

Official Journal

of the European Union

L 117



English edition

Legislation

Volume 55

1 May 2012

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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 23 April 2012

on the signing on behalf of the European Union of the Agreement in the form of an Exchange of Letters between the European Union and Brazil pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions with respect to processed poultrymeat provided for in the EU Schedule annexed to GATT 1994, and of the Agreement in the form of an Exchange of Letters between the European Union and Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions with respect to processed poultrymeat provided for in the EU Schedule annexed to GATT 1994

(2012/231/EU)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 207(4) in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 25 May 2009 the Council authorised the Commission to open negotiations under Article XXVIII of the GATT 1994 with a view to the renegotiation of concessions on poultrymeat tariff lines under Chapter 16 of the Combined Nomenclature as provided for in Article 1 of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽¹⁾ (hereinafter 'CN').

(2) Those negotiations resulted in Agreements in the form of Exchanges of Letters initialled with Thailand on 22 November 2011 and with Brazil on 7 December 2011 (hereinafter 'the Agreements').

(3) The Agreements should be signed,

Article 1

The President of the Council is hereby authorised to designate the person(s) empowered to sign on behalf of the Union the Agreement in the form of an Exchange of Letters between the European Union and Brazil pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions with respect to processed poultrymeat provided for in the EU Schedule annexed to GATT 1994, and the Agreement in the form of an Exchange of Letters between the European Union and Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions with respect to processed poultrymeat provided for in the EU Schedule annexed to GATT 1994 ⁽²⁾.

Article 2

This Decision shall enter into force on the day following that of its adoption.

Done at Luxembourg, 23 April 2012.

For the Council

The President

C. ASHTON

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ The texts of the Agreements will be published together with the decisions on their conclusion.

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 372/2012

of 30 April 2012

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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral 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 XVI, Part A thereto.

- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 30 April 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	JO	98,8
	MA	61,9
	TN	124,7
	TR	115,6
	ZZ	100,3
0707 00 05	JO	225,1
	TR	129,4
	ZZ	177,3
0709 93 10	JO	225,1
	MA	29,9
	TR	144,1
	ZZ	133,0
0805 10 20	CL	48,2
	EG	61,3
	IL	70,4
	MA	59,1
	TN	116,7
	ZA	40,1
	ZZ	66,0
0805 50 10	TR	58,4
	ZA	91,9
	ZZ	75,2
0808 10 80	AR	87,0
	BR	80,8
	CL	93,9
	CN	82,3
	MK	31,8
	NZ	128,7
	US	158,7
	ZA	89,7
	ZZ	94,1

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

COMMISSION IMPLEMENTING REGULATION (EU) No 373/2012
of 30 April 2012
fixing the import duties in the cereals sector applicable from 1 May 2012

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 (EU) No 642/2010 of 20 July 2010 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

(1) Article 136(1) of Regulation (EC) No 1234/2007 states that the import duty on products covered by CN codes 1001 19 00, 1001 11 00, ex 1001 91 20 (common wheat seed), ex 1001 99 00 (high quality common wheat other than for sowing), 1002 10 00, 1002 90 00, 1005 10 90, 1005 90 00, 1007 10 90 and 1007 90 00 is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

(2) Article 136(2) of Regulation (EC) No 1234/2007 lays down that, in order to calculate the import duty

referred to in paragraph 1 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

(3) Under Article 2(2) of Regulation (EU) No 642/2010, the price to be used for the calculation of the import duty on products covered by CN codes 1001 19 00, 1001 11 00, ex 1001 91 20 (common wheat seed), ex 1001 99 00 (high quality common wheat other than for sowing), 1002 10 00, 1002 90 00, 1005 10 90, 1005 90 00, 1007 10 90 and 1007 90 00 is the daily cif representative import price determined as specified in Article 5 of that Regulation.

(4) Import duties should be fixed for the period from 1 May 2012 and should apply until new import duties are fixed and enter into force.

(5) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 May 2012, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

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

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

Done at Brussels, 30 April 2012.

For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 187, 21.7.2010, p. 5.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 1 May 2012

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 19 00 1001 11 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
ex 1001 91 20	Common wheat seed	0,00
ex 1001 99 00	High quality common wheat other than for sowing	0,00
1002 10 00 1002 90 00	Rye	0,00
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize other than seed ⁽²⁾	0,00
1007 10 90 1007 90 00	Grain sorghum other than hybrids for sowing	0,00

⁽¹⁾ The importer may benefit, under Article 2(4) of Regulation (EU) No 642/2010, from a reduction in the duty of:

- EUR 3/t, where the port of unloading is located on the Mediterranean Sea (beyond the Strait of Gibraltar) or on the Black Sea, for goods arriving in the Union via the Atlantic Ocean or the Suez Canal,
- EUR 2/t, where the port of unloading is located in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or on the Atlantic coast of the Iberian Peninsula, for goods arriving in the Union via the Atlantic Ocean.

⁽²⁾ The importer may benefit from a flat-rate reduction of EUR 24/t where the conditions laid down in Article 3 of Regulation (EU) No 642/2010 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

16.4.2012-27.4.2012

1. Averages over the reference period referred to in Article 2(2) of Regulation (EU) No 642/2010:

(EUR/tonne)

	Common wheat ⁽¹⁾	Maize	Durum wheat, high quality	Durum wheat, medium quality ⁽²⁾	Durum wheat, low quality ⁽³⁾
Exchange	Minneapolis	Chicago	—	—	—
Quotation	235,50	185,78	—	—	—
Fob price USA	—	—	256,98	246,98	226,98
Gulf of Mexico premium	—	19,34	—	—	—
Great Lakes premium	43,27	—	—	—	—

⁽¹⁾ Premium of EUR 14/t incorporated (Article 5(3) of Regulation (EU) No 642/2010).⁽²⁾ Discount of EUR 10/t (Article 5(3) of Regulation (EU) No 642/2010).⁽³⁾ Discount of EUR 30/t (Article 5(3) of Regulation (EU) No 642/2010).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EU) No 642/2010:

Freight costs: Gulf of Mexico-Rotterdam: 17,74 EUR/t

Freight costs: Great Lakes-Rotterdam: 51,53 EUR/t

DECISIONS

COUNCIL IMPLEMENTING DECISION

of 26 April 2012

authorising Romania to apply measures derogating from Article 26(1)(a) and Article 168 of Directive 2006/112/EC on the common system of value added tax

(2012/232/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By letter registered with the Commission on 27 September 2011, Romania requested authorisation to introduce special measures concerning certain motorised road vehicles derogating from those provisions laid down in Directive 2006/112/EC which govern a taxable person's right to deduct VAT paid on the purchase of goods and services and those which require tax to be accounted for on business assets used for non-business purposes.
- (2) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, by letter dated 1 December 2011, the Commission informed the other Member States of the request made by Romania. By letter dated 5 December 2011, the Commission notified Romania that it had all the information necessary to consider the request.
- (3) Article 168 of Directive 2006/112/EC establishes a taxable person's right to deduct VAT charged on supplies of goods and services received by him for the purposes of his taxed transactions. Point (a) of Article 26(1) of that Directive contains a requirement to account for VAT when a business asset is put to use for the private purposes of the taxable person or his staff or, more generally, for purposes other than those of his business.
- (4) The non-business use of vehicles is difficult to identify accurately and even where it is possible, the mechanism for doing so is often burdensome. Under the requested measures, the amount of VAT on expenditure eligible for deduction concerning motorised road vehicles which are not used exclusively for business purposes should, with some exceptions, be set at a flat percentage rate. Based on currently available information, Romania believes that a rate of 50 % is justifiable. At the same time, to avoid double taxation, the requirement for accounting for VAT on the non-business use of a motorised road vehicle should be suspended where it has been subject to this restriction. These measures can be justified by the need to simplify the procedure for charging VAT and to prevent evasion through incorrect record-keeping and false tax declaration.
- (5) The restriction on the right of deduction under the special measures should apply to VAT paid on the purchase, intra-Community acquisition, importation, hire or leasing of specified motorised road vehicles and on expenditure related thereto, including the purchase of fuel.
- (6) Certain types of motorised road vehicles should be excluded from the scope of the special measures since, due to their nature or the type of business they are used for, any non-business use thereof is considered to be negligible. Therefore, the special measures should not apply to vehicles with more than nine seats including the driver's, or with a maximum permissible laden mass of more than 3 500 kilograms. In addition, a detailed list of specific types of vehicles excluded from that restriction should be provided, based on their particular use.
- (7) These derogating measures should be limited in time to allow for an evaluation of their effectiveness and of the appropriate percentage, since the proposed percentage is based on initial findings regarding business use.
- (8) Where Romania considers an extension of the derogating measures is necessary, a report on the application of the measures in question, which includes a review of the percentage applied, should be submitted to the Commission together with the request for an extension in a timely manner.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

