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## I

(Information)

## COMMISSION

Ecu <sup>(1)</sup>

10 March 1993

(93/C 68/01)

Currency amount for one unit:

|                              |          |                      |         |
|------------------------------|----------|----------------------|---------|
| Belgian and Luxembourg franc | 39,9579  | United States dollar | 1,16419 |
| Danish krone                 | 7,44382  | Canadian dollar      | 1,45267 |
| German mark                  | 1,94047  | Japanese yen         | 137,258 |
| Greek drachma                | 262,001  | Swiss franc          | 1,78959 |
| Spanish peseta               | 138,166  | Norwegian krone      | 8,24944 |
| French franc                 | 6,58581  | Swedish krona        | 8,85423 |
| Irish pound                  | 0,797662 | Finnish markka       | 7,03170 |
| Italian lira                 | 1876,43  | Austrian schilling   | 13,6536 |
| Dutch guilder                | 2,18076  | Icelandic krona      | 76,4057 |
| Portuguese escudo            | 179,436  | Australian dollar    | 1,64899 |
| Pound sterling               | 0,812130 | New Zealand dollar   | 2,20909 |

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

*Note:* The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

(<sup>1</sup>) Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

## Average prices and representative prices for table wines at the various marketing centres

(93/C 68/02)

(Established on 9 March 1993 for the application of Article 30 (1) of Regulation (EEC) No 822/87)

| Type of wine and the various marketing centres | ECU per % vol/hl | Type of wine and the various marketing centres    | ECU per % vol/hl |
|--|------------------|---|------------------|
| <b>R I</b>                                     |                  | <b>A I</b>  |                  |
| Heraklion                                      | No quotation     | Athens  | No quotation (*) |
| Patras   | No quotation     | Heraklion   | No quotation     |
| Requena  | 1,686            | Patras  | No quotation     |
| Reus   | No quotation     | Alcázar de San Juan                               | 1,330            |
| Villafranca del Bierzo                         | No quotation (*) | Almendralejo                                      | 1,332            |
| Bastia   | No quotation     | Medina del Campo                                  | No quotation (*) |
| Béziers  | 3,027            | Ribadavia   | No quotation     |
| Montpellier                                    | 3,040            | Villafranca del Penedés                           | No quotation     |
| Narbonne                                       | 3,090            | Villar del Arzobispo                              | No quotation (*) |
| Nîmes  | 3,040            | Villarrobledo                                     | No quotation (*) |
| Perpignan                                      | 2,956            | Bordeaux  | No quotation     |
| Asti   | No quotation     | Nantes  | No quotation     |
| Florence                                       | 1,623            | Bari  | 1,994            |
| Lecce  | No quotation     | Cagliari  | No quotation     |
| Pescara  | No quotation     | Chieti  | No quotation (*) |
| Reggio Emilia                                  | No quotation     | Ravenna (Lugo, Faenze)                            | 1,947            |
| Treviso  | 2,040            | Trapani (Alcamo)                                  | 1,716            |
| Verona (for local wines)                       | No quotation     | Treviso   | 2,156            |
| Representative price                           | 2,944            | Representative price                              | 1,527            |
| <b>R II</b>                                    |                  |   |                  |
| Heraklion                                      | No quotation     |   |                  |
| Patras   | No quotation     |   |                  |
| Calatayud                                      | No quotation     |   |                  |
| Falset   | No quotation (*) |   |                  |
| Jumilla  | 1,993            |   |                  |
| Navalcarnero                                   | No quotation (*) |   |                  |
| Requena  | No quotation     |   |                  |
| Toro   | No quotation     |   |                  |
| Villena  | No quotation (*) |   |                  |
| Bastia   | No quotation     | <b>A II</b>                                       |                  |
| Brignoles                                      | No quotation     | Rheinfalz (Oberhaardt)                            | 33,124           |
| Bari   | 2,318            | Rheinhessen (Hügelland)                           | 33,680           |
| Barletta                                       | No quotation     | The wine-growing region of the Luxembourg Moselle | No quotation (*) |
| Cagliari                                       | No quotation     | Representative price                              | 33,382           |
| Lecce  | No quotation     |   |                  |
| Taranto  | No quotation     |   |                  |
| Representative price                           | 2,195            |   |                  |
|  | ECU/hl           | <b>A III</b>                                      |                  |
|  |                  | Mosel-Rheingau                                    | No quotation     |
| <b>R III</b>                                   |                  | The wine-growing region of the Luxembourg Moselle | No quotation     |
| Rheinfalz-Rheinhessen (Hügelland)              | 37,899           | Representative price                              | No quotation     |

(\*) Quotation not taken into account in accordance with Article 10 of Regulation (EEC) No 2682/77.

**Commission opinion**

(93/C 68/03)

On 20 November 1992 the Commission submitted to the Council a proposal for a Regulation on the introduction of a limit to the granting of production aid for processed tomato products <sup>(1)</sup>.

The purpose of this proposal is to introduce, from the 1993/94 marketing year, a quota system for the grant of aid for processing tomatoes, identical to that in force during the 1990/91 and 1991/92 marketing years. The proposal is currently being examined by the Council and a decision is likely to take some time.

For this reason the Commission thinks the introduction of this quota system should be announced in this opinion to all interested parties, in order for them to be able to make their choice of crops with full knowledge of the facts.

