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Information and Notices

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I

(Information)

COMMISSION

Ecu ⁽¹⁾

29 July 1996

(96/C 221/01)

Currency amount for one unit:

Belgian and Luxembourg franc	39,2591	Finnish markka	5,79299
Danish krone	7,35398	Swedish krona	8,45181
German mark	1,90466	Pound sterling	0,824517
Greek drachma	303,628	United States dollar	1,28476
Spanish peseta	161,983	Canadian dollar	1,76603
French franc	6,46043	Japanese yen	139,281
Irish pound	0,793504	Swiss franc	1,55328
Italian lira	1961,47	Norwegian krone	8,20321
Dutch guilder	2,13862	Icelandic krona	85,1284
Austrian schilling	13,4039	Australian dollar	1,62938
Portuguese escudo	195,965	New Zealand dollar	1,84831
		South African rand	5,72683

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) and an automatic fax answering service (No 296 10 97) providing daily data concerning calculation of the conversion rates applicable for the purposes of the common agricultural policy.

(¹) 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).

**LIST OF DOCUMENTS FORWARDED BY THE COMMISSION TO THE COUNCIL
DURING THE PERIOD 8 TO 12. 7. 1996**

(96/C 221/02)

*These documents may be obtained from the Sales Offices, the addresses of which are given on the
back cover*

Code	Catalogue No	Title	Date adopted by the Commission	Date forwarded to the Council	Number of pages
COM(96) 333	CB-CO-96-333-EN-C	Amended proposal for a European Parliament and Council Decision establishing a Community action programme in the field of cultural heritage — the Raphael programme ⁽¹⁾ ⁽²⁾	5. 7. 1996	8. 7. 1996	28
COM(96) 317	CB-CO-96-324-EN-C	Amended proposal for a Council Regulation (EC) laying down certain technical measures for the conservation of fishery resources (consolidated version) ⁽¹⁾	8. 7. 1996	9. 7. 1996	55
COM(96) 323	CB-CO-96-328-EN-C	Proposal for a Council Decision on the conclusion of the Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol defining for the period 3 May 1996 to 2 May 1999 the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Republic of Angola on fishing off the coast of Angola ⁽¹⁾	9. 7. 1996	9. 7. 1996	36
		Proposal for a Council Regulation (EC) on the conclusion of the Protocol defining for the period 3 May 1996 to 2 May 1999 the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Republic of Angola on fishing off the coast of Angola ⁽²⁾			
COM(96) 319	CB-CO-96-326-EN-C	Amended proposal for a Council Decision on inter-administration telematic networks for statistics relating to the trading of goods between Member States (Edicom) ⁽¹⁾ ⁽²⁾	8. 7. 1996	10. 7. 1996	38
COM(96) 223	CB-CO-96-261-EN-C	Proposal for a Council Regulation (EC) establishing a European Agency for Veterinary and Phytosanitary Inspection ⁽¹⁾	29. 5. 1996	11. 7. 1996	20
COM(96) 318	CB-CO-96-325-EN-C	Proposal for a Council Regulation (EC) amending and updating Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 ⁽¹⁾ ⁽²⁾	10. 7. 1996	11. 7. 1996	240

Code	Catalogue No	Title	Date adopted by the Commission	Date forwarded to the Council	Number of pages
COM(96) 320	CB-CO-96-327-EN-C	<p>Second Commission report on the review of Community energy legislation ⁽¹⁾ ⁽²⁾</p> <p>Commission communication to the European Parliament and the Council concerning the repeal of several Community legislative texts in the field of energy policy ⁽²⁾ ⁽³⁾</p> <p>Proposal for a Council Regulation (EC) repealing Regulation (EEC) No 1729/76 concerning the communication of information on the state of the Community's energy supplies ⁽²⁾ ⁽³⁾</p> <p>Proposal for a Council Decision repealing Decision 77/186/EEC on the exporting of crude oil and petroleum products from one Member State to another in the event of supply difficulties ⁽²⁾ ⁽³⁾</p> <p>Proposal for a Council Directive repealing Directive 75/339/EEC obliging the Member States to maintain minimum stocks of fossil fuel at thermal power stations ⁽²⁾ ⁽³⁾</p> <p>Proposal for a Council Directive repealing Directive 75/405/EEC concerning the restriction of the use of petroleum products in power stations ⁽²⁾ ⁽³⁾</p> <p>Proposal for a Council Decision repealing recommendation 76/494/EEC on the rational use, through better driving habits, of energy consumed by road vehicles ⁽²⁾ ⁽³⁾</p>	10. 7. 1996	11. 7. 1996	26
COM(96) 334	CB-CO-96-335-EN-C	Proposal for a Council Regulation (EC) amending Regulation (EEC) No 54/93 imposing a definitive anti-dumping duty on imports of synthetic fibres of polyesters originating in India and the Republic of Korea	10. 7. 1996	11. 7. 1996	12
COM(96) 255	CB-CO-96-267-EN-C	Proposal for a Council Directive setting up a harmonized safety regime for fishing vessels of 24 metres in length and over ⁽²⁾ ⁽³⁾	11. 7. 1996	12. 7. 1996	73
COM(96) 326	CB-CO-96-337-EN-C	Proposal for a Council Regulation (EC) amending Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code	11. 7. 1996	12. 7. 1996	5

⁽¹⁾ This document contains an impact assessment on business, and in particular on SMEs.

