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Price: EUR 4

(Continued overleaf)

⁽¹⁾ Text with EEA relevance

EN

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II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 61/2011

of 24 January 2011

amending Regulation (EEC) No 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Articles 113(1)(a) and 121(h) in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2568/91 ⁽²⁾ defines the physical and chemical characteristics of olive oils and olive-residue oils and the methods of analysis of those characteristics. Those methods and the limit values for the characteristics of oils need to be updated on the basis of the opinion of chemical experts and in line with the work carried out within the International Olive Council.
- (2) In particular, since the chemical experts have concluded that the content of fatty acid ethyl esters (FAEEs) and fatty acid methyl esters (FAMES) is a useful parameter of quality for the extra virgin olive oils, it is appropriate to include limit values for those esters as well as a method for the determination of their content.
- (3) In order to allow a period of adjustment to the new standards, to give time for introducing the means of applying them and to avoid disturbance to commercial transactions, the amendments made by this Regulation should apply as from 1 April 2011. For the same reasons, provision should be made for olive oil and olive-residue oils that are legally manufactured and labelled in the Union or legally imported into the Union and released for free circulation before that date to be marketed until all stocks are used up.

- (4) Regulation (EEC) No 2568/91 should therefore be amended accordingly.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2568/91 is amended as follows:

1) In Article 2(1), the following indent is added:

‘— for the determination of the content of waxes, fatty acid methyl esters and fatty acid ethyl esters by capillary gas chromatography, the method set out in Annex XX’

2) In the summary of Annexes, the following is added:

‘Annex XX: Method for the determination of the content of waxes, fatty acid methyl esters and fatty acid ethyl esters by capillary gas chromatography’.

3) Annex I is replaced by the text in Annex I to this Regulation.

4) Annex XX is added, as set out in Annex II to this Regulation.

Article 2

Products which have been legally manufactured and labelled in the Union or legally imported into the Union and released for free circulation before 1 April 2011 may be marketed until all stocks are used up.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 248, 5.9.1991, p. 1.

Article 3

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

It shall apply from 1 April 2011.

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

Done at Brussels, 24 January 2011.

For the Commission

The President

José Manuel BARROSO

ANNEX I

‘ANNEX I

OLIVE OIL CHARACTERISTICS

Category	Fatty acid methyl esters (FAMES) and fatty acid ethyl esters (FAEEs)	Acidity (%) (*)	Peroxide index mEq O ₂ /kg (*)	Waxes mg/kg (**)	2-glyceril monopalmitate (%)	Stigmas-tadiene mg/kg ⁽¹⁾	Difference: ECN42 (HPLC) and ECN42 (theoretical calculation)	K ₂₃₂ (*)	K ₂₇₀ (*)	Delta-K (*)	Organoleptic evaluation Median defect (Md) (*)	Organoleptic evaluation Fruity median (Mf) (*)
1. Extra virgin olive oil	Σ FAME + FAEE ≤ 75 mg/kg or 75 mg/kg < Σ FAME + FAEE ≤ 150 mg/kg and (FAEE/FAME) ≤ 1,5	≤ 0,8	≤ 20	≤ 250	≤ 0,9 if total palmitic acid % ≤ 14 % ≤ 1,0 if total palmitic acid % > 14 %	≤ 0,10	≤ 0,2	≤ 2,50	≤ 0,22	≤ 0,01	Md = 0	Mf > 0
2. Virgin olive oil	—	≤ 2,0	≤ 20	≤ 250	≤ 0,9 if total palmitic acid % ≤ 14 % ≤ 1,0 if total palmitic acid % > 14 %	≤ 0,10	≤ 0,2	≤ 2,60	≤ 0,25	≤ 0,01	Md ≤ 3,5	Mf > 0
3. Lampante olive oil	—	> 2,0	—	≤ 300 ⁽³⁾	≤ 0,9 if total palmitic acid % ≤ 14 % ≤ 1,1 if total palmitic acid % > 14 %	≤ 0,50	≤ 0,3	—	—	—	Md > 3,5 ⁽²⁾	—
4. Refined olive oil	—	≤ 0,3	≤ 5	≤ 350	≤ 0,9 if total palmitic acid % ≤ 14 % ≤ 1,1 if total palmitic acid % > 14 %	—	≤ 0,3	—	≤ 1,10	≤ 0,16	—	—
5. Olive oil composed of refined and virgin olive oils	—	≤ 1,0	≤ 15	≤ 350	≤ 0,9 if total palmitic acid % ≤ 14 % ≤ 1,0 if total palmitic acid % > 14 %	—	≤ 0,3	—	≤ 0,90	≤ 0,15	—	—
6. Crude olive-residue oil	—	—	—	> 350 ⁽⁴⁾	≤ 1,4	—	≤ 0,6	—	—	—	—	—
7. Refined olive-residue oil	—	≤ 0,3	≤ 5	> 350	≤ 1,4	—	≤ 0,5	—	≤ 2,00	≤ 0,20	—	—
8. Olive-residue oil	—	≤ 1,0	≤ 15	> 350	≤ 1,2	—	≤ 0,5	—	≤ 1,70	≤ 0,18	—	—

⁽¹⁾ Total isomers which could (or could not) be separated by capillary column.

⁽²⁾ Or where the median defect is less than or equal to 3,5 and the fruity median is equal to 0.

⁽³⁾ Oils with a wax content of between 300 mg/kg and 350 mg/kg are considered to be lampante olive oil if the total aliphatic alcohol content is less than or equal to 350 mg/kg or if the erythrodiol and uvaol content is less than or equal to 3,5 %.

⁽⁴⁾ Oils with a wax content of between 300 mg/kg and 350 mg/kg are considered to be crude olive-residue oil if the total aliphatic alcohol content is above 350 mg/kg and if the erythrodiol and uvaol content is greater than 3,5 %.

Category	Acid content ⁽¹⁾						Total transoleic isomers (%)	Total translinoleic + translinolenic isomers (%)	Sterols composition						Total sterols (mg/kg)	Erythrodiol and uvaol (%) (**)
	Myristic (%)	Linolenic (%)	Arachidic (%)	Eicosenoic (%)	Behenic (%)	Lignoceric (%)			Cholesterol (%)	Brassicasterol (%)	Campesterol (%)	Stigmasterol (%)	Betasitosterol (%) ⁽²⁾	Delta-7-stigmastenol (%)		
1. Extra virgin olive oil	≤ 0,05	≤ 1,0	≤ 0,6	≤ 0,4	≤ 0,2	≤ 0,2	≤ 0,05	≤ 0,05	≤ 0,5	≤ 0,1	≤ 4,0	< Camp.	≥ 93,0	≤ 0,5	≥ 1 000	≤ 4,5
2. Virgin olive oil	≤ 0,05	≤ 1,0	≤ 0,6	≤ 0,4	≤ 0,2	≤ 0,2	≤ 0,05	≤ 0,05	≤ 0,5	≤ 0,1	≤ 4,0	< Camp.	≥ 93,0	≤ 0,5	≥ 1 000	≤ 4,5
3. Lampante olive oil	≤ 0,05	≤ 1,0	≤ 0,6	≤ 0,4	≤ 0,2	≤ 0,2	≤ 0,10	≤ 0,10	≤ 0,5	≤ 0,1	≤ 4,0	—	≥ 93,0	≤ 0,5	≥ 1 000	≤ 4,5 ⁽³⁾
4. Refined olive oil	≤ 0,05	≤ 1,0	≤ 0,6	≤ 0,4	≤ 0,2	≤ 0,2	≤ 0,20	≤ 0,30	≤ 0,5	≤ 0,1	≤ 4,0	< Camp.	≥ 93,0	≤ 0,5	≥ 1 000	≤ 4,5
5. Olive oil composed of refined and virgin olive oils	≤ 0,05	≤ 1,0	≤ 0,6	≤ 0,4	≤ 0,2	≤ 0,2	≤ 0,20	≤ 0,30	≤ 0,5	≤ 0,1	≤ 4,0	< Camp.	≥ 93,0	≤ 0,5	≥ 1 000	≤ 4,5
6. Crude olive-residue oil	≤ 0,05	≤ 1,0	≤ 0,6	≤ 0,4	≤ 0,3	≤ 0,2	≤ 0,20	≤ 0,10	≤ 0,5	≤ 0,2	≤ 4,0	—	≥ 93,0	≤ 0,5	≥ 2 500	> 4,5 ⁽⁴⁾
7. Refined olive-residue oil	≤ 0,05	≤ 1,0	≤ 0,6	≤ 0,4	≤ 0,3	≤ 0,2	≤ 0,40	≤ 0,35	≤ 0,5	≤ 0,2	≤ 4,0	< Camp.	≥ 93,0	≤ 0,5	≥ 1 800	> 4,5
8. Olive-residue oil	≤ 0,05	≤ 1,0	≤ 0,6	≤ 0,4	≤ 0,3	≤ 0,2	≤ 0,40	≤ 0,35	≤ 0,5	≤ 0,2	≤ 4,0	< Camp.	≥ 93,0	≤ 0,5	≥ 1 600	> 4,5

⁽¹⁾ Other fatty acids content (%): palmitic: 7,5-20,0; palmitoleic: 0,3-3,5; heptadecanoic: ≤ 0,3; heptadecenoic: ≤ 0,3; stearic: 0,5-5,0; oleic: 55,0-83,0; linoleic: 3,5-21,0.

⁽²⁾ Total: Delta-5,23-stigmastadienol+chlerosterol+beta-sitosterol+sitostanol+delta-5-avenasterol+delta-5,24-stigmastadienol.

⁽³⁾ Oils with a wax content of between 300 mg/kg and 350 mg/kg are considered to be lampante olive oil if the total aliphatic alcohol content is less than or equal to 350 mg/kg or if the erythrodiol and uvaol content is less than or equal to 3,5 %.

⁽⁴⁾ Oils with a wax content of between 300 mg/kg and 350 mg/kg are considered to be crude olive-residue oil if the total aliphatic alcohol content is above 350 mg/kg and if the erythrodiol and uvaol content is greater than 3,5 %.

Notes:

- (a) The results of the analyses must be expressed to the same number of decimal places as used for each characteristic.
The last digit must be increased by one unit if the following digit is greater than 4.
- (b) If just a single characteristic does not match the values stated, the category of an oil can be changed or the oil declared impure for the purposes of this Regulation.
- (c) If a characteristic is marked with an asterisk (*), referring to the quality of the oil, this means the following:
— for lampante olive oil, it is possible for both the relevant limits to be different from the stated values at the same time,
— for virgin olive oils, if at least one of these limits is different from the stated values, the category of the oil will be changed, although they will still be classified in one of the categories of virgin olive oil.
- (d) If a characteristic is marked with two asterisks (**), referring to the quality of the oil, this means that for all types of olive-residue oil, it is possible for both the relevant limits to be different from the stated values at the same time.'

ANNEX II

ANNEX XX

Method for the determination of the content of waxes, fatty acid methyl esters and fatty acid ethyl esters by capillary gas chromatography

1. PURPOSE

This method is for the determination of the content of waxes, fatty acid methyl and ethyl esters in olive oils. The individual waxes and alkyl esters are separated according to the number of carbon atoms. The method is recommended as a tool for distinguishing between olive oil and olive-pomace oil and as a quality parameter for extra virgin olive oils enabling the detection of fraudulent mixtures of extra virgin olive oils with lower quality oils whether they are virgin, lampante or some deodorised oils.

2. PRINCIPLE

Addition of suitable internal standards to the oil and fractionation by chromatography on a hydrated silica gel column. Recovery of the fraction eluted under the test conditions (with a lower polarity than that of the triacylglycerols) and direct analysis by capillary gas chromatography.

3. APPARATUS

3.1. Erlenmeyer flask, 25 ml.

3.2. **Glass column** for liquid chromatography, internal diameter 15 mm, length 30-40 cm, fitted with a suitable stopcock.3.3. **Gas chromatograph** suitable for use with a capillary column, equipped with a system for direct, on-column injection comprising:3.3.1. **Thermostat-controlled oven with temperature programming.**3.3.2. **Cold injector** for direct on-column injection3.3.3. **Flame ionisation detector and converter-amplifier.**3.3.4. **Recorder-integrator** (Note 1) for use with the converter-amplifier (point 3.3.3), with a response time of not more than 1 s and a variable paper speed.

Note 1: Computerised systems may also be used where the gas chromatography data are entered through a PC.

3.3.5. **Capillary column, fused silica (for analysis of the waxes and methyl and ethyl esters)**, length 8-12 m, internal diameter 0,25-0,32 mm, internally coated with liquid phase (Note 2) to a uniform thickness of 0,10-0,30 μm .

Note 2: Suitable commercial liquid phases are available for this purpose such as SE52, SE54, etc.

3.4. **Microsyringe**, 10 μl , with hardened needle, for direct on-column injection.3.5. **Electric shaker.**3.6. **Rotary evaporator.**3.7. **Muffle oven.**3.8. **Analytical** balance for weighing to an accuracy of $\pm 0,1$ mg.

3.9. Usual laboratory glassware.

4. REAGENTS

- 4.1. **Silica gel**, 60-200 µm mesh. Place the silica gel in the muffle oven at 500 °C for at least 4 h. Allow to cool and then add 2 % water in relation to the quantity of silica gel used. Shake well to homogenise slurry and keep in the desiccator for at least 12 h prior to use.

- 4.2. **n-hexane**, chromatography grade or residue grade (the purity must be checked).

WARNING – Fumes may ignite. Keep away from sources of heat, sparks or naked flames. Make sure the bottles are always properly closed. Ensure proper ventilation during usage. Avoid build-up of fumes and remove any possible fire risk, such as heaters or electric apparatus not manufactured from non-inflammable material. Pernicious if inhaled, because it may cause nerve cell damage. Avoid breathing in the fumes. Use a suitable respiratory apparatus if necessary. Avoid contact with eyes and skin.

- 4.3. **Ethyl ether, chromatography grade**

WARNING – Highly inflammable and moderately toxic. Irritates the skin. Pernicious if inhaled. May cause damage to eyes. Effects may be delayed. It can form explosive peroxides. Fumes may ignite. Keep away from sources of heat, sparks or naked flames. Make sure the bottles are always properly closed. Ensure proper ventilation during usage. Avoid build-up of fumes and remove any possible fire risk, such as heaters or electric apparatus not manufactured from non-inflammable material. Do not evaporate to dryness or near dryness. The addition of water or an appropriate reducing agent can reduce peroxide formation. Do not drink. Avoid breathing in the fumes. Avoid prolonged or repeated contact with skin.

- 4.4. **n-heptane**, chromatography grade, or **iso-octane**

WARNING – Inflammable. Pernicious if inhaled. Keep away from sources of heat, sparks or naked flames. Make sure the bottles are always properly closed. Ensure proper ventilation during usage. Avoid breathing in the fumes. Avoid prolonged or repeated contact with skin.

- 4.5. **Standard solution of lauryl arachidate** (Note 3), at 0,05 % (m/V) in heptane (internal standard for waxes).

Note 3: Palmityl palmitate, myristyl stearate or arachidyl laurate may also be used.

- 4.6. **Standard solution of methyl heptadecanoate, at 0,02 % (m/V) in heptane (internal standard for methyl and ethyl esters).**

- 4.7. **Sudan 1 (1-phenylazo-2-naphthol).**

- 4.8. **Carrier gas: hydrogen or helium, pure, gas chromatography grade.**

WARNING

Hydrogen. Highly inflammable, under pressure. Keep away from sources of heat, sparks, naked flames or electric apparatus not manufactured from non-inflammable material. Make sure the bottle valve is shut when not in use. Always use with a pressure reducer. Release the tension of the reducer spring before opening the bottle valve. Do not stand in front of the bottle outlet when opening the valve. Ensure proper ventilation during usage. Do not transfer hydrogen from one bottle to another. Do not mix gas in the bottle. Make sure the bottles cannot be knocked over. Keep them away from sunlight and sources of heat. Store in a corrosive-free environment. Do not use damaged or unlabelled bottles.

Helium. Compressed gas at high pressure. It reduces the amount of oxygen available for breathing. Keep the bottle shut. Ensure proper ventilation during usage. Do not enter storage areas unless they are properly ventilated. Always use with a pressure reducer. Release the tension of the reducer spring before opening the bottle valve. Do not transfer gas from one bottle to another. Make sure the bottles cannot be knocked over. Do not stand in front of the bottle outlet when opening the valve. Keep them away from sunlight and sources of heat. Store in a corrosive-free environment. Do not use damaged or unlabelled bottles. Do not inhale. Use solely for technical purposes.

