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I

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

REGULATIONS

COMMISSION REGULATION (EC) No 584/2009**of 6 July 2009****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 7 July 2009.

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

Done at Brussels, 6 July 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MA	24,2
	TR	44,0
	ZZ	34,1
0707 00 05	TR	108,5
	ZZ	108,5
0709 90 70	TR	100,7
	ZZ	100,7
0805 50 10	AR	53,6
	MK	25,1
	TR	41,9
	ZA	60,5
	ZZ	45,3
0808 10 80	AR	94,3
	BR	72,3
	CL	80,5
	CN	93,4
	NZ	113,9
	US	92,3
	UY	116,5
	ZA	88,1
	ZZ	93,9
0808 20 50	AR	70,3
	CL	70,8
	NZ	161,4
	ZA	100,3
	ZZ	100,7
0809 10 00	TR	208,8
	XS	116,3
	ZZ	162,6
0809 20 95	SY	197,7
	TR	323,5
	ZZ	260,6
0809 30	TR	140,1
	ZZ	140,1
0809 40 05	IL	160,5
	ZZ	160,5

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

COMMISSION REGULATION (EC) No 585/2009**of 6 July 2009****providing for exceptional measures regarding refund certificates for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽²⁾ provides that refund certificates applied for in compliance with point (a) of Article 33 or Article 38a, at the latest on 7 November, are valid until the last day of the 10 month following the month in which the application for the certificate was made.
- (2) Regulation (EC) No 1043/2005 also provides that the issue of a refund certificate obliges the holder to apply for refunds equal to the amount for which the certificate has been issued on goods exported during the period of validity of the refund certificate.
- (3) Where the obligation to apply for refunds has not been met, the security is to be forfeited in an amount equal to the difference between 95 % of the amount indicated in the refund certificate and the amount actually applied for. Due to the impact of the economic and financial crisis in the third country markets during the budget period 2009, the 10 month validity period of certain refund certificates issued for goods not covered by Annex I to the Treaty issued for use from 1 October 2008 have been subject to a high degree of risk and uncertainty for operators. This increased uncertainty affects almost all exports covered by refund certificates issued for use from 1 October 2008. Compared to basic food commodities, most goods not covered by Annex I to the Treaty benefiting from export refunds are not essential products and are particularly sensitive to reductions in consumption in the importing countries.
- (4) The impact of the financial and economic crisis became clear from the end of September 2008. As a result of the crisis, exporters of goods covered by refund certificates, issued for use as from 1 October 2008 with a 10 month validity period, and intended to cover exports up to end-July 2009 are now faced with a situation wherein not all refund certificates issued for use as from 1 October 2008 can be fully utilised.
- (5) Consequently, in order to limit the consequences of the adverse impact on exporters, it is necessary to provide that, by way of derogation from Article 39(2) of Regulation (EC) No 1043/2005 and from Article 40(3) of Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽³⁾, the validity of refund certificates applied for in compliance with point (a) of Article 33 or Article 38a of Regulation (EC) No 1043/2005, between 8 July and 26 September 2008, for use from 1 October 2008, should be extended until 30 September 2009.
- (6) The provisions of Article 40(3) of Regulation (EC) No 376/2008, should not apply in the present case as the extension of the period of validity of the refund certificates concerned is not due to force majeure reasons. Therefore, an explicit derogation from Article 23(3) of Regulation (EC) No 1043/2005 is needed so as not to make Article 40(3) of Regulation (EC) No 376/2008 applicable to the present case.
- (7) Certain refund certificates with a 10 month period of validity applied for between 8 July and 7 November 2008 in compliance with of Article 33 point (a) or Article 38a of Regulation (EC) No 1043/2005, may already have been returned to the issuing authority in accordance with the first paragraph of Article 45 of Regulation (EC) No 1043/2005 by the date of entry into force of the present regulation. In order to ensure equal treatment of all titular holders of these refund certificates, it is appropriate to provide the possibility for the issuing authority to reissue the returned certificates or extracts thereof and to reconstitute the related securities.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

⁽¹⁾ OJ L 318, 20.12.1993, p. 18.

⁽²⁾ OJ L 172, 5.7.2005, p. 24.

⁽³⁾ OJ L 114, 26.4.2008, p. 3.

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from the second subparagraph of Article 39(2) and 23(3) of Regulation (EC) No 1043/2005, for those certificates with a 10 month validity period, the period of validity of refund certificates applied for between 8 July and 7 November 2008, in compliance with point (a) of Article 33 or Article 38a of Regulation (EC) No 1043/2005, shall be extended until 30 September 2009.

Article 2

At the written request of the titular holder, certificates or extracts thereof, with a 10 month validity period, applied for

between 8 July and 7 November 2008, in compliance with point (a) of Article 33 or Article 38a of Regulation (EC) No 1043/2005, which have been returned to the issuing authority before the day of the entry into force of this Regulation in accordance with the first paragraph of Article 45 of Regulation (EC) No 1043/2005, shall be reissued in respect of the unused amounts remaining on the refund certificates upon the lodgement of the related security to the issuing authority.

Article 3

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

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

Done at Brussels, 6 July 2009.

For the Commission

Günter VERHEUGEN

Vice-President

COMMISSION REGULATION (EC) No 586/2009**of 6 July 2009****amending Regulation (EC) No 1043/2005 as regards the validity period of certain refund certificates**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽²⁾ provides that refund certificates applied for in compliance with point (a) of Article 33 or Article 38a, at the latest on 7 November, are valid until the last day of the tenth month following the month in which the application for the certificate was made.

(2) The ten month validity period for certificates applied for before 7 November was adopted to facilitate the operation of the system of refund in the special situation of the anticipated suspension of export refunds for sugar following the reform of the common organisation of the sugar market. The provision establishing a ten month validity period should therefore only apply to the budget period 2009 and cover the certificates applied for at the latest on 7 November 2008. That provision is no longer needed and should therefore be deleted.

(3) Since Commission Regulation (EC) No 585/2009 of 6 July 2009 providing for exceptional measures regarding refund certificates for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty ⁽³⁾ applies only to the refund certificates applied for between 8 July

and 7 November 2008, in compliance with point (a) of Article 33 or Article 38a of Regulation (EC) No 1043/2005, it is appropriate to specify that the amendments made by the this Regulation are without prejudice to Regulation (EC) No 585/2009.

(4) Regulation (EC) No 1043/2005 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 39(2) of Regulation (EC) No 1043/2005 is amended as follows:

1. The first subparagraph is replaced by the following:

‘Subject to the second subparagraph, refund certificates shall be valid until the last day of the fifth month following the month in which the application for the certificate was made, or, until the last day of the budget period, whichever is the earlier.’

2. The second subparagraph is deleted.

Article 2

The validity period set in Regulation (EC) No 585/2009 shall apply to the refund certificates applied for between 8 July and 7 November 2008 in compliance with point (a) of Article 33 or Article 38a of Regulation (EC) No 1043/2005.

Article 3

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

⁽¹⁾ OJ L 318, 20.12.1993, p. 18.

⁽²⁾ OJ L 172, 5.7.2005, p. 24.

⁽³⁾ See page 3 of this Official Journal.

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

Done at Brussels, 6 July 2009.

For the Commission

Günter VERHEUGEN

Vice-President

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 10 December 2008

on State aid C 52/06 (ex NN 73/06, ex N 340/06) partially implemented by Poland for Odlewnia Żeliwa 'Śrem' S.A.

(notified under document number C(2008) 7049)

(Only the Polish text is authentic)

(Text with EEA relevance)

(2009/523/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

down in Article 88(2) of the EC Treaty in respect of the measures.

