

ATTACHMENT C



Australian Government

Commonwealth Grants Commission

**PRINCIPLES, INTERPRETATION AND SCOPE OF
HORIZONTAL FISCAL EQUALISATION**

COMMISSION INFORMATION PAPER 2007/12

MAY 2007

Paper issued:	28 May 2007
CGC contact:	Dermot Doherty, (02) 6229 8812, Dermot.Doherty@cgc.gov.au

CONTENTS

PREAMBLE	1
INTRODUCTION	2
THE OBJECTIVE	2
ADDING OBJECTIVES	2
DEFINING THE OBJECTIVE	3
FULL OR PARTIAL EQUALISATION	3
PERFECT OR PROXIMATE EQUALISATION	4
SCOPE OF EQUALISATION	5
THE DEFINITION OF EQUALISATION	6
GUIDING PRINCIPLES	7
CONCLUSION	11
ATTACHMENT A: 2010 REVIEW TERMS OF REFERENCE	12

PREAMBLE

- 1 The terms of reference for the 2010 Review ask us to recommend per capita relativities we regard as appropriate to apply after 2009-10 for the distribution of the combined pool of GST revenue and Health Care Grants (hereafter the GST pool) among the States and Territories (the States).
- 2 In our 2006 report to the Ministerial Council, we said that, although the objective of achieving equalisation was implicit in the terms of reference, it was important that different views of equalisation and how it might be implemented be considered in the review. We initiated a process of considering these issues in consultation with the States.
- 3 We specifically sought State comment on:
 - the implications for Commonwealth-State relations of a change to the objectives of equalisation and how much direction was needed from government for such change;
 - whether the aim of equalisation should change from equalising all States to the same standard, to standards ‘not appreciably different from’ other States, and what this would mean in practice;
 - whether equalisation should be confined to merit goods or core State services;
 - whether there should be additional pillars of equalisation, such as efficiency, and if so, how they should be implemented;
 - whether the standard to which all States are equalised should be changed from an average of all States to one based on the most ‘efficient’ State or some other benchmark; and
 - whether our assessments should be changed to better reflect the State circumstances in the year they are applied.
- 4 Those consultations raised a wide range of issues. In a meeting with Heads of Treasuries (HoTs) in July 2006, we said those issues could be placed into three groups. Those:
 - within our terms of reference. We indicated that these issues would be progressed through the course of the review. For example, we have established how we will approach the task of achieving equalisation with simpler methods, we have revised and strengthened the assessment guidelines and we have developed materiality and reliability guidelines to improve the reliability of data used in assessments;
 - outside our terms of reference. We indicated that if governments want us to deal with these issues, they would have to tell us through terms of reference. An example would be dealing with Indigenous disabilities through a Specific Purpose Payment (SPP) rather than as part of the equalisation process; and
 - issues of principle that warranted further consideration and discussion with the States before we could decide on our position.
- 5 This paper provides our views on those matters of principle.

INTRODUCTION

- 6 We consider that the process of distributing the GST pool has to be considered against the background of the *Intergovernmental Agreement on the Reform of Commonwealth-State Relations* (the IGA) governing the introduction of the GST, the background to the development of the 2010 Review terms of reference and the practice of equalisation over the years. In particular, we do not consider we have a mandate to progress issues identified in the 2004 Review report as requiring explicit terms of reference, unless the 2010 Review terms of reference provide us with those directions.
- 7 The IGA states that GST revenue is to be distributed among the States on the basis of horizontal fiscal equalisation (equalisation) principles. While these principles are not defined in the IGA, we consider that the aim of horizontal fiscal equalisation is well established — it is to give equal fiscal capacity to each State, having regard to its relative population.
- 8 The IGA also specifies that the GST revenues are to be freely available to the States and can be spent by the States in accordance with their own budget priorities — that is, they are untied. It would seem to be inconsistent with the untied nature of this assistance to change the current aim of equalising States' financial capacity to one of equalising their performance or their outcomes. The States supported this view and universally rejected the possibility of such a change. States argued that taking their performance into account would erode State autonomy. Many also noted the difficulties that would be involved in setting and measuring performance standards.

Summary

- 9 We interpret our task to be to:
- achieve fiscal equalisation; and
 - deal with capacity not outcomes.