- (9) On 29 October 2004, the Commission adopted a proposal⁽¹⁾ for a Council Directive amending Directive 77/388/EEC, now Directive 2006/112/EC, that includes the harmonisation of the categories of expenses for which exclusions from the right of deduction may apply. Under that proposal, exclusions from the right to deduct could be applied to motorised road vehicles. The derogating measures provided for in this Decision should expire on the date of the entry into force of such an amending Directive, if that date is earlier than the date of expiry provided for in this Decision.
- (10) The derogation will have only a negligible effect on the overall amount of tax revenue collected at the stage of final consumption and will have no impact on the Union's own resources accruing from value added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 168 of Directive 2006/112/EC, Romania is hereby authorised to limit to 50 % the right to deduct the VAT on the purchase, intra-Community acquisition, importation, hire or leasing of motorised road vehicles as well as the VAT charged on expenditure related to those vehicles, where the vehicle is not used exclusively for business purposes.

The restriction set out in the first subparagraph shall not apply to motorised road vehicles with a maximum permissible laden mass of more than 3 500 kg or with more than nine seats including the driver's seat.

Article 2

The first subparagraph of Article 1 shall not apply to the following categories of motorised road vehicles:

- (a) vehicles used exclusively for emergency services, for security, protection and courier services;
- (b) vehicles used by sales agents and by purchasing agents;
- (c) vehicles used for the transport of passengers for consideration, including taxi services;

- (d) vehicles used for the supply of services for consideration, including hire or driving lessons provided by driving schools;
- (e) vehicles used for hire or leasing;
- (f) vehicles used as commodities for trading purposes.

Article 3

By way of derogation from point (a) of Article 26(1) of Directive 2006/112/EC, Romania is authorised not to treat as a supply of services for consideration the private use by a taxable person or his staff or, more generally, for purposes other than those of his business, of a vehicle to which the restriction referred to in Article 1 of this Decision applies.

Article 4

1. This Decision shall expire on the date of entry into force of Union rules determining the expenditure relating to motorised road vehicles that is not eligible for full deduction of VAT, or on 31 December 2014, whichever is the earlier.
2. Any request for the extension of the measures provided for in this Decision shall be submitted to the Commission by 31 March 2014.

Such request shall be accompanied by a report which includes a review of the percentage restriction applied on the right to deduct VAT on the basis of this Decision.

Article 5

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

Article 6

This Decision is addressed to Romania.

Done at Luxembourg, 26 April 2012.

For the Council
The President
M. GJERSKOV

⁽¹⁾ COM(2004) 728 final.

COMMISSION IMPLEMENTING DECISION

of 27 April 2012

determining the date from which the Visa Information System (VIS) is to start operations in a second region

(2012/233/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) ⁽¹⁾, and in particular Article 48(3) thereof,

Whereas:

(1) According to Commission Decision 2010/49/EC of 30 November 2009 determining the first regions for the start of operations of the Visa Information System (VIS) ⁽²⁾, the second region where the collection and transmission of data to the VIS for all applications should start comprises Israel, Jordan, the Lebanon and Syria.

(2) The Member States have notified the Commission that they have made the necessary technical and legal arrangements to collect and transmit the data referred to in Article 5(1) of the VIS Regulation to the VIS for all applications in that region, including arrangements for the collection and/or transmission of the data on behalf of another Member State.

(3) The condition laid down by the first sentence of Article 48(3) of the VIS Regulation thus being fulfilled, it is therefore necessary to determine the date from which the VIS is to start operations in a second region.

(4) In view of the need to set the date for the start of the VIS in the very near future this Decision should enter into force on the day of its publication in the *Official Journal of the European Union*.

(5) Given that the VIS Regulation builds upon the Schengen *acquis*, Denmark notified the implementation of the VIS Regulation in its national law in accordance with Article 5 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community. Denmark is therefore bound under international law to implement this Decision.

(6) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request

of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽³⁾. The United Kingdom is therefore not bound by it or subject to its application.

(7) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁴⁾. Ireland is therefore not bound by it or subject to its application.

(8) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾, which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC ⁽⁶⁾ on certain arrangements for the application of that Agreement.

(9) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁷⁾, which fall within the area referred to in Article 1, point B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁸⁾.

(10) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽⁹⁾.

⁽¹⁾ OJ L 218, 13.8.2008, p. 60.

⁽²⁾ OJ L 23, 27.1.2010, p. 62.

⁽³⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁴⁾ OJ L 64, 7.3.2002, p. 20.

⁽⁵⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁶⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁷⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁸⁾ OJ L 53, 27.2.2008, p. 1.

⁽⁹⁾ OJ L 160, 18.6.2011, p. 19.

(11) As regards Cyprus, this Decision constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 3(2) of the 2003 Act of Accession.

Article 2

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

(12) As regards Bulgaria and Romania, this Decision constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 4(2) of the 2005 Act of Accession,

Article 3

This Decision shall apply in accordance with the Treaties.

HAS ADOPTED THIS DECISION:

Done at Brussels, 27 April 2012.

Article 1

The Visa Information System shall start operations in the second region determined by Decision 2010/49/EC on 10 May 2012.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING DECISION

of 27 April 2012

on the clearance of the accounts of the paying agencies of Member States concerning expenditure financed by the European Agricultural Fund for Rural Development (EAFRD) for the 2011 financial year

(notified under document C(2012) 2883)

(2012/234/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy⁽¹⁾, and in particular Articles 30 and 33 thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

- (1) Under Article 30 of Regulation (EC) No 1290/2005, the Commission, on the basis of the annual accounts submitted by the Member States, accompanied by the information required for the clearance of accounts and a certificate regarding the integrality, accuracy and veracity of the accounts and the reports established by the certification bodies, clears the accounts of the paying agencies referred to in Article 6 of the said Regulation.
- (2) Pursuant to Article 5 of Commission Regulation (EC) No 883/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the keeping of accounts by the paying agencies, declarations of expenditure and revenue and the conditions for reimbursing expenditure under the EAGF and the EAFRD⁽²⁾, the financial year for the EAGF accounts begins on 16 October of year N-1 and ends on 15 October of year N. In the framework of clearing the accounts, for the purpose of aligning the reference period for EAFRD expenditure with that of the EAGF, account should be taken for the 2011 financial year of expenditure incurred by the Member States between 16 October 2010 and 15 October 2011.
- (3) The second subparagraph of Article 10(2) of Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the

clearance of the accounts of the EAGF and of the EAFRD⁽³⁾ lays down that the amounts that are recoverable from, or payable to, each Member State, in accordance with the accounts clearance decision referred to in the first subparagraph of Article 10(1) of the said Regulation, shall be established by deducting the intermediate payments in respect of the financial year concerned from the expenditure recognised for the same year in accordance with paragraph 1. The Commission shall deduct that amount from or add it to the following intermediate payment.