4.9. Auxiliary gases:

— Hydrogen, pure, gas chromatography grade.

— Air, pure, gas chromatography grade.

WARNING

Air. Compressed gas at high pressure. Use with caution in the presence of combustible substances as the self-ignition temperature of most of the organic compounds in the air is considerably lower under high pressure. Make sure the bottle valve is shut when not in use. Always use a pressure reducer. Release the tension of the reducer spring before opening the bottle valve. Do not stand in front of the bottle outlet when opening the valve. Do not transfer gas from one bottle to another. Do not mix gas in the bottle. Make sure the bottles cannot be knocked over. Keep them away from sunlight and sources of heat. Store in a corrosive-free environment. Do not use damaged or unlabelled bottles. Air intended for technical purposes must not be used for inhaling or respiratory apparatus.

5. PROCEDURE

5.1. Preparation of the chromatography column

Suspend 15 g of silica gel (point 4.1) in n-hexane (point 4.2) and introduce into the column (point 3.2). Allow to settle spontaneously. Complete settling with the aid of an electric shaker to make the chromatographic bed more homogeneous. Percolate 30 ml of n-hexane to remove any impurities. Weigh exactly about 500 mg of the sample into the 25-ml flask (point 3.1), using the analytical balance (point 3.8), and add a suitable amount of internal standard (point 4.5), depending on the assumed wax content, e.g. add 0,1 mg of lauryl arachidate in the case of olive oil, 0,25-0,50 mg in the case of olive-pomace oil and 0,05 mg of methyl heptadecanoate for olive oils (point 4.6).

Transfer the prepared sample to the chromatography column with the aid of two 2-ml portions of n-hexane (point 4.2).

Allow the solvent to flow to 1 mm above the upper level of the absorbent. Percolate a further of n-hexane/ethyl ether (99:1) and collect 220 ml at a flow of about 15 drops every 10 seconds. **(This fraction contains the methyl and ethyl esters and waxes).** (Note 4) (Note 5).

Note 4: The n-hexane/ethyl ether (99:1) mixture should be freshly prepared every day

Note 5: 100 µl of Sudan I dye at 1 % in the elution mixture can be added to the sample solution to check visually that the waxes are eluted properly.

The retention time of the dye lies in between that of the waxes and triacylglycerols. Hence, when the dye reaches the bottom of the chromatography column, elution has to be suspended because all the waxes have been eluted.

Evaporate the resultant fractions in a rotary evaporator until the solvent is almost removed. Remove the last 2 ml under a weak current of nitrogen. Collect the fraction containing the methyl and ethyl esters is diluted with 2-4 ml of n-heptane or iso-octane.

5.2. Gas chromatography analysis

5.2.1. Preliminary procedure

Fit the column to the gas chromatograph (point 3.3), connecting the inlet port to the on-column system and the outlet port to the detector. Check the gas chromatography apparatus (operation of gas loops, efficiency of detector and recorder system, etc.).

If the column is being used for the first time, it is advisable to condition it. Run a light flow of gas through the column, then switch on the gas chromatography apparatus. Gradually heat until a temperature of 350 °C is reached after approximately 4 h.

Maintain this temperature for at least 2 h, then regulate the apparatus to the operating conditions (regulate gas flow, light flame, connect to electronic recorder (point 3.3.4), regulate oven temperature for column, regulate detector, etc.). Record the signal at a sensitivity at least twice as high as that required for the analysis. The base line should be linear, with no peaks of any kind, and must not have any drift.

Negative straight-line drift indicates that the column connections are not correct while positive drift indicates that the column has not been properly conditioned.

5.2.2. *Choice of operating conditions for waxes and methyl and ethyl esters (Note 6).*

The operating conditions are generally as follows:

— Column temperature:

20 °C/min 5 °C/min

80 °C at first (1') — 140 °C — 335 °C (20)

— Detector temperature: 350 °C.

— Amount injected: 1 µl of n-heptane solution (2-4 ml).

— Carrier gas: helium or hydrogen at the optimal linear speed for the gas chosen (see Appendix A).

— Instrument sensitivity: suitable for fulfilling the above conditions.

Note 6: Due to the high final temperature, positive drift is allowed but may not exceed more than 10 % of the full-scale value.

These conditions may be modified to suit the characteristics of the column and the gas chromatograph in order to separate all the waxes and fatty acid methyl and ethyl esters and to obtain satisfactory peak separation (see Figures 2, 3 and 4) and a retention time of 18 ± 3 minutes for the lauryl arachidate internal standard. The most representative peak of the waxes must be over 60 % of the full-scale value while the methyl heptadecanoate internal standard for the methyl and ethyl esters must reach the full-scale value.

The peak integration parameters should be determined in such a way as to obtain a correct evaluation of the peak areas considered.

5.3. **Performance of the analysis**

Take up 10 µl of the solution with the aid of the 10 µl micro-syringe, drawing back the plunger until the needle is empty. Introduce the needle into the injection system and inject quickly after 1–2 s. After about 5 s, gently extract the needle.

Perform the recording until the waxes or stigmastadienes are completely eluted, depending on the fraction being analysed.

The base line must always meet the required conditions.

5.4. **Peak identification**

Identify the peaks from the retention times by comparing them with mixtures of waxes with known retention times, analysed under the same conditions. The alkyl esters are identified from mixtures of methyl and ethyl esters of the chief fatty acids in olive oils (palmitic and oleic).

Figure 1 provides a chromatogram of the waxes in a virgin olive oil. Figures 2 and 3 show the chromatograms of two retail extra virgin olive oils, one with methyl and ethyl esters and the other without them. Figure 4 gives the chromatograms for a top-quality extra virgin olive oil and the same oil spiked with 20 % deodorised oil.

5.5. Quantitative analysis of the waxes

Determine the area of the peaks corresponding to the lauryl arachidate internal standard and the aliphatic esters from C₄₀ to C₄₆ with the aid of the integrator.

Determine the total waxes content by adding each individual wax, in mg/kg of fat, as follows:

$$\text{Waxes, mg/kg} = \frac{(\sum A_x) \cdot m_s \cdot 1\,000}{A_s \cdot m}$$

where:

A_x = area corresponding to the peak for the individual ester, in computer counts

A_s = area corresponding to the peak for the lauryl arachidate internal standard, in computer counts

m_s = mass of the lauryl arachidate internal standard added, in milligrams;

m = mass of the sample taken for determination, in grams.

5.5.1. Quantitative analysis of the methyl and ethyl esters

With the aid of the integrator, determine the areas of the peaks corresponding to the methyl heptadecanoate internal standard, the methyl esters of the C₁₆ and C₁₈ fatty acids and the ethyl esters of the C₁₆ and C₁₈ fatty acids.

Determine the content of each alkyl ester, in mg/kg of fat, as follows:

$$\text{Ester, mg/kg} = \frac{A_x \cdot m_s \cdot 1\,000}{A_s \cdot m}$$

where:

A_x = area corresponding to the peak for the individual C₁₆ and C₁₈ ester, in computer counts

A_s = area corresponding to the peak for the methyl heptadecanoate internal standard, in computer counts

m_s = mass of the methyl heptadecanoate internal standard added, in milligrams;

m = mass of the sample taken for determination, in grams.

6. EXPRESSION OF RESULTS

Report the sum of the contents of the different waxes from C₄₀ to C₄₆ (*Note 7*) in milligrams per kilograms of fat.

Report the sum of the contents of the methyl esters and ethyl esters from C₁₆ to C₁₈ and the total of the two.

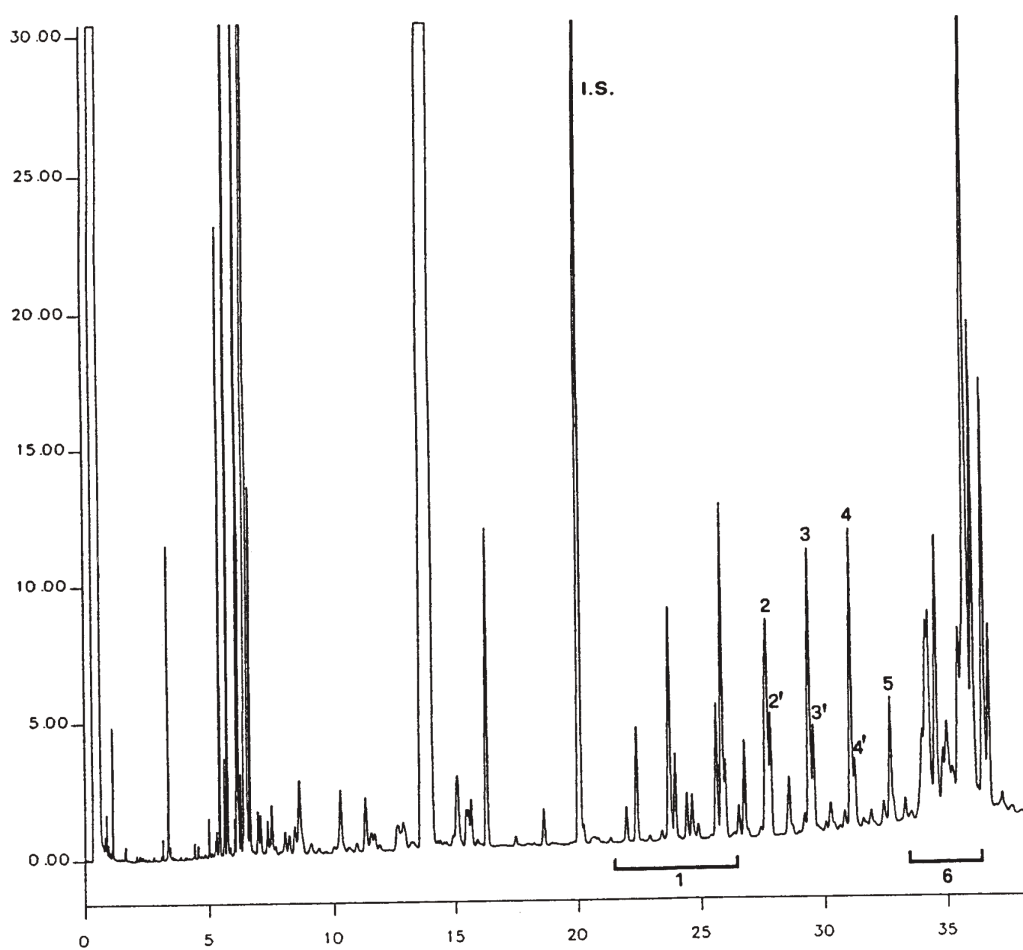
Results should be expressed to the nearest mg/kg.

Note 7: The components for quantification refer to the peaks with even carbon numbers amongst the C₄₀ - C₄₆ esters, according to the specimen chromatogram of the waxes in olive oil provided in the attached figure. For identification purposes, if the C₄₆ ester is split, it is recommended to analyse the wax fraction of an olive-pomace oil where the C₄₆ peak is distinguishable because it is clearly predominant.

Report the ratio between ethyl esters and methyl esters

Figure 1

Example of a gas chromatogram of the wax fraction of an olive oil (*)



Peaks with a retention time from 5 to 8 min of the fatty acid methyl and ethyl esters

Keys:

I.S. = Lauryl arachidate

1 = Diterpenic esters

2+2' = C₄₀ esters

3+3' = C₄₂ esters

4+4' = C₄₄ esters

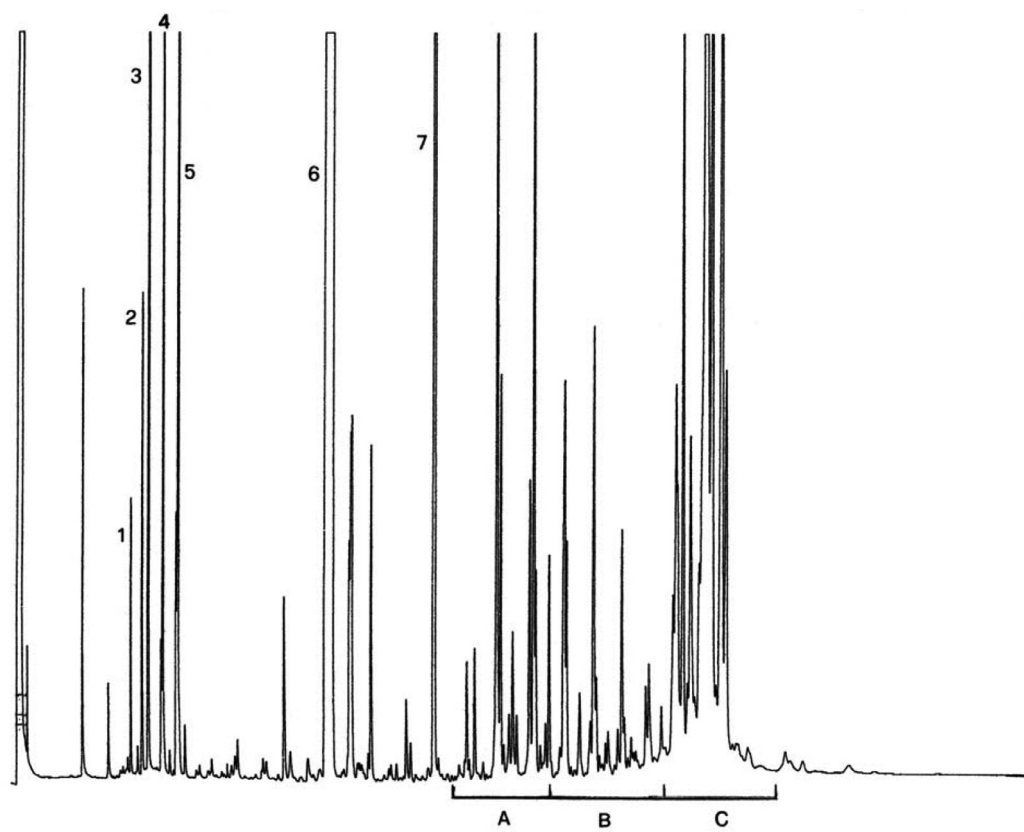
5 = C₄₆ esters

6 = Sterol esters and triterpene alcohols

(*) After elution of the sterol esters, the chromatogram should not show any significant peaks (triacylglycerols).

