



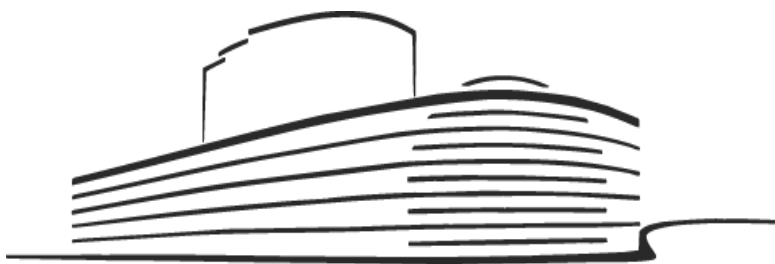
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Request for waiver of Mr Hans-Peter Martin's parliamentary immunity

European Parliament decision of 13 September 2011 on the request for waiver of the immunity of Hans-Peter Martin (2011/2104(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Hans-Peter Martin, forwarded on 29 April 2011 by the Vienna Public Prosecutor's Office and announced in plenary sitting on 12 May 2011,
 - having heard Hans-Peter Martin in accordance with Rule 7(3) of its Rules of Procedure,
 - having regard to Article 9 of the Protocol of 8 April 1965 on the Privileges and Immunities of the European Union, and Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,
 - having regard to the judgments of the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and 21 October 2008 and 19 March 2010¹,
 - having regard to the provisions of Article 57 of the Austrian Constitution,
 - having regard to Rules 6(2) and 7 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A7-0267/2011),
- A. whereas the Vienna Public Prosecutor's Office has requested the waiver of immunity of Hans-Peter Martin, Member of the European Parliament, in order to enable the Austrian authorities to conduct the necessary investigations and to take legal action against Hans-Peter Martin, to call for a search of his house or offices, to seize documents and to carry out computer checks or any other electronic searches which may be necessary and to initiate criminal proceedings against Mr Martin on the grounds of misappropriation of party funding or any other legal description that might be given to the alleged offence(s) before the criminal courts having jurisdiction,
- B. whereas the waiver of immunity of Hans-Peter Martin concerns alleged offences related to misappropriation of party funding, covered by Section 2b of the Law on Political Parties,
- C. whereas it is therefore advisable to recommend that parliamentary immunity be waived in the case in question,
1. Decides to waive the immunity of Hans-Peter Martin;
 2. Instructs its President to forward this decision and the report of its competent committee

¹ Case 101/63 *Wagner v Fohrmann and Krier* [1964] ECR 195; Case 149/85 *Wybot v Faure and Others* [1986] ECR 2391; Case T-345/05 *Mote v Parliament* [2008] ECR II-2849; Joined Cases C-200/07 and C-201/07 *Marra v De Gregorio and Clemente* [2008] ECR I-7929; Case T-42/06 *Gollnisch v Parliament*.

immediately to the appropriate authorities of the Austrian Republic and to Hans-Peter Martin.

**European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
(FRONTEX) ***I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) (COM(2010)0061 – C7-0045/2010 – 2010/0039(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0061),
 - having regard to Article 294(2) and Articles 74 and 77(1)(b) and (c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0045/2010),
 - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
 - having regard to Article 294(3) and Article 77(2)(b) and (d) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the Polish Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 15 July 2010¹,
 - having regard to the undertaking given by the Council representative by letter of 7 July 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A7-0278/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Approves its statement annexed to this resolution;

¹ OJ C 44, 11.2.2011, p. 162.

3. Takes note of the Commission statements annexed to this resolution;
4. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 74 and *points (b) and (d) of Article 77(2)* thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) The development of a forward-looking and comprehensive European migration policy, based on *human rights*, solidarity and responsibility, *especially for those Member States facing specific and disproportionate pressures*, remains a key policy objective for the Union.
- (2) Union policy in the field of the external borders aims at an integrated border management ensuring a uniform and high level of control and surveillance, which is a necessary corollary to the free movement of persons within the Union and a fundamental component of an area of freedom, security and justice. To that end, the establishment of common rules on standards and procedures for the control and surveillance of the external borders is contemplated.
- (3) The efficient implementation of the common rules on standards and procedures for the control and surveillance of the external borders of the Member States calls for increased coordination of the operational cooperation between the Member States.

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- (4) Efficient management of the external borders through checks and surveillance contributes to combat illegal immigration and trafficking in human beings and to reduce the threats to the internal security, public policy, public health and international relations of the Member States.

¹ OJ C 44, 11.2.2011, p.162.

² Position of the European Parliament of 13 September 2011.

- (5) Border control at the external borders is in the interest not only of the Member State at whose external borders it is carried out, but also of all Member States which have abolished internal border controls.
- (6) In 2004 the Council adopted Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union¹ ("the Agency") which became operational in May 2005. Regulation (EC) No 2007/2004 was amended in 2007 by Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams².
- (7) ***A further enhancement of the role of the Agency is in line with the objective of the Union to develop a policy with a view to the gradual introduction of the concept of Integrated Border Management. The Agency should, within the limits of its mandate, support the Member States in implementing that concept as defined in the Council conclusions on Integrated Border Management of 4-5 December 2006.***
- (8) The multi-annual programme for an area of freedom, security and justice serving the citizen (the Stockholm Programme) adopted by the European Council on 10-11 December 2009 calls for a clarification and enhancement of the role of ***the Agency*** regarding the management of the external borders.
- (9) The mandate of the Agency should therefore be revised in order to strengthen in particular its operational capabilities while ensuring that all measures taken are proportionate to the objectives pursued, ***are effective*** and fully respect fundamental rights and the rights of refugees and asylum seekers, including in particular the prohibition of *refoulement*.
- (10) Current possibilities for providing effective assistance to the Member States regarding the operational aspects of external border management should be reinforced in terms of the available technical resources. The Agency should be able to plan with sufficient accuracy the coordination of joint operations or pilot projects.
- (11) Minimum levels of necessary technical equipment provided by the Agency and/or, on a compulsory basis, by the Member States ***on the basis of annual bilateral negotiations and agreements*** will largely contribute to a better planning and implementation of the envisaged operations coordinated by the Agency.
- (12) The Agency should manage lists of technical equipment ***owned either*** by the Member States ***or*** by the Agency ***and equipment co-owned by the Member States and the Agency by setting up and keeping centralised records in a technical equipment pool. That pool*** should contain the minimum number of categories of technical equipment necessary to enable the Agency to conduct its activities.
- (13) To ensure effective operations, ***teams of border guards should be set up by the Agency. Member States should contribute to these teams with*** an appropriate number of skilled

¹ OJ L 349, 25.11.2004, p. 1.

² OJ L 199, 31.7.2007, p. 30.

border guards *and make them available for deployment, unless they are faced with exceptional situations substantially affecting the discharge of national tasks.*

- (14) The Agency should be able to contribute to those teams with *the* border guards *who are* seconded by Member States to the Agency on a semi-permanent basis, who shall be subject, in the exercise of their tasks and powers, to the same legal framework as the guest officers contributed directly to those teams by Member States. The Agency should adapt its internal rules on seconded national experts to allow for direct instructions by the host Member State to the border guards during joint operations and pilot projects.
- (15) A well-defined operational plan, including an evaluation and an obligation to report incidents, agreed prior to the start of joint operations and pilot projects amongst *the Agency and the host Member State, in consultation with the* participating Member States, will largely contribute to the objectives of this Regulation with a more harmonised *modus operandi* regarding the coordination of joint operations and pilot projects.
- (16) The incident reporting scheme should be used by the Agency to transmit to the relevant public authorities and to its Management Board ("the Management Board") any information concerning credible allegations of breaches of, in particular, Regulation (EC) No 2007/2004 or the Schengen Borders Code established by Regulation (EC) No. 562/2006¹, including of fundamental rights, during joint operations, pilot projects *or rapid interventions.*
- (17) Risk analysis has been demonstrated to be a key element for conducting operations at the external borders. Its quality should be improved by adding a method for *assessing the capacity of Member States to face upcoming challenges, including present and future threats and pressures at the external borders. However, those assessments should be without prejudice to the Schengen evaluation mechanism.*
- (18) The Agency should provide training, including on fundamental rights, *access to international protection and access to asylum procedures*, at European level, for instructors of the national border guards of Member States and additional training and seminars related to control and surveillance at the external borders and removal of third-country nationals illegally present in the Member States for officers of the competent national services. The Agency may organise training activities, *including an exchange programme*, in cooperation with Member States on their territory. Member States should integrate the results of the Agency's work in that perspective in the national training programmes of their border guards.
- (19) The Agency should monitor and contribute to the developments in scientific research relevant to its field of activity and disseminate that information to the Commission and the Member States.
- (20) In most Member States, the operational aspects of the return of third-country nationals illegally present in the Member States fall within the competence of the authorities responsible for controlling the external borders. As there is a clear added value in performing those tasks at Union level, the Agency should, in full compliance with the return policy of the Union, accordingly *ensure the coordination or the organisation of* joint return operations of Member States and identify best practices on the acquisition of

¹ OJ L 105, 13.4.2006, p. 1.

travel documents, and define a code of conduct to be followed during the removal of third-country nationals illegally present on the territories of the Member States. No Union financial means should be made available for activities or operations that are not carried out in conformity with the Charter of Fundamental Rights of the European Union ("the Charter of Fundamental Rights").

- (21) For the purpose of fulfilling its mission and to the extent required for the accomplishment of its tasks, the Agency may cooperate with Europol, the European Asylum Support Office, the European Union Agency for Fundamental Rights and other Union agencies and bodies, the competent authorities of third countries and the international organisations competent in matters covered by Regulation (EC) No 2007/2004 within the framework of working arrangements concluded in accordance with the relevant provisions of the Treaty on the Functioning of the European Union ("TFEU"). The Agency should facilitate operational cooperation between Member States and third countries within the framework of the external relations policy of the Union.
- (22) Cooperation with third countries regarding matters covered by Regulation (EC) No 2007/2004 is increasingly important. To establish a solid cooperation model with relevant third countries, the Agency should be able to launch and finance projects of technical assistance and to deploy liaison officers in third countries *in cooperation with the competent authorities of those countries*. The Agency should be able to invite observers from third countries to participate in its activities, after having provided the necessary training. Establishing cooperation with third countries is also relevant with regard to promoting Union standards of border management, including respect for fundamental rights and human dignity.
- (23) In order to ensure open and transparent employment conditions and equal treatment of staff, the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, laid down in Regulation (EEC, Euratom, ECSC) No 259/68¹, should apply to the staff and to the Executive Director of the Agency, including the rules of professional secrecy or other equivalent duties of confidentiality.
- (24) *Furthermore, specific provisions should be adopted by the Management Board to allow national experts from Member States to be seconded to the Agency. Such provisions should, among others, specify that seconded national border guards to be deployed during joint operations, pilot projects or rapid interventions should be considered as guest officers with the corresponding tasks and powers.*
- (25) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data² applies to the processing of personal data by the Agency. The European Data Protection Supervisor should therefore monitor the processing of personal data by the Agency and have the power to obtain from the Agency access to all information necessary for his or her enquiries.

¹ OJ L 56, 4.3.1968, p. 1.

² OJ L 8, 12.1.2001, p. 1.

- (26) In so far as the Member States are processing personal data, Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹ applies in full.
- (27) When ensuring the operational management of IT systems, the Agency should follow European and international standards, ***including on data protection***, taking into account the highest professional requirements.
- (28) Regulation (EC) No 2007/2004 should therefore be amended accordingly.
- (29) This Regulation respects the fundamental rights and observes the principles recognised in particular by the TFEU and the Charter of Fundamental Rights, notably the right to human dignity, the prohibition of torture and of inhuman or degrading treatment or punishment, the right to liberty and security, the right to the protection of personal data, the right to asylum, the principle of *non-refoulement*, the principle of non-discrimination, the rights of the child, and the right to an effective remedy. This Regulation should be applied by the Member States in accordance with those rights and principles. ***Any use of force should be in accordance with the national law of the host Member State, including the principles of necessity and proportionality.***
- (30) ***The implementation of this Regulation should not affect the rights or obligations of Member States under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue or the Geneva Convention Relating to the Status of Refugees.***
- (31) Since the ***objective*** of this Regulation, namely ***to contribute to the creation of*** an integrated management of operational cooperation at the external borders of the Member States, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union ("TEU"). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve ***that objective***.
- (32) As regards Iceland and Norway, this Regulation 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*², which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC³ on certain arrangements for the application of that Agreement. Consequently, the delegations of the Republic of Iceland and the Kingdom of Norway should participate as members of the Management Board, albeit with limited voting rights.
- (33) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the

¹ OJ L 281, 23.11.1995, p. 31.

² OJ L 176, 10.7.1999, p. 36.

³ OJ L 176, 10.7.1999, p. 31.

European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*¹, which fall within the area referred to in Article 1, points A, B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC². ***Consequently, the delegation of the Swiss Confederation should participate as member of the Management Board, albeit with limited voting rights.***

- (34) As regards Liechtenstein, this Regulation 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*³ which fall within the area referred to in Article 1, points A, B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU⁴. ***Consequently, the delegation of the Principality of Liechtenstein should participate as member of the Management Board, albeit with limited voting rights.***
- (35) In accordance with Articles 1 and 2 of the Protocol (no. 22) on the position of Denmark, annexed to the TEU and the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (36) This Regulation constitutes a development of the 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*⁵; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (37) This Regulation constitutes a development of the 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*⁶; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (38) The Agency should facilitate the organisation of operational actions in which the Member States may avail themselves of the expertise and facilities which Ireland and the United Kingdom may be willing to offer, in accordance with modalities to be decided on a case-by-case basis by the Management Board. To that end, representatives of Ireland and the United Kingdom should be invited to attend all the meetings of the Management

¹ OJ L 53, 27.2.2008, p. 52.

² OJ L 53, 27.2.2008, p. 1.

³ OJ L 160, 18.6.2011, p. 21.

⁴ OJ L **160, 18.6.2011, p. 19.**

⁵ OJ L 131, 1.6.2000, p. 43.

⁶ OJ L 64, 7.3.2002, p. 20.

Board in order to allow them to participate fully in the deliberations for the preparation of such operational actions.

- (39) A controversy exists between the Kingdom of Spain and the United Kingdom on the demarcation of the borders of Gibraltar.
- (40) The suspension of the applicability of this Regulation to the borders of Gibraltar does not imply any change in the respective positions of the States concerned,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments

Regulation (EC) No 2007/2004 is hereby amended as follows:

- (1) Article 1 is amended as follows:

- (a) paragraph 2 is replaced by the following:

"2. While considering that the responsibility for the control and surveillance of external borders lies with the Member States, the Agency, ***as a body of the Union as defined in Article 15 and in accordance with Article 19***, shall facilitate and render more effective the application of existing and future Union measures relating to the management of external borders, in particular the Schengen Borders Code established by Regulation (EC) No 562/2006^{*}. It shall do so by ensuring the coordination of the actions of the Member States in the implementation of those measures, thereby contributing to an efficient, high and uniform level of control on persons and of surveillance of the external borders of the Member States.

The Agency shall fulfil its tasks in full compliance with the relevant Union law, including the Charter of Fundamental Rights of the European Union ("the Charter of Fundamental Rights"); the relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 ("the Geneva Convention"); obligations related to access to international protection, in particular the principle of non-refoulement; and fundamental rights, and taking into account the reports of the Consultative Forum referred to in Article 26a of this Regulation.

* Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 14.4.2006, p. 1)".

- (b) paragraph 3 is replaced by the following:

"3. ***The Agency shall also provide the Commission and the Member States with the necessary technical support and expertise in the management of the external borders and promote solidarity between Member States, especially those facing specific and disproportionate pressures.***"

(2) Article 1a is amended as follows:

(a) *the following point is inserted:*

"1a. "European Border Guard Teams" means for the purpose of Article 3, Article 3b, Article 3c, Article 8 and Article 17 teams to be deployed during joint operations and pilot projects; for the purpose of Articles 8a to 8g teams to be deployed for rapid border interventions ("rapid interventions") within the meaning of Regulation (EC) No 863/2007 and for the purpose of points (ea) and (g) of Article 2(1) and Article 5, teams to be deployed during joint operations, pilot projects and rapid interventions;*

** Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams (JO L 199, 31.7.2007, p.30)".*

(b) point 2 is replaced by the following:

"2. "host Member State" means a Member State in which a rapid intervention, a joint operation or a pilot project takes place or from which it is launched;"

(c) point 4 is replaced by the following:

"4. "members of the teams" means border guards of Member States serving with the European Border Guard Teams other than those of the host Member State;"

(d) *point 5 is replaced by the following:*

"5. "requesting Member State" means a Member State whose competent authorities request the Agency to deploy teams for rapid interventions on its territory;"

(3) Article 2 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (c) and (d) are replaced by the following:

*"(c) carry out risk analyses , including the **assessment** of the capacity of Member States to face threats and pressure at the external borders;*

(d) participate in the development of research relevant for the control and surveillance of external borders;

(ii) *the following point is inserted:*

"(da) assist Member States in circumstances requiring increased technical and operational assistance at the external borders, taking into account

that some situations may involve humanitarian emergencies and rescue at sea;"

(iii) *point (e) is replaced by the following:*

"(e) assist Member States in circumstances requiring increased technical and operational assistance at the external borders, especially those Member States facing specific and disproportionate pressures;"

(iv) *the following point is inserted:*

"(ea) set up European Border Guard Teams that are to be deployed during joint operations, pilot projects and rapid interventions;"

(v) *point (f) is replaced by the following:*

*"(f) provide Member States with the necessary support, including, upon request, coordination **or organisation of** joint return operations;"*

(vi) *point (g) is replaced by the following:*

"(g) deploy border guards from the European Border Guard Teams to Member States in joint operations, pilot projects or in rapid interventions in accordance with Regulation (EC) No 863/2007;"

(vii) *the following points* ■ *are added:*

*"(h) develop and operate, **in accordance with Regulation (EC) No 45/2001**, information systems that enable swift and reliable exchanges of information regarding emerging risks at the external borders, including the Information and Coordination Network established by Council Decision 2005/267/EC*;*

(i) provide the necessary assistance to the development and operation of a European border surveillance system and, as appropriate, to the development of a common information sharing environment, including interoperability of systems.

* Council Decision of 16 March 2005 establishing a secure web-based Information and Coordination Network for Member States' Migration Management Services (OJ L 83, 1.4.2005, p. 48.)"

(b) *the following paragraph* ■ *is inserted:*

"1a. In accordance with Union and international law, no person shall be disembarked in, or otherwise handed over to the authorities of, a country in contravention of the principle of non-refoulement, or from which there is a risk of expulsion or return to another country in contravention of that principle. The special needs of children, victims of trafficking, persons in need of medical

assistance, persons in need of international protection and other vulnerable persons shall be addressed in accordance with Union and international law."

- (c) in paragraph 2 the last subparagraph is replaced by the following:

"Member States shall report to the Agency on those operational matters at the external borders outside the framework of the Agency. The Executive Director of the Agency ("the Executive Director") shall inform the Management Board of the Agency ("the Management Board") on those matters on a regular basis and at least once a year."

- (4) *The following Article is inserted:*

"Article 2a

Code of Conduct

The Agency shall draw up and further develop a Code of Conduct applicable to all operations coordinated by the Agency. The Code of Conduct shall lay down procedures intended to guarantee the principles of the rule of law and respect for fundamental rights with particular focus on unaccompanied minors and vulnerable persons, as well as on persons seeking international protection, applicable to all persons participating in the activities of the Agency.

The Agency shall develop the Code of Conduct in cooperation with the Consultative Forum referred to in Article 26a."

- (5) Article 3 is replaced by the following:

"Article 3

Joint operations and pilot projects at the external borders

1. The Agency shall evaluate, approve and coordinate proposals for joint operations and pilot projects made by Member States, including the requests of Member States related to circumstances requiring increased technical and operational assistance, ***especially in cases of specific and disproportionate pressures.***

The Agency may itself initiate ***and carry out*** joint operations and pilot projects in cooperation with ***the*** Member States ***concerned and in agreement with the host Member States.***

It may also decide to put its technical equipment at the disposal of Member States participating in the joint operations or pilot projects.

Joint operations and pilot projects should be preceded by a thorough risk analysis.

1a. The Agency may terminate, ***after informing the Member State concerned,*** joint operations and pilot projects if the conditions to conduct those joint operations or pilot projects are no longer fulfilled.

The Member States participating in a joint operation or pilot project may request the Agency to terminate that joint operation or pilot project.

The home Member State shall provide for appropriate disciplinary or other measures in accordance with its national law in the case of violations of fundamental rights or international protection obligations in the course of a joint operation or pilot project.

The Executive Director shall suspend or terminate, in whole or in part, joint operations and pilot projects if he/she considers that such violations are of a serious nature or are likely to persist.

2. The Agency shall constitute a pool of border guards called **European Border Guard Teams** in accordance with Article 3b, for possible deployment during joint operations and pilot projects referred to in paragraph 1. It shall decide on the deployment of human resources and technical equipment in accordance with Articles 3a and 7.

3. The Agency may operate through its specialised branches provided for in Article 16 for the practical organisation of joint operations and pilot projects.

4. The Agency shall evaluate the results of the joint operations and pilot projects and transmit the detailed evaluation reports within 60 days following the end of those joint operations and pilot projects to the Management Board, **together with the observations of the Fundamental Rights Officer referred to in Article 26a**. The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and **effectiveness** of future joint operations and pilot projects and include it in its general report provided for in point (b) of Article 20(2).

5. The Agency **shall** finance or co-finance the joint operations and pilot projects referred to in paragraph 1, with grants from its budget in accordance with the financial rules applicable to the Agency.

5a. Paragraphs 1a and 5 shall apply also to rapid interventions."

(6) The following Articles¹ are inserted:

"Article 3a

Organisational aspects of joint operations and pilot projects

1. The Executive Director shall draw up an operational plan for the joint operations and pilot projects referred to in Article 3(1). The Executive Director and the host Member State, **in consultation with the Member States participating in a joint operation or pilot project**, shall agree on the operational plan detailing the organisational aspects in due time before the envisaged beginning of that joint operation or pilot project.

The operational plan shall **cover all aspects considered necessary for carrying out the joint operation or the pilot project, including** the following:

- (a) a description of the situation, with modus operandi and objectives of the deployment, including the operational aim;
- (b) the foreseeable duration of the joint operation or pilot projects;

- (c) the geographical area where the joint operation or pilot project will take place;
- (d) a description of the tasks and special instructions for the guest officers, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State;
- (e) the composition of the teams of guest officers, *as well as the deployment of other relevant staff*;
- (f) command and control provisions, including the names and ranks of the host Member State's border guards responsible for cooperating with the guest officers and the Agency, in particular those of the border guards who are in command during the period of deployment, and the place of the guest officers in the chain of command;
- (g) the technical equipment to be deployed during the joint operation or pilot project, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial provisions;
- (ga) *detailed provisions on immediate incident reporting by the Agency to the Management Board and to relevant national public authorities*;
- (h) a reporting and evaluation scheme containing ■ benchmarks for the evaluation report and final date of submission of the final evaluation report in accordance with Article 3(4);
- (i) regarding sea operations, specific *information on the application of the relevant jurisdiction and legislation in* the geographical area where the joint operation or pilot project takes place, *including references to international and Union law regarding interception, rescue at sea and disembarkation*;
- (j) *modalities of cooperation with third countries, other Union agencies and bodies or international organisations.*

2. Any amendments to or adaptations of the operational plan shall require the agreement of the Executive Director and the host Member State. A copy of the amended or adapted operational plan shall immediately be sent by the Agency to the participating Member States.

3. The Agency shall, as part of its coordinating tasks, ensure the operational implementation of all the organisational aspects, including the presence of a staff member of the Agency *during the* joint operations and pilot projects referred to in this Article.

Article 3b

Composition and deployment of *European Border Guard Teams*

1. On a proposal by the Executive Director, the Management Board shall decide by an absolute majority of its members with a right to vote on the profiles and the overall number of border guards to be made available for the *European Border Guard Teams*. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall numbers. Member States shall contribute to the *European Border Guard*

Teams via a national pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles.

2. *The contribution by Member States as regards their border guards to specific joint operations and pilot projects for the following year shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with those agreements,* Member States shall make the border guards available for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Such a request shall be made at least **45** days before the intended deployment. The autonomy of the home Member State in relation to the selection of staff and the duration of their deployment shall remain unaffected.

3. The Agency shall also contribute to the *European Border Guard Teams* with competent border guards seconded by the Member States as national experts pursuant to Article 17(5). *The contribution by Member States as regards the secondment of their border guards to the Agency for the following year shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States.*

In accordance with those agreements, Member States shall make the border guards available for secondment, unless that would seriously affect the discharge of national tasks. In such situations Member States may recall their seconded border guards.

The maximum duration of such secondments shall not exceed six months in a 12 month period. The seconded border guards shall, for the purpose of this Regulation, be considered as guest officers and have the tasks and powers provided for in Article 10. The Member State having seconded the border guards in question shall be considered as the home Member State as defined in Article 1a(3) for the purpose of applying Articles 3c, 10 and 10b. Other staff employed by the Agency on a temporary basis who are not qualified to perform border control functions shall only be deployed during joint operations and pilot projects for coordination tasks.

4. Members of the *European Border Guard Teams* shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, *including access to asylum procedures*, and human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, *they* shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

5. In accordance with Article 8g, the Agency *shall* nominate a coordinating officer for each joint operation or pilot project where members *of the European Border Guard Teams* will be deployed.

The role of the coordinating officer shall be to foster cooperation and coordination amongst host and participating Member States.

6. The Agency shall meet the costs incurred by the Member States in making their border guards available pursuant to paragraph 1 of this Article for the *European Border Guard Teams* in accordance with Article 8h.

6a. The Agency shall inform the European Parliament on an annual basis of the number of border guards that each Member State has committed to the European Border Guard Teams in accordance with this Article.

Article 3c

Instructions to the **European Border Guard Teams**

1. During deployment of **European Border Guard Teams**, the host Member State shall issue instructions to the teams in accordance with the operational plan referred to in Article 3a (1).

2. The Agency, via its coordinating officer as referred to in Article 3b(5), may communicate its views on the instructions referred to in paragraph 1 to the host Member State. If it does so, the host Member State shall take those views into consideration.

3. In accordance with Article 8g, the host Member State shall give the coordinating officer all necessary assistance, including full access to the **European Border Guard Teams** at all times throughout the deployment.

4. Members of the **European Border Guard Teams** shall, while performing their tasks and exercising their powers, remain subject to the disciplinary measures of their home Member State."

(7) Article 4 is replaced by the following:

"Article 4

Risk analysis

The Agency shall develop and apply a common integrated risk analysis model.

It shall prepare both general and tailored risk analyses to be submitted to the Council and the Commission.

■

For the purpose of risk analysis, the Agency may assess, after prior consultation with the Member States concerned, their capacity ■ to face upcoming challenges, including present and future threats and pressures at the external borders of the Member States, especially for those Member States facing specific and disproportionate pressures. To that end, the Agency may assess the equipment and the resources of the Member States regarding border control. The assessment shall be based on information given by the Member States concerned, and on the reports and results of joint operations, pilot projects, rapid interventions and other activities of the Agency. Those assessments are without prejudice to the Schengen evaluation mechanism.

The results of those **assessments** shall be presented ■ to the Management Board.

For the purposes of this Article, Member States shall provide the Agency with all necessary information regarding the situation and possible threats at the external borders.

The Agency shall incorporate the results of a common integrated risk analysis model in its development of the common core curricula for the training of border guards referred to in Article 5."

(8) Article 5 *is amended as follows*:

(a) *the following paragraphs are inserted before the first paragraph:*

"The Agency shall provide border guards who are members of the European Border Guard Teams with advanced training relevant to their tasks and powers and shall conduct regular exercises with those border guards in accordance with the advanced training and exercise schedule referred to in the annual work programme of the Agency.

The Agency shall also take the necessary initiatives to ensure that all border guards and other personnel of the Member States who participate in the European Border Guard Teams, as well as the staff of the Agency, have received, prior to their participation in operational activities organised by the Agency, training in relevant Union and international law, including fundamental rights and access to international protection and guidelines for the purpose of identifying persons seeking protection and directing them towards the appropriate facilities."

(b) the first paragraph is replaced by the following:

"The Agency shall establish and further develop common core curricula for the training of border guards and provide training at European level for instructors of the national border guards of Member States, including with regard to fundamental rights, access to international protection ***and relevant maritime law.***

The Agency shall draw up the common core curricula after consulting the Consultative Forum.

Member States shall integrate the common core curricula in the training of their national border guards.

(c) *the following paragraph is inserted after the last paragraph:*

"The Agency shall establish an exchange programme enabling border guards participating in the European Border Guard Teams to acquire knowledge or specific know-how from experiences and good practices abroad by working with border guards in a Member State other than their own."

(9) Articles 6 and 7 are replaced by the following:

"Article 6

Monitoring and contributing to research

The Agency shall ***proactively*** monitor and contribute to the developments in research relevant for the control and surveillance of the external borders and disseminate that information to the Commission and the Member States.

Article 7

Technical equipment

1. The Agency may acquire, *itself or in co-ownership with a Member State*, or lease technical equipment for external border control to be deployed during joint operations, pilot projects, *rapid interventions*, joint return operations or technical assistance projects in accordance with the financial rules applicable to the Agency. Any acquisition *or leasing* of equipment entailing significant costs to the Agency shall be preceded by a thorough needs and cost/benefit analysis. ***Any such expenditure shall be provided for in the Agency's budget as adopted by the Management Board in accordance with Article 29(9).*** Where the Agency acquires or leases major technical equipment, such as open sea and coastal patrol vessels or vehicles, the following conditions shall apply:

(a) in case of acquisition *and co-ownership*, the Agency shall agree formally with one Member State that the latter will provide for the registration of the equipment ***in accordance with the applicable legislation of that Member State***;

(b) in case of leasing, the equipment shall be registered in a Member State.

On the basis of a model agreement drawn up by the Agency, the Member State of registration and the Agency shall agree on modalities ensuring the periods of full availability of the co-owned assets for the Agency, as well as on the terms of use of the equipment.

The Member State of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner.

2. The Agency shall set up and keep centralised records of equipment in a technical equipment pool composed of equipment owned *either by the Member States or by the Agency and equipment co-owned by the Member States and the Agency* for external border control purposes. The technical equipment pool shall contain a minimum number per type of technical equipment as referred to in paragraph 5 of this Article. The equipment listed in the technical equipment pool shall be deployed during the activities referred to in Articles 3, 8a and 9.

3. Member States shall contribute to the technical equipment pool referred to in paragraph 2. ***The contribution by Member States to the pool and deployment of the technical equipment for specific operations shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with those agreements and*** to the extent that it forms part of the minimum number of technical equipment for a given year, Member States shall make their technical equipment available ***for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Such request shall be made at least 45 days before the intended deployment. The contributions to the technical equipment pool shall be reviewed annually.***

4. The Agency shall manage the records of the technical equipment pool as follows:

- (a) classification by type of equipment and by type of operation;
- (b) classification by owner (Member State, Agency, other);
- (c) overall numbers of required equipment;
- (d) crew requirements if applicable;
- (e) other information, such as registration details, transportation and maintenance requirements, national applicable export regimes, technical instructions, or other relevant information to handle the equipment correctly.

5. The Agency shall finance the deployment of the technical equipment which forms part of the minimum number of technical equipment provided by a given Member State for a given year. The deployment of technical equipment which does not form part of the minimum number of technical equipment shall be co-financed by the Agency up to a maximum of **100%** of the eligible expenses, ***taking into account the particular circumstances of the Member States deploying such technical equipment.***

On a proposal of the Executive Director, the Management Board shall decide, in accordance with Article 24, on a yearly basis, on the rules relating to technical equipment, including the required overall minimum numbers per type of technical equipment, the conditions for deployment and reimbursement of costs. For budgetary purposes that decision should be taken by the Management Board by 31 March each year.

The Agency shall propose the minimum number of technical equipment in accordance with its needs, notably in order to be able to carry out joint operations, pilot projects, ***rapid interventions*** and joint return operations, in accordance with the its work programme for the year in question.

If the minimum number of technical equipment proves to be insufficient to carry out the operational plan agreed for joint operations, pilot projects, rapid interventions or joint return operations, the Agency shall revise it on the basis of justified needs and of an agreement with the Member States.

6. The Agency shall report on the composition and the deployment of equipment which is part of the technical equipment pool to the Management Board on a monthly basis. Where the minimum number of technical equipment referred to in paragraph 5 is not reached, the Executive Director shall inform the Management Board without delay. The Management Board shall take a decision on the prioritisation of the deployment of the technical equipment urgently and take the appropriate steps to remedy the identified shortcomings. It shall inform the Commission of the identified shortcomings and the steps taken. The Commission ***shall*** subsequently inform the European Parliament and the Council thereof, communicating as well its own assessment.

6a. The Agency shall inform the European Parliament on an annual basis of the number of technical equipment that each Member State has committed to the technical equipment pool in accordance with this Article."

(10) Article 8 is ***amended as follows:***

(a) *paragraph 1 is replaced by the following:*

"1. Without prejudice to Article 78(3) of the Treaty on the Functioning of the European Union ("TFEU"), one or more Member States facing specific and disproportionate pressures and confronted with circumstances requiring increased technical and operational assistance when implementing their obligations with regard to control and surveillance of external borders may request the Agency for assistance. The Agency shall in accordance with Article 3 organise the appropriate technical and operational assistance for the requesting Member State(s)."

(b) *in paragraph 2 the following point is added:*

"(c) deploy border guards from the European Border Guard Teams."

(c) *paragraph 3 is replaced by the following:*

"3. The Agency may acquire technical equipment for checks and surveillance of external borders to be used by its experts and within the framework of rapid interventions for their duration."

(11) *Article 8a is replaced by the following:*

"Article 8a

Rapid interventions

At the request of a Member State faced with a situation of urgent and exceptional pressure, especially the arrival at points of the external borders of large numbers of third-country nationals trying to enter the territory of that Member State illegally, the Agency may deploy for a limited period one or more European Border Guard Teams (hereinafter referred to as "team(s)") on the territory of the requesting Member State for the appropriate duration in accordance with Article 4 of Regulation (EC) No 863/2007."

(12) *In Article 8d, paragraph 5 is replaced by the following:*

"5. If the Executive Director decides to deploy one or more teams, the Agency together with the requesting Member State shall draw up an operational plan in accordance with Article 8e immediately, and in any event no later than five working days from the date of the decision."

(13) *In Article 8e, paragraph 1 is amended as follows:*

(a) *points (e), (f) and (g) are replaced by the following:*

"(e) the composition of the teams, as well as the deployment of other relevant staff;

(f) command and control provisions, including the names and ranks of the border guards of the host Member State responsible for cooperating with the teams, in particular of those border guards who are in command of the teams

during the period of deployment, and the place of the teams in the chain of command;

- (g) the technical equipment to be deployed together with the teams, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial provisions.";

(b) the following points *are* added:

"(h) ***detailed provisions on immediate incident reporting by the Agency to the Management Board and to relevant national public authorities;***

(i) a reporting and evaluation scheme containing ■ benchmarks for the evaluation report and final date of submission of the final evaluation report in accordance with Article 3(4).

(j) regarding sea operations, ***specific information on the application of the relevant jurisdiction and legislation in*** the geographical area where the rapid intervention takes place, ***including references to international and Union law regarding interception, rescue at sea and disembarkation;***

(k) ***modalities of cooperation with third countries, other Union agencies and bodies or international organisations.***".

(14) In Article 8h(1), ***the introductory part*** is replaced by the following:

"1. The Agency shall fully meet the following costs incurred by Member States in making available their border guards for the purposes mentioned in Article 3(2), Article 8a and Article 8c:".

(15) Article 9 is replaced by the following:

"Article 9

Return cooperation

1. Subject to the return policy of the Union, and in particular Directive 2008/115/EC*, ***and without entering into the merits of return decisions***, the Agency shall provide the necessary assistance, and at the request of the participating Member States ensure the coordination ***or the organisation of*** joint return operations of Member States, ***including through the chartering of aircraft for the purpose of such operations.*** The Agency ***shall*** finance or co-finance the operations and projects referred to in this paragraph with grants from its budget in accordance with the financial rules applicable to the Agency. The Agency may also use ■ financial means ***of the Union*** available in the field of return. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect for the Charter of Fundamental Rights.

2. The Agency shall develop a Code of Conduct for the return of illegally present third-country nationals ■ which shall apply during all joint return operations coordinated

by the Agency, describing common standardised procedures which should simplify the organisation of joint return *operations* and assure return in a humane manner and with full respect for fundamental rights, in particular the principles of human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, the right to liberty and security and the rights to the protection of personal data and non-discrimination.