The Commission draws attention to the fact that the Council's ultimate decision may differ from its proposal.

<sup>(1)</sup> OJ No C 328, 12. 12. 1992, p. 6.

**STATE AID****C 19/91 (ex NN 8/91)****Spain**

(93/C 68/04)

*(Articles 92 to 94 of the Treaty establishing the European Economic Community)*

**Commission notice pursuant to Article 93 (2) of the EEC Treaty to other Member States and interested parties concerning aid which the Spanish Government decided to grant to Victorio Luzuriaga SA (Vilusa)**

In the letter reproduced below, the Commission informed the Spanish Government of its decision to terminate the procedure initiated on 7 May 1991 <sup>(1)</sup>.

'By letter dated 24 May 1991 (SG(91) D/9777) the Commission informed the Spanish Government of its Decision (COM(91) Min. 1059) of 7 May 1991 to initiate the procedure provided for in Article 93 (2) of the EEC Treaty in respect of the social aid granted to Vilusa, and gave it formal notice to submit its comments.

Briefly, the Commission stated in its abovementioned letter that:

- the payment by various Spanish public authorities of part of the social charges incurred by Vilusa constituted aid within the meaning of Article (92) (1) of the EEC Treaty;
- the Spanish authorities were required, under Article 93 (3), to notify in advance the grant of Pta 2 996,5 million by the Spanish central government and a grant of Pta 3 550 million by the Autonomous Community of the Basque Country.

In their reply dated 24 June 1991 the Spanish authorities made the following points in particular:

- Vilusa was included in the conversion of the special steels sub-sector in accordance with Royal Decree

2206 of 3 October 1980, with the agreement of the Government's Economic Affairs Committee (hereinafter GCEA) dated 22 July 1985, in order to facilitate Vilusa's switch from the special steels sub-sector to the foundry sector by granting it the aid provided for in Law 27/1984.

Thereafter, the said measures continued, with the agreement of the GCEA of 29 December 1987, to apply to Vilusa which was already operating in the foundry (ordinary steel) sub-sector, by virtue of additional provision 42a of Law 21/1986 on the general central government budget for 1987 (which partially extended Law 27/84 to 1987);

- the measures concerned by the Article 93 (2) procedure do not constitute aid within the meaning of Article 92 (1).

Both the aid relating to early retirement and that granted by the Basque Government are aimed at providing social cover to protect certain workers made redundant through conversion. Consequently, the aid is received directly by the workers and never by the firm.

In view of the nature of the aid and the direct payment to recipients, the aid concerned by the procedure does not go to Vilusa and is not therefore

<sup>(1)</sup> OJ No C 182, 13. 7. 1991.

liable to affect trade between Member States or to distort competition.

These being the two conditions laid down by Article 92 (1), the letter notifying initiation of the Article 93 (2) procedure is entirely without foundation.

Lastly, in their letter of 5 March 1992, the Spanish authorities confirmed that the GCEA had approved the aid grant to Vilusa at its meeting on 22 July 1985 and that the firm was entitled to it pursuant to Article 23 of Law 27 of 26 July 1984 relating to early retirement.

As part of the procedure, the German and Danish authorities submitted their comments by letters dated 7 August 1991 and 11 August 1991 respectively, and supported the Commission's decision to initiate the procedure. In reply to those comments, the Spanish authorities repeated that the social measures in question did not constitute aid under Article 92 (1) and were therefore not liable to affect trade between Member States.

The Commission considers that when Vilusa used early retirement to reduce its workforce by some 661 workers, it did not benefit from a general measure applicable to all firms but from a measure aimed at certain firms only, namely those recognized as undergoing conversion pursuant to Law 27 of 26 July 1984.

In addition, the Commission notes that the cost of this operation is estimated at Pta 11 376,5 million of which only 33,7 % is borne by the firm, the balance being paid by various Spanish public authorities.

Despite the fact that the public funds are paid to a body other than the firm itself, the Commission considers that the latter benefited from the funds, even if only indirectly, through the reduction in its social charges resulting from the job cuts.

The Commission therefore considers that Vilusa benefited from State aid within the meaning of Article 92 (1) through the granting by the central government of the extraordinary aid provided for by Law 27/1984 to certain firms with a view to reducing the social charges resulting from job cuts.

In the light of the confirmation by the Spanish authorities, the Commission considers that, although the decision taken on 22 July 1985 pre-dates Spain's accession, a second decision was taken on 29 December 1987, i.e. after accession, to apply the aid measures in question to Vilusa. The Commission notes, in

accordance with the abovementioned confirmation, that actual implementation of the proposed aid was based on the decision of 29 December 1987, which applied to Vilusa an aid scheme established by Law 27/1984.

The Commission considers that by adopting the second decision without prior notification, the Spanish authorities implemented the proposed measures and thus did not meet their obligations under Article 93 (3).

As a result, all the aid measures in question, with the exception of the aid granted by the Autonomous Community of Navarra, are unlawful.

The Commission notes that the aid measures established by Law 27/1984 were aimed at sectoral conversion, in this case the closing down by Vilusa of its ECSC steel activities and the restructuring of its foundry activities.

It notes that the ECSC steel sector is faced with structural overcapacity while the nodular and gray cast iron industry is not a sensitive sector or subject to a special framework.