THE OBJECTIVE

Adding objectives

- 10 In the 2004 Review report, the Commission said it did not have a mandate to reconsider the objectives and purposes of equalisation. It indicated that if governments wished it to undertake a wider review, they would need to provide it with terms of reference that asked it to do so.
- 11 A number of States have strongly supported a reconsideration of the objectives of equalisation. They interpret the reference to 'the per capita relativities which the Commission would regard as appropriate to apply after 2009-10' as providing the Commission with authority to consider additional objectives. New South Wales and Victoria suggested adding an allocative efficiency objective to give greater balance between efficiency and equity. The ACT and the Northern Territory suggested adding a stability (of GST revenue) objective to reflect the growing significance of GST revenue to them and the desirability of enhancing the stability of this revenue source.

- 12 While some States supported a reconsideration of the objectives of equalisation, others strongly questioned the need for it. They argued:
- the terms of reference do not require it, but would have if this had been intended;
 - a review was not supported by States at the November 2005 conference with HoTs; and
 - the Commission itself in the 2004 Review concluded that, in the absence of any specific direction, equalisation should be based on the principles in place in June 1999 when the IGA was signed.
- 13 We recognise that some States have concerns with the operation of the current equalisation system, because they see it as leading to economic inefficiencies.
- 14 We have carefully considered the arguments of States proposing additional objectives. But these arguments have not persuaded us that there is a compelling case – in terms of delivering fiscal equalisation – for introducing these.
- 15 We do not consider it appropriate for us to augment the equalisation objective with other objectives. Notwithstanding these arguments, our view remains that the terms of reference ask us to report on a single objective – fiscal equalisation and the interpretation past Commissions have given to this intention remains appropriate. Consequently, we have interpreted the reference to ‘appropriate’ to mean appropriate to the implementation of this objective. We conclude, therefore, that additional objectives are outside our terms of reference. We agree with States who argued that if governments want us to consider additional objectives, they would tell us to do so through explicit terms of reference.

DEFINING THE OBJECTIVE

- 16 We intend to make recommendations on the distribution of the GST pool to achieve the single objective of equalisation. Although that objective is not defined in legislation, it has been defined and refined by Commissions over the course of its history, and incorporated into successive equalisation distributions.
- 17 We sought State views on how the objective should be interpreted for the 2010 Review.

Full or partial equalisation

- 18 In the early 1980s, the equalisation principle was applied for the first time to all States. The majority of States supported a continuation of this approach. They argued that changing the current objective of providing all States with the same capacity to deliver services would lead to growing disadvantage and inequity between States.
- 19 However, support for the current approach was not unanimous. A fundamental question was asked about what, or to what extent, we should equalise. New South Wales said there was no justification for equalising the relatively prosperous States of Queensland, Western Australia and the ACT. It also asked us to consider less than full equalisation, to perhaps 80 per cent of the average. This approach was said to be akin to the ‘safety net’ philosophy that applies in

Australia's welfare system. Many States strongly opposed these partial equalisation approaches on the basis that they would result in Australians in different States being treated differently.

- 20 We think the practice of equalisation over the years establishes no basis for us to make judgments about equalising some States or about less than full equalisation.
- 21 We consider that a decision to aim for partial equalisation would represent a fundamental change in the nature of financial relations between the States. We do not believe our terms of reference give us a mandate to implement partial equalisation outcomes. All States agreed that further direction from Government would be required before partial equalisation approaches could be applied. Under our terms of reference, we intend to pursue full equalisation as our objective and to apply it to all States.

Precise or proximate equalisation

- 22 There was considerable debate about the definition of equalisation, and particularly about whether it should aim to give all States the capacity to deliver the 'same' standard of services or a standard of services 'not appreciably different from' that of the other States. Some States asked whether the equalisation process should attempt to recognise all inherent differences between the States that impact on their fiscal capacities, or only the major inherent differences. One State said there was nothing sacrosanct about the current definition of equalisation, and noted that it had changed in the past. For example, the reference to equalising to the 'same' standard is a relatively recent variant; earlier definitions were based on equalising to standards that were 'not appreciably different from' those in other States. New South Wales said the current definition had led to growth in the complexity of assessments. It argued a change in the definition was needed to help maintain the simplification achieved by the 2010 Review.
- 23 Several States noted that practical considerations, such as data availability and materiality, meant that it was not possible to equalise to the same standards.
- 24 Opponents of change accepted that achieving precise equalisation was not practical, but said that was not a sufficient reason to change the objective away from seeking precise equalisation. Some said that a move away from precise equalisation should not be interpreted as a move from full to partial equalisation, because the latter would be inconsistent with the terms of reference.
- 25 Commissions have always sought to achieve equalisation subject to the quality of the analysis and data available to them. They have implemented proximate equalisation in practice. They have sought to provide all States with the same capacity to deliver services after recognising material disabilities. We do not think equalisation would be improved by including disabilities that cannot be proven, cannot be measured with sufficient confidence, or which make only marginal changes to how the pool is distributed, at the cost of greater complexity and possibly reduced transparency.
- 26 We think a change in the wording of the definition is appropriate to clarify what we actually do and to make the link to materiality clearer. It is also consistent with the clear intent of the terms of reference that our processes should be simpler.

