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REPORT FROM THE COMMISSION
ON THE WORKING OF COMMITTEES DURING 2009

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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 2009. This report contains an overview of developments in the comitology system and a summary of committees' activities as well as an accompanying document with detailed statistics on the work of the individual committees¹.

1. OVERVIEW OF RECENT DEVELOPMENTS IN THE COMITOLOGY 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 2009² with the adoption by the European Parliament and the Council of two "omnibus" Regulations. "Omnibus part 2" was adopted on 11 March 2009 and "omnibus part 4" was adopted on 18 June 2009. These regulations bring together and amend respectively 47 and 46 basic legal acts. 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 2009³. This proposal became however obsolete with the entry into force of the Treaty of Lisbon.

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

Since the new comitology register was put into operation on 1 April 2008⁴ further improvements have been deployed. These enable a more efficient internal operation of the system and enhance transparency in the public repository. Amongst the most significant improvements made in 2009 with regard to transparency is the further precision in the stages of procedure for a draft implementing measure. Now it is possible to identify which draft implementing measure has been withdrawn by the Commission before being submitted for a formal vote by the comitology committee.

¹ The accompanying document 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 2008, please consult the report from the Commission on the working of Committees during 2008 (COM(2009)335 final).

³ COM(2009)142

⁴ http://ec.europa.eu/transparency/regcomitology/index_en.htm.

1.2. COMITOLGY AND THE TREATY OF LISBON

The Treaty on the functioning of the European Union (TFEU) contains two provisions which entail substantial modifications of the comitology procedures. They concern on the one hand "quasi-legislative measures", which are referred to as "delegated acts" (art. 290), and on the other hand straight-forward implementing measures, which are referred to as "implementing acts" (art 291).

1.2.1. Delegated acts

In December 2009, the Commission adopted a Communication to the European Parliament and the Council regarding the implementation of Article 290 of TFEU⁵. The purpose of this Communication is to set out the Commission's views on the scope of the delegated acts, the framework for delegations of power, the working methods the Commission intends to use for preparing the adoption of delegated acts and, finally, the conditions under which the legislator might exercise control over the way the powers conferred on the Commission are implemented.

1.2.2. Implementing acts

Article 291 of the TFEU makes clear that where uniform conditions for implementing legally binding acts are needed, those acts shall confer implementing powers on the Commission, or on the Council in duly justified specific cases. The European Parliament and the Council, acting by means of regulations in accordance with ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

In early 2010, the Commission made a proposal for a "Comitology Regulation" which will set out rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁶. This regulation will replace the "Comitology Decision" adopted by the Council in 1999 and amended in 2006.

⁵ COM(2009) 673 final of 9.12.2009

⁶ COM(2010) 83 final of 9.03.2010

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 2009 was calculated by sector of activity (see Table I). The figures for the previous year (on 31 December 2008) are also given for comparison.

TABLE I – TOTAL NUMBER OF COMMITTEES

Policy sector	2008	2009
Agriculture and Rural Development (AGRI)	28	15
Anti-Fraud Office (OLAF)	1	1
Budget (BUDG)	2	2
Education and Culture (EAC)	7	6
Employment, Social Affairs and Equal Opportunities (EMPL)	5	5
Enlargement (ELARG)	3	3
Enterprise and Industry (ENTR)	34	39
Environment (ENV)	35	36
EuropeAid (AIDCO)	8	7
External Relations (RELEX)	3	4
Fisheries and Maritime Affairs (MARE)	4	4
Health and Consumers (SANCO)	17	16
Humanitarian Aid (ECHO)	1	1
Information Technology (DIGIT)	1	2
Information Society and Media (INFSO)	9	8
Internal Market (MARKT)	13	14
Justice, Liberty and Security (JLS)	24	24
Regional Policy (REGIO)	1	1
Research (RTD)	6	7
Statistics (ESTAT)	9	10
Taxation and Customs Union (TAXUD)	10	12
Trade (TRADE)	12	10
Transport and Energy (TREN)	36	39
TOTAL:	269	266

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 (2009)

	Type of procedure				Operates under several procedures	TOTAL
	Advisory	Management	Regulatory	Regulatory w/srctutiny		
AGRI		5	5		5	15
AIDCO		5			2	7
BUDG	1		1			2
DIGIT		2				2
EAC	1	1			4	6
ECHO					1	1
ELARG		3				3
EMPL	2		1		2	5
ENTR	6	3	10	2	18	39
ENV		1	5	3	27	36
ESTAT		2	1		7	10
INFSO		2			6	8
JLS	4	1	1	3	15	24
MARE		1			3	4
MARKT		1	3	2	8	14
OLAF			1			1
REGIO					1	1
RELEX		2	1		1	4
RTD		3			4	7
SANCO	1		7		8	16
TAXUD	2	3	6		1	12
TRADE	2	2	3		3	10
TREN	3	1	6	1	28	39
TOTAL:	22	38	51	11	143	266

The figures indicate that about 19% of the committees (51 out of 266) work exclusively under the regulatory procedure, followed by a smaller number of committees working exclusively under the management procedure (37). However, most committees (55%) operate under several procedures (143 out of 266). The breakdown by policy sector shows that use of the different types of procedures varies from one policy sector to another. However, in the area of *Enterprise and Industry*, for instance, a large number of committees operate under the regulatory procedure.