- (4) The Commission has checked the information submitted by the Member States and it has communicated to the Member States before 31 March 2012 the results of its verifications, along with the necessary amendments.
- (5) The annual accounts and the accompanying documents permit the Commission to take, for certain paying agencies, a decision on the completeness, accuracy and veracity of the annual accounts submitted. Annex I lists the amounts cleared by Member States and the amounts to be recovered from or paid to the Member States.
- (6) The information submitted by certain other paying agencies requires additional inquiries and their accounts cannot be cleared in this Decision. Annex II lists the paying agencies concerned.
- (7) Pursuant to Article 33(8) of Regulation (EC) No 1290/2005, 50 % of the financial consequences of non-recovery of irregularities shall be borne by the Member State concerned if the recovery of those irregularities has not taken place prior to the closure of a rural development programme within four years of the primary administrative or judicial finding, or within eight years if the recovery is taken to the national courts, or on the closure of the programme if those deadlines expire prior such closure. Article 33(4) of the said Regulation obliges Member States to submit to the Commission, together with the annual accounts, a summary report on the recovery procedures undertaken in response to irregularities. Detailed rules on the application of the Member States' reporting obligation of the amounts to be recovered are laid down in Regulation (EC) No 885/2006. Annex III to the said Regulation provides the table that had to be provided in 2012 by the Member States. On the basis of the tables completed by the Member States, the Commission should decide on

⁽¹⁾ OJ L 209, 11.8.2005, p. 1.

⁽²⁾ OJ L 171, 23.6.2006, p. 1.

⁽³⁾ OJ L 171, 23.6.2006, p. 90.

the financial consequences of non-recovery of irregularities older than four or eight years respectively. This decision is without prejudice to future conformity decisions pursuant to Article 33(5) of Regulation (EC) No 1290/2005.

- (8) Pursuant to Article 33(7) of Regulation (EC) No 1290/2005, after closure of a rural development programme Member States may decide not to pursue recovery. Such a decision may only be taken if the costs already and likely to be incurred total more than the amount to be recovered or if the recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity. If that decision has been taken within four years of the primary administrative or judicial finding, or within eight years if the recovery is taken to the national courts, 100 % of the financial consequences of the non-recovery should be borne by the EU budget. In the summary report referred to in Article 33(4) of Regulation (EC) No 1290/2005 the amounts for which the Member State decided not to pursue recovery and the grounds for the decision are shown. These amounts are not charged to the Member States concerned and are consequently to be borne by the EU budget. This decision is without prejudice to future conformity decisions pursuant to Article 33(5) of the said Regulation.
- (9) In accordance with Article 30(2) of Regulation (EC) No 1290/2005, this Decision, does not prejudice decisions taken subsequently by the Commission excluding from European Union financing expenditure not effected in accordance with European Union rules,

HAS ADOPTED THIS DECISION:

Article 1

With the exception of the paying agencies referred to in Article 2, the accounts of the paying agencies of the Member States concerning expenditure financed by the European Agricultural Fund for Rural Development (EAFRD) in respect of the 2011 financial year, are hereby cleared.

The amounts which are recoverable from, or payable to, each Member State under each rural development programme pursuant to this Decision, including those resulting from the application of Article 33(8) of Regulation (EC) No 1290/2005, are set out in Annex I.

Article 2

For the 2011 financial year, the accounts of the Member States' paying agencies in respect of expenditure per rural development programme financed by the EAFRD, set out in Annex II, are disjoined from this Decision and shall be the subject of a future clearance of accounts Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 27 April 2012.

For the Commission

Dacian CIOLOŞ

Member of the Commission

DECISION OF THE EUROPEAN CENTRAL BANK
of 29 March 2012
on the establishment of the TARGET2-Securities Board and repealing Decision ECB/2009/6
(ECB/2012/6)
(2012/235/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 3.1, 12.1 and 12.3 and Articles 17, 18 and 22 thereof,

Having regard to Guideline ECB/2010/2 of 21 April 2010 on TARGET2-Securities ⁽¹⁾,

Having regard to Decision ECB/2009/6 of 19 March 2009 on the establishment of the TARGET2-Securities Programme Board ⁽²⁾,

Whereas:

- (1) At its meeting of 6 July 2006, the Governing Council decided to explore, in cooperation with central securities depositories (CSDs) and other market participants, the possibility of setting up a new Eurosystem service for securities settlement called TARGET2-Securities (T2S). As part of its tasks in accordance with Articles 17, 18 and 22 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB'), the Eurosystem will establish T2S as a service based on a single platform allowing for core, neutral and borderless pan-European cash and securities settlement, which is offered to CSDs to enable them to provide their customers with harmonised and commoditised delivery-versus-payment settlement services in central bank money in an integrated technical environment.
- (2) On 17 July 2008, the Governing Council decided to launch T2S and to provide the resources required until its completion. On the basis of an offer made by the Deutsche Bundesbank, the Banco de España, the Banque de France and the Banca d'Italia (hereinafter the '4CB'), the Governing Council decided that T2S would be developed and operated by these national central banks (NCBs).
- (3) The T2S Programme Board was established as a streamlined management body to develop proposals for the Governing Council on key strategic issues and execute tasks of a purely technical nature and to provide effective and efficient organisation of T2S involving both internal and external stakeholders.

- (4) Under the principle of decentralisation laid down in Article 12.1 of the Statute of the ESCB, to the extent deemed possible and appropriate, NCBs carry out operations which form part of the tasks of the Eurosystem. The Eurosystem central banks will therefore entrust the T2S Board with certain tasks so that it can be fully operational and act on behalf of the whole Eurosystem.
- (5) In accordance with the T2S Governance framework the T2S Board will replace the T2S Programme Board.
- (6) Therefore, Decision ECB/2009/6 should be repealed,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

Terms used in this Decision shall have the same meaning as in Guideline ECB/2010/2 and in the T2S Framework Agreement endorsed by the Governing Council on 17 November 2011.

Article 2

T2S Board

1. The T2S Board shall be established as a streamlined management body of the Eurosystem with the task of developing proposals for the Governing Council on key strategic issues and executing tasks assigned to it by the Governing Council.
2. The T2S Board's mandate, including its objectives, responsibilities, tasks, composition, working procedures and budget, shall be as set out in Annex I to this Decision.
3. The Rules of Procedures of the T2S Board shall be set out in Annex II to this Decision.
4. The Code of Conduct for the members of the T2S Board shall be set out in Annex III to this Decision.
5. The procedures and requirements for the selection, appointment and replacement of the T2S Board non-central bank members shall be set out in Annex IV to this Decision.
6. The T2S Board shall commence work in July 2012.

Article 3

Repeal

Decision ECB/2009/6 is repealed.

⁽¹⁾ OJ L 118, 12.5.2010, p. 65.

⁽²⁾ OJ L 102, 22.4.2009, p. 12.

*Article 4***Transitional provisions**

The T2S Programme Board members shall continue to carry out their responsibilities and tasks until all voting members of the T2S Board have been appointed.

*Article 5***Final provision**

This Decision shall enter into force on 29 March 2012.

Done at Frankfurt am Main, 29 March 2012.

The President of the ECB

Mario DRAGHI

ANNEX I

T2S BOARD**MANDATE**

INTRODUCTION

In line with the Treaty on the Functioning of the European Union and the Statute of the European System of Central Banks and of the European Central Bank, the Eurosystem will offer T2S services to central securities depositories (CSDs) in Europe. The overall objective of T2S is to facilitate post-trading integration by supporting core, borderless and neutral pan-European cash and securities settlement in central bank money so that CSDs can provide their customers with harmonised and commoditised settlement services in an integrated technical environment with cross-border capabilities.