The Commission also notes that reorganization of the foundry activities is to be achieved through a restructuring plan aimed at overcoming the crisis affecting the firm and allowing it to make a profit in 1994 without thereby increasing production capacity. Apart from the social aid referred to above, the Commission acknowledges that the firm will not receive any other aid to finance the restructuring plan.

The Commission consequently considers that the social aid in question qualifies for exemption under Article 92 (3) (c) of the EEC Treaty. This is because, firstly, it helps to reduce overcapacity in this industry and, secondly, forming part of a restructuring plan aimed at restoring the viability of the firm and being paid directly to the workers and thus limited to part-financing of the social aspect of the plan, it facilitates the development of an economic activity without thereby adversely affecting Community trade to an extent contrary to the common interest.

The Commission would inform the Spanish Government that it has therefore decided to terminate the procedure provided for in Article 93 (2) of the EEC Treaty in respect of the social aid granted to Vilusa.

It would also inform the Spanish Government that this letter will be published in the *Official Journal of the European Communities* to inform other Member States and interested parties of the Commission's decision.'

**Non-opposition to a concentration**  
**(Case No IV/M.278 — British Airways/Dan Air)**

(93/C 68/05)

On 17 February 1993, after examination of the request from the Belgian Government pursuant to Article 22 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, the Commission decided not to oppose the above concentration with respect to the Belgian territory and to declare it compatible with the common market. This decision is based on Article 22 in conjunction with Article 6 (1) (b) of the abovementioned Regulation. Third parties showing a sufficient interest can obtain a copy of the decision by making a written request to:

Commission of the European Communities,  
Directorate General for Competition (DG IV),  
Merger Task Force,  
Avenue de Cortenberg 150,  
B-1049 Brussels.

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<sup>(1)</sup> OJ No L 395, 30. 12. 1989 (Corrigendum: OJ No L 257, 21. 9. 1990, p. 13).

**Non-opposition to a notified concentration**  
**(Case No IV/M.216 — CEA Industrie/France Télécom/Finmeccanica/SGS-Thomson)**

(93/C 68/06)

On 22 February 1993, the Commission decided not to oppose the abovementioned concentration and to declare it compatible with the common market. This decision is based on Article 6 (1) (b) of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>. Third parties showing a sufficient interest can obtain a copy of the decision by making a written request to:

Commission of the European Communities,  
Directorate General for competition (DG IV),  
Merger Task Force,  
Avenue de Cortenberg 150,  
B-1049 Brussels.

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<sup>(1)</sup> OJ No L 395, 30. 12. 1989 (Corrigendum: OJ No L 257, 21. 9. 1990, p. 13).

## II

*(Preparatory Acts)*

## COMMISSION

## Proposal for a Council Decision concerning budgetary discipline

(93/C 68/07)

COM(93) 20 final

*(Submitted by the Commission on 17 February 1993)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43, 209 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Whereas, at its meeting in Edinburgh on 11 and 12 December 1992, the European Council decided to retain and strengthen the budgetary discipline introduced by Council Decision 88/377/EEC <sup>(1)</sup>;

Whereas a new Interinstitutional Agreement containing the financial perspective for 1993 to 1999 (hereinafter referred to as the 'Interinstitutional Agreement') was concluded on ... between the European Parliament, the Council and the Commission for the purposes of implementing budgetary discipline and of improving the annual budgetary procedure;

Whereas the European Council also agreed to maintain the base and the rate of increase of the agricultural guideline and to extend it to all expenditure under the reformed common agricultural policy and to some other expenditure;

Whereas there have been differing interpretations of the mechanisms set up by Article 6 of Decision 88/377/EEC to ensure compliance with the agricultural guideline; whereas their scope must therefore be clarified;

Whereas the mechanisms for the depreciation of stocks formed during the budget year should be retained;

Whereas the annual agricultural price proposals and any proposals for regulations involving expenditure under the EAGGF Guarantee Section must comply with the limit laid down by the agricultural guideline;

Whereas expenditure arising from application of environmental measures in the agricultural sector, the

Community aid scheme for forestry measures and the aid scheme for early retirement from farming is multiannual in nature; whereas special monitoring and control procedures should be introduced adapted to the nature of this expenditure;

Whereas, if there is a risk of the appropriations in a given chapter being overspent as a result of an unforeseen change in internal supply or demand, corrective measures should be taken to remedy the situation;

Whereas the corrective measures do not necessarily have an effect on the budget during the budget year concerned and whereas it may be necessary in such circumstances to take the safeguard measure of increasing the corresponding appropriations by means of transfers;

Whereas evaluation of the impact of the corrective measures on the development of the market situation will help to ensure continuity in the control of agricultural expenditure from one year to the next;

Whereas, the level of EAGGF Guarantee Section expenditure may be influenced by movements in the dollar/ecu market rate and by currency realignments between the Member States; whereas a monetary reserve should therefore be entered in the form of provisional appropriations to be drawn on should the need arise;

Whereas with the gradual implementation of the reform of the common agricultural policy, expenditure is likely to be less sensitive to changes in the dollar/ecu rate; whereas the monetary reserve can therefore be reduced from ECU 1 billion to ECU 500 million from 1995;

Whereas the quality and reliability of the particulars communicated by the Member States in connection with agricultural expenditure are essential for the proper operation of the early warning system and the effectiveness of budgetary discipline; whereas provision should therefore be made, when these requirements are not satisfied, for the possibility of reducing or provisionally suspending the monthly advances, without prejudice to the possibility of reducing or suspending these advances where Member States fail to comply with the rules;

<sup>(1)</sup> OJ No L 185, 15. 7. 1988, p. 29.