Figure 2

Methyl esters, ethyl esters and waxes in a virgin olive oil

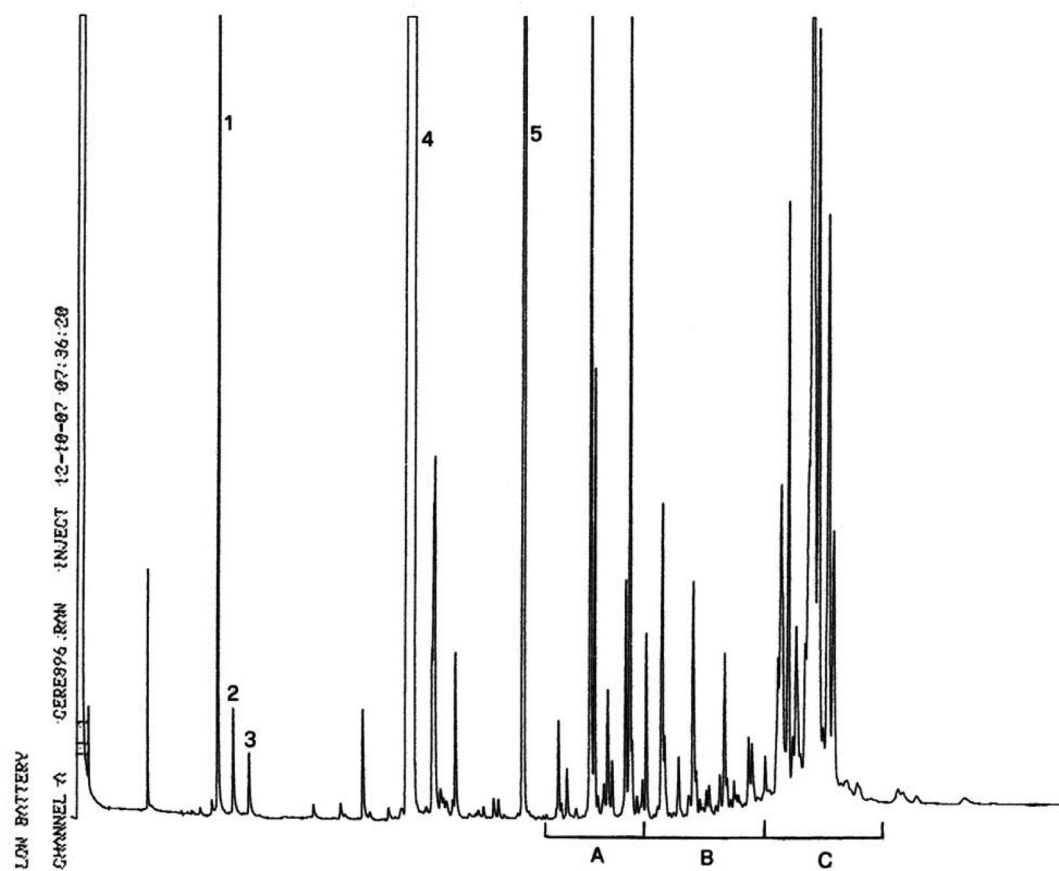


Keys:

- 1 – Methyl C₁₆
- 2 – Ethyl C₁₆
- 3 – Methyl heptadecanoate I.S.
- 4 – Methyl C₁₈
- 5 – Ethyl C₁₈
- 6 – Squalene
- 7 – Lauryl arachidate I.S.
- A – Diterpenic esters
- B – Waxes
- C – Sterol esters and triterpenic esters

Figure 3

Methyl esters, ethyl esters and waxes in an extra virgin olive oil

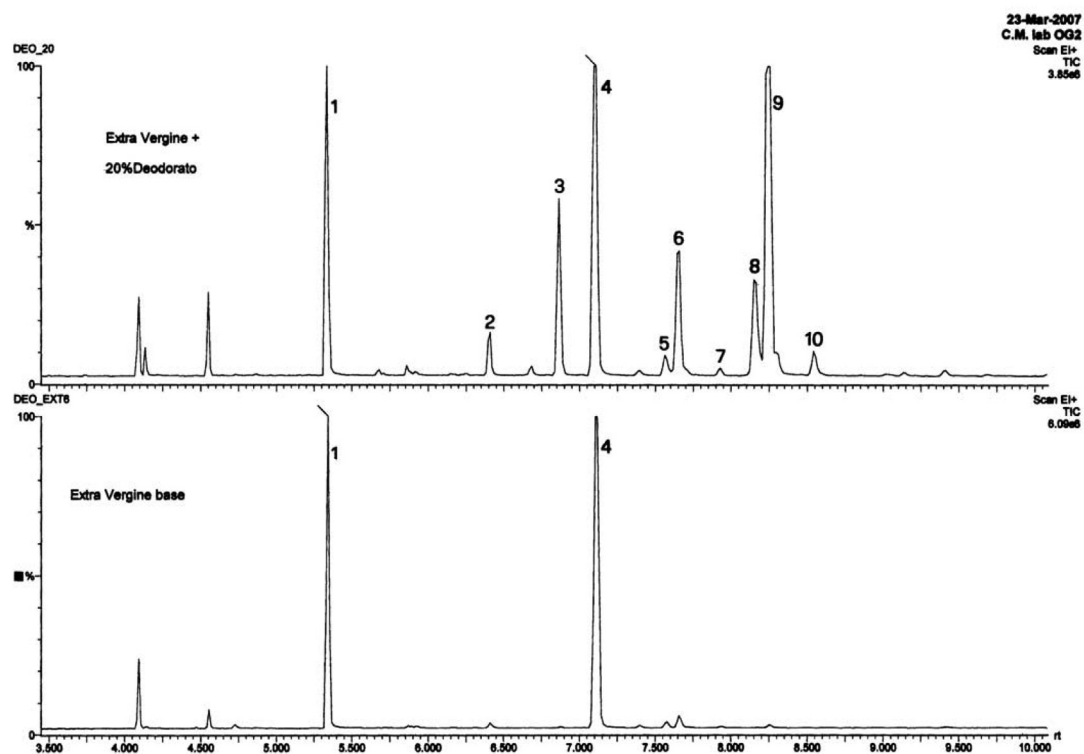


Keys:

- 1 – Methyl heptadecanoate I.S.
- 2 – Methyl C₁₈
- 3 – Ethyl C₁₈
- 4 – Squalene
- 5 – Lauryl arachidate I.S.
- A – Diterpenic esters
- B – Waxes
- C – Sterol esters and triterpenic esters

Figure 4

Part of a chromatogram of an extra virgin olive oil and the same oil spiked with deodorised oil



Keys:

- 1 – Methyl myristate I.S.
- 2 – Methyl palmitate
- 3 – Ethyl palmitate
- 4 – Methyl heptadecanoate I.S.
- 5 – Methyl linoleate
- 6 – Methyl oleate
- 7 – Methyl stearate
- 8 – Ethyl linoleate
- 9 – Ethyl oleate
- 10 – Ethyl stearate

*Appendix A***Determination of linear gas speed**

Inject 1:3 µl of methane (or propane) into the gas chromatograph after adjusting it to the normal operating conditions. Measure the time the gas takes to run through the column from the moment it is injected until the peak emerges (tM).

The linear speed in cm/s is given by L/tM where L is the length of the column, in cm, and tM is the time measured in s.'

COMMISSION REGULATION (EU) No 62/2011**of 26 January 2011****excluding ICES Subdivisions 27 and 28.2 from certain fishing effort limitations for 2011, pursuant to Council Regulation (EC) No 1098/2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97 ⁽¹⁾, in particular Article 29(2) thereof,

Having regard to the reports submitted by Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden,

Having regard to the opinion of the Scientific, Technical and Economic Committee for Fisheries (STECF),

Whereas:

(1) Provisions for setting fishing effort limitations for the cod stocks in the Baltic Sea are set out in Regulation (EC) No 1098/2007.

(2) On the basis of Regulation (EC) No 1098/2007, Annex II to Council Regulation (EU) No 1124/2010 of 29 November 2010 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea ⁽²⁾ has established fishing effort limitations for 2011 in the Baltic Sea.

(3) According to Article 29(2) of Regulation (EC) No 1098/2007 the Commission may exclude Subdivisions 27 and 28.2 from the scope of certain fishing effort limitations when the catches of cod were below a certain threshold in the last reporting period.

(4) Taking into account the reports submitted by Member States and the advice from the STECF, Subdivisions 27 and 28.2 should be excluded in 2011 from the scope of those fishing effort limitations.

(5) Regulation (EC) No 1124/2010 applies from 1 January 2011. In order to ensure coherence with that Regulation, this Regulation should apply retroactively from that date.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Article 8(1)(b) and Article 8(3), (4) and (5) of Regulation (EC) No 1098/2007 shall not apply to ICES Subdivisions 27 and 28.2 in the year 2011.

Article 2

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

It shall apply from 1 January 2011.

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

Done at Brussels, 26 January 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 248, 22.9.2007, p. 1.

⁽²⁾ OJ L 318, 4.12.2010, p. 1.

COMMISSION REGULATION (EU) No 63/2011**of 26 January 2011****laying down detailed provisions for the application for a derogation from the specific CO₂ emission targets pursuant to Article 11 of Regulation (EC) No 443/2009 of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles⁽¹⁾, and in particular Article 11(8) thereof,

Whereas:

- (1) According to Article 11 of Regulation (EC) No 443/2009 small-volume and niche manufacturers may apply for alternative emissions reduction targets relating to the reduction potential of a given manufacturer's vehicles to reduce their specific emissions of CO₂, and consistent with the characteristics of the market for the types of cars concerned.
- (2) In determining the small-volume manufacturer's reduction potential, the applicant's economic and technological potential should be assessed. For that purpose the applicant should provide detailed information on its economic activities as well as information on CO₂ reducing technologies used in the cars. The information requested include data that is readily available to the applicant and should not entail an additional administrative burden.
- (3) To provide consistency between the reduction target requested from small-volume and niche manufacturers, and in order to avoid putting at a disadvantage the small-volume manufacturers that decreased their average specific CO₂ emissions prior to 2012, the specific CO₂ emission targets for those manufacturers should be compared to their baseline average specific CO₂ emissions in 2007. Where this data does not exist the target should be compared to the average specific CO₂ emissions in the following calendar year closest to 2007.
- (4) In order to take into account the limited product offer of some small-volume manufacturers and resulting limited scope for distribution of the reduction effort over the fleet, the applicants should be allowed to choose between a single yearly specific emission target for the period of derogation or different yearly targets, resulting in reduction from the 2007 baseline at the end of the derogation period.
- (5) Article 11(4) of Regulation (EC) No 443/2009 allows certain niche manufacturers to benefit from an alternative specific emissions target which is 25 % lower than their average specific emissions of CO₂ in 2007. An equivalent specific emissions target based on the best available CO₂-reducing technologies in 2007 should be determined where information on a manufacturer's average specific emissions of CO₂ does not exist for the year 2007. The ratio of maximum power to vehicle mass should be used to distinguish different market characteristics for cars of a given mass for the purpose of identifying the best available CO₂ emissions reduction technologies.
- (6) In order to provide small-volume and niche manufacturers with a clear baseline to be used for setting the specific emissions targets, a list of manufacturers and their average specific CO₂ emissions in the Union in 2007 has been drawn up following a formal consultation with the Member States and the main stakeholders, including the associations of European (ACEA), Japanese (JAMA) and Korean (KAMA) car manufacturers, and European Association of Small Volume Manufacturers (ESCA).
- (7) Certain information contained in the application for derogation should be exempted from public access where disclosure of this information would undermine the protection of commercial interest, in particular information on the manufacturer's product planning, expected costs and impacts on the profitability of the company. The decisions granting derogations will be published by the Commission on the Internet.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee established by Article 9 of Decision No 280/2004/EC of the European Parliament and of the Council⁽²⁾.

HAS ADOPTED THIS REGULATION:

*Article 1***Subject matter**

This Regulation specifies the information to be provided by manufacturers for the purpose of demonstrating that the conditions for a derogation pursuant to Article 11(1) or (4) of Regulation (EC) No 443/2009 are satisfied.

⁽¹⁾ OJ L 140, 5.6.2009, p. 1.

⁽²⁾ OJ L 49, 19.2.2004, p. 1.

Article 2

Definitions

In addition to the definitions set out in Articles 2 and 3 of Regulation (EC) No 443/2009, the following definitions shall apply:

- (a) 'applicant' means a manufacturer within the meaning of Article 11(1) or (4) of Regulation (EC) No 443/2009;
- (b) 'vehicle characteristics' means the features of the vehicle, including mass, its specific CO₂ emissions, the number of seats, engine performance, power to mass ratio and top speed;
- (c) 'characteristics of the market' means information on vehicle characteristics, and names and price ranges of cars directly competing with the vehicles for which a derogation is sought;
- (d) 'own production facility' means a manufacturing or assembly plant used solely by the applicant for the purpose of manufacturing or assembling new passenger cars exclusively for that manufacturer, including, where relevant, passenger cars which are intended for export;
- (e) 'own design centre' means a facility in which the whole vehicle is designed and developed, and which is under the control and exclusive use of the applicant.

Article 3

Application for a derogation pursuant to Article 11(1) and (4) of Regulation (EC) No 443/2009

1. An application for a derogation pursuant to Article 11(1) of Regulation (EC) No 443/2009 shall be submitted by the applicant in accordance with the format specified in Annex I to this Regulation, and shall include the information set out in Article 4(1) and Article 5 of this Regulation.

2. An application for a derogation pursuant to Article 11(4) of Regulation (EC) No 443/2009 shall be submitted by the applicant in accordance with the format specified in Annex II to this Regulation, and shall include the information set out in Article 4(2) and Article 6 of this Regulation.

Article 4

Information on eligibility criteria

1. The applicant shall provide the following information on the eligibility criteria:
 - (a) information on the ownership structure of the manufacturer or group of connected manufacturers, together with the relevant declaration set out in Annex III;
 - (b) for the manufacturer applying for a derogation pursuant to Article 11(1) of Regulation (EC) No 443/2009, or the group of connected manufacturers in accordance with point (b) of Article 11(1) of that Regulation, or for the member of a group of connected manufacturers in accordance with point

(c) of Article 11(1) of that Regulation, the number of passenger cars officially registered in the Union in the three calendar years preceding the date of application, or where such data is not available, one of the following:

- an estimate based on verifiable data of the number of cars registered in the period referred to in point (b) for which the applicant is responsible,
- if no cars were registered in the period referred to in point (b), the number of cars registered in the last calendar year for which such data is available.

2. An applicant applying for a derogation pursuant to Article 11(4) of Regulation (EC) No 443/2009 shall provide the data referred to in point (b) of paragraph 1 of this Article only for the calendar year preceding the date of application.

Article 5

Specific emissions target and reduction potential pursuant to Article 11(2) of Regulation (EC) No 443/2009

1. The applicant shall provide the average specific CO₂ emissions of its passenger cars registered in 2007, unless the average specific CO₂ emissions for that year are listed in Annex IV to this Regulation. Where this information is not available, the applicant shall provide the average specific CO₂ emissions of its passenger cars registered in the following calendar year closest to 2007.

2. The applicant shall provide the following information on its activity:

- (a) for the calendar year preceding the date of application, the number of employees and the size of the production facility in square metres;
- (b) the operational model of the production facility specifying which design and production activities are performed by the applicant or outsourced;
- (c) in the case of a connected undertaking, if the technology is shared by the manufacturers, and which activities are outsourced;
- (d) for five calendar years preceding the date of application, the sales volumes, yearly turnover, net profit, and R & D spending, and in the case of a connected undertaking, the net transfers to the parent company;
- (e) the characteristics of their market;
- (f) the price list for all versions of cars to be covered by the derogation in the calendar year preceding the date of application, and the expected price list for the cars planned to be launched and to be covered by the derogation.

When an application is submitted by a manufacturer responsible for more than 100 cars per year, the information referred to in point (d) shall be accompanied by the official certified accounts, or shall be certified by an independent auditor.

3. The applicant shall provide the following information on its technological potential:

- (a) the list of CO₂ reducing technologies used in its passenger cars deployed on the market in 2007 or, where those data are not available, for the following year closest to 2007, or in case of manufacturers planning to enter the market, for the year in which the derogation starts to apply;
- (b) the list of CO₂ reducing technologies used in its passenger cars under the reduction programme and the additional costs of these technologies for each vehicle version covered by the application.

4. The applicant shall in accordance with its reduction potential propose a specific emissions target for the period of the derogation. The applicant may also propose yearly specific emissions targets.

The specific emissions target or yearly specific emissions targets shall be determined so that the average specific emissions at the expiry of the derogation period are reduced in comparison to the average specific emissions of CO₂ referred to in paragraph 1.

5. The specific emissions target or yearly specific emissions targets proposed by the applicant in accordance with point (d) of Article 11(2) of Regulation (EC) No 443/2009 shall be accompanied by a programme of reduction for the new fleet's specific CO₂ emissions.

The reduction programme shall specify the following:

- (a) the timetable for introduction of CO₂ reducing technologies in the applicant's fleet;
- (b) the estimated Union registrations per year for the period of the derogation and the expected average specific emissions of CO₂ and average mass;
- (c) in the case of yearly specific emissions targets, yearly improvement of specific CO₂ emissions of the vehicle versions for which CO₂ reducing technologies are introduced.

6. The applicant's compliance with a specific emissions target or yearly specific emissions targets shall be assessed in accordance with Article 9 of Regulation (EC) No 443/2009 each year during the derogation period.

Article 6

Reduction target for a derogation pursuant to Article 11(4) of Regulation (EC) No 443/2009

1. The applicant shall provide the average specific CO₂ emissions of its passenger cars registered in 2007, unless the average specific CO₂ emissions for that year are listed in Annex IV to this Regulation.

2. The reduction target determined in accordance with Article 11(4) of Regulation (EC) No 443/2009 shall apply in relation to the baseline average specific CO₂ emissions as set out in paragraph 1.

3. Where information on a manufacturer's average specific CO₂ emissions in 2007 does not exist, the applicant shall provide information on the vehicle characteristics for all types of cars manufactured by him as well as the number of cars manufactured by the applicant that the applicant expects to be registered in the Union in the first year of the derogation. The applicant shall indicate for all variants of cars to which of the vehicle classes specified in the table in Annex V the variant belongs.