⁽²⁾ This document will be published in the *Official Journal of the European Communities*.

⁽³⁾ Text with EEA relevance.

NB: COM documents are available by subscription, either for all editions or for specific subject areas, and by single copy, in which case the price is based pro rata on the number of pages.

**LIST OF DOCUMENTS FORWARDED BY THE COMMISSION TO THE COUNCIL
DURING THE PERIOD 15 TO 19. 7. 1996**

(96/C 221/03)

*These documents may be obtained from the Sales Offices, the addresses of which are given on the
back cover*

Code	Catalogue No	Title	Date adopted by the Commission	Date forwarded to the Council	Number of pages
COM(96) 269	CB-CO-96-334-EN-C	Proposal for a Council Decision on the conclusion, on behalf of the Community, of the Convention on cooperation for the protection and sustainable use of the Danube ⁽²⁾	11. 7. 1996	15. 7. 1996	50
COM(96) 293	CB-CO-96-299-EN-C	Amended proposal for a Council Decision on the conclusion, on behalf of the Community, of the European Convention for the protection of vertebrate animals used for experimental and other scientific purposes ⁽²⁾	16. 7. 1996	16. 7. 1996	6
COM(96) 322	CB-CO-96-351-EN-C	Proposal for a Council Decision on the conclusion by the European Community of the Interim Agreement between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and Georgia, of the other part, on trade and trade-related matters Draft Commission Decision concerning the conclusion on behalf of the European Coal and Steel Community and Euratom of the Interim Agreement between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and Georgia, of the other part, on trade and trade-related matters	10. 7. 1996	16. 7. 1996	37
COM(96) 337	CB-CO-96-338-EN-C	Report from the Commission on the operation in 1995 of the export earnings stabilization system under the fourth Lomé Convention	16. 7. 1996	16. 7. 1996	22
COM(96) 341	CB-CO-96-339-EN-C	Proposal for a Council Regulation (EC) amending Regulation (EEC) No 3528/86 on the protection of the Community's forests against atmospheric pollution ⁽²⁾ ⁽³⁾ Proposal for a Council Regulation (EC) amending Regulation (EEC) No 2158/92 on protection of the Community's forests against fire	16. 7. 1996	16. 7. 1996	47
COM(96) 343	CB-CO-96-342-EN-C	Proposal for a Council Regulation (EC) on the conclusion of an Agreement on fisheries relations between the European Community and the Republic of Latvia ⁽²⁾ ⁽³⁾	16. 7. 1996	16. 7. 1996	13

Code	Catalogue No	Title	Date adopted by the Commission	Date forwarded to the Council	Number of pages
COM(96) 348	CB-CO-96-347-EN-C	Proposal for a Council Regulation (EC) imposing a definitive anti-dumping duty on imports of polyester staple fibre originating in Belarus and collecting definitively the provisional duty imposed	16. 7. 1996	16. 7. 1996	8
COM(96) 381	CB-CO-96-371-EN-C	Amended proposal for a Council Regulation (EC) amending Regulation (EEC) 1107/70 of the Council on the granting of aid for transport by rail, road and inland waterway ⁽¹⁾ ⁽²⁾	17. 7. 1996	17. 7. 1996	3
COM(96) 336	CB-CO-96-336-EN-C	Commission communication — a code of practice on the implementation of equal pay for work of equal value for women and men ⁽¹⁾	17. 7. 1996	18. 7. 1996	19
COM(96) 308	CB-CO-96-317-EN-C	Commission communication — Europe-Asia cooperation strategy for energy	18. 7. 1996	18. 7. 1996	25
COM(96) 347	CB-CO-96-346-EN-C	Proposal for a European Parliament and Council Directive concerning the approximation of the laws, regulations and administrative provisions of the Member States to the classification, packaging and labelling of dangerous preparations ⁽²⁾ ⁽³⁾	18. 7. 1996	18. 7. 1996	110
COM(96) 349	CB-CO-96-357-EN-C	Proposal for a Council Regulation (EC) fixing special management measures for North Sea herring and modifying Council Regulation (EC) No 3074/95 ⁽¹⁾	18. 7. 1996	18. 7. 1996	12
COM(96) 355	CB-CO-96-360-EN-C	Proposal for a Council Regulation (EC) on the conclusion of an Agreement on fisheries relations between the European Community and the Republic of Estonia ⁽¹⁾ ⁽²⁾	18. 7. 1996	18. 7. 1996	13
COM(96) 362	CB-CO-96-362-EN-C	Proposal for a Council Decision replacing a member of the European Social Fund Committee	18. 7. 1996	18. 7. 1996	4
COM(96) 382	CB-CO-96-372-EN-C	Opinion of the Commission pursuant to Article 189b (2) (d) of the EC Treaty on the European Parliament's amendments to the Council's common position regarding the proposal for a European Parliament and Council Directive on energy-efficiency requirements for household electric refrigerators, freezers and their combinations ⁽¹⁾	19. 7. 1996	19. 7. 1996	4