Whereas, to provide appropriations for the Guarantee Fund established by Regulation (EEC, Euratom) No .../93 a reserve for guarantees on loans to non-member countries and on loans in those countries must be entered in the budget in the form of provisional appropriations;

Whereas this reserve is also used to cover activated guarantees, up to the limit of its appropriations, when the Guarantee Fund does not have sufficient resources;

Whereas a financial margin must be left to permit a rapid response to specific emergency aid requirements in non-member countries resulting from unforeseeable events, with priority being given to humanitarian operations; whereas a reserve should be entered in the budget for this purpose in the form of provisional appropriations;

Whereas the conditions for calling in and mobilizing funds should be the same for the monetary reserve, the reserve for loan guarantees and the reserve for emergency aid;

Whereas, for reasons of clarity, the relevant provisions should be consolidated in one instrument and Decision 88/377/EEC should accordingly be repealed;

Whereas it is necessary that expenditure other than EAGGF Guarantee expenditure be subject to budgetary rigour and planning,

HAS ADOPTED THIS DECISION:

## I. EAGGF GUARANTEE EXPENDITURE

### *Article 1*

The agricultural guideline, which represents a ceiling on agricultural expenditure as defined in Article 3 for each budget year, must be respected each year. For each budget year, the Commission shall make an initial estimate of the agricultural guideline when fixing the agricultural prices and shall determine its final level when establishing the preliminary draft budget.

### *Article 2*

1. The reference base from which the agricultural guideline is to be calculated shall be equal to ECU 27 500 million entered for 1988 in Titles 1 and 2 of Part B of Section III of the budget less the amounts for that year relating to the disposal of ACP sugar, food aid refunds and payments by producers in respect of the levies provided for by the common organization of the sugar market.

2. The agricultural guideline for a given year shall be equal to the reference base laid down in paragraph 1 plus amounts corresponding to:

- the base multiplied by 74 % of the rate of increase in GNP between 1988 (base year) and the year in question,
- the base multiplied by the GNP deflator estimated by the Commission for the same period,

- forecasts of expenditure in the year in question on disposal of ACP sugar, food aid refunds, payments by producers in respect of levies provided for by the common organization of the sugar market and any other revenue raised from the agricultural sector in the future.

### *Article 3*

1. The agricultural guideline shall cover expenditure chargeable to Titles 1 to 5 of subsection B1 of Section III of the budget in the nomenclature adopted for the 1993 budget.

2. Each year the budget shall contain the appropriations necessary for financing all costs relating to the depreciation of stocks formed during the budget year.

### *Article 4*

1. The Commission's agricultural price proposals and any other proposals for regulations involving expenditure referred to in Article 3 shall be consistent with the limit laid down by the agricultural guideline.

2. Any Member State may ask the Commission to evaluate the financial consequences of any amendment which may be made to a proposal referred to in paragraph 1 during the Council's discussions. The Council shall then be obliged to postpone its decision until it is informed of the impact.

3. If the Commission considers that the outcome of the Council's discussions on these proposals may be such that the costs specified in its initial proposals will be significantly exceeded, the final decision shall be taken at a special Council meeting.

### *Article 5*

1. To ensure that the agricultural guideline is respected, the Commission shall establish a monthly early warning and monitoring system for each chapter involving expenditure of the type referred to in Article 3.

2. Before the beginning of each budget year, the Commission shall define indicative profiles of monthly expenditure for each budget chapter based, where possible, on the average monthly expenditure of the three preceding years.

3. In view of its multiannual nature, implementation of expenditure arising from application of environmental measures in the agricultural sector, the Community aid scheme for forestry measures and the Community aid scheme for early retirement from farming shall be subject to special monitoring based on:

- applications made by potential beneficiaries to Member States, which shall send this information to the Commission each month,

— individual commitments entered into in response to the applications referred to in the first indent, which the Member States shall send to the Commission every six months.

4. The statements of expenditure presented by the Member States in accordance with Article 3 (3) of Commission Regulation No 2776/88 <sup>(1)</sup> shall be sent to the European Parliament and to the Council for information.

The Commission shall submit monthly reports thereafter to the European Parliament and the Council on the development of actual expenditure in relation to the indicative profiles.

5. When expenditure under a given chapter significantly exceeds the profile laid down, the Commission shall analyse the discrepancy.

If the overrun on the profile is not likely to lead to an overrun on the appropriations for the chapter, no corrective measures need be taken. The Commission shall explain to the budgetary authority its reasons for not expecting an overrun on the appropriations.

If it concludes that there is a risk of the appropriations for the chapter being exceeded at the end of the year, the Commission shall determine the causes and evaluate the foreseeable effect on the budget.