4. The specific emissions target shall be calculated annually based on the 25 % reduction from the baseline for each vehicle class set out in Annex V.

Article 7

Assessment by the Commission

1. Where the Commission has raised no objections within nine months of official receipt of a complete application pursuant to Article 11(1) or Article 11(4) of Regulation (EC) No 443/2009 the relevant conditions for applying the derogation shall be deemed to be satisfied. If the Commission finds that the application is incomplete, additional information may be requested. Where the additional information is not submitted within the time period specified in the request, the Commission may reject the application.

In the case of a rejection due to the incompleteness of the application or due to the Commission finding the proposed specific emissions target inconsistent with the applicant's reduction potential, the applicant may submit a completed or revised application for a derogation.

2. Applications shall be sent in printed and electronic versions and be addressed to the Secretariat General of the European Commission, 1049 Brussels, Belgium, marked 'Derogation under Regulation (EC) No 443/2009'. The electronic version shall be also sent to the functional mailbox specified in Annex I.

3. Where information contained in the application is found to be incorrect or inaccurate, the decision to grant a derogation shall be revoked.

Article 8

Public access to information

1. An applicant that considers that information submitted in the application should not be disclosed in accordance with Article 11(9) of Regulation (EC) No 443/2009 shall indicate this in the application and justify why disclosure would undermine the protection of the commercial interests of the applicant, including intellectual property.

2. The exception from the right to public access to documents set out in Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council⁽¹⁾ shall be deemed to apply to the following types of information:

- (a) details of the reduction programme referred to in Article 5, and in particular details concerning the development of the manufacturer's product portfolio;

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

- (b) expected impacts of CO₂ reducing technologies on the production costs, purchase prices of vehicles and profitability of the company.

Article 9

Entry into force

This Regulation shall enter into force on the 20th 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 Brussels, 26 January 2011.

For the Commission

The President

José Manuel BARROSO

ANNEX I

Standard format of the application for a derogation to be submitted by manufacturers meeting the criteria of Article 11(1) of Regulation (EC) No 443/2009

The electronic version of the application shall be sent to the following email address:

EC-CO2-LDV-IMPLEMENTATION@ec.europa.eu

1. Name, address and contact person for the manufacturer or group of connected manufacturers

Names of manufacturer	Postal address	Contact person name	Contact person email	Contact person telephone number

2. Eligibility criteria

2.1. Is the applicant part of a group of connected manufacturers?

- ☐ YES (declaration set out in Annex III to be attached)
- ☐ NO

2.2. Is the applicant part of a group of connected manufacturers but operates its own production facilities and design centre?

- ☐ YES (declaration set out in Annex III to be attached; see point 2.3)
- ☐ NO (see point 2.4 and 2.5)

2.3. Number of registrations in the Union if the application refers to an unconnected manufacturer or connected manufacturer that operates its own production facilities and own design centre:

2.3.1. Official figure in three calendar years preceding the date of application

Year			
Number of EU registrations			

2.3.2. Where the official figure referred to in point 2.3.1 is not available for the period referred to therein, an estimate based on verifiable data

Year			
Number of EU registrations			

2.3.3. Where the figures in point 2.3.1 and 2.3.2 are not available for that period, the figures for the last calendar year for which such data is available

Year	
Number of EU registrations	

2.4. If the application refers to a group of connected manufacturers please provide the following:

Names of manufacturer	Postal address	Contact person name	Contact person e-mail	Contact person telephone number

- 2.5. Number of registrations in the Union of a group of connected manufacturers if the application refers to a group of connected manufacturers and the applicant does not operate its own production facilities and own design centre:

- 2.5.1. Official figure in three calendar years preceding the date of application

Year			
Number of EU registrations			

- 2.5.2. Where the official figure referred to in point 2.5.1 is not available for the period referred to therein, an estimate based on verifiable data

Year			
Number of EU registrations			

- 2.5.3. Where the figures in point 2.5.1 and 2.5.2 are not available for that period, the figure for the last calendar year for which such data is available

Year	
Number of EU registrations	

3. **Requested duration of the derogation**

Number of calendar years (maximum 5)	
--------------------------------------	--

4. **Proposal for a specific emissions target calculated as fleet average for the period of derogation or separate specific emissions targets in case of yearly reductions (in g CO₂/km)**

Year					
Average specific emission target (g CO ₂ /km)					

5. **Company specific information**

- 5.1. Average specific emissions of CO₂ in 2007 if not included in Annex IV (or if not available in the following calendar year closest to 2007)
- 5.2. Number of employees in the calendar year preceding the date of application
- 5.3. Size of the production facility in square metres in the calendar year preceding the application
- 5.4. Sales volumes for five years preceding the date of application

Year					
Sales volumes					

- 5.5. Yearly turnover for five years preceding the date of application

Year					
Turnover					

- 5.6. Characteristics of the market

Information on planned products, not available on the market at the time of the application, should be provided in the confidential section of this application.

(a) the vehicle characteristics;

(b) the names and price ranges of directly competing vehicles in the year preceding the date of application;

- (c) the price list of vehicles that are to be covered by the derogation in the calendar year preceding the date of application or in the closest year to the date of application.

5.7. Brief description of the operational model of the production facility

CONFIDENTIAL SECTION OF THE APPLICATION

5.8. Net profit for five years preceding the date of application

Year					
Net profit					

5.9. R & D spending over five years preceding the date of application

Year					
R & D spending					

5.10. Net financial transfers to the parent company in case of connected undertakings during five years preceding the date of application

Year					
Net transfers					

6. **Details of the passenger cars to be launched on the Union market for which the applicant will be responsible**

6.1. Characteristics of the market

6.1.1. Vehicle characteristics;

6.1.2. Names and price ranges of directly competing vehicles in the year preceding the date of application;

6.1.3. Expected price list of vehicles to be covered by the derogation.

7. **Applicant's technological potential**

7.1. List of CO₂ reducing technologies deployed in the applicant's fleet in 2007;

7.2. Where the list referred to in point 7.1 is not available, the list for the following year closest to 2007;

7.3. In case of applicants planning to enter the Union market, the list referred to in point 7.1 should be provided for the first year of the derogation.

8. **Applicant's reduction programme**

8.1. Timetable for deployment of CO₂ reducing technologies in the fleet;

8.2. Expected fleet average during the period of derogation:

8.2.1. Union registrations per year during the period of derogation

8.2.2. Expected average mass of vehicles to be launched on the Union market

8.2.3. Expected average specific CO₂ emissions of vehicles to be launched on the Union market

8.3. CO₂ reducing technologies to be deployed in the applicant's fleet under the reduction programme;

8.4. The additional costs per vehicle version of the technologies to be deployed as part of the programme;

8.5. In the case of yearly targets, yearly improvement of specific CO₂ emissions of the vehicle versions for which CO₂ reducing technologies are introduced.

ANNEX II

Standard format of the application for derogation to be submitted by manufacturers meeting the criteria of Article 11(4) of Regulation (EC) No 443/2009

PUBLIC SECTION OF THE APPLICATION

1. Name, address and contact person for the manufacturer or group of connected manufacturers

Names of manufacturer	Postal address	Contact person name	Contact person e-mail	Contact person telephone number

2. Eligibility criteria

2.1. Is the applicant part of a group of connected manufacturers?

☐ YES (declaration set out in Annex III to be attached; see point 2.3)

☐ NO (see point 2.2)

2.2. Number of registrations in the Union if the application refers to unconnected manufacturer:

2.2.1. Official figure in the last calendar year preceding the date of application

Year	
Number of EU registrations	

2.2.2. Where the official figure referred to in point 2.2.1 is not available for the period referred to therein, an estimate based on verifiable data

Year	
Number of EU registrations	

2.2.3. Where the figures in point 2.2.1 and 2.2.2 are not available for that period, the figure for the last calendar year for which such data is available

Year	
Number of EU registrations	

2.3. If the application refers to a group of connected manufacturers:

2.3.1. The names of connected manufacturers

2.3.2. The number of registrations in the Union in the calendar year preceding the date of application of a group of connected manufacturers

Year	
Number of EU registrations	

2.3.3. Where the figure referred to in point 2.3.2 is not available, the figure or an estimate based on verifiable data for the last calendar year for which such data is available

Year	
Number of EU registrations	

3. **Details of the passenger cars for which the applicant is responsible**

Information on planned products, not available on the market at the time of the application, should be provided in the confidential section of this application.

- 3.1. Average specific CO₂ emissions in 2007 if not included in Annex IV to this Regulation
- 3.2. If data for 2007 is not available, the following:
 - (a) registrations in the Union, or an estimate based on verifiable data if official figures not available at the time of application, in the calendar year closest to 2007;
 - (b) the vehicle characteristics for all types of cars;
 - (c) the list of cars grouped per vehicle class as set out in Annex V.

4. **Specific emissions target of 25 % reduction from the 2007 baseline**

CONFIDENTIAL SECTION OF THE APPLICATION

- 5. **Details of the passenger cars to be launched on the Union market by the applicant (concerns manufacturers not included in Annex IV)**
 - 5.1. Vehicle characteristics of all cars
 - 5.2. List of cars grouped per vehicle class as set out in Annex V
 - 5.3. Expected EU registrations of vehicles in the first year of the derogation
-

ANNEX III

Standard format of the declaration stating the structure of ownership*Article 11(1)(a) of Regulation (EC) No 443/2009*

I hereby declare that I am legally empowered to represent [name] (the manufacturer) applying for a derogation as foreseen in Article 11(1) of Regulation (EC) No 443/2009 which is not part of a group of connected manufacturers as defined in Article 3(2) thereof. To the best of my knowledge the [name] (the manufacturer) is eligible to apply for a derogation as foreseen in Article 11(1) of Regulation (EC) No 443/2009 and that the information contained in the application is true and accurate. Information on the ownership structure of [name] (the manufacturer) is annexed.

Signature Date

Director of [manufacturer]

Article 11(1)(b) or 11(4)(a) of Regulation (EC) No 443/2009

I hereby declare that I am legally empowered to represent [name] (the manufacturer) applying for a derogation as foreseen in Article 11[(1)] [(4)] (*) of Regulation (EC) No 443/2009 which is part of a group of connected manufacturers as defined in Article 3(2) thereof. To the best of my knowledge the [name] (the manufacturer) is eligible to apply for a derogation as foreseen in Article 11[(1)] [(4)] (*) of Regulation (EC) No 443/2009 and that the information contained in the application is true and accurate. Information on the ownership structure of [name] (the manufacturer) is annexed.

Signature Date

Director of [manufacturer]

Article 11(1)(c) of Regulation (EC) No 443/2009

I hereby declare that I am legally empowered to represent [name] (the manufacturer) applying for a derogation as foreseen in Article 11 of Regulation (EC) No 443/2009 which is part of a group of connected manufacturers as defined in Article 3(2) thereof but operates its own production facilities and design centre as defined in Article 2 of Commission Regulation (EC) No 000 To the best of my knowledge the [name] (the manufacturer) is eligible to apply for a derogation as foreseen in Article 11[(1)] of Regulation (EC) No 443/2009 and that the information contained in the application is true and accurate. Information on the ownership structure of [name] (the manufacturer) is annexed.

Signature Date

Director of [manufacturer]

(*) Identify the applicable paragraph.

ANNEX IV

List of Union average specific CO₂ emissions in 2007 per manufacturer

Manufacturer	Average emissions [g/km]	Manufacturer	Average emissions [g/km]
AIXAM	164,000	HONDA	157,613
ALPINA	219,932	HYUNDAI	162,046
AM GENERAL	357,000	ISUZU	176,133
ASTON MARTIN	377,860	IVECO	224,770
AUDI	184,752	JAGUAR	208,219
AUSTIN	450,000	KIA	157,239
AUTOMOBILES DANGEL	153,000	LAMBORGHINI	424,087
AVTOVAZ	216,632	LAND ROVER	250,399
BEAUFORD	208,000	LOTUS	208,399
BENTLEY	411,664	MAGYAR SUZUKI	156,280
BMW	171,684	MASERATI	354,687
BRABUS	246,000	MAZDA	172,568
BRONTO	233,000	MG	186,801
BUGATTI	577,667	MICHALAK	117,000
CATERHAM	236,088	MICROCAR	178,000
CHRYSLER	226,141	MITSUBISHI	174,649
CITROEN	142,536	MK SPORTSCARS	117,000
DACIA	154,650	MORGAN	202,324
DAIHATSU	153,070	NETHERLANDS CAR	141,061
DAIMLER	182,524	NISSAN	168,408
DIAMOND	260,000	OPEL	153,699
DONKERVORT	194,000	OSV	135,915
DR MOTOR COMPANY	193,048	PERODUA	138,135
FERRARI	434,860	PEUGEOT	142,205
FIAT	141,496	PGO	201,767
FORD	149,343	PILGRIM	193,000
FUJI HEAVY INDUSTRIES	219,488	PORSCHE	287,710
GEELY	183,000	PROTON	155,185
GENERAL MOTORS	159,604	QUADZILLA	176,000
GM DAEWOO	160,071	QUATTRO	290,774
GUMPERT	342,000	RENAULT	146,893
GWM	253,480	ROLLS ROYCE	394,526
HC & E	220,000	ROVER	188,399

Manufacturer	Average emissions [g/km]
RUF	327,000
SAAB	190,444
SALVADOR CAETANO	224,000
SANTANA	165,965
SEAT	151,184
SHUANGHUAN	270,000
SKODA	149,387
SOVAB	233,822
SSANGYONG	223,430
SUZUKI	166,012

Manufacturer	Average emissions [g/km]
TATA	168,310
TIGER	244,000
TOYOTA	150,634
TVR	397,500
UAZ	314,000
VM	185,000
VOLKSWAGEN	162,152
VOLVO	189,616
WIESMANN	310,000

ANNEX V

Baseline emissions based on the 2007 best available technology and 25 % reduction target of specific emissions of CO₂ for each vehicle class

Vehicle class	Mass ⁽¹⁾ class	Power to mass class	Baseline emissions [g/km]	CO ₂ target [g/km]
1	1	low	108	81
2	1	medium	118	89
3	1	high	153	115
4	2	low	119	89
5	2	medium	138	104
6	2	high	153	115
7	3	low	121	91
8	3	medium	136	102
9	3	high	150	113
10	4	low	131	98
11	4	medium	144	108
12	4	high	162	122
13	5	low	147	110
14	5	medium	152	114
15	5	high	179	134

⁽¹⁾ Mass in running order as defined in Regulation (EC) No 443/2009.

— The mass classes correspond to the following (rounded to the nearest integer):

Mass class	Range [kg]
1	0-1 225 kg
2	1 226-1 375 kg
3	1 376-1 475 kg
4	1 476-1 625 kg
5	1 626+ kg

— The power to mass classes correspond to the following (rounded to the nearest integer):

Power to mass class	Range [W/kg]
Low	0-65 W/kg
Medium	66-85 W/kg
High	86+

COMMISSION REGULATION (EU) No 64/2011**of 26 January 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 27 January 2011.

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

Done at Brussels, 26 January 2011.