⁽¹⁾ This document contains an impact assessment on business, and in particular on SMEs.

⁽²⁾ This document will be published in the *Official Journal of the European Communities*.

⁽³⁾ Text with EEA relevance.

NB: COM documents are available by subscription, either for all editions or for specific subject areas, and by single copy, in which case the price is based pro rata on the number of pages.

Prior notification of a concentration
(Case No IV/M.797 — GrantRail Limited)

(96/C 221/04)

(Text with EEA relevance)

1. On 24 July 1996, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾ by which the undertakings, British Steel plc and Volker Stevin (UK) Limited (controlled by Koninklijke Volker Stevin NV), acquire within the meaning of Article 3 (1) (b) of the Regulation joint control of GrantRail Limited by way of the purchase of shares in a newly created company constituting a joint venture.

2. The business activities of the undertakings concerned are:

- British Steel plc: production and distribution of steel products,
- Volker Stevin (UK) Limited: civil and railway construction,
- GrantRail Limited: construction, renewal and maintenance of railway infrastructure.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (No (32-2) 296 43 01/296 72 44) or by post, under reference IV/M.797 — GrantRail Limited, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate B — Merger Task Force,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

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

Prior notification of a concentration**(Case No IV/M.803 — Rewe/Billa)**

(96/C 221/05)

(Text with EEA relevance)

1. On 23 July 1996, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89⁽¹⁾ by which the undertaking Rewe Internationale Beteiligungs Gesellschaft mbH, Köln, controlled by Rewe Gruppe acquires within the meaning of Article 3 (1) (b) of the Regulation control of the whole of the undertaking BML Vermögensverwaltung AG, Wien (Billa Gruppe) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— Rewe Internationale Beteiligungs Gesellschaft mbH:

acquiring and financing of group companies of the Rewe Group,

— Rewe Gruppe:

coordinated group of companies active in trading, mainly food retailing,

— BML Vermögensverwaltung AG:

holding and management of subsidiaries active in trading, especially food retailing.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (No (32 2) 296 43 01/296 72 44) or by post, under reference IV/M.803 — Rewe/Billa, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate B — Merger Task Force,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

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

COMMISSION NOTICE PURSUANT TO ARTICLE 4 (1) (a) OF COUNCIL REGULATION (EEC)
No 2408/92

Imposition of public service obligations in respect of scheduled air services within France

(96/C 221/06)

(Text with EEA relevance)

1. Pursuant to Article 4 (1) (a) of Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes, France has decided to impose public service obligations in respect of scheduled air services on the following routes:

- Cayenne-Rochambeau — Saint-Georges de l'Oyapock,
- Cayenne-Rochambeau — Maripasoula,
- Cayenne-Rochambeau — Saül.

2. The public service obligations are as follows:

— *Minimum frequency:*

- The services must be operated throughout the year.
- The services must be operated at a rate of at least two return trips every day on the following routes:
 - Cayenne-Rochambeau — Saint-Georges de l'Oyapock,
 - Cayenne-Rochambeau — Maripasoula.
- The services must be operated at a rate of at least one return trip every day on the following route:
 - Cayenne-Rochambeau — Saül.

— *Type of aircraft used and capacity provided:*

- The services must be operated using an aircraft with a capacity of at least nine seats.

— *Passenger fares:*

The price of a single ticket must not exceed:

- FF 219,00, 1996 value, on the route Cayenne-Rochambeau — Saint-Georges de l'Oyapock,
- FF 304,00, 1996 value, on the route Cayenne-Rochambeau — Maripasoula,
- FF 219,00, 1996 value, on the route Cayenne-Rochambeau — Saül.

These maximum fares may be adjusted each year on the basis of changes in the retail price index over 12 months. This adjustment must be notified to the carriers operating the routes by registered mail 90 days before it takes effect. The European Commission must at the same time be informed of the adjustment, which will be published in the *Official Journal of the European Communities*.

