



Malta-EU Steering & Action Committee

## COMPETITIVENESS AND CONSUMER AFFAIRS



**12.06.09**

### [Simplification of inspections and formalities in respect of carriage of goods](#)

[COM \(2009\) 260](#) - Proposal for a Council Decision on a Community position within the Joint Committee established by the Agreement on the European Economic Area on the adaptation of Protocols 10 and 37 on simplification of inspections and formalities in respect of carriage of goods

The Community Customs Code (CCC) and its Implementing Provisions lay down the rules for the customs treatment of goods that are imported or exported. They include provisions on customs security measures among which is an obligation that traders should submit certain information prior to importing or exporting goods, which will make it possible to carry out a risk analysis of such operations prior to the entry or exit of the consignments in question.

These security measures apply to trade with all non-member countries. However, the CCC allows for different rules concerning the obligation to provide pre-arrival and pre-departure information where international agreements provide for special security arrangements. Given Norway's geographical position in relation to the Community customs territory, the large number of import/export transactions taking place daily between it and European Union Member States as well as legal links of the EC with Norway based on the EEA Agreement, it was held necessary and in the mutual interest of the Community and Norway to establish amended rules for customs security in their bilateral trade in goods. Such an arrangement is needed to ensure that trade runs smoothly while maintaining a high level of security.

The negotiations produced an arrangement to abolish the requirement for a prior declaration for goods traded between the Community and Norway. This is subject to the condition that the Contracting Parties undertake to guarantee on their respective territories an equivalent level of security through measures based on legislation in force in the Community. In addition to provisions for customs-security measures, the arrangement also includes a set of rules to ensure that the Agreement and the *acquis communautaire*<sup>1</sup> remain in alignment and to provide that, if the equivalence of the respective security measures is

---

<sup>1</sup> The entire body of legislation of the European Communities and Union



## Malta-EU Steering & Action Committee

no longer maintained, either party may take rebalancing measures, including suspending application of the relevant chapter of the Agreement.

The objective of this proposal is to amend Protocol 10<sup>2</sup> and Protocol 37<sup>3</sup> to the EEA Agreement in order to extend their application on customs security measures. These amendments will apply only in trade between the Community and Norway. Their application can be extended in the future on Iceland and Liechtenstein by a decision of the EEA Joint Committee.

### Reduced rates of excise duty

COM(2009) 259 - Proposal for a Council Decision authorising Portugal to apply reduced rates of excise duty in the autonomous region of Madeira on locally produced and consumed rum and liqueurs and in the autonomous region of the Azores on locally produced and consumed liqueurs and eaux-de-vie

By means of Council Decision 2002/167/EC Portugal was given authorisation to apply a reduced rate of excise duty in the autonomous region of Madeira on locally produced and consumed rum and liqueurs and in the autonomous region of the Azores on locally produced and consumed liqueurs and eaux de vie. This measure was applicable from 1 January 2002 until 31 December 2008. However, Portugal sought an extension of this authorisation until 31 December 2013.

The Portuguese authorities provided information to demonstrate that it is necessary to extend the reduced rate of excise duty beyond the end of 2008 in order to maintain the production of rum, liqueurs and/or eaux-de-vie and associated agricultural activities. Having examined this information the Commission concluded that the application of a reduced rate of excise duty is necessary for producers in this sector in order to be able to maintain their competitive position in relation to similar products from other parts of the Community. Hence the Commission is proposing that an extension of the derogation for a period of five years be authorised. This is subject to a requirement that Portugal submit a mid-term report by 31 December 2011 to enable the Commission to assess whether the reasons that justified the granting of the reduced rate still exist.

---

<sup>2</sup> This deals with the simplification of inspections and formalities in respect of carriage of goods

<sup>3</sup> This contains a list of Committees referred to in Article 101 of the EEA Agreement



## Malta-EU Steering & Action Committee

### Regularisation of non-CE marked Lifts

The Lifts Regulations of 2002 (L.N. 370 of 2002 transposing Directive 95/16/EC) require that every lift installed after 30<sup>th</sup> June 2002 meets the requirements in the same regulations and is CE-marked. However, the Regulatory Affairs Directorate (RAD) of the Malta Standards Authority estimates that there are certain lifts which were installed after the mentioned date and do not comply with these requirements. Such lifts, referred to as “non-CE marked lifts”, are potentially in a state of illegality as regards the Product Safety Act.