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

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	JO	78,3
	MA	59,8
	TN	100,1
	TR	102,1
	ZZ	85,1
0707 00 05	EG	182,1
	JO	84,0
	TR	101,4
	ZZ	122,5
0709 90 70	MA	57,2
	TR	121,1
	ZZ	89,2
0709 90 80	EG	66,7
	ZZ	66,7
0805 10 20	AR	41,5
	BR	41,5
	EG	56,5
	MA	57,1
	TN	75,2
	TR	69,0
	ZA	41,5
0805 20 10	ZZ	54,6
	IL	217,9
	MA	70,8
	TR	79,6
	ZZ	122,8
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	69,9
	IL	67,5
	JM	94,5
	MA	110,1
	PK	51,5
	TR	70,4
	ZZ	77,3
0805 50 10	AR	45,3
	TR	57,2
	UY	45,3
	ZZ	49,3
0808 10 80	AR	78,5
	CA	88,5
	CL	81,7
	CN	90,8
	MK	46,1
	NZ	78,5
	US	137,9
0808 20 50	ZZ	86,0
	CN	48,5
	US	127,1
	ZA	85,5
	ZZ	87,0

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

IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

EFTA SURVEILLANCE AUTHORITY DECISION

No 191/09/COL

of 22 April 2009

amending, for the seventieth time, the procedural and substantive rules in the field of State aid by introducing a new chapter on the treatment of impaired assets in the EEA banking sector

THE EFTA SURVEILLANCE AUTHORITY ⁽¹⁾,a Communication on the treatment of impaired assets in the Community banking sector ⁽⁵⁾,HAVING REGARD to the Agreement on the European Economic Area ⁽²⁾, in particular to Articles 61 to 63 thereof and Protocol 26 thereto,

WHEREAS this Communication is also of relevance for the European Economic Area,

HAVING REGARD to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ⁽³⁾, in particular to Article 24 and Article 5(2)(b) thereof,

WHEREAS uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

WHEREAS under Article 24 of the Surveillance and Court Agreement, the Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the Authority, after consultation with the Commission, is to adopt acts corresponding to those adopted by the European Commission,

WHEREAS under Article 5(2)(b) of the Surveillance and Court Agreement, the Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the Authority considers it necessary,

HAVING consulted the European Commission,

RECALLING the Procedural and Substantive Rules in the Field of State Aid adopted on 19 January 1994 by the Authority ⁽⁴⁾,

RECALLING that the Authority has consulted the EFTA States on the subject by letter dated 9 April 2009,

HAS ADOPTED THIS DECISION:

WHEREAS, on 25 February 2009, the Commission of the European Communities (hereinafter EC Commission) adopted

Article 1

The State Aid Guidelines shall be amended by introducing a new Chapter on the treatment of impaired assets in the EEA banking sector. The new chapter is annexed to this Decision.

Article 2

This Decision is addressed to the Republic of Iceland, the Principality of Liechtenstein and the Kingdom of Norway.

⁽¹⁾ Hereinafter referred to as 'the Authority'.

⁽²⁾ Hereinafter referred to as 'the EEA Agreement'.

⁽³⁾ Hereinafter referred to as 'the Surveillance and Court Agreement'.

⁽⁴⁾ Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the Authority on 19 January 1994, published in the *Official Journal of the European Union* (hereinafter referred to as 'OJ') L 231, 3.9.1994, p. 1 and the EEA Supplement No 32 of 3.9.1994, p. 1. The Guidelines were last amended on 22 April 2009. Hereinafter referred to as 'the State Aid Guidelines'. The updated version of the State Aid Guidelines is published on the Authority's website: <http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/>

⁽⁵⁾ Published in OJ C 72, 26.3.2009, p. 1.

Article 3

Only the English version is authentic.

Done at Brussels, 22 April 2009.

For the EFTA Surveillance Authority

Per SANDERUD
President

Kurt JÄGER
College Member

ANNEX

THE TREATMENT OF IMPAIRED ASSETS IN THE EEA BANKING SECTOR ⁽¹⁾

1. Introduction

- (1) Since mid-2007, the functioning of wholesale credit markets has been severely disrupted. The result has been a drying up of liquidity in the banking sector and a reluctance of banks to lend to each other and to the broader economy. As the disruption of credit markets has intensified over the past 18 months, the financial crisis has intensified and the global economy has entered a severe recession.
- (2) It is difficult to envisage a resolution of the financial crisis and a recovery in the global economy without assured stability in the banking sector and the broader financial system. Only then will investor confidence return and banks resume their normal lending behaviour. Accordingly, EEA States have put measures in place to support the stability of their banking sectors and underpin lending, such as the injection of new capital using public funds and the provision of government guarantees for bank borrowing.
- (3) Several EEA States have announced their intention to complement their existing support measures by providing some form of relief for impaired bank assets. These announcements, in parallel with a similar initiative in the United States, have triggered a wider debate within the EEA on the merits of asset relief as a government support measure for banks. In the context of that debate, the Communication from the European Commission that corresponds to this Chapter of the EFTA Surveillance Authority's State Aid Guidelines has been prepared by the European Commission services, in consultation with the European Central Bank (ECB), and builds on the recommendations issued on 5 February 2009 by the Eurosystem (see Annex 1).
- (4) This Chapter focuses on issues to be addressed by EFTA States in considering, designing and implementing asset-relief measures. At a general level, these issues include the rationale for asset relief as a measure to safeguard financial stability and underpin bank lending; the longer-term considerations of banking-sector viability and budgetary sustainability to be taken into account when considering asset-relief measures; and the need for a common and coordinated approach to asset relief within the EEA, notably to ensure a level playing field. In the context of such an EEA approach, this Chapter also offers more specific guidance on the application of State aid rules to asset relief, focusing on issues such as (i) transparency and disclosure requirements; (ii) burden sharing between the State, shareholders and creditors; (iii) aligning incentives for beneficiaries with public policy objectives; (iv) principles for designing asset-relief measures in terms of eligibility, valuation and management of impaired assets; and (v) the relationship between asset relief, other government support measures and the restructuring of banks.

2. Asset relief as a measure to safeguard financial stability and underpin bank lending

- (5) The immediate objectives of the EEA State rescue packages announced in 2008 are to safeguard financial stability and underpin the supply of credit to the real economy. It is too early to draw definitive conclusions on the effectiveness of the packages, but it is clear that they have averted the risk of financial meltdown and have supported the functioning of important inter-bank markets. On the other hand, the evolution in lending to the real economy since the announcement of the packages has been unfavourable, with recent statistics suggesting a sharp deceleration in credit growth ⁽²⁾. In many EEA States, reports of businesses being denied access to bank credit are now widespread and it would seem that the squeeze on credit goes beyond that justified by cyclical considerations.
- (6) A key reason identified for the insufficient flow of credit is uncertainty about the valuation and location of impaired assets, a source of problems in the banking sector since the beginning of the crisis. Uncertainty regarding asset valuations has not only continued to undermine confidence in the banking sector, but has weakened the effect of the government support measures taken so far. For example, bank recapitalisation has provided a cushion against asset impairment but much of the capital buffer provided has been absorbed by banks in provisioning against future asset impairments. Banks have already taken steps to address the problem of impaired assets. They have recorded

⁽¹⁾ This Chapter corresponds to the Communication from The European Commission entitled *Communication from the Commission on the treatment of impaired asset in the Community banking sector*.

⁽²⁾ While official data for the euro area suggest that bank lending to businesses is still resilient, the underlying trend is weakening, with month-on-month growth rates in lending slowing markedly toward the end of 2008. In December 2008, bank loans to the private economy (loans to non-MFI excl. governments) fell by 0,4 % relative to November.

substantial write-downs in asset values ⁽¹⁾, taken steps to limit remaining losses by reclassification of assets within their balance sheets and gradually put additional capital aside to strengthen their solvency positions. However, the problem has not been resolved to a sufficient degree and the unexpected depth of the economic slowdown now suggests a further and more extensive deterioration in credit quality of bank assets.

- (7) Asset relief would directly address the issue of uncertainty regarding the quality of bank balance sheets and therefore help to revive confidence in the sector. It could also help to avoid the risk of repeated rounds of recapitalisation of banks as the extent of asset impairment increases amid a deteriorating situation in the real economy. On this basis, several EEA States are actively considering relief for impaired bank assets as a complement to other measures.

3. Longer-term considerations: A return to viability in the banking sector and sustainability of public finances

- (8) Asset-relief measures must be designed and implemented in the manner that most effectively achieves the immediate objectives of safeguarding financial stability and underpinning bank lending. An important issue to be addressed in this context is ensuring an adequate participation in the asset-relief measures by setting appropriate pricing and conditions and through mandatory participation if deemed necessary. However, the focus in designing and implementing asset-relief measures should not be limited to these immediate objectives. It is essential that longer-term considerations are also taken into account.

- (9) If asset-relief measures are not carried out in such a way as to ring-fence the danger of serious distortions of competition among banks (both within EFTA States and on a cross-border basis) in compliance with the EFTA Surveillance Authority's State Aid Guidelines, including where necessary the restructuring of beneficiaries, the outcome will be a structurally weaker EEA banking sector with negative implications for productive potential in the broader economy. Furthermore, it could lead to a recurrent need for government intervention in the sector, implying a progressively heavier burden on public finances. Such risks are serious given the likely scale of state exposure. In order to limit the risk of such longer-term damage, government intervention in the banking sector should be appropriately targeted and accompanied by behavioural safeguards that align the incentives of banks with those of public policy. These measures should form part of an overall effort to restore the viability of the banking sector, based on necessary restructuring. The need for restructuring in the banking sector as a counterpart of government support is discussed in more detail in the context of State aid rules later in Sections 5 and 6.

- (10) In considering the design and implementation of asset-relief measures, it is also essential that EFTA States take account of the budgetary context. Estimates of total expected asset write-downs suggest that the budgetary costs — actual, contingent or both — of asset relief could be substantial — both in absolute terms and relative to GDP in EFTA States. Government support through asset relief (and other measures) should not be on such a scale that it raises concern about the sustainability of public finances such as over-indebtedness or financing problems. Such considerations are particularly important in the current context of widening budget deficits, rising public debt levels and challenges facing sovereign bond issuance.

- (11) More specifically, the budgetary situation of EFTA States will be an important consideration in the choice of management arrangement for assets subject to relief, namely asset purchases, asset insurance, asset swap or a hybrid of such arrangements ⁽²⁾. The implications for budgetary credibility may not differ significantly between the various approaches to asset relief, as financial markets are likely to discount potential losses on a similar basis ⁽³⁾. However, an approach requiring the outright purchase of impaired assets would have a more immediate impact on budgetary ratios and government financing. While the choice of management arrangement of impaired assets is the responsibility of each EFTA State, hybrid approaches whereby bad assets are segregated from the balance sheet of banks in a separate entity (either within or outside the banks) which benefits in some way from

⁽¹⁾ From mid-2007 to the first quarter of 2009, there has been a total of USD 1 063 billion in asset write-downs, of which USD 737,6 billion has been reported by US-based banks and USD 293,7 billion has been reported by European-based banks. Of the latter, USD 68 billion has been reported in Switzerland. Despite the scale of asset write-downs already reported, the IMF currently estimates that the total of bank losses related to asset impairment is likely to reach USD 2 200 billion. This estimate is based on global holdings of U.S.-originated and securitised mortgage, consumer, and corporate debt and has been steadily rising since the beginning of the crisis. Some market commentators suggest that total losses may be substantially higher. For example, Nouriel Roubini who has consistently argued that official estimates are too low now suggests that total losses could be USD 3 600 billion for the United States alone.

⁽²⁾ These arrangements are discussed in more detail in Annex 2.

⁽³⁾ Asset purchases by government need not imply heavy budgetary costs in the longer term if a sufficient portion of the acquired assets can be subsequently sold at a profit (see US and Swedish examples in Annex 2). However, they imply an upfront budgetary outlay which would increase gross public debt and the government's gross financing requirements. An approach based on swapping government debt for impaired assets could be used to ease the operational problems relating to issuance, but would not avoid the impact on the budgetary ratios nor an increase in the supply of government debt in the market.

a government guarantee could be considered. Such an approach is attractive as it provides many of the benefits of the asset purchase approach from the perspective of restoring confidence in the banking system, while limiting the immediate budgetary impact.

- (12) In a context of scarce budgetary resources, it may be appropriate to focus asset-relief measures on a limited number of banks of systemic importance. For some EFTA States, asset relief for banks may be severely constrained, due to their existing budgetary constraints and/or the size of their banks' balance sheet relative to GDP.

4. Need for a common and coordinated approach within the EEA

- (13) In considering some form of asset-relief measures, there is a need to reconcile the immediate objectives of financial stability and bank lending with the need to avoid longer-term damage to the banking sector within the EEA, to the EEA market and to the broader economy. This can be achieved most effectively by a common and coordinated approach within the EEA, with the following broad objectives:

- boosting market confidence by demonstrating a capacity for an effective EEA level response to the financial crisis and creating the scope for positive spillovers among EEA States and on the wider financial markets,
- limiting negative spillovers among EEA States, where the introduction of asset-relief measures by a first-mover EEA State results in pressure on other EEA States to follow suit and risks launching a subsidy race between EEA States,
- protecting the EEA market in financial services by ensuring consistency in asset-relief measures introduced by the EEA States and resisting financial protectionism,
- ensuring compliance with State aid control requirements and any other legal requirements by further ensuring consistency among asset-relief measures, and by minimising competitive distortions and moral hazard.

- (14) Coordination among EEA States would only be necessary at a general level and could be achieved while retaining sufficient flexibility to tailor measures to the specific situations of individual banks. In the absence of sufficient coordination *ex ante*, many of these objectives will only be met by additional State aid control requirements *ex post*. Common guidance on the basic features of relief measures would, therefore, help to minimise the need for corrections and adjustments as a result of assessment under the State aid rules. Such guidance is provided in the following sections.

5. Guidelines on the application of State aid rules to asset-relief measures

- (15) It is the normal duty of banks to assess the risk of the assets they acquire and to make sure they can cover any associated losses ⁽¹⁾. Asset relief may however be considered to support financial stability. Public asset-relief measures are State aid inasmuch as they free the beneficiary bank from (or compensate for) the need to register either a loss or a reserve for a possible loss on its impaired assets and/or free regulatory capital for other uses. This would notably be the case where impaired assets are purchased or insured at a value above the market price, or if the price of the guarantee does not compensate the State for its possible maximum liability under the guarantee ⁽²⁾.
- (16) Any aid for asset-relief measures should, however, comply with the general principles of necessity, proportionality and minimisation of the competition distortions. Such assistance implies serious distortions of competition between beneficiaries and non-beneficiary banks and among beneficiary banks with different degrees of need. Non-beneficiary banks that are fundamentally sound may feel obliged to consider seeking government intervention to preserve their competitive position in the market. Similar distortions in competition may arise among EEA States, with the risk of a subsidy race between EEA States (trying to save their banks without regard to the effects on banks in other EEA States) and a drift towards financial protectionism and fragmentation of the internal market. Participation in the asset-relief scheme should therefore be conditioned upon clearly defined and objective criteria, in order to avoid that individual banks take unwarranted advantage.

⁽¹⁾ Banks typically hold a variety of assets, including: cash, financial assets (treasury bills, debt securities, equity securities, traded loans, and commodities), derivatives (swaps, options), loans, financial investments, intangible assets, property, plant and equipment. Losses may be incurred when assets are sold below their book value, when their value is decreased and reserves are created on possible loss or ex-post when the revenue streams at maturity are lower than the book value.

⁽²⁾ A guarantee is presumed to constitute State aid when the beneficiary bank cannot find any independent private operator on the market willing to provide a similar guarantee. The amount of State aid is set at the maximum net liability for the State.

(17) The EFTA Surveillance Authority (hereinafter the 'Authority') established the principles governing the application of the State aid rules and, in particular, Article 61(3)(b) of the EEA Agreement to any support measure for banks in the context of the global financial crisis in its Guidelines on financial institutions ⁽¹⁾. The Authority subsequently provided more detailed guidance on the practical implementation of these principles to recapitalisation in a new Chapter to the State Aid Guidelines ⁽²⁾. In the same vein, the following guidelines, based on the same principles, identify the key features of asset-relief measures or schemes, which determine their effectiveness as well as their impact on competition. These guidelines apply equally to all banks that are granted asset relief irrespective of their individual situation but the practical implications of their application may vary depending on the risk profile and viability of a beneficiary. The principles of these guidelines apply *mutatis mutandis* where two or more EEA States coordinate measures to provide asset relief to cross-border banks.

(18) The present guidance aims at setting coordinated principles and conditions to ensure the effectiveness of asset-relief measures in the EEA market as far as possible, taking account of the long term objective of a return to normal market conditions, while remaining flexible enough so as to cater for specific features or provide additional measures or procedures at individual or national levels for reasons of financial stability. Effective asset relief measures should have as a consequence the maintenance of lending to the real economy.

5.1. *Appropriate identification of the problem and options for solution: full ex-ante transparency and disclosure of impairments and an upfront assessment of eligible banks*

(19) Any asset relief measure must be based on a clear identification of the magnitude of the bank's asset-related problems, its intrinsic solvency prior to the support and its prospects for return to viability, taking into due consideration all possible alternatives, in order to facilitate the necessary restructuring process, prevent distortion in the incentives of all players and avoid waste of state resources without contributing to resumption in the normal flow of credit to the real economy.