3. The Code of Conduct shall in particular pay attention to the obligation set out in Article 8(6) of Directive 2008/115/EC to provide for an effective forced-return monitoring system *and to the Fundamental Rights Strategy referred to in Article 26a(1) of this Regulation*. The monitoring of joint return operations should be carried out *on the basis of objective and transparent criteria* and cover the whole joint return operation from the pre-departure phase until the hand-over of the returnees in the country of return.

4. Member States shall *regularly* inform the Agency *of their needs for* assistance or coordination *by* the Agency. The Agency shall draw up a rolling operational plan to provide the requesting Member States with the necessary operational support, including technical equipment referred to in Article 7(1). The Management Board shall decide in accordance with Article 24 on a proposal of the Executive Director, on the content and modus operandi of the rolling operational plan.

5. The Agency shall cooperate with the competent authorities of the third countries referred to in Article 14, identify best practices on the acquisition of travel documents and the return of illegally present third-country nationals.

*OJ L 348, 24.12.2008, p.98."

(16) In Article 10, paragraph 2 is replaced by the following:

"2. While performing their tasks and exercising their powers, guest officers shall comply with Union *and international* law, in accordance with fundamental rights and the national law of the host Member State."

(17) Article 11 is replaced by the following:

"Article 11

Information exchange systems

The Agency may take all necessary measures to facilitate the exchange of information relevant to its tasks with the Commission and the Member States *and, where appropriate, the Union agencies referred to in Article 13*. It shall develop and operate an information system capable of exchanging classified information with *those actors, including personal data referred to in Articles 11a, 11b and 11c*.

The Agency may take all necessary measures to facilitate the exchange of information relevant for its tasks with the United Kingdom and Ireland if it relates to the activities in which they participate in accordance with Article 12 and Article 20(5)."

(18) The following Articles ■ are inserted:

"Article 11a

Data protection

Regulation (EC) No 45/2001 shall apply to the processing of personal data by the Agency.

The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, including those concerning the Data Protection Officer of the Agency. ***Those measures shall be established after consultation of the European Data Protection Supervisor. Without prejudice to Articles 11b and 11c, the Agency may process personal data for administrative purposes.***

Article 11b

Processing of personal data in the context of joint return operations

1. In performing its tasks of organising and coordinating the joint return operations of Member States referred to in Article 9, the Agency may process personal data of persons who are subject to such joint return operations.

2. The processing of such personal data shall respect the principles of necessity and proportionality. In particular, it shall be strictly limited to those personal data which are required for the purposes of the joint return operation.

3. The personal data shall be deleted as soon as the purpose for which they have been collected has been achieved and no later than ten days after the end of the joint return operation.

4. Where the personal data are not transferred to the carrier by a Member State, the Agency may transfer such data.

5. This Article shall be applied in accordance with the measures referred to in Article 11a.

Article 11c

Processing of personal data collected during joint operations, pilot projects and rapid interventions

1. Without prejudice to the competence of Member States to collect personal data in the context of joint operations, pilot projects and rapid interventions, and subject to the limitations set out in paragraphs 2 and 3, the Agency may further process personal data collected by the Member States during such operational activities and transmitted to the Agency in order to contribute to the security of the external borders of the Member States.

2. *Such further processing of personal data by the Agency shall be limited to personal data regarding persons who are suspected on reasonable grounds by the competent authorities of the Member States, of involvement in cross-border criminal activities, in facilitating illegal migration activities or in human trafficking activities as defined in points (a) and (b) of Article 1(1) of Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence*.*

3. *Personal data referred to in paragraph 2 shall be further processed by the Agency only for the following purposes:*

(a) *the transmission, on a case by case basis, to Europol or other Union law enforcement agencies, subject to Article 13,*

(b) *the use for the preparation of risk analyses referred to in Article 4. In the result of the risk-analyses, data shall be depersonalised.*

4. *The personal data shall be deleted as soon as they have been transmitted to Europol or other Union agencies or used for the preparation of risk analyses referred to in Article 4. The term of storage shall in any event not exceed three months after the date of the collection of those data.*

5. *The processing of such personal data shall respect the principles of necessity and proportionality. The personal data shall not be used by the Agency for the purpose of investigations, which remain under the responsibility of the competent authorities of the Member States.*

In particular, it shall be strictly limited to those personal data which are required for the purposes referred to in paragraph 3.

6. *Without prejudice to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents**, onward transmission or other communication of such personal data processed by the Agency to third countries or other third parties shall be prohibited.*

7. *This Article shall be applied in accordance with the measures referred to in Article 11a.*

Article 11d

Security rules on the protection of classified information and non-classified sensitive information

1. The Agency shall apply the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal Rules of Procedure***. Those rules shall apply, *inter alia*, to the exchange, processing and storage of classified information.

2. The Agency shall apply the security principles relating to the processing of non-classified sensitive information as set out in the Decision referred to in paragraph 1 of this

Article and as implemented by the Commission. *The Management Board shall establish measures for the application of those security principles.*

* *OJ L 328, 5.12.2002, p. 17.*

** *OJ L 145, 31.5.2001, p. 43.*

*** *OJ L 317, 3.12.2001, p. 1."*

(19) Articles 13 and 14 are replaced by the following:

"Article 13

Cooperation with Union agencies and bodies and international organisations

The Agency may cooperate with Europol, the European Asylum Support Office, the European Union Agency for Fundamental Rights ("the Fundamental Rights Agency"), other Union agencies and bodies, and the international organisations competent in matters covered by this Regulation within the framework of working arrangements concluded with those bodies, in accordance with the relevant provisions of the TFEU and the provisions on the competence of those bodies. *In every case the Agency shall inform the European Parliament of any such arrangements.*

Onward transmission or other communication of personal data processed by the Agency to other Union agencies or bodies shall be subject to specific working arrangements regarding the exchange of personal data and subject to the prior approval of the European Data Protection Supervisor.

The Agency may also, with the agreement of the Member State(s) concerned, invite observers of Union agencies and bodies or international organisations to participate in its activities referred to in Articles 3, 4 and 5, to the extent that their presence is in accordance with the objectives of those activities, may contribute to the improvement of cooperation and the exchange of best practices, and does not affect the overall safety of those activities. The participation of those observers may take place only with the agreement of the Member State(s) concerned regarding the activities referred to in Articles 4 and 5 and only with the agreement of the host Member State regarding those referred to in Article 3. Detailed rules on the participation of observers shall be included in the operational plan referred to in Article 3a(1). Those observers shall receive the appropriate training from the Agency prior to their participation.

Article 14

Facilitation of operational cooperation with third countries and cooperation with competent authorities of third countries

1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate operational cooperation between Member States and third countries, within the framework of the external relations policy of the Union, including with regard to human rights.

The Agency and the Member States shall comply with norms and standards at least equivalent to those set by Union legislation also when cooperation with third countries takes place on the territory of those countries.

The establishment of cooperation with third countries shall serve to promote European border management standards, also covering respect for fundamental rights and human dignity.

2. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation within the framework of working arrangements concluded with those authorities, in accordance with the relevant provisions of the TFEU. ***Those working arrangements shall be purely related to the management of operational cooperation.***

3. The Agency may deploy ***its*** liaison officers, who should enjoy the highest possible protection to carry out their duties, in third countries. They shall form part of the local or regional cooperation networks of ***immigration*** liaison officers of the Member States set up pursuant to Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network*. Liaison officers shall only be deployed to third countries in which border management practices comply with minimum human rights standards. ***Their deployment shall be approved by the Management Board. Within the framework of the external relations policy of the Union,*** priority for deployment should be given to those third countries, which on the basis of risk analysis constitute a country of origin or transit regarding illegal migration. On a reciprocal basis the Agency may receive liaison officers posted by those third countries also, for a limited period of time. The Management Board shall adopt, on a proposal of the Executive Director and in accordance with Article 24, the list of priorities on a yearly basis.

4. The tasks of the ***Agency's*** liaison officers shall include, in compliance with Union law and in accordance with fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against illegal immigration and the return of illegal migrants.

5. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting the external relations policy of the Union. It may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation.█

6. The Agency may also, ***with the agreement of the Member State(s) concerned*** invite ***observers from*** third countries to participate in its activities referred to in Articles 3, 4 and 5, ***to the extent that their presence is in accordance with the objectives of those activities, may contribute to improving cooperation and the exchange of best practices, and does not affect the overall safety of those activities. The participation of those observers may take place only with the agreement of the Member State(s) concerned regarding the activities referred to in Articles 4 and 5 and only with the agreement of the host Member State regarding those referred to in Article 3. Detailed rules on the participation of observers shall be included in the operational plan referred to in Article 3a(1). Those observers*** shall receive the appropriate training from the Agency prior to their participation.

7. When concluding bilateral agreements with third countries as referred to in Article 2(2), Member States *may* include provisions concerning the role and competence of the Agency, in particular regarding the exercise of executive powers by members of the teams deployed by the Agency during the joint operations or pilot projects referred to in Article 3.

8. The activities referred to in paragraphs 2 and 3 of this Article shall be subject to receiving a prior opinion of the Commission. ***The European Parliament shall be fully informed of those activities as soon as possible.***

* OJ L 64, 2.3.2004, p. 1."

(20) ***In Article 15, the first paragraph is replaced by the following:***

"The Agency shall be a body of the Union. It shall have legal personality."

(21) The following Article is inserted:

"Article 15a

Headquarters Agreement

The necessary arrangements concerning the accommodation to be provided for the Agency in the Member State in which the Agency has its seat and the facilities to be made available by that Member State, as well as the specific rules applicable to the Executive Director, the Deputy Executive Director, the members of the Management Board, the staff of the Agency and members of their families, in that Member State shall be laid down in a Headquarters Agreement between the Agency and the Member State in which the Agency has its seat. The Headquarters Agreement shall be concluded after obtaining the approval of the Management Board. The Member State in which the Agency has its seat should provide the best possible conditions to ensure proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections."

(22) Article 17 is amended as follows:

(a) paragraph 3 is replaced by the following:

"3. For the purpose of implementing Article 3b(5) only a staff member of the Agency subject to the Staff Regulations of Officials of the European Union or to Title II of the Conditions of employment of other servants of the European Union may be designated as coordinating officer in accordance with Article 8g. For the purpose of implementing ***Article 3b(3)***, only national experts seconded by a Member State to the Agency may be designated for attachment to the ***European Border Guard Teams***. The Agency shall designate those national experts who shall be attached to the ***European Border Guard Teams*** in accordance with that Article.";

(b) the following paragraphs are added:

"4. The Management Board shall adopt the necessary implementing measures in agreement with the Commission pursuant to Article 110 of the Staff Regulations of Officials of the European Union.

5. The Management Board may adopt provisions to allow national experts from Member States to be seconded to the Agency. Those provisions shall take into account the requirements of *Article 3b(3)*, in particular the fact that they are considered as guest officers and have the tasks and powers provided for in Article 10. *They shall include provisions on the conditions of deployment.*".

■

(23) Article 20 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) point (h) is replaced by the following:

"(h) establish the organisational structure of the Agency and adopt the Agency's staff policy, in particular the multi-annual staff policy plan■. In accordance with the relevant provisions of the Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of *Council Regulation (EC, Euratom) No 1605/2002* on the Financial Regulation applicable to the general budget of the European Communities* *the multi-annual staff policy plan shall be submitted* to the Commission and the budgetary authority after receiving a favourable opinion of the Commission;

* OJ L 357, 31.12.2002, p. 72. .";

(ii) the following point is added:

"(i) adopt the Agency's multi-annual plan aiming at outlining the future long term strategy regarding the activities of the Agency.";

(b) paragraph 4 is replaced by the following:

"4. The Management Board may advise the Executive Director on any matter strictly related to the development of operational management of the external borders, including activities related to research provided for in Article 6.".

(24) Article 21 is amended as follows:

(a) in paragraph 1, the last sentence is replaced by the following:

"The terms of office shall be extendable.";

(b) paragraph 3 is replaced by the following:

"3. Countries associated with the implementation, application and development of the Schengen *acquis* shall participate in the Agency. They shall have one representative and one alternate each in the Management Board. Under the relevant provisions of their association agreements, arrangements have been developed that specify the nature and extent of, and the detailed rules for, the participation by those countries in the work of the Agency, including provisions on financial contributions and staff."

(25) Article 25 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. The European Parliament or the Council may invite the Executive Director to report on the carrying out of his/her tasks, in particular on the implementation and monitoring of the Fundamental Rights Strategy, the Agency's general report for the previous year, the work programme for the following year and the Agency's multi-annual plan referred to in point (i) of Article 20(2).";

(b) in paragraph 3, the following point is added:

"(g) to ensure the implementation of the operational plans referred to in Articles 3a and 8e."

(26) The following Article is inserted:

"Article 26a

Fundamental Rights Strategy

1. The Agency shall draw up and further develop and implement its Fundamental Rights Strategy. The Agency shall put in place an effective mechanism to monitor the respect for fundamental rights in all the activities of the Agency.

2. A Consultative Forum shall be established by the Agency to assist the Executive Director and the Management Board in fundamental rights matters. The Agency shall invite the European Asylum Support Office, the Fundamental Rights Agency, the United Nations High Commissioner for Refugees and other relevant organisations to participate in the Consultative Forum. On a proposal by the Executive Director, the Management Board shall decide on the composition and the working methods of the Consultative Forum and the modalities of the transmission of information to the Consultative Forum.

The Consultative Forum shall be consulted on the further development and implementation of the Fundamental Rights Strategy, Code of Conduct and common core curricula.

The Consultative Forum shall prepare an annual report of its activities. That report shall be made publically available.

3. A Fundamental Rights Officer shall be designated by the Management Board and shall have the necessary qualifications and experience in the field of fundamental

rights. He/she shall be independent in the performance of his/her duties as a Fundamental Rights Officer and shall report directly to the Management Board and the Consultative Forum. He/she shall report on a regular basis and as such contribute to the mechanism for monitoring fundamental rights.

4. The Fundamental Rights Officer and the Consultative Forum shall have access to all information concerning respect for fundamental rights in relation to all the activities of the Agency."

(27) In Article 33, the following paragraphs are inserted:

"2a. The first evaluation following the entry into force of Regulation (EU) No .../2011 of the European Parliament and of the Council of ... amending Council Regulation No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union⁺ shall also analyse the needs for further increased coordination of the management of the external borders of the Member States, including the feasibility of the creation of a European system of border guards.*

2b. The evaluation shall include a specific analysis on the way the Charter of Fundamental Rights was complied with in the application of this Regulation.

** OJ L....".*

Article 2
Entry into force

This Regulation shall enter into force on the twentieth 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 the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament
The President

For the Council
The President

⁺ OJ: please insert the number, date and publication reference of this Regulation.

Statement by the European Parliament

The European Parliament stresses that the EU institutions should endeavour to use appropriate and neutral terminology in legislative texts when addressing the issue of third country nationals whose presence on the territory of the Member States has not been authorised by the Member States authorities or is not longer authorised. In such cases, EU institutions should not refer to "illegal immigration" or "illegal migrants" but rather to "irregular immigration" or "irregular migrants".

Commission declaration on the monitoring of return operations

The Commission undertakes to report to the European Parliament and the Council on an annual basis on the implementation of the monitoring of return operations as referred to in Article 9(3).

The report will be based on all relevant information made available by the Agency, its Management Board, and the Consultative Forum established by the draft Regulation. In this context it should be noted that the Consultative Forum has full access to all information concerning the respect for fundamental rights in accordance with Article 26a.

The report will pay in particular attention to the application of the "objective and transparent criteria" that need to be observed during return operation carried out by the Frontex Agency.

The first annual report should be presented by the end of 2012.

Commission declaration on the creation of a European system of border guards

The Commission undertakes to launch a feasibility study regarding the creation of a European system of border guards, as referred to in the Stockholm programme, within one year from the adoption of this Regulation. The outcome of the study will feed into the evaluation foreseen by Article 33(2a) of this Regulation.

The Commission also undertakes to analyse if there is a need for a technical amendment of Regulation (EC) No 863/2007- establishing the Rapid Border Intervention Teams - with regard to the use of the name "European Border Guard Teams.

Community regime for the control of exports, transfer, brokering and transit of dual use items *I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items (COM(2010)0509 – C7-0289/2010 – 2010/0262(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0509),
 - having regard to Article 294(2) and Article 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0289/2010),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the contribution submitted by the Portuguese Parliament on the draft legislative act,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A7-0256/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Regulation (EU) No.../2011 of the European Parliament and of the Council amending Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

Whereas:

- (1) Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items² requires dual-use items (including software and technology) to be subject to effective control when they are exported from or transit through the Union, or are delivered to a third country as a result of brokering services provided by a broker resident or established in the Union.
- (2) In order to enable Member States and the European Union to comply with their international commitments, Annex I to Regulation (EC) No 428/2009 establishes the common list of dual use items and technology referred to in Article 3 of that Regulation, which implements internationally agreed dual-use controls. These commitments were taken within the context of participation in the Australia Group, the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Wassenaar Arrangement and the Chemical Weapons Convention (CWC).
- (3) Article 15 of Regulation (EC) No 428/2009 provides for Annex I to be updated in conformity with the relevant obligations and commitments, and any modification thereof, that Member States have accepted as members of the international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties.
- (4) Annex I to Regulation (EC) No 428/2009 should be amended in order to take account of changes agreed within the Australia Group, the Nuclear Suppliers Group, the Missile Technology Control Regime and the Wassenaar Arrangement, subsequent to the adoption of that Regulation.

¹ Position of the European Parliament of 13 September 2011.

² OJ L 134, 29.05.2009, p. 1.

- (5) In order to ease references for export control authorities and operators, an updated and consolidated version of Annex I to Regulation (EC) No 428/2009 should be published.
- (6) Regulation (EC) No 428/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 428/2009 shall be replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the thirtieth 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 ,

For the European Parliament
The President

For the Council
The President

ANNEX

'ANNEX I

List referred to in Article 3 of Council Regulation (EC) No 428/2009

LIST OF DUAL-USE ITEMS

(The text of the Annex is not reproduced here due to its length. For that text, please refer to the Commission proposal (COM(2010)-0509))'

Obsolete Council acts in the field of the common agricultural policy *I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a regulation of the European Parliament and of the Council repealing certain obsolete Council acts in the field of the common agricultural policy (COM(2010)0764 – C7-0006/2011 – 2010/0368(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0764),
 - having regard to Article 294(2) and Article 42, first paragraph and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0006/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 16 February 2011¹,
 - having regard to the undertaking given by the Council representative by letter of 30 June 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 55 and 46(2) of its Rules of Procedure,
 - having regard to the report of the Committee on Agriculture and Rural Development (A7-0252/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 107, 6.4.2011, p. 72.

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council repealing certain obsolete Council acts in the field of the common agricultural policy

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 42 and Article 43(2) thereof,

Having regard to the 1979 Act of Accession, and in particular Article 60, Article 61(5) and Article 72(1) thereof,

Having regard to the 1985 Act of Accession, and in particular Article 234(3) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure *and the requirement for unanimity in the Council provided for in Article 234(3) of the 1985 Act of Accession*²,

Whereas:

- (1) Improving the transparency of Union law is an essential element of the better lawmaking strategy that the institutions of the Union are implementing. In that context it is appropriate to remove from the legislation in force those acts which no longer have real effect.
- (2) *A number of* regulations relating to the Common Agricultural Policy have become obsolete, even though formally they are still in force.
- (3) Regulation (EEC) No 2052/69 of the Council of 17 October 1969 on the Community financing of expenditure arising from the implementation of the Food Aid Convention³ has exhausted its effects since its content has been taken up by successive acts.
- (4) Regulation (EEC) No 1467/70 of the Council of 20 July 1970 fixing certain general rules governing intervention on the market in raw tobacco⁴ has exhausted its effects *as a result of successive reforms of the tobacco sector since 1992*.

¹ OJ C 107, 6.4.2011, p. 72.

² *Position of the European Parliament 13 September 2011.*

³ OJ L 263, 21.10.1969, p. 6.

⁴ OJ L 164, 27.7.1970, p. 32.

- (5) Regulation (EEC) No 3279/75 of the Council of 16 December 1975 on the standardization of the treatment applied by the individual Member States to imports from non-member countries of live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage¹ ■ has exhausted its effects since its content has been taken up by successive acts.
- (6) Council Regulation (EEC) No 1078/77 of 17 May 1977 introducing a system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds² ■ introduced measures applicable until **1981** and has therefore exhausted its effects.
- (7) Council Regulation (EEC) No 1853/78 of 25 July 1978 adopting general rules in connection with special measures for castor seeds³ ■ introduced measures for the application of Council Regulation (EEC) No 2874/77 of 19 December 1977 laying down special measures in respect of castor seeds⁴ whose validity ended on 30 September 1984, and has therefore exhausted its effects.
- (8) Council Regulation (EEC) No 2580/78 of 31 October 1978 extending the 1977/78 marketing year for olive oil, providing for special measures for this sector, and amending Regulation (EEC) No 878/77 as regards the exchange rates to be applied in agriculture⁵ ■ covered only the 1977/78 and 1978/79 marketing years and has therefore exhausted its effects.
- (9) Council Regulation (EEC) No 1/81 of 1 January 1981 laying down general rules for the system of accession compensatory amounts for cereals⁶ ■ was intended for application in the transitional period following the accession of Greece to the European Communities and has therefore exhausted its effects.
- (10) Council Regulation (EEC) No 1946/81 of 30 June 1981 restricting investment aids for milk production⁷ ■ has exhausted its effects since its content has been taken up by successive acts.
- (11) Council Regulation (EEC) No 2989/82 of 9 November 1982 on the granting of aid for the consumption of butter in Denmark, Greece, Italy and Luxembourg⁸ ■ introduced only temporary measures and has therefore exhausted its effects.
- (12) Council Regulation (EEC) No 3033/83 of 26 October 1983 abolishing the 'accession' compensatory amount applicable to liqueur wines⁹ ■ was intended for application in the transitional period following the accession of Greece to the European Communities and has therefore exhausted its effects.

¹ OJ L 326, 18.12.1975, p. 1.

² OJ L 131, 26.5.1977, p. 1.

³ OJ L 212, 2.8.1978, p. 1.

⁴ OJ L 332, 24.12.1977, p. 1.

⁵ OJ L 309, 1.11.1978, p. 13.

⁶ OJ L 1, 1.1.1981, p. 1.

⁷ OJ L 197, 20.7.1981, p. 32.

⁸ OJ L 314, 10.11.1982, p. 25.

⁹ OJ L 297, 29.10.1983, p. 1.

- (13) Council Regulation (EEC) No 564/84 of 1 March 1984 on suspension of aids for investments in the field of milk production¹ ■ covered only the year 1984 and has therefore exhausted its effects.
- (14) Council Regulation (EEC) No 2997/87 of 22 September 1987 laying down, in respect of hops, the amount of aid to producers for the 1986 harvest and providing for special measures for certain regions of production² ■ introduced a special measure applicable until the year **1995** and has therefore exhausted its effects.
- (15) Council Regulation (EEC) No 1441/88 of 24 May 1988 amending Regulation (EEC) No 822/87 on the common organization of the market in wine³ ■ gave the Council power to adjust certain transitory provisions resulting from the accession of Portugal to the European Communities and has therefore exhausted its effects.
- (16) Council Regulation (EEC) No 1720/91 of 13 June 1991 amending Regulation No 136/66/EEC on the establishment of a common organization of the market in oils and fats⁴ ■ introduced several exceptional measures in the common organization of the market in oils and fats, which were applicable until 30 June 1992 at the latest, and has therefore exhausted its effects.
- (17) Council Regulation (EEC) No 740/93 of 17 March 1993 setting Community compensation for definitive discontinuation of milk production in Portugal⁵ ■ introduced a special measure to be implemented until 1996 and has therefore exhausted its effects.
- (18) Council Regulation (EEC) No 741/93 of 17 March 1993 on application of the common intervention price for olive oil in Portugal⁶ ■ was intended for application in the transitional period following the accession of Portugal to the European Communities and has therefore exhausted its effects.
- (19) Council Regulation (EEC) No 744/93 of 17 March 1993 laying down general rules for applying the supplementary trade mechanism to deliveries in Portugal of products other than fruit and vegetables⁷ ■ concerned the applicability to Portugal of Council Regulation (EEC) No 3817/92 of 28 December 1992 laying down general rules for applying the supplementary trade mechanism to imports into Spain of products other than fruit and vegetables⁸, which was subsequently repealed, and has therefore exhausted its effects.

¹ OJ L 61, 2.3.1984, p. 34.

² OJ L 284, 7.10.1987, p. 19.

³ OJ L 132, 28.5.1988, p. 1.

⁴ OJ L 162, 26.6.1991, p. 27.

⁵ OJ L 77, 31.3.1993, p. 5.

⁶ OJ L 77, 31.3.1993, p. 7.

⁷ OJ L 77, 31.3.1993, p. 11.

⁸ OJ L 387, 31.12.1992, p. 12.

- (20) Council Regulation (EC) No 2443/96 of 17 December 1996 providing for additional measures for direct support of producers' incomes or for the beef and veal sector¹ ■ covered only the year 1997 and has therefore exhausted its effects.
- (21) Council Regulation (EC) No 2200/97 of 30 October 1997 on the improvement of the Community production of apples, pears, peaches and nectarines² ■ was intended to introduce a special premium for the 1997/1998 marketing year and has therefore exhausted its effects.
- (22) Council Regulation (EC) No 2330/98 of 22 October 1998 providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade³ covered **only** a special temporary measure and has therefore exhausted its effects.
- (23) Council Regulation (EC) No 2800/98 of 15 December 1998 on transitional measures to be applied under the common agricultural policy with a view to the introduction of the euro⁴ ■ was meant to provide only for transitional measures and has therefore exhausted its effects.
- (24) Council Regulation (EC) No 2802/98 of 17 December 1998 on a programme to supply agricultural products to the Russian Federation⁵ ■ was intended to provide for a single, one-off measure and has therefore exhausted its effects.
- (25) Council Regulation (EC) No 660/1999 of 22 March 1999 amending Regulation (EEC) No 2075/92 and fixing the premiums and guarantee thresholds for leaf tobacco by variety group and Member State for the 1999, 2000 and 2001 harvests⁶ ■ covered only the 1999, 2000 and 2001 harvests and has therefore exhausted its effects.
- (26) Council Regulation (EC) No 546/2002 of 25 March 2002 fixing the premiums and guarantee thresholds for leaf tobacco by variety group and Member State for the 2002, 2003 and 2004 harvests and amending Regulation (EEC) No 2075/92⁷ ■ covered only the 2002, 2003, 2004 **and 2005** harvests and has therefore exhausted its effects.
- (27) Council Regulation (EC) No 527/2003 of 17 March 2003 authorising the offer and delivery for direct human consumption of certain wines imported from Argentina which may have undergone oenological processes not provided for in Regulation (EC) No 1493/1999⁸ ■ was intended to introduce a derogation applicable only until **31 December 2008** and has therefore exhausted its effects.
- (28) For reasons of legal **certainty** and clarity, those obsolete Regulations should be repealed,

¹ OJ L 333, 21.12.1996, p. 2.

² OJ L 303, 6.11.1997, p. 3.

³ OJ L 291, 30.10.1998, p. 4.

⁴ OJ L 349, 24.12.1998, p. 8.

⁵ OJ L 349, 24.12.1998, p. 12.

⁶ OJ L 83, 27.3.1999, p. 10.

⁷ OJ L 84, 28.3.2002, p. 4.

⁸ OJ L 78, 25.3.2003, p. 1.

HAVE ADOPTED THIS REGULATION:

Article 1

1. Regulations (EEC) No 2052/69, (EEC) No 1467/70, (EEC) No 3279/75, (EEC) No 1078/77, (EEC) No 1853/78, (EEC) No 2580/78, (EEC) No 1/81, (EEC) No 1946/81, (EEC) No 2989/82, (EEC) No 3033/83, (EEC) No 564/84, (EEC) No 2997/87, (EEC) No 1441/88, (EEC) No 1720/91, (EEC) No 740/93, (EEC) No 741/93, (EEC) No 744/93, (EC) No 2443/96, (EC) No 2200/97, (EC) No 2330/98, (EC) No 2800/98, (EC) No 2802/98, (EC) No 660/1999, (EC) No 546/2002, (EC) No 527/2003 are repealed.

2. *The repeal of the acts referred to in paragraph 1 shall be without prejudice to:*

- (a)** *the maintenance in force of Union acts adopted on the basis of the acts referred to in paragraph 1; and*
- (b)** *the continuing validity of amendments made by the acts referred to in paragraph 1 to other Union acts that are not repealed by this Regulation.*

Article 2

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

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

Done at ,

For the European Parliament
The President

For the Council
The President

Repeal of certain obsolete Council acts *I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a regulation of the European Parliament and of the Council repealing certain obsolete Council acts (COM(2010)0765 – C7-0009/2011 – 2010/0369(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0765),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0009/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the undertaking given by the Council representative by letter of 30 June 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A7-0257/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council repealing certain obsolete Council acts *in the field of common commercial policy*

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

Whereas:

- (1) Improving the transparency of Union law is an essential element of the better lawmaking strategy that the institutions of the Union are implementing. In that context it is appropriate to remove from the legislation in force those acts which no longer have real effect.
- (2) *A number of* acts relating to the common commercial policy have become obsolete, even though formally they are still in force.
- (3) Council Regulation (EEC) No 1471/88 of 16 May 1988 concerning the arrangements applicable to imports of sweet potatoes and manioc starch intended for certain uses² has exhausted its effects since its content has been taken up by successive acts.
- (4) Council Regulation (EEC) No 478/92 of 25 February 1992 opening an annual Community tariff quota for dog or cat food, put up for retail sale and falling within CN code 2309 10 11 and an annual Community tariff quota for fish food falling within CN code ex 2309 90 41, originating in, and coming from, the Faroe Islands³ was intended to open a tariff quota for the year 1992 and has therefore exhausted its effects.
- (5) Council Regulation (EEC) No 3125/92 of 26 October 1992 on the arrangements applicable to the importation into the Community of sheepmeat and goatmeat products originating in Bosnia-Herzegovina, Croatia, Slovenia, Montenegro, Serbia and the former Yugoslav Republic of Macedonia⁴ dealt with a temporary situation and has therefore exhausted its effects.
- (6) Council Regulation (EC) No 2184/96 of 28 October 1996 concerning imports into the Community of rice originating in and coming from Egypt⁵ was meant to grant customs

¹ Position of the European Parliament of 13 September 2011.

² OJ L 134, 31.5.1988, p. 1.

³ OJ L 55, 29.2.1992, p. 2.

⁴ OJ L 313, 30.10.1992, p. 3.

⁵ OJ L 292, 15.11.1996, p. 1.

duty reductions resulting from an international agreement which was subsequently replaced by the agreement signed with Egypt on 28 October 2009 which entered into force on 1 June 2010 and has therefore exhausted its effects.

- (7) Council Regulation (EC) No 2398/96 of 12 December 1996 opening a tariff quota for turkey meat originating in and coming from Israel as provided for in the Association Agreement and the Interim Agreement between the European Community and the State of Israel¹ has exhausted its effects since it was based on the Association Agreement signed in 1995 which was subsequently replaced by the Association Agreement signed with Israel on 4 November 2009 which entered into force on 1 January 2010 and which provided for new tariff rate quotas.
- (8) Council Regulation (EC) No 1722/1999 of 29 July 1999 on the import of bran, sharps and other residues of the sifting, milling or other working of certain cereals originating in Algeria, Morocco and Egypt and the import of durum wheat originating in Morocco² has exhausted its effects since it was meant as an interim instrument for the period prior to the entry into force of the Association Agreement signed with Algeria on 22 April 2002 which entered into force on 1 September 2005, the Association Agreement signed with Morocco on 26 February 1996 which entered into force on 1 March 2000 and whose agricultural annexes were modified by agreements which entered into force in 2003 and 2005, and the Association Agreement signed with Egypt on 28 October 2009 which entered into force on 1 June 2010..
- (9) Council Regulation (EC) No 2798/1999 of 17 December 1999 laying down general rules for the import of olive oil originating in Tunisia for the period 1 January 2000 to 31 December 2000 and repealing Regulation (EC) No 906/98³ introduced a measure applicable only in the year 2000 and has therefore exhausted its effects.
- (10) Council Regulation (EC) No 215/2000 of 24 January 2000 renewing for 2000 the measures laid down in Regulation (EC) No 1416/95 establishing certain concessions in the form of Community tariff quotas in 1995 for certain processed agricultural products⁴ covered only the year 2000 and has therefore exhausted its effects.
- (11) Council Decision 2004/910/EC of 26 April 2004 on the conclusion of the Agreements in the form of an Exchange of Letters between the European Community and, of the one part, Barbados, Belize, the Republic of the Congo, Fiji, the Cooperative Republic of Guyana, the Republic of Côte d'Ivoire, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, the Republic of Mauritius, the Republic of Surinam, Saint Christopher and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe and, of the other part, the Republic of India on the guaranteed prices for cane sugar for the 2003/2004 and 2004/2005 delivery periods⁵ had a temporary character and has therefore exhausted its effects.

¹ OJ L 327, 18.12.1996, p. 7.

² OJ L 203, 3.8.1999, p. 16.

³ OJ L 340, 31.12.1999, p. 1.

⁴ OJ L 24, 29.1.2000, p. 9.

⁵ OJ L 391, 31.12.2004, p. 1

- (12) Council Regulation (EC) No 1923/2004 of 25 October 2004 establishing certain concessions for the Swiss Confederation in the form of Community tariff quotas for certain processed agricultural products¹ introduced a measure applicable from 1 May to 31 December 2004 and has therefore exhausted its effects.
- (13) Council Decision 2007/317/EC of 16 April 2007 establishing the position to be adopted, on behalf of the Community, within the International Grains Council with respect to the extension of the Grains Trade Convention 1995² has exhausted its effects since its content has been taken up by a subsequent act.
- (14) *A number of* acts concerning certain countries have become obsolete following the accession of those countries to the  Union:
- (15) Council Decision 98/658/EC of 24 September 1998 on the conclusion of the Additional Protocol to the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia, of the other part, and to the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Slovenia, of the other part³ has become obsolete following the accession of Slovenia to the Union.
- (16) Council Regulation (EC) No 278/2003 of 6 February 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Poland⁴ has become obsolete following the accession of Poland to the Union.
- (17) Council Regulation (EC) No 999/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the import of certain processed agricultural products originating in Hungary and the export of certain processed agricultural products to Hungary⁵ has become obsolete following the accession of Hungary to the Union.
- (18) Council Regulation (EC) No 1039/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Estonia and the exportation of certain agricultural products to Estonia⁶ has become obsolete following the accession of Estonia to the Union.
- (19) Council Regulation (EC) No 1086/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Slovenia and the exportation of certain processed agricultural products to Slovenia⁷ has become obsolete following the accession of Slovenia to the Union.

¹ OJ L 331, 5.11.2004, p. 9.

² OJ L 119, 9.5.2007, p. 30.

³ OJ L 314, 24.11.1998, p. 6.

⁴ OJ L 42, 15.02.2003, p. 1.

⁵ OJ L 146, 13.6.2003, p. 10.

⁶ OJ L 151, 19.6.2003, p. 1.

⁷ OJ L 163, 1.7.2003, p. 1.

- (20) Council Regulation (EC) No 1087/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Latvia and the exportation of certain processed agricultural products to Latvia¹ has become obsolete following the accession of Latvia to the Union.
- (21) Council Regulation (EC) No 1088/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Lithuania and the exportation of certain processed agricultural products to Lithuania² has become obsolete following the accession of Lithuania to the Union.
- (22) Council Regulation (EC) No 1089/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Slovak Republic and the exportation of certain processed agricultural products to the Slovak Republic³ has become obsolete following the accession of Slovakia to the Union.
- (23) Council Regulation (EC) No 1090/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Czech Republic and the exportation of certain processed agricultural products to the Czech Republic⁴ has become obsolete following the accession of the Czech Republic to the Union.
- (24) For reasons of legal certainty and clarity, those obsolete acts should be repealed,

HAVE ADOPTED THIS REGULATION:

Article 1

1. Regulations (EEC) No 1471/88, (EEC) No 478/92, (EEC) No 3125/92, (EC) No 2184/96, (EC) No 2398/96, (EC) No 1722/1999, (EC) No 2798/1999, (EC) No 215/2000, (EC) No 278/2003, (EC) No 999/2003, (EC) No 1039/2003, (EC) No 1086/2003, (EC) No 1087/2003, (EC) No 1088/2003, (EC) No 1089/2003, (EC) No 1090/2003, (EC) No 1923/2004 and Decisions 98/658/EC, 2004/910/EC, 2007/317/EC are hereby repealed.

2. *The repeal of the acts referred to in paragraph 1 shall be without prejudice to:*

- (a) *the maintenance in force of Union acts adopted on the basis of the acts referred to in paragraph 1; and*
- (b) *the continuing validity of amendments made by the acts referred to in paragraph 1 to other Union acts that are not repealed by this Regulation.*

Article 2

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

¹ OJ L 163, 1.7.2003, p. 19.

