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COMMISSION OF THE EUROPEAN COMMUNITIES

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**REPORT FROM THE COMMISSION
ON THE WORKING OF COMMITTEES DURING 2008**

{SEC(2009) 913}

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In accordance with Article 7(4) of Council Decision 1999/468/EC of 28 June 1999 (hereinafter referred to as the "comitology Decision"), the Commission hereby presents the annual report on the working of committees for 2008. This report contains an overview of developments in the comitology system and a summary of committee' activities as well as an Annex with detailed statistics on the work of the individual committees¹.

1. OVERVIEW OF RECENT DEVELOPMENTS IN THE COMITOLGY SYSTEM

1.1. Implementation of the reform of the comitology procedure (Council Decision 2006/512/EC amending Council Decision 1999/468/EC)

1.1.1. Alignment

The alignment exercise aiming to bring existing basic acts into line with the new regulatory procedure with scrutiny (RPS), introduced by Council Decision 2006/512/EC, continued in 2008² with the adoption by the European Parliament and the Council of the first set of "priority alignments" on 11 March 2008³, followed by the adoption on 22 October 2008 of two "omnibus" Regulations, "omnibus part 1"⁴ and "omnibus part 3"⁵, which bring together and amend 59 and 4 basic legal acts respectively, and finally "omnibus part 2"⁶, which covers 47 basic legal acts and was adopted on 11 March 2009.

The Commission adopted a proposal for a fourth omnibus Regulation⁷, covering the alignment of 46 acts, in February 2008.

Moreover, in its resolution of 23 September 2008, the European Parliament asked the Commission to make proposals for the alignment of 14 additional basic legal acts. The Commission examined these instruments closely but did not deem it appropriate to present proposals for all of them, since, *inter alia*, some had already been aligned by other acts or because, in the Commission's opinion, the implementing powers contained therein were not subject to RPS. As a result of this assessment, the Commission adopted a proposal for a fifth and final omnibus Regulation covering two basic legal acts, on 30 March 2009⁸.

¹ The Annex is presented as a separate Commission staff working document.

² For more information on the background to the alignment process as well as activities undertaken in this regard in 2007, please consult the report from the Commission on the working of Committees during 2007 (COM(2008)844 final).

³ OJ L 76, 19.03.2008; OJ L 81, 20.03.2008; OJ L 97, 09.04.2008.

⁴ Regulation (EC) No. 1137/2008, OJ L 311, 21.11.2008, p. 1.

⁵ Regulation (EC) No. 1103/2008, OJ L 304, 14.11.2008, p. 80.

⁶ OJ L 87, 31.03.2009, p. 109.

⁷ COM(2008)71.

⁸ COM(2009)142.

1.1.2. Revision of the inter-institutional agreement

A revised inter-institutional agreement between the European Parliament and the Commission on the procedures for implementing the comitology Decision was adopted on 3 June 2008⁹. This revision brings the agreement into line with the changes in the comitology procedures introduced by Council Decision 2006/512/EC, in particular RPS, and with its annexed statements on transparency and an improved comitology register¹⁰. In addition, the revised agreement aims to streamline existing arrangements between the two institutions.

1.1.3. Comitology and transparency: the register and repository for comitology documents

In a statement regarding Article 7(3) of the comitology Decision (transparency statement)¹¹, the Commission undertook to improve the comitology register in order to enable the European Parliament to follow the different stages and timetable of each comitology procedure better and to distinguish between the various types of documents received.

Therefore, to accompany the reform of the comitology Decision, the Commission developed a new and much improved comitology register to give the European Parliament and the general public more transparent and coherent access to the documents and other relevant information. The new register was put into operation on 1 April 2008¹².

1.2. Development of case law

In its judgment of 1 April 2008 (joined Cases C-14/06 and C-295/06, European Parliament and Kingdom of Denmark v Commission of the European Communities), the Court of Justice annulled Point 2 of the Annex to the Commission Decision¹³ 2005/717/EC amending for the purposes of adapting to technical progress the Annex to the RoHS Directive¹⁴ as concerns the exemption for Decabromodiphenyl ether (DecaBDE) in polymeric applications. The Court also declared that the effects of that provision should nevertheless be maintained until 30 June 2008 inclusive.

The Court concluded that the decision, which was equivalent to a general exemption for the use of DecaBDE in electrical and electronic equipment, was adopted when the conditions laid down by the Community legislature in Article 5(1) of the RoHS Directive had not been met and ran counter to the objective pursued by that legislature of establishing the principle of prohibition of the components referred to in that directive. In adopting that decision as regards the exemption of DecaBDE, the Commission thus infringed Article 5(1).

The Court thus confirms the general principle that in exercising its implementing powers the Commission is authorised to adopt all the measures necessary or appropriate for the implementation of the basic legislation, provided that they are not contrary to it.

⁹ OJ C 143, 10.6.2008, p. 1.

¹⁰ OJ C 171, 22.7.2006, p. 21.

