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**REPORT FROM THE COMMISSION
ON THE WORKING OF COMMITTEES DURING 2007**

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In accordance with Article 7(4) of Council Decision 1999/468/EC of 28 June 1999, the Commission hereby presents the annual report on the working of committees for 2007. It contains general comments on development of the comitology system, an overview of committees' activities and an Annex with detailed statistics on the individual committees, classified on the basis of the individual Commission departments concerned¹. The Annex also provides comments on changes in the number of committees and on exceptional events relating to specific draft measures, such as unfavourable opinions and referrals to the Council.

1. GENERAL COMMENTS ON DEVELOPMENT OF 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

Alignment of existing basic acts with new committee procedures is a familiar exercise, as it has been carried out before for Council Decision 1999/468/EC. The four alignment regulations adopted in 2003² amended all existing basic legal acts, one by one, but only their committee procedures, without any other changes to their substance. At that time alignment consisted of eliminating the variants for each procedure (management, regulatory and safeguard). Consequently, the changes were purely automatic, which facilitated approval by the legislator.

By contrast, the criteria set out in the regulatory procedure with scrutiny (PRAC) introduced by Council Decision 2006/512/EC are mandatory. This means that whenever the conditions apply, the PRAC has to be provided for. Otherwise, the basic legal act adopted is illegal. Therefore, each case must be examined on its own merits to decide whether the conditions for the new procedure to apply are fulfilled.

In a joint statement³, the European Parliament, the Council and the Commission agreed on a list of basic legal acts that must be brought into line with the PRAC urgently. These 26 proposals for priority alignment were adopted by the Commission on 22 December 2006.

All other basic legal acts adopted under the co-decision procedure which are not listed in the joint statement of July 2006 also have to be aligned. The Commission committed itself to reviewing all existing legal acts and, whenever necessary, to making relevant proposals for their alignment before the end of 2007.

In view of the number of acts concerned, the screening exercise started in January 2007. A total of 225 acts were identified as needing to be aligned.

In order to avoid a piecemeal approach, which would have been unworkable with some 200 proposals under review and would have led to major inconsistencies, the Commission decided

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

² Council Regulation (EC) No 806/2003 of 14 April 2003, Council Regulation (EC) No 807/2003 of 14 April 2003, Council Regulation (EC) No 1105/2003 of 26 May 2003 and Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003.

³ OJ C 255, 21.10.2006, p. 1.

to submit “omnibus proposals” instead of 200 individual proposals. This could help the EP and the Council to analyse the different cases in a more comprehensive and consistent way.

The Commission duly adopted:

- On 23 November 2007, the Communication to the EP and the Council which explains the purposes of the general alignment and the method followed to perform this exercise. This Communication lists all the basic acts concerned by the general alignment.
- Also on 23 November 2007, the first “omnibus proposal” which covers 59 basic acts.
- On 19 December 2007, two other “omnibus proposals”, one covering 47 basic acts, the other concerning 4 basic acts adopted in application of Title IV of Part III of the Treaty establishing the European Community, in order to take account of the special provisions applying to Denmark, the United Kingdom and Ireland in this field.
- The fourth and last “omnibus” proposal (covering 46 acts) was adopted in February 2008.

1.1.2. Revision of the bilateral agreement

The October 2000 bilateral (Commission/European Parliament) agreement on procedures for implementing the Comitology Decision had to be revised to bring it into line with the statement on transparency/updated register and with the new regulatory procedure with scrutiny and, whenever possible, to streamline current arrangements.

Negotiations took place in 2007 and compromise solutions were rapidly found on most of the unsettled issues. The outcomes of the negotiations were due to be formally endorsed by both institutions during the first half of 2008. The revised agreement was expected to enter into force on 3 June 2008 .

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

In a statement regarding Article 7(3) of Council Decision 1999/468/EC (transparency statement)⁴, the Commission committed itself to improving the comitology register in order to help 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 Council Decision 1999/468/EC, 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 2008⁵.

1.2. Development of case law

In its judgment of 13 September 2007 (Case C-443/05, Common Market Fertilizers SA), the Court of Justice confirmed the “Forest Focus” case law (see summary of Case C-122/04, judgment of 23 February 2006, in the 2006 report). The Court underlined that it is clear from the wording of Article 2 of the Comitology Decision that the criteria relating to the choice of committee procedure are not binding, which is expressly confirmed in the fifth recital in the preamble to the same Decision. Without prejudice to the possibility of recourse to the advisory procedure, measures of general scope may therefore come under either point (a) or point (b) of Article 2 of the Comitology Decision. They may be covered by the management procedure if they are closely linked to measures of individual application and within a

⁴ OJ C 171, 22.7.2006, p. 21.