The RAD is currently looking into what measures could be adopted to regularize those “non-CE marked lifts” that were installed on or after 1<sup>st</sup> July 2002, without creating any unnecessary inconveniences to the users. Possible solutions for the regularization exercise may include registration, risk assessments and upgrading of the lifts.

The main purpose of such regularization exercise is to achieve a level that is considered to be safe for the lifts concerned, thus being no longer in a state of illegality. This would be beneficial not only for the users themselves but also for those lift installers and maintenance providers who are in compliance with the law.

In order to discuss the best way forward, RAD intends to set up a committee on this issue together with all interested stakeholders. These may include lift installers, authorized conformity assessment bodies (ACABs) and tenants responsible for their condominium, amongst others. All interested parties are invited to notify the RAD by 15<sup>th</sup> June 2009.

Any person who requires further information or has any queries on this issue may contact the Malta Standards Authority using telephone number 2395 2000 or emails: [Johnny.zerafa@msa.org.mt](mailto:Johnny.zerafa@msa.org.mt) and [david.pulis@msa.org.mt](mailto:david.pulis@msa.org.mt).

### The Energy Labelling Directive: its proposed revision - Briefing session

The Energy Labelling Directive (Directive 92/75/EEC) imposes an obligation on suppliers of household appliances to provide information on the energy consumption of each product supplied. In November 2008 the Commission launched a proposal for a recast of this Directive with the aim of extending the scope of the applicability of the current Directive to all energy-related products (including the household, commercial and industrial sectors) as well as to some non-energy using products such as windows which have a significant energy-saving potential.

MEUSAC and the Malta Business Bureau (MBB) shall be organising a briefing session on the 18<sup>th</sup> June at 9am at the premises of the Malta Chamber of Commerce, Enterprise and Industry.

Further details can be found in the circular which has already been sent to you via email.



## Malta-EU Steering & Action Committee

### [State aid: Commissioner Kroes briefs Economics and Finance Ministers on restructuring of banks and their return to viability](#)

On Tuesday, European Commissioner for Competition Neelie Kroes briefed the EU's Council of Economics and Finance Ministers in Luxembourg on the restructuring of banks and their return to viability without state support. Commissioner Kroes underlined that financial stability and the preservation of competitive markets are complementary objectives and that those who pretend that we should forget about competition for the sake of financial stability are missing the point.

To read the full text of Commissioner Kroes' intervention click [here](#)

### [New rules on state aid to ship management companies](#)

On Wednesday the European Commission provided new and detailed guidance on state aid granted to ship management companies. These rules complement the 2004 guidelines on state aid to maritime transport.

Until today, only ship managers providing jointly technical and crew management for the same ship were eligible to a tonnage tax scheme. The Commission reassessed the matter and came to the conclusion that outsourcing part of a ship operation should not be fiscally penalised. Thus, under the guidance the tonnage tax may be applied to all ship managers, as long as they contribute to the development of the European maritime cluster and, more importantly, that they make a commitment to implement the Maritime Labour Convention 2006 ahead of its entry into force.

[Read more](#)

### [EU Commission publishes report on US internet gambling laws](#)

The European Commission has published its report on US laws on remote gambling and their enforcement against EU companies. The report is the result of a formal examination procedure initiated in 2008 following a complaint lodged by the Remote Gambling Association (RGA). The report concludes that US laws deny access and discriminate against foreign suppliers of gambling and betting services inconsistently with WTO rules. As a result, WTO proceedings would be justified. At the same time, the report suggests that the issue should be addressed with the US Administration, with a view to finding a negotiated solution.