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

(3) The Commission's decision to initiate the proceedings under Article 88(2) of the EC Treaty was published in the *Official Journal of the European Union*. The Commission invited interested parties to submit their comments on the proposed aid.

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 provisions cited above,

(4) On 31 January 2007 the Polish authorities submitted their comments on the opening of the investigation procedure. No comments were received from third parties.

Whereas:

(5) On 15 April 2008 the Commission sent a request for further information to the Polish authorities.

I. PROCEDURE

(1) On 1 June 2006 the Polish authorities notified restructuring aid for Odlewnia Żeliwa 'Śrem' (hereinafter Odlewnia Śrem) mostly in the form of arrangements for public law liabilities to be paid in instalments. It was found that some of the aid measures had been granted after accession without the Commission's approval. Hence they were deemed to be illegal aid.

(6) On 30 April 2008 the Polish authorities replied, informing the Commission of the withdrawal of the planned measures. However, the Commission could not accept this as a withdrawal under Article 8 of Council Regulation (EC) No 659/99 ⁽¹⁾, as the debt payment deferrals already implemented had in fact had an effect on the beneficiary, giving it a clear advantage over other companies that paid their public law liabilities on time.

(2) By letter of 6 December 2006, the Commission informed Poland that it had decided to initiate the procedure laid

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

II. DESCRIPTION OF THE BENEFICIARY AND THE RESTRUCTURING

Beneficiary

- (7) Odlewnia Śrem started production in 1968. It produces mainly cast iron for the shipbuilding industry. Privatisation of the company began in 1999, when the State Treasury sold 85 % of its shares to CENTROZAP (44,9 %), BANK PEKAO (25,1 %) and employees (15 %). One of the reasons why the beneficiary's situation deteriorated was the difficult financial situation of the main shareholder, CENTROZAP, which at one point held 71,4 % of Odlewnia Śrem's shares. Currently Odlewnia Śrem is owned by PIOMA-ODLEWNIA, which holds 85,1 % of the shares. According to the Polish authorities, Odlewnia Śrem has a 6-8 % share of the Polish cast iron market. It is based in a region eligible for regional aid under Article 87(3)(a) of the EC Treaty.

National procedure

- (8) The process of restructuring Odlewnia Śrem started in 2003. In 2004 the first restructuring programme was drawn up, and was approved by the President of the Agency for Industrial Development (ARP).
- (9) According to the Polish authorities the company wanted to take advantage of the opportunity created by amendments to the Act of 30 October 2002 on State aid for enterprises of special significance for the labour market which expanded the scope for writing off public law liabilities (Chapter 5a), but imposed additional requirements on the company, such as identifying part of its assets for transfer to an independent Operator. The Operator had to be a company wholly owned by ARP or the State Treasury. The proceeds from the sale of these assets by the Operator were to cover at least part of the public law liabilities of the company being restructured, and the remainder were to be written off when restructuring was completed. On 19 March 2006 the deadline for completing the restructuring procedure under Chapter 5a of the Act of 19 March 2006 expired, without the sale of assets by the Operator having taken place. Despite this, the President of ARP, in a decision dated 27 June 2006, declared that the restructuring had been completed as Odlewnia Śrem had recovered its viability and all that was now needed for full completion of the restructuring was the Commission's consent to the arrangement allowing the company to pay its public law liabilities in instalments. Following the unsatisfactory termination of the Chapter 5a procedure, the company contacted its five public creditors to ask them to defer the payment deadlines for its liabilities on the basis of the more generally applicable provisions of tax law, which was less advantageous for them than the arrangement provided for in Chapter 5a.

The restructuring

- (10) According to the Polish authorities, the restructuring costs amount to PLN 43,6 million. The financial restructuring costs make up about 75 % of the total restructuring costs, the remainder being mainly expenditure relating to modernisation of the company's infrastructure.

turing costs make up about 75 % of the total restructuring costs, the remainder being mainly expenditure relating to modernisation of the company's infrastructure.

- (11) The restructuring plan focuses, firstly, on modernisation of the production site and investments in improving the quality of the company's administration (e.g. by introducing the SAP R/3 computer system as Odlewnia Śrem's main IT tool).
- (12) Secondly, a large part of the restructuring consists in financial restructuring, i.e. mainly arrangements for payment in instalments and write-offs of public law liabilities. A partial write-off of civil law liabilities in the amount of PLN 1,4 million was also agreed under a composition agreement with creditors signed on 17 May 2005.
- (13) Thirdly, in 2005 the company decreased the number of its employees to 1 457, down from 1 776 in 2002, and did not plan further employment restructuring. However, Poland submitted that the temporary suspension of the application of the Company Collective Bargaining Agreement constituted a reduction of employment costs as the company was temporarily not paying contributions to the Company Social Benefits Fund.
- (14) The restructuring of assets consisted in the lease of assets not related to production such as a hotel (Ośrodek Wypoczynkowy in Ostrowieczno) and other facilities for a total price of PLN 0,4 million. The sale of further assets worth approximately PLN 2,6 million is also planned but has not yet been finalised.
- (15) Before the Commission initiated the procedure laid down in Article 88(2) of the EC Treaty, it had been informed that the company had been trying to find a new investor since 2003 and the Polish authorities had been stressing the importance of privatisation for the company's long-term viability. Poland has informed the Commission that this goal has been achieved as 85,1 % of Odlewnia Śrem's shares have been sold to the private company PIOMA-ODLEWNIA.
- (16) Odlewnia Śrem has reduced its production capacity from 57 000 to 55 000 tonnes of cast iron per year and does not envisage a further reduction, claiming that this would put the company's viability at risk. Poland has proposed two alternative compensatory measures. Firstly, the company has reduced its production of cast iron for industrial fittings by 50 % (from approximately 11 000 tonnes to 5 500 tonnes). Secondly, Poland states that the company will no longer be producing cast iron for wind power stations.

III. DECISION TO INITIATE THE PROCEDURE UNDER ARTICLE 88(2) OF THE EC TREATY

- (17) The Commission decided to initiate the formal investigation procedure because it had doubts as to whether the restructuring aid was compatible with the common market. The doubts were based on four factors.
- (18) Firstly, the Commission had doubts as to whether Odlewnia Śrem could be considered a 'firm in difficulty' within the meaning of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty⁽¹⁾ (hereinafter 2004 Guidelines) and thus be eligible for restructuring aid, as Odlewnia Śrem showed a net profit of PLN 3,9 million in 2005.
- (19) Secondly, the Commission had doubts about whether the restructuring plan was capable of restoring the long-term viability of the beneficiary, since it seemed to focus on debt servicing and covering operating costs and the company seemed to be struggling to find a private investor.
- (20) Thirdly, the Commission had doubts as to whether the aid was limited to the minimum necessary and whether the own contribution was significant and as high as possible, particularly since the Polish authorities had not provided any concrete privatisation plans, under which the own contribution would have been significantly greater.

- (21) Finally, the Commission had doubts about the compensatory measures, since Poland had not shown that the decreases in production referred to in recital 16 were indeed compensatory measures and not merely the result of external factors such as a decline in demand or the company's inability to compete on the relevant markets.

IV. PARTIES' COMMENTS

- (22) The Commission has received comments only from Poland.

Polish authorities' comments

Changes in the State aid measures

- (23) The Polish authorities have informed the Commission of some changes in the aid granted after accession, which should now be PLN 24,2 million. The table below summarises the state restructuring aid (aid already implemented and aid planned) to Odlewnia Śrem as notified by the Polish authorities in their comments on the initiation of the investigation procedure.
- (24) The total nominal value of the State aid is PLN 43,6 million. These measures comprise a State guarantee, a loan granted on preferential terms, direct grants and deferrals and write-offs of public law liabilities. A detailed description of the State aid measures is presented in the table below (aid elements as indicated by the Polish authorities).