² OJ L 163, 1.7.2003, p. 38.

³ OJ L 163, 1.7.2003, p. 56.

⁴ OJ L 163, 1.7.2003, p. 73.

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

Done at ,

For the European Parliament
The President

For the Council
The President

Repeal of Regulation (EEC) No 429/73 and Regulation (EC) No 215/2000 *I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a regulation of the European Parliament and of the Council repealing Regulation (EEC) No 429/73 making special provisions for imports into the Community of certain goods coming under Regulation (EEC) No 1059/69 and originating in Turkey and Regulation (EC) No 215/2000 renewing for 2000 the measures laid down in Regulation (EC) No 1416/95 establishing certain concessions in the form of Community tariff quotas in 1995 for certain processed agricultural products (COM(2010)0756 – C7-0004/2011 – 2010/0367(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0756),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0004/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the undertaking given by the Council representative by letter of 30 June 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A7-0250/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council repealing Regulation (EEC) No 429/73 of the Council making special provisions for imports into the Community of certain goods coming under Regulation (EEC) No 1059/69 and originating in Turkey ■

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and in particular article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

Whereas:

- (1) Improving the transparency of Union law is an essential element of the better lawmaking strategy that the institutions of the Union are implementing. In that context it is appropriate to remove from the legislation in force those acts which no longer have real effect.
 - (2) Regulation (EEC) No 429/73 of the Council ■² was adopted in order to determine the reduced fixed component of the import duties for processed agricultural products originating in Turkey and imported in the framework of the Additional Protocol to the Agreement establishing an Association between the European Economic Community and Turkey, signed on 23 November 1970.
 - (3) ■ Decision No 1/95 of the EC Turkey Association Council of 22 December 1995 on implementing the final phase of the Custom Union³ *lays down the rules for determining the* customs duties for *processed agricultural products* originating in Turkey *and imported into the European Union. Therefore* Regulation (EEC) No 429/73 has become obsolete.
-
- (4) For reasons of legal certainty and clarity, **Regulation** (EEC) No 429/73 ■ should therefore be repealed,

¹ Position of the European Parliament of 13 September 2011.

² OJ L 59, 5.3.1973, p.85.

³ OJ L 35, 13.2.1996, p.1.

HAVE ADOPTED THIS REGULATION:

Article 1

1. **Regulation** (EEC) No 429/73 **is** repealed.
2. **The repeal of the act referred to in paragraph 1 shall be without prejudice to:**
 - (a) **the maintenance in force of Union acts adopted on the basis of the act referred to in paragraph 1; and**
 - (b) **the continuing validity of amendments made by the act referred to in paragraph 1 to other Union acts that are not repealed by this Regulation.**

Article 2

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

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

Done at ,

For the European Parliament
The President

For the Council
The President

Effects of certain public and private projects on the environment *I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a directive of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment (codified text) (COM(2011)0189 – C7-0095/2011 – 2011/0080(COD))

(Ordinary legislative procedure – codification)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2011)0189),
 - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0095/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 15 June 2011¹,
 - after consulting the Committee of the Regions,
 - having regard to the Interinstitutional Agreement of 20 December 1994 – Accelerated working method for official codification of legislative texts²,
 - having regard to Rules 86 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A7-0272/2011),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance,
1. Adopts its position at first reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 248, 25.8.2011, p. 154.

² OJ C 102, 4.4.1996, p. 2.

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment (codification)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment³ has been substantially amended several times⁴. In the interests of clarity and rationality the said Directive should be codified.
- (2) Pursuant to Article 191 of the Treaty on the Functioning of the European Union, Union policy on the environment is based on the precautionary principle and on the principle that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay. Effects on the environment should be taken into account at the earliest possible stage in all the technical planning and decision-making processes.
- (3) The principles of the assessment of environmental effects should be harmonised, in particular with reference to the projects which should be subject to assessment, the main obligations of the developers and the content of the assessment. The Member States may lay down stricter rules to protect the environment.
- (4) In addition, it is necessary to achieve one of the objectives of the Union in the sphere of the protection of the environment and the quality of life.

¹ OJ C 248, 25.8.2011, p. 154.

² Position of the European Parliament of 13 September 2011.

³ OJ L 175, 5.7.1985, p. 40.

⁴ See Annex VI, Part A.

- (5) The Union's environmental legislation includes provisions enabling public authorities and other bodies to take decisions which may have a significant effect on the environment as well as on personal health and well-being.
- (6) General principles for the assessment of environmental effects should be laid down with a view to supplementing and coordinating development consent procedures governing public and private projects likely to have a major effect on the environment.
- (7) Development consent for public and private projects which are likely to have significant effects on the environment should be granted only after an assessment of the likely significant environmental effects of those projects has been carried out. That assessment should be conducted on the basis of the appropriate information supplied by the developer, which may be supplemented by the authorities and by the public likely to be concerned by the project in question.
- (8) Projects belonging to certain types have significant effects on the environment and those projects should as a rule be subject to a systematic assessment.
- (9) Projects of other types may not have significant effects on the environment in every case and those projects should be assessed where the Member States consider that they are likely to have significant effects on the environment.
- (10) Member States may set thresholds or criteria for the purpose of determining which such projects should be subject to assessment on the basis of the significance of their environmental effects. Member States should not be required to examine projects below those thresholds or outside those criteria on a case-by-case basis.
- (11) When setting such thresholds or criteria or examining projects on a case-by-case basis for the purpose of determining which projects should be subject to assessment on the basis of their significant environmental effects, Member States should take account of the relevant selection criteria set out in this Directive. In accordance with the subsidiarity principle, the Member States are in the best position to apply those criteria in specific instances.
- (12) For projects which are subject to assessment, a certain minimal amount of information should be supplied, concerning the project and its effects.
- (13) It is appropriate to lay down a procedure in order to enable the developer to obtain an opinion from the competent authorities on the content and extent of the information to be elaborated and supplied for the assessment. Member States, in the framework of this procedure, may require the developer to provide, inter alia, alternatives for the projects for which it intends to submit an application.
- (14) The effects of a project on the environment should be assessed in order to take account of concerns to protect human health, to contribute by means of a better environment to the quality of life, to ensure maintenance of the diversity of species and to maintain the reproductive capacity of the ecosystem as a basic resource for life.
- (15) It is desirable to lay down strengthened provisions concerning environmental impact assessment in a transboundary context to take account of developments at international level. The European Community signed the Convention on Environmental Impact

Assessment in a Transboundary Context on 25 February 1991, and ratified it on 24 June 1997.

- (16) Effective public participation in the taking of decisions enables the public to express, and the decision-maker to take account of, opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken.
- (17) Participation, including participation by associations, organisations and groups, in particular non-governmental organisations promoting environmental protection, should accordingly be fostered, including inter alia by promoting environmental education of the public.
- (18) The European Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention) on 25 June 1998 and ratified it on 17 February 2005.
- (19) Among the objectives of the Aarhus Convention is the desire to guarantee rights of public participation in decision-making in environmental matters in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.
- (20) Article 6 of the Aarhus Convention provides for public participation in decisions on the specific activities listed in Annex I thereto and on activities not so listed which may have a significant effect on the environment.
- (21) Article 9(2) and (4) of the Aarhus Convention provides for access to judicial or other procedures for challenging the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of Article 6 of the Convention.
- (22) However, this Directive should not be applied to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive are achieved through the legislative process.
- (23) Furthermore, it may be appropriate in exceptional cases to exempt a specific project from the assessment procedures laid down by this Directive, subject to appropriate information being supplied to the Commission and to the public.
- (24) Since the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (25) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex V, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive shall apply to the assessment of the environmental effects of those public and private projects which are likely to have significant effects on the environment.
2. For the purposes of this Directive, the following definitions shall apply:
 - (a) ‘project’ means:
 - the execution of construction works or of other installations or schemes,
 - other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources;
 - (b) ‘developer’ means the applicant for authorisation for a private project or the public authority which initiates a project;
 - (c) ‘development consent’ means the decision of the competent authority or authorities which entitles the developer to proceed with the project;
 - (d) ‘public’ means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups;
 - (e) ‘public concerned’ means the public affected or likely to be affected by, or having an interest in, the environmental decision-making procedures referred to in Article 2(2); for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest;
 - (f) ‘competent authority or authorities’ means that authority or those authorities which the Member States designate as responsible for performing the duties arising from this Directive.
3. Member States may decide, on a case-by-case basis if so provided under national law, not to apply this Directive to projects serving national defence purposes, if they deem that such application would have an adverse effect on these purposes.
4. This Directive shall not apply to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive are achieved through the legislative process.

Article 2

1. Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects. These projects are defined in Article 4.

2. The environmental impact assessment may be integrated into the existing procedures for consent to projects in the Member States, or, failing this, into other procedures or into procedures to be established to comply with the aims of this Directive.

3. Member States may provide for a single procedure in order to fulfil the requirements of this Directive and the requirements of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control¹.

4. Without prejudice to Article 7, Member States may, in exceptional cases, exempt a specific project in whole or in part from the provisions laid down in this Directive.

In that event, the Member States shall:

- (a) consider whether another form of assessment would be appropriate;
- (b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the exemption decision and the reasons for granting it;
- (c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, where applicable, to their own nationals.

The Commission shall immediately forward the documents received to the other Member States.

The Commission shall report annually to the European Parliament and to the Council on the application of this paragraph.

Article 3

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 12, the direct and indirect effects of a project on the following factors:

- (a) human beings, fauna and flora;
- (b) soil, water, air, climate and the landscape;
- (c) material assets and the cultural heritage;
- (d) the interaction between the factors referred to in points (a), (b) and (c).

Article 4

1. Subject to Article 2(4), projects listed in Annex I shall be made subject to an assessment in accordance with Articles 5 to 10.

¹ OJ L 24, 29.1.2008, p. 8.

2. Subject to Article 2(4), for projects listed in Annex II, the Member States shall determine whether the project shall be made subject to an assessment in accordance with Articles 5 to 10. Member States shall make that determination through:

- (a) a case-by-case examination,
or
- (b) thresholds or criteria set by the Member State.

Member States may decide to apply both procedures referred to in points (a) and (b).

3. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the relevant selection criteria set out in Annex III shall be taken into account.

4. Member States shall ensure that the determination made by the competent authorities under paragraph 2 is made available to the public.

Article 5

1. In the case of projects which, pursuant to Article 4, must be made subject to an environmental impact assessment in accordance with Articles 5 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV inasmuch as:

- (a) the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;
- (b) the Member States consider that a developer may reasonably be required to compile this information having regard inter alia to current knowledge and methods of assessment.

2. Member States shall take the necessary measures to ensure that, if the developer so requests before submitting an application for development consent, the competent authority shall give an opinion on the information to be supplied by the developer in accordance with paragraph 1. The competent authority shall consult the developer and authorities referred to in Article 6(1) before it gives its opinion. The fact that the authority has given an opinion under this paragraph shall not preclude it from subsequently requiring the developer to submit further information.

Member States may require the competent authorities to give such an opinion, irrespective of whether the developer so requests.

3. The information to be provided by the developer in accordance with paragraph 1 shall include at least:

- (a) a description of the project comprising information on the site, design and size of the project;

- (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
 - (c) the data required to identify and assess the main effects which the project is likely to have on the environment;
 - (d) an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;
 - (e) a non-technical summary of the information referred to in points (a) to (d).
4. Member States shall, if necessary, ensure that any authorities holding relevant information, with particular reference to Article 3, shall make this information available to the developer.

Article 6

1. Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent. To this end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered pursuant to Article 5 shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.
2. The public shall be informed, whether by public notices or other appropriate means such as electronic media where available, of the following matters early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided:
- (a) the request for development consent;
 - (b) the fact that the project is subject to an environmental impact assessment procedure and, where relevant, the fact that Article 7 applies;
 - (c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
 - (d) the nature of possible decisions or, where there is one, the draft decision;
 - (e) an indication of the availability of the information gathered pursuant to Article 5;
 - (f) an indication of the times and places where and means by which the relevant information will be made available;
 - (g) details of the arrangements for public participation made pursuant to paragraph 5 of this Article.
3. Member States shall ensure that, within reasonable time-frames, the following is made available to the public concerned:

- (a) any information gathered pursuant to Article 5;
- (b) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned is informed in accordance with paragraph 2 of this Article;
- (c) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information¹, information other than that referred to in paragraph 2 of this Article which is relevant for the decision in accordance with Article 8 of this Directive and which only becomes available after the time the public concerned was informed in accordance with paragraph 2 of this Article.

4. The public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedures referred to in Article 2(2) and shall, for that purpose, be entitled to express comments and opinions when all options are open to the competent authority or authorities before the decision on the request for development consent is taken.

5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and for consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Member States.

6. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article.

Article 7

1. Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, the Member State in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, inter alia:

- (a) a description of the project, together with any available information on its possible transboundary impact;
- (b) information on the nature of the decision which may be taken.

The Member State in whose territory the project is intended to be carried out shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the environmental decision-making procedures referred to in Article 2(2), and may include the information referred to in paragraph 2 of this Article.

2. If a Member State which receives information pursuant to paragraph 1 indicates that it intends to participate in the environmental decision-making procedures referred to in Article 2(2), the Member State in whose territory the project is intended to be carried out shall,

¹ OJ L 41, 14.2.2003, p. 26.

if it has not already done so, send to the affected Member State the information required to be given pursuant to Article 6(2) and made available pursuant to points (a) and (b) of Article 6(3).

3. The Member States concerned, each insofar as it is concerned, shall also:

- (a) arrange for the information referred to in paragraphs 1 and 2 to be made available, within a reasonable time, to the authorities referred to in Article 6(1) and the public concerned in the territory of the Member State likely to be significantly affected; and
- (b) ensure that the authorities referred to in Article 6(1) and the public concerned are given an opportunity, before development consent for the project is granted, to forward their opinion within a reasonable time on the information supplied to the competent authority in the Member State in whose territory the project is intended to be carried out.

4. The Member States concerned shall enter into consultations regarding, inter alia, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable time frame for the duration of the consultation period.

5. The detailed arrangements for implementing this Article may be determined by the Member States concerned and shall be such as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures referred to in Article 2(2) for the project.

Article 8

The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be taken into consideration in the development consent procedure.

Article 9

1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public thereof in accordance with the appropriate procedures and shall make available to the public the following information:

- (a) the content of the decision and any conditions attached thereto;
- (b) having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process;
- (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects.

2. The competent authority or authorities shall inform any Member State which has been consulted pursuant to Article 7, forwarding to it the information referred to in paragraph 1 of this Article.

The consulted Member States shall ensure that that information is made available in an appropriate manner to the public concerned in their own territory.

Article 10

The provisions of this Directive shall not affect the obligation on the competent authorities to respect the limitations imposed by national laws, regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest.

Where Article 7 applies, the transmission of information to another Member State and the receipt of information by another Member State shall be subject to the limitations in force in the Member State in which the project is proposed.

Article 11

1. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:

- (a) having a sufficient interest, or alternatively,
- (b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition,

have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.

2. Member States shall determine at what stage the decisions, acts or omissions may be challenged.

3. What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 1(2) shall be deemed sufficient for the purpose of point (a) of paragraph 1 of this Article. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of point (b) of paragraph 1 of this Article.

4. The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

Any such procedure shall be fair, equitable, timely and not prohibitively expensive.

5. In order to further the effectiveness of the provisions of this Article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

Article 12

1. The Member States and the Commission shall exchange information on the experience gained in applying this Directive.

2. In particular, Member States shall inform the Commission of any criteria and/or thresholds adopted for the selection of the projects in question, in accordance with Article 4(2).

3. On the basis of this exchange of information, the Commission shall if necessary submit additional proposals to the European Parliament and to the Council, with a view to ensuring that this Directive is applied in a sufficiently coordinated manner.

Article 13

Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 14

Directive 85/337/EEC, as amended by the Directives listed in Annex V, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex V, Part B.

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

Article 15

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

Article 16

This Directive is addressed to the Member States.

Done at

For the European Parliament

For the Council

The President

The President

ANNEX I

PROJECTS REFERRED TO IN ARTICLE 4(1)

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2.
 - (a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more;
 - (b) Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors¹ (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3.
 - (a) Installations for the reprocessing of irradiated nuclear fuel;
 - (b) Installations designed:
 - (i) for the production or enrichment of nuclear fuel,
 - (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste,
 - (iii) for the final disposal of irradiated nuclear fuel,
 - (iv) solely for the final disposal of radioactive waste,
 - (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.
4.
 - (a) Integrated works for the initial smelting of cast iron and steel;
 - (b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20 000 tonnes of finished products, for friction material, with an annual production of more than 50 tonnes of finished products, and for other uses of asbestos, utilisation of more than 200 tonnes per year.
6. Integrated chemical installations, namely those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are:

¹ Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

- (a) for the production of basic organic chemicals;
 - (b) for the production of basic inorganic chemicals;
 - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
 - (d) for the production of basic plant health products and of biocides;
 - (e) for the production of basic pharmaceutical products using a chemical or biological process;
 - (f) for the production of explosives.
7. (a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2 100 m or more;
- For the purposes of this Directive, ‘airport’ means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (Annex 14);
- (b) Construction of motorways and express roads;
- For the purposes of this Directive, ‘express road’ means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975;
- (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road or realigned and/or widened section of road would be 10 km or more in a continuous length.
8. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes;
- (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1 350 tonnes.
9. Waste disposal installations for the incineration, chemical treatment as defined in Annex I to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste¹ under heading D9, or landfill of hazardous waste, as defined in point 2 of Article 3 of that Directive.
10. Waste disposal installations for the incineration or chemical treatment as defined in Annex I to Directive 2008/98/EC under heading D9 of non-hazardous waste with a capacity exceeding 100 tonnes per day.
11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

¹ OJ L 312, 22.11.2008, p. 3.

12. (a) Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;
- (b) In all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5 % of this flow.

In both cases transfers of piped drinking water are excluded.

13. Waste water treatment plants with a capacity exceeding 150 000 population equivalent as defined in point 6 of Article 2 of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment¹.
14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes/day in the case of petroleum and 500 000 m³/day in the case of gas.
15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
16. Pipelines with a diameter of more than 800 mm and a length of more than 40 km:
 - (a) for the transport of gas, oil, chemicals;
 - (b) for the transport of carbon dioxide (CO₂) streams for the purposes of geological storage, including associated booster stations.
17. Installations for the intensive rearing of poultry or pigs with more than:
 - (a) 85 000 places for broilers, 60 000 places for hens;
 - (b) 3 000 places for production pigs (over 30 kg); or
 - (c) 900 places for sows.
18. Industrial plants for the production of :
 - (a) pulp from timber or similar fibrous materials;
 - (b) paper and board with a production capacity exceeding 200 tonnes per day.
19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.
20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.

¹ OJ L 135, 30.5.1991, p. 40.

21. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200 000 tonnes or more.
 22. Storage sites pursuant to Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide¹.
 23. Installations for the capture of CO₂ streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations covered by this Annex, or where the total yearly capture of CO₂ is 1,5 megatonnes or more.
 24. Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex.
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¹ OJ L 140, 5.6.2009, p. 114.

ANNEX II

PROJECTS REFERRED TO IN ARTICLE 4(2)

1. AGRICULTURE, SILVICULTURE AND AQUACULTURE

- (a) Projects for the restructuring of rural land holdings;
- (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
- (c) Water management projects for agriculture, including irrigation and land drainage projects;
- (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;
- (e) Intensive livestock installations (projects not included in Annex I);
- (f) Intensive fish farming;
- (g) Reclamation of land from the sea.

2. EXTRACTIVE INDUSTRY

- (a) Quarries, open-cast mining and peat extraction (projects not included in Annex I);
- (b) Underground mining;
- (c) Extraction of minerals by marine or fluvial dredging;
- (d) Deep drillings, in particular:
 - (i) geothermal drilling,
 - (ii) drilling for the storage of nuclear waste material,
 - (iii) drilling for water supplies,with the exception of drillings for investigating the stability of the soil;
- (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

3. ENERGY INDUSTRY

- (a) Industrial installations for the production of electricity, steam and hot water (projects not included in Annex I);
- (b) Industrial installations for carrying gas, steam and hot water; transmission of electrical energy by overhead cables (projects not included in Annex I);

- (c) Surface storage of natural gas;
- (d) Underground storage of combustible gases;
- (e) Surface storage of fossil fuels;
- (f) Industrial briquetting of coal and lignite;
- (g) Installations for the processing and storage of radioactive waste (unless included in Annex I);
- (h) Installations for hydroelectric energy production;
- (i) Installations for the harnessing of wind power for energy production (wind farms);
- (j) Installations for the capture of CO₂ streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations not covered by Annex I to this Directive.

4. PRODUCTION AND PROCESSING OF METALS

- (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;
- (b) Installations for the processing of ferrous metals:
 - (i) hot-rolling mills,
 - (ii) smitheries with hammers,
 - (iii) application of protective fused metal coats;
- (c) Ferrous metal foundries;
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;
- (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
- (g) Shipyards;
- (h) Installations for the construction and repair of aircraft;
- (i) Manufacture of railway equipment;
- (j) Swaging by explosives;

- (k) Installations for the roasting and sintering of metallic ores.

5. MINERAL INDUSTRY

- (a) Coke ovens (dry coal distillation);
- (b) Installations for the manufacture of cement;
- (c) Installations for the production of asbestos and the manufacture of asbestos products (projects not included in Annex I);
- (d) Installations for the manufacture of glass including glass fibre;
- (e) Installations for smelting mineral substances including the production of mineral fibres;
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

6. CHEMICAL INDUSTRY (PROJECTS NOT INCLUDED IN ANNEX I)

- (a) Treatment of intermediate products and production of chemicals;
- (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.

7. FOOD INDUSTRY

- (a) Manufacture of vegetable and animal oils and fats;
- (b) Packing and canning of animal and vegetable products;
- (c) Manufacture of dairy products;
- (d) Brewing and malting;
- (e) Confectionery and syrup manufacture;
- (f) Installations for the slaughter of animals;
- (g) Industrial starch manufacturing installations;
- (h) Fish-meal and fish-oil factories;
- (i) Sugar factories.

8. TEXTILE, LEATHER, WOOD AND PAPER INDUSTRIES

- (a) Industrial plants for the production of paper and board (projects not included in Annex I);

- (b) Plants for the pretreatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles;
- (c) Plants for the tanning of hides and skins;
- (d) Cellulose-processing and production installations.

9. RUBBER INDUSTRY

Manufacture and treatment of elastomer-based products.

10. INFRASTRUCTURE PROJECTS

- (a) Industrial estate development projects;
- (b) Urban development projects, including the construction of shopping centres and car parks;
- (c) Construction of railways and intermodal transshipment facilities, and of intermodal terminals (projects not included in Annex I);
- (d) Construction of airfields (projects not included in Annex I);
- (e) Construction of roads, harbours and port installations, including fishing harbours (projects not included in Annex I);
- (f) Inland-waterway construction not included in Annex I, canalisation and flood-relief works;
- (g) Dams and other installations designed to hold water or store it on a long-term basis (projects not included in Annex I);
- (h) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;
- (i) Oil and gas pipeline installations and pipelines for the transport of CO₂ streams for the purposes of geological storage (projects not included in Annex I);
- (j) Installations of long-distance aqueducts;
- (k) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
- (l) Groundwater abstraction and artificial groundwater recharge schemes not included in Annex I;
- (m) Works for the transfer of water resources between river basins not included in Annex I.

11. OTHER PROJECTS

- (a) Permanent racing and test tracks for motorised vehicles;
- (b) Installations for the disposal of waste (projects not included in Annex I);
- (c) Waste-water treatment plants (projects not included in Annex I);
- (d) Sludge-deposition sites;
- (e) Storage of scrap iron, including scrap vehicles;
- (f) Test benches for engines, turbines or reactors;
- (g) Installations for the manufacture of artificial mineral fibres;
- (h) Installations for the recovery or destruction of explosive substances;
- (i) Knackers' yards.

12. TOURISM AND LEISURE

- (a) Ski runs, ski lifts and cable cars and associated developments;
- (b) Marinas;
- (c) Holiday villages and hotel complexes outside urban areas and associated developments;
- (d) Permanent campsites and caravan sites;
- (e) Theme parks.

- 13.**
- (a) Any change or extension of projects listed in Annex I or this Annex, already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment (change or extension not included in Annex I);
 - (b) Projects in Annex I, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.

ANNEX III

SELECTION CRITERIA REFERRED TO IN ARTICLE 4(3)

1. CHARACTERISTICS OF PROJECTS

The characteristics of projects must be considered having regard, in particular, to:

- (a) the size of the project;
- (b) the cumulation with other projects;
- (c) the use of natural resources;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of accidents, having regard in particular to substances or technologies used.

2. LOCATION OF PROJECTS

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard, in particular, to:

- (a) the existing land use;
- (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas:
 - (i) wetlands,
 - (ii) coastal zones,
 - (iii) mountain and forest areas,
 - (iv) nature reserves and parks,
 - (v) areas classified or protected under Member States' legislation; special protection areas designated by Member States pursuant to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds¹ and to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora²,

¹ OJ L 20, 26.1.2010, p. 7.

² OJ L 206, 22.7.1992, p. 7.

- (vi) areas in which the environmental quality standards laid down in Union legislation have already been exceeded,
- (vii) densely populated areas,
- (viii) landscapes of historical, cultural or archaeological significance.

3. CHARACTERISTICS OF THE POTENTIAL IMPACT

The potential significant effects of projects must be considered in relation to criteria set out in points 1 and 2, and having regard in particular to:

- (a) the extent of the impact (geographical area and size of the affected population);
 - (b) the transfrontier nature of the impact;
 - (c) the magnitude and complexity of the impact;
 - (d) the probability of the impact;
 - (e) the duration, frequency and reversibility of the impact.
-

ANNEX IV

INFORMATION REFERRED TO IN ARTICLE 5(1)

1. Description of the project, including in particular:
 - (a) a description of the physical characteristics of the whole project and the land-use requirements during the construction and operational phases;
 - (b) a description of the main characteristics of the production processes, for instance, the nature and quantity of the materials used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.
2. An outline of the main alternatives studied by the developer and an indication of the main reasons for this choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
4. A description of the likely significant effects of the proposed project on the environment resulting from:
 - (a) the existence of the project;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste.

This description should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project.
5. The description by the developer of the forecasting methods used to assess the effects on the environment referred to in point 4.
6. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
7. A non-technical summary of the information provided under headings 1 to 6.
8. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.

ANNEX V

Part A

Repealed Directive with list of its successive amendments (referred to in Article 14)

Council Directive 85/337/EEC
(OJ L 175, 5.7.1985, p. 40)

Council Directive 97/11/EC
(OJ L 73, 14.3.1997, p. 5)

Directive 2003/35/EC of the European Parliament and of the Council
(OJ L 156, 25.6.2003, p. 17) Article 3 only

Directive 2009/31/EC of the European Parliament and of the Council
(OJ L 140, 5.6.2009, p. 114) Article 31 only

Part B

List of time-limits for transposition into national law (referred to in Article 14)

Directive	Time-limit for transposition
85/337/EEC	3 July 1988
97/11/EC	14 March 1999
2003/35/EC	25 June 2005
2009/31/EC	25 June 2011

ANNEX VI
CORRELATION TABLE

Directive 85/337/EEC	This Directive
Article 1(1)	Article 1(1)
Article 1(2), first subparagraph	Article 1(2), introductory words
Article 1(2), second subparagraph, introductory words	Article 1(2)(a), introductory words
Article 1(2), second subparagraph, first indent	Article 1(2)(a), first indent
Article 1(2), second subparagraph, second indent	Article 1(2)(a), second indent
Article 1(2), third subparagraph	Article 1(2)(b)
Article 1(2), fourth subparagraph	Article 1(2)(c)
Article 1(2), fifth subparagraph	Article 1(2)(d)
Article 1(2), sixth subparagraph	Article 1(2)(e)
Article 1(3)	Article 1(2)(f)
Article 1(4)	Article 1(3)
Article 1(5)	Article 1(4)
Article 2(1)	Article 2(1)
Article 2(2)	Article 2(2)
Article 2(2a)	Article 2(3)
Article 2(3)	Article 2(4)
Article 3, introductory part	Article 3, introductory part
Article 3, first indent	Article 3(a)
Article 3, second indent	Article 3(b)
Article 3, third indent	Article 3(c)
Article 3, fourth indent	Article 3(d)
Article 4	Article 4
Article 5(1)	Article 5(1)
Article 5(2)	Article 5(2)
Article 5(3), introductory words	Article 5(3), introductory words
Article 5(3), first indent	Article 5(3)(a)
Article 5(3), second indent	Article 5(3)(b)
Article 5(3), third indent	Article 5(3)(c)

Article 5(3), fourth indent	Article 5(3)(d)
Article 5(3), fifth indent	Article 5(3)(e)
Article 5(4)	Article 5(4)
Article 6	Article 6
Article 7(1), introductory part	Article 7(1), first subparagraph, introductory part
Article 7(1)(a)	Article 7(1), first subparagraph, point (a)
Article 7(1)(b)	Article 7(1), first subparagraph, point (b)
Article 7(1), final part	Article 7(1), second subparagraph
Article 7(2)-7(5)	Article 7(2)-7(5)
Article 8	Article 8
Article 9(1), introductory part	Article 9, introductory part
Article 9(1), first indent	Article 9(1)(a)
Article 9(1), second indent	Article 9(1)(b)
Article 9(1), third indent	Article 9(1)(c)
Article 9(2)	Article 9(2)
Article 10	Article 10
Article 10a, first paragraph	Article 11(1)
Article 10a, second paragraph	Article 11(2)
Article 10a, third paragraph	Article 11(3)
Article 10a, fourth and fifth paragraphs	Article 11(4), first and second subparagraphs
Article 10a, sixth paragraph	Article 11(5)
Article 11(1)	Article 12(1)
Article 11(2)	Article 12(2)
Article 11(3)	_____
Article 11(4)	Article 12(3)
Article 12(1)	_____
Article 12(2)	Article 13
_____	Article 14
_____	Article 15
Article 14	Article 16
Annex I, point 1	Annex I, point 1
Annex I, point 2, first indent	Annex I, point 2(a)
Annex I, point 2, second indent	Annex I, point 2(b)
Annex I, point 3(a)	Annex I, point 3(a)

Annex I, point 3(b), introductory words
Annex I, point 3(b), first indent
Annex I, point 3(b), second indent
Annex I, point 3(b), third indent
Annex I, point 3(b), fourth indent
Annex I, point 3(b), fifth indent
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Annex I, point 6(i)
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Annex I, point 3(b)(i)
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Annex I, point 3(b)(iii)
Annex I, point 3(b)(iv)
Annex I, point 3(b)(v)
Annex I, point 4(a)
Annex I, point 4(b)
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Access to the public regulated service offered by the global navigation satellite system established under the Galileo programme *I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a decision of the European Parliament and of the Council on the detailed rules for access to the public regulated service offered by the global navigation satellite system established under the Galileo programme (COM(2010)0550 – C7-0318/2010 – 2010/0282(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0550),
 - having regard to Article 294(2) and Article 172 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0318/2010),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 8 December 2010¹,
 - after consulting the Committee of the Regions,
 - having regard to the undertaking given by the Council representative by letter of 15 June 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on Foreign Affairs (A7-0260/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 54, 19.2.2011, p. 36.

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Decision No .../2011/EU of the European Parliament and of the Council on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo)³ provides in the Annex thereto that the specific objectives of the Galileo programme are to ensure that the signals emitted by the system established under that programme (the "Galileo system") can be used in particular to offer a public regulated service ("PRS") restricted to government-authorised users, for sensitive applications which require *effective access control and* a high level of service continuity.

- (1a) While relevant provisions of Regulation (EC) No 683/2008 also apply to the services, including the PRS, listed in the Annex thereto, considering the inter-linkage between the Galileo system and the service from a legal, technical, operational, financial and ownership perspective, it is appropriate to reproduce the relevant rules on the application of security regulations for the purpose of this Decision.*

I

- (3) *The European Parliament and the Council have recalled* on several occasions that the Galileo system is a civilian system under civilian control, that is, it was created in accordance with civilian standards based on civilian requirements and under the control of the Union institutions.

¹ OJ C 54, 19.2.2011, p. 36.

² Position of the European Parliament of 13 September 2011.

³ OJ L 196, 24.7.2008, p. 1.

- (3a) *The Galileo programme is of strategic importance for the independence of the Union in terms of satellite navigation, positioning and timing services and offers an important contribution to the implementation of the "Europe 2020" strategy for smart, sustainable and inclusive growth.*
- (4) Of the various services offered by European satellite navigation systems, the PRS is both the most secure and the most sensitive ***and is therefore suitable for services where robustness and complete reliability must be ensured***. It must ensure service continuity for its participants, even in the most serious crisis situations. The consequences of infringing the security rules when using this service are not restricted to the user concerned, but could potentially extend to other users. Use and management of the PRS is therefore the joint responsibility of Member States in order to protect the security of the Union and their own security. Consequently, access to the PRS must be strictly limited to certain categories of user which are subject to continuous monitoring.
- (5) It is therefore necessary to define the ■ rules for access to the PRS and the rules for managing it, in particular by specifying the general principles relating to access, the functions of the various management and supervisory bodies, the conditions relating to receiver ***manufacturing*** and security, and the export monitoring system.
- (6) With regard to the general principles of access to the PRS, given the actual purpose of the service and its characteristics, its use must be strictly limited ■, with ***Member States***, the Council, Commission and ***European External Action Service ("EEAS")*** being granted discretionary, unlimited and uninterrupted access worldwide. Furthermore, each Member State must be in a position to take its own sovereign decision on which PRS users to authorise and which uses may be made of the PRS, including uses relating to security, in accordance with the common minimum ■ standards.
- (7) ■ In order to promote ■ the use of European technology ***worldwide, it should be possible for certain non-member countries and international organisations to become PRS participants through separate agreements concluded with them***. For secure government satellite radio- navigation applications, the terms and conditions under which ■ non-member countries and international organisations may use the PRS should be laid down ***in international agreements, it being understood that compliance with security requirements should always be compulsory. In the context of such agreements, the manufacturing of PRS receivers should be allowed under specific conditions and requirements, provided that these are of a level that is at least equivalent to the conditions and requirements applying to Member States. However, such agreements should not include particularly security-sensitive matters such as the manufacturing of security modules***.
- (7a) ***Agreements with non-member countries or international organisations should be negotiated taking full account of the importance of ensuring respect for democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, freedom of thought, conscience and religion as well as freedom of expression and information, human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.***
- (7b) ***The security regulations of the European Space Agency should offer a degree of protection at least equivalent to that provided by the rules on security set out in the***

Annex to Commission Decision 2001/844/EC, ECSC, Euratom¹ and by Council Decision 2011/292/EU of 31 March 2011 on the security rules for protecting EU classified information².

- (8) The Union and the Member States must do their utmost to ensure that both the Galileo system and PRS **technology** and equipment are safe and secure, to prevent signals emitted for the PRS from being used by non-authorised natural or legal persons, and to prevent any hostile use of the PRS against them.
 - (9) It is important in this connection that Member States determine the system of penalties applicable in the event of non-compliance with the obligations stemming from this Decision, and that they ensure that those penalties are applied. The penalties must be effective, proportionate and dissuasive.
 - (10) In the case of management and supervisory bodies, the arrangement whereby **PRS participants** designate a "competent PRS authority" responsible for managing and supervising users would appear to be the best way of effectively managing PRS use, by facilitating relations between the various stakeholders responsible for security and ensuring permanent supervision of users, in particular national users, in compliance with the common minimum standards. ***However, there should be flexibility in order to allow Member States to organise the responsibilities efficiently.***
- (10a) In the implementation of this Decision, any processing of personal data should be carried out in accordance with Union law, as set out, in particular, in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data³ and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)⁴.***
- (11) Furthermore, one of the tasks of the **Galileo** Security Centre (the "Galileo Security Monitoring Centre" or the "GSMC") referred to in Article 16(a)(ii) of Regulation (EC) No 683/2008 should be to provide **an operational** interface between the various stakeholders responsible for the security of the PRS.
 - (12) The Council **and the High Representative of the Union for Foreign Affairs and Security Policy** should play a role in managing the PRS, **■** through the application of Council Joint Action 2004/552/CFSP of 12 July 2004 on aspects of the operation of the European satellite radio-navigation system affecting the security of the European Union⁵. ***The Council should approve*** international agreements authorising a non-member country or an international organisation to use the PRS.