[Read more](#)



## Malta-EU Steering & Action Committee

### Mergers: Commission fines Electrabel 20 million euros for acquiring control of Compagnie Nationale du Rhône without prior Commission approval

The European Commission has decided to impose a fine of 20 million euros on Electrabel, an electricity producer and retailer belonging to the Suez Group (now GDF Suez) for acquiring control of Compagnie Nationale du Rhône (CNR), another electricity producer, without having received prior approval under the EU Merger Regulation.

The EU Merger Regulation requires concentrations of a European dimension to be notified to the Commission before their implementation so that the Commission can examine whether a concentration would significantly impede effective competition in the European Economic Area (EEA) or any substantial part of it. This is known as the 'standstill obligation'.

The acquisition of CNR by Electrabel was cleared by the Commission on 29 April 2008 under the EC Merger Regulation, following a notification by Electrabel on 26 March 2008. However, the Commission had left open the precise date at which Electrabel had acquired control of the CNR within the meaning of the Merger Regulation, as this was not a factor in the substantive assessment of the concentration. The Commission has now completed its investigation on this issue and concluded that Electrabel already acquired *de facto* sole control of CNR in December 2003, i.e. more than four years before the notification.

In particular, by acquiring in December 2003 the shares of CNR held by EDF, the leading electricity producer in France, Electrabel became by far CNR's largest shareholder holding close to 50% of CNR's shares. The Commission's investigation found that due to the wide dispersion of the remaining shares and past attendance rates at CNR's shareholders' meetings, Electrabel enjoyed a stable majority at such meetings.

The Commission therefore found that Electrabel has breached its obligation not to implement its acquisition of control before obtaining the Commission's authorisation, and that the infringement lasted for a significant period of time.

According to the Merger Regulation, the Commission can impose a fine of up to 10% of the aggregated turnover of the companies concerned for this type of infringement.

In setting the amount of the fine, the Commission has taken into account the seriousness of the infringement, the fact that the standstill obligation is a cornerstone of the EU merger control system and the duration of the infringement. However in its assessment, the Commission has taken into account the fact that the transaction has not given rise to any competition concerns and that Electrabel subsequently voluntarily informed the Commission of the acquisition of control.

[Read more](#)



## Malta-EU Steering & Action Committee

### [Antitrust: Commission market tests commitments proposed by IACS concerning ship classification market](#)

The European Commission has invited comments from interested parties on commitments offered by the International Association of Classification Societies (IACS) to meet concerns that it may have infringed Article 81 of the EC Treaty and Article 53 of the EEA Agreement, prohibiting restrictive business practices.

The Commission's concerns relate to the ship classification market, in particular that IACS might have prevented classification societies which are not members of IACS from joining, from participation in IACS' technical working groups and from access to technical background documents. To address these concerns, IACS has proposed a series of commitments, including the establishment of qualitative membership criteria and guidance for their application, the possibility for non-IACS classification societies to participate in IACS' working groups and full access to IACS' technical resolutions and related background documents. A summary of the proposed commitments has been published in the EU Official Journal (OJ C 131 of 10 June 2009) and the full non-confidential version of the proposed commitments is available on the [Europa website](#). Interested parties can submit comments within one month from the date of publication. If the result of the market test is positive, the Commission intends to adopt a decision under Article 9(1) of Regulation 1/2003, making the commitments legally binding on IACS.

[Read more](#)

### [Antitrust: Commission market tests commitments proposed by Rambus concerning memory chips](#)

The European Commission has invited comments from interested parties on commitments offered by microchip designer Rambus to meet concerns that it may have infringed EC Treaty rules on abuse of a dominant position (Article 82) by claiming unreasonable royalties for the use of certain patents for "Dynamic Random Access Memory" chips (DRAMs). Rambus in particular is prepared to commit to put a cap on its royalty rates for the five year duration of these commitments. The cap includes a "Most-Favoured-Customer" clause which would ensure any future rate reductions would benefit the whole market. Interested parties can submit comments within one month from the date of publication. Following the market test, the Commission may decide to adopt a decision under Article 9 (1) of Regulation 1/2003, making the commitments legally binding on Rambus.