Scope of equalisation

- 27 In the past, the scope of equalisation has been comprehensive in terms of:
- the range of State activities; and
 - the range of disabilities assessed.
- 28 To the extent they have a direct impact on State general government operating accounts, virtually all revenues and expenses (including revenues from SPPs and the expenses they fund) have been included. Business activities of State trading enterprises and financial enterprises that did not have direct effects were excluded. This meant that it was only State subsidies for trading enterprises and taxes and other contributions that trading enterprises made to State budgets that were included. Thus, the scope was based on the general government sector.
- 29 All States explicitly or implicitly supported a scope based on the State general government sector. Most said that equalisation should be based on a comprehensive coverage of this sector.
- 30 However, there were areas of disagreement. New South Wales said equalisation should be limited to the ‘core’ services provided by States (health, education, and law and order) because these are the services which could reasonably be expected to be delivered across all jurisdictions. The remaining services were ones that States chose to deliver and so reflected policy choices.
- 31 There was also diversity of opinion about expanding the scope of equalisation to include goods and services provided by non-government organisations and the private sector. No State supported a blanket extension of scope to assess non-government or private activities that overlap and affect State services. However, some supported consideration of the extent to which they affect the quantity of services States must provide.
- 32 The scope has also included the cost of the capital stock used to provide the average level of service. How best to do this is a practical matter, which we intend to further discuss with States during the course of the review.
- 33 On the disabilities side, Victoria proposed eliminating cost weights on the grounds of their complexity and unreliability.
- 34 We think the nature of the IGA, particularly the untied nature of the GST revenue, and the practice of equalisation over the years establishes no basis for us to make judgments about areas of State expenditures that are more important than others in defining a State’s fiscal capacity. Accordingly, we propose to be comprehensive in what expenses and revenues we include in the equalisation process. However, in keeping with the terms of reference, we propose to adopt simpler methods than used in the 2004 Review.
- 35 We also propose to be comprehensive in the range of disabilities that are assessed, but subject each disability to a rigorous application of our assessment guidelines. We will consider assessing a disability to reflect the extent that non-government and private activities affect the quantity of services States must provide if it can be demonstrated that such an assessment would be consistent with those guidelines.

36 One State proposed extending equalisation to local government activities to overcome differences in the scope of local government between States. While there may be benefit from a closer integration of the equalisation process at the State and local government levels, we do not consider the terms of reference give us a mandate to equalise local government activities.

Summary

37 We do not propose to apply equalisation to some States and not others, to limit the disabilities that can be assessed (other than on materiality or reliability grounds), to restrict equalisation to core services, to equalise to safety net standards or to equalise local government activities. We consider equalisation should:

- apply to all States; and
- be comprehensive, covering the full range of general government revenues and expenses and the disabilities affecting them;
- full rather than partial; and
- proximate (consistent with the quality of the available data and analysis and the materiality guidelines) rather than precise.

38 These considerations lead us to conclude that the scope of equalisation for the 2010 Review should be similar to that adopted in the 2004 Review.

39 This does not mean our approach to this review will be the same as the approach to the 2004 Review. The terms of reference place greater emphasis on simplification and this requires our approach to be different. In response, we have adopted a top-down, clean slate conceptual approach and embraced aggregated assessment categories. These changes will ensure the structure of revenue and expense categories used in the assessments will reflect the minimum disaggregation that is consistent with achieving equalisation.