If an abnormal and unforeseeable increase in the cost factors affecting the operation of the routes takes place for which the carriers are not responsible, the maximum fares may be raised in proportion to the increase. The new fares will be notified to the carriers operating the routes and will apply within an appropriate period. They will also be notified forthwith to the European Commission for publication in the *Official Journal of the European Communities*.

— *Freight rates:*

Freight rates in FF/kg, 1996 value, may not exceed the figures given in the schedule of rates set out below:

	Food freight		Ordinary freight	Accompanied luggage	Agrifood freight from the communes
	essential	normal			
Saint-Georges	2,32	2,90	3,30	6,25	1,45
Maripasoula	4,00	5,00	5,80	8,85	2,50
Saül	2,88	3,60	4,50	7,30	1,80

These maximum fares may be adjusted each year on the basis of changes in the retail price index over 12 months. This adjustment must be notified to the carriers operating the routes by registered mail 90 days before it takes effect. The European Commission must at the same time be informed of the adjustment, which will be published in the *Official Journal of the European Communities*.

If an abnormal and unforeseeable increase in the cost factors affecting the operation of the routes takes place for which the carriers are not responsible, the maximum fares may be raised in proportion to the increase. The new fares will be notified to the carriers operating the routes and will apply within an appropriate period. They will also be notified forthwith to the European Commission for publication in the *Official Journal of the European Communities*.

— *Continuity of service:*

Except in cases of *force majeure*, the number of flights cancelled for reasons directly attributable to the carrier must not exceed 3 % of the number of flights scheduled in any IATA scheduling season.

The carrier must give at least six months' notice before discontinuing the services.

II

(Preparatory Acts)

COMMISSION

Amended proposal for a European Parliament and Council Directive amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽¹⁾

*(96/C 221/07)**(Text with EEA relevance)**COM(96) 200 final — 95/0074(COD)**(Submitted by the Commission pursuant to Article 189a (2) of the EC Treaty on 7 May 1996)*

⁽¹⁾ OJ No C 185, 19. 7. 1995, p. 4.

INITIAL PROPOSAL

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 57 (2) and 66 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure referred to in Article 189b of the Treaty,

Whereas Council Directive 89/552/EEC ⁽¹⁾ constitutes the legal framework for broadcasting in the internal market;

⁽¹⁾ OJ No L 298, 17. 10. 1989, p. 23.

AMENDED PROPOSAL

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 57 (2) and 66 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure referred to in Article 189b of the Treaty,

Whereas Council Directive 89/552/EEC ⁽¹⁾ constitutes the legal framework for broadcasting in the internal market;

⁽¹⁾ OJ No L 298, 17. 10. 1989, p. 23.

INITIAL PROPOSAL

Whereas Article 26 of Directive 89/552/EEC states that the Commission shall, no later than the end of the fifth year after the date of adoption of the Directive, submit to the European Parliament and the Economic and Social Committee a report on the application of the Directive and, if necessary, make further proposals to adapt it to developments in the field of television broadcasting;

Whereas the application of Directive 89/552/EEC and the report on its application have revealed the need to clarify certain definitions or obligations on Member States under this Directive;

Whereas the Commission in its Communication of 19 July 1994 entitled 'Europe's way to the information society. An action' underlined the importance of a regulatory framework applying to the content of audiovisual services which would help to safeguard the free movement of such services in the Community and be responsive to the opportunities for growth in this sector opened up by new technologies, while at the same time taking into account the specific nature, in particular the cultural and sociological impact, of audiovisual programmes, whatever their mode of transmission;

Whereas the Council welcomed this action plan at its 1787th meeting on 28 September 1994 and stressed the need to improve the competitiveness of the European audiovisual industry;

Whereas the Heads of State and Government meeting at the European Council in Essen on 9 and 10 December 1994 called on the Commission to present a proposal for a revision of Directive 89/552/EEC before their next meeting;

Whereas the application of Directive 89/552/EEC has revealed the need to clarify the concept of jurisdiction as applied specifically to the audiovisual sector; whereas, in view of the case law of the Court of Justice of the European Communities, the establishment criterion should be made the principal criterion determining the jurisdiction of a particular Member State;

AMENDED PROPOSAL

Whereas Article 26 of Directive 89/552/EEC states that the Commission shall, no later than the end of the fifth year after the date of adoption of the Directive, submit to the European Parliament and the Economic and Social Committee a report on the application of the Directive and, if necessary, make further proposals to adapt it to developments in the field of television broadcasting;

Whereas the application of Directive 89/552/EEC and the report on its application have revealed the need to clarify certain definitions or obligations on Member States under this Directive;