¹¹ OJ C 171, 22.7.2006, p. 21.

¹² http://ec.europa.eu/transparency/regcomitology/index_en.htm.

¹³ Decision 2005/717/EC of 13 October 2005

¹⁴ Directive 2002/95/EC of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

2. OVERVIEW OF ACTIVITIES

2.1 Number of committees and meetings

It is important to draw a distinction between the comitology committees, on the one hand, and other entities, in particular “expert groups” created by the Commission itself, on the other. The latter provide expertise to the Commission in preparing and implementing policy, whereas comitology committees assist the Commission in the exercise of the implementing powers that have been conferred upon it by basic legal acts. This report focuses exclusively on comitology committees. The number of comitology committees on 31 December 2008 was calculated by sector of activity (see Table I). The figures for the previous year (on 31 December 2007) are also given for comparison.

TABLE I – TOTAL NUMBER OF COMMITTEES

Policy sector	2007	2008
Enterprise and Industry (ENTR)	33	34
Employment, Social Affairs and Equal Opportunities (EMPL)	4	5
Agriculture and Rural Development (AGRI)	31	28
Transport and Energy (TREN)	35	36
Environment (ENV)	35	35
Research (RTD)	5	6
Information Society and Media (INFSO)	9	9
Fisheries and Maritime Affairs (MARE)	4	4
Internal Market (MARKT)	13	14
Regional Policy (REGIO)	1	1
Taxation and Customs Union (TAXUD)	11	10
Education and Culture (EAC)	6	7
Health and Consumers (SANCO)	17	17
Justice, Liberty and Security (JLS)	21	24
External Relations (RELEX)	3	3
Trade (TRADE)	12	12
Enlargement (ELARG)	3	3
EuropeAid (AIDCO)	9	8
Humanitarian Aid (ECHO)	1	1
Statistics (ESTAT)	9	9
Budget (BUDG)	2	2
Anti-Fraud Office (OLAF)	1	1
Information Technology (DIGIT)	1	1
TOTAL	266	270

The comitology committees can generally be classified according to the type of procedure under which they operate (advisory procedure, management procedure, regulatory procedure, regulatory procedure with scrutiny and safeguard procedure - see Table II). Since certain committees apply multiple procedures (ranging from the advisory procedure to the regulatory procedure, plus the safeguard procedure), they have been singled out from committees operating under a single procedure.

TABLE II – NUMBER OF COMMITTEES BY PROCEDURE (2008)

	Type of procedure					Committee operating under several procedures
	Advisory	Management	Regulatory	Regulatory with scrutiny	Safeguard	
ENTR	6	3	15	0	0	10
EMPL	2	0	2	0	0	1
AGRI	0	19	5	0	0	4
TREN	3	3	9	0	0	21
ENV	0	2	21	0	0	13
RTD	0	2	0	0	0	4
INFSO	0	4	0	0	0	5
MARE	0	1	0	0	0	3
MARKT	1	1	7	2	0	3
REGIO	0	0	0	0	0	1
TAXUD	1	3	5	0	0	1
EAC	1	1	0	0	0	5
SANCO	2	0	8	0	0	7
JLS	4	1	4	2	0	13
RELEX	0	2	0	0	0	1
TRADE	3	3	3	0	0	2
ELARG	0	3	0	0	0	0
AIDCO	0	7	0	0	0	1
ECHO	0	0	0	0	0	1
ESTAT	0	3	2	0	0	4
BUDG	1	0	1	0	0	0
OLAF	0	0	1	0	0	0
DIGIT	0	1	0	0	0	0
TOTAL	24	59	83	4	0	100

The figures indicate that about 31% of the committees (83 out of 270) work exclusively under the regulatory procedure, followed by a smaller number of committees working exclusively under the management procedure (59). However, most committees (37%) operate under several procedures (100 out of 270). The breakdown by policy sector shows that use of the

different types of procedures varies from one policy sector to another. However, in some of the policy sectors, a clear dominance of one of the procedures can be noted: the *Transport and Energy*, *Environment* and *Enterprise and Industry* sectors, for instance, work with a large number of committees under the regulatory procedure, whereas *Agriculture* works with a large number of committees under the management procedure.

The number of committees is not the only indicator of activity at comitology level. The *number of meetings* held in 2008 reflects the intensity of work in general, at sector level and in individual committees (Table III).

TABLE III – NUMBER OF MEETINGS

	2007	2008		2007	2008
ENTR	42	57	SANCO	167	123
EMPL	5	4	JLS	31	37
AGRI	256	226	RELEX	4	4
TREN	67	60	TRADE	23	24
ENV	75	57	ELARG	12	6
RTD	60	62	AIDCO	35	38
INFSO	30	28	ECHO	7	6
MARE	17	15	ESTAT	19	16
MARKT	43	42	BUDG	7	5
REGIO	9	9	OLAF	3	3
TAXUD	91	114	DIGIT	3	3
EAC	15	14	TOTAL	1.021	953

As was the case in 2007, *Agriculture* leads the field with 226 meetings, since managing the different agricultural markets requires frequent meetings. *Agriculture* is followed by *Health and Consumers* with 123 meetings and *Taxation and Customs Union* with 114 meetings.