RESPONSIBILITIES OF THE T2S BOARD

Without prejudice to the ultimate decision-making power of the European Central Bank's (ECB's) Governing Council, the Governing Council has entrusted the T2S Board with the performance of clearly defined tasks related to the T2S Programme and the provision of T2S services. If and when new issues related to T2S arise, the Governing Council may assign to the T2S Board further clearly defined tasks that are otherwise under the responsibility of the Governing Council. In the light of the Governing Council's ultimate competence on T2S issues, any of its tasks entrusted to, and performed by, the T2S Board may still be performed by the Governing Council. The T2S Board is also based on a T2S Protocol signed by the Eurosystem central banks.

The T2S Board acts within the scope of the T2S legal framework (in particular the Framework Agreements, the Currency Participation Agreements, the Level 2-Level 3 Agreement adopted on 20 April 2011 and Guideline ECB/2010/2).

The T2S Board ensures that the T2S Programme is delivered:

- (a) in accordance with market expectations, as reflected in the User Requirements Document (URD);
- (b) within the T2S financial regime;
- (c) within the time frame decided on by the Governing Council.

The T2S Board is scheduled to take over the responsibilities and tasks of the T2S Programme Board from July 2012. This mandate is valid until the end of the T2S migration period, after which it will be revised.

After the implementation of the T2S Programme, the T2S Board ensures the smooth operation of the T2S system in accordance with the relevant technical and legal documents. It also facilitates the continuous adaptation of the T2S Services in line with future market needs.

TASKS

The Governing Council has entrusted the following tasks to the T2S Board:

1. Elaboration of proposals for decision by the Governing Council on:

- (a) overall T2S strategy;
- (b) T2S Governance;
- (c) T2S finances, including:
 - (i) the main features of the T2S financial regime (in particular budget, amount, time period covered, financing);
 - (ii) regular analysis of the financial risks to which the Eurosystem is exposed;
 - (iii) the management rules for the T2S project account held in the books of the ECB and managed by the T2S Board on behalf of the Eurosystem;
 - (iv) the T2S cost methodology;
 - (v) the T2S pricing policy;
- (d) overall T2S Programme Plan;
- (e) authorisation and prioritisation of Change Requests relating to the URD;

- (f) any contract to be signed between the Eurosystem and external stakeholders;
- (g) the T2S risk management framework;
- (h) service level agreements established with the CSDs, the national central banks (NCBs) and the 4CB;
- (i) T2S testing and migration strategies;
- (j) the connectivity services strategy;
- (k) the crisis management strategy;
- (l) the T2S Service Description;
- (m) liability and other claims;
- (n) compliance of CSDs with the CSD eligibility criteria.

2. Management/steering of T2S and relations with the 4CB

The T2S Board:

- (a) carries out the overall management of the T2S Programme and of the T2S services;
- (b) manages a detailed plan, on the basis of the overall T2S Programme Plan, as approved by the Governing Council;
- (c) negotiates any amendments to the Level 2-Level 3 Agreement and submits them for endorsement by the Governing Council;
- (d) establishes regular contacts with the 4CB in order to obtain all of the information needed for the performance of its tasks in line with the Level 2-Level 3 Agreement;
- (e) discusses and approves the 4CB deliverables (e.g. the General Functional Specifications, the User Detailed Functional Specifications and the User Handbooks), according to pre-agreed quality standards, and ensures that they are consistent with the URD;
- (f) validates proposals from the 4CB, in particular on IT strategy, network provision and capacity planning strictly related to T2S;
- (g) coordinates a proper change management process relating to the T2S Scope Defining Set of Documents and the prioritisation of authorised changes relating to new T2S releases;
- (h) establishes test scenarios for the Eurosystem Acceptance Tests and coordinates tests which involve various types of stakeholders;
- (i) establishes a substructure in charge of User Testing in line with the Schedules on User Testing in the Framework Agreement and the Currency Participation Agreement;
- (j) implements the T2S risk management framework within the parameters set by the Governing Council;
- (k) implements the T2S migration strategy within the parameters set by the Governing Council;
- (l) implements the T2S operational framework, including the T2S incident and crisis management strategy, within the parameters set by the Governing Council;
- (m) ensures the proper functioning and quality of the T2S Services;
- (n) ensures compliance of the T2S services with regulatory and oversight requirements.

3. Relations with external stakeholders

The T2S Board:

- (a) ensures that the T2S services meet the market needs;
- (b) interacts with CSDs and central banks to facilitate their migration to T2S;
- (c) negotiates with CSDs and non-euro area central banks which have signed the Framework Agreement and the Currency Participation Agreement any amendments to these agreements; this is done jointly with Eurosystem central banks;

- (d) coordinates with the other T2S Governance structures, in particular with the CSD Steering Group, the Non-euro Currencies Steering Group, and the T2S Advisory Group;
- (e) interacts with providers of connectivity services;
- (f) appoints the chairpersons of the technical groups after consultation of the CSD Steering Group and the Non-euro Currencies Steering Group, and receives reports from the technical groups;
- (g) discusses, coordinates and aims at finding possible solutions to settle disputes arising in the T2S context with participating CSDs and central banks within the framework of the Dispute Resolution and Escalation Procedure provided for in the Framework Agreement and the Currency Participation Agreement and within its mandate;
- (h) provides relevant information to competent regulatory and oversight authorities;
- (i) performs, with the help of the ECB's T2S Programme Office and the central bank expert network, a central role in communication on T2S in relation to market participants and public authorities;
- (j) promotes and contributes to T2S-related harmonisation work;
- (k) closely cooperates with all relevant public authorities and private bodies (e.g. the European Commission, the European Parliament, securities regulators), on relevant initiatives in the field of securities clearing and settlement;
- (l) ensures transparency through the timely and consistent publication of relevant documentation.

4. T2S financial regime

The T2S Board manages the T2S financial regime as set out in Guideline ECB/2010/2.

As from the start of the operational phase, the T2S Board provides the contracting CSDs and the contracting non-euro area NCBs with financial statements on a regular basis that fairly represent the business and financial conditions, results of operations and state of cost recovery in relation to T2S.

The CSD Steering Group, the Non-euro Currencies Steering Group, the T2S Advisory Group, and relevant European System of Central Banks committees are consulted before proposals on the T2S financial regime resulting in changes to the T2S Pricing are made to the Governing Council.

To the extent required, the ECB provides appropriate support to the T2S Board. All costs triggered by such support are reimbursed to the ECB.

Moreover, the T2S Board:

- (a) manages the T2S budget by means of the T2S project account;
- (b) approves the payment of instalments to the 4CB, in accordance with an agreed payment schedule approved by the Governing Council, once the 4CB deliverables have been accepted by the T2S Board;
- (c) approves costs related to additional support from the 4CB to the Eurosystem central banks, in accordance with the Level 2-Level 3 Agreement;
- (d) approves the payment of instalments to the ECB, on the basis of the costs incurred by the latter in relation to T2S;
- (e) approves and initiates the collection of fees from T2S clients and the reimbursement to Eurosystem central banks.

COMPOSITION

All members of the T2S Board are appointed by the Governing Council. The members report collectively and exclusively to the ECB decision-making bodies when they act in their capacity as T2S Board members and comply with the principles provided for in the T2S Board Code of Conduct set out in Annex III. In this capacity, the members from Eurosystem central banks and non-euro area central banks may seek advice from other employees of their institution of origin. In no circumstances may they take instructions from their institution of origin, or commit to take a specific position during the deliberation and the vote of the T2S Board.