Whereas the Commission in its Communication of 19 July 1994 entitled 'Europe's way to the information society. An action' underlined the importance of a regulatory framework applying to the content of audiovisual services which would help to safeguard the free movement of such services in the Community and be responsive to the opportunities for growth in this sector opened up by new technologies, while at the same time taking into account the specific nature, in particular the cultural and sociological impact, of audiovisual programmes, whatever their mode of transmission;

Whereas the Council welcomed this action plan at its 1787th meeting on 28 September 1994 and stressed the need to improve the competitiveness of the European audiovisual industry;

Whereas the addition of a definition of a 'television programme' shall by no means be interpreted as extending the scope of application of this Directive, to new services such as video-on-demand and online or internet-type services and whereas any legislative framework concerning new audiovisual services must be compatible with the primary objective of this Directive which is to create the legal framework for the free circulation of services;

Whereas the Heads of State and Government meeting at the European Council in Essen on 9 and 10 December 1994 called on the Commission to present a proposal for a revision of Directive 89/552/EEC before their next meeting;

Whereas the application of Directive 89/552/EEC has revealed the need to clarify the concept of jurisdiction as applied specifically to the audiovisual sector; whereas, in view of the case law of the Court of Justice of the European Communities, the establishment criterion should be made the principal criterion determining the jurisdiction of a particular Member State;

INITIAL PROPOSAL

Whereas the concept of establishment according to the criteria laid down by the Court of Justice in its judgment of 25 July 1991 in *Factortame*⁽¹⁾, involves the actual pursuit of an economic activity through a fixed establishment for an indefinite period;

Whereas the establishment of a television broadcasting organization, for the purpose of Directive 89/552/EEC, as amended by this Directive, may be determined by a series of practical criteria such as the location of the head office of the provider of services, the place where decisions on programming policy are usually taken, the place where the programme to be broadcast to the public is finally mixed and processed, provided that a significant proportion of the workforce required for the pursuit of the television broadcasting activity is located in the same Member State;

Whereas the Court of Justice has constantly held⁽²⁾ that a Member State retains the right to take measures against a television broadcasting organization that is established in another Member State but directs all or most of its activity to the territory of the first Member State if the choice of establishment was made with a view to evading the legislation that would have applied to the organization had it been established in the territory of the first Member State;

Whereas any interested party in the Community must be able to assert its rights in the competent courts of the Member State with jurisdiction over the television broadcasting organization that is failing to comply with the national provisions arising out of the application of this Directive;

⁽¹⁾ [1991] ECR I-3905, point 20.

⁽²⁾ See, in particular, the judgments in Case 33/74 (*Van Binsbergen*), [1974] ECR 1299 and in Case C-23/93 (*TV 10 SA*), [1994] ECR I-4795.

AMENDED PROPOSAL

Whereas the concept of establishment according to the criteria laid down by the Court of Justice in its judgment of 25 July 1991 in *Factortame*⁽¹⁾, involves the actual pursuit of an economic activity through a fixed establishment for an indefinite period;

Whereas the establishment of a television broadcasting organization, for the purpose of Directive 89/552/EEC, as amended by this Directive, may be determined by a series of practical criteria such as the location of the head office of the provider of services, the place where decisions on programming policy are usually taken, the place where the programme to be broadcast to the public is finally mixed and processed, and the place where a significant proportion of the workforce required for the pursuit of the television broadcasting activity is located;

Whereas the fixing of a series of material criteria is designed to determine by an exhaustive procedure that one Member State and one only is competent for a broadcaster in connection with the pursuit of the provision of the services which the directive addresses; nevertheless, taking into account the case law of the Court of Justice and so as to avoid cases where there is a vacuum of competence, if the question as to which Member State has jurisdiction cannot be determined according to these material criteria, the competent Member State is that in which the broadcaster is established within the meaning of Article 52 and the following of the EC Treaty;

Whereas the Court of Justice has constantly held⁽²⁾ that a Member State retains the right to take measures against a television broadcasting organization that is established in another Member State but directs all or most of its activity to the territory of the first Member State if the choice of establishment was made with a view to evading the legislation that would have applied to the organization had it been established in the territory of the first Member State;

Whereas directly affected third parties, including nationals of other Member States, must be able to assert their rights in the competent courts or administrative bodies of the Member State with jurisdiction over a television broadcasting organization that may be failing to comply with the national provisions arising out of the application of this Directive;

⁽¹⁾ Case C-221/89 (*Queen v. Secretary of State for Transport, ex parte Factortame*), [1991] ECR I-3905, point 20.

⁽²⁾ See, in particular, the judgments in Case 33/74 (*Van Binsbergen v. Bestuur van de Bedrijfsvereniging*), [1974] ECR 1299 and in Case C-23/93 (*TV 10 SA v. Commissariaat voor the Media*), [1994], I-4795.