2.2 Number of opinions and implementing measures

As in previous reports, this report gives global figures on formal *opinions* delivered by the committees and the subsequent *implementing measures* (i.e. legal acts or administrative and financing decisions) adopted by the Commission¹⁵. These figures quantify the tangible “output” of the committees (see Table IV). The total number of *opinions* delivered by the committees in 2008 was 2 185 (compared with 2 613 in 2007); the number of implementing measures adopted by the Commission was 2 022 (compared with 2 522 in 2007).

¹⁵ It is to be noted that there can be discrepancies between the number of opinions and the number of implementing measures in any given year. The reasons for these are explained in the introduction to the Annex.

TABLE IV – NUMBER OF OPINIONS AND IMPLEMENTING MEASURES ADOPTED (2008)

	Opinions	Implementing measures		Opinions	Implementing measures
ENTR	362	307	SANCO	358	311
EMPL	21	20	JLS	117	106
AGRI	456	439	RELEX	0	0
TREN	68	63	TRADE	11	12
ENV	78	85	ELARG	69	69
RTD	168	168	AIDCO	115	110
INFSO	79	79	ECHO	47	47
MARE	39	39	ESTAT	23	20
MARKT	26	16	BUDG	4	6
REGIO	4	0	OLAF	3	0
TAXUD	65	55	DIGIT	1	1
EAC	71	69	TOTAL	2.185	2.022

The large number of *implementing measures* adopted in certain policy sectors – *Agriculture* (439), *Enterprise* (307), *Health and Consumers* (311), *Research* (168) and *Europe Aid* (110) – again reflects the intensity of work delegated to the Commission in these areas¹⁶. Compared with the previous year, there has been a decrease, notably in relation to *Agriculture* (439 implementing measures in 2008, compared with 963 in 2007) and *EuropeAid* (110 in 2008, compared with 388 in 2007).

2.3 Use of the Regulatory Procedure with Scrutiny (RPS)

The figures provided in Table IV on the number of implementing measures adopted include the number of measures that are adopted according to RPS. This figure stands at 71 for 2008, *Environment* being the sector that uses the procedure most (21 measures), followed by *Enterprise and Industry* (13) (see [Table V](#)).

The Council and European Parliament have made use of their right of veto on draft measures in just 10% of cases (7 measures):

- The Council opposed the adoption of six draft measures in the field of *Environment*, on the grounds that they exceeded the implementing powers provided for in the basic instruments in as much as they imposed upon the Member States a requirement to communicate their transposition measures by means of correlation tables. As a result, the Commission removed the contested provisions from the draft measures and re-submitted them as amended to the competent Committees.

¹⁶ Note that the sheer number of measures adopted as such gives no indication of the political, economic or financial importance of the decisions taken.

- The European Parliament opposed the adoption of one draft measure in the field of *Internal Market*, on the grounds that it exceeded the implementing powers provided for in the basic instrument in as much as it included a provision that went beyond a technical adjustment and should therefore be dealt with in accordance with the codecision procedure. As a result, the Commission removed the contested provision and re-submitted the draft measure as amended to the competent Committee.

TABLE V – NUMBER OF IMPLEMENTING MEASURES ADOPTED ACCORDING TO THE REGULATORY PROCEDURE WITH SCRUTINY (RPS) (2008)

	No. of measures adopted according to RPS	No. of times EP has opposed adoption of draft measures under RPS	No. of times Council has opposed adoption of draft measures under RPS
ENTR	13	0	0
EMPL	0	0	0
AGRI	0	0	0
TREN	9	0	0
ENV	21	0	6
RTD	0	0	0
INFSO	0	0	0
MARE	0	0	0
MARKT	10	1	0
REGIO	0	0	0
TAXUD	8	0	0
EAC	0	0	0
SANCO	3	0	0
JLS	0	0	0
RELEX	0	0	0
TRADE	0	0	0
ELARG	0	0	0
AIDCO	0	0	0
ECHO	0	0	0
ESTAT	3	0	0
BUDG	4	0	0
OLAF	0	0	0

	No. of measures adopted according to RPS	No. of times EP has opposed adoption of draft measures under RPS	No. of times Council has opposed adoption of draft measures under RPS
DIGIT	0	0	0
TOTAL	71	1	6

3. DETAILED INFORMATION ON THE ACTIVITIES OF THE COMMITTEES

The Annex to this report provides detailed information on the work of the individual committees in 2008, classified on the basis of the different Commission departments concerned. It also provides information on changes in the number of committees as well as on specific situations relating to particular draft measures, such as unfavourable opinions, referrals to the Council or oppositions of the Council or the Parliament under RPS.