6. Where the appropriations entered in the budget are in danger of being exceeded as a result of unforeseen changes in internal supply or demand, the Commission shall take action on the chapter concerned, using the management powers at its disposal, including those it has under the stabilizing measures, to remedy the situation. If these measures are insufficient, the Commission shall present proposals to the Council for appropriate action to control expenditure, which may include proposals for strengthening the stabilizers in the relevant sector. The Council shall act within two months of receiving the Commission's proposal in order to remedy the situation. Should it fail to take a decision within this time limit, the Council shall inform the European Parliament of the reasons.

7. The Commission shall evaluate the impact of the proposed measures with respect to both the savings which they are likely to produce and the time required for them to have their first economic and budgetary effects. The budgetary authority shall be informed of this evaluation.

8. If it proves impossible to remedy the situation before the end of the budget year, the budgetary authority, acting on a proposal from the Commission, shall make a transfer as a safeguard measure. The Commission shall inform the budgetary authority of

developments in the market situation in the light of the corrective measures adopted, the foreseeable financial consequences of which shall be taken into account in the budget for the following year. If these measures prove insufficient for restoring the balance of the market or markets concerned, the Commission shall present proposals to the Council designed to strengthen their action.

9. In circumstances other than those referred to in paragraph 6, and without prejudice to the special measures which may be taken for the operations referred to in paragraph 3, the Commission shall propose measures to increase the appropriation of a chapter whenever it is insufficient.

#### *Article 6*

The dollar/ecu rate used to draw up the annual budget estimates of the expenditure referred to in Article 3 for any given year shall be the average market rate over the first three months of the preceding year.

#### *Article 7*

ECU 1 000 million shall be entered in a reserve in the general budget of the European Communities, as a provision to cover:

- developments caused by movements in the dollar/ecu market rate in relation to the rate used in the budget,
- and, where applicable, the costs arising from monetary realignments between Member States.

From 1995, the reserve shall be reduced to ECU 500 million. These appropriations shall not be included in the agricultural guideline.

#### *Article 8*

By no later than the end of October each year, the Commission shall report to the budgetary authority on the impact on expenditure referred to in Article 3 of movements in the average dollar/ecu market rate for the period from 1 August of the preceding year to 31 July of the current year in relation to the rate used in the budget, as defined in Article 6.

#### *Article 9*

1. Savings or additional costs resulting from movements in the rate shall be treated in symmetrical fashion. Where the dollar strengthens against the ecu compared to the rate used in the budget, savings in the Guarantee Section of up to ECU 1 000 million (ECU 500 million from 1995) shall be transferred to the monetary reserve. Where additional budgetary costs are engendered by a fall in the dollar against the ecu compared with the budget rate, the monetary reserve shall be drawn on and transfers shall be made from the monetary reserve to the EAGGF Guarantee Section

<sup>(1)</sup> OJ No L 249, 8. 9. 1988, p. 9.

headings affected by the fall in the dollar. Where necessary, these transfers shall be proposed at the same time as the report referred to in Article 8.

2. There shall be a franchise of ECU 400 million. Savings or additional costs below this amount arising from the movements referred to in paragraph 1 will not necessitate transfers to or from the monetary reserve. Savings or additional costs above this amount shall be paid into, or met from, the monetary reserve. The amount shall be reduced to ECU 200 million from 1995.

#### *Article 10*

1. If it should become apparent when the budget is being implemented that the agricultural guideline cannot cover the budget cost arising directly from monetary realignments within the European Monetary System, the monetary reserve shall be used and appropriate transfers shall be proposed without, however, compromising full application of Article 9 (1).

2. If, in the circumstances referred to in paragraph 1, the appropriations available in the monetary reserve prove inadequate, the Council shall take the necessary measures.

#### *Article 11*

1. Funds shall be taken from the reserve only if the additional costs cannot be met from the budget appropriations to cover the expenditure referred to in Article 3 (1) for the year in question.

2. The necessary own resources shall be called up, in accordance with Council Decision 88/376/EEC, Euratom <sup>(1)</sup> and the provisions adopted pursuant thereto, to finance the corresponding expenditure.

3. Any savings made in the EAGGF Guarantee Section which have been transferred to the monetary reserve in accordance with Article 9 (1) and which remain in the monetary reserve at the end of the financial year shall be cancelled and thus contribute to a budgetary surplus which shall be counted as a revenue item in the budget for the coming year by means of a letter of amendment to that budget.

#### *Article 12*

1. Payment of the monthly EAGGF Guarantee advances by the Commission shall be effected on the basis of the information supplied by the Member States in regard to expenditure in each chapter.

2. In the event of unsatisfactory explanations, incorrect or late notification, serious suspicions that the rules are not being complied with and any other situation

indicating evident misuse of Community funds, the Commission may reduce or provisionally suspend the monthly advances after notifying the Member State in question at least five days before the decision and after consulting the EAGGF Committee. This reduction or suspension shall be without prejudice to the decisions which will be taken as part of the clearance of accounts.

3. If the profile defined in Article 2 (5) is significantly exceeded, the Member States shall, at the Commission's request, provide any information which may explain the abnormal rate of expenditure, including particulars about the quantities subsidized.

### II. RESERVES FOR EXTERNAL OPERATIONS

#### **1. Reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries**

##### *Article 13*

Each year the current-price equivalent of ECU 300 million at 1992 prices shall be entered as a provision in a reserve in the general budget of the European Communities.

This amount shall be adjusted to the corresponding allocation in the financial perspective contained in the Interinstitutional Agreement if the financial perspective is revised.