(20) Therefore, in order to minimise the risk of a recurrent need for state interventions in favour of the same beneficiaries, the following criteria should be satisfied as a prerequisite for benefitting from asset relief:

— Applications for aid should be subject to full *ex ante* transparency and disclosure of impairments by eligible banks on the assets which will be covered by the relief measures, based on adequate valuation, certified by recognised independent experts and validated by the relevant supervisory authority, in line with the principles of valuation developed in section 5.5 ⁽³⁾. Such disclosure of impairments should take place prior to government intervention. This should lead to the identification of the aid amount and of the incurred losses for the bank from the asset transfer ⁽⁴⁾.

— An application for aid by an individual bank should be followed by a full review of that bank's activities and balance sheet, with a view to assessing the bank's capital adequacy and its prospects for future viability (viability review). This review must occur in parallel with the certification of the impaired assets covered by the asset relief programme but, given its scale, could be finalised after the bank enters into the asset relief programme. The results of the viability review shall be notified to the Authority and will be taken into account in the assessment of necessary follow-up measures (see section 6).

5.2. *Burden-sharing of the costs related to impaired assets between the State, shareholders and creditors*

(21) As a general principle, banks ought to bear the losses associated with impaired assets to the maximum extent. This requires, firstly, full *ex ante* transparency and disclosure, followed by the correct valuation of assets prior to

⁽¹⁾ Part VIII of the Authority's State Aid Guidelines: 'The application of state aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis', not yet published in OJ L 17, 20.1.2011, p. 1 and the EEA Supplement No. 3, 20.1.2011, p. 1. The updated version of the Authority's State Aid Guidelines is published on the Authority's website: <http://www.efasurv.int/state-aid/legal-framework/state-aid-guidelines/>

⁽²⁾ Part VIII of the Authority's State Aid Guidelines: 'The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition' not yet published in OJ L 17, 20.1.2011, p. 1 and the EEA Supplement No. 3, 20.1.2011, p. 1. The updated version of the Authority's State Aid Guidelines is published on the Authority's website: <http://www.efasurv.int/state-aid/legal-framework/state-aid-guidelines/>

⁽³⁾ Without prejudice to the necessity of making public the impact on the balance sheet of an asset relief measure implying appropriate burden-sharing, the terms 'transparency' and 'full disclosure' should be understood as meaning transparency *vis-à-vis* the national authorities, the independent experts involved and the Authority.

⁽⁴⁾ The aid amount corresponds to the difference between the transfer value of the assets (normally based on their real economic value) and the market price. In this Chapter, the incurred losses correspond to the difference between the transfer value and the book value of the assets. Actual losses will normally only be known *ex post*.

government intervention and a correct remuneration of the State for the asset relief measure, whatever its form, so as to ensure equivalent shareholder's responsibility and burden-sharing irrespective of the exact model chosen. The combination of these elements should lead to overall coherence concerning burden-sharing across various forms of state support, having regard to the specific distinctive features of different types of assistance ⁽¹⁾.

- (22) Once assets have been properly evaluated and losses are correctly identified ⁽²⁾, and if this would lead to a situation of technical insolvency without state intervention, the bank should be put either into administration or be wound up, according to EEA and national law. In such a situation, with a view to preserving financial stability and confidence, protection or guarantees to bondholders ⁽³⁾ may be appropriate.
- (23) Where putting a bank into administration or its orderly winding up appears unadvisable for reasons of financial stability ⁽⁴⁾, aid in the form of guarantee or asset purchase, limited to the strict minimum, could be awarded to banks so that they may continue to operate for the period necessary to allow them to devise a plan for either restructuring or orderly winding-up. In such cases, shareholders should also be expected to bear losses at least until the regulatory limits of capital adequacy are reached. Nationalisation options may also be considered.
- (24) Where it is not possible to achieve full burden-sharing *ex ante*, the bank should be requested to contribute to the loss or risk coverage at a later stage, for example in the form of claw-back clauses or, in the case of an insurance scheme, by a clause of 'first loss', to be borne by the bank (typically with a minimum of 10 %) and a clause of 'residual loss sharing', through which the bank participates with a percentage (typically with a minimum of 10 %) of any additional losses ⁽⁵⁾.
- (25) As a general rule, the lower the contribution upfront, the higher the need for a shareholder contribution at a later stage, either in the form of a conversion of state losses into bank shares and/or in the form of additional compensatory measures to limit the distortion of competition when assessing necessary restructuring.
- 5.3. *Aligning incentives for banks to participate in asset relief with public policy objectives*
- (26) As a general feature, impaired asset relief programmes should have an enrolment window limited to 6 months from the launch of the scheme by the government. This will limit incentives for banks to delay necessary disclosures in the hope of higher levels of relief at a later date, and facilitate a rapid resolution of the banking problems before the economic downturn further aggravates the situation. During the 6-month window, the banks would be able to present eligible assets baskets to be covered by the asset-relief measures, with the possibility of rollover ⁽⁶⁾.
- (27) Appropriate mechanisms may need to be devised so as to ensure that the banks most in need of asset relief participate in the government measure. Such mechanisms could include mandatory participation in the programme, and should include at least mandatory disclosure to the supervisory authorities. The obligation for all banks to reveal the magnitude of their asset-related problems will contribute to the clear identification of the need and necessary scope for an asset-relief scheme at the EFTA State level.
- (28) Where participation is not mandatory, the scheme may include appropriate incentives (such as the provision of warrants or rights to existing shareholders so that they may participate in future private capital-raising at preferential terms) to facilitate take-up by the banks without derogating from the principles of transparency and disclosure, fair valuation and burden sharing.
- (29) Participation after the expiration of the 6 month enrolment window will be possible only in exceptional and unforeseeable circumstances for which the bank is not responsible ⁽⁷⁾, and subject to stricter conditions, such as higher remuneration to the State and/or higher compensatory measures.

⁽¹⁾ Asset-relief measures are somewhat comparable to capital injections insofar as they provide a loss absorption mechanism and have a regulatory capital effect. However, with the former the state generally incurs a larger risk, related to a specific portfolio of impaired assets, with no direct contribution of other bank's income generating activities and funds, and beyond its possible stake in the bank. In view of the larger down-side and more limited up-side remuneration for asset relief should normally be higher than for capital injections.

⁽²⁾ Comparing the book value of the assets with their transfer value (i.e. their real economic value)

⁽³⁾ Shareholder protection should, however, normally be excluded. See Commission Decisions NN 39/08 (Denmark, Aid for liquidation of Roskilde Bank) and NN 41/08 (UK, Rescue aid to Bradford & Bingley).

⁽⁴⁾ That may be the case where the bank's size or type of activity would be unmanageable in an administrative or judiciary procedure or via an orderly winding-up without having dangerous systemic implications on other financial institutions or on lending to the real economy. A justification by the monetary and/or supervisory authority would be necessary in this respect.

⁽⁵⁾ Other factors, for example higher remuneration, may influence the appropriate level. Moreover, it has to be noted that *ex post* compensations may only occur several years after the measure has been introduced and may therefore prolong unsatisfactorily the uncertainty linked to the valuation of the impaired assets. Claw-back clauses based on *ex ante* valuation would not have this problem.

⁽⁶⁾ Case of enrolled assets that may mature afterwards.

⁽⁷⁾ An 'unforeseeable circumstance' is a circumstance that could in no way be anticipated by the company's management when making its decision not to join the asset-relief programme during the enrolment window and that is not a result of negligence or error on the part of the company's management or decisions of the group to which it belongs. An 'exceptional circumstance' is to be understood as exceptional beyond the current crisis. EFTA States wishing to invoke such circumstances shall notify all necessary information to the Authority.

- (30) Access to asset relief should always be conditional on a number of appropriate behavioural constraints. In particular, beneficiary banks should be subject to safeguards which ensure that the capital effects of relief are used for providing credit to appropriately meet demand according to commercial criteria and without discrimination and not for financing a growth strategy (in particular acquisitions of sound banks) to the detriment of competitors.
- (31) Restrictions on dividend policy and caps on executive remuneration should also be considered. The specific design of behavioural constraints should be determined on the basis of a proportionality assessment taking account of the various factors that may imply the necessity of restructuring (see section 6).

5.4. Eligibility of assets

- (32) When determining the range of eligible assets for relief, a balance needs to be found between meeting the objective of immediate financial stability and the need to ensure the return to normal market functioning over the medium term. Assets commonly referred to as 'toxic assets' (e.g. US mortgage backed securities and associated hedges and derivatives), which have triggered the financial crisis and have largely become illiquid or subject to severe downward value adjustments, appear to account for the bulk of uncertainty and scepticism concerning the viability of banks. Restricting the range of eligible assets to such assets would limit the State's exposure to possible losses and contribute to the prevention of competition distortions⁽¹⁾. However, an overly narrow relief measure would risk falling short of restoring confidence in the banking sector, given the differences between the specific problems encountered in different EEA States and banks and the extent to which the problem of impairment has now spread to other assets. This would plead in favour of a pragmatic approach including elements of flexibility, which would ensure that other assets also benefit from relief measures to an appropriate extent and where duly justified.
- (33) A common and coordinated approach within the EEA to the identification of the assets eligible for relief measures is necessary to both prevent competitive distortions among EEA States and within the EEA banking sector, and limit incentives for cross-border banks to engage in arbitrage among different national relief measures. To ensure consistency in the identification of eligible assets across EEA States, categories of assets (baskets) reflecting the extent of existing impairment should be developed. More detailed guidance on the definition of these categories is provided in Annex 3. The use of such categories of assets would facilitate the comparison of banks and their risk profiles across the EEA. EFTA States would then need to decide which category of assets could be covered and to what extent, subject to the Authority's review of the degree of impairment of the assets chosen.
- (34) A proportionate approach would need to be developed to allow an EFTA State whose banking sector is additionally affected by other factors of such magnitude as to jeopardise financial stability (such as the burst of a bubble in their own real estate market) to extend eligibility to well-defined categories of assets corresponding to this systemic threat upon due justification without quantitative restrictions.
- (35) Additional flexibility could further be envisaged by allowing for the possibility for banks to be relieved of impaired assets outside the scope of eligibility set out above without the necessity of a specific justification for a maximum of 10-20 % of the overall assets of a given bank covered by a relief mechanism in view of the diversity of circumstances of different EFTA States and banks. However, assets that cannot presently be considered impaired should not be covered by a relief programme. Asset relief should not provide an open-ended insurance against future consequences of recession.
- (36) As a general principle, the wider the eligibility criteria, and the greater proportion which the assets concerned represent in the portfolio of the bank, the more thorough the restructuring and the remedies to avoid undue distortions of competition will have to be. In any case, the Authority will not consider assets eligible for relief measures where they have entered the balance sheet of the beneficiary bank after a specified cut-off date prior to the announcement of the relief programme⁽²⁾. To do otherwise could result in asset arbitrage and would give rise to inadmissible moral hazard by providing incentives for banks to abstain from properly assessing risks in future lending and other investments and thus repeat the very mistakes that have brought about the current crisis⁽³⁾.

5.5. Valuation of assets eligible for relief and pricing

- (37) A correct and consistent approach to the valuation of assets, including assets that are more complex and less liquid, is of key importance to prevent undue distortions of competition and to avoid subsidy races between EEA States.

⁽¹⁾ This would seem the approach chosen in the US for Citigroup and Bank of America.

⁽²⁾ Generally, the Authority considers that a uniform and objective cut-off date, such as the end of 2008, will ensure a level playing field among banks and EEA States.

⁽³⁾ Where necessary, state support in relation to the risks of future assets can be tackled on the basis of the Authority's State Aid Guidelines, in particular the Chapter on State Guarantees and the Chapter on the Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis.

Valuation should follow a general methodology established at the EEA level and should be closely coordinated *ex ante* by the Authority across the EFTA States in order to ensure maximum effectiveness of the asset-relief measure and reduce the risk of distortions and damaging arbitrage, notably for cross-border banks. Alternative methodologies may need to be employed to take account of specific circumstances relative to, e.g. timely availability of relevant data, provided they attain equivalent transparency. In any case, eligible banks should value their portfolios on a daily basis and make regular and frequent disclosures to the national authorities and to their supervisory authorities.

- (38) Where the valuation of assets appears particularly complex, alternative approaches may be considered such as the creation of a 'good bank' whereby the State would purchase the good rather than the impaired assets. Public ownership of a bank (including nationalisation) may be an alternative option, with a view to carrying out the valuation over time in a restructuring or orderly winding-up context, thus eliminating any uncertainty about the proper value of the assets concerned ⁽¹⁾.
- (39) As a first stage, assets should be valued on the basis of their current market value, whenever possible. In general, any transfer of assets covered by a scheme at a valuation in excess of the market price will constitute State aid. The current market value may, however, be quite distant from the book value of those assets in the current circumstances, or non-existent in the absence of a market (for some assets the value may effectively be as low as zero).
- (40) As a second stage, the value attributed to impaired assets in the context of an asset-relief program (the 'transfer value') will inevitably be above current market prices in order to achieve the relief effect. To ensure consistency in the assessment of the compatibility of aid, the Authority would consider a transfer value reflecting the underlying long-term economic value (the 'real economic value') of the assets, on the basis of underlying cash flows and broader time horizons, an acceptable benchmark indicating the compatibility of the aid amount as the minimum necessary. Uniform hair cuts applicable to certain asset categories will have to be considered to approximate the real economic value of assets that are so complex that a reliable forecast of developments in the foreseeable future would appear impracticable.
- (41) Consequently, the transfer value for asset purchase or asset insurance ⁽²⁾ measures should be based on their real economic value. Moreover, adequate remuneration for the State shall be secured. Where EFTA States deem it necessary — notably to avoid technical insolvency — to use a transfer value of the assets that exceeds their real economic value, the aid element contained in the measure is correspondingly larger. It can only be accepted if it is accompanied by far-reaching restructuring and the introduction of conditions allowing the recovery of this additional aid at a later stage, for example through claw-back mechanisms.
- (42) The valuation process both with regard to the market value and the real economic value, as well as the remuneration of the State, should follow the same guiding principles and processes listed in Annex 4.
- (43) When assessing the valuation methods put forward by EFTA States for asset-relief measures, and their implementation in individual cases, the Authority may consult valuation experts ⁽³⁾. The Authority will also build on the expertise of existing bodies organised at EU level in order to ensure the consistency of valuation methodologies.

5.6. Management of assets subject to relief measures

- (44) It is for EFTA States to choose the most appropriate model for relieving banks from assets, from the range of options set out in section 4, in light of the extent of the problem of impaired assets, the situation of the individual banks concerned and budgetary considerations. The objective of State aid control is to ensure that the features of the selected model are designed so as to ensure equal treatment and prevent undue distortions of competition.
- (45) While the specific pricing arrangements for an aid measure may vary, their distinctive features should not have an appreciable impact on the adequate burden-sharing between the State and the beneficiary banks. On the basis of proper valuation, the overall financing mechanism of an asset management company, an insurance or a hybrid solution should ensure that the bank will have to assume the same proportion of losses. Claw-back clauses can be considered in this context. In general, all schemes must ensure that the beneficiary banks bear the losses incurred in the transfer of assets (see further para. 50 and footnote 11).
- (46) Whatever the model, in order to facilitate the bank's focus on the restoration of viability and to prevent possible conflicts of interest, it is necessary to ensure clear functional and organisational separation between the beneficiary bank and its impaired assets, notably as to their management, staff and clientele.

⁽¹⁾ This would be the case, for example, if the State swapped assets for government bonds in the amount of their nominal value but received contingent warrants on bank capital, the value of which depends on the eventual sales price of the impaired assets.

⁽²⁾ In the case of an insurance measure, the transfer value is understood as insured amount.

⁽³⁾ The Authority will use the opinion of such valuation experts in a manner similar to other State aid proceedings, where it may have recourse to external expertise.

5.7. Procedural aspects

- (47) Detailed guidance on the implications of these guidelines on State aid procedure with regard to both the initial notification of aid and the assessment of restructuring plans, where necessary, is provided in Annex 5.