⁵ http://ec.europa.eu/transparency/regcomitology/index_en.htm.

framework sufficiently developed by the basic instrument itself. By contrast, again without prejudice to the possibility of recourse to the advisory procedure, measures of individual application may be covered only by point (a) of Article 2 of the Comitology Decision.

In this case, the reference to the committee procedure in Article 239 of the Customs Code implies use of the regulatory procedure, which applies to measures of general scope. The Court stated that Article 239 of the Customs Code imposes no obligation on the Commission to use any particular procedure to take individual decisions – in this case, actual consideration of applications for repayment or remission of customs duties. Therefore, the appellant (Common Market Fertilizers SA) was wrong to challenge the legality of the individual decisions taken by the Commission without using any particular comitology procedure.

In its judgment of 23 October 2007 (C-403/5, “Philippines Border Management Project”), the Court annulled the Commission Decision approving a project relating to border security in the Philippines to be financed by line 19 10 02 of the general budget of the European Communities. The Court ruled that, since the contested decision pursues an objective concerning the fight against terrorism and international crime, which falls outside the framework of the development cooperation policy pursued by Regulation No 443/92, the Commission had exceeded the implementing powers conferred by the Council in Article 15 of that Regulation.

2. OVERVIEW OF ACTIVITIES

2.1 Number of committees

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 work on preparing and implementing policy, whereas the comitology committees are involved in implementing legislative acts. This report focuses exclusively on comitology committees. The number of comitology committees on 31 December 2007 was calculated by sector of activity (see Table I). The figures for the previous year (on 31 December 2006) are also given for comparison.

TABLE I – TOTAL NUMBER OF COMMITTEES

Policy sector	2006	2007
Enterprise and Industry (ENTR)	33	33
Employment, Social Affairs and Equal Opportunities (EMPL)	8	4
Agriculture and Rural Development (AGRI)	30	31
Transport and Energy (TREN)	36	35
Environment (ENV)	35	35
Research (RTD)	3	5
Information Society and Media (INFSO)	12	9
Fisheries and Maritime Affairs (MARE)	4	4
Internal Market (MARKT)	13	13
Regional Policy (REGIO)	3	1
Taxation and Customs Union (TAXUD)	10	11
Education and Culture (EAC)	12	6
Health and Consumer Protection (SANCO)	16	17
Justice, Liberty and Security (JLS)	15	21

External Relations (RELEX)	4	3
Trade (TRADE)	12	12
Enlargement (ELARG)	4	3
EuropeAid (AIDCO)	15	9
Humanitarian Aid (ECHO)	1	1
Statistics (ESTAT)	8	9
Budget (BUDG)	2	2
Anti-Fraud Office (OLAF)	1	1
Information Technology (DIGIT)	0	1
TOTAL	277	264

2.2 Number of opinions and implementing measures

Like 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 Commission. These figures quantify the tangible “output” of the committees (see Table II). The total number of *opinions* delivered by the committees in 2007 was 2613 (compared with 2 933 in 2006); the number of implementing measures adopted by the Commission was 2522 (compared with 2 862 in 2006).

TABLE II – NUMBER OF OPINIONS AND IMPLEMENTING MEASURES (2007)

	Opinions	Implementing measures		Opinions	Implementing measures
ENTR	292	269	SANCO	343	331
EMPL	14	14	JLS	27	23
AGRI	963	963	RELEX	4	4
TREN	41	39	TRADE	10	8
ENV	65	62	ELARG	86	83
RTD	57	57	AIDCO	388	388
INFSO	37	36	ECHO	37	37
MARE	30	29	ESTAT	29	18
MARKT	11	8	BUDG	3	3
REGIO	13	13	OLAF	0	0
TAXUD	74	63	DIGIT	2	1
EAC	87	73			

The large number of *implementing measures* adopted in certain policy sectors – Agriculture (963), EuropeAid (388), Health and Consumer Protection (331), Enterprise(269), Research (57) and Information Society (36) – again reflects the intensity of work delegated to the

Commission in these areas via the comitology procedures⁶. Compared with the previous year, a decrease in *Agriculture* (963 implementing measures in 2007, compared with 1 576 in 2006) and *Research* (57 in 2007, compared with 212 in 2006).

⁶ Note that the sheer number of measures adopted as such gives no indication of the political, economic or financial importance of the decisions taken.