Table 1

State aid already granted

A	B	C	D	E	F
No	Presumed date of agreement or decision	Granting authority	Form of aid	Nominal value (PLN)	Aid amount (PLN)
State aid granted before accession and not applicable after accession					
1	19.3.2004	Mayor of Śrem	Write-off of real estate tax liabilities (incl. interest) for the period 1.3.2002 — 30.6.2002	738 748,02	738 748,02
2	19.3.2004	Mayor of Śrem	Write-off of tax liabilities	500 000,00	500 000,00
3	23.4.2004	ARP	Loan	4 000 000,00	4 000 000,00
4	28.4.2004	ARP	Credit guarantee	14 000 000,00	14 000 000,00
5	30.4.2004	Mayor of Śrem	Write-off of interest on tax liabilities	200 353,90	200 353,90
Total				19 439 101,92	19 439 101,92

⁽¹⁾ OJ C 244, 1.10.2004, p. 2.

A	B	C	D	E	F
No	Presumed date of agreement or decision	Granting authority	Form of aid	Nominal value (PLN)	Aid amount (PLN)
State aid granted after accession					
6	20.5.2004	Ministry of Science and Information Technology	Grant	435 000,00	352 350,00
7	9.5.2005	ZUS (Social Insurance Institution)	Social security contributions to be paid in instalments (incl. interest)	5 385 415,31	134 585,81
8	17.10.2005	Provincial authority	Deferral of payment	855 438,78	105 369,44
9	2nd quarter 2007	Provincial authority	Environmental charges due up to 30.6.2003 to be paid in instalments	1 272 657,45	247 003,92
10	2nd quarter 2007	Provincial authority	Interest on environmental charges to be paid in instalments (concerns item above)	692 185,03	126 365,78
11	2nd quarter 2007	Provincial authority	Environmental charges due up to 30.6.2003 to be paid in instalments	422 946,34	51 018,68
12	2nd quarter 2007	Provincial authority	Interest on environmental charges to be paid in instalments (concerns item above)	274 950,10	33 167,04
13	2nd quarter 2007	State Fund for the Rehabilitation of the Disabled. (PFRON)	State Fund for the Rehabilitation of the Disabled (PFRON) contributions due up to 30.6.2003 to be paid in instalments	803 221,50	148 274,11
14	2nd quarter 2007	State Fund for the Rehabilitation of the Disabled. (PFRON)	Write-off of interest on contributions to the State Fund for the Rehabilitation of the Disabled (PFRON) due up to 30.6.2003	421 085,20	421 085,20
15	2nd quarter 2007	State Fund for the Rehabilitation of the Disabled. (PFRON)	State Fund for the Rehabilitation of the Disabled (PFRON) contributions for the period July 2003 — January 2004 to be paid in 20 quarterly instalments	479 156,60	155 721,64

A	B	C	D	E	F
No	Presumed date of agreement or decision	Granting authority	Form of aid	Nominal value (PLN)	Aid amount (PLN)
16	2nd quarter 2007	State Fund for the Rehabilitation of the Disabled. (PFRON)	Write-off of interest on contributions to the State Fund for the Rehabilitation of the Disabled (PFRON) for the period July 2003 — January 2004	38 392,87	38 392,87
17	2nd quarter 2007	District authority	Payments for perpetual usufruct due up to 30.6.2003 to be paid in instalments	263 496,00	34 701,67
18	2nd quarter 2007	District authority	Write-off of interest on payments for perpetual usufruct due up to 30.6.2003 (concerns item above)	137 890,00	18 159,78
19	2nd quarter 2007	ZUS	Social security contributions due up to 30.6.2003 to be paid in instalments	4 077 498,51	46 619,38
20	2nd quarter 2007	ZUS	Interest on social security contributions due up to 30.6.2003 to be paid in instalments (concerns item above)	2 306 780,00	26 341,18
21	2nd quarter 2007	ZUS	Contributions to the Labour Fund and Employee Benefits Guarantee Fund due up to 30.6.2003 to be paid in instalments	1 275 873,09	28 618,42
22	2nd quarter 2007	ZUS	Interest on contributions to the Labour Fund and Employee Benefits Guarantee Fund due up to 30.6.2003 to be paid in instalments (concerns item above)	727 023,00	16 296,744
23	2nd quarter 2007	ZUS	Social security contributions due up to 30.6.2003 to be paid in instalments	2 085 480,55	29 309,94

A	B	C	D	E	F
No	Presumed date of agreement or decision	Granting authority	Form of aid	Nominal value (PLN)	Aid amount (PLN)
24	2nd quarter 2007	ZUS	Interest on social security contributions due up to 30.6.2003 to be paid in instalments (concerns item above)	1 100 260,00	15 463,36
25	2nd quarter 2007	ZUS	Write-off of enforcement costs related to late payment of social security contributions due up to 30.6.2003	641 593,80	641 593,80
26	2nd quarter 2007	National Fund for Environmental Protection and Water Management (NFOSiGW)	Grant	470 000,00	470 000,00
State aid granted after accession				24 166 344,12	3 140 438,76
Total State aid granted and planned				43 605 446,04	22 579 540,68

Other issues raised by Poland in its comments on the opening of the investigation procedure

- (25) Firstly, as regards the company's viability, the Polish authorities claimed that the restructuring had proved successful, as Odlewnia Śrem had managed to find a private strategic investor, which would bring in the capital needed and enable the company to regain credibility on the market.
- (26) Poland also stressed that the company had diversified its production, focusing on more sophisticated products with greater value added. The shift to the production of iron castings weighing over 300 kg proved to be a good move, as a number of competitors ceased production in this segment of the market and thus provided an opening for Odlewnia Śrem to become active in it.
- (27) The Polish authorities confirmed that the company no longer had liquidity problems and that all its current business liabilities were being repaid on time.
- (28) Secondly, Poland argued that Odlewnia Śrem could be considered a 'firm in difficulty' within the meaning of the 2004 Guidelines, and thus be eligible for restructuring aid. The Polish authorities confirmed that the restructuring period started in 2003, when the company was clearly in difficulty. The fact that Odlewnia Śrem made a

net profit of PLN 3,9 million in 2005 should be considered a sign that it recovered viability through the restructuring process.

- (29) Thirdly, Poland provided further information about the company's own contribution towards the overall cost of restructuring.
- (30) According to the Polish authorities, the beneficiary made a significant own contribution. The restructuring costs totalled PLN 43,6 million, while the sources of financing for restructuring which can be classified as an own contribution to the restructuring can be valued at PLN 23,7 million, made up of the capital brought in by the private investor (PLN 16 million), the revenue from the sale or lease of assets already carried out (PLN 0,4 million) and the temporary suspension of the application of the Company Collective Bargaining Agreement (PLN 7,3 million). As regards the last of these, the Polish authorities argue that it constitutes a reduction of the cost of employment benefits as Odlewnia Śrem is temporarily released from paying contributions to the Company Social Benefits Fund. This Fund was set up by Odlewnia Śrem and its trade unions voluntarily, and is not required by law. There are therefore no state resources involved. It has been explained that the decision was taken with the agreement of the trade unions, which agreed to sacrifice part of the employees' benefits to support the restructuring. Therefore, the measure can be considered an own contribution.

