

**Question for written answer E-000577/2011
to the Commission**
Rule 117
Frédéric Daerden (S&D)

Subject: Procedures for the exchange of audit working papers between the competent authorities of the United States and those of the Member States

The Commission has adopted a decision on the adequacy of the competent authorities of Australia and the United States pursuant to Directive 2006/43/EC (C(2010)5676). This decision is intended to facilitate the exchange of audit working papers with the competent authorities of the United States, in particular the Public Company Accounting Oversight Board (PCAOB). The agreement was negotiated by the Commission from a purely legal and technical standpoint, leading on 16 July 2010 to a draft decision that was subsequently adopted on 1 September 2010.

It appears that, notwithstanding assurances obtained thanks to the July 2010 Dodd-Frank Act's amendments to Section 24 of the Securities Exchange Act and Section 105(b)5 of the Sarbanes-Oxley Act, this decision is likely to have adverse effects on EU firms listed in the USA and their statutory auditors, in particular as regards legislative and ethical aspects, the professional liability of auditors, economic intelligence and trade secrets. Moreover, Recitals 11 and 18 of the decision of 1 September 2010 create an imbalance owing to the reservations entered by the PCAOB on the basis of US legislation on the transfer of audit working papers (Recital 11) and recognition of the reliability of the competent authorities of the Member States in the area of financial supervision (Recital 18).

Given that the decision will cease to apply on 31 July 2013, can the Commission give an undertaking that, when it renegotiates the agreement, it will consult the business groups most affected by its application with a view to adjusting its terms or, alternatively, deciding not to renew it?

Lastly, in respect of implementation the Commission decision refers to the conclusion of bilateral agreements with each of the Member States, even though a European framework incorporating the international standards in force (International Standards on Auditing, or ISA) would no doubt have been preferable. Accordingly, can the Commission ensure that – bearing in mind the influence the United States can bring to bear in such negotiations – these agreements do not give rise to unequal treatment of different Member States?