The number of committees is not the only indicator of activity at comitology level. The *number of meetings* held in 2009 reflects the intensity of work in general, at sector level and in individual committees ([Table III](#)).

TABLE III – NUMBER OF MEETINGS

	2008	2009		2008	2009
AGRI	226	165	JLS	37	40
AIDCO	38	40	MARE	15	15
BUDG	5	5	MARKT	42	32
DIGIT	3	3	OLAF	3	3
EAC	14	13	REGIO	9	10
ECHO	6	4	RELEX	4	3
ELARG	6	5	RTD	62	62
EMPL	4	5	SANCO	123	124
ENTR	57	48	TAXUD	114	107
ENV	57	67	TRADE	24	17
ESTAT	16	19	TREN	60	83
INFSO	28	24	TOTAL:	953	894

As was the case in 2008, *Agriculture* (AGRI) leads the field with 165 meetings despite the significant decrease in the number of committees as compared to 2008 (by nearly 50%). These figures witness the intensity of managing the different agricultural markets. *Agriculture* (AGRI) is followed by *Health and Consumers* (SANCO) with 124 meetings and *Taxation and Customs Union* (TAXUD) with 107 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 Commission⁷. These figures quantify the tangible “output” of the committees (see [Table IV](#)). The total number of *opinions* delivered by the committees in 2009 was 2 091 (compared with 2 185 in 2008); the number of implementing measures adopted by the Commission was 1 808 (compared with 2 022 in 2008).

⁷ 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 Commission Staff Working Document.

TABLE IV – NUMBER OF OPINIONS AND IMPLEMENTING MEASURES ADOPTED (2009)

	Opinions	Measures not under codecision	Measures under codecision		Opinions	Measures not under codecision	Measures under codecision
AGRI	460	459	1	JLS	57	8	46
AIDCO	224	103	118	MARE	37	39	0
BUDG	5	0	0	MARKT	28	2	25
DIGIT	1	0	1	OLAF	0	0	0
EAC	40	0	39	REGIO	5	2	0
ECHO	51	0	46	RELEX	1	1	0
ELARG	58	56	0	RTD	202	190	1
EMPL	14	0	14	SANCO	278	96	153
ENTR	207	0	108	TAXUD	147	49	2
ENV	88	3	77	TRADE	6	4	0
ESTAT	30	0	24	TREN	86	2	74
INFSO	66	15	50	TOTAL:	2 091	1 029	779

The large number of *implementing measures* adopted in certain policy sectors – *Agriculture* (460), *Health and Consumers* (249), *Europe Aid* (221), *Research* (191) and *Enterprise* (108), – again reflects the intensity of work delegated to the Commission in these areas⁸. Compared with the previous year, there has been an increase, notably in relation to *Agriculture* (460 implementing measures in 2009, compared with 439 in 2008) and *EuropeAid* (221 in 2009, compared with 110 in 2008). There has been a significant decrease in the implementing measures adopted in relation to *EAC* (39 in 2009 as compared to 69 in 2008).

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 131 for 2009, *Environment* being the sector that uses the procedure most (33 measures), followed by *Transport and energy* (29) (see [Table V](#)).

In 2009 the European Parliament made use of its right of veto on draft measures only in one case. This means that in total the two legislators used their right of veto in just 0,8% of cases:

- In May 2009 the European Parliament opposed a draft measure related to the Energy Labelling Directive and regarding the labelling of televisions. The draft measure was consequently not adopted. A revised measure will be adopted in 2010 in the form of a delegated act, further to the adoption by Parliament and Council of the Proposal for a

⁸ Note that the sheer number of measures adopted as such gives no indication of the political, economic or financial importance of the decisions taken.

Directive on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products⁹.

For comparison, in 2008 the Council and Parliament used their veto right in 10% of the cases (7 implementing measures).

TABLE V – NUMBER OF IMPLEMENTING MEASURES ADOPTED ACCORDING TO THE REGULATORY PROCEDURE WITH SCRUTINY (RPS) (2009)

	Measures adopted according to RPS	EP opposed adoption of draft measures under RPS	Council opposed adoption of draft measures under RPS	EP/Council opposed adoption of draft measures under RPS	Total oppositions
AGRI	0	0	0	0	0
AIDCO	0	0	0	0	0
BUDG	0	0	0	0	0
DIGIT	0	0	0	0	0
ECHO	0	0	0	0	0
ELARG	0	0	0	0	0
EMPL	1	0	0	0	0
ENTR	16	0	0	0	0
ENV	33	0	0	0	0
ESTAT	7	0	0	0	0
INFSO	1	0	0	0	0
JLS	0	0	0	0	0
MARE	0	0	0	0	0
MARKT	20	0	0	0	0
OLAF	0	0	0	0	0
REGIO	0	0	0	0	0
RELEX	0	0	0	0	0
RTD	0	0	0	0	0
SANCO	24	0	0	0	0
TAXUD	0	0	0	0	0
TRADE	0	0	0	0	0
TREN	29	1	0	0	1
Total:	131	1	0	0	1

3. DETAILED INFORMATION ON THE ACTIVITIES OF THE COMMITTEES

The Commission Staff Working Document accompanying this report provides detailed information on the work of the individual committees in 2009, 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.

⁹ COM (2008) 778 of 13.11.2008