INITIAL PROPOSAL

Whereas Member States are free to take whatever measures they deem appropriate with regard to broadcasts coming from third countries, and which do not satisfy the conditions laid down in Article 2 of Directive 89/552/EEC, provided they comply with Community law and the international obligations of the Community;

Whereas in order to eliminate the obstacles arising from differences in national legislation on the promotion of European works, Directive 89/552/EEC contains provisions aimed at harmonizing these regulations; whereas those provisions which, in general, permit the liberalization of trade must contain provisions harmonizing the conditions of competition;

Whereas, moreover, Article 128 (4) of the EC Treaty requires the Community to take cultural aspects into account in its action under other provisions of the Treaty;

Whereas the Green Paper on 'Strategy options to strengthen the European programme industry in the context of the audiovisual policy of the European Union' adopted by the Commission on 7 April 1994, emphasizes in particular the need to step up measures to promote European works in order to further the development of the sector;

Whereas, in addition to the considerations cited above, it is necessary to create conditions for improving the competitiveness of the programme industry; whereas the Communication on the application of Articles 4 and 5 of Directive 89/552/EEC, adopted by the Commission on 3 March 1994 pursuant to Article 4 (3), shows that the measures to promote European works can contribute to such an improvement, but that they need to be modified to take account of developments in the field of television broadcasting.

Whereas, if Article 4 of Directive 89/552/EEC, as amended by this Directive, is effectively implemented over a ten-year period, it should be possible, given the impact of the financial instruments available to the Community and the Member States, to achieve the objective of strengthening the European programme industry;

AMENDED PROPOSAL

Whereas Member States are free to take whatever measures they deem appropriate with regard to broadcasts coming from third countries, and which do not satisfy the conditions laid down in Article 2 of Directive 89/552/EEC, provided they comply with Community law and the international obligations of the Community;

Whereas in order to eliminate the obstacles arising from differences in national legislation on the promotion of European works, Directive 89/552/EEC contains provisions aimed at harmonizing these regulations; whereas those provisions which, in general, permit the liberalization of trade must contain provisions harmonizing the conditions of competition;

Whereas, moreover, Article 128 (4) of the EC Treaty requires the Community to take cultural aspects into account in its action under other provisions of the Treaty;

Whereas the Green Paper on 'Strategy options to strengthen the European programme industry in the context of the audiovisual policy of the European Union' adopted by the Commission on 7 April 1994, emphasizes in particular the need to step up measures to promote European works in order to further the development of the sector;

Whereas broadcasting organizations, programme makers, producers, authors and other experts should develop more detailed concepts and strategies aimed at developing European audiovisual fiction films that are addressed to a large audience;

Whereas, in addition to the considerations cited above, it is necessary to create conditions for improving the competitiveness of the programme industry; whereas the Communication on the application of Articles 4 and 5 of Directive 89/552/EEC, adopted by the Commission on 3 March 1994 pursuant to Article 4 (3), shows that the measures to promote European works can contribute to such an improvement, but that they need to be modified to take account of developments in the field of television broadcasting;

Whereas, if Article 4 of Directive 89/552/EEC, as amended by this Directive, is effectively implemented over a ten-year period, it should be possible, given the impact of the financial instruments available to the Community and the Member States, to achieve the objective of strengthening the European programme industry;

INITIAL PROPOSAL

Whereas it is necessary to ensure the effective application of such measures throughout the Community in order to preserve free and fair competition between firms in the same industry; whereas the application of such measures could help to reinforce mutual trust between Member States;

Whereas, at the end of the ten-year period, any national measures in this field must not interfere with the principle of free circulation of services by restricting the reception or retransmission of television broadcasts from other Member States;

Whereas the proportions of European works must be achieved taking economic realities into account; whereas, therefore, it is necessary to introduce a progressive system for achieving this objective;

Whereas account should be taken of the specific nature of transmissions broadcast only in a language other than those of the Member States;

AMENDED PROPOSAL

Whereas the *Media II* programme, which seeks to promote training and distribution in the audiovisual sector, is also designed to enable the production of European works to be developed;

Whereas it is necessary to ensure the effective application of such measures throughout the Community in order to preserve free and fair competition between firms in the same industry; whereas the application of such measures could help to reinforce mutual trust between Member States;

Whereas, at the end of the ten-year period, any national measures in this field must not interfere with the principle of free circulation of services by restricting the reception or retransmission of television broadcasts from other Member States;

Whereas the proportions of European works must be achieved taking economic realities into account; whereas, therefore, it is necessary to introduce a progressive system for achieving this objective;

Whereas account should be taken of the specific nature of transmissions broadcast only in a language other than those of the Member States;