The T2S Board is composed of:

- (a) the Chairperson, who is a senior manager at the ECB;
- (b) nine members from other Eurosystem NCBs, including one from each of the following: the Deutsche Bundesbank, the Banco de España, the Banque de France and the Banca d'Italia;

- (c) one member from a non-euro area central bank which has signed the Currency Participation Agreement (or two such members if the settlement volume in non-euro currencies is at least 20 % of the euro area volume);
- (d) two non-central bank board members (without any voting right) not originating from central banks with solid backgrounds as senior officials in the securities settlement industry and, possibly, with project management experience, who do not have any conflicts of interest.

The Chairperson is supported by a Deputy Chairperson who is appointed by the Governing Council. The Deputy Chairperson is a member who is ready to replace the Chairperson in the case of absence. If the Delivery-versus-Payment (DvP) volume settled in non-euro currencies in T2S represents at least 40 % of the DvP volume settled in euro, participating non-euro area central banks may propose the Deputy Chairperson.

The mandate of a T2S Board member lasts for 24 months and may be renewed.

The Governing Council decides on the composition of the T2S Board on the basis of a proposal from the ECB's Executive Board. For categories (a) to (c), applications are presented by the Governor/President of the relevant central bank. The Executive Board gives preference to candidates who report directly to the highest governance body in their central bank. The Executive Board ensures in its proposal that an appropriate balance is maintained between members with IT experience, project management experience, and experience in the securities settlement business (either as a provider of services or as a user of those services).

WORKING PROCEDURES

1. Decision-making

If possible, the T2S Board decides by consensus. However, if consensus cannot be reached within a reasonable time frame, the Chairperson may decide to hold a vote based on a simple-majority voting procedure.

The following rules apply:

- (a) in principle, a quorum of at least seven members should be met in order for the T2S Board to deliberate validly;
- (b) only T2S Board members from categories (a) to (c) above have a voting right;
- (c) in the case of absence, a voting member may delegate their vote to another member; no member can exercise more than two votes on any issue;
- (d) in the case of an equal number of votes, the Chairperson has a casting vote;
- (e) members of the T2S Board do not participate in the decision making and do not vote when they are in a situation of conflict of interest;
- (f) members adhere to the Code of Conduct for the T2S Board.

2. Workload and support

Without prejudice to the good governance principles laid down in Article 8 of Guideline ECB/2010/2:

- (a) the Chairperson works full time on the T2S issues; the remaining members are expected to work on a 30 % basis;
- (b) the T2S Board is supported by a T2S Programme Office at the ECB;
- (c) the T2S Board receives input from a programme controller;
- (d) the T2S Board is supported by a Technical Committee that will seek consensus on technical matters; if consensus cannot be reached, matters will be brought to the T2S Board;
- (e) the T2S Board may create other committees.

3. Reporting and representation

The T2S Board reports to the ECB decision-making bodies directly, on a regular and structured basis. In this respect, it prepares reports to the ECB decision-making bodies as necessary. These reports are also sent to the Eurosystem IT Steering Committee (EISC), which may advise the ECB decision-making bodies. The Payment and Settlement Systems Committee (PSSC) receives the reports for information purposes.

The Chairperson chairs the T2S Advisory Group and represents the T2S Board externally, unless the T2S Board decides otherwise.

4. Rules of Procedure

Details of the working procedures are to be addressed in the T2S Board Rules of Procedure set out in Annex II.

ANNEX II

**T2S BOARD
RULES OF PROCEDURE**

CHAPTER I

THE T2S BOARD*Article 1***The members**

1. Members of the T2S Board (hereinafter the 'members') act in their personal capacity and in the best interest of the T2S Programme, in accordance with the T2S General Principles. Members take their own, fully independent positions during the T2S Board meetings.
2. Central bank members must be provided with sufficient time by their central banks, and non-central bank board members must ensure that they have sufficient time, to be actively involved in the work of the T2S Board (in principle 30 % of their working time for all members except the Chairperson).
3. Members shall not be directly involved in the oversight of T2S or of central securities depositories which outsource settlement operations to T2S. Members may not be part of a Eurosystem/ESCB committee having any of the above oversight responsibilities. Members shall not be part of the Eurosystem IT Steering Committee (EISC) or of the Internal Auditors Committee (IAC). They shall not be involved in Level 3 activities on a daily basis.
4. Members must comply with the T2S Board Code of Conduct (hereinafter the 'Code'), set out in Annex III.

*Article 2***The Chairperson and Deputy Chairperson**

1. The Chairperson is a full time member of the T2S Board.
2. The Chairperson, in cooperation with the other members, ensures the functioning of the T2S Board, the fulfilment of the T2S Board's mandate, the adherence to the rules of procedure, and the efficient decision-making. In particular, the Chairperson:
 - (a) proposes the agendas of the T2S Board meetings and chairs them;
 - (b) proposes the annual schedule of the meetings;
 - (c) deals with all administrative decisions concerning the T2S Programme Office.
3. The Chairperson is supported by a Deputy Chairperson who replaces the Chairperson in the case of absence. The Chairperson will notify this absence to the Deputy Chairperson as soon as possible.

*Article 3***Secretariat**

1. The Chairperson will appoint a highly experienced member of staff of the European Central Bank (ECB) as T2S Board Secretary. The Chairperson may also appoint an alternate Secretary.
2. The Secretary shall assist the Chairperson and work under his/her guidance. The Secretary manages the flow of information, in a timely manner: (a) between members; and (b) between the T2S Board and other stakeholders, including in particular other Eurosystem or European System of Central Banks committees.

CHAPTER II

T2S BOARD MEETINGS*Article 4***Date and location of T2S Board meetings**

1. The T2S Board decides on the dates of its meetings upon a proposal of the Chairperson. The T2S Board should meet regularly based on a schedule it prepares in good time before the start of each year. The frequency of meetings is determined by the needs of the T2S Programme Plan.
2. The Chairperson may convene extraordinary meetings of the T2S Board whenever they deem it necessary. The Chairperson will convene an extraordinary meeting if a request for such a meeting is submitted by at least three members.

3. The T2S Board generally holds its meetings at the ECB's premises.
4. Meetings may also be held by means of teleconference, unless three or more members object.

Article 5

Participation in T2S Board meetings

1. In accordance with principles of good governance, members shall regularly participate in T2S Board meetings. Participation is strictly on a personal basis; members may not be replaced.
2. Attendance at T2S Board meetings is restricted to members and other persons invited by the Chairperson.

Article 6

Conduct of T2S Board meetings

1. The working language of the T2S Board is English.
2. The T2S Board adopts an agenda for each meeting. As a rule, the Secretary prepares a provisional agenda, under the responsibility of the Chairperson, and sends it to members at least five working days in advance of a meeting. The T2S Board may decide to remove items from, or add items to, the provisional agenda on a proposal of the Chairperson or of any other member. An item will be removed from the agenda at the request of three or more members if the related documents are not submitted to the members in due time.
3. As a rule, the Secretary sends documents for discussion to members five working days in advance of a meeting. However, short documents may be sent one working day in advance. Documents sent less than two working days in advance are considered 'table documents' which cannot lead to a decision of the T2S Board, unless all members agree otherwise.
4. Following each T2S Board meeting, the Secretary prepares draft minutes recording the topics that were under consideration and the results of the discussion. The draft minutes include positions expressed during the meeting by individual members when so requested. The draft minutes are circulated to the members within five working days of the meeting.
5. Also following each T2S Board meeting, the Secretary prepares a draft action list containing the tasks and deadlines that were allocated and agreed during that meeting, which is circulated to the members within five working days of the meeting.
6. Members provide the Secretary with comments on the draft minutes and action list within five working days of receipt. The draft minutes and action list are submitted to the T2S Board for approval at the subsequent meeting (or, if necessary, earlier by written procedure) and are signed by the Chairperson.