¹ ***OJ L 317, 3.12.2001, p. 1.***

² ***OJ L 141, 27.5.2011, p. 17.***

³ ***OJ L 281, 23.11.1995, p. 31.***

⁴ ***OJ L 201, 31.7.2002, p. 37.***

⁵ ***OJ L 246, 20.7.2004, p. 30.***

- (13) With regard to receiver **manufacturing** and security, security requirements make it necessary for this task to be entrusted only to a Member State which has **designated a competent PRS authority** or to undertakings established on the territory of a Member State which has **designated a competent PRS authority**. Furthermore, the receiver manufacturer must already have been duly authorised by the **Security Accreditation Board for European GNSS systems** established by Regulation (EU) No 912/2010¹ (the "Security Accreditation Board") and must comply with its **decisions**. It is the responsibility of the competent PRS authorities to continuously monitor compliance both with **that authorisation requirement and those decisions** and with specific technical requirements stemming from the **common** minimum **■** standards.
- (13a) A Member State which has not designated a competent PRS authority should in any event designate a point of contact for the management of any detected harmful electromagnetic interference affecting the PRS. That point of contact should be a natural or legal person that has the role of reporting point, or an address, which the Commission can contact in case of potentially harmful electromagnetic interference in order to remedy such interference.*
- (14) With regard to export **restrictions**, exports outside the Union of equipment or technology **and software** relating to PRS use **and relating to the development of and manufacturing for the PRS, regardless of whether that equipment, software or technology is listed in Annex I to Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items**², must be restricted to those non-member countries which are duly authorised to access the PRS under an international agreement with the Union. **A non-member country on whose territory a reference station housing PRS equipment and forming part of the Galileo system is installed is not to be considered to be a PRS participant merely by virtue of that fact.**
- (15) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission **in respect of the common minimum standards in the areas set out in the Annex and, if necessary, in order to take into account the developments in the Galileo programme, to update and amend it. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.**
- (15a) In the light of their potential impact on the security of the Galileo system, the Union and its Member States, both individually and collectively, it is essential that common rules concerning access to the PRS and manufacturing PRS receivers and security modules are applied uniformly in each Member State. It is therefore necessary that the Commission be empowered to adopt detailed requirements, guidelines and other measures in order to give effect to the common minimum standards. In order to ensure uniform conditions for the implementation of this Decision, implementing powers should be conferred on the Commission. Those powers should be exercised in*

¹ OJ L 276, 20.10.2010, p. 11.

² OJ L 134, 29.05.2009, p. 1.

accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers¹.

(15b) The audits and inspections to be carried out by the Commission with the help of the Member States should, as appropriate, be carried out in a manner similar to that provided for in Part VII of Annex III to Council Decision 2011/292/EU.

(15c) Rules for access to the PRS offered by the Galileo system are a prerequisite for the implementation of the PRS. The Commission should analyse whether a charging policy for the PRS should be put in place, including with regard to non-member countries and international organisations, and report to the European Parliament and the Council on the outcome of that analysis.

(16) Since the objective of this Decision – namely, to lay down the ■ rules under which the Member States, the Council, the Commission, the **EEAS**, Union agencies, **non-member countries** and international organisations may access the PRS – cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the proposed action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective.

(16a) As soon as the PRS is declared operational, a reporting and review mechanism should be set in place,

HAVE ADOPTED THIS DECISION:

Article 1

Subject

This Decision lays down the ■ rules under which the Member States, the Council, the Commission, the **EEAS**, Union agencies, **non-member countries** and international organisations may access the ■ public regulated service (PRS) offered by the ■ Global Navigation Satellite System (GNSS) established under the Galileo programme.

Article 1a

Definitions

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

¹ OJ L 55, 28.2.2011, p. 13.

- (a) *"PRS participants" means the Member States, the Council, the Commission, the EEAS as well as Union agencies, non-member countries and international organisations, insofar as such agencies, non-member countries and organisations have been duly authorised;*
- (b) *"PRS users" means natural or legal persons duly authorised by a PRS participant to own or use a PRS receiver;*

Article 2

General principles concerning PRS access

- 2. *The Member States, the Council, the Commission and the EEAS shall have the right to unlimited and uninterrupted access to the PRS worldwide.*
- 3. *It shall be for each individual Member State, the Council, the Commission and the EEAS to decide whether to use the PRS within their respective competences.*

- 5. *Each Member State which uses the PRS shall decide independently which categories of natural persons residing on its territory or performing official duties abroad on behalf of that Member State and legal persons established on its territory are authorised to be PRS users, as well as the uses to which it may be put, in accordance with the common minimum standards referred to in Article 8a (the "common minimum standards") with respect to the areas set out in point 1 (i) and (ii) of the Annex. Such uses may include security-related uses.*

The Council, the Commission and the EEAS shall decide which categories of their agents are authorised to be PRS users, in accordance with the common minimum standards with respect to the areas set out in point 1 (i) and (ii) of the Annex.

- 6. *Union agencies may become PRS participants only insofar as necessary to fulfil their tasks and according to the detailed rules laid down in an administrative agreement concluded between the Commission and the agency concerned.*
- 7. *Non-member countries or international organisations may become PRS participants only where, in accordance with the procedure provided for in Article 218 of the Treaty on the Functioning of the European Union, they enter into both of the following agreements:*
 - (a) *a security of information agreement defining the framework for exchanging and protecting classified information between the Union and the non-member country or international organisation concerned, providing a degree of protection at least equivalent to that of the Member States;*

- (b) an agreement laying down the terms and conditions of the detailed rules for **access to** the PRS by the non-member country or international organisation between the Union and the non-member country or international organisation concerned; **such an agreement may include the manufacturing, under specific conditions, of PRS receivers, to the exclusion of security modules.**



Article 4

Application of security regulations

1. ***Each Member State shall ensure that its national security regulations offer a degree of protection of classified information at least equivalent to that provided by the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom and by Council Decision 2011/292/EU and apply to its PRS users and to all natural persons resident on its territory and all legal persons established on its territory which handle EU classified information relating to the PRS.***
2. ***Member States shall inform the Commission without delay of the adoption of national security regulations as referred to in paragraph 1.***
3. If there is reason to believe that ***EU classified information*** relating to the PRS ***has*** been disclosed to ***any person*** not authorised to receive ***it***, the Commission shall, ***in full consultation with the Member State concerned:***
 - (a) ***inform the originator of the classified PRS data;***
 - (b) ***assess the potential damage caused to the interests of the Union or of the Member States;***
 - (c) ***notify the appropriate authorities of the results of that assessment accompanied by a recommendation to remedy the situation; in which case the appropriate authorities shall inform the Commission without delay of the action they intend to take or have already taken, including action aimed at preventing recurrence, as well as of the results of such action; and***
 - (d) ***inform the European Parliament and the Council, as appropriate, of those results.***



Article 6

Competent PRS authority

1. *A competent PRS authority shall be designated by:*
 - (a) *each Member State which uses the PRS and each Member State on whose territory any of the bodies referred to in Article 8(1) are established; in such cases, the competent PRS authority shall be established on the territory of the Member State concerned, which shall notify the designation to the Commission without delay;*
 - (b) *the Council, the Commission and the EEAS, if they use the PRS. In such a case, the European GNSS Agency established by Regulation (EU) N.º 912/2010 (the "European GNSS Agency") may be designated as a competent PRS authority in accordance with appropriate arrangements;*
 - (c) *Union agencies and international organisations, in accordance with the provisions of the agreements referred to in Article 2(6) and (7); in such cases, the European GNSS Agency may be designated as a competent PRS authority;*
 - (d) *non-member countries, in accordance with the provisions of the agreements referred to in Article 2(7).*
- 1a. *The costs of the functioning of a competent PRS authority shall be borne by the PRS participants who have designated it.*
- 1b. *A Member State which has not designated a competent PRS authority in accordance with point (a) of paragraph 1 shall in any event designate a point of contact for assisting as necessary in the reporting of detected potentially harmful electromagnetic interference affecting the PRS. The Member State concerned shall notify such a designation to the Commission without delay.*
- 1c. *A competent PRS authority shall ensure that the use of PRS is in compliance with the common minimum standards with respect to the areas set out in point 1 of the Annex and that:*
 - (a) *PRS users are grouped for the management of the PRS with the GSMC;*
 - (b) *the PRS access rights for each group or user are determined and managed;*
 - (c) *the PRS keys and other related classified information are obtained from the GSMC;*
 - (d) *the PRS keys and other related classified information are distributed to the users;*
 - (e) *the security of the receivers and associated classified technology and information are managed and the risks assessed;*
 - (f) *a point of contact for assisting as necessary in the reporting of detected potentially harmful electromagnetic interference affecting the PRS is established.*

- 1d. The competent PRS authority of a Member State shall ensure that a body established on the territory of that Member State may only develop or manufacture PRS receivers or security modules if such a body:**
- (a) has been duly authorised by the Security Accreditation Board in accordance with Article 11(2) of Regulation (EU) No 912/2010, and**
 - (b) complies both with the decisions of the Security Accreditation Board and with the common minimum standards with respect to point 2 of the Annex regarding the development and manufacture of PRS receivers or security modules, insofar as these relate to its activity.**

Any equipment-manufacture authorisation provided for in this paragraph shall be reviewed at least every five years.

- 1e. In the case of development or manufacturing referred to in paragraph 1d, or in the case of export outside the Union, the competent PRS authority of the Member State concerned shall act as an interface to the entities competent for export restrictions of relevant equipment, technology and software regarding the use, development and manufacturing of the PRS, in order to ensure that the provisions of Article 9 are applied.**
- 1f. A competent PRS authority shall be connected to the GSMC in accordance with the common minimum standards with respect to point 4 of the Annex regarding the links between the GSMC and a competent PRS authority.**
- 1g. Paragraphs 1c and 1f shall be without prejudice to the possibility for Member States to delegate certain specific tasks of their respective competent PRS authority, by mutual consent, to another Member State, excluding any tasks related to the exercise of their sovereignty over their respective territories. The tasks referred to in paragraphs 1c and 1f, as well as tasks under paragraph 1d, may be carried out jointly by Member States. The Member States concerned shall notify such measures to the Commission without delay.**
- 1h. A competent PRS authority may request the technical assistance of the European GNSS Agency in order to perform its tasks, subject to specific arrangements. The Member States concerned shall notify such arrangements to the Commission without delay.**

- 6a. Every three years the competent PRS authorities shall report to the Commission and to the European GNSS Agency on compliance with the common minimum standards.**
- 7. Every three years the Commission shall, with the assistance of the European GNSS Agency, report to the European Parliament and the Council on the compliance of the competent PRS authorities with the common minimum standards, as well as in any cases of serious violation of those standards.**
- 8. Where a competent PRS authority does not comply with the common minimum standards, the Commission may, taking due account of the subsidiarity principle and in consultation with the Member State concerned and, if necessary, after obtaining**

further specific information, issue a recommendation. Within three months of the recommendation being issued, the competent PRS authority concerned shall either comply with the Commission's recommendation or request or propose other changes with a view to ensuring compliance with the common minimum standards and implement them in agreement with the Commission.

If, once that three-month period has expired, the competent PRS authority concerned still does not ensure compliance with the common minimum standards, the Commission shall inform the European Parliament and the Council and propose appropriate measures to be taken.

Article 7

Role of the **GSMC**

The **GSMC** shall provide the *operational* interface between the competent PRS authorities, the Council *and the High Representative of the Union for Foreign Affairs and Security Policy* acting under Joint Action 2004/552/CFSP and the *control* centres. It shall inform the Commission of any event that may affect the smooth running of the PRS.

Article 8

Manufacture and security of receivers and security modules

1. A Member State **■** may, *subject to the requirements set out in Article 6(1d), assign the task of manufacturing* PRS receivers *or* the associated security modules **■** *to bodies established on its territory or on the territory of another Member State ■*. The Council, the Commission *or the EEAS* may assign the task of manufacturing PRS receivers *or* the associated security modules *for their own use to bodies* established on the territory of a Member State **■**.

■

5. *The Security Accreditation Board* may at any time *revoke* the authorisation it has granted to a body referred to in paragraph 1 of this Article to manufacture PRS receivers *or* the associated security modules if **■** the measures provided for in *Article 6(1d)(b)* have not been complied with.

Article 8a

Common minimum standards

1. *The common minimum standards to be complied with by the competent PRS authorities referred to in Article 6 shall cover the areas set out in the Annex.*
2. *The Commission shall be empowered to adopt delegated acts in accordance with Article 12 concerning the adoption of the common minimum standards for the areas set out in*

the Annex and, if necessary, amendments updating the Annex to take account of developments in the Galileo programme, in particular with regard to technology and changes in security needs.

3. *On the basis of the common minimum standards referred to in paragraph 2 of this Article, the Commission may adopt the necessary technical requirements, guidelines and other measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13a(2).*
4. *The Commission shall ensure that the necessary steps are taken to comply with the measures referred to in paragraphs 2 and 3 and that requirements relating to the security of the PRS and its users and related technology are met, taking full account of expert advice.*
5. *In order to assist in compliance with this Article, the Commission shall facilitate a meeting of all competent PRS authorities at least once a year.*
6. *The Commission shall, with the assistance of the Member States and the European GNSS Agency, ensure that the competent PRS authorities comply with the common minimum standards, in particular by carrying out audits or inspections.*

Article 9

Export *restrictions*

The export outside the Union of equipment, *technology and software regarding the use, development of and manufacturing for the PRS* shall not be authorised other than *in accordance with the common minimum standards with respect to point 3 of the Annex regarding export restrictions* and pursuant to the agreements referred to in Article 2(7) or under *agreements regarding* the detailed rules for hosting and operating reference stations **|**.

|

Article 11

Application of Joint Action 2004/552/CFSP

| This Decision *shall be applied without prejudice to measures decided pursuant to* Joint Action 2004/552/CFSP **|**.

Article 12

Exercise of delegation

|

3. The power to adopt delegated acts *is* conferred on the Commission subject to the conditions laid down in *this Article*.
- 3a. *The power to adopt delegated acts referred to in Article 8a(2) shall be conferred on the Commission for a period of five years from ...* The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period.*
- 3b. *The delegation of power referred to in Article 8a(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 3c. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
- 3d. *A delegated act adopted pursuant to Article 8a(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.*



Article 13a

Committee procedure

1. *The Commission shall be assisted by the Committee established by Regulation (EC) No 683/2008. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.*
2. *Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.*



Article 14a

* *OJ: Please insert date of entry into force of this Decision.*

Review and report

At the latest two years after the PRS has been declared operational, the Commission shall report to the European Parliament and the Council on the adequate functioning and appropriateness of the rules established for access to PRS services and, if necessary, propose amendments to this Decision accordingly.

Article 14b

Specific rules for the implementation of the Galileo programme

Notwithstanding the other provisions of this Decision, in order to ensure that the Galileo system functions smoothly, access to PRS technology and the ownership or use of PRS receivers shall be authorised, subject to compliance with the principles laid down in Article 8a and the Annex, as regards the following:

- (a) the Commission, when acting as manager of the Galileo programme;*
- (b) operators of the Galileo system, strictly for the purposes of complying with their remit, as laid down in a specific arrangement with the Commission;*
- (c) the European GNSS Agency, in order to enable it to perform the tasks entrusted to it, as laid down in a specific arrangement with the Commission;*
- (d) the European Space Agency, strictly for the purposes of research, development and infrastructure roll-out, as laid down in a specific arrangement with the Commission.*

Article 14c

Penalties

Member States shall determine what penalties are applicable when national provisions enacted pursuant to this Decision are infringed. The penalties shall be effective, proportionate and dissuasive.

Article 15

Entry into force and application

- 1. This Decision shall enter into force on the day following that of its publication in the Official Journal of the European Union.*
- 2. Member States shall apply Article 6 at the latest**

** OJ: Please insert date: two years after the entry into force of this Decision.*

Article 16

Addressees

This Decision is addressed to the Member States.

Done at

For the European Parliament

The President

For the Council

The President

Common minimum standards

1. *As regards Article 6(1c), the common minimum standards for the use of PRS cover the following areas:*
 - (i) *PRS user group organisation;*
 - (ii) *Definition and management of access rights for PRS users and user groups of PRS participants;*
 - (iii) *Distribution of PRS keys and related classified information between the GSMC and the competent PRS authorities;*
 - (iv) *Distribution of PRS keys and related classified information to the users;*
 - (v) *Security management, including security incidents, and risk assessment for PRS receivers and associated classified technology and information;*
 - (vi) *Reporting of detected potentially harmful electromagnetic interference affecting the PRS;*
 - (vii) *Operational concepts and procedures for PRS receivers.*
2. *As regards Article 6(1d), the common minimum standards for the development and manufacture of PRS receivers or security modules cover the following areas:*
 - (i) *PRS user segment accreditation;*
 - (ii) *Security of PRS receivers and PRS technology during research, development, and manufacturing phases;*
 - (iii) *PRS receiver and PRS technology integration;*
 - (iv) *Protection profile for PRS receivers, security modules, and material using PRS technology.*
3. *As regards Article 6(1e) and Article 9, the common minimum standards for export restrictions cover the following areas:*
 - (i) *Authorised PRS participants;*
 - (ii) *Export of PRS-related material and technology.*
4. *As regards Article 6(1f), the common minimum standards for the links between the GSMC and the competent PRS authorities cover data and voice links.*

International Tropical Timber Agreement, 2006 ***

European Parliament legislative resolution of 13 September 2011 on the draft Council decision on the conclusion, on behalf of the European Union, of the 2006 International Tropical Timber Agreement (05812/2011 – C7-0061/2011 – 2006/0263(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (05812/2011),
 - having regard to the draft 2006 International Tropical Timber Agreement (11964/2007),
 - having regard to the request for consent submitted by the Council in accordance with Articles 192, 207 and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0061/2011),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade (A7-0280/2011),
1. Consents to conclusion of the Agreement;
 2. Calls on the Commission to provide, whenever requested by Parliament, any relevant information regarding the implementation of this Agreement, namely on action plans and programmes, as well as the decisions taken by the bodies established by the Agreement;
 3. Calls on the Commission to submit a review of the implementation of the Agreement to Parliament and the Council in the final year of application, before negotiations are opened on the renewal of the Agreement, in particular in relation to the Union's own forest law enforcement, governance and trade instruments;
 4. Instructs its President to forward its position to the Council, the Commission, the governments and parliaments of the Member States and to the International Tropical Timber Organization.

EU-Switzerland Agreement on the protection of designations of origin and geographical indications for agricultural products and foodstuffs ***

European Parliament legislative resolution of 13 September 2011 on the draft Council decision on the conclusion of the Agreement between the European Union and the Swiss Confederation on the protection of designations of origin and geographical indications for agricultural products and foodstuffs, amending the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (16198/2010 – C7- 0126/2011 – 2010/0317(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (16198/2010),
 - having regard to the draft Agreement between the European Union and the Swiss Confederation on the protection of designations of origin and geographical indications for agricultural products and foodstuffs, amending the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (16199/2010),
 - having regard to the request for consent submitted by the Council in accordance with Article 207(4), first subparagraph and Article 218(6), second subparagraph, point (a)(v), of the Treaty on the Functioning of the European Union (C7-0126/2011),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade and the opinion of the Committee on Agriculture and Rural Development (A7-0247/2011),
1. Consents to conclusion of the Agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Swiss Confederation.

EU-Norway Agreement concerning additional trade preferences in agricultural products ***

European Parliament legislative resolution of 13 September 2011 on the draft Council decision on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway concerning additional trade preferences in agricultural products reached on the basis of Article 19 of the Agreement on the European Economic Area (14206/2010– C7-0101/2011 – 2010/0243(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (14206/2010),
 - having regard to the draft Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway concerning additional trade preferences in agricultural products reached on the basis of Article 19 of the Agreement on the European Economic Area (14372/2010),
 - having regard to the request for consent submitted by the Council in accordance with Article 207(4), first subparagraph and Article 218(6), second subparagraph, point (a)(v), of the Treaty on the Functioning of the European Union (C7-0101/2011),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade and the opinion of the Committee on Agriculture and Rural Development (A7-0276/2011),
1. Consents to conclusion of the Agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Kingdom of Norway.

Extension to Liechtenstein of the EC-Switzerland Agreement on trade in agricultural products ***

European Parliament legislative resolution of 13 September 2011 on the draft Council decision on the conclusion of the Agreement between the European Union, the Swiss Confederation and the Principality of Liechtenstein amending the Additional Agreement between the European Community, the Swiss Confederation and the Principality of Liechtenstein extending to the Principality of Liechtenstein the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (16209/2010 – C7– 0125/2011 – 2010/0313(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (16209/2010),
 - having regard to the draft Agreement between the European Union, the Swiss Confederation and the Principality of Liechtenstein amending the Additional Agreement between the European Community, the Swiss Confederation and the Principality of Liechtenstein extending to the Principality of Liechtenstein the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (16210/2010),
 - having regard to the request for consent submitted by the Council in accordance with Article 207(4), first subparagraph and Article 218(6), second subparagraph, point (a)(v), of the Treaty on the Functioning of the European Union (C7-0125/2011),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade (A7-0248/2011),
1. Consents to conclusion of the Agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Swiss Confederation and the Principality of Liechtenstein.

Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean ***

European Parliament legislative resolution of 13 September 2011 on the draft Council Decision on the conclusion, on behalf of the European Union, of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (08135/2011 – C7-0098/2011 – 2011/0047 (NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (08135/2011),
 - having regard to the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (08135/2011),
 - having regard to the request for consent submitted by the Council in accordance with Article 43(2) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0098/2011),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Fisheries (A7-0274/2011),
1. Consents to conclusion of the Convention;
 2. Calls on the Commission to work actively, in all those fora, both international and bilateral, which may be attended by countries with fishing fleets in the region covered by the Convention, to promote the signing, ratification and implementation of the Convention in order to speed up its entry into force;
 3. Instructs its President to forward its position to the Council, the Commission, the governments and parliaments of the Member States and the government of New Zealand, as the depository of the Convention.

EU-Brazil agreement on civil aviation safety ***

European Parliament legislative resolution of 13 September 2011 on the draft Council decision on the conclusion of an Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety (13989/1/2010 – C7-0336/2010 – 2010/0143(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (13989/1/2010),
 - having regard to the draft Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety (11282/2010),
 - having regard to the request for consent submitted by the Council pursuant to Article 100(2), Article 207(4), first subparagraph, Article 218(8), first subparagraph, Article 218(7) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0336/2010),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Transport and Tourism (A7-0259/2011),
1. Consents to conclusion of the Agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Federative Republic of Brazil.

Agreement between the EU, Iceland and Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway ***

European Parliament legislative resolution of 13 September 2011 on the draft Council decision on the conclusion of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway (05307/2010 – C7-0032/2010 – 2009/0192(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (05307/2010),
 - having regard to the draft agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway (09644/2006),
 - having regard to the request for consent submitted by the Council in accordance with Article 82(1), point (d) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0032/2010),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A7-0268/2011),
1. Consents to conclusion of the agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Republic of Iceland and the Kingdom of Norway.

Fuel Cells and Hydrogen Joint Undertaking *

European Parliament legislative resolution of 13 September 2011 on the proposal for a Council regulation amending Regulation (EC) No 521/2008 setting up the Fuel Cells and Hydrogen Joint Undertaking (COM(2011)0224 – C7-0120/2011 – 2011/0091(NLE))

(Consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2011)0224),
 - having regard to Articles 187 and 188 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0120/2011),
 - having regard to Rule 55 and Rule 46(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A7-0261/2011),
1. Approves the Commission proposal;
 2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 3. Asks the Council to consult Parliament again if it intends to substantially amend the text approved by Parliament;
 4. Instructs its President to forward its position to the Council and the Commission.

Audit policy – lessons from the crisis

European Parliament resolution of 13 September 2011 on audit policy: lessons from the crisis (2011/2037(INI))

The European Parliament,

- having regard to the Commission Green Paper of 13 October 2010 on audit policy: lessons from the crisis (COM(2010)0561),
- having regard to its resolution of 11 May 2011 on corporate governance in financial institutions¹,
- having regard to its resolution of 10 March 2009 on implementation of Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts²,
- having regard to Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts³,
- having regard to Rule 48 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Economic and Monetary Affairs (A7-0200/2011),

- A. whereas the recent financial crisis has called the work of auditors into question,
- B. whereas, in the wake of the crisis, excessive risk-taking on the part of financial institutions has been significantly linked to flexible, scant and ineffective control and risk management mechanisms, particularly in systemically important financial institutions (SIFIs),
- C. whereas auditors have been identified as being able to play a key role in strengthening the risk management oversight of financial institutions in particular,
- D. whereas the role of the audit committees within financial institutions, in particular, has not been fully utilised,
- E. whereas quality auditing is fundamental for economic stability and market confidence, since it provides guarantees concerning the genuine financial health of companies,
- F. whereas the auditor's independence plays a fundamental part in the quality of auditing,
- G. whereas conflicts of interests are likely to exist when auditing firms offer different services to the same firm,
- H. whereas the high market concentration of the Big Four audit firms may cause an excessive

¹ Texts adopted, P7_TA(2011)0223.

² OJ C 87 E, 1.4.2010, p. 23.

³ OJ L 157, 9.6.2006, p. 87.

build-up of risk, and whereas smaller firms are diverse and their growth and expertise should be encouraged through increased opportunities to compete,

- I. whereas, consequently, an in-depth debate needs to be relaunched on the function of the auditor and the structure of the audit market,

General issues

1. Welcomes the Commission's Green Paper and applauds its holistic approach;
2. Welcomes the fundamental issue raised in the Green Paper, namely that of how auditing could be improved, even though in the past there has been no serious evidence to suggest that auditing has not been carried out in accordance with the relevant rules and requirements;
3. Takes the view that the debate on the role of the auditor should go hand in hand with a strengthening of the role of the audit committee – now largely ineffective – and of the financial and risk reporting that companies are required to carry out;
4. Sees as yet no sufficient basis for a final assessment, and therefore reminds the Commission that more use of regulations and a wide-ranging, in-depth impact assessment are needed, looking at the various political options, focusing on practical issues in line with the principles of 'better lawmaking', addressing the importance of accounting in providing accurate information about the sustainable economic development of companies and including an analysis of interest groups in order to clarify the segmentation of the impact assessment study for the various groups, such as SMEs, SIFIs and other listed and non-listed companies; takes the view that an assessment should be made of the impact on the users of audit reports, such as investors and SIFI regulators; calls on the Commission to analyse the added value generated by both the proposed regulation and the progressive harmonisation of auditing standards and practices in the European single market;
5. Welcomes the recognition of proportionality in the Green Paper;

The role of the auditor

6. Takes the view that statutory auditing has a social function and is in the public interest, as it is an absolutely fundamental component of the democratic economic and political system and accordingly welcomes the intention of the Green Paper to increase transparency and improve the quality of audit reports in order to contribute to the stability of the financial market and improve access to financing; is in favour of any measures based on the evidence that costs and burdens to financial institutions, in particular, are outweighed by improving their quality significantly, as well as by regular external evaluation and appropriate regulatory oversight; stresses the need for specific legislation;
7. Points out that a high-quality audit system is an integral part of a sound corporate governance framework; asks the Commission to present its proposals on corporate governance and audit to the Parliament and Council in a consistent way;
8. Highlights the importance of the audit report for shareholders and the public; recognises the principle of 'an audit is an audit' and warns of the high risk of the application of different standards leading to legal uncertainty; is therefore in favour of the extension of the scope to all financial institutions;

9. Agrees with the Commission on the principle that an audit report's conclusions should focus more on substance than on form;
10. Calls on the Commission to look into how the role of the auditor might be extended to include audits of risk reports provided by the entity being audited, in addition to verification of the information supplied in the main financial statements; recommends that auditors should be made aware of all instances where the risk-committee has been over-ruled;
11. Takes the view that audit reports should be brief, with clear, concise conclusions, and should address all aspects of the auditors' statutory remit; considers that the auditor should provide the audit committee and the general assembly with additional explanations on general issues such as the methodology used in drawing up the balance sheet, and on specific issues such as key indicators, materiality figures and assessments of the risk involved in the material accounting estimates or materiality judgements made, and any particular problems encountered whilst carrying out the audit;
12. Calls for financial institutions' audit reports to include enhanced disclosure requirements for the valuation of less liquid assets, so as to allow a comparison of financial instrument valuations between institutions;
13. Stresses that supervisors or the relevant authorities are to be alerted by auditors when they spot problems that might jeopardise the future of the entity being audited; recommends that bilateral meetings take place between auditors and supervisors of major financial institutions;
14. Notes the potential liability that may attach to providing additional information over and above that required by regulation; believes, nevertheless, that society demands that auditors have both a forward- and outward-looking responsibility, especially with regard to large and systemically relevant corporations; takes the view that information available to auditors that is in the public interest and relates to risk, off-balance sheet operations or future potential future exposures should always be disclosed to regulators and in most circumstances made available to the public;
15. Calls for the role of the audit committees of all financial institutions to be strengthened by requiring them to approve a risk model assessment which includes firm-specific comparisons to benchmarks including reporting potential future financing needs, bank covenants, future cash flows, risk management, management estimates and adherence to major accounting principles and any foreseeable risks with respect to the company's business model; calls for this assessment be presented on an annual basis to the executive and supervisory boards of financial institutions, along with the full audit report, for consideration and approval;
16. Takes the view that professional scepticism is vital in auditing and has an impact on each and every stage of an audit; points out that this scepticism comes about as a result of the objectivity and independence of the auditor, combined with professional judgement developed by experience for which box-ticking procedures cannot be a substitute;
17. Believes that the system of qualifications in audit reports should not be reassessed, since it has a dissuasive function and contributes to the quality of financial information;
18. Believes that fluent, regular dialogue between the external auditor, the internal auditor and

the audit committee is vital to allow effective auditing, as the shareholders need to be kept informed – for example as to why an auditor is appointed, reappointed or withdrawn – by means of specific clarifications relating to the audit committee report;

19. Takes the view that auditors should have the right to be heard at general meetings of the company in matters that relate to their role as auditors;
20. Believes there is a need for the two facets of auditing – internal and external – to be clearly circumscribed in law;

International Standards on Auditing (ISAs)

21. Suggests that the Commission urgently adopt the International Standards on Auditing (ISA), clarified through a regulation, which would make it possible to harmonise audits at European level and facilitate the task of supervisory bodies; takes the view that auditing is a single procedure, regardless of the size of the audited company, but that its application needs to be adapted to the characteristics of small and medium-sized enterprises (SMEs); reminds the Commission that, aside from those companies to which the International Standards on Auditing should apply, there are also other companies which, despite being exempted from those standards, should nevertheless have their financial situations audited by authorised audit firms;

Governance and independence of audit firms

22. Agrees that there is an inevitable conflict in the auditor being appointed and paid by the audited entity; does not, however, currently see any justification for this appointment to be made by a third party; calls, with this in mind and without prejudice to Article 37 (2) of Directive 2006/43/EC, for the audit committee's role to be strengthened;
23. Takes the view that the auditor, where that role is a statutory one, should be appointed by the audit committee and not by the management board of the company to be audited, in which connection the members of the audit committee should have the relevant experience, at least half of them in accounting and auditing; considers that the audit committee should take steps to ensure that the auditor is independent, in particular as regards any consultancy services which the auditor provides or offers to provide;
24. Takes the view that the rules guaranteeing the independence of auditors and audit quality must undergo a detailed review by a public supervisory body entirely independent of the profession;
25. Supports the creation of an international code of good governance for auditing firms that audit public-interest entities;
26. Agrees that the independence of the auditor is of paramount importance and that steps need to be taken to prevent excessive familiarity; suggests that the Commission should undertake an impact assessment covering a range of options, in particular external rotation and the impact of voluntary joint audits; regards external rotation as a means of strengthening the independence of auditors, but reiterates its view that it is not external rotation but rather regular changes in internal auditors which represents the best regulatory solution, as confirmed by Directive 2006/43/EC, and that the existing partner rotation arrangements provide the independence necessary for audits to be effective;

27. Calls on the Commission to ensure that company practices help to preserve the protections provided, including protection linked to the mandatory rotation of the main audit partners, even where those partners change firms;
28. Suggests that options other than or additional to a fixed rotation cycle should be considered – for example, if joint audits are used the rotation cycle could be double that for when a single auditor is used, as the dynamics of ‘three in the room’ are different from those of ‘two in the room’, and joint audit rotation could also be staggered;
29. Takes the view that there should be clear demarcation between the audit services and non-audit services that an audit firm provides to a customer, with a view to avoiding conflicts of interest as referred to in Article 22(2) of Directive 2006/43/EC and in accordance with codes of auditing practice; points out that this could restrict ‘lowballing’, the practice of offering cut-price auditing with a view to then offsetting the lower price by charging for additional services; takes the view, therefore, that the demarcation must apply to all firms and their clients; calls on the Commission, with reference to the 2002 Recommendations on Statutory Auditor Independence, to draw up a list of conditions under which such services would be deemed incompatible with audit services; recognises that the provision of non-audit services, where not incompatible with auditor independence, can play an essential role in broadening the skills base of small and medium-sized audit firms, but takes the view that internal and external audit services should not be provided simultaneously;
30. Considers it essential to preserve the independence of the auditor; takes the view that external auditors should be banned from providing to the audited company services that could give rise to non-compliance with the applicable requirements regarding independence, or with other ethical requirements; recognises that, in order to boost growth in the European economy, it is necessary to ensure that all undertakings, regardless of their size, and including SMEs, can contract independent auditors and audit firms that have a wide range of skills;
31. Notes in particular that audit services which are deemed to give rise to a conflict of interest must not be carried out by the same company, including certain advisory services and evaluations of complex structured products, and maintain that this should be monitored by the competent supervisory authorities;
32. Believes that audit committees have an important oversight role in ensuring that the auditor remains independent, and asks the Commission to provide guidance to assist audit committees in this respect;
33. Recommends that the audit committee, as an entity of the supervisory board, not the executive board, should decide whether to permit the provision of non-audit services to a given financial company and should negotiate the tender and details of the mandate; calls on the Commission to conduct an impact assessment on the viability and effects of a cap on non-audit services in relation to revenue;
34. Takes the view that the fees an audit firm or a network of audit firms can charge a single client should be published when they exceed a given threshold and that supervisors should be able to intervene with checks, limits or other planning requirements when they exceed a certain percentage of its total income, so as to prevent a situation in which the audit firm loses its economic independence; points out, however, that for smaller firms such intervention should not restrict growth and that securing a large and significant client that

provides a high percentage of the audit firm's work in the early stages is an essential part of the growth process;

- 35. Believes that firms that audit public-interest entities ought to publish their accounts and that these accounts, as well as the methods used, should be checked to ensure that they are in order;
- 36. Considers that, where there is proof of abuse of the position of director of an undertaking or of a public-interest entity and/or of the audit firm, it must be possible to prosecute all concerned;
- 37. Believes that the partnership model is the appropriate one for audit firms, since it protects their independence;
- 38. Calls on the Commission and the Member States to ensure that audits of public bodies are exemplary and to prevent any conflicts of interest from arising as a result of links between the auditor and decision-makers within the public body being audited;

Group audits

- 39. Supports the Green Paper's proposals on group audits;
- 40. Calls on the Commission to examine the issue of forwarding of data during group audits in the context of the future revision of the EU data protection legislative framework;
- 41. Considers that group auditors should have a clear overview of the group and, in the case of financial institutions supervised on a group basis, should engage in dialogue with the group supervisor;

Supervision

- 42. Calls on the Commission to submit a proposal to improve communication between auditors of public-interest entities and the regulatory authorities;
- 43. Believes that communication and confidentiality protocols should be laid down and that the dialogue should be genuinely two-way;
- 44. Calls for enhanced, two-way communication between auditors and financial supervisors of financial institutions, especially in relation to specific areas of concern, including the interaction between different financial products; calls for the same communication to be established for cross-border entities by auditors and the European supervisory authorities;
- 45. Points to the need to harmonise audit supervisory practices and asks the Commission to consider integrating the European Group of Auditors' Oversight Bodies into the European System of Financial Supervision, possibly through the ESMA;
- 46. Calls for the external auditors of financial institutions to report periodically, on a sectoral basis, to the ESRB in order to identify sectoral trends and potential sources of systemic risk and potential failures, and observes that this should be done in a proportionate way;
- 47. Calls on the Commission and the Member States to ensure compliance with the findings published by national audit offices in pursuit of their audit remit;

Concentration and market structure

48. Believes, in view of the current configuration of the audit market, that the collapse of one of the Big Four firms would undermine the credibility of the auditing profession as a whole;
49. Takes the view that, even though audit firm failure may not have a direct domino effect on the rest of the economy, firms that are deemed 'too big to fail' could create the risk of moral hazard and that the contingency plans relating to the major auditing firms should be reinforced; believes, furthermore, that these plans should be designed to minimise the risk of an audit firm leaving the market without good reason and to reduce the uncertainty and disruption that would cause;
50. Takes the view that the contingency plans are an important means of preventing the disorderly break-up of a firm and that the plans ought to include a mechanism via which the regulator is informed of any problems threatening an audit firm nationally or internationally, in order to allow the regulators to play their role and handle such situations with due care;
51. Supports the introduction of living wills for the Big Four audit firms and those auditors providing significant audit services to the financial sector, as well as the laying down of cross-border contingency plans for the orderly transfer of client contracts should a significant player withdraw from the market;
52. Emphasises that one of the aims of every action undertaken in the field of auditing must be to develop competition among the various firms operating in the sector, while maintaining audit quality, accuracy and thoroughness;
53. Calls on the Commission to establish equal competitive conditions for all firms operating on the auditing market and to simplify the rules governing auditing at European level; takes the view that easier access to the market and the removal of obstacles for firms wishing to enter the market are vital if a larger number of participants is to be attracted on to the auditing market; considers that audit committees and not the boards of companies are best placed to select the type of audit that best meets the audited entity's needs and to monitor the effectiveness and quality of that audit, and that particular emphasis should be placed on the auditor's independence; believes that the Commission should explore ways that will allow public-interest entities, the public sector and European institutions better to judge the quality of audit services provided by audit firms, irrespective of their size;
54. Recognises that the implementation of joint audits could have positive effects on the diversification of the audit market; recalls that different Member States have different market situations and different experiences of joint audits; calls on the Commission to assess the potential benefits and the costs of mandatory introduction both for audit firms, in particular small audit firms, and for audited companies – in particular financial institutions – and how it might affect the concentration of the audit market and financial stability;
55. Considers that takeovers by the Big Four must be considered in the light of their impact on the growth of other firms or networks;
56. Calls on the Commission to investigate the use of restrictive covenants by banks and other financial institutions on loans and other financial products for companies, which may be limiting auditor choice;

57. Considers it vital to introduce a ban on including in contracts restrictive clauses that favour the Big Four firms;
58. Calls for mergers between small and medium-sized audit firms to be encouraged; urges the Commission to look into creating a quality certificate and register for audit companies, so that small and medium-sized audit firms can show that their work is of a satisfactory standard; considers that the public procurement sector should aim to use non-Big Four firms and that public bodies should set a benchmark percentage for use of such firms;
59. Calls on the Commission, in connection with tendering by public-interest entities, to stipulate that fair access to the tendering process must be provided for at least two non-Big Four audit firms alongside the Big Four firms; takes the view that audit committees must be given a key role in this process, in which shareholders must also take part; calls on the Commission to review audit committee practices in relation to tendering processes, with a special focus on aspects of administrative burdens associated with a formal tendering process and with a view to ensuring that the shareholders' final decision on the appointment of auditors is based on a proposal from the audit committee; takes the view that this proposal should include a description of the procedure followed, the criteria used and the reasons underlying the audit committee's recommendation;
60. Calls on the Commission (DG COMP) to conduct a detailed investigation of the audit market;

Creation of a European market

61. Takes the view that auditing is crucial to the process of revitalising the internal market; calls on the Commission to examine to what extent measures to facilitate the cross-border provision of audit services might serve to eliminate barriers to market access and capacity bottlenecks; calls on the Commission to examine to what extent a European market for audit services might serve to reduce procedural complexity and costs for all market participants, in particular small and medium-sized audit firms; urges the Commission to take all appropriate steps to incorporate into EU law and enforce international auditing standards which can help to establish genuinely equal competitive conditions for audit firms; reminds the Commission of its recommendations concerning auditor liability; calls on the Commission, against this background, to come forward with proposals to enhance harmonisation with a view to creating a European passport for auditors, placing particular emphasis on everything that guarantees the auditor's independence;
62. Calls on the Commission to develop a pan-European liability regime for the auditing profession;

International cooperation

63. Calls on the Commission to step up its efforts to increase convergence;

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64. Instructs its President to forward this resolution to the Council and the Commission.