40 We are investigating broadly defined revenue bases and disabilities. We have enhanced our reliability guidelines to ensure that States and ourselves give greater emphasis to the reliability of data and robustness of methods. We have developed materiality guidelines to ensure a clear approach to materiality. These developments, combined with our assessment guidelines mean that we have a stronger requirement for evidence to support assessments. These changes will ensure the revenue and expense disabilities used in the assessments will only be those that can be proven, can be measured with sufficient confidence, and which make material changes to how the pool is distributed.

The definition of equalisation

41 We think the broad aim of equalisation is captured by the following description:

If States levied comparable taxes, then with their GST revenue they would have the same capacity to provide comparable services.

42 However, we apply a more precise definition. During the discussion of the standards to which States are equalised, we concluded that a change in the wording of the definition was

appropriate to clarify what we actually do and to make the link to materiality clearer. The amended definition, which we intend to apply in the 2010 Review, is:

State governments should receive funding from the pool of Goods and Services Tax revenue and Health Care Grants such that, after allowing for material factors affecting expenses and revenues, if each made the same effort to raise revenue from its own sources and operated at the same level of efficiency, each would have the fiscal capacity to provide services at the same standard.

What has changed

- 43 The amended wording reflects the emphasis in the terms of reference on applying a materiality threshold to future assessments, but otherwise reflects what was done in the 2004 Review. This change clarifies our intention to assess only those disabilities that satisfy the materiality assessment guidelines.
- 44 We have added 'fiscal' to capacity to better explain what it is we are trying to do, to provide States with the fiscal capacity to deliver services.

What remains unchanged

- 45 We reaffirm in this definition that we seek to provide all States with the same fiscal capacity, and that we will adopt a comprehensive approach to expenses and revenue.

Guiding principles

- 46 In the 2004 Review we introduced three guiding principles (which we referred to as pillars) as means of interpreting equalisation and providing high level guidance on its implementation. They were:
- capacity equalisation, which means that the aim is to give each State the same financial capacity to deliver services as other States;
 - equalising to internal standards, which means that the standards to which States are equalised are based on an average of what all States actually do; and
 - policy neutrality, which means that a State's share of GST should not be directly affected by its own policies — rather, it is based on the presumption that each State applies the average policy of all States regarding service delivery and revenue raising.
- 47 Most States considered these principles were consistent with comprehensive fiscal equalisation and provided the fundamental bases for achieving it. They saw other principles as secondary. However several said there was a need for additional principles addressing simplification, efficiency, removal of disincentives for economic development, stability, and, possibly, robustness.
- 48 We consider that establishing guiding principles for the 2010 Review is useful. It will assist States in making submissions to us and it will assist us in our deliberations.
- 49 We see these principles as operating together to guide the 2010 Review process. At times, the principles will appear to conflict and, as in 2004, we will need to exercise judgment in our

decision making. Nevertheless, principles will make it more transparent how a decision was reached.

Capacity equalisation

50 The ability of States to spend their GST revenue according to their own budget priorities is dictated by the IGA. We have concluded that this means capacity equalisation must be a central feature of the Australian equalisation process. To reflect that status, we will retain it as the core of the definition of equalisation itself — it does not need to be presented as a separate guiding principle.

What States do

51 This principle means that Commission assessments should reflect, as far as practical, what States collectively do:

- the scope of the assessments should reflect the average range of services provided by States and the average range of taxes imposed by them; and
- the range of disabilities assessed should reflect the material factors that affect States' cost of delivering services and their revenue raising capacities.

52 This principle leads us to adopt internal standards, an advantage of which is that we are not required to make judgments about what States could or should do. The use of internal standards based on an average of what States collectively do ensures that the fiscal capacity calculated for each State would enable it to provide the average level of services provided by the States, if it so chose.

53 We consider the objective of equalisation to be about giving each State the capacity to provide services to the average revealed by the actual collective policies of all States. We do not attempt to equalise the capacity of States to provide services to a standard required to achieve some external policy objective, for example, reduce average hospital waiting lists to two days. Such an approach would see us making judgments about external standards that are the appropriate province of Government. We do not believe this is what governments have asked us to do.

54 New South Wales proposed changing the standards to which States are equalised from an internal standard based on an average of all States to:

- internal standards based on what is done by the financially strongest or the middle ranking States; or
- internal standards based on the State or States that are the most efficient providers of services.

55 The first approach would give the benchmark States an increased influence on the assessments, diminishing policy neutrality in the process. We are not convinced that this approach is more desirable or simpler than the current approach.