Article 7

Decision-making by the T2S Board

1. To the extent possible, decisions of the T2S Board are taken by way of consensus.
2. In order for the T2S Board to validly deliberate, there must be a quorum of at least seven members. If the quorum is not met, the Chairperson may convene an extraordinary meeting at which decisions may be taken without regard to the quorum.
3. If necessary, the T2S Board proceeds to vote at the request of the Chairperson. The Chairperson also initiates a voting procedure upon the request of any member with a voting right. In line with the Code, a member must not vote if they have a conflict of interest, as described in the Code. In the case of absence, a voting member may delegate their vote to another voting member; no member may exercise more than two votes on any issue.
4. The Chairperson may initiate a secret ballot if requested to do so by at least three members.
5. Decisions may also be taken by written procedure, unless three or more members object. A written procedure shall require: (i) normally not for less than two working days for consideration by every Member; and (ii) a record of any such decision in the conclusions of the subsequent meeting of the T2S Board.
6. A proposal receiving a simple majority of votes is deemed approved. In the case of equal numbers of votes, the Chairperson has a casting vote. In the Chairperson's absence, the Deputy Chairperson does not have a casting vote.

CHAPTER III

COMMUNICATION AND TRANSPARENCY*Article 8***External communication**

1. The Chairperson regularly informs the relevant stakeholders about the progress made in the implementation of the T2S Programme. With the help of the Secretary, the Chairperson ensures transparency through the timely and consistent publication of relevant documentation on the T2S website, subject to the confidentiality obligations set out in the Code.
2. Members must inform the Chairperson in advance of undertaking any relevant and substantial external representation in relation to the T2S Board's responsibilities and tasks, such as speaking on T2S at conferences or meetings with T2S stakeholders, and must provide the T2S Board with a written summary within five working days following the event. Any substantial external communication must be in the interest of the Eurosystem and the T2S Programme and must respect any decisions of the Governing Council and the T2S Board.
3. The T2S Board designates a member/members and/or ECB/national central bank (NCB) staff supporting T2S to participate in public and private initiatives related to securities clearing and settlement and to possibly represent T2S in relevant committees or working groups. A member of ECB or NCB staff can only be designated in this manner if it is established that they comply with obligations in relation to confidentiality and conflict of interest that are at least equivalent to the obligations of the Code.

*Article 9***Internal communication**

1. Members of the T2S Board who do not belong to the Eurosystem receive, under confidentiality conditions, all documentation on T2S submitted to the Governing Council after the Governing Council meeting, as well as the decision points of the Governing Council minutes on T2S.
2. Eurosystem NCBs that do not have a staff member on the T2S Board have automatic access to all T2S Board documentation. They may also make a request to the Chairperson to participate in a T2S Board committee if they have a particular interest in a topic. One member will be responsible for informing such Eurosystem NCBs if it is considered that they might have a particular interest. This member may also bring any point raised by such a Eurosystem NCB before the T2S Board.

CHAPTER IV

FINANCIAL REGIME*Article 10***Functioning of the T2S project account**

1. The T2S Board operates a T2S project account on behalf of the Eurosystem, which is held in the books of the ECB and which has the status of a transit account. The T2S project account is used for: (a) managing financial flows (in particular collection of funds and payment of instalments) between the Eurosystem central banks which result from the T2S budget; and (b) managing financial flows related to T2S service fees. The T2S Board ensures that the balance of the project account is 'nil' or 'positive' at all times.
2. The Chairperson invites in a timely manner the Eurosystem NCBs to budget for their cost shares (in accordance with the T2S cost allocation key) and to pay their cost shares to the T2S project account in accordance with the payment schedule approved by the Governing Council.
3. The Chairperson instructs the payment of instalments out of the T2S project account, subject to the prior approval of the T2S Board. The payment of an instalment to the 4CB is regarded as formally approved by the T2S Board once it has validated and accepted a 4CB deliverable and this validation and acceptance is formally approved in the minutes of the T2S Board's meeting. The payment of an instalment to the ECB takes place at the start of every year in accordance with the agreements laid down in the financial envelope.

CHAPTER V

AUDIT*Article 11***Audit**

The T2S Board's activities are subject to the review of the IAC.

ANNEX III

**T2S BOARD
CODE OF CONDUCT****Introduction**

The T2S Board is composed of members appointed by the Governing Council. Members must act solely in the best interest of T2S Programme, in accordance with the T2S General Principles, and must allocate sufficient time to the work related to the T2S Programme.

The T2S Board assists the European Central Bank's (ECB's) decision-making bodies in ensuring the successful and timely completion of the T2S Programme and reports to the Governing Council. It is essential for the informed and independent decision-making of the Governing Council that the T2S Board's work is unaffected by any circumstances that may give rise to a conflict of interest of any member.

It is also essential to the good reputation and credibility of the Eurosystem/European System of Central Banks (ESCB) and to the legal soundness of the T2S Programme that the members are guided and are seen to be guided by the general interest of the Eurosystem, and by the interest of the T2S Programme in particular. Members therefore need to: (a) avoid situations where conflicts of interest exist or appear to exist; (b) act only in their capacity as Eurosystem and T2S representatives in their dealings with public authorities, central banks, representatives of industry and other external stakeholders involved in the design, development and operation of T2S; and (c) ensure objectivity, neutrality and fair competition between potential suppliers with an interest in the T2S Programme.

The obligation of professional secrecy stated in Article 37.1 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB') applies to both ECB staff and national central bank (NCB) staff performing ESCB tasks, and covers confidential information regarding trade secrets or information having a commercial value. An equivalent obligation applies to non-central bank board members of the T2S Board. Non-central bank board members must also comply with any additional rules of conduct that may be provided for in the letter of their appointment and in their contract with the ECB.

It is appropriate and in accordance with good administrative practice to set ethical standards concerning professional integrity, the principle of fair competition, the avoidance of conflicts of interest and the protection of confidential information produced by the Eurosystem or provided by third parties, while preserving the expertise and experience in the relevant areas of the T2S Programme within the T2S Board for the overall benefit of the Eurosystem/ESCB. Moreover, it is appropriate and in accordance with good administrative practice that the Conditions of Employment applicable to the members who are ECB staff members, and the equivalent provisions applicable to members who are staff members of an NCB, should provide for legal redress for breaches of this Code of Conduct (hereinafter the 'Code'). An equivalent provision applies to the non-central bank board members of the T2S Board.

This Code is without prejudice to any requirements resulting from other ethical provisions as may be applicable to the members of the T2S Board in their function as members of staff of the ECB or an NCB.

1. Definitions

For the purposes of this Code:

- (a) 'Chairperson' means the person appointed by the Governing Council to chair the T2S Board;
- (b) 'Deputy Chairperson' means the person appointed by the Governing Council to replace the Chairperson in the case of absence;
- (c) 'confidential information' means, without prejudice to the obligation of professional secrecy in Article 37.1 of the Statute of the ESCB or to documents classified according to the ECB confidentiality regime which are provided to each member of the T2S Board: (i) trade secrets of the Eurosystem or third parties and any information having a commercial value other than for the purpose of the work of the T2S Board; (ii) any information the unauthorised disclosure of which could harm the essential interests of the Eurosystem; and (iii) any information that a reasonable person would consider to be confidential; 'confidential information' does not include any information which: (i) is or becomes generally available to the public, other than through a breach of this Code; or (ii) is developed independently by a third party with no access to confidential information; or (iii) subject to Section 3, is required to be disclosed by law;
- (d) 'non-central bank board member' means a member of the T2S Board who is not an ECB or an NCB staff member;
- (e) 'mandate' means the mandate set out in Annex I;

(f) 'member' means a member of the T2S Board, including the Chairperson;

(g) 'potential suppliers' means commercial entities having an interest in providing T2S-related goods and/or services to a euro area or non-euro area central bank that has committed to settle its national currency via T2S.