Situation of women approaching retirement age

European Parliament resolution of 13 September 2011 on the situation of women approaching retirement age (2011/2091(INI))

The European Parliament,

- having regard to the Treaty on European Union, in particular Articles 2 and 3,
- having regard to the Treaty on the Functioning of the European Union, in particular Article 19,
- having regard to the Charter of Fundamental Rights, in particular Articles 21, 23 and 25,
- having regard to the Commission Communication of 21 September 2010 entitled ‘Strategy for equality between women and men 2010-2015’ (COM(2010)0491),
- having regard to the Commission Communication of 29 April 2009 dealing with the impact of an ageing population in the EU (2009 Ageing Report) (COM(2009)0180),
- having regard to the Commission Recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market (2008/867/EC)¹,
- having regard to the report commissioned by the Commission of 22 July 2010 entitled ‘Access to healthcare and long-term care - Equal for women and men?’,
- having regard to the report commissioned by the Commission of 24 November 2009 entitled ‘Gender mainstreaming active inclusion policies’,
- having regard to the Council Conclusions of 7 March 2011 on the European Pact for Gender Equality for the period 2011-2020,
- having regard to the Council Conclusions of 6 December 2010 on the impact of an ageing workforce and population on employment policies,
- having regard to the Council Conclusions of 7 June 2010 on active ageing,
- having regard to the Council Conclusions of 30 November 2009 on healthy and dignified ageing,
- having regard to the Council Conclusions of 8 June 2009 on equal opportunities for women and men: active and dignified ageing,
- having regard to the European Foundation for the Improvement of Living and Working Conditions report of 1 May 2008 entitled ‘Working conditions of an ageing workforce’,
- having regard to the Madrid International Plan of Action on Ageing, adopted at the Second

¹ OJ L 307, 18.11.2008, p. 11.

World Assembly on Ageing (A/CONF.197/9 8) on 12 April 2002,

- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
 - having regard to its resolution of 7 September 2010 on the role of women in an ageing society¹,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Women's Rights and Gender Equality (A7-0291/2011),
- A. whereas gender equality and non-discrimination, inter alia on the basis of age, is a fundamental principle of the European Union enshrined in the Treaty on the Functioning of the European Union and one of the objectives and tasks of the Community,
- B. whereas the Europe 2020 Strategy sets a headline employment rate target of 75% for both women and men and states the objective of decreasing the number of those living at risk of poverty by 20 million; whereas the group of women over 50, due to the high levels of poverty and unemployment particular to this group, is therefore a decisive age-cohort in meeting both of these targets,
- C. whereas the persistence of gender stereotypes, compounded by the age discrimination faced by older people in the labour market, particularly reduces employment, training and promotion opportunities for older women and is partly responsible for the increased risk of poverty in old age,
- D. whereas discrimination based on sex is a specific kind of discrimination to the extent that it is systematic and systemic and cuts across, and is added to, all other forms of discrimination,
- E. whereas the employment market is far more dynamic and fluid today than ever before, which means that employment in the same area is no longer guaranteed for life; whereas therefore the economic crisis has shown that women have an important role to play within the job market,
- F. whereas Europe's future economic competitiveness, prosperity and inclusiveness depend crucially on its ability to effectively improve the use of its labour resources, not only by extending the employment period of life but also by creating the working conditions and social security systems which both support an improvement in working and living conditions and benefit the economy, whereas this also includes appropriate policies to reconcile work, family and private life and to tackle direct and indirect discrimination and gender stereotypes which lead to gender gaps in the labour market,
- G. whereas between 1990 and 2010 the working-age population (20-64 years) in the EU-27 increased by 1,8 %, the older population (aged 65+) increased by 3,7%, and the proportion of younger people (0-19 years) decreased by 5,4%; whereas the proportion of the population

¹ Texts adopted, P7_TA(2010)0306.

aged 65+ is projected to increase from 17,4% in 2010 to 30% in 2060¹,

- H. whereas in 2008 the risk of poverty among elderly women stood at 22% as against 16% for elderly men²,
- I. whereas women are often and increasingly over-represented among the isolated elderly, as a consequence of rising divorce rates and the shorter life expectancy of men; whereas widows and lone elderly women in general are at a higher risk of poverty, isolation and social exclusion,
- J. whereas the employment rate of women aged 55-64 years was 37,8% in 2009, as against 54,8% for men of the same age³,
- K. whereas the unemployment rate is higher for women than men in 21 Member States and, even though the long-term unemployment rate is higher for men than women in 12 countries, women's unemployment is more likely to be disguised as 'inactivity' if they are married or have children,
- L. whereas the average hourly earnings of women under 30 are 92% of those of men, and 67,5% in the 50-59 age group⁴, and the average EU gender pay gap remains as high as 17,5%,
- M. whereas gender differences in socio-economic status are largely rooted in the traditional gender division of roles, where men are considered to bear the primary responsibility for breadwinning and women for unpaid housework and family care, including wider family care, which has a huge impact on women's ability, compared with men's, to accumulate social security entitlements, for example for retirement, and consequently their situation in old age, particularly in the event of divorce, separation or being widowed,
- N. whereas women are more likely to have slower, shorter and/or interrupted careers and lower average earnings than men, which is reflected in a higher gender pay gap and creates a gender differential in contributions to personal pension accounts, thus increasing women's risk of poverty in old age,
- O. whereas the gender gap is smaller before family formation and increases when individuals form a couple; whereas a fall in employment rate occurs for women at the birth of their first child and the labour market disadvantages accumulate in the earlier stages of their life cycle, connected to child-care, which at a later stage changes into care of elderly people, which often flows into in-work poverty,
- P. whereas, compared with men, older women often choose or are compelled to choose part-time work and more often leave the labour market by opting or being compelled to opt for early retirement,
- Q. whereas the importance of a gender-based approach to active labour market policies is widely acknowledged in almost all European countries but assessments of active labour

¹ Staff working document: Demography report 2010, European Commission, page 62.

² List of 100 inequalities, European Institute for Gender Equality.

³ Report on Progress on Equality between Women and Men in 2010, European Commission, page 31.

⁴ The life of women and men in Europe - A statistical portrait, Eurostat, 2008, page 196.

market policies indicate that gender mainstreaming remains uneven and rather narrow in focus,

- R. whereas women over 50 often face twofold or multiple discrimination based on gender and age stereotypes, frequently exacerbated by their gender-specific work and life patterns (e.g. career breaks, part-time employment, re-employment after a period of unemployment, the fact that they may give up their jobs in order to look after their families or work in family businesses, especially in the distributive trades or in farming, without being paid a salary or belonging to a social security scheme, and the gender pay gap); whereas, therefore, women tend to face a greater accumulation of disadvantages than men from the same groups; whereas, in addition, in times of economic recession the women concerned are in even greater danger of being reduced to poverty,
- S. whereas in the labour market women are frequently regarded as ‘old’ at a much younger age than men; whereas 58% of Europeans regard age discrimination as widespread¹,
- T. whereas violence against older women is a severely underestimated issue due to older women's particular reticence in disclosing abuse, stereotyping by service providers who believe older women to be less at risk, and the reduced range of options available to older female victims of abuse,
- U. whereas education for equality from the earliest age, vocational guidance policies and policies to promote women’s employment are effective ways to stop discrimination of this kind for good,

General provisions

- 1. Welcomes the Commission’s decision to designate 2012 as the European Year of Active Ageing and Solidarity between the Generations and calls on the Commission and Member States to take appropriate and effective steps to combat discrimination, including by tackling the stereotypes associated with gender and age discrimination and promoting solidarity between generations;
- 2. Calls on the Commission and the Member States to ensure that multiple discrimination against women over 50 is better reflected and effectively tackled in the open method of coordination regarding pensions, social inclusion, employment, changing gender stereotypes and inclusion of women on political and economic decision-making bodies;
- 3. Calls on the Member States to implement gender mainstreaming in the preparation and implementation of pension reform – a point which should also be taken into account in the upcoming White Paper on pension systems and other reforms in social security policy –, to promote use of more equality-enhancing actuarial calculation of pensions for men and women, to promote steps to decrease the risk of poverty, to tackle the poverty currently experienced by older people, to improve the quality, accessibility and affordability of (health) care and to end the practice of mandatory retirement, while allowing older women to participate in the labour market by tackling discrimination;
- 4. Calls on the Member States to make additional provision in their pensions legislation for widows’ pensions so as to make older women less vulnerable to the risk of poverty;

¹ Special Eurobarometer 317, Discrimination in the EU in 2009, November 2009, page 71.

5. Points to the importance of taking measures to promote the inclusion of women in the most vulnerable categories, that is to say, immigrants, women belonging to minorities, women with disabilities, women with little education, women without work experience, women in prison, etc., in order to guarantee their right to a decent life;
6. Calls on the Member States to take measures to ensure ageing with dignity without humiliation, discrimination or any form of violence against older women;
7. Points out that older women constitute an economic resource and a fund of experience and provide vital support to the community and to families as carers of dependent persons and also as advisers in work matters, bearing in mind their extensive professional experience, and, moreover, that they are helping to preserve the rural world;
8. Calls on the Commission and the Member States to promote initiatives to foster understanding of the language and culture of new technologies so as to enable the older female population to bridge the digital divide and increase their interpersonal and communication skills and their ability to manage their independence and their interests;
9. Calls on the Commission and Member States to conclude a study, in close cooperation with the European Institute for Gender Equality, on the situation of women over 50, in particular by focusing on their experiences in the labour market, care-giver experiences and how women and men use their time, and on health issues and other challenges they have to face;

Women on the labour market

10. Calls on the Commission and the Member States to create conditions enabling and helping older women to remain in and/or return to the labour market during the European Year of Active Ageing and Solidarity between Generations, so they can use their potential on the labour market and so their rights are respected; calls on the Commission and the Member States also to implement measures that encourage employers to improve their equal opportunities policies so that ageist attitudes towards older women are tackled and so that older female employees receive equal access to for instance training, promotion, and career development;
11. Calls on the Commission and the Member States to establish without delay a comprehensive, multi-dimensional, gender-sensitive and age-friendly approach to employment and social policies in order to guarantee employment and social inclusion of women; calls on the Commission and the Member States to also carry out an in-depth review of the situation of the generation of older women who are already living in poverty and to speedily take appropriate, effective measures to take these women out of poverty;
12. Calls on the Member States to adequately address the multiple discrimination that older women are facing in seeking access to employment;
13. Calls on the Commission to further develop and improve the collection and analysis of accurate, relevant, comparable European gender- and age-specific data, particularly on the employment and unemployment rate of older women, including migrant and disabled women, the (informal) involvement of older women in (unpaid) care for their families and relatives, and on the percentage of dependent elderly people and on elder abuse, which should be subject to all current Member State data protection legislation;

14. Welcomes the fact that Member States have already acknowledged that patterns and causes of gender inequality in the labour market are strictly related to the life-cycle stage, and stresses that a life-cycle approach to work must therefore be promoted; urges the Member States, however, – in order to address life cycle challenges adequately – to tackle with focused measures the disadvantaged position of young and older women compared to men of the same age in their active labour market policies and not just address the latter to women and men in adulthood;
15. Calls on the Member States to exchange best practices in improving the quality of working conditions of older women, in order to create a sustainable and healthy workplace for them;
16. Encourages the Member States to include older women in life-long learning processes and to further develop and support flexible retraining programmes suitable for older women, by taking into consideration their specific needs and abilities in order to increase their employability and help to sustain an independent and active life, as well as share accumulated experience and knowledge with younger generations;
17. Calls on the Commission and the Member States to ensure that the disadvantages faced by women in the labour market, particularly those stemming from care responsibilities, should not penalise them in their pension or other social security entitlements;
18. Urges the Commission and the Member States to make provision in welfare systems for aggregation arrangements enabling contributions from periods of salaried employment and self-employment, or accounted for by different jobs, to be added together, if this has not yet been done;
19. Calls on the Commission and Member States to develop and promote gender-assessed pension systems as a means of support and a safeguard against older women's higher risk of poverty, taking into account career breaks due to caring obligations, in order to avoid creating new dependency traps;
20. Calls on the Commission and Member States to take, without delay, effective measures to implement the principle of equal pay for equal work (e.g. by means of a mandatory job evaluation scheme and equality action plan at the workplace) in order to eliminate the gender pay gap, which can also help to close the pension gap, with a view to reducing and ultimately eliminating the higher risk of poverty faced by – mainly older – women;
21. Calls on the Commission and the Member States to implement appropriate policies to reconcile work, family and private life and to integrate the ageing dimension into all relevant policies, by means of age mainstreaming, taking account of the various periods of life; calls on the Vilnius-based European Institute for Gender Equality to draw up the necessary impact and research studies;
22. Calls on the Commission and the Member States to make full and efficient use of the existing EU instruments and programmes, including the European Social Fund and the European Regional Development Fund, to increase participation of older women in labour markets and to tackle discrimination against older women in all areas;
23. Asks the Member States to encourage active participation by older women in the business sector by encouraging, and providing support for, women who start new businesses and facilitating women's access to financing, especially through microcredit, and equal

representation of men and women in economic decision-making bodies, including in company boards;

24. Calls on the Member States to encourage companies to integrate age management principles and tools into their policy, particularly their staff policy, to adopt an 'age-friendly and gender-sensitive' policy in workplaces, to give the accumulated knowledge and experience of their older female employees more recognition and respect, and to develop a reliable, transparent information policy that gives older employees the opportunity to prepare for retirement in full knowledge of the facts; further calls on the Commission and the Member States to improve the procedures for imposing penalties on employers who discriminate against older female employees; draws attention to the need to include these policies in the Small Business Act;

Women as care-providers

25. Calls on the Member States to step up progress towards meeting the needs of families who have to take on responsibility for dependants and calls on the Commission to continue to support the development of care structures making use of the Structural Funds;
26. Asks the Member States to enhance the provision of quality care services, including home care for the elderly, to guarantee the accessibility and affordability of such quality care, to improve recognition of the value of the work undertaken by professional care-givers, and to support families providing care to older dependent persons, for example by compensating them financially for what they contribute and by advising and training them so that they are able to offer high-quality informal care;
27. Points to the need to make sufficient provision of an appropriately high standard for care services for children, older people and other dependent persons, which should be offered at affordable prices and compatible with full-time working so as to ensure that women will not be obliged to interrupt, abandon or cut short their careers in order to look after the needs of dependants in their care;
28. Points out that these care services for children and dependants constitute a substantial source of jobs that could be filled by older women, whose employment rate is currently one of the lowest;
29. Calls on the Member States to provide training and capacity-building in order to guarantee high-quality care services and counteract the staff shortages in the white sector (care and health) caused by demographic trends;
30. Encourages the Member States to extend access to parental leave for grandparents and children taking care of their parents, to recognise caring for dependent persons, while considering the possibility of developing a carer's leave and to provide services, training and counselling for care-givers;
31. Recognises that women approaching retirement age are often grandparents; recognises however that women approaching retirement should not be solely portrayed as care-givers; asks Member States therefore to consider child care facilities that can offer grandparents, should they wish, the freedom of choice to participate in other activities;
32. Encourages the Member States to promote civil involvement and inter-generational projects

for older people by funding initiatives and schemes;

33. Calls on the Member States to take measures at all levels, including by supporting relevant NGOs, to address the specific needs of older persons, in particular older women living alone, in order to reduce their isolation and dependency and promote their equality, security and well-being;
34. Asks the Member States to consider exploring a range of accommodation options and supporting community groups and organisations as a way of combating isolation among elderly women and creating a favourable environment for intergenerational solidarity;
35. Acknowledges that elderly women should have a dignified choice to live however they may wish, whether this be alone or through communal living;

Health issues

36. Calls on the Commission and the Member States to recognise the gender dimension in health as an essential part of EU health policies and therefore asks the Commission and the Member States to further step up their efforts to adopt a dual strategy with gender and age mainstreaming and specific gender-related actions in EU and national health policies;
37. Encourages the Commission and the Member States to recognise the importance of gender- and age-sensitive curative and palliative health care; calls on the Member States to expand research into gender-related diseases, including research into the causes, possible prevention and treatments of these diseases;
38. Recognises the vital role of screening and preventive treatment in health care, and encourages the Commission to use the open method of coordination to ensure exchange of views, promote harmonisation of screening across the EU, identify best practices and establish guidelines;
39. Welcomes the efforts of some Member States which provide free access to prevention of gender-related diseases, and encourages Member States which have not yet done so to strengthen preventive healthcare for older women by providing, for example, for accessible and regular mammograms and cervical smear tests, to erase age limits in access to health prevention such as breast cancer screening, and to raise awareness of the importance of screening;
40. Encourages the Member States to further step up their efforts to adopt a gender mainstreaming strategy in health policies and to ensure equality of access to affordable health care and long-term care for both women and men, especially the older ones, and for those who face multiple disadvantages;
41. Encourages the Commission and the Member States to develop measures that ensure better health and safety at work, thus maintaining the employability and capabilities of workers and making for better health in old age;
42. Calls on the Commission and the Member States to combat all forms of violence against older women, recognising the underestimation of this problem, tackling societal stereotypes and ensuring that service providers are able to take into account the specific needs of older victims of violence, in order to ensure full enjoyment of human rights and achieve gender

equality, and making full use of the DAPHNE programme;

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43. Instructs its President to forward this resolution to the Council and the Commission.

Directive on mediation in the Member States, its impact on mediation and its take-up by the courts

European Parliament resolution of 13 September 2011 on the implementation of the directive on mediation in the Member States, its impact on mediation and its take-up by the courts (2011/2026(INI))

The European Parliament,

- having regard to Articles 67 and 81(2)(g) of the Treaty on the Functioning of the European Union,
 - having regard to its position of 23 April 2008 on the Council common position for adopting a directive on certain aspects of mediation in civil and commercial matters¹,
 - having regard to the hearings held by the Committee on Legal Affairs on 20 April 2006, 4 October 2007 and 23 May 2011,
 - having regard to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters²,
 - having regard to Rules 48 and 119(2) of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A7-0275/2011),
- A. whereas securing better access to justice is one of the key objectives of the European Union's policy to establish an area of freedom, security and justice; whereas the concept of access to justice should, in this context, include access to adequate dispute resolution processes for individuals and businesses,
- B. whereas the objective of Directive 2008/52/EC is to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings,
- C. whereas in order to facilitate access to mediation as a viable alternative to the traditional adversarial approach and to ensure that parties having recourse to mediation in the European Union benefit from predictable framework legislation, the Directive introduces common principles addressing, in particular, aspects of civil procedure,
- D. whereas, besides predictability, the Directive aims to establish a framework that preserves the main advantage of mediation, flexibility; whereas these two requirements should guide Member States when drawing up national laws implementing the Directive,
- E. whereas Directive 2008/52/EC has also been of interest to neighbouring States and has had a demonstrable influence on the introduction of similar legislation in some of these countries,

¹ OJ C 259 E, 29.10.2009, p.122.

² OJ L 136 24.05.2008, p.3.

- F. whereas the Member States are required to comply with this Directive before 21 May 2011, with the exception of Article 10, for which the date of compliance was 21 November 2010; whereas so far the majority of Member States have reported that they have completed the implementation process or will complete it by the deadline, and only a few Member States have not yet reported compliance with the Directive's provisions: the Czech Republic, Austria, Finland and Sweden,
- G. whereas the European Parliament considers it important to examine how this piece of legislation has been implemented by the Member States, to see what practitioners and users of mediation think of it and to identify whether and how it could be improved,
- H. whereas, for this purpose, a thorough analysis of the main regulatory approaches of the Member States should be conducted in order to identify good practices and draw conclusions about any further action at European level,
- I. whereas the Commission's Action Plan for implementing the Stockholm Programme (COM(2010)0171) foresees a Communication on the implementation of the mediation directive in 2013,
- J. whereas it is worth considering how Member States have implemented the main provisions of the Mediation Directive regarding the possibility for the courts to suggest mediation directly to the parties (Article 5), the guarantee of confidentiality (Article 7), the enforceability of agreements resulting from mediation (Article 6) and the effect of mediation on limitation and prescription periods (Article 8),
- K. whereas the Commission has included in its Work Programme for 2011 a legislative proposal on Alternative Dispute Resolution,
1. Observes that the requirement of confidentiality set out by the Directive already existed in certain Member States' domestic legislation: in Bulgaria, the Code of Civil Procedure states that mediators can refuse to testify about a dispute they have mediated; in France and Poland the laws governing civil mediation establish similar provisions; notes that, among the Member States, Italy adopts a rigorous approach to the confidentiality of mediation proceedings, whilst the Swedish mediation rules state that confidentiality is not automatic and require an agreement between the parties to that effect; considers that a more coherent approach seems to be needed;
 2. Observes that, pursuant to Article 6 of the Directive, the majority of Member States have a procedure for giving the mediation settlement agreement the same authority as a judicial decision; notes that this is achieved either by submitting it to the court or by having the agreement notarised, and that it appears that some national legislatures have opted for the former solution, while, by contrast, in many Member States notarisation is also an available option under national law: for instance, whereas in Greece and Slovenia the law provides that a mediation agreement record may be enforced by the courts, in the Netherlands and in Germany agreements can be rendered enforceable as notarial acts, and in other Member States, including Austria, they can, as the law currently stands, be rendered enforceable as notarial acts despite the lack of any explicit provision to that effect in the relevant national legislation; calls on the Commission to ensure that all Member States that do not yet comply with Article 6 of the Directive do so without delay;
 3. Takes the view that Article 8, which deals with the effects of mediation on limitation and

prescription periods, is an essential provision in that it ensures that parties who choose mediation in an attempt to settle a dispute are not subsequently prevented from having their day in court as a result of the time spent in mediation; notes that no particular issue seems to have been raised by Member States in relation to this point;

4. Points out that some Member States have chosen to go beyond the core requirements of the Directive in two areas, namely financial incentives for participation in mediation and mandatory mediation requirements; notes that national initiatives of this type help to make dispute resolution more effective and reduce the courts' workload;
5. Acknowledges that Article 5(2) allows Member States to make the use of mediation compulsory or subject to incentives or sanctions, whether before or after judicial proceedings have started, provided that this does not prevent the parties from exercising their right of access to the courts;
6. Observes that some European states have undertaken a number of initiatives to provide financial incentives to parties who refer cases to mediation: in Bulgaria, parties will receive a refund of 50% of the state fee already paid for filing the dispute in court if they successfully resolve a dispute in mediation, and Romanian legislation provides for full reimbursement of the court fee if the parties settle a pending legal dispute through mediation; notes that similar provision is to be found in Hungarian legislation and that in Italy all mediation acts and agreements are exempt from stamp duties and charges;
7. Observes that, alongside the financial incentives, certain Member States whose judicial systems are overburdened have resorted to rules making recourse to mediation compulsory; notes that in such cases disputes cannot be filed in court until the parties have first attempted to resolve the issues by mediation;
8. Points out that the most striking example is Italian Legislative Decree No 28, which aims in this way to overhaul the legal system and make up for the notoriously congested Italian courts by reducing caseloads and the nine-year average time to complete litigation in a civil case; observes that, not surprisingly, this has not been well received by practitioners, who have challenged the decree in court and even gone on strike;
9. Points out that, despite the controversy, Member States whose national legislation goes beyond the core requirements of the Mediation Directive seem to have achieved important results in promoting the non-judicial treatment of disputes in civil and commercial matters; observes that the results achieved in particular in Italy, Bulgaria and Romania prove that mediation can bring about a cost-effective and quick extrajudicial resolution of disputes through processes tailored to the needs of the parties;
10. Observes that compulsory mediation appears to be achieving the objective in the Italian legal system by relieving congestion in the courts; nevertheless stresses that mediation should be promoted as a viable, low-cost and quicker alternative form of justice rather than a compulsory aspect of the judicial procedure;
11. Acknowledges the successful results achieved by the financial incentives provided for by the Bulgarian law on mediation; recognises, however, that these are also due to the long-standing interest in mediation shown by the Bulgarian legal system in that the mediation community has been in existence since 1990 and the Settlement Centre – staffed by mediators working in shifts – has since 2010 been providing free mediation services and

information for parties in pending court cases on a daily basis; notes that in Bulgaria two thirds of the cases referred were mediated and half of those cases were brought to a successful conclusion in mediation;

12. Notes also the successful results of the Romanian law on mediation: as well as the provisions on financial incentives, a Mediation Council – a national authority for mediation practice which exists as a separate, autonomous legal body – has been established; it is entirely devoted to promoting mediation activity, developing training standards, preparing training-course providers, issuing documents certifying mediators' professional qualifications, adopting a code of ethics, and formulating proposals for more legislation;
13. Believes that, in the light of all of the foregoing, the Member States are, as a whole, largely on track to implement Directive 2008/52/EC by 21 May 2011 and that, while Member States are using varied regulatory approaches and some states are a little behind, the fact remains that most Member States are not only compliant, but are in fact ahead of the Directive's requirements;
14. Stresses that parties who are willing to work toward resolving their case are more likely to work with one another than against one another; believes that therefore these parties are often more open to consideration of the other party's position and work on the underlying issues of the dispute; considers that this often has the added benefit of preserving the relationship the parties had before the dispute, which is of particular importance in family matters involving children;
15. Encourages the Commission, in its forthcoming Communication on the implementation of Directive 2008/52/EC, also to examine those areas where Member States have chosen to extend the measures of the Directive beyond its intended scope;
16. Highlights the consumer-friendly features of alternative dispute resolution schemes, which offer a tailored practical solution; calls in this context for the prompt presentation of a legislative proposal on alternative dispute resolution by the Commission;
17. Notes that solutions resulting from mediation and developed between parties could not be provided by a judge or a jury; believes, therefore, that mediation is more likely to produce a result that is mutually agreeable, or 'win-win', for the parties; notes that, as a result, acceptance of such an agreement is more likely and compliance with mediated agreements is usually high;
18. Believes that there is a need for increased awareness and understanding of mediation, and calls for further action relating to education, growing awareness of mediation, enhancing mediation uptake by businesses and requirements for access to the profession of mediator;
19. Considers that national authorities should be encouraged to develop programmes in order to promote adequate knowledge of alternative dispute resolution; considers that those actions should address the main advantages of mediation – cost, success rate and time efficiency – and should concern lawyers, notaries and businesses, in particular SMEs, as well as academics;
20. Acknowledges the importance of establishing common standards for accessing the profession of mediator in order to promote a better quality of mediation and to ensure high standards of professional training and accreditation across the Union;

21. Instructs its President to forward this resolution to the Council, the Commission and the parliaments of the Member States.

Voluntary modulation of direct payments under the common agricultural policy *I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the common agricultural policy (COM(2010)0772 – C7-0013/2011 – 2010/0372(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0772),
 - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0013/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 15 March 2011¹,
 - having regard to the undertaking given by the Council representative by letter of 30 June 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union],
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Agriculture and Rural Development (A7-0203/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 132, 3.5.2011, p. 87.

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council amending Council Regulation (EC) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the common agricultural policy

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the *European* Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

■,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) Council Regulation (EC) No 378/2007 of 27 March 2007 laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers³ confers **■** on the Commission *powers* to implement *certain* provisions of that Regulation.
- (2) As a consequence of the entry into force of the *Treaty of Lisbon*, the powers conferred *on the Commission* under Regulation (EC) No 378/2007 **■** need to be aligned *with* Articles 290 and 291 of the Treaty on the Functioning of the European Union **■**.
- (3) In order to *ensure uniform conditions for the implementation of Regulation (EC) No 378/2007 in the Member States concerned, implementing powers should be conferred on the Commission.*
- (4) *The implementing powers relating to the adoption of specific provisions for the integration of voluntary modulation in the rural development programming and for the financial management of voluntary modulation should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles*

¹ OJ C 132, 3.5.2011, p. 87.

² Position of the European Parliament of 13 September 2011.

³ OJ L 95, 5.4.2007, p. 1.

concerning mechanisms for control by Member States of the Commission's exercise of implementing powers¹.

(5) *The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, fix the net amounts resulting from the application of voluntary modulation.*

(6) Regulation (EC) No 378/2007 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 378/2007 is **hereby** amended as follows:

(1) in Article 4(1), the introductory **wording** is replaced by the following:

"1. The net amounts resulting from the application of voluntary modulation shall be fixed by the Commission, by means of implementing acts without the **application** of **Article 6a**, based on:";

(2) Article 6 is replaced by the following:

"Article 6

1. The Commission shall, by means of implementing acts **■**, adopt specific provisions for the integration of voluntary modulation in the rural development programming. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6a(1).***

2. The Commission shall, by means of implementing acts **■**, adopt specific provisions for the financial management of voluntary modulation. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6a(2).***";

(3) ***the following Article is added:***

"Article 6a

1. The Commission shall be assisted by the Rural Development Committee established by Council Regulation (EC) No 1698/2005. That committee is a committee within the meaning of Regulation (EU) No 182/2011*.

Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

2. The Commission shall be assisted by the Committee on the agricultural funds established by Council Regulation (EC) No 1290/2005. That committee is a committee within the meaning of Regulation (EU) No 182/2011.

¹ OJ L 55, 28.2.2011, p. 13.

Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

** Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13)."*

Article 2

This Regulation shall enter into force on the twentieth 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 ...,

*For the European Parliament
The President*

*For the Council
The President*

Officially supported export credits *I**

European Parliament legislative resolution of 13 September 2011 on the proposal for a regulation of the European Parliament and of the Council on the application of certain guidelines in the field of officially supported export credits (COM(2006)0456 – C7-0050/2010 – 2006/0167(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2006)0456),
 - having regard to Article 133 of the EC Treaty,
 - having regard to the Commission Communication to Parliament and the Council entitled ‘Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures’ (COM(2009)0665),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0050/2010),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the undertaking given by the Council representative by letter of 29 June 2011 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinions of the Committee on Development and the Committee on Economic and Monetary Affairs (A7-0364/2010),
1. Adopts its position at first reading hereinafter set out¹;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ This position replaces the amendments adopted on 5 April 2011 (Texts adopted P7_TA(2011)0126).

Position of the European Parliament adopted at first reading on 13 September 2011 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council on the application of certain guidelines in the field of officially supported export credits

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure¹,

Whereas:

- (1) *Export Credit Agencies ("ECAs") contribute to the development of world trade by supporting export and investments by companies in a manner that complements the provision of private sector finance and insurance.* The Union is party to the Arrangement on ■ Officially Supported Export Credits ("the Arrangement") of the Organisation for Economic Co-operation and Development ("OECD"). The Arrangement, as concluded *by the Participants thereof, regulates the financial terms and conditions that ECAs may offer in order to foster a level playing field for officially supported export credits.*
- (2) By virtue of Council Decision 2001/76/EC of 22 December 2000 replacing the Decision of 4 April 1978 on the application of certain guidelines in the field of officially supported export credits² and Council Decision 2001/77/EC of 22 December 2000 on the application of principles of a framework agreement on project finance in the field of officially supported export credits³, the guidelines contained in the Arrangement and the specific rules for project finance apply in the Union.
- (3) *The Arrangement indirectly contributes, through the activity of the ECAs, to free and fair trade and investment by companies which would otherwise have less access to credit facilities provided by the private sector.*
- (4) *The Member States should comply with the Union's general provisions on External Action, such as consolidating democracy, respect for human rights and policy coherence for development, and the fight against climate change, when establishing, developing and implementing their national export credit systems and when carrying out their supervision of officially supported export credit activities.*
- (5) *The Participants to the Arrangement are involved in a continuous process intended to minimise market distortion and to establish a level playing field in which the premiums charged by the ECAs are risk-based and should be adequate to cover long term*

¹ Position of the European Parliament of 13 September 2011.

² OJ L 32, 2.2.2001, p. 1.

³ OJ L 32, 2.2.2001, p. 55.

operating costs and losses and in accordance with World Trade Organization obligations. In order to achieve this goal, the export credit systems operate in a transparent way and agencies report accordingly to the OECD.