Whereas, for the purposes of the implementation of the measures designed to promote works created by producers who are independent of broadcasters, guideline criteria are needed whereby a producer may be deemed to be independent if:

- the broadcaster holds no more than 25 % of the share capital of the production company (50 % if more than one television broadcaster is involved),
- over a three-year period the producer supplies to the same broadcaster no more than 90 % of the works produced, unless, over the same period, the producer makes only one programme or only one series,
- the producer does not hold a significant number of shares in a broadcaster;

Whereas, in applying the above criteria, due account shall be taken of specific characteristics of Member States' audiovisual systems, in particular those of Member States with a lesser audiovisual capacity or a limited language area;

Whereas Member States may also take into account the destination and ownership of secondary rights when assessing the criteria of independence;

INITIAL PROPOSAL

Whereas the question of specific time scales for each type of television showing of cinematographic works is primarily a matter to be settled by individual contracts; whereas, however, in the absence of agreements between the interested parties or professionals concerned, a schedule tailored to the needs at each stage in the showing of such works, should be drawn up;

Whereas, it is important to facilitate the development of teleshopping, an activity with an economic importance for operators as a whole and a genuine outlet for goods and services within the Community, by modifying the rules on transmission time; whereas, to ensure the full protection of consumer interests, teleshopping should be governed by a number of minimum standards regulating the form and content of broadcasts;

Whereas it is necessary to clarify the rules for the protection of the physical, mental and moral development of minors; whereas the establishment of a clear distinction between programmes that are subject to an absolute ban and those that may be authorized subject to appropriate technical means should satisfy concern about the public interest expressed by Member States and the Community;

AMENDED PROPOSAL

Whereas the question of specific time scales for each type of television showing of cinematographic works is primarily a matter to be settled by individual contracts; whereas, however, in the absence of agreements between the interested parties or professionals concerned, a schedule tailored to the needs at each stage in the showing of such works, should be drawn up;

Whereas transmission time allotted to announcements relating to programme schedules and derived products or to public service announcements and charity appeals broadcast free of charge is not to be included in the maximum amounts of daily or hourly transmission time that may be allotted to advertising and teleshopping;

Whereas, in view of the development of teleshopping, an activity with an economic importance for operators as a whole and a genuine outlet for goods and services within the Community, it is essential to modify the rules on transmission time and to ensure a high level of consumer protection by putting in place appropriate standards regulating the form and content of broadcasts;

Whereas it is necessary to clarify the rules for the protection of the physical, mental and moral development of minors, in particular with regard to programmes which might disturb them psychologically; whereas the establishment of a clear distinction between programmes that are subject to an absolute ban and those that may be authorized subject to appropriate protective measures of a technical nature or regarding the time of the broadcast should satisfy legitimate concerns; whereas moreover the latter programmes when broadcast in unencoded form should be identified through optical or acoustic means regardless of the time of the broadcast;

Whereas, since it appears possible to harmonize national rules on the protection of minors only to a limited extent owing to differences in sensibility and moral standards, the potentialities of technical filtering devices and appropriate rating systems at national and Community level, should be studied with a view to enabling parents and guardians to filter out programmes which might have a detrimental effect on the mental and physical development of minors; whereas such rating systems should involve as much as possible bodies consisting of experts (educationalists and media specialists) set up in association with the broadcasting and producing organisations themselves with appropriate support from the competent national and European authorities;

INITIAL PROPOSAL

AMENDED PROPOSAL

Whereas the Court of Justice has constantly held ⁽¹⁾ that the concept of services, as referred to in Articles 59 and 60 of the EEC Treaty, embraces the broadcasting of the television programmes, including transmission through the intermediary of cable operators; whereas in accordance with Article 3b of the Treaty action by the Community should not go beyond what is necessary to achieve its objectives in the sphere of television broadcasting; whereas the principle that Member States are free to lay down stricter or more detailed rules for the broadcasters under their jurisdiction should be reaffirmed,

Whereas Article B of the Treaty on European Union states that one of the objectives the Union shall set itself is to maintain in full the *acquis communautaire*,

⁽¹⁾ See, in particular, the judgments in Case 155/73 (Sacchi), [1974] ECR 409 and in Case 52/79 (Procureur du Roi v. Debauve), [1980] ECR 833.

Whereas the Commission, in liaison with Member State authorities, should conduct an in-depth analysis of these issues and possible measures involving:

- the requirement for new television sets to be equipped with a technical device enabling parents or guardians to filter out certain programmes,
- the setting up of appropriate rating systems,
- encouraging family viewing policies,
- other educational and awareness measures

with a view to presenting, if necessary before the deadline laid down in Article 26, the appropriate proposals for legislative or other measures.