6. Follow-up measures — restructuring and return to viability

- (48) The above principles and conditions set the framework for designing asset-relief measures in compliance with State aid rules. State aid rules aim, in the present context, at ensuring the minimum and least distortive support for a removal of risks related to a separate category of assets from the beneficiary banks in order to prepare a solid ground for return to long-term viability without state support. While the treatment of impaired assets along the above principles is a necessary step for a return to viability for the banks, it is not in itself sufficient to achieve that goal. Depending on their particular situation and characteristics, banks will have to take appropriate measures in their own interest in order to avoid a recurrence of similar problems and to ensure sustainable profitability.
- (49) Under State aid rules and notably those for rescue and restructuring aid, such asset relief amounts to a structural operation and requires a careful assessment of three conditions: i) adequate contribution of the beneficiary to the costs of the impaired assets programme; ii) appropriate action to guarantee the return to viability; and iii) necessary measures to remedy competition distortions.
- (50) The first condition should normally be achieved by fulfilling the requirements set out in the previous chapters, notably disclosure, valuation, pricing and burden-sharing. This shall ensure a contribution by the beneficiary of at least the entirety of the losses incurred in the transfer of assets to the State. Where this is materially not possible, aid may still be authorised, by way of exception, subject to stricter requirements as to the other two conditions.
- (51) Requirements to return to viability and the need for remedies for competition distortion will be determined on a case-by-case basis. As regards the second condition, the need to return to long term viability, it should be noted that asset relief may contribute to this objective. The viability review should certify the actual and prospective capital adequacy of the bank after a complete assessment and consideration of the possible factors of risk ⁽¹⁾.
- (52) The Authority's assessment of the extent of necessary restructuring, following the initial authorisation of the asset-relief measures, will be determined on the basis of the following criteria: criteria outlined in the Authority's State Aid Guidelines on recapitalisation of banks, proportion of the bank's assets subject to relief; the transfer price of such assets compared to the market price; the specific features of the impaired asset relief granted; the total size of state exposure relative to a bank's risk-weighted assets; the nature and origin of the problems of the beneficiary bank; and the soundness of the bank's business model and investment strategy. It will also take into account any additional granting of state guarantee or state recapitalisation, in order to draw a complete picture of the situation of the beneficiary bank ⁽²⁾.
- (53) Long term viability requires that the bank is able to survive without any state support, which implies clear plans for redeeming any state capital received and renouncing state guarantees. Depending on the outcome of this assessment, restructuring will have to comprise an in-depth review of the bank's strategy and activity, including, for example, focussing on core business, reorientation of business models, closure or divestment of business divisions/subsidiaries, changes in the asset-liability management and other changes.
- (54) The need for in-depth restructuring will be presumed where an appropriate valuation of impaired assets according to the principles set out in section 5.5 and Annex 4 would lead to negative equity/technical insolvency without state intervention. Repeated requests for aid and departure from the general principles set out in earlier sections will normally point to the need for such in-depth restructuring.
- (55) In-depth restructuring would also be required where the bank has already received State aid in whatever form that either contributes to coverage or avoidance of losses, or altogether exceeds 2 % of the bank's total risk weighted assets, while taking the specific features of the situation of each beneficiary into due consideration ⁽³⁾.
- (56) The timing of any required measures to restore viability will take account of the specific situation of the bank concerned, as well as the overall situation in the banking sector, without unduly delaying the necessary adjustments.

⁽¹⁾ Compliance with the criteria in paragraph 40 of the Authority's State Aid Guidelines on *The recapitalisation of financial institutions in the current financial crisis* would also need to be ensured as far as applicable.

⁽²⁾ For those banks already subject to the obligation of a restructuring plan, following the granting of previous State aid, such a plan would need to duly take into consideration the new aid and envisage all options from restructuring to orderly winding-up.

⁽³⁾ Participation in an authorised credit guarantee scheme, without the guarantee having had to be invoked to cover losses, shall not be taken into consideration for the purposes of the present paragraph.

- (57) Thirdly, the extent of necessary compensatory measures should be examined, on the basis of distortions of competition resulting from the aid. This may involve downsizing or divestment of profitable business units or subsidiaries, or behavioural commitments to limit commercial expansion.
- (58) The need for compensatory measures will be presumed if the beneficiary bank does not fulfil the conditions set in the previous paragraphs and notably those of disclosure, valuation, pricing and burden sharing.
- (59) The Authority will assess the scope of the compensatory measures required, depending on its assessment of competition distortions resulting from the aid, and notably on the basis of the following factors: total amount of aid, including from guarantee and recapitalisation measures; volume of impaired assets benefitting from the measure; proportion of losses resulting from the asset; general soundness of the bank; risk profile of the relieved assets; quality of risk management of the bank; level of solvency ratios in the absence of aid; market position of the beneficiary bank and distortions of competition from the bank's continued market activities; and impact of the aid on the structure of the banking sector.

7. Final provision

- (60) This Chapter of the State Aid Guidelines applies from the date of its adoption, having regard to the financial and economic context that required immediate action.
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ANNEX 1

EUROSYSTEM GUIDANCE ON ASSET SUPPORT MEASURES FOR BANKS

The Eurosystem has identified seven guiding principles for bank asset support measures:

- *eligibility of institutions*, which should be voluntary, with possible priority for institutions with large concentrations of impaired assets in case of constraints,
 - relatively broad *definition of assets* eligible for support,
 - *valuation of eligible assets* which is transparent, preferably based on a range of approaches and common criteria to be adopted across EEA States, based on independent third-party expert opinions, use of models which use micro-level inputs to estimate the economic value of, and probabilities attached to, the expected losses, and of asset-specific haircuts on book values of assets when the assessment of market value is particularly challenging, or when the situation requires swift action,
 - an adequate degree of *risk sharing* as a necessary element of any scheme in order to limit the cost to the government, provide the right incentives to the participating institutions and maintain a level playing field across these institutions,
 - sufficiently long *duration* of the asset-support schemes, possibly matching the maturity structure of the eligible assets,
 - *governance of institutions* which should continue to be run according to business principles, and favouring of schemes that envisage well defined exit strategies, and
 - *conditionality* of public support schemes to some measurable yardsticks, such as commitments to continue providing credit to appropriately meet demand according to commercial criteria.
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ANNEX 2

The different conceivable approaches to asset relief and experience with the use of bad-bank solutions in the United States, Sweden, France, Italy, Germany and Switzerland

I. POSSIBLE APPROACHES

In principle, two broad approaches to managing assets subject to relief measures can be considered:

- The segregation of impaired assets from good assets within a bank or in the banking sector as a whole. Several variants of this approach can be considered. An asset management company (bad bank or risk shield) could be created for each bank, whereby the impaired assets would be transferred to a separate legal entity, with the assets still managed by the ailing bank or a separate entity and possible losses shared between the good bank and the State. Alternatively, the State could establish a self-standing institution (often called an 'aggregator bank') to purchase the impaired assets of either an individual banks or of the banking sector as a whole, thereby allowing banks to return to normal lending behaviour unencumbered by the risk of asset write-downs. This approach could also involve prior nationalisation, whereby the State takes control of some or all banks in the sector before segregating their good and bad assets.

- An asset insurance scheme whereby banks retain impaired assets on their balance sheets but are indemnified against losses by the State. In the case of asset insurance, the impaired assets remain on the balance sheet of banks, which are indemnified against some or all losses by the State. A specific issue concerning asset insurance is setting the appropriate premium for heterogeneous and complex assets, which should in principle reflect some combination of valuation and risk characteristics of the insured assets. Another issue is that insurance schemes are technically difficult to operate in a situation where the insured assets are spread across a large number of banks rather than concentrated in a few larger banks. Finally, the fact that the insured assets remain on the balance sheets of banks will allow for the possibility of conflicts of interest and remove the important psychological effect of clearly separating the good bank from the bad assets.

II. EXPERIENCE WITH BAD BANKS

In the *United States*, the Resolution Trust Corporation (RTC) was created as a government-owned asset-management company in 1989. The RTC was charged with liquidating assets (primarily real estate-related assets, including mortgage loans) that had been assets of savings and loan associations (S&Ls) declared insolvent by the Office of Thrift Supervision, as a consequence of the Savings and Loan crisis (1989-1992). The RTC also took over the insurance functions of the former Federal Home Loan Bank Board. Between 1989 and mid-1995, the Resolution Trust Corporation closed or otherwise resolved 747 thrifts with total assets of USD 394 billion. In 1995, its duties were transferred to the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation. Overall, the cost to the taxpayers was estimated at USD 124 billion in 1995 dollars.

The RTC operated via so-called 'equity partnership programs'. All equity partnerships involved a private sector partner acquiring a partial interest in a pool of assets. By retaining an interest in asset portfolios, the RTC was able to participate in the extremely strong returns being realised by portfolio investors. Additionally, the equity partnerships enabled the RTC to benefit from the management and liquidation efforts of their private sector partners, and the structure helped assure an alignment of incentives superior to that which typically exists in a principal/contractor relationship. The various forms of equity partnerships are the following: Multiple Investment Fund (limited and selected partnership, unidentified portfolio of assets), N-series and S-series Mortgage Trusts (competitive bid for identified portfolio of assets), Land fund (to take profit from longer-term recovery and development of land), and JDC Partnership (selection of general partner on a 'beauty-contest' basis for claims which are unsecured or of questionable value).

In *Sweden*, two bank asset management corporations (AMCs), *Securum* and *Retriva*, were set up to manage the non-performing loans of financial institutions as part of the resolution policy for the financial crisis in 1992/1993. The assets of an ailing bank were split into 'good' and 'bad' assets, with the bad assets then transferred to one of the asset management corporations, mainly to *Securum* ⁽¹⁾. An important feature of the Swedish programme was to force banks to disclose expected loan losses in full and assign realistic values to real estate and other assets. For this, the Financial Supervisory Authority tightened its rules for the definition of probable loan losses as well as for the valuation of real

⁽¹⁾ See Bergström, Englund and Thorell (2002) and Heikensten (1998a and b).

estate. In order to obtain uniform valuation of the real estate holdings of banks applying for support, the Financial Supervisory Authority set up a Valuation Board with real estate experts. The low market values assigned to the assets in the due diligence process, effectively helped set a floor for asset values. As market participants did not expect prices to fall below this level, trading was maintained⁽¹⁾. In the long run, the two bank asset management corporations turned out to be successful in the sense that the budgetary cost of supporting the financial system was roughly balanced by the revenues received by the bank asset management corporations from the liquidation of their asset holdings.

In *France*, a public body enjoying an institutional unlimited state guarantee was created in the 1990s to take over and liquidate over time the bad assets of Credit Lyonnais. The bad bank financed the acquisition of the assets by means of a loan from Credit Lyonnais. The latter, therefore, could avoid recording losses on the assets and free capital for an equivalent amount of risk-weighted assets, as the loan to the bad bank could enjoy a 0 % risk weight in view of the state guarantee. The European Commission approved the bad bank as restructuring aid. A feature of the model was the neat separation between the good and the bad bank in order to prevent conflicts of interest and the clause 'de retour à meilleure fortune' on the good bank's profit to the benefit of the State. After a few years, the bank was successfully privatised. However, transfer of the assets to the bad bank at book value sheltered the shareholders from responsibility for the losses and implied high cost for the State over time.

A couple of years later in *Italy*, Banco di Napoli was split into a bad bank and a good bank after the absorption of the losses by existing shareholders and a Treasury recapitalisation to the extent necessary to keep the bank afloat. Banco di Napoli financed the bad bank's acquisition of the discounted but still impaired assets via a subsidised loan from the Central Bank counter-guaranteed by the Treasury. The cleaned bank was privatised 1 year later. In neither the case of Credit Lyonnais nor that of Banco di Napoli was there an immediate budgetary outlay for the Treasury for the acquisition of the bad assets, over and above the provision of capital to the banks.

A soft form of bad bank has been recently used by *Germany* in dealing with the bad assets of their Landesbanken. In the SachsenLB case, the beneficiary was sold as a going concern after the bad assets of around EUR 17,5 billion were channelled into a special purpose vehicle (SPV) with the purpose to hold the assets until maturity. The former owners, the Land of Saxony, gave a loss guarantee for around 17 % of the nominal value, which was considered as the absolute maximum of possible losses in a stress test (the base case was estimated only at 2 %). The new owner took over most of the refinancing and covered the remaining risk. The aid amount was at least considered to go up to the worst case estimate of around 4 %. In the WestLB case, a portfolio of assets of EUR 23 billion was channelled into an SPV and equipped with a government guarantee of EUR 5 billion so as to cover eventual losses and protect the balance sheet from adjustment of the value of the assets according to IFRS. This allowed WestLB to remove the market volatility of the assets from its balance sheet. A guarantee fee of 0,5 % was paid to the State. The risk shield is still in place and is considered to be State aid.

In *Switzerland*, the government has created a new fund to which UBS has transferred a portfolio of toxic assets that was valued by a third party prior to the transfer. To ensure financing of this fund, Switzerland first injected capital into UBS (in the form of notes convertible into UBS shares), which UBS immediately wrote off and transferred to the Fund. The remainder of the financing of the Fund was ensured by a loan from the Swiss National Bank.

In the late 1990s, the *Czech banks'* lending conditions to corporations were very loose. The Czech banks were burned very severely by that and they had to be bailed out in the late 1990s by the government. Major rounds of cleaning up banks' balance sheets were undertaken in order to establish a healthy banking industry.

In February 1991, the Czech government created a consolidation bank (Konsolidační banka, KOB), established in order to take on bad loans from the banking sector accumulated before 1991 — such as debts inherited from the centrally planned economy, especially those related to trading within the Soviet bloc. In September 2001, the special bank turned into an agency that also had to absorb bad loans connected to 'new innovative' loans (especially so-called privatisation loans, non-performing loans and fraudulent loans).

⁽¹⁾ This is in sharp contrast to the Japanese policy setting too high values for 'bad' assets, thus freezing the real estate market for about a decade.

Starting in 1991, larger banks were freed from bad loans and as of 1994 emphasis shifted to smaller banks. In particular, the failure of Kreditní banka in August 1996, and a subsequent partial run on Agrobanka, caused some strain on the Czech banking system. The programmes concerned led only to a temporary increase of state ownership in banking in 1995, and again in 1998, due to the revocation of the license of Agrobanka. Overall, the government share in banking rose to 32 % at the end of 1995 from 29 % in 1994.

Moreover, to support the small banks, another programme — the Stabilisation Programme — was approved in 1997. This essentially consisted of replacing poor-quality assets with liquidity of up to 110 % of each participating bank's capital through the purchase of poor-quality assets from the bank by a special company called Česká finanční, with subsequent repurchase of the residual amount of these assets within a 5 to 7-year horizon. Six banks joined the programme, but five of these were excluded after failing to comply with its criteria and subsequently went out of business. Thus, the Stabilisation Programme has not been successful and was halted.

By the end of 1998, 63 banking licences had been granted (60 of these before the end of 1994). As of end-September 2000, 41 banks and branches of foreign banks remained in business, 16 were under extraordinary regimes (8 in liquidation, 8 involved in bankruptcy proceedings), 4 had merged with other banks, and the licence of one foreign bank had been revoked because it had failed to start its operations. Out of the 42 remaining institutions (including CKA) 15 were domestically controlled banks and 27 foreign-controlled banks, including foreign subsidiaries and foreign branches.

In May 2000, the amended Act on Bankruptcy and Settlement and the Act on Public Auctions became effective, which aimed at accelerating bankruptcy proceedings and balancing creditors' and debtors' rights by allowing specialised firms or legal persons to act as trustees in bankruptcy proceedings and by offering the possibility to negotiate out-of-court settlements.

ANNEX 3

The definition of categories (baskets) of eligible assets and full disclosure concerning the impaired assets as well as the entire business activities of a bank

I. THE DEFINITION OF CATEGORIES (BASKETS) OF ELIGIBLE ASSETS

The definition of baskets of impaired financial assets of banks should be a common denominator based on categories that are already used for:

1. prudential reporting and valuation (Basel pillar 3 = CRD Annex XII; FINREP and COREP);
2. financial reporting and valuation (IAS 39 and IFRS 7 in particular);
3. specialised ad hoc reporting on the credit crisis: IMF, FSF, Roubini and CEBS work on transparency.

Using a common denominator of existing reporting and valuation categories for defining asset baskets will:

- prevent any additional reporting burden for banks,
- allow to assess the basket of impaired assets of individual banks to EEA and global estimates (which can be relevant for determining the 'economic value' at a point in time), and
- provide objective (certified) starting points for the valuation of impaired assets.