- (6) *Well-targeted export credits provided by ECAs can contribute to market access opportunities for Union companies, also for small and medium sized enterprises (SMEs).*
- (7) *The Participants to the Arrangement and the Member States of the Union agreed to disclose certain information on export credits according to the transparency rules of the OECD and of the Union in order to facilitate a level playing field for the Participants and Member States.*
- (8) *The Union applies transparency and reporting measures as set out in Annex I.*
- (9) *In view of the intensified competitive situation on world markets and in order to avoid competitive disadvantages for Union companies, the Commission, with regard to the negotiating authorisation from the Member States, should support the efforts of the OECD in reaching out to non-Participants to the Arrangement. The Commission should use bilateral and multilateral negotiations in order to establish global standards for officially supported export credits. Global standards in this field are a prerequisite for a level playing field in world trade.*
- (10) *Although OECD countries are guided by the Arrangement, non-OECD countries are not Participants to the Arrangement and this could lead to a competitive advantage for exporters of the latter countries. Those countries, therefore, are being encouraged to apply the Arrangement in order to ensure a level playing field also at the global level.*
- (11) *In view of the Union's Better Regulation policy, aimed at simplifying and improving existing regulation, the Commission and Member States, in future reviews of the Arrangement, will focus, where appropriate, on reducing administrative burdens on businesses and national administrations, including ECAs.*
- (12) *The Participants to the Arrangement decided to amend and rationalize the Arrangement. Changes **agreed upon** by them cover the enhancement of user-friendliness, the improvement of consistency in the relevant international obligations and the achievement of greater transparency, in particular with regard to non-Participants. Moreover, the Participants to the Arrangement also **agreed** to incorporate in the text of the Arrangement the rules on project finance which were introduced by Decision 2001/77/EC, and the rules for export credits for ships, which were introduced by Council Decision 2002/634/EC¹ of 22 July 2002 amending Decision 2001/76/EC.*
- (13) *Decision 2001/76/EC, **as amended**, should be repealed and replaced by this **Regulation** and the consolidated and revised text of the Arrangement annexed thereto, and Decision 2001/77/EC should be repealed.*
- (14) *In order to smoothly and promptly incorporate into Union legislation the amendments to the guidelines set out in the Arrangement as agreed upon by the Participants to the Arrangement, the Commission should adopt delegated acts to amend Annex II in*

¹ OJ L 206, 3.8.2002, p. 16.

accordance with the procedure set out in Article 2 where this is necessary. Therefore the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments to the guidelines as agreed upon by the Participants to the Arrangement. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council,

HAVE ADOPTED THIS *REGULATION*:

Article 1

The guidelines contained in the Arrangement on **█** Officially Supported Export Credits ("the Arrangement") shall apply in the *Union*. *The text of the Arrangement is annexed to this Regulation.*

Article 2

The Commission shall adopt delegated acts in accordance with Article 3 to amend Annex II as a result of amendments to the guidelines agreed upon by the Participants to the Arrangement.

Where, in the case of amendments to Annex II as a result of amendments to the guidelines agreed upon by the Participants to the Arrangement, imperative grounds of urgency so require, the procedure provided for in Article 4 shall apply to delegated acts adopted pursuant to this Article.

Article 3

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 2 shall be conferred on the Commission for an indeterminate period of time from ...*.*
- 3. The delegation of power referred to in Article 2 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*

* *Date of entry into force of this Regulation.*

5. A delegated act adopted pursuant to Article 2 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 4

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 3(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

Article 5

The transparency and reporting measures to be applied in the Union are set out in Annex I.

Article 6

Decisions 2001/76/EC, 2001/77/EC **and 2002/634/EC** are hereby repealed.

Article 7

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 ...,

For the Parliament
The President

For the Council
The President

Annex I

1. *Without prejudice to the prerogatives of the Member States' institutions exercising the supervision of the national export credit programs, each Member State shall make available to the Commission an Annual Activity Report in order to step up transparency at Union level. Member States shall report, in accordance with their national legislative framework, on assets and liabilities, claims paid and recoveries, new commitments, exposures and premium charges. Where contingent liabilities might arise from officially supported export credit activities, those activities shall be reported as part of the Annual Activity Report.*
2. *In the Annual Activity Report, Member States shall describe how environmental risks, which can carry other relevant risks, are taken into account in the officially supported export credit activities of their ECAs.*
3. *The Commission shall produce an annual review for the European Parliament based on this information, including an evaluation regarding the compliance of ECAs with Union objectives and obligations.*
4. *The Commission, according to its competencies shall provide to the European Parliament an annual report on negotiations undertaken, where the Commission has negotiating authorization in the various fora of international cooperation, to establish global standards in the field of officially supported export credits.*

The first reporting period, under the scope of this Regulation, covers the year 2011.

Annex II

ARRANGEMENT ON GUIDELINES FOR OFFICIALLY SUPPORTED EXPORT CREDITS

(The text of the Annex is not reproduced here due to its length. For that text, please refer to the Commission proposal COM(2006)0456).

An effective raw materials strategy for Europe

European Parliament resolution of 13 September 2011 on an effective raw materials strategy for Europe (2011/2056(INI))

The European Parliament,

- having regard to the Commission Communication of 2 February 2011 entitled ‘Tackling the challenges in commodity markets and on raw materials’ (COM(2011)0025),
- having regard to the Commission Communication of 4 November 2008 entitled ‘The raw materials initiative - meeting our critical needs for growth and jobs in Europe’ (COM(2008)0699),
- having regard to the report on ‘Critical Raw Materials for the EU’ by the Subgroup of the Raw Material Supply Group of Directorate-General for Enterprise and Industry¹,
- having regard to the Commission Communication of 3 March 2010 entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’ (COM(2010)2020),
- having regard to the Commission Communication of 26 January 2011 entitled ‘A resource-efficient Europe – Flagship initiative of the Europe 2020 Strategy’ (COM(2011)0021),
- having regard to the Commission Communication of 8 March 2011 entitled ‘A Roadmap for moving to a competitive low carbon economy in 2050’ (COM(2011)0112/4),
- having regard to the Commission Communication of 28 October 2010 entitled ‘An Integrated Industrial Policy for the Globalisation Era Putting Competitiveness and Sustainability at Centre Stage’ (COM(2010)0614),
- having regard to the Commission Communication of 06 November 2010 entitled ‘Europe 2020 Flagship Initiative Innovation Union’ (COM(2010)0546),
- having regard to the Commission Communication of 9 November 2010 entitled ‘Trade, Growth and World Affairs - Trade Policy as a core component of the EU’s 2020 strategy’ (COM(2010)0612),
- having regard to its resolution of 9 March 2011 on Industrial Policy for the Globalised Era²,
- having regard to its resolution of 3 February 2011 on waste electrical and electronic equipment (WEEE)³,
- having regard to its resolution of 16 June 2010 on EU 2020⁴,

¹ http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/report-b_en.pdf.

² Texts adopted, P7_TA(2011)0093.

³ Texts adopted, P7_TA(2011)0037.

⁴ OJ C 236 E, 12.8.2011, p. 57.

- having regard to the guidance document on ‘Non-energy mineral extraction and Natura 2000’ by the Directorate-General for the Environment, European Commission¹,
- having regard to the Staff Working Document accompanying the Commission Communication of 4 November 2008 entitled ‘The raw materials initiative - meeting our critical needs for growth and jobs in Europe’ (COM(2008)0699) (SEC(2008)2741),
- having regard to the ‘Raw materials policy 2009 annual report’ by the Directorate-General for Trade, European Commission²,
- having regard to the study on ‘The links between the environment and competitiveness’ by the Directorate-General for the Environment, European Commission³,
- having regard to the Commission Green Paper of 10 November 2010 entitled ‘EU development policy in support of inclusive growth and sustainable development – increasing the impact of EU development policy’ (COM(2010)0629),
- having regard to the Commission Communication of 10 November 2010 entitled ‘on the consolidation of EU Africa relations’ (COM(2010)0634),
- having regard to the upcoming Commission Communication on trade and development,
- having regard to the Commission Communication of 15 September 2009 entitled ‘Policy coherence for development – Establishing the policy framework for a whole-of-the-Union approach’ (COM(2009)0458),
- having regard to its resolution of 18 May 2010 on the EU Policy Coherence for Development and the ‘Official Development Assistance plus’ concept⁴,
- having regard to its resolution of 25 November 2010 on the inclusion of Corporate Social Responsibility clauses in international trade agreements⁵,
- having regard to the Council Conclusions of 10 March 2011 on tackling the challenges on raw materials and in commodity markets,
- having regard to Article 208 of the Treaty on the Functioning of the European Union (Lisbon Treaty), which reaffirms that the EU shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries,
- having regard to the current Doha Round negotiations,
- having regard to the 2007 Africa-EU Joint Strategy and the Tripoli Declaration by the 3rd Africa EU Summit on 29/30 November 2010,

¹ http://ec.europa.eu/environment/nature/natura2000/management/docs/nee_n2000_guidance.pdf.

² <http://ec.europa.eu/trade/creating-opportunities/trade-topics/raw-materials/>.

³ Study ‘The links between the environment and competitiveness’, Project ENV.G.1/ETU/2007/0041, http://ec.europa.eu/environment/enveco/economics_policy/pdf/exec_summary_comp.pdf.

⁴ OJ C 161 E, 31.5.2011, p. 47.

⁵ Texts adopted, P7_TA(2010)0446.

- having regard to the current WTO case on nine raw materials by the EU, US and Mexico against China,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on the Environment, Public Health and Food Safety, the Committee on Foreign Affairs, the Committee on Development, the Committee on International Trade and the Committee on Agriculture (A7-0288/2011),
- A. whereas the EU requires a strong industrial base, which is highly dependent upon adequate supplies of raw materials (RM), as it greens, in order to move towards a low-carbon economy and to remain competitive,
 - B. whereas the complexity of the administrative processes and the lack of coordination between administrations can result in delays of several years in obtaining authorisation for the exploitation of mineral resources, whereas such delays are excessive, increase the capital costs of investment and exclude small and medium-sized undertakings from the market,
 - C. whereas worldwide demand for RM has been steadily increasing, especially for ‘technology metals’,
 - D. whereas the EU Member States, Australia and the United States have the potential to develop their own resources’ extraction of the critical RM (CRM), base metals and rare earth elements (REE),
 - E. whereas advances in new technologies will continue to increase demand for resources central to the development of these industries,
 - F. whereas international supply is partly restricted by export quotas, and prices are reaching record heights,
 - G. whereas, in the manufacturing sector, the share of material cost as part of the total production costs is significantly higher than the share related to workers’ payroll and whereas, in all sectors, the upward trend in the former is not expected to be reversed, at least in the medium term,
 - H. whereas markets benefit from a fair and level playing field,
 - I. whereas increased competition over RM can aggravate international relations and lead to resource conflicts,
 - J. whereas these challenges can be an opportunity for new innovative partnerships of mutually beneficial cooperation between the EU and third countries,
 - K. whereas, in many developing countries, the exploitation of natural resources has not been undertaken to the benefit of the population because of the existence of undemocratic regimes, fraud, corruption or armed conflicts,
 - L. whereas the actions proposed by the Commission to boost resource efficiency and recycling are mostly limited to assessments of what could be done, instead of concrete measures to be

taken, and are therefore insufficient to reach the stated goals,

- M. whereas the Commission states that better implementation and enforcement of existing waste legislation is essential to the promotion of a more resource-efficient Europe,
- N. whereas the increase in recycling of valuable materials, especially REE, requires intensive dismantling,
- O. whereas profitable recycling lies in reliable and efficient classification and separation technology, as the value of recycled materials depends on their fraction purity,
- P. whereas increasing efficiencies and recycling are conducive to sustainability, competitiveness and security of supply,
- Q. whereas labour productivity has developed much faster in recent decades than resource productivity, with estimates showing that labour costs represent less than 20 % of a product and resources costs represent 40 %; whereas this implies that swift action is needed to improve resource efficiency,
- R. whereas it is paramount to take timely and decisive steps in implementing an efficient strategy and delivering results on the European Raw Materials Initiative,

A Raw Materials Strategy

1. Believes that Europe faces both challenges and great opportunities with regard to RM; underlines that the EU now, as demand for RM surges globally, has the chance of reaping benefits by strengthening RM supply and efficiency while satisfying the needs of EU industries and the RM sector; emphasises that the availability of fair access to, and stable and predictable prices of, RM are of vital importance for the development potential, competitiveness, innovation and preservation of European industry; while restrictions in access and supply, particularly to CRM such as REE, as well as high price volatility, can hinder the competitiveness, eco-efficiency and innovation prospects of EU industry, especially SMEs; welcomes the fact that the Commission spearheaded the issue of RM policy with its Raw Materials Initiative (RMI) in 2008, and calls strongly on the Commission and the Member States to move towards its swift implementation; believes that resource policy and resource diplomacy are of high importance for the EU, not only with regard to industrial policy and international trade but also as a transversal issue concerning different fields of domestic policy, as well as foreign and security policy; asks the Commission to pay as much attention to this issue as to the energy issue; sees this also as a task for the European External Action Service (EEAS);
2. Believes that the responsibility for a coherent and effective EU diplomacy must lie with the EEAS and the relevant Commission services – and especially with DG Trade with regard to trade issues – acting in close coordination with the Council and Parliament; believes, furthermore, that the strategic relevance of RM should be reflected in the organisation of the EEAS and in the staffing of relevant EU delegations; stresses the importance of coordinating the foreign policy of the EU and of the Member States in the field of RM;
3. Calls on the Commission to give adequate focus to commodity markets and the RMI separately, since the two fields differ in nature and require specific measures to address their divergent problems; highlights the fact that financial and commodity markets today are

more intertwined than ever and that price volatility is exacerbated by speculation; notes that properly functioning RM markets would provide the necessary incentives for business to use resources more efficiently, substitute resources, recycle and further invest in R&D activities for substitution; encourages the Commission, therefore, to foster proper functioning of the RM markets by, for example, proceeding with the review of the Markets in Financial Services Directive in order to provide for more transparent trading; stresses that the three pillars of the RMI complement each other in solving the issues of RM and securing RM supply in the EU; calls on the Commission to implement the RM strategy in a balanced and coherent way, particularly with regard to other important European policies, especially within industry, research, environment, transport and Europe 2020; notes in this context, particularly, the important role played by a strong innovation and industrial policy;

4. Welcomes the Commission's work on identifying CRM, all of which are important 'technology metals' and must be taken into account in subsequent measures; calls on the Commission:
 - to regularly update the CRM list and to observe non-scarce but strategically important RM with a view to countering tendencies towards inflation that give rise to concentrations in ownership of suppliers;
 - to establish a 'risk radar for CRM', to analyse current and future needs and prices as well as the negative effects of shortages in potential CRM, especially REE, with regard to the renewable-energy, high-technology, defence and even automotive sectors;
 - to analyse the supply chains depending on CRM, the refining capacity, also leading to semi-finished products, and the interaction between CRM and their associated base metals;

Recalls that, within RM and CRM in particular, the criticality of different elements varies, as well as their availability, use, need for processing and, consequently, pricing at the different stages of the supply chain, which should be taken into consideration in the analysis; draws attention further to the diversity of logistical paradigms for RM streams in the common market;

5. Notes that not all RM markets behave in the same way and, in particular, that RM markets in the agricultural sector are subject to strong seasonal and climatic factors and therefore require particular attention;
6. Calls on the Commission, therefore, to produce a study on Europe's imports of RM which, though not listed as critical (for example lithium, hafnium and nickel) are nevertheless of strategic importance in terms of meeting Europe's industrial needs and producing consumer goods with high added value; the study should also assess our industries' dependence on these RM and measures to secure their supply, as well as the environmental cost of extracting them and the alternatives which might be envisaged;
7. Welcomes the fact that a broad range of RM, such as natural rubber, wood and aggregates, are included in the Commission Communication; calls on the Commission to carry out analyses on the availability of, and potential demand for, these materials and on this basis to take appropriate action, if and where needed; states that this report focuses on strategic and critical RM;

8. Points out that effective governance of RM policy is key to an effective RM strategy; notes that an effective strategy must include a continuous dialogue with the stakeholders concerned; emphasises the need for close coordination and provision of information within the Commission and the European Parliament and between Member States; recommends the establishment of a high-level interdepartmental RM task force in 2011, as is the case in France and the United States, encompassing the relevant DGs, the Joint Research Centre (JRC), the European Environment Agency and the EEAS, to elaborate, monitor and review policies, including partnership agreements, to ensure strategic coherence and to promote the establishment of an early-warning system, inter alia for market distortion and resource-fuelled conflicts, complemented by a monitoring group; calls on the Commission to set up a long-term 'European Raw Materials Roadmap to 2050', which would identify future developments, threats and opportunities in the RM and CRM sectors and which could help European industries, academic and research institutions to engage in long-term planning and investment; calls further on the Commission to support Member States in developing their own RM strategies and to foster coordination and the exchange of best practice among them, including on the external dimension; suggests that the upcoming communication on the external dimension of energy could serve as a template;
9. Insists that the European Parliament be regularly informed on the development of non-energy RM in the framework of the RMI and on the fulfilment of the latter's objectives via an annual progress report, also focusing on policy coherence with regard to trade, development and environmental policies and social impacts, as well as data on CRM;

Turning a challenge into an opportunity for European industry: resource efficiency, re-use, recycling and substitution

10. Notes that overcoming the RM challenges provides an opportunity to invigorate the EU's industrial base, technological capacity and know-how and to increase competitiveness and stable qualified employment via an ambitious industrial innovation strategy; notes that notwithstanding the importance of an effective trade policy and the use of own resources, good RM governance and increasing efficiencies, re-use, energy-efficient recycling, lowering resource use, also through improved product quality standards and the 'use-it-longer' principle, where appropriate, and employing green technologies will be key to competitiveness, sustainability and supply security in the medium to long term; believes that any initiative in this regard should be based on proper impact assessments focusing on potential environmental, social, and competitiveness impacts; highlights the importance of applying consistently the legally binding European Waste Hierarchy as set out in the Waste Framework Directive, which prioritises prevention, reuse and recycling, followed by recovery and disposal; remarks that social innovation, lifestyle changes and new concepts such as eco-leasing, chemical leasing and sharing should be supported by the Commission;
11. Notes that lower consumption levels, prevention of waste generation and re-use are key components for the transition to a resource efficient economy;
12. Suggests that the Commission undertake a comprehensive study on economic leasing models as alternatives to ownership of goods and their impact on material use and recovery; highlights that awareness is the main challenge in this regard;
13. Stresses the need to work towards decoupling economic growth from increased use of resources, which will also help decrease relative import dependency; notes the importance of establishing the RM strategy also within the wider context of climate change; welcomes,

therefore, the Commission's plan to launch a flagship initiative on resource efficiency; calls on the Commission to identify the obstacles to increasing resource productivity (including technical barriers, costs, etc.) and to incorporate and assess medium- and long-term resource efficiency improvement targets that reflect the need to reduce EU RM import dependency, as RM imports in the EU are per capita the highest in the world; in order to evaluate progress objectively and draw comparisons with other countries, asks the Commission to develop a more reliable methodology for measuring resource efficiency, taking into account the work of Eurostat in this field, as well as the results of a recently commissioned European Parliament study on the subject;

14. Welcomes the development of instruments and indicators, such as TEEB (the economics of ecosystems and biodiversity); urges the Commission to promote and stimulate the development of these instruments and their use;
15. Believes that a tax on mineral resources is not an adequate fiscal tool for increasing resource efficiency, while calling on the Commission to commission a study on the effects of a tax on water and land use, with specific attention to possible unintended repercussions on economic activities and renewable energy production in the EU;
16. Calls on the Commission to strongly consider extending, based on a thorough impact assessment, the ecodesign approach to RM, to assess the possibility of introducing new instruments, to work with standardisation bodies, to evaluate the feasibility of a top-runner programme for products with regard to resource efficiency, to strengthen advisory services on resource efficiency, particularly for SMEs, for example by strengthening such programmes in the European Agency for Competitiveness and Innovation (EACI); calls on the Commission to support SMEs in this field by promoting the sharing of best practice among Member States, providing access to relevant research under FP7 and future research EU programmes; calls on companies to make use of either the Eco-Management and Audit Scheme (EMAS) or ISO standards; calls on the Commission and the Member States to leverage public procurement in order to enhance resource-efficient products and products utilising secondary RM, as well as securing sound and transparent recycling at their end-of-life; notes that in recycling it is not only quantity that matters, but also quality; stresses, therefore, the importance of recycling-friendly product design; stresses the value of including resource use in product information and eco-labels in order to empower consumers; calls on the European standardisation bodies to streamline the issue of resource efficiency in setting standards;
17. Calls on the Commission to review how the Eco-Design Directive, the Directive on End-of-Life Vehicles, the Directive on Waste Electrical and Electronic Equipment and the Battery Waste Directive could be modified so as to increase recycling, not just in general but also for valuable RM including REE, e.g. by more specific requirements on dismantling, and to propose amendments to these acts accordingly;
18. Notes the contribution that re-use and recycling can make to reducing greenhouse gases (GHG), as the use of RM is a significant source of GHG production; further notes the high recycling rates for specific sectors governed by recycling legislation; asks the Commission to identify ways of further increasing recycling in pertinent sectors by inter alia improving the legal framework for the circular economy; stresses the need to invest in the recycling of RM, particularly REE; calls on the Commission to launch an in-depth EU material flow analysis based on the entire life-cycle of RM (from mining to waste) by sector and in view

of assessing and proposing cost-efficient ways of increasing recycling of RM while respecting the environmental impact; calls on the Commission to harmonise European legislation and minimum recycling standards with a view to greater consistency; calls on the Member States to ensure proper implementation of existing legislation, and calls further on national industry associations to actively promote recycling among their members and to facilitate cooperation with research institutions and other sectors; notes the importance of decoupling the amount of manufactured waste from the increase of manufacturing production;

19. Notes the importance of creating industrial synergies on recycling and helping companies discover how their waste and by-products can serve as resources for others; calls on the Commission and Member States to promote approaches such as that taken by the UK with its National Industrial Symbiosis Programme;
20. Calls on the Commission:
 - to investigate and promote projects on urban mining as it can be much richer than primary mining ores, and a large part of valuable secondary RM can be extracted, re-used and recycled, and to invest in projects that generally reduce the use of RM and thereby bring about societal change,
 - to investigate, including via an independent impact assessment, whether closed landfills could be re-opened to recycle potential scrap material with best available technologies (BAT), as this would lead to increased availability of RM and additional employment across the Union,
 - to examine remaining mining and metallurgical waste dumps,
 - to complete an EU database on mining waste sites by 2012 and to enforce the mining waste directive,
 - to ensure that this waste is treated with the BAT,
 - to encourage life-cycle management of buildings, ensuring, where appropriate, the recyclability of materials used in their construction,
 - to gradually introduce a general ban on waste landfill throughout the European Union;
21. Is of the opinion that there is a dire need for more information on urban mining and therefore asks the Commission to assess especially the potential but also possible limitations in this regard;
22. Encourages the Commission to develop a recycling strategy with retrieval as close to the source of waste as possible, including the purification of waste water, as this would permit the retrieval of higher concentrations of RM, prevent irretrievability, lower the negative impact on the environment and possibly be more energy efficient;
23. Calls, furthermore, on the Commission to submit a proposal to amend the Landfill Directive¹ and to develop and expand the objectives set out in Article 5(2) thereof;

¹ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste; OJ L 182, 16.7.1999, p. 1.

considers, further, that, pursuant to the Waste Framework Directive, the reduction target of the ban on sending biodegradable municipal waste to landfill should be extended, starting in 2020, to all biodegradable waste, with the reduction target fixed at 5%;

24. Calls on the Commission to support recycling partnerships with developing countries; asks the Commission to support pilot projects like zero-waste zones;
25. Asks the Commission to evaluate how the European Investment Bank (EIB) can help reduce the financial risks of investments in breakthrough-technology recycling plants and other recycling initiatives;
26. Calls on the Commission to foster research and development on economic incentives for recycling, including recycling of REE, also looking at impact assessments; calls on the Commission, further, to investigate how markets for recycled materials can be supported by, inter alia, certificates for recycled materials, and eco-design requirements, and to ensure that cohesion policy and budgets are also leveraged to promote resource efficiency and recycling;
27. Emphasises the need to combat the illegal shipment of recyclable materials and of waste containing useful RM, particularly electronic waste covered by the WEEE Directive (2002/96), by improving legislation and enhancing implementation, and calls on the Member States to give urgent attention to this task; asks the Commission to investigate how the further use of the producer responsibility concept could support this goal; highlights the need to establish a global certification scheme for recycling facilities; notes the importance of cooperation between national customs officials; calls on the Commission to examine whether a collective mechanism informing authorities on illegal shipment flows is necessary; asks the Commission to study illegal waste streams and to report regularly on successes in fighting illegal waste exports; asks the Commission to promote an effective distinction in customs declarations between new and second-hand goods by addressing this in the Implementing Provisions of the Modernised Community Customs Code (MCCC-IP);
28. Calls also, in this context, on the Commission, where welcomed, to support the EU's trading partners in adopting appropriate laws and enforcing adequate control measures to prevent illegal imports of any kind of waste onto their territory and to fight actively against the corruption that often enables these illegal imports;
29. Calls on the Commission to take into account the critical remarks from some Member States on the Council Regulation establishing criteria determining when certain types of scrap metal cease to be waste under Directive 2008/98/EC, and asks the Commission to strengthen the requirements on product quality and improve the possibilities for checking and ensuring that scrap declared as end-of-waste scrap is of the required quality;
30. Calls on the Commission to identify priorities for research and innovation into sustainable exploration and production methods, product lifecycles and recycling (cradle-to-cradle), substitution and resource efficiency, as this could also lessen European import dependency on monopolistic suppliers; calls on the Commission to address existing challenges with regard to recycling within the framework programmes, and stresses that attention should be given to the different recycling strategies needed for mass metals and for CRM such as REE; calls on the Commission to couple research funding on RM such as REE with clear goals, such as for example the Japanese target of reducing REE consumption by one third; calls on the Commission to incorporate the experience of third countries that have already

achieved high re-collection levels, such as Norway, where around 80 % of electronic waste is re-collected, and to set adequate re-collection targets of its own; stresses the importance of public-private partnerships in this field, involving industry, academia and government; acknowledges the valuable service such institutions also deliver to SMEs; insists on the importance of a European Innovation Partnership on strategic RM to promote the development of resource efficiency, key technology, supply security and the domestic RM sector; calls on the Commission to launch such a partnership in 2011;

31. Regrets that substitution and re-use are not sufficiently addressed in the Communication; recalls that substitution, particularly for CRM and REE, is of great relevance and can offer efficient solutions to supply and environmental risks when possible; calls on the Commission, therefore, to ramp up its work in this field by leveraging research and innovation funding through the possible development of a substitution R&D programme in the forthcoming research framework programme, supporting demo-plants; encourages the Commission and the Member States to consider setting substitution targets while taking into account relevant impact assessments; calls on the Commission to make full use of the existing REE competency within the EU;

Sustainable supply in the EU

32. Calls for non-fiscal policies to support domestic RM sectors in attracting investments; welcomes, therefore, cooperation between national geological surveys; calls for increased collaboration between them and encourages the use of common standards and practices that would facilitate the exchange and exploitation of available geological data; welcomes the publication of an annual European RM Yearbook (ERMY), stressing that data on secondary resources and urban mining should be included; asks the Commission to assess whether the creation of an EU Geological Service that pools the work of national surveys and works with international partners is necessary; supports the Commission's work in improving the EU's geological knowledge base; calls on the Commission, in cooperation with the Member States, to develop a digital resource map of the Union;

33. Notes the importance and supply of domestic RM supply in Europe; calls, therefore:

- for better coordination with regard to exploration, extraction, distribution, processing, reusing and recycling;
- on the competent public authorities (national, regional and local) to apply clear, efficient and coordinated administrative procedures for the granting of authorisations to exploit domestic RM, possibly including establishing a one-stop shop to ease and accelerate the licensing process;
- on the Member States to draw up land use planning policies, including long-term estimates for regional and local mineral demand, to be reflected in national RM policies, which should be based on the strong geological RM know-how present in the various Member States and should not impede trade within the EU or exclude cross-border demand;

Notes the important role played by upstream service companies in the context of domestic mining; stresses the importance of stimulating regional or national RM clusters that bring together industry, geological services, upstream service providers, equipment manufacturers, and mining and refining companies, as well as the transport industry and the

social partners, in sustainable mining in Europe, also using new mining technologies;

34. Calls on the Commission to integrate the biodiversity action plan objectives into the RM strategy to strengthen links between the economy and environment and to take account of the environmental effects of extraction, production, use and disposal of RM; urges the Commission to support the development of strategic land use planning in all Member States to balance RM extraction with other land use demands and to safeguard the environment and biodiversity;
35. Stresses that extraction activities must be carried out with due regard for the highest standards of workplace security and environmental protection so as to prevent accidents and rehabilitate the areas affected;
36. Asks the Commission to pay adequate attention to the development of resource-rich areas and to include a comprehensive approach to improving transport infrastructure linking resource-rich areas of the Union to its industrial areas; calls on the Commission, therefore, to ensure that the revised guidelines on Trans-European Transport Networks (TEN-T) meet the needs of industry by providing smooth access to RM;
37. Reaffirms that the NATURA 2000 guidelines provide a sound basis under which non-energy extraction activities must take place, taking into account the principle of subsidiarity; calls on the Commission to check on a regular basis whether progress has been achieved in the Member States on reconciling RM extraction with nature conservation; notes that codes of practice to achieve technical, social, competitive and environmental excellence are important instruments; recalls Parliament's resolution of 20 January 2011 on a sustainable EU policy for the High North¹ and calls, in this regard, on the Commission, in accordance with the precautionary principle, to assess the possibilities of environmentally sustainable exploitation of sensitive areas that might be valuable suppliers of essential RM, such as the Arctic, the Barents Region and Greenland and, if possible, extend existing partnership agreements with the countries in these regions;
38. Underlines the need for more transparent and predictable framework conditions on regulatory approval processes for setting up new mines for extraction of metals and minerals, while at the same time not compromising environmental standards;
39. Notes that the northern European countries and the Barents Region have substantial deposits of ores and minerals, and forests; believes that the northern European region can make a substantial contribution to the RM supply needs of other European companies and thereby reduce European import dependence; believes that there is a clear need to increase awareness of the potential of northern Europe in the ongoing discussion over RM;
40. Highlights the importance of research, development and innovation (R&D&I) in addressing new challenges; notes the contribution of R&D&I in developing innovative technologies and sustainable methods of mining, refining, ore production and recycling in order to further minimise the environmental footprint and possible adverse social effects;
41. Urges the Commission to take measures to prompt consideration being given to the re-opening of some mines, exploiting them sustainably so as to reduce the risk of European industry being faced with a shortage of RM;

¹ Texts adopted, P7_TA(2011)0024.P

42. Stresses the importance of skills and training and the role played by geologists, engineers, miners and other personnel; calls on the Commission and the Member States to engage in a close dialogue with the social partners, academia and industry in this context; calls on the Commission to identify the need for, and availability of, trained personnel in the field of RM R&D, extraction, refining, processing and recycling by 2012 and to share the findings with the European Parliament; calls on the Commission and Member States, in collaboration with industry and academia, to support education on RM via the establishment of special university programmes and scholarships; further supports, in this context, exchange programmes in this field such as the Erasmus Mundus Minerals and Environmental Programme;
43. Welcomes the proposal for EU diplomacy on RM and REE with the aim of establishing an international regulatory platform, ensuring access to and supply of RM, especially those considered critical, ensuring open global markets and promoting international cooperation on sustainable extraction of RM and an efficient use of resources based on mutual interests; underlines, in this context, the need to establish a strong dialogue in the field of RM diplomacy between industrialised, newly industrialising, and resource-rich developing countries, with a view also to promoting human rights, good governance, regional stability and preventing the risk of resource-based conflicts;
44. Calls on the Commission to ensure strictest enforcement of existing EU legislation, to include safety and standards of gold mining in the actions under the Flagship “Innovation Union”, to include a specific work item on gold mining for the International Panel on Sustainable Resource Management (UNEP), including aspects of safety, innovation, chemicals management, illegal mining and artisanal mining, in order to find a long-term sustainable solution which will ensure that gold is produced or imported for use in the EU in a sustainable manner, and to consider the review of the Berlin II Guidelines on small-scale and artisanal mining;
45. Points out that artisanal and small-scale mining (ASM) can play a vital role in local life, provide employment and support development goals when it is officially recognised, regulated and supported; regrets the relative lack of knowledge and analytical tools in this area and underscores the need to increase its visibility, facilitate more effective ASM policy design and implementation and monitor assistance efforts to help prevent poverty traps such as child labour, unsafe working environments, forced labour, which is often found in artisanal mining, and conflicts associated with small-scale mining activities; also calls on the EU and its Member States to support developing countries at both national and local level by making available expertise on sustainable mining practices, increased resource efficiency and reuse and recycling;
46. Calls on the Commission to assess the need for setting up a stockpiling mechanism for CRM, especially REE, which would guarantee European companies access to strategic materials used in green, high-tech, defence and health industries and protection against monopolist pressure and price rises; underlines the fact that the role of the EU in any potential stockpiling programme should be limited to providing the legal framework and regulatory oversight;

International fair and sustainable supply of raw materials

47. Notes the increasing incidence of trade restrictions and distortions of competition in trade in RM; calls on the Commission to consistently monitor and address on regional, multi- and

bilateral levels the issue of export and import restrictions; trade-distorting measures with regard to industrial RM and particularly CRM must be fully investigated and could lead to further legal steps within the WTO framework; calls on the WTO to monitor closely the impact of import and export restrictions and, in this connection, supports the creation in the WTO of a monitoring tool on tariff and non-tariff barriers to trade on RM and REE and the setting-up in the G20 of a 'Raw Materials and Rare Earths Stability Board'; calls on the Commission to make use of all its international networks, including the diplomatic service, to improve relations with RM and CRM supply countries and regions, and thus to facilitate the international trade in RM, and especially CRM; welcomes the EU's intention of pursuing an active RM diplomacy which encompasses various policies such as foreign, trade, environment and development policies and which promotes and strengthens democratic principles, human rights, regional stability, transparency and sustainable development; believes that concrete priority actions and a comprehensive strategy for sustainable supply of REE need to be developed in the very short term; calls on the Commission to involve European REE stakeholders in identifying such actions;

48. Recognises the legitimate rights of developing countries' governments and parliaments to enact policies and regulate foreign investment in the public interest, in consultation with civil society, in such a way that foreign investment benefits the local economy, creates domestic added value and fosters development; emphasises that the EU RM Strategy should not stand in the way of these rights;
49. Welcomes the EU's efforts to promote sustainable trade in RM with third countries (e.g. FLEGT);
50. Stresses the need to establish clear rules for cooperation in the field of RM trade between all participants involved (producers, exporters, transit countries, importers);
51. Calls on the Commission to ensure coherence between development policy and the RMI whereby EU's RM policy should take full account of the sustainable economic growth in the developing countries and be consistent with the overarching goal of eradicating poverty, as enshrined in Article 208 of the TFEU; stresses that firm support for the economic, social and environmental development of resource rich countries could help them build solid and democratic institutions, which will ensure mutual benefits for both exporting and importing countries; calls, therefore, for human rights and democratisation clauses to be included into future agreements with RM exporting partner countries; believes that the EU should also support developing countries to diversify their economies, reduce their dependence on RM exports and increase the value of their products through domestic manufacturing and processing; calls on the Commission, when preparing the new external action instruments for the period after 2013, to include measures to support good governance and sustainable mining in the programmes for democratic and economic stability of fragile states that are suppliers of RM;
52. Considers it the responsibility of companies to procure resources; acknowledges the difficulties in procuring resources for SMEs; asks the Commission, therefore, to consider how concepts such as a European RM Holding could be supported non-financially; asks the Commission and the Member States to study Japan's JOGMEC closely;
53. Urges Member States to cooperate with each other as part of a European RM strategy; calls for this strategy to take advantage of the synergies between economic, mining, industrial and international policies and to aim to safeguard supplies of strategic substances;

54. Calls on the Commission to evaluate the outcome of the WTO case against China and to make future use of WTO mechanisms where appropriate;
55. Notes the importance of Africa-EU relations and the Addis Ababa agreement of June 2010; insists that this partnership be based on mutual interests, points out that in fostering sustainable mining practices it is important to exchange best practices on good governance, increased resource efficiency, reuse and recycling, management of tailings and waste-rock, rehabilitation of mine legacy, health and safety, protection of workers and the eradication of child labour; points out that the African Union stated in the African Mining Vision that African countries have not been able to benefit thus far from their competitive advantage in natural resources, and that measures therefore need to be considered to ensure that natural resource wealth benefits the population of resource-rich countries;
56. Outlines the importance of bilateral cooperation on RM, as demonstrated by the EU and the African Union in June 2010, and encourages further efforts in the context of the Joint Africa-EU Action Plan for 2011-2013; calls for similar cooperation to be developed with other countries that are major producers of CRM; proposes, as one of the concrete targets of RM diplomacy, source-diversification from South-East Asia towards Latin-America and Africa of certain RM on which the EU is import dependent;
57. Welcomes the approach of this Action Plan that consists in providing training on best practice in negotiating mineral contracts and in fostering scientific cooperation in the mining sector, in addition to promoting good governance, including transparency;
58. Regrets that the Communication fails to name other regions or countries; believes that alternative RM sources should be explored in order to avoid European dependence on a limited number of countries; to this end, calls on the Commission to promote other mutually beneficial partnerships with resource-rich countries and regions; believes that the EU should offer infrastructure, knowledge-sharing and resource triangle partnerships; calls on the EU to support resource-rich developing countries in developing their geological, mining and mineral processing knowledge, as well as in scientific and legal matters, so as to establish sustainable capacity-building; proposes, in this context, the establishment of cooperatively financed chairs at geological faculties; calls on the Commission to monitor international agreements made by resource-rich countries with non-EU Member States which entail exclusive access to resources, and to ensure fair access to resources and guarantee the functioning of international trade laws;
59. Is concerned that a strategy for dialogue and cooperation with China, and other key international players, has not been identified; stresses the need for trade and technology dialogue with China; calls on the Commission to examine how pilot projects on sustainable mining and mineral processing, substitution, resource efficiency or recycling of CRM can be established with China, for mutual benefit; also strongly supports similar bilateral dialogues on pertinent RM issues with other key suppliers, such as the BRICS, as they both have and use a vast amount of RM; calls on the Commission similarly to deal with the issue of RM in its European Neighbourhood Policy;
60. Considers that the EU's RM strategy should reflect the differences between developed and major emerging economies on the one hand and least developed countries on the other;
61. Stresses that the question of access to RM should be integrated successively into peace-building and conflict prevention policy measures, as a substantial number of conflicts have

re-emerged in certain regions;