2. Avoidance of conflicts of interest

2.1. A conflict of interest arises with respect to the provision of goods and/or services relevant to the T2S Board's mandate where a member has a commercial or professional interest, or a stake, in a potential supplier, whether through ownership, control, investment or otherwise, which influences or may influence the impartial and objective performance of their duties as a member.

2.2. Members act in the general interest of the Eurosystem and the T2S Programme. They avoid any situations that are likely to give rise to a conflict of interest.

2.3. If a conflict of interest arises or is likely to arise in connection with the T2S Board's tasks, the member concerned makes known such actual or potential conflict of interest to the compliance authority of their central bank (or, in the case of a non-central bank board member, to the ECB's Ethics Officer) by using the form set out in Appendix 2 and simultaneously informs the Chairperson thereof. If the compliance authority (or, in the case of a non-central bank board member, to the ECB's Ethics Officer) concludes that a conflict of interest exists, it gives its recommendation to the Governor of the central bank concerned (or, in the case of a non-central bank board member, to the ECB's President) regarding the appropriate management of the conflict of interest, and the Governor/President informs the Chairperson thereof without undue delay. The Governor/President provides the necessary details to enable the Chairperson to have an informed view on the appropriate management of the conflict of interest.

2.4. If, during a T2S Board meeting, a member has reason to believe that the participation of another member in the discussion, voting or written procedure of the T2S Board could give rise to a conflict of interest, they inform the Chairperson immediately.

2.5. The Chairperson invites the member who has identified an actual or potential conflict of interest pursuant to Section 2.3 or about whom concerns of a conflict of interest have been raised pursuant to Section 2.4 to state whether an actual or potential conflict of interest exists. If the Chairperson is not content with the statement of the member then any relevant item is withdrawn from the agenda. The Chairperson informs the compliance authority of the central bank concerned (or, in the case of a non-central bank board member, the ECB's Ethics Officer) about any such case without undue delay and, if deemed necessary, the Governing Council.

2.6. If the Chairperson is concerned by Sections 2.3, 2.4 or 2.5, the Chairperson informs the Deputy Chairperson.

2.7. A member must not vote on any matter in respect of which they have a conflict of interest. This also applies to a member who is a member of staff of the 4CB if the T2S Board is deciding on the validation of 4CB deliveries.

3. Proper use of confidential information

3.1. Members use confidential information solely for the purposes of and in the interests of the Eurosystem and the T2S Programme and in accordance with the T2S Board's mandate.

3.2. Members must not disclose confidential information to third parties and, as regards members who are staff members of the ECB or an NCB, may only disclose confidential information to members of the staff of their central bank or another central bank on a strict 'need to know' basis in order to provide advice to enable an opinion on a specific issue to be formed. Confidential information marked 'members only' may in principle not be disclosed by members to members of the staff of their central bank nor to other central banks unless otherwise agreed by the T2S Board.

3.3. Members take all necessary measures to prevent the accidental disclosure of or unauthorised access to confidential information.

3.4. Members must not use their access to confidential information for the benefit of an entity outside the Eurosystem or without any appropriate justification for the benefit of their central bank.

3.5. In so far as a member is ordered by a court or a regulatory, supervisory or other competent authority that has jurisdiction over that member to disclose or make available confidential information, they must:

(a) give prompt written notice, when permitted by law, of such an order to the Chairperson and the compliance authority (or, in the case of a non-central bank board member, the ECB's Ethics Officer) of their central bank, with as much detail as possible;

- (b) obtain expert legal advice as to the lawfulness and enforceability of such an order, if considered necessary by the Chairperson;
- (c) cooperate with all the central banks concerned and provide such assistance as the Chairperson may reasonably request to allow the T2S Board or the central bank of the member concerned to seek legal remedies to protect the confidential information;
- (d) notify the court or authority concerned of the confidential nature of the information and request the court or authority to preserve the confidentiality of the information, to the extent permitted by law.

If the Chairperson is concerned by this Section, they inform the Deputy Chairperson.

4. Transparency and openness

- 4.1. Subject to the requirements regarding confidential information, in their contacts with potential suppliers or trade organisations representing potential suppliers, members strive to maintain fair competition and provide objective and pertinent information to all such potential suppliers or representatives in a coordinated and non-discriminatory manner. Depending on the information to be provided, this aim may be achieved by engaging them in constructive dialogue and sharing documentation with them in consultative groups.
- 4.2. A member gives due consideration to any written communication addressed to them by potential suppliers or trade organisations representing potential suppliers. Members treat such communications as confidential, unless the contrary is explicitly stated by the potential supplier or representative.
- 4.3. Sections 4.1 and 4.2 must not be construed as impeding contacts between the T2S Board and potential suppliers or trade organisations representing potential suppliers. However, members maintain regular exchanges of information within the Eurosystem concerning their contacts with such potential suppliers or representatives.

5. Advice on ethical questions

If a member has any question on the application of the Code, they should seek advice from the ECB's Ethics Officer.

6. Sanctions and final provisions

- 6.1. Without prejudice to the rules on disciplinary proceedings contained in their conditions of employment or to any applicable criminal, disciplinary, administrative or contractual penalty, a member who breaches this Code will immediately be dismissed from the T2S Board and replaced in accordance with the procedures set out in Annex I.
- 6.2. Once a member has ceased their duties, they continue to be bound by Section 3.
- 6.3. A former member must not use confidential information in order to gain employment with a potential supplier, or reveal or use any confidential information acquired by virtue of their participation in the T2S Board as an employee of a potential supplier.
- 6.4. During the first year after their duties have ceased, members continue to avoid any conflict of interest that could arise from any new professional activity or appointment. They must, in particular, inform the T2S Board in writing whenever they intend to engage in any professional activity or accept an appointment, and must seek the T2S Board's advice before committing themselves.
- 6.5. If a former member does not respect the requirements set forth in Sections 6.3 and 6.4, the T2S Board may inform their employer that a conflict of interest arises between their new position and the former one.

7. Addressees and distribution

This Code is addressed to the members of the T2S Board. A copy is distributed to each existing member and to new members upon appointment. Members are required to sign Appendices 1 and 2 before participating in T2S Board meetings.

Appendix 1

DECLARATION OF COMPLIANCE WITH THE CODE OF CONDUCT

By this Declaration, I accept the attached Code and acknowledge my obligations hereunder, in particular my obligation to (a) maintain the confidentiality of confidential information acquired by me; and (b) avoid and declare situations that would involve a conflict of interest in the performance of my duties as a member of the T2S Board in relation to the T2S Programme.

.....
(Signature and date)

.....
(Full name)

.....
(Address)

.....
.....
.....

Appendix 2

DECLARATION OF INTEREST ⁽¹⁾

.....
(Full name)

.....
(Address)

.....
(Occupation)

The T2S Programme is directly or indirectly (e.g. in relation to a family member) affected by the following pecuniary and/or non-pecuniary interests, which might create a conflict of interest within the meaning of this Code ⁽²⁾:

Investment (e.g. direct or indirect in a commercial entity, including subsidiaries or other entities belonging to the same corporate group, which has an interest as a potential supplier to the T2S Programme, unless held via investment or pension funds or similar):

.....
.....
.....
Position (e.g. current or previous, paid or unpaid, with a commercial entity which has an interest as a potential supplier to the T2S Programme):

.....
.....
.....
Income or gifts (e.g. current, previous or expected remuneration, including deferred benefits, options to be exercised at a later stage and pension rights transfers, or gifts, received from a commercial entity which has an interest as a potential supplier to the T2S Programme):

.....
.....
.....
Other:

.....
.....
.....
I hereby declare, on my honour, that the information disclosed is true and complete to the best of my knowledge.