Taking into account the above the Authority suggests the following baskets of financial assets as an entry point for determining the 'economic value' and the asset impairment relief:

Table 1

I. Structured finance/securitised products						
	Type of product	Accounting category	Valuation basis for the scheme			Comments
			Market value	Economic Value	Transfer Value	
1	RMBS	FVPL/AFS (*)				Further refined into: geographic area, seniority of tranches, ratings, sub-prime or Alt-A related, or other underlying assets, maturity/vintage, allowances and write-offs
2	CMBS	FVPL/AFS				
3	CDO	FVPL/AFS				
4	ABS	FVPL/AFS				
5	Corporate debt	FVPL/AFS				
6	Other loans	FVPL/AFS				
			Total			
II. Non-securitised loans						
	Type of product	Accounting category	Valuation basis for the scheme			Comments
			Cost (**)	Economic Value	Transfer Value	
7	Corporate	HTM/ L&R (*)	Cost (**)			Further refinement on: geographic area, counterparty risk (PD) credit risk mitigation (collateral) and maturity structures; allowances and write-offs
8	Housing	HTM/ L&R	Cost			
9	Other personal	HTM/ L&R	Cost			

	Type of product	Accounting category	Valuation basis for the scheme			Comments
			Cost (**)	Economic Value	Transfer Value	
			Total			

(*) FVPL = Fair value through profit and loss = trading portfolio + fair value option); AFS = available for sale, HTM = Held to Maturity, L&R = loans and receivables.

(**) Cost means the carrying amount of the loans minus impairment.

II. FULL DISCLOSURE CONCERNING IMPAIRED ASSETS AND THE RELATED BUSINESS ACTIVITIES

On the basis of these asset baskets, the information provided on the impaired assets of a bank which should be covered by an asset-relief measure should be presented with a further degree of granularity as suggested in the comment column of Table 1.

On the basis of good practices observed by the Committee of European Banking Supervisors ⁽¹⁾ (CEBS) for disclosures on activities affected by the market turmoil, information on the bank's activities related to the impaired assets that would feed into the viability review referred to in section 5.1 could be structured as follows:

Table 2

CEBS observed good practices	Senior Supervisors Group (SSG): Leading Practice Disclosures
<i>Business model</i> Description of the business model (i.e. of the reasons for engaging in activities and of the contribution to value creation process) and, if applicable, of any changes made (e.g. as a result of crisis). Description of strategies and objectives. Description of importance of activities and contribution to business (including a discussion in quantitative terms). Description of the type of activities including a description of the instruments as well as of their functioning and qualifying criteria that products/investments have to meet. Description of the role and the extent of involvement of the institution, i.e. commitments and obligations.	Activities (SPE). (*) Nature of exposure (sponsor, liquidity and/or credit enhancement provider) (SPE). Qualitative discussion of policy (LF).
<i>Risks and risk management</i> Description of the nature and extent of risks incurred in relation to the activities and instruments. Description of risk management practices of relevance to the activities, of any identified weaknesses and of any corrective measures that have been taken to address these. In the current crisis, particular attention should be given to liquidity risk.	
<i>Impact of the crisis on results</i> Qualitative and quantitative description of results, with a focus on losses (where applicable) and write-downs impacting the results. Breakdown of the write-downs/losses by types of products and instruments affected by the crisis (CMBS, RMBS, CDO, ABS and LBO further broken down by different criteria). Description of the reasons and factors responsible for the impact incurred.	Change in exposure from the prior period, including sales and write-downs (CMB/LF)

⁽¹⁾ Source: CEBS (Committee of European Banking Supervisors) report on banks' transparency on activities and products affected by the recent market turmoil, 18 June 2008.

CEBS observed good practices	Senior Supervisors Group (SSG): Leading Practice Disclosures
Comparison of i) impacts between (relevant) periods and of ii) income statement balances before and after the impact of the crisis. Distinction of write-downs between realised and unrealised amounts. Description of the influence the crisis had on the firm's share price. Disclosure of maximum loss risk and description how the institution's situation could be affected by a further downturn or by a market recovery. Disclosure of impact of credit spread movements for own liabilities on results and on the methods used to determine this impact.	
<i>Exposure levels and types</i> Nominal amount (or amortised cost) and fair values of outstanding exposures. Information on credit protection (e.g. through credit default swaps) and its effect on exposures. Information on the number of products Granular disclosures of exposures with breakdowns provided by: — level of seniority of tranches, — level of credit quality (e.g. ratings, investment grade, vintages), — geographic origin, — whether exposures have been originated, retained, warehoused or purchased, — product characteristics: e.g. ratings, share of sub-prime mortgages, discount rates, attachment points, spreads, funding, — characteristics of the underlying assets: e.g. vintages, loan-to-value ratios, information on liens, weighted average life of the underlying asset, prepayment speed assumptions, expected credit losses. Movement schedules of exposures between relevant reporting periods and the underlying reasons (sales, disposals, purchases etc.). Discussion of exposures that have not been consolidated (or that have been recognised in the course of the crisis) and the related reasons. Exposure to monoline insurers and quality of insured assets: — nominal amounts (or amortised cost) of insured exposures as well as of the amount of credit protection bought, — fair values of the outstanding exposures as well as of the related credit protection, — amount of write-downs and losses, differentiated into realised and unrealised amounts, — breakdowns of exposures by ratings or counterparty.	Size of vehicle versus firm's total exposure (SPE/CDO). Collateral: type, tranches, credit rating, industry, geographic distribution, average maturity, vintage (SPE/CDO/CMB/LF). Hedges, including exposures to monolines, other counterparties (CDO). Creditworthiness of hedge counterparties (CDO). Whole loans, RMBS, derivatives, other (O). Detail on credit quality (such as credit rating, loan-to-value ratios, performance measures) (O). Change in exposure from the prior period, including sales and write-downs (CMB/LF). Distinction between consolidated and non-consolidated vehicles. Reason for consolidation (if applicable) (SPE). Funded exposure and unfunded commitments (LF).

CEBS observed good practices	Senior Supervisors Group (SSG): Leading Practice Disclosures
<i>Accounting policies and valuation issues</i> Classification of the transactions and structured products for accounting purposes and the related accounting treatment. Consolidation of SPEs and other vehicles (such as VIEs) and a reconciliation of these to the structured products affected by the sub-prime crisis. Detailed disclosures on fair values of financial instruments: — financial instruments to which fair values are applied, — fair value hierarchy (a breakdown of all exposures measured at fair value by different levels of the fair value hierarchy and a breakdown between cash and derivative instruments as well as disclosures on migrations between the different levels), — treatment of day 1 profits (including quantitative information), — use of the fair value option (including its conditions for use) and related amounts (with appropriate breakdowns). Disclosures on the modelling techniques used for the valuation of financial instruments, including discussions of the following: — description of modelling techniques and of the instruments to which they are applied, — description of valuation processes (including in particular discussions of assumptions and input factors the models rely on), — type of adjustments applied to reflect model risk and other valuation uncertainties, — sensitivity of fair values, and — stress scenarios.	Valuation methodologies and primary drivers (CDO). Credit valuation adjustments for specific counterparties (CDO). Sensitivity of valuation to changes in key assumptions and inputs (CDO).
<i>Other disclosure aspects</i> Description of disclosure policies and of the principles that are used for disclosures and financial reporting.	
<i>Presentation issues</i> Relevant disclosures for the understanding of an institution's involvement in a certain activity should as far as possible be provided in one place. Where information is spread between different parts or sources clear cross-references should be provided to allow the interested reader to navigate between the parts. Narrative disclosures should to the largest extent possible be supplemented with illustrative tables and overviews to improve the clarity. Institutions should ensure that the terminology used to describe complex financial instruments and transactions is accompanied by clear and adequate explanations.	
(*) In the SSG Report, each feature refers to an specific type of SPE, or to all of them as a whole, being SPE (Special Purpose Entities in general), LF (Leveraged Finance), CMB (Commercial Mortgage-Backed Securities), O (Other sub-prime and Alt-A Exposures), CDO (Collateralised Debt Obligations).	

ANNEX 4

VALUATION AND PRICING PRINCIPLES AND PROCESSES**I. Valuation methodology and procedure**

For the purposes of the measures, assets should be classified along the lines of the illustrative tables 1 and 2 in Annex 3.

The determination of the real economic value within the meaning of this Chapter of the Authority's State Aid Guidelines (see section 5.5) should be based on observable market inputs and realistic and prudent assumptions about future cash flows.

The valuation method to be applied to eligible assets should be agreed at the EEA level and could vary with the individual assets or baskets of assets concerned. Whenever possible, such valuation should be re-assessed with reference to the market at regular intervals over the life of the asset.

In the past, several valuation options have been applied more or less successfully. Simple reverse auction procedures proved useful in the case of categories of assets where market values are reasonably certain. However, this approach failed in valuing more complex assets in the United States. More sophisticated auction procedures are more adapted where there is less certainty about market values and a more exact method of price discovery of each asset would be needed. Unfortunately, their design is not straightforward. The alternative of model-based calculations for complex assets presents the drawback of being sensitive to the underlying assumptions ⁽¹⁾.

The option of applying uniform valuation haircuts to all complex assets simplifies the process of valuation overall, although it results in less accurate pricing of individual assets. Central banks have substantial experience regarding possible criteria and parameters for collateral pledged for refinancing, which could serve as a useful reference.

Whatever the model chosen, the valuation process and particularly the assessment of the likelihood of future losses should be based on rigorous stress-testing against a scenario of protracted global recession.

The valuation must be based on internationally recognised standards and benchmarks. A common valuation methodology agreed at the EEA level and consistently implemented by EEA States could greatly contribute to mitigating concerns regarding threats to a level playing field resulting from potentially significant implications of discrepant valuation systems. When assessing the valuation methods put forward by EFTA States for asset-relief measures, the Authority may, in principle, consult valuation experts ⁽²⁾.

II. The pricing of state support on the basis of valuation

The valuation of assets must be distinguished from the pricing of a support measure. A purchase or insurance on the basis of the established current market value or the 'real economic value', factoring in future cash flow projections on a hold-to-maturity basis, will in practice often exceed the present capacities of beneficiary banks for burden-sharing ⁽³⁾. The objective of the pricing must be based on a transfer value as close to the identified real economic value as possible. While implying an advantage as compared to the current market value and thus State aid, pricing on the basis of the 'real economic value' can be perceived as counterbalancing current market exaggerations fuelled by current crisis conditions which have led to the deterioration or even collapse of certain markets. The greater any deviation of the transfer value from the 'real economic value', and thus the amount of aid, the greater the need for remedial measures to ensure accurate pricing over time (for example, through better fortune clauses) and for more in-depth restructuring. The admissible deviation from the result of valuation should be more restricted for assets the value of which can be established on the basis of reliable market input than for those for which markets are illiquid. Non-compliance with these principles would represent a strong indicator for the necessity of far-reaching restructuring and compensatory measures or even an orderly winding-up.

In any event, any pricing of asset relief must include remuneration for the State that adequately takes account of the risks of future losses exceeding those that are projected in the determination of the 'real economic value' and any additional risk stemming from a transfer value above the real economic value.

⁽¹⁾ In any case, an auction would only be possible for homogeneous classes of assets and where there exist a sufficiently large number of potential sellers. In addition a reserve price would need to be introduced to ensure the protection of the interest of the State and claw back mechanism in case the final losses would exceed the reserve price, so as to ensure a sufficient contribution by the beneficiary bank. In order to assess such mechanisms, comparative scenarios with alternatives guarantee/purchase schemes will have to be submitted, including stress tests, in order to guarantee their global financial equivalence.

⁽²⁾ The Authority will use the opinion of such valuation experts in a manner similar to other State aid proceedings, where it may have recourse to external expertise.

⁽³⁾ See section 5.2 of these guidelines.

Such remuneration may be provided by setting the transfer price of assets at below the 'real economic value' to a sufficient extent so as to provide for adequate compensation for the risk in the form of a commensurate upside, or by adapting the guarantee fee accordingly.

Identifying the necessary target return could be 'inspired' by the remuneration that would have been required for recapitalisation measures to the extent of the capital effect of the proposed asset relief. This should be in line with the Chapter of the Authority's State Aid Guidelines on recapitalisation of banks, while taking into account the specific features of asset-relief measures and particularly the fact that they may involve higher exposure than capital injections ⁽¹⁾.

The pricing system could also include warrants for shares in the banks equal in value to the assets (implying that a higher price paid will result in a higher potential equity stake). One model for such a pricing system could be an asset purchase scenario, in which such warrants will be returned to the bank once the assets are sold by the bad bank and if they have earned the necessary target return. If the assets do not yield such a return, the bank should pay the difference in cash to reach the target return. If the bank does not pay the cash, the State would sell the warrants to achieve the target return.

In an asset guarantee scenario, the guarantee fee could be paid in the form of shares with a fixed cumulative interest representing the target return. Where the guarantee needs to be drawn upon, the EFTA State could use the warrants to acquire shares corresponding to the amounts that had to be covered by the guarantee.

Any pricing system would have to ensure that the overall contribution of beneficiary banks reduces the extent of net state intervention to the minimum necessary.

⁽¹⁾ In an asset guarantee scenario, it would also have to be taken into consideration that in contrast to recapitalisation measures, no liquidity is provided.

ANNEX 5

STATE AID PROCEDURE

EFTA States notifying asset-relief measures shall provide the Authority with comprehensive and detailed information on all the elements of relevance for the assessment of the public support measures under the State aid rules as set out in this Chapter of the State Aide Guidelines ⁽¹⁾. This includes in particular the detailed description of the valuation methodology and its intended implementation involving independent third-party expertise ⁽²⁾. The Authority's approval will be granted for a period of 6 months, and conditional on the commitment to present either a restructuring plan or a viability review for each beneficiary institution within 3 months from its accession to the asset-relief programme.

Where a bank is granted aid either as an individual measure or under an approved asset-relief scheme, the EFTA State shall provide the Authority, at the latest in the individual notification concerning the restructuring plan or viability review, with detailed information regarding the assets covered and its valuation at the time such individual aid is granted, as well as the certified and validated results of the disclosure of impairments concerning the assets covered by the relief measure ⁽³⁾. The full review of the bank's activities and balance sheet should be provided as soon as possible to initiate discussions on the appropriate nature and extent of restructuring well in advance of the formal presentation of a restructuring plan with a view to accelerating this process and providing clarity and legal certainty as quickly as possible.

For banks that have already benefited from other forms of State aid, be it under approved guarantee, asset swaps or recapitalisation schemes or individual measures, any assistance granted under the asset-relief scheme is to be reported first under existing reporting obligations so that the Authority has a complete picture of multiple State aid measures benefiting an individual aid recipient and can better appreciate the effectiveness of the previous measures and the contribution that the EFTA State proposes to introduce in a global assessment.

The Authority will reassess the aid granted under temporary approval in light of the adequacy of the proposed restructuring and the remedial measures ⁽⁴⁾, and take a view on its compatibility for longer than 6 months through a new decision.

EFTA States shall also provide a report to the Authority every 6 months on the functioning of the asset-relief programmes and on the development of the banks' restructuring plans. Where the EFTA State is already subject to a reporting requirement for other forms of aid to their banks, such a report shall be complemented with the necessary information concerning the asset-relief measures and the banks' restructuring plans.

⁽¹⁾ Pre-notification contact is encouraged.

⁽²⁾ See section 5.5 above and Annex 4.

⁽³⁾ A letter from the head of the supervisory authority certifying the detailed results shall be provided.

⁽⁴⁾ In order to facilitate the work of the EFTA States and the Authority, the Authority will be prepared to examine grouped notifications of similar restructuring/winding-up cases. The Authority may consider that there is no need to submit a plan for the pure winding up of an institution, or where the size of the institution is negligible.

CORRIGENDA

Corrigendum to Commission Regulation (EU) No 1261/2010 of 22 December 2010 imposing a provisional countervailing duty on imports of certain stainless steel bars originating in India*(Official Journal of the European Union L 343 of 29 December 2010)*

1. On page 74, the table in Article 1 should be replaced by the following table:

Company	Duty (%)	TARIC additional code
Chandan Steel Ltd, Mumbai	3,4	B002
Venus Wire Industries Pvt. Ltd, Mumbai; Precision Metals, Mumbai; Hindustan Inox Ltd, Mumbai; Sieves Manufacturer India Pvt. Ltd, Mumbai	3,3	B003
Viraj Profiles Vpl. Ltd, Thane	4,3	B004
Companies listed in the Annex	4,0	B005
All other companies	4,3	B999'

2. On page 75, Annex, in the title of the table:

for: 'TARIC Additional Code AXXX',

read: 'TARIC Additional Code B005'.

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