images, size and weight are different from those of euro circulation coins so as to be easily distinguished from euro circulation coins. Collector coins also include bullion coins ⁽³⁾.

⁽¹⁾ OJ L 78, 25.3.2003, p. 16.

⁽²⁾ OJ L 139, 11.5.1998, p. 6.

⁽³⁾ Coins sold as an investment in precious metal are called bullion coins or investment coins. They are usually minted according to the level of demand in the market and are not distinguished by any particular finish or quality. Such coins are priced according to the current market price for their metal content, plus a small minting margin which covers production costs, promotion costs and a small profit.

'Created coins': means euro circulation coins which have been: (i) produced by mints with the respective national side; (ii) delivered to coin-issuing entities in a participating Member State; and (iii) registered in the cash management systems of such coin-issuing entities. This applies *mutatis mutandis* for euro collector coins.

'Denomination': means the face value of a euro banknote or coin, as laid down for banknotes in Decision ECB/2003/4 or in a subsequent ECB legal act, and for coins in Regulation (EC) No 975/98 or in a subsequent Community legal act.

'Eurosystem Strategic Stock' (ESS): means the stock of new and fit euro banknotes stored by certain NCBs to cope with a demand for euro banknotes which cannot be met from logistical stocks ⁽¹⁾.

'Extended custodial inventory programme' or 'ECI programme': means a programme consisting of contractual arrangements between the ECB, an NCB and individual credit institutions ('ECI banks'), whereby the NCB: (i) supplies the ECI banks with euro banknotes, which they hold in custody outside Europe for the purpose of putting them into circulation; and (ii) credits the ECI banks for euro banknotes which are deposited by their customers, checked for authenticity and fitness, held in custody and notified to the NCB. The banknotes held in custody by the ECI banks, including those in transit between the NCB and the ECI banks, are fully collateralised until they are put into circulation by the ECI banks or returned to the NCB. Banknotes transferred from the NCB to ECI banks form part of the NCB's created banknotes (data item 1.1). Banknotes held in custody by ECI banks do not form part of the NCB's national net issuance of banknotes.

'Fit banknotes': means: (i) euro banknotes which have been returned to NCBs and which are fit for circulation in accordance with a separate ECB legal act on banknote processing by NCBs; or (ii) euro banknotes which have been returned to credit institutions, including NHTO banks and ECI banks, and which are fit for circulation in accordance with the minimum sorting standards laid down in the BRF.

'Logistical stocks' (LS): means all stocks of new and fit euro banknotes, other than the ESS, held by NCBs, and for the purposes of this Guideline by NHTO banks and ECI banks ⁽¹⁾.

'National gross issuance': in relation to euro coins means euro circulation coins or euro collector coins which have been issued by the legal issuer in the participating Member State (i.e. coins, the face value of which has been credited to the legal issuer), irrespective of whether these coins are held by an NCB, a future Eurosystem NCB, a coin-issuing third party or the public.

For circulation coins, national gross issuance = national net issuance of circulation coins (data item 1.1) + credited stocks of circulation coins held by coin-issuing entities (data item 5.1) + transfers of circulation coins since their introduction (cumulative data item 4.1) — receipts of circulation coins since their introduction (cumulative data item 4.2).

For collector coins, national gross issuance = national net issuance of collector coins (value) (data item 1.3) + value of credited collector coins held by coin-issuing entities (data item 5.3).

'National net issuance of banknotes': means the volume of euro banknotes issued and put into circulation by an individual NCB at a specific point in time (e.g. close of a reporting period), including all euro banknotes put into circulation by all national NHTO banks and all ECI banks managed by that NCB. Banknote transfers to other NCBs or future Eurosystem NCBs are excluded. National net issuance of banknotes can be calculated by using either: (i) the stock method, which uses only stock data relating to a specific point in time; or (ii) the flow method, which aggregates flow data from the date of the banknotes' introduction until a specific point in time (i.e. close of the reporting period).

Stock method: national net issuance = created banknotes (data item 1.1) — created banknote stocks (data items 2.1 to 2.15) — created banknotes destroyed (data items 1.2 and 1.3).

Flow method: national net issuance = created banknotes issued by the NCB (including banknotes put into circulation by NHTO banks and ECI banks) since their introduction (cumulative data items 3.1, 3.9 and 3.13) — created banknotes returned to the NCB (including banknotes returned to NHTO banks and ECI banks) since their introduction (cumulative data items 3.4 and 3.10 and 3.14).

'New banknotes': means euro banknotes which have not yet been put into circulation by NCBs, NHTO banks or ECI banks, or frontloaded by future Eurosystem NCBs.

'Notes-held-to-order scheme' or 'NHTO scheme': means a scheme consisting of individual contractual arrangements between an NCB and certain credit institutions ('NHTO banks') in the NCB's participating Member State, whereby the NCB: (i) supplies the NHTO banks with euro banknotes which they hold in custody at their premises for the purpose of putting them into circulation; and (ii) credits the NHTO banks for euro banknotes which are deposited by their customers, checked for authenticity and fitness, held in custody and notified to the NCB. Banknotes transferred from the NCB to NHTO banks form part of the NCB's created banknotes (data item 1.1). Banknotes held in custody by NHTO banks do not form part of the NCB's national net issuance of banknotes.

'Public': in relation to euro coin issuance means all entities and members of the general public other than the coin-issuing entities in (future) participating Member States.

⁽¹⁾ As referred to in a separate ECB legal act on the management of banknote stocks.

'Starter kit': means a package containing a number of euro circulation coins of different denominations, as specified by the competent national authorities, for the purpose of sub-frontloading euro circulation coins to the general public in a future participating Member State.

'Unfit banknotes': means: (i) euro banknotes which have been returned to NCBs but which are not fit for circulation in accordance with a separate ECB legal act on banknote processing by NCBs; or (ii) euro banknotes which have been returned to credit institutions, including NHTO banks and ECI banks, but which are not fit for circulation in accordance with the minimum sorting standards laid down in the BRF.

'Unprocessed banknotes': means: (i) euro banknotes which have been returned to NCBs but which have not been checked for authenticity and fitness in accordance with a separate ECB legal act on banknote processing by NCBs; or (ii) euro banknotes which have been returned to credit institutions, including NHTO banks and ECI banks, but which have not been checked for authenticity and fitness in accordance with the BRF.

NOTE TO THE READER

The institutions have decided to no longer quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.