This reserve is intended to cover:

- (a) the requirements of the Guarantee Fund set up by Regulation (EEC, Euratom) No .../93; and
- (b) where necessary, activated guarantees exceeding the amount available in the Fund so that these amounts may be charged to the budget.

##### *Article 14*

If, at the end of the financial year, the Fund exceeds the target amount provided for in Article 3 of Regulation (EEC, Euratom) No .../93, the surplus shall be repaid to a specific heading in the statement of revenue of the budget and shall contribute to a budgetary surplus.

#### **2. Reserve for emergency aid**

##### *Article 15*

A reserve for emergency aid to non-member countries shall be entered each year in the general budget of the European Communities as a provision. The purpose of this reserve shall be to permit a rapid response to specific emergency aid requirements in non-member countries resulting from unforeseeable events, with priority being given to humanitarian operations.

<sup>(1)</sup> OJ No L 185, 15. 7. 1988, p. 24.

The amounts of this reserve shall be the equivalent, in current prices for each financial year, of the following amounts expressed in 1992 prices: ECU 200 million in 1993 and 1994 and ECU 300 million for each of the financial years between 1995 and 1999.

These amounts shall be adjusted to the corresponding allocations in the financial perspective contained in the Interinstitutional Agreement if the financial perspective is revised.

### 3. Common provisions

#### *Article 16*

The reserves shall be used by means of transfers to the budget headings concerned in accordance with the provisions of the Financial Regulation.

#### *Article 17*

The own resources necessary for financing the reserves shall not be called in from the Member States until the reserves are used in accordance with Article 16.

The own resources necessary shall be made available as provided in Council Regulation (EEC, Euratom) No 1552/89 <sup>(1)</sup>.

### III. OTHER PROVISIONS

#### *Article 18*

Budgetary discipline in respect of all other expenditure shall be applied on the basis of the arrangements contained in the Interinstitutional Agreement.

#### *Article 19*

The financial implementation of any Council Decision or any decision by the European Parliament and the Council exceeding the budget appropriations available in the general budget or the appropriations provided for in the financial perspective contained in the Interinstitutional Agreement may not take place until the budget has been amended and, where necessary, the financial perspective revised according to the procedure laid down for each of these cases.

### IV. FINAL PROVISION

#### *Article 20*

Decision 88/377/EEC is hereby repealed.

<sup>(1)</sup> OJ No L 155, 7. 6. 1989, p. 1.

## **Proposal for a Council Regulation (EEC, Euratom) establishing a Guarantee Fund**

(93/C 68/08)

*COM(93) 20 final*

*(Submitted by the Commission on 17 February 1993)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Whereas the European Council, meeting in Edinburgh on 11 and 12 December, agreed that a Guarantee Fund should be established to cover loan guarantees to non-member countries;

Whereas the general budget is exposed to increased financial risk as a result of the guarantees covering loans to non-member countries;

Whereas mechanisms currently exist for honouring guarantees when they are activated, in particular by drawing provisionally on cash resources, as provided for in Article 12 of Council Regulation No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Community's own resources <sup>(1)</sup>, as last amended by Regulation (EEC, Euratom) No ...;

Whereas it is necessary for these mechanisms to be reinforced by making provisions for the risk of default;

Whereas it is possible to meet this need by the establishment of a Guarantee Fund which may be drawn on to pay the Community's creditors direct;

Whereas the Guarantee Fund should be constituted by the gradual payment of resources; whereas the Fund will

<sup>(1)</sup> OJ No L 155, 7. 6. 1989, p. 1.

subsequently also receive interest on its invested resources and late repayments by defaulting debtors after the Fund has paid creditors;

Whereas, by reference to the practice of international financial institutions, a ratio of 10 % between the Guarantee Fund's resources and guaranteed liabilities in principal would seem adequate;

Whereas initial payments to the Guarantee Fund equal to 14 % of the amount of each operation would seem appropriate to attain this target amount;

Whereas, once this amount is attained, payments to the Guarantee Fund could then be limited to 10 % of the amount of new operations; whereas if the Guarantee Fund exceeds this amount the surplus will be paid back to the budget;

Whereas management of the Guarantee Fund by the Commission will ensure effective and rapid implementation;

Whereas the Treaties do not provide any powers other than those under Article 235 and Article 203, respectively, for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

A Guarantee Fund, hereinafter referred to as 'the Fund', shall be established, the purpose of which shall be to repay the Community's creditors direct in the event of default by the beneficiary of a lending operation guaranteed by the general budget.

The operations referred to in the first subparagraph shall be covered by the Fund only if the beneficiaries are non-member countries or a person not resident in the Community.

#### *Article 2*

The Fund shall be endowed by:

- payments from the general budget corresponding to a set percentage of each operation for a non-member country, decided on and committed by the Community and guaranteed by the budget,
- interest on Fund resources invested,
- amounts recovered from defaulting debtors where the Fund has already honoured the guarantee.

#### *Article 3*

The Fund shall rise to an appropriate level, known as 'the target amount', determined by reference to guaranteed liabilities.

The target amount shall be 10 % of the Community's outstanding liabilities in principal arising from loans and loan guarantees granted by the Community.

If, at the end of a year, the Fund exceeds this amount, the surplus shall be paid back to a special heading in the statement of revenue in the budget.