.....
(Signature and date)

.....
(Full name)

⁽¹⁾ If a member has no relevant interest, this should be indicated by stating 'none' in the relevant field(s).

⁽²⁾ A member with a relevant interest should describe all relevant facts and circumstances, using additional space if necessary.

ANNEX IV

PROCEDURES AND REQUIREMENTS FOR THE SELECTION, APPOINTMENT AND REPLACEMENT OF THE NON-CENTRAL BANK MEMBERS OF THE T2S BOARD**1. Call for competition**

- 1.1. The European Central Bank (ECB) will publish a call for competition for experts to be appointed as non-central bank members of the T2S Board and the creation of a reserve list. The call for competition will be carried out in accordance with Decision ECB/2007/5 of 3 July 2007 laying down the Rules on Procurement⁽¹⁾ and as further implemented in Chapter 8 of the ECB's Business Practice Handbook. However, it deviates, in particular, from Article 16a of Decision ECB/2007/5 to a certain extent and will respect at least the main principles of public procurement and ensure proper and transparent competition.
- 1.2. The call for competition sets out, inter alia: (a) the role of the T2S Board; (b) the role of the non-central bank members within the T2S Board; (c) the selection criteria; (d) the economic aspects of the mandate; and (e) the application procedure, including a deadline for receipt of applications.
- 1.3. The call for competition is published in the *Official Journal of the European Union* and on the ECB's website simultaneously. Where appropriate, the ECB may use additional means to publicise the call for competition. In the case of discrepancies, the version published in the *Official Journal of the European Union* takes precedence over other versions.
- 1.4. The deadline for candidates to submit an application must be at least 21 calendar days following publication of the call for competition in the *Official Journal of the European Union*.

2. Selection procedure

- 2.1. The Governing Council decides on the composition of the T2S Board on the basis of an Executive Board proposal and appoints all members of the T2S Board.
- 2.2. As regards the non-central bank members of the T2S Board, the Governing Council evaluates the candidates according to the selection criteria in Section 3.
- 2.3. The T2S Board Chairperson, representatives from Eurosystem national central banks, and ECB staff may support the Executive Board in completing the candidate assessment forms, which include a summary of merits and shortcomings against the selection criteria and a recommendation for appointment as to a candidate's suitability.
- 2.4. Contrary to Article 16a(6) of Decision ECB/2007/5, two candidates will be appointed immediately and a reserve list will be set up for potential candidates for future vacancies.

3. Selection criteria

The selection criteria are:

- (a) expertise in the securities settlement business, either as a service provider or as a user of services in this field, as well as expertise relating to the wider Union financial sector;
- (b) at least 10 years of experience interacting with major market players in Union financial markets;
- (c) preferably experience in project management.
- (d) The working language of the T2S Board is English; therefore, the non-central bank members must be able to effectively communicate in English.

4. Reserve list

- 4.1. The ECB will maintain a reserve list of potential candidates.
- 4.2. In case of a vacancy in the T2S Board, the Executive Board may select a candidate from the reserve list according to their ranking in this reserve list and propose them to the Governing Council as a member of the T2S Board for a two-year mandate, renewable once.

⁽¹⁾ OJ L 184, 14.7.2007, p. 34.

4.3. The reserve list remains valid for a period of two years once it has been approved by the Governing Council. The validity of the reserve list may be extended if necessary, for another period of two years.

4.4. Contrary to Article 16a(7) of Decision ECB/2007/5, the reserve list is not open for new applicants.

4.5. Deviating from Article 16a(8) of Decision ECB/2007/5, candidates may access, update or correct their data but may not update or correct their eligibility criteria and selection criteria after the closing date of the call for competition.

5. Appointment

5.1. T2S Board non-central bank members are appointed in a personal capacity. They may not delegate their responsibilities to another member or a third party.

5.2. All appointments are subject to the appointee signing a contract of appointment from the T2S Board Chairperson, a contract with the ECB on indemnities and reimbursement of expenses, and the declarations referred to in Section 6.1.

5.3. The Governing Council appoints T2S Board non-central bank members as non-voting members of the T2S Board for a two-year mandate, renewable once.

6. Declarations

6.1. T2S Board non-central bank members commit to abide by the T2S Board Code of Conduct. Accordingly, they are required to sign the 'Declaration of compliance with the Code of Conduct' in Appendix 1 of Annex III and to complete and sign the 'Declaration of interest' in Appendix 2 of Annex III.

6.2. T2S Board non-central bank members are also required to sign the declarations provided in the call.

7. Termination and replacement

7.1. The Governing Council may terminate the mandate of a T2S Board non-central bank member in the case of a conflict of interest, breach of duty, inability to perform their duties, breach of the Code of Conduct or serious misconduct.

7.2. The mandate is considered as terminated when the non-central bank member resigns or their mandate expires without being renewed.

7.3. If a mandate is terminated prior to the end of a two-year term, Sections 4.2 and 4.3 apply.

CORRIGENDA**Corrigendum to Political and Security Committee Decision EUTM Somalia/1/2011 of 6 December 2011 on the acceptance of third States' contributions to the European Union military mission to contribute to the training of Somali security forces (EUTM Somalia)**

(2011/815/CFSP)

(Official Journal of the European Union L 324 of 7 December 2011)

On page 36, recital 1:

for: '(1) The Commander of EUTM Somalia held Force Generation and Manning Conferences on 17 November 2008, 16 December 2008 and 19 March 2009.'

read: '(1) The Commander of EUTM Somalia held a Force Generation and Manning Conference on 23 August 2011.'

On page 36, Article 1:

for: 'Taking into account the findings of the Force Generation and Manning Conferences of 17 November 2008, 16 December 2008 and 19 March 2009 and ...',

read: 'Taking into account the findings of the Force Generation and Manning Conference of 23 August 2011 and ...'.

Procès-verbal of rectification to the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Serbia, of the other part, signed at Luxemburg on 29 April 2008

(Official Journal of the European Union L 28 of 30 January 2010, p. 2. Corrigendum published in Official Journal of the European Union L 58 of 9 March 2010, p. 22)

This rectification has been carried out by means of a procès-verbal of rectification signed at Brussels on 2 March 2012 with the Council as depositary.

1. On page 139, Annex IIIa, 'Serbian tariff concessions for Community agricultural products', 'Referred to in Article 12(2)(a)':

The following CN codes are to be added after CN code 5003 00 00:

'51	WOOL, FINE OR COARSE ANIMAL HAIR; HORSEHAIR YARN AND WOVEN FABRIC
52	COTTON
5301	Flax, raw or processed but not spun; flax tow and waste (including yarn waste and garnetted stock)
5302	True hemp (<i>Cannabis sativa</i> L.) raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock)

2. On page 174, Annex IIIId, 'Serbian tariff concessions for Community agricultural products', 'Referred to in Article 12(2)(c)':

for:

'1507	Soya-bean oil and its fractions, whether or not refined, but not chemically modified:						
1507 10	– Crude oil, whether or not degummed:						
1507 10 90	– – Other	80 %	70 %	60 %	50 %	40 %	20 %'

read:

'1517	Margarine, edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of heading 1516:						
1517 10	– Margarine, excluding liquid margarine:						
1517 10 90	– – Other	80 %	70 %	60 %	50 %	40 %	20 %'

3. On page 383, title of Annex IV to Protocol 3:

for: 'ANNEX V to Protocol 3' (*),

read: 'ANNEX IV to Protocol 3'.

(*) Error in the signed Agreement. The text of OJ L 28, 30.1.2010, p. 383, is correct.

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