- 56 We can see the conceptual merits of the second option. Our aim is to give States the financial capacity to provide services, provided they operate at the same level of efficiency. Some States said this should be the highest observed level of technical efficiency. We accept the conceptual desirability of basing assessments on the optimal level of technical efficiency; no-one would argue that inefficiency should be specifically supported through our processes. However, we do not know how we can determine technical efficiency and none of the States have been able to explain how it could be done. For practical considerations, therefore, we propose to use the average level of efficiency.
- 57 Western Australia said the Commission was not equalising to the ‘same’ standard. It said that the way capacity equalisation is applied means that lower standards are preserved in remote areas — even though there is no case on efficiency grounds for doing so, particularly as much of Australia’s wealth is tied to economic activities in these areas.
- 58 The objective of fiscal equalisation is to equalise State fiscal capacities. It is not directed towards interpersonal equity or community or regional equity. Within the limits of their current fiscal capacities, States do not themselves follow policies of interpersonal or community equalisation. States do not provide residents of rural and remote communities with the same level of access to services as that received by residents of metropolitan areas. Our standards reflect that States spend different amounts per person in different areas, they reflect what States do. If States were to spend the same amount per person on everyone, then our standards would reflect that they treat people in different circumstances the same. We do not agree that a purpose of equalisation is to provide States with the capacity to implement policies they do not, on average, already follow.

Policy neutrality

- 59 Policy neutrality means a State should not be able to directly influence the level of grants it receives by adjusting its own policies or choices, in relation to the services it provides or the revenues it raises. Currently, we implement policy neutrality by basing assessments on the assumption that each State follows the average policies in delivering services and raising revenue. As a result, a State’s assessments are not directly affected by its own policies.
- 60 Some participants said that the Commission’s approach was not policy neutral because, collectively, the policies of States set the average. Hence, each States policies do affect the average and some States more than others. We accept that policy neutrality could be achieved by ensuring that assessments are unaffected by any State policy by setting external standards for expenses and revenue. But this would be inconsistent with what States do. State policies affect what States do, so assessments based on internal standards cannot be completely free from State policies. We propose to pursue policy neutrality, consistent with what States do, rather than try to create a nominal policy free approach.
- 61 We recognise that it may be difficult to establish an average policy in circumstances where not all States are active or where one State dominates. This is a practical matter. In such cases, we will consult with States to ensure policy neutrality is applied appropriately. Our intention is to

implement policy neutrality by undertaking assessments on the basis that each State follows the average policies in delivering services and raising revenue.

- 62 A principle on removal of disincentives for economic development was proposed as a complement to the policy neutrality principle. Western Australia said that the Commission's current approaches do not remove the effects of 'second round' or dynamic influences on State revenue bases arising from differences between States in their policies on economic development. This is a practical matter, which we intend to further discuss with States through the course of the review.

Practicality (simplification and robustness)

- 63 The case for a 'simplification' principle was based on the requirement of the terms of reference to seek simplification and to maintain it after 2010. A 'robustness' pillar was advocated by Victoria in response to the terms of reference which ask the Commission to simplify its assessments by applying materiality thresholds and eliminating unreliable data and to consider ways of maintaining simplification once achieved.
- 64 We have already introduced materiality and reliability criteria. We also see merit in introducing a practicality principle, which would reflect the greater emphasis on simplification in this review. This principle would form part of our response to the terms of reference asking us to consider developing mechanisms to maintain simplification once achieved.
- 65 It would make clear our intention to simplify our approach and would encompass our materiality and reliability criteria. It would require assessments to be based on sound data and methods and to be simple and well constructed.

Contemporaneity

- 66 Relativities are currently based on historical data that precede the application year by between two and six years. As a result, if State circumstances change over that period, the relativities could be out of date by the time they are applied. This lag has led to criticisms of the Commission's recommendations because they do not reflect the changes in State economies quickly enough.
- 67 Some States see the current process of basing the relativities on an average of the circumstances in the five most recently completed years as providing the benefit of stability and predictability in the GST revenue they receive. Most States appear to value this over a more up-to-date assessment of their fiscal capacity because the growing significance of GST to their budgets meant there could be some stability in their aggregate revenues, notwithstanding the relative unpredictability of State own-source revenue.
- 68 In recent years there has been a rapid divergence in the relative State fiscal circumstances. This suggests assessed relativities, using 5 year historical averages, are increasingly less appropriate and relevant — they do not provide States with grant shares which reflect their relative circumstances in the application year. We believe that, as far as possible, equalisation should reflect State circumstances in the year in which the funds are used. How this can be achieved

will be further discussed with the States during the course of the review and will form part of the 2010 Review report.