#### *Article 4*

The payments provided for under the first indent of Article 2:

- shall be equivalent to 14 % of the value of the operation until the Fund reaches its target amount,
- shall be reduced to 10 % when the target amount is reached.

#### *Article 5*

If, as a result of the activation of guarantees, resources in the Fund fall below 75 % of the target amount, the rate of provisioning on new operations shall be raised to 15 % until the target amount has been reached.

If a guarantee is activated before the Fund reaches its target amount and the resources in the Fund fall below 75 % of the target amount as a result, the rate of provisioning shall be raised to 15 % until the amount drawn has been fully restored.

If, as a result of the activation of guarantees, the resources in the Fund fall below 50 % of the target amount, the budgetary authority, acting on a proposal from the Commission, shall decide on measures to replenish the Fund.

#### *Article 6*

The Fund shall be managed by the Commission, which shall adopt rules satisfying the principles of prudence and sound financial management.

#### *Article 7*

The Commission shall, by no later than the following 31 March, send to the European Parliament, the Council and the Court of Auditors an annual report on the situation of the Guarantee Fund and the management thereof in the previous year.

#### *Article 8*

The revenue and expenditure account and the balance sheet relating to the Fund shall be attached to the Communities' revenue and expenditure account and balance sheet.

#### *Article 9*

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

**Proposal for a Council Regulation (ECSC, EEC, Euratom) amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities**

(93/C 68/09)

COM(93) 20 final

*(Submitted by the Commission on 17 February 1993)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78h thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Whereas conciliation has taken place in a conciliation committee, as provided for in the Joint Declaration of the European Parliament, the Council and the Commission of 4 March 1975 <sup>(1)</sup>;

Whereas under Council Decision ... of ... on budgetary discipline the general budget is to include a reserve for emergency aid and a reserve to guarantee Community loans and loan guarantees to non-member countries; whereas those reserves should be given recognition in the relevant provisions of the Financial Regulation; whereas provision needs to be made for the necessary budget structure in the presentation of the budget nomenclature;

Whereas the creation of the Guarantee Fund under Council Regulation (EEC, Euratom) No ... requires provisions to be included so that repayments made direct by the Guarantee Fund to lenders are recorded in the budget,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Financial Regulation is amended as follows:

1. The following paragraph 7 <sup>(2)</sup> is added to Article 19:

'7. The subsection concerning "Cooperation with developing countries and other third countries" shall include the following two reserves, the conditions for the entry, utilization and financing of which are laid down in Council Decision ... of ... [on budgetary discipline] (\*) and in Regulation (EEC, Euratom) No 1552/89:

- (a) a reserve for emergency aid for non-member countries;
- (b) a reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries.

(\*) OJ No L ...

2. The following point 6 is added to Article 20:

'6. As regards the budgetary impact of the reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries and of implementing the Guarantee Fund set up by Council Regulation (EEC, Euratom) No ... (\*\*).

(a) in the general statement of revenue:

— a heading to cover the financing of the reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries as and when it is mobilized in accordance with Article 13 of Decision ... [concerning budgetary discipline],

— a heading to record in the budget payments made by the Guarantee Fund,

— a heading to allow late repayments by defaulting recipients to be booked to the budget if they are not made direct to the Guarantee Fund in accordance with the third indent of Article 2 of Regulation (EEC, Euratom) No ... [establishing the Fund],

<sup>(1)</sup> OJ No C 89, 22. 4. 1975, p. 1.

<sup>(2)</sup> The current paragraph 7 is deleted by the proposal in COM(92) 358 of 2 September 1992.

- a heading to accommodate the repayment to the budget of any Guarantee Fund surplus in accordance with Article 14 of Decision ... [concerning budgetary discipline];

(b) in the Commission section of the statement of expenditure:

- the heading intended for the endowment of the Guarantee Fund in accordance with the provisions contained in Articles 2 and 4 of Regulation (EEC, Euratom) No ... [establishing the Guarantee Fund].

(\*\*) OJ No L ...

3. The following paragraph 11 is added to Article 26:

'11. Decisions on transfers to allow the utilization of the reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries and the reserve for emergency aid shall be taken by the budgetary authority in accordance with paragraph 5.'

4. The following Title Xa is inserted:

'TITLE Xa

**Special provisions applicable to the recording in the general budget of repayments made direct by the Guarantee Fund**

*Article 123a*

In accordance with Article 1 of Regulation (EEC, Euratom) N° ... [setting up the Guarantee Fund], the

Guarantee Fund shall make payments direct to lenders in the event that loan recipients default.

In order to record these operations in the general budget, which provides the guarantee of their performance, the following procedure shall apply:

- the amount paid by the Guarantee Fund shall be recorded by the issue of a recovery order within seven working days for the heading specifically entered for this purpose in the statement of revenue in accordance with Article 20 (6);

- at the same time as this entry in the statement of revenue, an appropriation of the same amount shall be entered under the corresponding heading in the statement of expenditure — carrying a token entry in accordance with Article 20 (5) (b) — to record the expenditure effected, in accordance with the relevant provisions in Part I of Section III of Title III.'

#### *Article 2*

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from ...

This Regulation shall be binding in its entirety and directly applicable in all Member States.