- (31) In addition, Poland reiterated its view that the following also constituted own contributions to restructuring costs:
- a write-off and an arrangement for payment in instalments of civil law liabilities of PLN 2 million under a composition agreement signed with Odlewnia Śrem's creditors;
 - trade credits granted by suppliers allowing Odlewnia Śrem a longer period than usual in which to pay for materials and services, which Poland calculates to be worth PLN 2,5 million;
 - receivables from clients evaluated at PLN 9 million (realised by imposing shorter payment periods on clients).
- (32) Finally, with regard to the requirement to limit distortion of competition, the Polish authorities cite the 50 % reduction in the company's production of cast iron for industrial fittings (from approximately 11 000 tonnes to 5 500 tonnes). The fact that the company has ceased production of cast iron for wind power stations should be considered a valid compensatory measure.
- (33) Poland argues that demand for both types of product has been increasing in recent years and this trend is expected to continue. Poland has also stressed that Odlewnia Śrem has the technical capacity to produce as much as it did before restructuring, but it has undertaken to limit its output of cast iron for industrial fittings and completely cease production of cast iron for wind power stations. Hence, according to the Polish authorities, these measures can be considered compensatory measures.
- Chapter 72 (Iron and steel) and chapter 73 (Articles of iron or steel).
- (36) According to Annex B to the multisectoral framework, the following articles of iron or steel are to be considered steel:
- sheet piling,
 - rails and cross ties,
 - seamless tubes, pipes and hollow profiles, seamless,
 - welded iron or steel tubes and pipes, the external diameter of which exceeds 406,4 mm,
- (37) According to the information provided by the Polish authorities, Odlewnia Śrem does not produce any of these products. Moreover, it does not produce any of the products listed in Chapter 72 under the heading 'Iron and steel', but uses these products — for example, pig iron — as materials for its own production.
- (38) It produces specific, sophisticated end-products which fall under CN heading 7325, 'Other cast articles of iron or steel', and the relevant subheadings such as 7325 10 'Of non-malleable cast iron' and 7325 99 10 'Of malleable cast iron.'
- (39) Annex B to the multisectoral framework does not classify these articles of iron and steel as steel.

ASSESSMENT OF THE AID MEASURES

Classification of Odlewnia Śrem's final product

- (34) The Commission had to verify whether the end product of Odlewnia Śrem belonged to the steel sector as, according to the Communication from the Commission on Rescue and restructuring aid and closure aid for the steel sector ⁽¹⁾ 'the Commission considers that rescue aid and restructuring aid for firms in difficulty in the steel sector as defined in Annex B of the multisectoral framework are not compatible with the common market.'
- (35) Annex B to the Multisectoral framework on regional aid for large investment projects ⁽²⁾ (multisectoral framework), which was applicable when the aid was granted, refers to the Combined Nomenclature ⁽³⁾ (CN) code for products which are to be considered steel. These products are listed in two chapters of the CN, namely

- (40) In conclusion, restructuring aid to Odlewnia Śrem is *prima facie* not forbidden and the compatibility of such aid must be assessed by the Commission under the applicable 2004 Community Guidelines.

Competence of the Commission

- (41) As some of the events relevant to this case took place before the accession of Poland to the European Union on 1 May 2004, the Commission first has to determine whether it is competent to act with regard to the measures in question.
- (42) Aid measures that were put into effect before accession and are not applicable after accession cannot be examined by the Commission under the -called interim mechanism procedure set out in Annex IV, point 3 of the Accession Treaty or under the procedures laid down in Article 88 of the EC Treaty. Neither the Accession Treaty nor the EC Treaty requires or empowers the Commission to review these measures.

⁽¹⁾ OJ C 70, 19.3.2002, p. 21.

⁽²⁾ OJ C 70, 19.3.2002, p. 8.

⁽³⁾ OJ L 279, 23.10.2001, p. 1.

- (43) On the other hand, measures put into effect after accession would constitute new aid and fall within the competence of the Commission under the procedure laid down in Article 88 of the EC Treaty. In order to assess the moment when a certain measure was put into effect, the relevant criterion is the legally binding act by which the competent national authority undertakes to grant aid ⁽¹⁾.
- (44) Individual aid measures are not considered to be applicable after accession if the precise economic exposure of the State was known when the aid was granted.
- (45) On the basis of the information provided by Poland, the Commission was able to identify those measures which were granted before accession and are not applicable thereafter. They are presented in the first part of Table 1 and amount to PLN 19,4 million. It was established that the remaining measures were not granted before accession. Therefore measures worth PLN 24,2 million were considered to have been granted after accession as explained in recital 23 above.

STATE AID WITHIN THE MEANING OF ARTICLE 87(1) OF THE EC TREATY

- (46) Under 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 and affects trade between Member States is incompatible with the common market.
- (47) The notified guarantee, loan, grants, write-offs, deferrals, and arrangements for the payment in instalments of public law liabilities involve the use of state resources. Furthermore, they confer an advantage on the company by reducing its costs. As a company in difficulties, Odlewnia Śrem would not have obtained such financing on similar terms on the market. This advantage consequently distorts competition.
- (48) The state Treasury was ready to forego revenues from taxes and environmental charges due and, by providing subsidies and guarantees, to create an advantage for the company over its competitors. There was no evidence that the Polish authorities acted as a market creditor and the existence of State aid was acknowledged by the Polish authorities in its notification of the aid.
- (49) The beneficiary is active in the cast iron market and exports its products to other EU Member States. The

criterion of affecting intra-Community trade is therefore fulfilled.

- (50) Therefore the measures which were not granted before accession and constitute new aid were considered State aid within the meaning of Article 87(1) of the EC Treaty. This is not contested by the Polish authorities.

Compatibility of the aid with the common market: derogation under Article 87(3) of the EC Treaty

- (51) The exemptions in Article 87(2) of the EC Treaty do not apply to the present case. As to the exemptions under Article 87(3) of the EC Treaty, since the primary objective of the aid is to restore the long-term viability of the undertaking, the only exemption which can be applied is Article 87(3)(c), which allows authorisation of State aid to facilitate the development of certain economic activities where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

Applicable legal basis

- (52) The Commission assessed the measures constituting new aid and the full restructuring plan in accordance with the applicable rescue and restructuring guidelines. The current Community Guidelines on State aid for rescuing and restructuring firms in difficulty (2004 Guidelines) entered into force on 10 October 2004.
- (53) As already mentioned in the Commission's decision to initiate the formal investigation procedure, in order to assess the compatibility of the new restructuring aid, the restructuring must be considered as a whole. All the aid measures, not only the new aid, have to be taken into account to establish whether the plan will result in the restoration of viability and whether the aid is limited to the minimum necessary, and to determine the appropriate compensatory measures.

Eligibility of the undertaking

- (54) Since Odlewnia Śrem showed a net profit of PLN 3,9 million in 2005, the Commission had doubts as to whether it could be considered a 'firm in difficulty' within the meaning of the 2004 Guidelines, and thus be eligible for restructuring aid. These doubts arose in particular because of the lack of information on the beginning of the restructuring period. This meant that the Commission did not know in respect of precisely which point in time the eligibility assessment should be made. Poland has made clear that the restructuring period began in 2003 and Odlewnia Śrem's net profit of 2005 should therefore be considered a sign of viability being restored during the restructuring.

⁽¹⁾ Judgment of the Court of First Instance in Case T-109/01 *Fleuren Compost v Commission* [2004] ECR II-127, paragraph 74.

- (55) The Commission is satisfied that at the beginning of the restructuring in 2003 the company was a firm in difficulty within the meaning of points 9 *et seq.* of the 2004 Guidelines and is therefore eligible for restructuring aid.