[Read more](#)

### [Antitrust: Commission statement on Microsoft Internet Explorer announcement](#)

The European Commission took note of Microsoft's announcement of its plans to separate Internet Explorer from Windows in its Windows 7 version. The Commission will shortly decide in the pending browser tying antitrust case whether or not Microsoft's conduct from 1996 to date has been abusive and, if so, what remedy would be necessary to create genuine consumer choice and address the anticompetitive effects of Microsoft's long-standing conduct. [Read more](#)



## Malta-EU Steering & Action Committee

### Council launches its tendering platform

Council has launched Consilium Tendering - the Council's tendering platform. This electronic platform is a useful tool for all economic operators to find information on tenders issued by the Council and to apply for tenders electronically.

To go to the Consilium Tendering website click [here](#)

### Regulations approved this week by Council

At its meeting on Monday 8<sup>th</sup> June, the Employment, Social Policy, Health and Consumer Affairs Council adopted the following Regulations:

#### New rules on roaming charges

A Regulation amending Regulation 717/20072 on roaming on public mobile telephone networks within the Community. The new regulation provides for a further reduction in call charges and an extension of pricing limits to cover SMS and data services. The new rules will ensure that the price paid by users of mobile communication networks for community-wide roaming services is not unjustifiably higher than the price paid for making or receiving a call, sending and receiving an SMS message and transferring data in their country of origin. The regulation lays down new measures to improve the transparency of retail prices for data roaming services, and to provide roaming customers with the tools they need to monitor and control their expenditure on these services.

The cost of mobile roaming calls: currently at EUR 0.46 for calls made and EUR 0.22 for calls received abroad, the caps will go down to EUR 0.43 for calls made and EUR 0.19 for calls received abroad on 1 July 2009, to EUR 0.39 and EUR 0.15 on 1 July 2010 and to EUR 0.35 and EUR 0.11 by 1 July 2011 (excluding VAT).

The new roaming rules introduce an SMS price cap for sending a text message while abroad at EUR 0.11 (excluding VAT). It also reduces data roaming charges by introducing a wholesale cap of EUR 1 per megabyte download as from 1 July 2009, which will fall to EUR 0.80 in 2010 and to EUR 0.50 in 2011. In addition, the principle of per second billing is introduced after first 30 seconds for calls made and from the first second for calls received while abroad.

[Read more](#)

#### More flexibility for allocation of slots at EU airports

A Regulation amending Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports. The Regulation suspends for the summer 2009 scheduling season the rules that oblige airlines to fly their routes at least 80% of the time or risk losing them. This temporary measure will help airlines cut costs by allowing them to cut capacity more easily at busy airports, knowing that their slots will be safeguarded for the next summer season 2010.



## Malta-EU Steering & Action Committee

### Euro VI for trucks and buses

A Regulation introducing tighter emission limits for nitrogen oxides and particulate matter (Euro VI) from trucks and busses. The new legislative act requires a reduction of emissions from trucks and busses of nitrogen oxides by 80% and particulate matter by 66% compared to the Euro V stage as from 31 December 2012. The regulation includes a requirement that vehicles' on-board diagnostic information and vehicle repair and maintenance information be made available through websites in the standardised format developed by a technical committee of stakeholders.

### COMMISSION CONSULTATION

#### Commission launches consultation on possible end-date for Single Euro Payments Area (SEPA) migration

The European Commission has launched a consultation on whether and how deadlines should be set for the migration of existing payment products – i.e. credit transfers and direct debits – to the new Single Euro Payments Area (SEPA) products. Feedback from all stakeholders will help the Commission to identify whether there is a need for action in this respect and at which level.

The consultation document is available at:

[http://ec.europa.eu/internal\\_market/consultations/2009/sepa\\_en.htm](http://ec.europa.eu/internal_market/consultations/2009/sepa_en.htm)

Responses should be sent by Mon 3rd August 2009 to DG Internal Market and Services, Unit H3, European Commission, SPA2 4/69, BE-1049 Brussels or to:  
[markt-sepa-consultation@ec.europa.eu](mailto:markt-sepa-consultation@ec.europa.eu)