62. Concurs that development policy plays a role in helping countries turn their resource wealth into sustainable and inclusive growth, inter alia by enhancing governance and transparency; underlines the fact that development policy, including the GSP, is not an RM diplomacy tool, but believes that it can play an important supportive role in European RM policy; calls on the Commission therefore to ensure coherence between the two; welcomes the inclusion of explicit guarantees on non-discriminatory market access to RM in EU trade agreements and as a prerequisite for WTO membership; agrees though that trade agreements should provide the necessary flexibility to support developing countries in creating linkages between the extractive industry and local industry; believes that countries' resource sovereignty must be respected and asks the Commission, in this context, to balance opposition to export taxes in developing countries by employing a differentiated approach taking account of the various national contexts so that development goals and industrialisation of developing countries are not put at risk; underlines that free and fair trade is of importance to the development of the global RM sector and wealth creation in all societies; notes that revenue from RM can play a crucial role in enabling least developed countries to achieve the Millennium Development Goals;
63. Is concerned that the revamped RMI does not refer to the GSP or GSP+ or propose alternative trade incentives for the promotion of human rights, environmental standards, avoidance of child labour and support for domestic reforms for countries falling outside of the scope of these schemes; asks the Commission to support and encourage diversification initiatives in developing countries' economies, which are highly dependent on certain RM;
64. Calls on the Commission to help developing countries to overcome information asymmetry in negotiating RM and mining contracts through capacity-building, and to help with negotiating technology transfer, both at national level and among local communities;
65. Stresses the role that corporate social responsibility plays by adhering to high environmental and social and labour standards abroad and applying best available technologies; believes these should be promoted through relevant fora such as the G8, G20, WTO, OECD, UNCTAD, UNEP and its International Panel for Sustainable Resource Management, the international metals study groups and other bodies; applauds, in this context, positive contributions through the UN's Global Compact; calls on EU companies to develop an appropriate code of conduct for those operating in third countries and to base their activities on the OECD guidelines for multinational enterprises and ISO 26000; calls on the Commission to take measures which ensure compliance with social, environmental and labour standards by European companies mining natural resources in third countries; calls on the Commission to come forward with a proposal of its own on country-by-country reporting concerning conflict minerals and to establish legally binding requirements for extractive companies to publish their revenue payments for each project and country they invest in, following the example of the US Dodd-Frank bill; supports the Extractive Industries Transparency Initiative (EITI) and the global network Publish What You Pay (PWYP); believes that these standards should, in particular, be applied to projects receiving EU funding, for example from the EIB; urges the EU to investigate how the importing of illegally traded or extracted minerals can be prevented; asks the Commission to investigate whether 'fingerprinting' technology could be used in this context and to promote pilot projects based on the experiences of the 'coltan fingerprint'; calls on the EIB to undertake a regular analysis of the expected impacts of its lending in the extractive industry;

66. Expresses its great concern regarding the numerous well documented cases of EU companies violating environmental and labour standards and human rights;
67. Reiterates that transparency initiatives in the sector of extractive industries are in effect pro-business, that they can create legal security and sustainable long-time partnerships and that they can act as safeguards against the re-opening of negotiations or expulsion; notes that there are challenges to be addressed and that some contracts require confidentiality but should nevertheless be under public scrutiny; notes that the Ghanaian Petroleum Revenue Management Bill is a good example of retaining a certain confidentiality on the one hand while safeguarding parliamentary scrutiny on the other;
68. Considers that EU companies should be legally liable in their home countries for any violation of human rights, environmental standards or ILO core labour standards by their subsidiaries abroad and the entities they control;
69. Asks the EIB and the Commission to consider more rigorously whether projects contribute to poverty eradication, sustainable development and inclusive growth before deciding on supporting the extractive industries sector in developing countries;
70. Is concerned about the continuing trade in, and use of, minerals from conflict zones, whose production gives rise to unacceptable violence and illegal activities; calls on the Commission, the EEAS, the Council and the Member States to take this situation into account in the context of their relations with third countries; calls on the Commission and the EU's strategic suppliers' countries to jointly develop an effective RM traceability systems from import through to recycling or disposal and to introduce a mutual certification scheme for RM and their trading chains (Certified Trading Chains), so that trade can be guaranteed to be fair, and, in particular in order to prevent abuses with regard to trade in RM from crisis regions; calls on the Commission to cooperate with the relevant international institutions (UN, OECD, ILO) with a view to identifying, and endeavouring to harmonise, the best certification practices;
71. Stresses that financial markets can play an important role in hedging the risk of both producers and consumers of RM and commodities; calls on the Commission to take the necessary measures to ensure there is transparency on commodity markets and to act decisively against unjustified commodities speculation, leading to commodity market abuse; if regarded as necessary on the basis of in-depth empirical analysis; notes that this includes appropriate initiatives within the context of the G8 and G20 negotiations;
72. Is concerned about the impact of derivatives markets on price trends for RM; considers that there should be more effective controls on OTC derivatives markets; against this background, supports measures such as enhancing transparency on OTC derivatives under the supervision of the ESMA; considers that such measures could lead to greater security for investors and SMEs and enable European producers to plan with greater certainty;
73. Welcomes the work on RM and sustainability in the OECD, G8 and G20 and stresses the further need for a G20 dialogue on RM in order to develop a common perspective; further welcomes the will of G8 and G20 members to fight RM price volatility and calls for the development of concrete measures to curb speculation in that field; calls on the Commission to promote the work of the OECD on the impact of export restrictions and their use as a policy tool; supports the inclusion of non-OECD members in these discussions; calls for the creation of strategic cooperation between the EU, US and Japan on CRM towards a "global

RM watch" by sharing demand and supply data, common forecasting, encouraging the exchange of best practice, technological know-how and patents, analysing supply chains, investigating the possibility for joint strategic stocks and the establishment of joint R&D projects; takes the view that such issues should be part of the agenda of the next EU-US Summits; calls on the Commission to promote Track-II diplomacy on RM by supporting the exchange of non-governmental organisations, academia and think-tanks from the EU and other resource-relevant countries; calls on the Commission to organise regular events, such as JOGMEC's 'Metal Saloons' on RM with other resource-relevant countries; further asks the Commission to investigate the feasibility of an international statistics initiative on CRM based on the example of the Joint Organisations Data Initiative (JODI), as well as whether an international covenant for metals might be a useful tool; calls on the European Defence Agency to contribute, in accordance with Article 42(3) of the TEU, to the identification of measures to strengthen the industrial and technological base of the defence sector with regard to RM;

Agricultural products and commodity markets

74. Supports the analysis provided by the Commission with regard to agricultural products in the context of global food security, with diminishing global food reserves and increasing population and hunger, and as regards market perspectives, underlining the extreme volatility in food and feed prices, the imperfections of the food and feed chains and the role of financial instruments and speculative behaviour as a possible cause of instability, which must be seriously considered; recalls that there are four EU Member States among the countries which are especially vulnerable to rising food prices;
75. Demands that careful attention be given to the fundamental uncertainty surrounding the increasing interaction between the price movements of energy and non-energy commodities, especially food;
76. Insists, in line with the Commission, that the international community must adopt a long-term coordinated approach to global food security, including increased research efforts and investment in the agricultural sector in developing countries, notably through development policy priorities, in order to increase resilience and adaptability to food shocks;
77. Is supportive of the recent efforts undertaken by the G20 on policy responses to price volatility in food and agricultural markets, including through more information exchange in food production forecasts and stresses the need for more transparency and more timely information on food commodity reserves and stocks;
78. Welcomes the joint communiqué of the 3rd Berlin agriculture ministers' summit of 22 January 2011, signed by 48 countries, which called for an improved ability of agricultural markets to function properly and recognised the importance of trade in terms of creating a balance between the different actors in agricultural markets and improving farmers' access to RM and energy;
79. Ask for a report from the Commission regarding financial derivatives and commodities regulation so as to establish whether separate regulation is needed for the agricultural commodities given the specificities of the sector; supports the recent Commission proposal on regulating OTC derivatives and the public consultation on the MiFiD Directive; believes that abusive speculative behaviour, malpractice and abuse on derivatives markets should be addressed as a matter of urgency;

80. Asks the Commission to propose concrete measures to guarantee food security, tackle market instability and, with sustainable overall responsibility, reinforce the operability of the derivatives markets for agricultural commodities as a matter of urgency;

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81. Instructs its President to forward this resolution to the Council, the Commission and the Member States.

Black Sea fisheries

European Parliament resolution of 13 September 2011 on current and future management of Black Sea fisheries (2010/2113(INI))

The European Parliament,

- having regard to the Treaty on the Functioning of the European Union (TFEU) and to its resolution of 7 May 2009 on Parliament's new role and responsibilities in implementing the Treaty of Lisbon¹,
- having regard to its resolution of 20 January 2011 on an EU strategy for the Black Sea²,
- having regard to its resolution of 25 February 2010 on the Commission Green Paper on the reform of the common fisheries policy (COM(2009)0163)³,
- having regard to its resolution of 21 October 2010 entitled 'The integrated maritime policy – evaluation of progress made and new challenges'⁴,
- having regard to Council Regulation (EU) 1256/2010 of 17 December 2010 fixing the fishing opportunities for certain fish stocks applicable in the Black Sea for 2011⁵,
- having regard to Council Directive 1992/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora⁶,
- having regard to Council Directive 2008/56/EC of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)⁷,
- having regard to the Communication from the Commission entitled 'An integrated maritime policy for the EU' (COM(2007)0575),
- having regard to the 1992 Convention on the protection of the Black Sea against pollution (the Bucharest Convention) and its protocols,
- having regard to the 1993 Ministerial declaration on the protection of the Black Sea (the Odessa declaration),
- having regard to the 2007 Black Sea transboundary diagnostic analysis⁸,

¹ OJ C 212 E, 5.8.2010, p. 37.

² Texts adopted, P7_TA(2011)0025.

³ OJ C 348 E, 21.12.2010, p. 15.

⁴ Texts adopted, P7_TA(2010)0386.

⁵ OJ L 343, 29.12.2010, p. 2.

⁶ OJ L 206, 22.7.1992, p. 50.

⁷ OJ L 164, 25.6.2008, p. 19.

⁸ <http://www.grid.unep.ch/bsein/tda/main.htm>.

- having regard to the 2008 report on the state of the environment of the Black Sea by the Commission on the Protection of the Black Sea against Pollution,
 - having regard to the 2009 strategic action plan for the environmental protection and rehabilitation of Black Sea by the Commission on the Protection of the Black Sea against Pollution,
 - having regard to the 1982 United Nations conventions on the law of the sea,
 - having regard to the United Nations Agreement for the implementation of the provisions of the convention of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,
 - having regard to the agreement relating to the implementation of Part XI of the convention on the law of the sea,
 - having regard to the 1995 FAO code of conduct for responsible fisheries,
 - having regard to the 1992 United Nations convention on biological diversity,
 - having regard to the United Nations convention on international trade of endangered species,
 - having regard to the United Nations convention on wetlands of international importance especially as waterflow habitats (Ramsar Convention),
 - having regard to the 1979 convention on the conservation of migratory species of wild animals (Bonn Convention),
 - having regard to the agreement on the conservation of cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area (ACCOBAMS),
 - having regard to the 1995 United Nations fish stocks agreement,
 - having regard to the 2008 report entitled ‘Strengthening cooperation in the Black Sea’ of the thirty-second session of the General Fisheries Commission for the Mediterranean (GFCM),
 - having regard to the GFCM’s 2009 regional study on small tunas in the Mediterranean, including the Black Sea,
 - having regard to the Organisation for Black Sea Economic Cooperation,
 - having regard to the joint declaration of the Prague eastern partnership summit of 7 May 2009 (Prague Declaration),
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A7-0236/2011),
- A. whereas the debate on the reform of the Common Fisheries Policy (CFP) in the EU is still ongoing, and whereas it should take into account the specificities and needs of this aquatory, because this will be the first reform of the CFP incorporating the Black Sea,

- B. whereas until today there has been loose, or even non-existent, collaboration and cooperation, a lack of a concrete, harmonised legislative framework and a lack of a common legislative act governing fishing activities between the Black Sea states, owing to the fact that all the waters are under the jurisdiction of different coastal states, as well as to the general lack of adequate, systematic research and scientific information on the Black Sea basin,
- C. whereas the management of fisheries in the Black Sea is extremely difficult, because only two out of the six countries bordering the basin are EU Member States and even those two are new Member States which only joined the EU in 2007,
- D. whereas the creation of a common policy mechanism for the six countries bordering the Black Sea should be examined from a long-term perspective in order, among other things, to guarantee protection of the environment and facilitate the economic and social development of littoral areas,
- E. whereas this new policy mechanism for the Black Sea should aim to preserve and improve biodiversity and the prosperity of the people working in the fisheries sector in the area, which are among the priorities of the European Union,
- F. whereas the Black Sea should take its proper place amongst Europe's major marine areas, given that it is the youngest and most dynamic of the semi-closed seas,
- G. whereas the Black Sea should take its place in the reformed CFP and in the Integrated Maritime Policy, and whereas the needs of fishermen, and of the fishing, producing and processing industries, should be taken adequately into consideration in the new financial framework of the European Fisheries Fund after 2013,
- H. whereas the current report could not only be taken into consideration as a guideline for the reform of the CFP, but could also become part of a future EU policy on collaboration with its eastern partners to maximise the use of the existing Commission communication on Black Sea Synergy¹ in order to intensify cooperation in the Black Sea region, in which fisheries and the development of the various sectors play a significant role,
- I. whereas fisheries management in Black Sea region would benefit significantly from more coordinated scientific cooperation among the littoral states, as well as from a coherent policy for the preservation and improvement of the state of fish stocks at European level,
- J. whereas many of the marine ecosystems in general, and the ecosystem of the Black Sea in particular, are seriously affected by dynamic changes directly related to fishing, climate change and pollution,
- K. whereas the veined rapa whelk (*Rapana venosa*) population has a negative impact on, and is a threat to the ecological balance of, the Black Sea, as it destroys natural filterers of water such as the blue mussel (*Mytilus galloprovincialis*) and the striped white venus (*Chamelea gallina*),
- L. whereas the majority of the fishing vessels used in the Black Sea by EU fishermen are less than 12 meters long, and thus have a limited impact on the Black Sea marine environment;

¹ (COM(2007)0160).

they should, however, respect the efforts being made to achieve sustainable fisheries and assume their responsibilities in this regard,

- M. whereas illegal, unreported and unregulated fishing in the Black Sea should be tackled immediately,
- N. whereas the lack of a common agreement among the six countries bordering the Black Sea could be remedied by a framework agreement negotiated, for instance, on the basis of a communication from the Commission, in which the interests of all parties would be expressed and taken into consideration,
- O. whereas a large part of the problems of the Black Sea is the result of the lack of an appropriate institutional structure that coordinates and carries out the management of Black Sea fisheries at a professional and specialised level; whereas negotiations have been ongoing between the national administrations involved in fisheries policy implementation for the past ten years on the creation of such an institutional structure, as well as on its form and responsibilities, and whereas these negotiations have not yet been successful; whereas, for this reason, no adequate measures have been taken to control catches and, in particular, cross-border fishing,
- P. whereas, the General Fisheries Commission for the Mediterranean (GFCM), whose mandate covers the area of the Black Sea, does not as yet meet the needs and expectations of the stakeholders, particularly fishermen, to the extent possible, and should make use of all available tools related to this area,
- Q. whereas the Black Sea differs significantly from the Mediterranean with regards to its fish stocks, levels of pollution, variety of species, dominant species, common biomass and productivity,
- R. whereas in January 2011 the European Parliament adopted a report on an EU Strategy for the Black Sea¹, which also underlines the need for the application of multiannual management plans for fisheries, as well as the creation of a separate regional body for the management of Black Sea fisheries,

General

1. Points out that a viable, stable and sustainable fisheries sector should be established at European level and that, more specifically, the Black Sea needs a special policy to preserve and improve the situation of fisheries resources and ensure that the fisheries sector is suited to the Black Sea basin, bearing in mind the specificities of the Black Sea region, as well as the fact that the Black Sea fisheries policy should be integral part of the upcoming reform of the CFP;
2. Underlines the need for more accurate analytical and scientific research coordinated at a regional, national and European level to preserve and improve fisheries resources and ecosystems in the Black Sea basin;

¹ European Parliament resolution of 20 January 2011 on an EU Strategy for the Black Sea (2010/2087(INI)).

3. Recognises the Commission's efforts to promote a more solid and structured dialogue with non-Member States bordering the Black Sea, and encourages the Commission to intensify its efforts until such time as a more structured common framework covering the whole Black Sea basin and following a regional approach to the management of fisheries in the region is agreed;
4. Takes the view that all decisions and policies related to the Black Sea should be based on solid scientific data and calls for collaboration among all stakeholders to this end;
5. Stresses the need for continuous scientific analysis of the state of fish stocks and a stable, long-term system of fisheries observation, and notes that all the Black Sea littoral states need to participate in this analysis;
6. Encourages the Commission to use all the diplomatic and financial means available to it to help achieve concrete results on successful and sustainable fisheries, in the interests of the EU, including making the best use of the Euronest Parliamentary Assembly and the Eastern Partnership Initiative, given the crucial role of the EU's immediate neighbours;
7. Calls for an enhanced system of monitoring, control and surveillance of fishing activities, which will contribute to long-term sustainable exploitation of fish stocks and to combating illegal, unreported and unregulated fishing in a more effective way;
8. Supports the international role of the operations of the Community Fisheries Control Agency and calls for a more active contribution and more effective cooperation in the control, inspection and surveillance of the Black Sea area;
9. Takes the view that fishing techniques for demersal species should be examined carefully and in detail in order to identify the non- or least detrimental species for the seabed; stresses that appropriate use of fishing techniques for demersal stocks is of great importance in preventing the growth of excessive populations of veined rapa whelk (*Rapana venosa*), which threaten the natural filter represented by the seawater blue mussel (*Mytilus galloprovincialis*), the striped venus clam (*Chamelea gallina*), noble oyster (*Ostrea edulis*) populations and many other shellfish;
10. Takes the view that the Black Sea should have an appropriate status in Community policies, and that to this end appropriate diplomatic and scientific efforts should be undertaken and adequate financial resources made available for sustainable fisheries in the basin; believes that EU budgetary resources should be flexible, accessible and transparent, so as to enable the EU to ensure the sustainability of the Black Sea fisheries;
11. Stresses that dialogue between stakeholders is the basis for successful promotion of the Integrated Maritime Policy in the Black Sea area; notes that the Integrated Maritime Policy should also facilitate the establishment of a conflict- and trouble-free link between maritime sectors, taking into account the sustainable development of coastal areas;
12. Underlines the important role of bilateral cooperation and international agreements, given that the majority of the Black Sea states are not EU members and hence not obliged to respect community legislation;
13. Believes that all the Black Sea states, especially those that are EU Member States or candidate countries, should respect the EU and international law applying to fishing

activities, the aim of which is to guarantee the sustainability not only of fish stocks, but also of the fishing sector;

14. Encourages the Commission further to promote the development of coastal areas by developing sustainable fisheries, which is particularly important for the Black Sea region, with its high unemployment rates;

Specific considerations

15. Expresses its satisfaction with the Commission's efforts to establish working groups in the field of fisheries management with Turkey and the Russian Federation, providing the basis for further debate on cooperation; calls on the Commission to extend its efforts and dialogue with all countries bordering the Black Sea; calls on the Commission to make full use of the existing organisations, as well as the relevant tools, in order to make progress towards better policy coordination; takes the view, meanwhile, that a separate regional fisheries management organisation (RFMO) for the Black Sea could in the long term foster and promote communication between scientific institutes and professional organisations of fishermen, producers and processors with a view to settling issues and deepening cooperation in the Black Sea; encourages the Commission to work with the Black Sea countries at a bilateral level, bearing in mind that many of them are not members of the European Union;
16. Underlines the need to examine in the long term the creation of a RFMO, which would coordinate scientific research, analyse the situation of fish stocks and carry out special policies regarding observation of endangered species; notes that this organisation could also make suggestions regarding the level of the fisheries multiannual management plans and distribute the quotas for the countries bordering the Black Sea;
17. Urges the EU to use its diplomatic resources to convince as many non-EU Black Sea littoral countries as possible of the value of the principles of the EU Common Fisheries Policy, especially with regard to the application of the multiannual management plans;
18. Believes that EU tools should be used in scientific activities as an instrument to foster and facilitate cooperation and joint work between the European scientific teams and their counterparts from the Ukraine, the Russian Federation, Georgia and Turkey;
19. Believes that EU activities related to Black Sea fisheries, particularly the Integrated Maritime Policy, should focus mainly on small-scale fishing, which is crucial for the region and the economic status of coastal areas;
20. Stresses that the EU's Common Fisheries Policy should encourage the establishment of professional fishermen's organisations and inter-branch organisations in the fisheries and aquaculture industries in the Black Sea where they are lacking or very underdeveloped;
21. Believes that the principles of annual TACs and quotas currently applied should not be the only option for the management of Black Sea fisheries; believes that multiannual management plans should be fostered and could provide for more clarity on the EU's objectives in the field of fisheries in the Black Sea region and its vision for the future of the basin;
22. Stresses that there should be a shared, coordinated, long-term approach by all stakeholders

in the region with a view to all parties in the Black Sea pursuing sustainable fisheries, and therefore welcomes the exchange of good practice among the stakeholders involved;

23. Stresses the importance of managing fisheries with a view to ensuring that ecosystems are viable and sustainable, that fishing is carried out legally and that action is taken against IUU fishing; calls for the establishment of a European coastguard in order to develop cooperation between Member States in an effective way so as to boost maritime security and combat new threats at sea, in particular in the Black Sea;
24. Believes that the multiannual management plans are of very great interest for both the economic situation of the fishing sector and the environmental situation of the Black Sea ecosystems; believes that the multiannual management plan approach should be accompanied by effective control of catches;
25. Underlines the need to encourage scientific research on Black Sea issues, so that the decisions taken by the European, regional and national authorities responsible can take account of their economic, social and environmental consequences; believes it is necessary to conduct detailed, coordinated research in order to give a clear and unequivocal answer to the questions of fisheries management and the possible impact of fishing methods (e.g. trawling on the seabed), since in the absence of studies on their effects no serious conclusions can be drawn; takes the view that research programmes and projects in the field of Black Sea fisheries, such as SESAME, KNOWSEAS, WISER and BlackSeaFish, should be further encouraged;

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26. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the governments and parliaments of the Ukraine, the Russian Federation, Georgia and Turkey.

Safety of offshore oil and gas activities

European Parliament resolution of 13 September 2011 on facing the challenges of the safety of offshore oil and gas activities (2011/2072(INI))

The European Parliament,

- having regard to Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons¹,
- having regard to Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling²,
- having regard to Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (the IPPC Directive)³,
- having regard to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (the Environmental Impact Assessment Directive)⁴, as amended by Directives 97/11/EC⁵, 2003/35/EC⁶ and 2009/31/EC⁷,
- having regard to Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (the Environmental Liability Directive, or ELD)⁸,
- having regard to Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency⁹, as amended,
- having regard to Regulation (EC) No 2038/2006 of the European Parliament and of the Council of 18 December 2006 on multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and amending Regulation (EC) No 1406/2002/EC¹⁰,
- having regard to Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine

¹ OJ L 164, 30.6.1994, p. 3.

² OJ L 348, 28.11.1992, p. 9.

³ OJ L 24, 29.1.2008, p. 8.

⁴ OJ L 175, 5.7.1985, p. 40.

⁵ OJ L 73, 14.3.1997, p. 5.

⁶ OJ L 156, 24.6.2003, p. 17.

⁷ OJ L 140, 5.6.2009, p. 114.

⁸ OJ L 143, 30.4.2004, p. 56.

⁹ OJ L 208, 5.8.2002, p. 1.

¹⁰ OJ L 394, 30.12.2006, p. 1.

environmental policy (Marine Strategy Framework Directive)¹,

- having regard to its resolution of 7 October 2010 on EU action on oil exploration and extraction in Europe²,
 - having regard to the Commission communication entitled ‘Facing the challenge of the safety of offshore oil and gas activities’ (COM(2010)0560),
 - having regard to Article 194 of the Treaty on the Functioning of European Union,
 - having regard to Article 11 and Article 191 of the Treaty on the Functioning of the European Union,
 - having regard to the Deepwater Horizon incident that led to a tragic loss of life and significant environmental damage,
 - having regard to the final report of the US National Commission on the BP Deepwater Horizon spill and offshore drilling,
 - having regard to Council Directive 92/43/EEC of 21 May 1992 on the conservation of habitats and of wild fauna and flora (the Habitats Directive)³,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety and the Committee on Legal Affairs (A7-0290/2011),
- A. whereas Article 194 of the TFEU specifically upholds a Member State's right to determine the conditions for exploiting its energy resources, whilst also upholding regard for solidarity and environmental protection,
- B. whereas Article 191 of the TFEU enshrines the fact that Union environmental policy must aim at a high level of protection and be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay,
- C. whereas indigenous sources of oil and gas contribute significantly to Europe's current energy needs and are crucial at present for our energy security and energy diversity,
- D. whereas offshore activity is growing in areas adjacent to EU territory, which are not subject to EU law but where any incident could impact on EU territory, whereas many of these areas are currently politically unstable,
- E. whereas there is already an extensive body of international law and international conventions which govern the seas, including European waters,

¹ OJ L 162, 21.6.2008, p. 11.

² Texts adopted, P7_TA(2010)0352.

³ OJ L 206, 22.7.1992, p. 7.

- F. whereas the United Nations Convention on the Law of the Sea (UNCLOS) sets out the legal framework within which activities in the oceans and seas must be carried out, including the delimitation of the continental shelf and the exclusive economic zone (EEZ),
- G. whereas the security and integrity of oil and natural gas exploration and maximum protection for Europe's citizens and the environment must be guaranteed,
- H. whereas the effects of an accident could be transboundary in nature and therefore justify a pre-prepared EU pollution response capacity, which takes into account accidents outside EU waters,
- I. whereas the Deepwater Horizon oil spill has demonstrated the potentially devastating environmental and human consequences of oil exploitation in extreme environments and the enormous economic costs associated with such environmental impacts,
- J. whereas some of the recommendations of the US National Commission on the BP Deepwater Horizon spill and offshore drilling reflect a number of practices that have been prevalent in parts of the EU for 20 years or more,
- K. whereas the Deepwater Horizon oil spill in the Gulf of Mexico must lead the EU urgently, and where necessary, to carry out an in-depth review of its relevant legislation and regulation with regard to the precautionary principle and the principle that preventive action should be taken, to all aspects of offshore oil and gas extraction and exploration, including safe transfer by underwater pipelines located on/under the seabed in its territories; whereas in this context Parliament welcomes the Commission's will to remedy gaps in existing EU legislation as a matter of urgency,
- L. whereas the Gulf of Mexico disaster has prompted industry and the competent authorities to establish fora, such as GIRG¹ and OSPRAG², to draw lessons from the disaster, and whereas many of these initiatives have already produced concrete results,
- M. whereas National Oil Companies accounted for 52 % of global oil production and controlled 88 % of proven oil reserves in 2007, and whereas their importance relative to international oil companies is increasing dramatically,
- N. whereas the different regulatory mechanisms of the Member States make it much more difficult to ensure the integrity of security measures, put an extra financial burden on businesses and impair the proper, smooth operation of the internal market,
- O. whereas evidence suggests that separating the licensing process from health and safety assessments can avoid any potential conflicts of interest, or a confusion of goals,
- P. whereas national regulators must assess financial viability and capability prior to awarding a license and final drilling consent, ensuring sufficient funds exist, including through third-party insurance and communal funds,
- Q. whereas various international fora already exist where regulators can exchange best

¹ Global Industry Response Group.

² Oil Spill response group.

practice, including the NSOAF¹,

- R. whereas the Commission, on behalf of the EU, is already a contracting party to OSPAR², a regional convention to protect the marine environment of the North-East Atlantic,
- S. whereas there are existing mechanisms for incident reporting, including OSPAR's annual discharges, spills and emissions report, and whereas non-regulatory channels such as NSOAF's 'safety bulletins' can be used to disseminate lessons learnt from such incidents,
- T. whereas numerous existing agreements already elaborate procedures for international response to spills of international significance, such as the OCES agreement³,
- U. whereas the EU Machinery Directive applies in general to equipment in offshore oil and gas facilities but excludes mobile offshore drilling units and equipment thereon,
- V. whereas the European Maritime Safety Agency already provides technical assistance to the Commission in the development and implementation of EU legislation on maritime safety and has been given operational tasks in the field of oil pollution response, satellite monitoring and the long-range identification and tracking of vessels,
- W. whereas responsibility for the clean-up of any oil spill and liability for damages is based on Article 191 of the TFEU, which establishes the 'polluter pays' principle and is reflected in secondary legislation such as the Environmental Liability Directive (ELD) and the Waste Directive,
- X. whereas a voluntary oil pollution compensation scheme already exists in the North Sea,

Regulatory approach

1. Acknowledges that issuing licences and other authorisations for the exploration and exploitation of hydrocarbon resources is a Member State prerogative, and that any suspension of activities is at the discretion of the Member State concerned; stresses, however, that licensing procedures must conform to certain common EU criteria and highlights the fact that Member States should apply the precautionary principle when issuing authorisation for the exploration and exploitation of hydrocarbon resources;
2. Insists, therefore, that the introduction of an EU-wide moratorium on all new deep-sea oil drilling in EU waters would be a disproportionate reaction to the need to secure high safety standards across the EU;
3. Stresses that each Member States' legislative and regulatory regime must ensure that all operators submit a risk-based, site-specific 'safety case' requiring them to demonstrate fully to their relevant national health, safety and environmental authorities that all site-specific, and other, risks have been considered and controls implemented for each installation;
4. Stresses that all Member States' legislative and regulatory frameworks should adopt a robust

¹ North-Sea Offshore Authorities forum.

² The OSPAR Convention is the current legal instrument guiding international cooperation on the protection of the marine environment of the North-East Atlantic.

³ Offshore Cooperative Emergency Services, brings together the national associations of Denmark, Germany, Ireland, Netherlands, Norway and the UK.

regime in line with the current best practice where all drilling proposals are accompanied by a safety case, which must be approved before operations can begin, including independent third-party verification procedures and reviews at regular and appropriate intervals by independent experts; stresses that regulatory 'hold points' prior to drilling will further ensure that all risks have been considered and mitigated, and reviews by independent experts implemented at appropriate intervals for each installation;

5. Calls for all safety cases to become a living and evolving document so that material, technical or equipment changes are subject to approval by the relevant competent authority, and stresses that all safety cases should be reviewed at least every five years, including by the independent regulators; stresses that all on-site procedures and equipment available to deal with possible blow-outs must be included in the safety case;
6. Acknowledges that a network of regimes and best practices already exists, and believes that a single new piece of specific EU legislation may risk destabilising the current network of regimes, moving them away from the proven safety case approach, and stresses that the new legislation must not seek to duplicate or compromise existing best practice;
7. Supports the Commission's desire to level up minimum standards within the EU, in cooperation with the Member States; believes that safety and environmental concerns should be embedded in all legislation and the highest safety and environmental standards applied in all areas of offshore oil and gas activities; calls for an independent third party to increase the level of coordination in the event of an accident; recommends that EMSA be designated for this role;
8. Calls for an extension of the Environmental Impact Assessment (EIA) Directive¹ to cover all offshore projects phases (exploratory and operational) and calls for specific requirements for EIAs in the case of deep water, complex wells, challenging drilling conditions, and transfer of oil/gas by underwater pipelines located on/under the seabed; considers, furthermore, that the Commission should ensure that EIAs for offshore projects approved by national authorities also cover the procedures operators must follow during decommissioning; calls on the Commission to reassess the legal provisions on EIAs and lay down therein that environmental impact assessment procedures must be entrusted to experts who are independent of the client;
9. Calls on the Commission to examine the current regulatory framework regarding the decommissioning of existing drilling infrastructure, and to clarify, if necessary by way of legislation, the responsibility of operators for ensuring safe removal and liability for any environmental damage resulting from the decommissioning or from a drilling site after it has been decommissioned;
10. Calls on the Commission to consider the case for extending the sound principles contained within its legislation for the control of onshore hazards (SEVESO II² and III³) to legislation aimed at offshore oil and gas activities; in the meantime, and in the event that the

¹ Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (as amended); (OJ L 175, 5.7.1985, p. 40).

² Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances; (OJ L 10, 14.1.1997, p. 13).

³ Proposal for a Directive of the European Parliament and of the Council on control of major-accident hazards involving dangerous substances, COM(2010)0781.