Restoration of viability

- (56) The 2004 Guidelines state that 'the restructuring plan, the duration of which must be as short as possible, must restore the long-term viability of the firm within a reasonable timescale and on the basis of realistic assumptions as to future operating conditions. [...] The improvement in viability must derive mainly from internal measures [...]'.
(57) The first crucial problem of Odlewnia Śrem was its high level of debt. The Commission notes that the financial restructuring has been completed.

- (58) The company no longer has liquidity problems and all current business liabilities are being repaid on time.

- (59) In its decision to initiate the investigation procedure, the Commission raised doubts as to whether the restructuring was mainly financial and the industrial restructuring aspects were insufficient. In their comments following the decision to initiate the procedure, the Polish authorities have provided sufficient evidence that modernisation of equipment and reorientation of production have been sufficiently addressed.

- (60) In its decision to initiate the procedure the Commission raised doubts concerning the prospects of finding a private investor. However, the company managed to persuade a private company to invest in it, thus increasing its credibility on the market.

- (61) Most of the financial analysis indicators show that the company is better off after the restructuring, as its liquidity, solvency and profitability have been enhanced.

- (62) On the basis of these elements, the Commission concludes that its doubts as to whether the plan would lead to restoration of viability have been dispelled.

Avoidance of undue distortion of competition

- (63) The Commission had doubts as to whether the notified restructuring aid did not unduly distort competition. Poland had to show that the company's 50 % reduction in its production of cast iron for industrial fittings and

termination of its production of cast iron for wind power stations were genuine compensatory measures and not simply the result of external factors such as a decline in demand or inability to compete on the market, and were not therefore necessary to restore viability.

- (64) As Poland has shown, both types of product offer good prospects of profitability. Poland has also shown that Odlewnia Śrem has the technical capacity to produce as much as it did before restructuring. Poland undertakes to limit Odlewnia Śrem's output of cast iron for industrial fittings to 50 % of its original output and to put a complete stop to its production of cast iron for wind power stations. Hence, the Commission is of the opinion that these measures can be considered a compensatory measure, and not simply actions necessary for the restoration of the company's viability.

Aid limited to the minimum

- (65) The Polish authorities have provided much detailed information on the amounts considered to be own contributions of the beneficiary to the restructuring costs.

- (66) The Commission is not obliged to take a position on whether the elements listed in recital 31 can be deemed an own contribution to the restructuring, but it considers that the resources listed in recital 30 can be deemed an own contribution.

- (67) To conclude, regarding the sources of financing for restructuring, PLN 23,7 million can be considered a contribution to restructuring from the beneficiary's own resources or from external resources free of State aid. Total restructuring costs, including those incurred before accession, were PLN 43,6 million. Odlewnia Śrem's own contribution to overall restructuring costs is therefore 54 %.

- (68) The 2004 Guidelines set the minimum level of the own contribution to restructuring costs at 50 %. The Commission therefore concludes that the own contribution is significant and, in the light of the information provided, the aid is limited to the minimum necessary.

- (69) Furthermore, the beneficiary of the aid is based in Stalowa Wola, which is situated in a region eligible for aid under Article 87(3)(a) of the EC Treaty. This is expressly regarded as an additional factor in favour of the compatibility of the aid (see point 56 of the 2004 Guidelines).

CONCLUSIONS*Article 2*

- (70) The Commission finds that Poland has unlawfully implemented the aid in question in breach of Article 88(3) of the EC Treaty. However, the Commission concludes that the State aid is compatible with the common market,

This Decision is addressed to the Republic of Poland.

HAS ADOPTED THIS DECISION:

Done at Brussels, 10 December 2008.

Article 1

The State aid totalling PLN 43,6 million granted to Odlewnia Śrem by Poland is compatible with the common market within the meaning of Article 87(3)(c) of the EC Treaty.

For the Commission

Neelie KROES

Member of the Commission

RECOMMENDATIONS

COMMISSION

COMMISSION RECOMMENDATION

of 29 June 2009

on measures to improve the functioning of the single market

(Text with EEA relevance)

(2009/524/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

- (1) A well functioning single market is essential for creating employment and growth, and for promoting economic stability. The more effective the single market is, the more it will improve the business environment, thereby encouraging firms to invest and create jobs, and the more it will increase consumer confidence and demand. A well functioning single market is therefore crucial in the context of economic recession to facilitate the recovery of the European economy.
- (2) It is essential for a well functioning single market to have correctly transposed, applied, enforced, monitored and satisfactorily harmonised Community rules affecting the functioning of the single market (hereafter single market rules).
- (3) Consultation and analysis carried out to prepare the Communication 'A single market for 21st century Europe' (hereafter the Single Market Review) ⁽¹⁾ have identified a number of shortcomings which show that the single market does not yet function as efficiently as it should. In many areas and sectors, further work is still necessary. Citizens and businesses are often unable to seize the many single market opportunities because rules are not properly applied and enforced.

- (4) In the Single Market Review, the Commission therefore suggested a set of concrete measures, to ensure that citizens and businesses continue to benefit from the economic advantages created by the single market ⁽²⁾.

- (5) The measures taken by the Member States and those taken by the Commission should complement each other. A coordinated and cooperative approach — in partnership between the Commission and Member States — with a common objective of improved transposition, application and enforcement of single market rules, is vital to ensure the proper functioning of the single market. The partnership approach in the context of this Recommendation goes beyond the already established cooperation in a number of single market policy areas. It requires establishing and maintaining closer cooperation within and between the Member States, and with the Commission, in all areas that are relevant for the single market. It also implies that Member States assume shared responsibility for and therefore a more proactive role in managing the single market.

- (6) The Single Market Review, and in particular subsequent discussions with Member States, identified some areas as crucial to achieve a well functioning single market, namely: ensuring coordination on single market issues; improving cooperation within and between Member States as well as with the Commission; improving the transposition of single market rules; monitoring markets and sectors in order to identify potential market malfunctioning; improving the application of single market rules; strengthening the enforcement of single market rules and promoting problem-solving; promoting regular assessment of national legislation; and informing citizens and businesses about their single market rights.

⁽¹⁾ COM(2007) 724 final, 20.11.2007.

⁽²⁾ The GDP of the Community increased by 2,15 % and 2,75 million extra jobs were created over the period 1992-2006, and intra-Community trade rose by 30 % between 1995 and 2005 (SEC(2007) 1521, 20.11.2007).

