

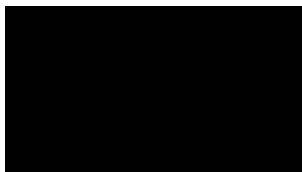
**Note by Chairman for core participants
concerning content of closing submissions**

This Note has been prepared to clarify the position about lodging additional material with the Inquiry before oral submissions on 23 and 24 May 2018, other than material produced in response to a request from the Inquiry.

The Chairman considers that the need for this Note follows receipt by the Inquiry on 27 April 2018 of the written submission on behalf of Siemens plc by Eversheds Sutherland (International) LLP, solicitors. Paragraph 1 of that submission recognises that submissions should relate to “the evidence that the Inquiry has before it”. Nevertheless it refers to additional documents which have not featured in the evidence sessions. These documents can be identified by the following footnote: *“Document reference to be confirmed by the Inquiry”*. One of the documents is Axel Eickhorn’s Second Supplemental Statement which purports to relate to matters in his evidence which required further investigation of, and response to, issues raised by the Inquiry. On that basis the Chairman has determined that this document should be lodged in Haymarket to afford the other core participants an opportunity to comment upon it in their amended written submissions or their oral submissions, if they wish to do so.

However, the Chairman is concerned that core participants may consider that they are at liberty to lodge additional documents in advance of finalising written submissions or of the hearings fixed for making oral submissions. Submissions are an integral part of the oral hearings and **Inquiry Direction No 10 - Preparation for and Conduct of Oral Hearings** (“the Direction”) applies equally to them as it did to evidence sessions. Although the section commencing with paragraph 32 of the Direction is entitled *“Use of documents in course of evidence”* paragraph 34 of the Direction prohibits documents being “put to any witness or **otherwise introduced into evidence (emphasis added)** without the consent of the Chairman” where there has not been compliance with paragraphs 32 and 33.

Having considered the need for an additional Inquiry Direction in this regard the Chairman has determined that this Note is sufficient guidance to core participants who may have misunderstood the requirements about lodging material with the Inquiry. Where any core participant wishes to tender additional documents at this stage, the core participant must seek the Chairman's permission to do so. In any such application the applicant should explain the applicant's perception of the significance for the Inquiry of each document tendered; when the applicant, the relevant core participant, and any of the core participant's advisers, were first aware of the document; when the applicant, the relevant core participant, and any of the core participant's advisers first had a copy of the document; what steps, if any, were taken to recover the document; and the reasons for failing to tender the document earlier. Thereafter the Chairman will consider the application along with the reasons in support of it. If he does not reject the application, copies of each document will be sent to core participants to enable them to make written representations about the application, if they wish to do so. Thereafter the Chairman will exercise his discretion whether to allow the documents to be lodged, taking into account all relevant factors including competing submissions and the opportunity that core participants and the Inquiry will have, or has had, to seek clarification about the document from the core participant at the hearing of oral submissions.



Lord Hardie

3 May 2018