### **Proposal for a Council Regulation (EEC, Euratom) amending Regulation (EEC, Euratom) No 1552/89 implementing Decision 88/376/EC, Euratom on the system of the Communities' own resources**

(93/C 68/10)

*COM(93) 20 final*

*(Submitted by the Commission on 17 February 1993)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to Council Decision 88/376/EEC, Euratom of 24 June 1988 on the system of the

Communities' own resources <sup>(1)</sup>, and in particular Article 8 (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

<sup>(1)</sup> OJ No L 185, 15. 7. 1988, p. 24.

Whereas additional rules need to be laid down governing the arrangements whereby Member States make available to the Commission the own resources assigned to the Communities;

Whereas Council Decision ... of ... concerning budgetary discipline provides for the entry in the general budget of the European Communities of a reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries and a reserve for emergency aid;

Whereas rules need to be added to Council Regulation (EEC, Euratom) No 1552/89<sup>(1)</sup>, as last amended by Regulation (EEC, Euratom) No ... of ..., to cover the operation of these reserves,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The second subparagraph of Article 10 (3) of Regulation (EEC, Euratom) No 1552/89 is hereby replaced by the following:

'The entry in respect of the EAGGF monetary reserve referred to in Article 6 of Decision 88/376/EEC, Euratom shall be made on the first working day of the month following the charging to the budget of the expenditure concerned and shall be limited to the said expenditure if charging is effected before the 16th day of the month. If such is not the

case, the entry shall be made on the first working day of the second month after charging.

The entry in respect of the reserve to guarantee Community loans and loan guarantees to non-member countries and in those countries and the reserve for emergency aid established by Council Decision ... [concerning budgetary discipline] (\*) shall be made on the first working day of the second month following the charging to the budget of the expenditure concerned and shall be limited to the said expenditure.

By way of derogation from Article 5 of the Financial Regulation, these entries shall be taken into account in the financial year to which they relate.

However, if the situation as regards the implementation of the budget for the year is such that the entries relating to the EAGGF monetary reserve and the reserve for emergency aid are not necessary to achieve a balance between revenue and expenditure for the year, the Commission may decide to dispense with these entries or part of these entries.

(\*) OJ No L ...

#### *Article 2*

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from ... 1993.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

<sup>(1)</sup> OJ No L 155, 7. 6. 1989, p. 1.



## III

(Notices)

## COMMISSION

## System of qualification of European industries within technologies relating to controlled thermonuclear fusion

## Notice

(93/C 68/11)

## 1. Contracting entity:

Commission of the European Communities, rue de la Loi, 200, B-1049 Brussels.

## 2. Purpose of the qualification system

The purpose of the qualification system is to establish lists of European industrial firms or European groupings of industrial firms to be called for tender for the supply of prototypes and equipments in technologies which are specific to thermonuclear fusion and essential for the realization of the next generation thermonuclear experimental reactor, called the Next Step. These industrial activities will include in particular Community contributions to the engineering design activities of the International Thermonuclear Experimental Reactor ITER.

Fifteen technologies have been defined; for each, a list of qualified firms or groupings of firms will be established.

*Plasma engineering*

- 1) High power, high frequency transmission lines (in the range 120/180 GHz).
- 2) High power, high frequency sources (in the range 5/8 GHz and 120/180 GHz).
- 3) Neutral beam power supplies and high voltage components (of the order of 1 MV).

*Plasma facing components*

- 4) Tiles and coatings.
- 5) Plasma facing components models.

*Vessel, shield and blanket*

- 6) Models of vacuum vessel and of neutron shield and tritium breeding blanket segments.

*Superconducting magnets*

- 7) Strands.
- 8) Conductors.

- 9) Model coil windings.

- 10) High power electrical amplifiers.

*Remote handling equipment*

- 11) Qualification of standards and tools.

- 12) Transporters and end effectors.

*Fuel cycle*

- 13) Tritium compatible vacuum cryopumps and mechanical pumps.

- 14) Tritium compatible vacuum valves.

- 15) Components for tritium handling and atmosphere detritiation.

## 3. Rules:

European firms or groupings of firms wishing to be considered for qualification in one or several of the technologies referred to in point 2 of this Notice should, within 21 days of the publication of this Notice, write to the following address to declare their interest in being so considered:

— Commission of the European Community, General Directorate XII-Fusion Programme, Office SDME 1/131, Square de Meeus 8, B-1040 Brussels, facsimile (02) 296 42 52, telex COMEU B 21877.

In their letter, these firms or groupings of firms should specify the technology(ies) in which they are interested in seeking qualification. Further information on this system and the organization of the qualifications in these technologies will then be dispatched to those interested.

## 4. Duration:

the lists established under this qualification system will have a duration of 3 years.

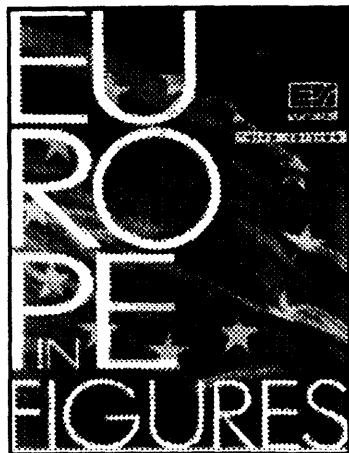
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