- (7) This Recommendation draws closely on solutions already introduced in certain Member States, which have proven to work in practice in the Member States concerned. It is for each Member State to choose the practices best designed to ensure the implementation of this Recommendation, having regard to what would be most effective in the context of that Member State, since procedures and practices that are effective in one Member State may not be as effective in another.
- (8) Research shows that Member States need to improve internal coordination on single market issues, as competences are currently dispersed among different national authorities⁽¹⁾. As applying single market rules may involve a wide variety of national, regional and local authorities in each Member State, efficient cooperation among them should be enhanced. Therefore, Member States should ensure and strengthen a single market coordination function within their national administrations, which may vary according to specific national administrative structures and traditions. The authorities responsible for this function should have the overall responsibility to plan, oversee and evaluate the implementation of this Recommendation.
- (9) Close cross-border cooperation between Member State authorities competent for single market issues allows the building of mutual trust and is of vital importance for the correct application of single market rules. Member States should take the necessary measures to ensure that the cross-border networks or electronic information systems established by the Commission (e.g. such as the Internal Market Information system (IMI), RAPEX⁽²⁾, RASFF⁽³⁾ or Consumer Protection Cooperation network) are operational, by putting in place appropriate arrangements, including allocation of resources.
- (10) Internal Market Scoreboards have shown that there is still a need to improve timeliness and quality in the transposition of single market Directives. While Commission Recommendation of 12 July 2004 on the transposition into national law of Directives affecting the internal market⁽⁴⁾ (hereafter the 2004 Commission Recommendation) has broadly been applied, and while this has resulted in a significant improvement of the transposition rate, parts of that Recommendation still remain to be applied more effectively. This Recommendation recalls as still necessary and further develops actions recommended in the 2004 Commission Recommendation, which remains a reference for Member State administrations dealing with transposition. This Recommendation also builds on the Communication from the Commission — A Europe of Results — Applying Community Law⁽⁵⁾ and on the Communication from the Commission — Review of the Lamfalussy process — Strengthening supervisory convergence⁽⁶⁾.
- (11) Market monitoring is necessary to identify the sectors where markets do not function properly for consumers and businesses, and to focus single market policies on those areas. Therefore, it should become an integral element in designing and monitoring single market policies (e.g. through the Consumer Markets Scoreboard). Cooperation between the Commission and Member State authorities on market monitoring and data collection work will enhance the quality of data and analysis for use at national and Community level, and help build consensus on single market issues. Member States are encouraged to participate in market monitoring exercises carried out by the Commission, and to carry out similar exercises at the national level, adapted to specific national needs.
- (12) Various national studies have underlined the importance of training to assist officials, including judges, at national, regional and local levels of administration in correctly transposing, applying and enforcing single market rules. In this context, it is important to ensure that those rules, and the impact on the Community's external competitiveness in general, are always taken into consideration when drafting national legislation. The importance of training was further confirmed by a recent study and resolution on the role of the national judges conducted by the European Parliament and its 2005 resolution on competition law⁽⁷⁾, as well as by a recent Council Resolution⁽⁸⁾. Officials should also be given guidance on Community law in general and on single market rules in particular.
- (13) Effective enforcement of single market rules and proper measures to resolve problems encountered by citizens and businesses are of crucial importance to help citizens and businesses to benefit from the freedoms guaranteed by the Treaty. Building on the cooperation already achieved in the area of problem-solving, in particular through SOLVIT⁽⁹⁾, Member States, with the
- ⁽¹⁾ Commission Staff Working Document on Instruments for a modernised single market policy (SEC(2007) 1518, 20.11.2007).
⁽²⁾ Rapid alert system for non-food dangerous products.
⁽³⁾ Rapid alert system for food and feed.
⁽⁴⁾ OJ L 98, 16.4.2005, p. 47.
⁽⁵⁾ COM(2007) 502 final, 5.9.2007.
⁽⁶⁾ COM(2007) 727 final, 20.11.2007.
⁽⁷⁾ EP resolution on the role of the national judge in the European judicial system (INI/2007/2027, 9.7.2008); EP resolution on the Commission report on competition policy 2004 (INI/2005/2209, 20.3.2006).
⁽⁸⁾ Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council 14757 of 28 October 2008.
⁽⁹⁾ Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions 'Effective Problem Solving in the Internal Market (SOLVIT)' (COM(2001) 702 final, 27.11.2001).

support from the Commission, should improve the capacity of problem-solving mechanisms — either in national courts or through non-judicial mechanisms — to provide effective redress. It is important that the circumstances giving rise to the various problems encountered are addressed.

- (14) Regular monitoring and evaluation of national legislation is important as it allows verification of how effectively single market rules are applied in practice, and identification of provisions which could prevent citizens and businesses from drawing full advantage from these rules. Such exercises should be carried out more systematically in all Member States.
- (15) Recent Eurobarometer surveys ⁽¹⁾ and requests addressed to the Commission's information and problem-solving services show that it is necessary to provide more information to citizens and businesses about their rights in the single market in order for them to be able to exercise those rights in practice. It should furthermore be made possible for citizens and businesses to obtain assistance when they exercise those rights. To that end, Member States, with the support of the Commission and when appropriate in cooperation with the stakeholders, should ensure the provision of practical information and advice on matters that concern citizens and businesses who want to live, study, work, set up companies or provide goods or services in another Member State.
- (16) The Annex to this Recommendation sets out measures that Member States could take in order to implement this Recommendation and provides a list of practices of certain Member States, on which those measures are based. It is considered that, while certain measures may initially incur costs, they should allow for savings to be made, for instance by streamlining national administrative practices, and should, in the long term, lead to a better functioning single market and therefore bring benefits to consumers and businesses.
- (17) The progress in implementing this Recommendation should be monitored in close cooperation between the Commission and the Member States, including through discussions in the Internal Market Advisory Committee (IMAC) on the basis of benchmarks and indicators. In order for the Commission to be able to carry out an assessment of the effects of this Recommendation four years after the publication of the Recommendation in the Official Journal, Member States should submit reports to the Commission three years after the publication of this Recommendation in the Official Journal on actions taken to implement the Recommendation,

authorities responsible for single market issues at national, regional and local level, and to act as a reference point for the single market within the administration.

2. Facilitate active cooperation between administrative authorities responsible for single market issues in different Member States, and with the Commission, through the allocation of sufficient resources.
3. Take all necessary measures to improve the transposition of Directives affecting the single market.
4. Support the Commission's work on market monitoring and related data collection by actively contributing to the exercise at the Community level, and, if relevant, by considering similar exercises at national level.
5. Ensure that national authorities and officials have sufficient knowledge of Community law in general and of single market rules in particular to efficiently apply single market rules and where relevant, take these rules into account when preparing and introducing new national legislation.
6. Facilitate and encourage a quick and efficient resolution of problems encountered by citizens and businesses in exercising their single market rights by in general, taking measures to improve the enforcement of single market rules, and in particular, by ensuring that the judiciary has sufficient knowledge of Community law including single market rules, and by providing sufficient support to problem-solving mechanisms.
7. Carry out regular evaluation and assessment of national legislation to ensure full compliance with single market rules and in so doing keep under review any use of exemptions or derogations provided for in existing single market rules.
8. Enhance the provision of practical information on single market issues to businesses and citizens.

HEREBY RECOMMENDS THAT THE MEMBER STATES:

1. Ensure and strengthen a single market coordination function, to promote efficient coordination within and between auth-

9. Examine the measures and practices set out in the Annex and, having regard to their national institutional traditions, adopt those practices that will, or can be expected to, lead to an improvement in the functioning of the single market and are best suited to implement this Recommendation.

⁽¹⁾ http://ec.europa.eu/internal_market/strategy/index_en.htm#061204

10. Cooperate with the Commission and other Member States in monitoring the implementation of this Recommendation, inform the Commission of actions taken in implementing this Recommendation on a regular basis and provide a final report to the Commission three years after the publication of this Recommendation in the Official Journal.

Done at Brussels, 29 June 2009.

For the Commission
Charlie McCREEVY
Member of the Commission

ANNEX

Measures and practices improving the functioning of the single market**1. MEASURES ENSURING BETTER COORDINATION ON SINGLE MARKET ISSUES**

Member States are invited to take the following measures:

- (a) assign to a new or existing authority within the national administration the responsibility for coordination on single market issues;
- (b) ensure coordination between government ministries and agencies on single market issues;
- (c) ensure coordination amongst government ministries and agencies on the one hand, and regional and local authorities on the other, and also amongst regional and amongst local authorities;
- (d) ensure that the relevant government ministries and agencies and other institutions take into account single market rules;
- (e) consider bringing together responsibilities for a number of single market related activities within a single authority, taking into account the organisation of the national administration;
- (f) plan, monitor and evaluate the implementation of this Recommendation.