CONCLUSION

69 We have concluded that we can take two factors from the environment in which the GST pool is distributed to the States:

- the funds are to be distributed according to horizontal equalisation principles; and
- the funds are untied, so fiscal capacities not outcomes are relevant.

70 We consider that the principles defining equalisation are that it should be applied to all States and be:

- comprehensive, covering the full range of general government revenues and expenses and the disabilities affecting them;
- full rather than partial; and
- proximate (consistent with the quality of the available data and analysis and the materiality guidelines) rather than precise.

71 We consider that the definition of equalisation should be modified to make the link to materiality clearer. The new definition is:

State governments should receive funding from the pool of Goods and Services Tax revenue and Health Care Grants such that, after allowing for material factors affecting expenses and revenues, if each made the same effort to raise revenue from its own sources and operated at the same level of efficiency, each would have the fiscal capacity to provide services at the same standard.

72 We will develop methodology consistent with this definition with the aid of a set of guiding principles. The methodology should:

- reflect what States collectively do;
- be policy neutral;
- be practical; and
- deliver relativities most appropriate to the application year.

ATTACHMENT A: 2010 REVIEW TERMS OF REFERENCE

- 1 Pursuant to sections 16, 16A and 16AA of *the Commonwealth Grants Commission Act 1973*, I hereby refer to the Commission for inquiry into and report upon, by 26 February 2010 at the latest, the question of per capita relativities which the Commission would regard as appropriate to apply after 2009-10 for the distribution of the combined pool of Goods and Services Tax (GST) revenue and Health Care Grants (HCG's) among the States, the Northern Territory and the Australian Capital Territory (the states).
- 2 The Commission should commence a work programme for responding to these terms of reference and consult with the states and the Australian Government in deciding the priorities for the work programme.
- 3 Having regard to the work progressed by HoTs after the 2004 Ministerial Council and providing that to do so is consistent with the principle of Horizontal Fiscal Equalisation, the Commission should simplify its assessments by:
 - (a) aggregating existing assessment categories, components and factors, in whole or in part;
 - (b) eliminating category assessments found unreliable because of unsatisfactory data or methodology; and
 - (c) applying a materiality threshold to current and future assessments.
- 4 Having regard to the work progressed by HoTs after the 2004 Ministerial Council and providing that to do so is consistent with the principle of Horizontal Fiscal Equalisation, the Commission should consider developing other ways to simplify its assessments, including by:
 - (a) addressing issues relating to quality and fitness for purpose of data used by the Commission,
 - in particular by reducing the reliance on the use of 4 digit GFS data and examining the capacity of making effective use of 2 digit and 3 digit GFS data in the assessments;
 - (b) undertaking a programme of continuous improvement of assessments. This programme includes improvements to the quality and fitness for purpose of both data and methodology; and
 - (c) reviewing the scope for the use of more general indicators of revenue capacity and expenditure need.
- 5 The Commission should also consider:
 - (a) mechanisms to maintain simplification once achieved; and
 - (b) improving quality assurance processes.
- 6 (a) The Commission will report to the Ministerial Council in 2006 on its conclusions in relation to paragraphs 3(b) and 3(c) and progress in relation to paragraphs 3(a), 4 and 5;

- (b) The Commission will report to the Ministerial Council in 2007 on its conclusions in relation to paragraphs 3(a) and 4(a) and progress in relation to paragraphs 4(b), 4(c) and 5; and
 - (c) The Commission will report to the Ministerial Council in 2006 and 2007 on any conclusions it has reached in relation to paragraphs 6(a) and 6(b) which, in the Commission's opinion, should be implemented in advance of its 2010 Report. In drawing any such conclusions, the Commission should apply the principle of Horizontal Fiscal Equalisation used for the 2004 Review.
 - (d) The Commission will report on the conclusions in relation to the remaining items in paragraphs 3, 4 and 5 as part of its 2010 Report.
- 7 The Ministerial Council will give further instruction to the Commission on transitional arrangements, if and as necessary.