Commission does not propose such new specific legislation, calls on the Commission to re-examine its SEVESO III proposal in order to extend its scope to oil rigs and underwater pipelines located on/under the seabed to all phases of exploration for oil and gas reserves up until the decommissioning of the well; welcomes the Commission's explanatory memorandum concerning the revision of the SEVESO II Directive, in which the Commission states that it will assess the appropriate way to strengthen environmental legislation;

11. Notes that offshore oil and gas activities are excluded from the key provisions of the Industrial Emissions Directive¹; suggests that the Commission add under Annex I point 1.5 'offshore oil and gas activities' as part of the first scope review to be carried out by 31 December 2011, and suggests that the European IPPC Bureau define Best Available Practices (BAT) for offshore oil and gas activities;
12. Welcomes the fact that the Commission intends to review Directive 92/91/EEC, and calls for an approach based on common standards, in order to avoid disparities in treatment between workers within the same company, depending on their place of work; calls, furthermore, for a transparent, efficient, consistent set of rules applying to all employees working in the offshore sector, and for an assessment of both the effectiveness of existing legislation and the possibilities for future harmonisation of legislation;
13. Calls on the European Union to promote the application of the ILO Guidelines on Occupational Safety and Health Management Systems (ILO-OSH 2001) across the oil and gas industry;
14. Warns, however, that the effectiveness of legislation ultimately depends on the quality of its implementation by the relevant European and national authorities and bodies which implement, manage and enforce relevant legislation; believes that the Commission should be active in ensuring compliance by Member State authorities;
15. Emphasises that some Member States already have excellent security mechanisms as compared with the international and European level;
16. Stresses the importance of regular, varied and rigorous inspections carried out by independent, trained specialists acquainted with local conditions; believes that an operator's inspection regimes must also be subject to third-party verification; supports the efforts already undertaken by certain Member States to increase the number of rigorous inspections; stresses the importance of the independence of the national authorities, and of the transparent handling of possible conflicts of interests faced by inspectors with potential future employers;
17. Notes that resources are finite in terms of experienced inspectors, and calls for further investment to develop a more qualified inspection network across the Member States; calls on the Commission to examine ways in which it can help Member States develop their own inspectorates;
18. Emphasises the need for systems providing for effective checks by inspection bodies, using innovative methods such as specific audits of working time or rescue operations, and for the

¹ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control); (OJ L 334, 17.12.2010, p. 17).

possibility of applying sanctions in the event of violations of worker health and safety;

19. Notes that an operator's inspection regimes must be subject to third-party verification as well as EU-level inspections and that audit of vessels must be extended to offshore oil and gas platforms;
20. Recognises that in some less extensive operations there may be economies of scale if Member States share inspectorates;
21. Points out that any potential extension of EU product legislation to equipment on offshore installations should acknowledge that, given the high rate of technological progress, overly prescriptive specifications can fast become redundant;
22. Is concerned that an EU-level 'controller of controllers' will not bring sufficient added-value to justify draining scarce regulatory resources from national competent authorities; nevertheless recognises the potential lying in the significant experience of EMSA in dealing with oil-accident prevention, monitoring and detection activities, and that gathering data, sharing best practices and coordinating response resources should be coordinated throughout the EU; calls on the Commission to investigate whether a European regulatory body for offshore operations which brings together national regulators on the lines of BEREC in the telecommunications sector could bring added value and strengthen enforcement and implementation of the highest standards across the EU;

Prevention, Exchange of information and best-practice

23. Stresses the importance of regional initiatives as a first tier of multilateral action, and believes that fora akin to the NSOAF in the North Sea should be established for Member States around the Mediterranean, Baltic and Black Seas to oversee the adoption and enforcement of minimum standards; in this regard welcomes the Commission's initiative to establish the Mediterranean Offshore Authorities Forum (MOAF) and encourages the participation of non-EU countries; takes the view that standards and rules adopted for the EU should take account of environmental considerations relating to hydrocarbon exploration in non-EU areas;
24. Recognises the variety of conditions in different sea areas but believes there should be inter-fora coordination between regional initiatives, where appropriate, to ensure best practice at EU level; stresses that the Commission should play an active role within these fora;
25. Welcomes the Commission's initiative to establish joint EU/NSOAF meetings as an opportunity to exchange best practices across the EU; stresses that these meetings should be valued by the participants;
26. Welcomes the decision by the International Association of Oil and Gas Producers to establish the Global Industry Response Group (GIRG) in the aftermath of the Gulf of Mexico disaster; urges them to work transparently when sharing information and working with authorities;
27. Underlines the safety benefits from workforce engagement programmes; advocates strong links, and joint initiatives, between industry, the workforce and national competent authorities in the field of health, safety and environmental protection;

28. Stresses that offshore oil and gas production involves extremely high risks for worker health and safety, owing to the at times extreme environmental conditions, the 12-hour shift patterns and the isolated working environment, and recognises that these specific working conditions, especially the psychological stress, are and must continue to be regulated in order to minimise human error and protect workers; therefore recommends that workers be provided with an insurance commensurate with the risks incurred;
29. Believes that a preventive health and safety culture needs to be developed by engaging employers and trade unions and securing the active participation of workers, in particular by consulting them, involving them in devising and applying safety procedures and informing them of the potential risk involved; highlights the importance of testing and monitoring these procedures throughout the command chain so as to ensure that senior management is also trained and liable in the event of accidents or safety failures;
30. Calls on the industry to commit to a true safety culture throughout their organisations, whether offshore or within an office environment; therefore promotes regular training programmes for all permanent and contract employees as well as employers;
31. Calls on the Commission to consider the possibility of laying down common high safety standards and systems to counter and limit threats in order to minimise the risks and, when necessary, enable a swift and effective response; calls also for training requirements to be established in the EU Member States for workers, including contractors and subcontractors, involved in high-risk tasks, and for them to be harmonised so as to ensure coherent implementation in all European waters; calls on the Commission to engage positively with international partners to explore the possibility of achieving a global initiative on workers' health and safety rules and for these to be updated regularly to meet the latest state of technology;
32. Calls on the Member States to allow only certified in-house or external training;
33. Welcomes international exchange and common training programmes for the staff of competent national authorities and asks the Commission and the Member States to propose initiatives to encourage them;
34. Calls for strict safety, health protection and training rules to be applied to subcontractors, who must have the necessary qualifications to carry out maintenance and construction work in their field of responsibility; calls for workers, including contractors and subcontractors, and workers' organisations to be informed of all the risks involved in the work before it is actually carried out;
35. Stresses that employees in the further processing chain off shore or on shore are also exposed to extremely high health and safety risks; asks the Member States to include these employees in their regulating activities;
36. Calls for the provision of regular, specific medical follow-up care for workers exercising their activities within the offshore oil and gas sector; recommends that a medical examination covering workers' physical and psychological health should be carried out at least once a year;
37. Calls for approval of a mechanism to evaluate the risks incurred by workers, and for this evaluation to be taken into account in calculating workers' remuneration;

38. Calls on the industry to follow best practice on safety representatives; employees should be able to elect a safety representative who is involved in safety issues at all levels of the operational and decision-making process; believes also that employees should be able to declare security failures or risks to competent authorities on an anonymous basis whilst being protected from harassment;
39. Supports stronger efforts to share best practices amongst Member States in relation to regulation, standards and procedures, and in the reporting and management of incidents, including scientific opinions, operational safety and environmental protection regimes, risk management, response procedures, etc.;
40. Recognises that information is already shared, whether through regulatory groups or commercial partnerships and joint ventures; believes that safety is not proprietary;
41. Calls on national competent authorities to collate, share and publicise information from incident-reporting, with due regard for commercial sensitivities, so that lessons can be learned; recognises that consolidation and extra coordination of existing practices and incident-reporting could help to ensure transparency and consistency across the EU; this information should be shared as promptly as is feasible after an incident has occurred and include, inter alia, personnel incidents, machinery failure, hydrocarbon releases and other incidents of concern; welcomes international initiatives, including the G20 working group, to assist at global level with ensuring there is widespread knowledge of incidents and any necessary remedial action;
42. Believes the Commission should assess: the efficacy of the various existing information channels, the case for rationalisation and/or the case for establishing new international regimes, with due regard for the ensuing administrative burden;

Licensing and consent to drill

43. Notes the difference between licensing and consenting to drill and that the licensee may not be the drilling organisation; believes there should be regulatory 'hold points' after award of a licence and prior to drilling;
44. Recommends that licensing and health and safety functions should be separated in all Member States; believes that the Commission should work with Member States to establish common, transparent, objective licensing criteria ensuring that licensing and health and safety functions are separated in order to reduce the risk of a conflict of interest;
45. Notes that a significant number of installations in EU waters are ageing; welcomes attempts to improve the asset integrity of existing platforms;
46. Considers that oil and gas operators must be required, in the licensing procedure and throughout the operational period and at all phases of offshore projects (exploratory, operational and decommissioning), to demonstrate that they have sufficient financial capacity in place to secure remediation in relation to environmental damage caused by the specific activities they carry out, including those caused by high-impact, low-probability incidents – whether through mandatory industry mutual schemes, through mandatory insurance, or through a mixed scheme which guarantees financial security;

Contingency planning

47. Advocates the use of site-specific contingency plans that identify hazards, assess potential pollution sources and effects, outline a response strategy and outline drilling plans for potential relief wells; recommends that operators who obtain a licence should, as a condition for obtaining consent to drill, conduct an environmental impact assessment and submit their contingency plans at least two months before the start of operations; for complex wells, or challenging drill conditions, the contingency plan should be assessed, consulted and approved contemporaneously with other regulatory approval processes (e.g. those related to environmental impacts or well design); in all cases, operations must not commence until a contingency plan has been approved by the Member State in which they are to be conducted; contingency plans should be published by the national competent authority with due regard for data protection;
48. Calls on Member States to draft, amend, or update National Contingency Plans detailing command channels and mechanisms to deploy national assets alongside industry resources in the event of a spill; calls on Member States to cooperate with each other and with EU neighbouring countries on drafting regional contingency plans; calls for these plans to be transmitted to EMSA;
49. Notes that recent events have highlighted the risks of offshore oil and gas exploration and production activities for maritime transport and the marine environment; takes the view that the use of the EMSA's response capabilities should be explicitly extended to cover prevention and response to pollution originating from such activities;
50. Suggests that EMSA's inventories of response resources should collate all relevant public and industry resources so that EMSA is well placed to provide a coordinating role, where necessary, in the event of a major incident;
51. Suggests that available equipment for capping all potential spills should be an essential part of contingency plans and that such equipment should be available in proximity to installations to allow for timely deployment in the event of a major accident;
52. Urges companies to continue to set aside funds for research and development relating to new prevention and accident remediation technologies; stresses that before any disaster response technologies are added to an approved contingency plan they should be independently tested, assessed and authorised;
53. Considers it essential to conduct targeted and innovative scientific research with a view to making it possible to use automatic systems to monitor drilling rig operations and shut-downs and thereby increase the reliability of drilling and exploitation operations and fire-safety systems in extreme weather conditions;
54. Advocates strict control and continued testing and assessment of the environmental impact of chemical dispersants (and emergency response plans involving the use of chemical dispersants) both to ensure their suitability in the event of a spill and to avoid public health and environmental implications; calls for the Commission to provide for more detailed research into the impacts of such chemicals through EU research programmes if necessary;

Disaster response

55. Recognises that industry bears the primary responsibility for reacting to disasters; welcomes joint industry initiatives to develop, mobilise and deploy resources to counter oil spills;

stresses that the public sector has an important role in the regulation, safety and coordination of a disaster response;

56. Recommends that more emphasis should be placed on systematic training, particularly on the practical application of disaster response equipment;
57. Calls on the Member States and the Commission to ensure that the licensing system includes protection financing instruments apt to ensure that in the event of major incidents the necessary financial resources can be urgently mobilised to compensate for the economic, social and environmental losses occasioned by an oil spill or gas leak;
58. Welcomes the Commission's efforts to extend the scope of the mandate of the European Agency for Maritime Safety to cover not only vessels but also offshore installations;
59. Notes that the deployment of EMSA expertise and resources will be determined by the revised EMSA regulation, but should be explicitly extended to cover response to pollution originating from oil and gas exploration and should be available across the EU and neighbouring countries if required;
60. Believes that response and monitoring tools developed at EU level, respectively the network of standby EMSA oil recovery vessels and CleanSeaNet (CSN) oil-spill monitoring and detection, can be used for incidents/accidents with offshore installations;
61. Recommends the use of the EMSA CleanSeaNet Service to monitor oil platforms and illegal discharges from vessels; recognises that 50 % of the images currently provided to CleanSeaNet can be used to monitor oil platforms;
62. Recommends, therefore, the use of the Service Network of Stand-by EMSA Oil Spill Respond Vessels (SOSRV) after review of the following items:
 - (a) not all vessels can work in atmospheres with a flashpoint below 60°;
 - (b) contracts need to be improved to allow longer oil recovery operations;
 - (c) gaps in the current network need to be covered;
 - (d) new techniques need to be explored such as working with oil nets;
63. Reiterates its calls to the Commission to bring forward proposals as soon as possible for establishing an EU Civil Protection Force based on the EU Civil Protection Mechanism and to draw up a European action plan, together with the Member States, that integrates specific mechanisms setting out how the EU can respond to massive pollution caused by oil offshore installations including underwater oil/gas pipelines located on/under the seabed;
64. Acknowledges the role of the MIC¹ in complementing the emergency response mechanisms of the Member States and industry;
65. Supports innovative services directed towards the maritime sector; welcomes the discussion by the Commission and the Member States on a new e-maritime initiative building on the SafeSeaNet project and believes it could offer further safety benefits to the offshore oil and

¹ Monitoring and Information Centre, operated by the Commission.

gas industry;

66. Stresses that each sea area must always have access to sufficient available equipment to deal with large, worst-case-scenario spills for the specific sea area, not just EU waters;
67. Calls on the Commission to ensure that the better management of marine data proposed in the "Marine Knowledge 2020" Communication¹ and the proposed Regulation establishing a Programme to support the further development of an Integrated Maritime Policy² takes account of the need to guarantee appropriate monitoring of pollution threats in order to determine the appropriate course of action in a timely manner;
68. Asks the Commission to prepare a proposal for scientific knowledge generated by off-shore operators who work under a public licence to be made available to the competent authorities using standards and protocols developed within the context of "Marine Knowledge 2020", in order to facilitate public scrutiny and to further understanding of the marine environment;

Liability

69. Urges Member States, when considering financial guarantee mechanisms, including the necessity of third-party insurance, to pay due attention to set insurance rates on the basis of the real risk arising from drilling and exploitation difficulties, so as not to price small-and medium-sized operators out of the market whilst ensuring that liability coverage is maintained;
70. Stresses that while in principle financial guarantees can be provided through either insurance or industry mutualisation, it is important to ensure that operators demonstrate that financial guarantees are in place to cover the full cost of clean-up and compensation in the case of a major disaster, and that risks and liabilities are not externalised to smaller companies that are more likely to declare insolvency in the event of an accident; calls for any joint schemes to be established in a manner that maintains incentives for avoiding risks and adheres to the highest possible safety standards in individual operations;
71. Recognises the merit of communal funds such as OPOL in the North Sea and calls for such funds to be established in each EU sea area; calls for membership to be mandatory for operators and for legal certainty to be ensured so as to provide a safety-net mechanism designed to reassure the Member States, the maritime sector, in particular fishermen, and taxpayers;
72. Stresses that the voluntary nature of schemes such as OPOL limit their legal control and therefore believes that these funds would be strengthened by being a mandatory licence requirement;
73. Stresses that contributions should be based on, and consistent with, both the level of risk at the site concerned and contingency plans;

¹ Commission Communication entitled "Marine Knowledge 2020", marine data for smart and sustainable growth (COM 2010)0461.

² COM(2010)0494.

74. Considers that the scope of the Environmental Liability Directive¹ should be extended so that the "polluter pays" principle and strict liability apply to all damage caused to marine waters and biodiversity, so that oil and gas companies can be held accountable for any and all environmental damage they cause, and can assume full liability;
75. Calls for a revision of the Environmental Liability Directive to extend its coverage to all EU marine waters in line with the Marine Strategy Framework Directive²;
76. Calls on the Commission, under the Environmental Liability Directive, to lower damage thresholds and to enforce a strict liability regime covering all damage to marine waters and biodiversity;
77. Takes the view that the Commission should examine whether a compensation fund for oil disasters can be created within the framework of environmental liability, which would contain binding financial security provisions;
78. Recommends that Member States consider adopting and strengthening deterrents against negligence and non-compliance such as fines, withdrawal of licences, and criminal liability for employees; points out however, that such a regime existed in the USA prior to the Deepwater Horizon spill;
79. Stresses that the financially liable parties should be established without ambiguity prior to drilling;

Relationship with third countries

80. Urges the industry to employ at least EU environmental and safety standards or their equivalent wherever in the world they are operating; is aware of the enforcement issues of mandating EU-based companies to operate globally according to EU standards, but calls on the Commission to examine what mechanisms might be appropriate to ensure that EU-based companies operate globally according to at least EU safety standards; believes corporate responsibility should also be a key driver in this area and that Member State licensing regimes could take global incidents involving companies into consideration when awarding licenses, provided these incidents are accompanied by thorough reviews; calls on the Commission to promote the use of these high standards along with global partners;
81. Urges the Commission and the Member States to continue to contribute to offshore initiatives within the framework of the G20, while taking into consideration the United Nations Convention on the Law of the Sea (UNCLOS);
82. Notes the importance of existing legislation initiated by the United Nations Environment Programme, through the OSPAR, Barcelona and Helsinki Conventions, but recognises that current international law does not provide a complete or consistent framework for safety and environmental standards in offshore drilling, and can be difficult to enforce;

¹ Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage; (OL 143, 30.4.2004, p. 56).

² Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive), (OJ L 164, 25.6.2008, p. 19).

83. Stresses the importance of bringing fully into force the un-ratified 1994 Mediterranean Offshore Protocol, targeting protection against pollution resulting from exploration and exploitation;
84. Urges the Commission to engage actively with other states bordering EU sea areas to ensure that regulatory frameworks and supervision provide equally high levels of safety;
85. Calls on the EU to collaborate with relevant countries outside the EU, including their workers' and employers' organisations, whose nationals carry out services in the EU offshore oil and gas industry, in order to ensure that companies based outside the EU but operating in EU waters are bound by EU working conditions and OSH legislation;
86. Calls on the Commission to launch a debate on regulations in the areas of liability for environmental damage and financial guarantees that would also include third countries;
87. Urges the Commission to work with partners and neighbours to achieve a special regime for any operations in the Arctic, having careful regard for sustainability and the necessity of offshore activities in such a vulnerable and unique environment;
88. Advocates international bilateral partnerships through the European Neighbourhood Policy Action Plans which, inter alia, encourage third-party countries to adopt high safety standards; encourages countries that have not yet fully activated the ENP to do so;
89. Supports industry-led schemes to transfer expertise, especially to those countries with less developed regulatory frameworks;

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90. Instructs its President to forward this resolution to the Council, the Commission and the Member States.

Women entrepreneurship in small and medium-sized enterprises

European Parliament resolution of 13 September 2011 on women entrepreneurship in small and medium-sized enterprises (2010/2275(INI))

The European Parliament,

- having regard to Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation)¹,
- having regard to the Commission report of 3 October 2008 entitled ‘Implementation of the Barcelona objectives concerning childcare facilities for pre-school-age children’ (COM(2008)0638),
- having regard to the Commission report ‘Promotion of Women Innovators and Entrepreneurship’ of 25 July 2008,
- having regard to the Commission Communication of 25 June 2008 entitled ‘“Think Small First”: A ‘Small Business Act’ for Europe’ (COM(2008)0394),
- having regard to Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC²,
- having regard to Council Decision 2010/707/EU of 21 October 2010 on guidelines for the employment policies of the Member States³,
- having regard to Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings⁴,
- having regard to its resolution of 10 March 2009 on the Small Business Act⁵,
- having regard to its resolution of 30 November 2006 on Time to move up a gear – Creating a Europe of entrepreneurship and growth⁶,
- having regard to its resolution of 10 October 2002 on the Commission report to the European Parliament and the Council: Growth and Employment Initiative - measures on financial assistance for innovative and job-creating small- and medium-sized enterprises

¹ OJ L 214, 9.8.2008, p. 3.

² OJ L 180, 15.7.2010, p. 1.

³ OJ L 308, 24.11.2010, p. 46.

⁴ OJ L 160, 30.6.2000, p. 1.

⁵ OJ C 87 E, 1.4.2010, p. 48.

⁶ OJ C 316 E, 22.2.2006, p.45.

(SMEs)¹,

- having regard to Rule 48 of its Rules of Procedure,
- having regard to the report of the Committee on Women's Rights and Gender Equality (A7-0207/2011),
- A. whereas it is important to recognise that sharing between women and men of family and domestic responsibilities, notably through greater recourse to parental and paternity leave, is essential for the advancement and achievement of gender equality and therefore it is necessary to maintain a work-life balance, which can support women in starting up their own business to secure their financial independence and independence at work,
- B. whereas self-employment generally offers greater flexibility regarding working hours, number of hours worked and working place than employment, providing possibilities for those aiming to combine labour and care tasks or other activities, or for those in need of an adapted work place,
- C. whereas the category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding €50 million and an annual balance sheet in total not exceeding €43 million,
- D. whereas 99% of start-ups in Europe are micro or small enterprises and one third of these are launched by people who are unemployed, and whereas micro-enterprises employing fewer than 10 people make up 91% of European businesses,
- E. whereas the Commission 'Action Plan: The European Agenda for Entrepreneurship' (COM(2004)70) draws attention to the need for better social security schemes, whereas the Commission is planning to present a Communication on the Small Business Act in early 2011, and whereas the need for improved social security provision for women entrepreneurs in particular should be stressed,
- F. whereas women may face barriers in accessing informational support and financial and technological tools and services that could limit their ability to expand their businesses and compete for government and municipal contracts,
- G. whereas, in European Commission terminology, false self-employment is a bogus type of self-employment that arises where the improper classification of employment status is used to circumvent social protection and exclude such workers from basic workers' rights in order to reduce labour costs; whereas the workers concerned stay economically dependent,
- H. whereas entrepreneurs are those persons (business owners) who seek to generate value, through the creation or expansion of economic activity, by identifying and exploiting new products, processes or markets²,
- I. whereas a female entrepreneur can be defined as a woman who has created a business in which she has a majority shareholding and who takes an active interest in the decision-

¹ OJ C 279 E, 20.11.2003, p. 78.

² 'A Framework for Addressing and Measuring Entrepreneurship' by N. Ahmad and A.N. Hoffman, 24 January 2008, STD/DOC (2008) 2.

making, risk-taking and day-to-day management,

- J. whereas many businesses, predominantly those run by women, have sprung up within 'Objective 1' regions which will soon be displaced from their status as disadvantaged regions by the accession of new countries,
- K. whereas many of the regions which will cease to receive support include rural areas which are not yet adequately developed, while regions in recent accession countries often do not possess the cultural, social and organisational resources to make the best use of European funding,
- L. whereas there are discrepancies between Member States in the numbers of women entrepreneurs; whereas fewer women than men consider entrepreneurship as a viable career option and despite the upturn in the last decade in the numbers of women running SMEs, in the European Union only 1 in 10 women are entrepreneurs as opposed to 1 in 4 men; whereas women make up around 60% of all university graduates, but are underrepresented in full-time work in the labour market, particularly in the field of business; whereas it is crucial to encourage and empower women to embark on entrepreneurial ventures in order to reduce existing gender inequalities,
- M. whereas the United States' 'Women's Business Ownership Act (1988)' increased the number of women business owners as a percentage of all businesses from 26% in 1992 to 57% in 2002; whereas the success of this Act can help the EU in the identification of good practices,
- N. whereas those women entrepreneurs who have less knowledge about available options of financing and financial management experience, caused by societal factors, have a need for support not only during the start-up phase but also throughout a firm's business cycle, since there is a difference in the type of support required for business planning in the start-up and growth phases,
- O. whereas female entrepreneurship and female SMEs provide a key source for increasing the degree of female employment and thereby capitalising to a greater extent on women's level of education, as well as for ensuring that women do not go into precarious work, and whereas female entrepreneurship ensures business dynamism and innovation, the potential of which is far from being harnessed in the European Union, with an increase in the number of women entrepreneurs resulting in a positive impact and an immediate contribution to the economy overall; whereas in an unstable economic climate measures to support female entrepreneurs are easily neglected,
- P. whereas men and women in many cases do not have the same opportunities to run and develop companies and whereas promoting women's entrepreneurship is a long-term process that requires time to change structures and attitudes in society; whereas women have always been entrepreneurial, but rules and the traditional division of roles have meant that entrepreneurship has not always been an option for women,
- Q. whereas the European Investment Bank (EIB) substantially increased its lending activity dedicated to SMEs from €8.1 billion in 2008 to around €11.5 billion in 2009; whereas the SME instruments provided for under the Competitiveness and Innovation Framework Programme have been continuously implemented (€1.13 billion earmarked for 2007-2013); whereas the Commission adopted a temporary framework on state aid 2009/2010 providing

Member States with increased possibilities to tackle the effects of the credit squeeze,

- R. whereas investment readiness programmes boost the capacity of an SME or entrepreneur to understand the concerns of banks or other investors that may provide external financing,
- S. whereas women entrepreneurs are a heterogeneous group, varying in terms of age, background and education, ranging from recent graduates to those well-advanced in their career who want to find new ways to make use of their talent for management, entrepreneurial spirit, communication skills, consensual approach and ability to assess risks accurately, and whereas women entrepreneurs are active in a wide range of sectors and businesses; whereas men and women do not have the same opportunities to run and develop companies due to gender stereotyping and structural barriers, women often being unjustifiably perceived to lack entrepreneurial skills such as self-confidence, management skills, assertiveness and risk-taking,
- T. whereas mentoring and support from active female as well as male entrepreneurs may help enterprises newly created by female entrepreneurs to overcome many of the fears associated with business start-ups,
- U. whereas it is important to promote practical recommendations that take account of the reality of business and economic life in the competitive market environment,
- V. whereas there has not been enough research undertaken on female entrepreneurship at EU level which can inform the development and implementation of EU-wide policies in this area,
- W. whereas, in many Member States, self-employed people lack proper social security rights, such as maternity and paternity leave, insurance against unemployment and illness, disability pay and pension provisions and childcare facilities, even though such facilities are essential to enable female entrepreneurs to reconcile professional commitment and family life and enable the European Union to rise to the demographic challenge; whereas, in the guidelines for employment policies, Member States are requested to promote self-employment while ensuring adequate social security for the self-employed,
- X. whereas there is a group of mainly women active in work such as domestic work or private care work who are not officially employed but also not officially self-employed and therefore lack any form of social protection,

Access to financial and educational support

1. Encourages the Commission, Member States and regional and local authorities to make better use of the funding opportunities that are available to female entrepreneurs through special grants, venture capital, social security provisions and interest rate rebates that will allow fair and equal access to finance, such as the European Progress Microfinance Facility, which provides micro-credits of up to EUR25 000 to micro-enterprises and to those who want to start their own small business without access to traditional banking services, such as those who are unemployed;
2. Calls on Member States to set up nationwide campaigns, including workshops and seminars, to promote and inform women more effectively about the European Progress Microfinance Facility and about all the funding possibilities offered by this facility;

3. Points out that equality between women and men is a fundamental principle of the EU, recognised by the Treaty on the European Union and by the Charter of Fundamental Rights of the European Union, while, in spite of the significant progress made, many inequalities between women and men remain in terms of entrepreneurship and decision-making;
4. Regrets that the financial and economic crisis has deepened the problems for many potential female entrepreneurs, especially in the first three years of business; stresses that the development of profitable SMEs by both men and women can help Member States to achieve more sustainable economic growth;
5. Welcomes the separate section on aid for female entrepreneurship in the abovementioned Commission Regulation (EC) No 800/2008; calls on the Commission to ensure that this aid continues to be provided for in a future Community support framework in order to help empower female entrepreneurs after the expiry of the Regulation;
6. Calls on the Member States to ensure that SMEs run (and set up) by women are also able to benefit from the tax advantages provided for SMEs;
7. Urges the Commission and Member States to implement Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings properly and to ensure that entrepreneurs who have become insolvent or have experienced career breaks have access to financial recovery assistance and support in order that they may continue with projects already begun or change direction;
8. Calls on the Commission and the Member States to promote the exchange of best practice between regions ceasing to qualify for Objective 1 status and regions in countries which have just acceded so as to ensure the involvement of female entrepreneurs, particularly in the small-scale agriculture sector, both to enable them to pass on the experience they have gained, and thereby avoid the abrupt withdrawal of financial support, and with a view to training and creating a new class of women in management positions in the most recent accession countries;
9. Calls on the Commission, Member States and Business Europe to promote female entrepreneurship, financial support and a vocational guidance structure and to carry out, together with business schools and organisations and national organisations for women, investment readiness programmes that can help women create viable business plans and find and define potential investors;
10. Calls on the Commission and Member States to investigate the barriers to female entrepreneurship and especially conduct a comprehensive analysis of women's access to finance;
11. Calls on the Member States to encourage banks and financial institutions to consider 'women-friendly' business support services;
12. Calls on the Commission, Member States and Business Europe to consider the creation of mentoring schemes and support programmes making particular use of active ageing schemes that harness the advice and experience of retired male and female entrepreneurial professionals;
13. Calls on Member States to pay particular attention to the situation of women over the age of

50 and to help them set up their own companies;

14. Insists that Member States implement policies enabling women to achieve an adequate work-life balance and establish appropriate childcare facilities, as their lack of affordability, availability and quality creates additional obstacles to women wishing to launch an enterprise;
15. Calls on the Commission and Member States to support female entrepreneurs' access to growth potential assessments conducted by experienced consultants which measure the risk potential;
16. Notes that several recent studies have credited female entrepreneurs with taking a more cautious approach than men to economic and financial risk-taking; considers that the findings of such studies should be examined more closely to ascertain whether they are correct and what conclusions should be drawn from them;
17. Calls on Member States and regional authorities to embrace national educational concepts to raise girls' awareness of entrepreneurship and women in management and develop 'young entrepreneurship' in schools so that over the course of a school year female students can, if they wish to do so, experience the lifecycle of a business through the start-up, running and winding up of a company, linking to this process mentoring from teachers and 'active ageing' advisors from the local business community;
18. Recognises that from a young age many girls are discouraged from pursuing school and university subjects perceived as inherently 'masculine', such as science, maths and technology; recommends introducing initial courses at school in the basics of entrepreneurship and broadening the spectrum of possible subjects and careers open to girls, so that they are able to develop the knowledge base and full range of skills necessary for succeeding in business; highlights the importance of fostering girls' and women's employability through skills training and lifelong learning;
19. Asks the EU institutions, Member States and regional authorities to encourage one-year female entrepreneurship or apprenticeship programmes and exchanges at universities around Europe, where students conduct development projects based on real business concepts with the objective to already start a viable and profitable company during the years of education; considers furthermore that alumni and student association activities should form an integral part of this process to instil confidence and a 'role model' mentality in students; asks the Commission to encourage the exchange of best practices in this field;
20. Asks Member States and Business Europe to raise awareness of, and promote, the European entrepreneur exchange programme 'Erasmus for young entrepreneurs', the specific objective of which is to contribute to enhancing entrepreneurship, internationalisation and competitiveness of potential start-up entrepreneurs in the EU and newly established micro and small enterprises, and which offers new entrepreneurs the possibility to work for up to 6 months with an experienced entrepreneur in his/her SME in another EU country; recommends specific scholarships, such as the EU's 'Leonardo da Vinci' grants, to be provided for female students with outstanding potential, culminating in 'best practice' award ceremonies for successful graduates;
21. Insists that Member States promote equal access to procurement contracts and make procurement policy within the public sector 'gender-neutral';

Access to traditional business networking opportunities and information and communication technologies

22. Calls on the Member States to encourage cross-border cooperation programmes aimed at setting up cross-border support centres for women entrepreneurs in order to provide a basis for exchanges of experience, rationalisation of resources, and the sharing of best practice;
23. Calls on the Commission and Member States to harness information and communication technologies that can help to raise awareness and networking support for women; requests that the digital divide across Europe be addressed through the improvement of broadband connections, thus allowing women the flexibility to successfully run businesses from home should they wish;
24. Calls on the Commission and Member States to encourage women's participation in local chambers of commerce, specific NGOs, lobbying groups and industry-based organisations that form the mainstream business community so that they can develop and strengthen competitive business skills, and calls on chambers of commerce for their part to actively invite female entrepreneurs to become involved and to promote the setting-up of special services and representative groups for female entrepreneurs to assist their empowerment and the development of an enterprise culture;
25. Asks Member States to emphasise the role of NGOs in encouraging and facilitating female entrepreneurship;
26. Asks the Commission to promote the exchange of best practices in order to encourage entrepreneurship amongst women; asks the Commission and Member States and Business Europe to encourage and make provision for female entrepreneurs to be linked with the appropriate business partners in other fields so that they may have the opportunity to share experiences and practices and gain a better understanding of the wider business world;
27. Calls on the Commission to set up advice councils with specific expertise on the challenges and barriers faced by women entrepreneurs as part of the Enterprise Europe network, which could also serve as single contact points for cases of discrimination by financial service providers over access to credit;
28. Recognises the importance of female ambassadors, for example the European Network of Female Entrepreneurship Ambassadors (ENFEA), which highlights the role women can play in creating jobs and promoting competitiveness by inspiring women and young girls to set up their own business through activities in schools, universities, community groups and the media; notes that Ambassadors should have various backgrounds, ages and experiences and be active in all industries;
29. Calls on the Commission to run a campaign promoting women's involvement in work by means of setting up their own companies, and at the same time to provide information about the various instruments available to facilitate business start-ups;
30. Considers that the European External Action Service (EEAS) and the EU delegations in third countries, in cooperation with the Member States' trade missions, could help develop networks of SMEs run by women;
31. Calls on the Commission to collect comparable and comprehensive data on female

entrepreneurship in the European Union (such as female entrepreneurs' age, area of business, size of business, age of business and ethnicity in accordance with the Member States' rules on the protection of personal data) with the help of the European Foundation for the Improvement of Living and Working Conditions and the European Gender Institute, in a way that does not pose an extra burden on SMEs, and analyse these data in the annual report on EU SMEs of the SME Performance Review; considers that the data and information collected should enlighten decision-makers on the specific problems women entrepreneurs face;

32. Welcomes the Commission's 2008 study on women innovators and entrepreneurship, and urges Member States to adhere to its policy recommendations;
33. Calls for measures to be taken by the Commission, Member States and regional and local authorities to treat women entrepreneurs the same way as employees when it comes to social and other community services, and to improve the social position of female co-entrepreneurs and entrepreneurs in SMEs – through better maternity arrangements, better childcare facilities and care facilities for elderly persons and persons with special needs, as well as better social security provision, and by breaking down gender stereotypes – and to improve their cultural and legal position, especially in research, science, engineering, new media, the environment, green and low-carbon technology, agriculture and industrial sectors in urban and rural areas;
34. Urges Member States to examine obstacles to self-employment by Romani women, to create programmes to enable accessible, fast and inexpensive registration for Romani women entrepreneurs and self-employed persons and to establish avenues for accessible credit – including micro-credit – for the financing of undertakings by Romani women, and urges the Commission to support these activities through relevant funding mechanisms;
35. Calls on Member States to actively combat false self-employment by effectively defining self-employment and sanctioning false self-employment;
36. Calls on the Commission and Member States to set up a programme aimed at helping those active in domestic work, care work or other service work, mainly women, who are neither employed nor self-employed, to enter declared self-employment or set up their own enterprise;
37. Calls on the Commission and Member States to offer support to women who are planning to start or to buy a company, or take over a family-owned business, including those who are involved in the liberal professions such as owning a private law or medical practice; considers that the support should consist of appropriate training seminars and workshops in order to enable these women to acquire the managerial skills to successfully navigate an acquisition situation, in particular appraisals, valuing a company and banking and legal issues; acknowledges that particular attention should be given to women under the age of 25 and over the age of 50, as they are more affected by the financial crisis;
38. Calls on Poland to emphasise female entrepreneurship throughout its presidency, particular in early October with the European SME Week; calls on the Commission to propose, as soon as possible, an action plan to increase the proportion of women entrepreneurs, and to launch awareness-raising campaigns to break the stereotypes according to which women are not meant to be successful business leaders;

39. Calls on family-owned businesses to provide the same level of opportunity for female relatives – such as daughters – when considering the passing-down or transfer of a company;
40. Calls on the Member States to adopt measures to make it easier to reconcile the competing demands of family and professional life, to facilitate women's employment and to help improve career prospects for the self-employed;
41. Asks the Commission to protect the image of women in all forms of communications media, thereby combating the received idea that women are inherently vulnerable and supposedly incapable of competitive and business leadership qualities;
42. Points to the need to encourage initiatives to help devise and implement positive action and human resources policies at company level to promote gender equality, while also laying greater emphasis on awareness-raising and training measures serving to promote, transfer and incorporate practices that have been successful in organisations and companies;
43. Recognises that the 23 February 2011 Small Business Act for Europe review has delivered a strong agenda for SMEs, but asks that the notion of 'think small first' still be considered in everything the EU and Member States implement;
44. Calls on the Member States to support programmes designed to enable migrant women to work on a self-employed basis or set up a business by such means as training and mentoring policies and credit access support measures;
45. Urges the Member States to recognise companies that are seeking to promote gender equality and facilitating work-life balance, the object being to help disseminate practices making for excellence in this field;
46. Calls on the Commission and the Member States to encourage balanced representation of women and men on the management boards of companies, particularly where Member States are shareholders;
47. Calls on the Member States to promote Corporate Social Responsibility among women-run businesses to help ensure that women's work and working hours are organised on a more flexible basis and to encourage the provision of family-friendly services;
48. Calls on the Commission to promote vocational training policies and programmes for women, including the development of computer literacy skills, with a view to increasing female participation in industrial sectors, taking into account the financial support available at local, national and Community levels and providing greater incentives for it to be used by large companies and SMEs;
49. Calls on the Commission to intensify the support given to vocational training programmes for women in industrial SMEs and support for research and innovation, in line with the Seventh Framework Programme and the European Charter for Small Enterprises, as approved in Annex III to the Presidency conclusions of the Santa Maria da Feira European Council of 19 and 20 June 2000;
50. Points to the need to encourage the establishment of women's networks within companies, between companies in the same industrial sector and between industrial sectors;

51. Urges the Member States and the Commission to devise and implement strategies to address discrepancies both within the work environment and in terms of career development for women working in science and technology;
52. Considers it important to disseminate existing good practice regarding women's participation in industrial research and cutting-edge industries; points to the importance of making management in industrial companies with low female participation more aware of the gender perspective, which should translate into numerical targets;
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53. Instructs its President to forward this resolution to the Council, the Commission and the governments of the Member States.

Procedure with joint committee meetings, coordinator meetings and the supply of information to non-attached Members (interpretation of Rules 51 and 192)

European Parliament decision of 13 September 2011 concerning the procedure with joint committee meetings, coordinator meetings and the supply of information to non-attached Members (interpretation of Rules 51 and 192)

The European Parliament,

- having regard to the letters of 12 July 2011 from the Chair of the Committee on Constitutional Affairs,
- having regard to Rule 211 of its Rules of Procedure,

1. Decides to append the following interpretation to Rule 51:

"This Rule can be applied to the procedure leading to a recommendation to approve or reject the conclusion of an international agreement pursuant to Rules 90(5) and 81(1) provided that the conditions set out in it are fulfilled.";

2. Decides to append the following interpretation to Rule 192:

"Non-attached Members do not constitute a political group within the meaning of Rule 30 and they cannot therefore designate coordinators, who are the only Members entitled to attend coordinator meetings.

The function of coordinator meetings is to prepare committee decisions and they may not replace committee meetings without explicit delegation. Hence ex-ante delegation is required for decisions taken at coordinator meetings. In the absence of such delegation, coordinators may only adopt recommendations requiring formal ex-post approval by the committee.

In all cases, non-attached Members must be guaranteed access to information, in accordance with the principle of non-discrimination, through the supply of information and the presence of a member of the non-attached Members' secretariat at coordinator meetings.";

3. Instructs its President to forward this decision to the Council and the Commission, for information.