Existing practices in certain Member States related to the suggested measures

Responsibility for coordination on single market issues	— Some government bodies already come close to exercising a single market coordination function. They cooperate closely with other authorities on single market issues, ensure compatibility of national law with single market rules, and are responsible for a number of single market activities;
Interministerial cooperation	— Interministerial working groups on single market related issues bring together representatives of relevant authorities;
Vertical coordination	— Special networks exist, e.g. in the area of public procurement or market surveillance, which link regional and local authorities. These networks dispose of common databases or websites; — Regional and local representatives are involved, on topics of interest for them, in the work of interministerial groups;
Political visibility	— Policy discussions on single market issues are held on a regular basis, e.g. in subcommittees of the national Council of Ministers; — National parliament is actively involved in analysing single market issues, e.g. by preparing reports or carrying out inquiries on these issues;
Advocacy	— A government body ensures compatibility of national legislation with single market rules by, inter alia, carrying out screening of national legislative drafts;
Bringing together single market activities	— Some government bodies are responsible for a number of single market related activities, such as SOLVIT, IMI, notifications for Directive 98/34/EC of the European Parliament and of the Council ⁽¹⁾ and Council Regulation (EC) No 2679/98 ⁽²⁾ , coordination of setting up of Points of Single Contact under the Goods Package.

⁽¹⁾ Directive of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p. 37).

⁽²⁾ Regulation of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States (OJ L 337, 12.12.1998, p. 8).

2. MEASURES IMPROVING COOPERATION BETWEEN MEMBER STATES AND WITH THE COMMISSION

Member States are invited to take the following measures:

- (a) provide on a permanent basis: relevant language, IT and other trainings, and raise awareness about the existing networks and regarding the relevant data protection rules, to make Community networks (e.g. the Internal Market Information system (IMI), RAPEX, RASFF, Consumer Protection Cooperation networks, and others) fully operational at national level;

- (b) organise — for instance, via existing networks — exchanges of officials responsible for single market issues between national administrations;
- (c) ensure that active cooperation between authorities responsible for single market issues in different Member States forms part of the national administrative culture;
- (d) take organisational measures to ensure that Member States are able to promptly reply to Commission requests for information concerning the application of single market rules at national level, and in particular in the context of the EU Pilot project ⁽¹⁾ and the infringement procedures.

Existing practices in certain Member States related to the suggested measures

Cooperation between national authorities	— Close cooperation exists between Nordic and Baltic countries on market surveillance, implementation of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ⁽¹⁾ and other single market issues; — Cooperation is in place between national authorities in the areas of public procurement (e.g. through Public Procurement Network), and market surveillance. National market surveillance authorities in the area of consumer (non-food) product safety cooperate closely via the PROSAFE network, and ICSMS system facilitates market surveillance of technical products;
Administrative exchanges	— National competition authorities are involved in exchanges of national officials in the context of the European Competition Network; — Several national market surveillance authorities and authorities responsible for the enforcement of consumer protection laws participate in exchanges of officials, in the context of the Consumer Safety Network under Directive 2001/95/EC of the European Parliament and of the Council ⁽²⁾, and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ⁽³⁾;
Financial and human resources support	— Separate teams have been designated to set up the Internal Market Information (IMI) network and they have been given sufficient human and financial resources to develop the IMI throughout their Member States;
Training	— Representatives of national authorities, after having followed Commission trainings, train other members of the IMI network at national level. This practice works best when the training role is included in the job description of these officials.

⁽¹⁾ OJ L 376, 27.12.2006, p. 36.

⁽²⁾ OJ L 11, 15.1.2002, p. 4.

⁽³⁾ OJ L 364, 9.12.2004, p. 1.

3. MEASURES IMPROVING THE TRANSPOSITION OF SINGLE MARKET RULES

Member States are invited to take the following measures:

- (a) effectively prepare in advance for the transposition, application and enforcement of single market Directives at national level;
- (b) ensure that all officials concerned cooperate closely with each other and facilitate that officials responsible for transposition and application of a Directive at national level are also involved during the negotiations on that Directive;
- (c) improve cooperation between national administration and national, regional and devolved parliaments, and regional and local authorities involved in transposition, and provide them, where necessary, with all relevant information related to the negotiations and the transposition process;

⁽¹⁾ Test phase of 'EU Pilot' project, which aims to achieve quicker responses to enquiries and complaints regarding the correct interpretation and implementation of Community law, through a more informal working method between the Commission and Member States, was launched in April 2008 with 15 Member States.

- (d) provide information to stakeholders during the transposition process, where useful, on single market legislative proposals that could be of interest to businesses and citizens;
- (e) avoid the addition of supplementary provisions that are not necessary to transpose a Directive ⁽¹⁾;
- (f) facilitate dialogue with the Commission on the transposition of single market Directives by using a variety of means, such as correlation tables, aimed at increasing transparency and user-friendliness of national legislation.

Existing practices in certain Member States related to the suggested measures	
Early preparation	— National impact assessments are drawn up when a Directive is tabled by the Commission. They include a detailed analysis of impact for the Member State concerned and the potential transposition or application implications. They are updated throughout the transposition process;
Continuity	— Close cooperation between officials involved in negotiating, transposing and enforcing Directives is ensured. The need for such continuity is underlined in national transposition guidelines;
Cooperation with parliaments	— Information is sent to national parliaments at an early stage and on a regular basis on the developments regarding the transposition of Community Directives, inter alia, through a quarterly scoreboard on transposition;
Cooperation with regional and local authorities	— Officials from regional or devolved authorities are involved in the work of interministerial transposition coordination groups; — Training and conferences about the transposition process are organised for public administration at all levels and for NGOs;
Communication with stakeholders	— The public has access to a simplified transposition database via Internet. Information on progress in transposition is made available on Ministries' websites and a list of Directives not transposed on time is published on Internet; — The national authorities are obliged to produce guidance for citizens on new transposition laws at least 12 weeks before their entry into force;
Avoiding 'unnecessary additional requirements'	— Specific procedures are in place to manage and control the risk of adding manifestly unnecessary measures when transposing Directives, e.g. a designated government committee carries out a systematic control of national transposition drafts, which go beyond the requirements of Directives;
Correlation tables	— Correlation tables are used for information and screening purposes;

4. MEASURES TO BETTER MONITOR MARKETS AND SECTORS TO IDENTIFY POTENTIAL MARKET MALFUNCTIONING

Member States are invited to take the following measures:

- (a) collect qualitative and quantitative information about markets or sectors being monitored, for instance from market analysis carried out by academics, consultants or stakeholders, or from data collected by the National Statistical offices and complaint handling bodies;
- (b) identify local sources of information and facilitate the engagement of local stakeholders in market monitoring process; e.g. by organising local consultations or meetings between the Commission and key local stakeholders;
- (c) take part in the monitoring work on specific aspects, such as on competition analysis, regulatory assessments or collecting data to measure how markets function for consumers (e.g. through regular collection of average prices of comparable consumer products and services, classification of consumer complaints, and development of appropriate indicators to measure quality of enforcement).

⁽¹⁾ Without prejudice to the transposition of provisions setting minimal requirements in Directives resulting from shared competences in accordance with the EC Treaty (in particular article 137 ECT).

Existing practices in certain Member States related to the suggested measures	
Collecting information	— Member States provide information about monitored markets or sectors to the Commission (e.g. in the context of the market monitoring exercise on retail trade);
Specific aspects of monitoring	— Monitoring is carried out also from a consumer (e.g. a Consumer Condition Index rating 57 markets against each other is published on an annual basis, and its methodology has been followed in other Member States) or competition perspective (e.g. a monitoring of a national retail sector from a competition perspective);
National level monitoring	— A pilot screening exercise was carried out in close cooperation with the Commission, to see if the Commission methodology could be used at the country level and to provide an orientation for further in-depth analyses in Member States.

5. MEASURES IMPROVING THE APPLICATION OF SINGLE MARKET RULES

Member States are invited to take the following measures concerning officials responsible for applying single market rules:

- (a) provide training on Community law in general and single market rules in particular when they enter a job;
- (b) establish continued 'on-the-job' training programmes on Community law in general and single market rules in particular;
- (c) provide practical guidance and advice regarding single market rules and their application.

Existing practices in certain Member States related to the suggested measures	
Training	— Obligatory training on Community law for officials is organised, e.g. Community law is an obligatory part of the preparation phase for access to a career in the public administration; obligatory seminars about public administration issues, including an introduction on Community issues, are organised;
Continued 'on-the-job' training	— Training on Community and single market issues is organised through on-line training modules; regular newsletters are prepared; conferences or regular training sessions are held within the national administration; — Specific training programmes for officials exist on the internal market;
Practical guidance and advice	— A specific internal market guide helps national officials improve their knowledge and skills; detailed guidelines are also being developed on mutual recognition following the adoption of the Goods Package; — A designated help desk deals with single market related queries of officials; — Explanatory guidance on how to understand and interpret a legal act is published on national Ministries' websites to provide specific information on application;
Education and tests on Community law and single market rules	— Community law is a compulsory part of law education; — Officials are obliged to pass an exam including Community law and single market rules to enter a public administration post.

6. MEASURES STRENGTHENING THE ENFORCEMENT OF SINGLE MARKET RULES AND PROMOTING PROBLEM-SOLVING MECHANISMS

(1) Non-judicial problem-solving mechanisms

Member States are invited to take the following measures:

- (a) ensure that transparent, simple and inexpensive procedures are available to citizens and businesses for alternative dispute resolution (ADR);
- (b) participate in and actively contribute to — especially through sufficient resources — the functioning and further development of problem-solving mechanisms at Community level, such as SOLVIT and the EU Pilot project;

- (c) provide sufficient information to citizens and businesses — on single market related websites — about existing problem-solving mechanisms at national and Community level;
 - (d) address the underlying causes of the problems giving rise to the use of problem-solving mechanisms.
- (2) National judiciary
- Member States are invited to take the following measures:
- (a) provide to judges basic training in Community law in general and single market rules in particular when they enter a job, and continued 'on-the-job' training programmes, including through the European Judicial Training Network ⁽¹⁾ which organises and finances the exchange of judges;
 - (b) ensure easy access to complete and up-to-date information on single market related Community legislation and case-law of the Court of Justice of the European Communities, including through the future Community e-Justice portal ⁽²⁾ which will provide a 'one-stop (electronic) shop' for information on European justice and access to European judicial procedures;
 - (c) encourage national courts and tribunals to collect and make available information on important national judgments in the field of the single market, in particular national judgments applying preliminary rulings of the Court of Justice of the European Communities.

Existing practices in certain Member States related to the suggested measures	
ADR mechanisms	— A network of small courts for civil matters, intended for small disputes, operates in order to deliver a decision in a quicker, more efficient and less costly manner. It encompasses judicial and non-judicial resolution of disputes;
Participation in Community ADR mechanisms	— When the cooperation of a competent national authority has not been satisfactory, SOLVIT centres bring a case to a higher level within the administration as a second resort in order to find a solution;
Information about ADR mechanisms	— SOLVIT is promoted through closer cooperation with groups of stakeholders and through sending out information fact sheets to them;
Training	— The Ministry of Justice organises special training courses for judges covering single market rules; — Training programmes for trainee judges on Community law are compulsory;
Easy access to information	— Summaries of Community case-law are prepared by a specific unit in a national Ministry specialising in single market rules for use by the judiciary; — Summaries of significant judgments are published in a legal bulletin;
Sharing important national judgements related to the application of single market rules	— National courts are obliged to report important judgments concerning Community law and decisions on preliminary rulings, and these are published in a newsletter.

7. MEASURES PROMOTING REGULAR ASSESSMENT OF NATIONAL LEGISLATION

Member States are invited to take the following measures:

- (a) develop a systematic approach for monitoring and evaluating national legislation implementing single market rules to identify any inconsistencies in its application, including through consultation with stakeholders, feedback from the existing problem-solving mechanisms, etc.;
- (b) review, where feasible, existing national rules and administrative practices, to identify provisions which could hinder citizens and enterprises from taking full advantage of single market opportunities; and adapt the national regulatory framework where necessary;

⁽¹⁾ <http://www.ejtn.net/www/en/html/index.htm>

⁽²⁾ The European e-Justice portal will be launched on 14 December 2009.

- (c) take organisational measures to ensure a close monitoring of case-law of the Court of Justice of the European Communities and in that context regularly assess whether national legislation and administrative practices are compatible with single market rules.

Existing practices in certain Member States related to the suggested measures	
Evaluation of implementation	— Ex-post Impact Assessment reports and audits are developed to monitor the implementation of single market Directives; — Systematic process of consultations with stakeholders is being developed, to discuss how (and if) the selected packages of inter-related single market rules are implemented and their impact on businesses and citizens;
Review of national rules and procedures	— Comprehensive reviews of national legislation are carried out within the field of free movement of goods and services;
Checking impact of the Court of Justice preliminary rulings	— National authorities systematically analyse whether national legislation should be amended following the recent judgments of the Court of Justice.

8. MEASURES TO BETTER INFORM CITIZENS AND BUSINESSES ABOUT THEIR SINGLE MARKET RIGHTS

Member States are invited to take the following measures:

- (a) promote and raise awareness about Community information services ⁽¹⁾ within the national administration and externally at national, regional and local levels, in line with the Commission's work, in particular on the Single Market Assistance Services (SMAS);
- (b) ensure increased coordination between the national contact points responsible for Community information services;
- (c) make practical information on single market rights and obligations available in other languages, and easily accessible through an Internet website; and introduce clear cross-references between all relevant national and Community portals with single market related information, and in particular through the 'Your Europe' portal;
- (d) organise information campaigns and programmes on the benefits and opportunities of the single market.

Existing practices in certain Member States related to the suggested measures	
Promoting Community information services	— Targeted information to the most concerned groups of stakeholders is provided through the Internet, brochures, leaflets, seminars and awareness-raising campaigns;
Coordination of Community information services at national level	— A coordination group brings together Europe Direct, Enterprise Europe Network, Eurojus, European Consumer Centre (ECC Net) and FIN-NET contact points;
Easily accessible information	— A considerable amount of single market related information and advice for foreign citizens and businesses, and for nationals who want to go abroad, is made available on horizontal e-government portals, national websites focused on Community issues, or on specific websites aimed at businesses or citizens; — A national online information resource on the single market is planned. It would be sponsored by one government authority and maintained by all the other authorities concerned;
Information campaigns	— An information programme on the single market is being developed, which will include provision of publication materials, training courses and open lectures to inform citizens and businesses about single market opportunities.

⁽¹⁾ Such as, among others, Europe Direct, Citizens' Signpost Service, Your Europe, EURES, European Consumer Centres, Enterprise Europe Network.

CORRIGENDA**Corrigendum to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations**

(Official Journal of the European Communities L 349 of 31 December 1994)

On page 171, Annex XII, Part B, point 3, Article 3(1), third line:

for: 'at the rate of duty laid down in Article 10',

read: 'at the rate of duty laid down in the Common Customs Tariff';

on page 172, Annex XII, Part B, point 4, Article 4(3):

for: '3. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 288 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.',

read: '3. Where necessary, the method of administration shall take account of the supply needs of the Community market and of the need to preserve its equilibrium and may be based on methods used in the past for quotas similar to those referred to in paragraph 1, without prejudice to rights arising under the agreements concluded during the Uruguay Round of multilateral trade negotiations.'.

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