Whereas the approach in Directive 89/552/EEC and this Directive has been adopted to achieve the essential harmonization necessary and sufficient to ensure the free circulation of television broadcasts in the Community will not be restricted for reasons which fall within the coordinated fields; whereas Member States remain free to apply to broadcasters under their jurisdiction more detailed or stricter rules in these fields; these rules, which must be compatible with Community law ⁽¹⁾, may concern, *inter alia*, the achievement of language policy goals and the taking into account of the public interest in terms of television's role as a provider of information, education, culture and entertainment and the need to safeguard pluralism in the information industry and the media;

Whereas this Directive does not affect Member States' capacity to take measures in order to ensure the protection of competition with a view to avoiding the abuse of dominant positions and/or the establishment or strengthening of dominant positions by mergers, agreements, acquisitions and similar initiatives;

Whereas Article B of the Treaty on European Union states that one of the objectives the Union shall set itself is to maintain in full the *acquis communautaire*,

⁽¹⁾ See the judgment in Case C-412/93 (Leclerc-Siplec), [1995] ECR I-179.

INITIAL PROPOSAL

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/552/EEC is amended as follows:

1. Article 1 is amended as follows:

(a) point (b) is replaced by the following:

‘(b) “television advertising” means any form of announcement broadcast in return for payment or for similar consideration by a public or private undertaking in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, or rights and obligations, in return for payment. It does not include teleshopping;’

(b) the following point (e) is added:

‘(e) “teleshopping” means television programmes and spots containing direct offers to the public with a view to the sale, purchase or rental of products or with a view to the supply of services in return for payment;’

2. Article 2 is replaced by the following:

‘Article 2

1. Each Member State shall ensure that all television broadcasts transmitted by broadcasters under its jurisdiction comply with the rules of the system of law applicable to broadcasts intended for the public in that Member State.

AMENDED PROPOSAL

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/552/EEC is amended as follows:

1. Article 1 is amended as follows:

(a) point (b) is replaced by the following:

‘(b) “television programme” within the meaning of paragraph (a) means an animated or non-animated sequence of images which may or may not be accompanied by sound.’;

(b) point (c) is replaced by the following:

‘(c) “broadcaster” means the natural or legal person who has editorial responsibility for the composition of schedules of television programmes within the meaning of paragraph (b) and who transmits them or has them transmitted by a third party.’;

(c) point (d) is replaced by the following:

‘(d) “television advertising” means any form of announcement broadcast, whether in return for payment or for similar consideration or for self-promotional purposes, by a public or private undertaking in connection with trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, or rights and obligations, in return for payment;’;

(d) point (c) in Article 1 of Directive 89/552/EEC becomes point (e);

(e) point (d) in Article 1 of Directive 89/552/EEC becomes point (f);

(f) the following point (g) is added:

‘(g) “teleshopping” means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, or rights and obligations, in return for payment.’

2. Article 2 is replaced by the following:

‘Article 2

1. Each Member State shall ensure that all television broadcasts transmitted by broadcasters under its jurisdiction comply with the rules of the system of law applicable to broadcasts intended for the public in that Member State.

INITIAL PROPOSAL

2. The broadcasters under the jurisdiction of a Member State are those established in the territory of that Member State, in which they must have a fixed establishment and actually pursue an economic activity.

3. Broadcasters established outside the territory of the Community shall also be under the jurisdiction of a Member State if they satisfy one of the following conditions:

AMENDED PROPOSAL

2. For the purpose of this Directive the broadcasters under the jurisdiction of a Member State are those established in the territory of that Member State according to paragraph 3 as well as those to whom paragraph 4 applies.

3. For the purposes of this Directive, a broadcaster is deemed to be established in a Member State in the following cases:

(a) the broadcaster has its head office in that Member State and the editorial decisions about programme schedules are taken in that Member State's territory;

(b) if a broadcaster has its head office in one Member State but editorial decisions on programme schedules are taken in another Member State, it shall be deemed to be established in the Member State where a significant part of the workforce involved in the pursuit of the television broadcasting activity operates; if a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in each of those Member States, the broadcaster shall be deemed to be established in the Member State where it has its head office; if a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in neither of those Member States, the broadcaster shall be deemed to be established in the Member State where it first began broadcasting in accordance with the system of law of that Member State, provided that it maintains a stable and effective link with the economy of that Member State;

(c) if a broadcaster has its head office in a Member State but decisions on programme schedules are taken in a non-member state, or vice-versa, it shall be deemed to be established in the Member State concerned, provided that a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in that Member State.

4. Broadcasters which are not established in the territory of a Member State according to paragraph 3 are deemed to be under the jurisdiction of a Member State in the following cases:

INITIAL PROPOSAL

- (a) they use a frequency granted by that Member State;
- (b) although they do not use a frequency granted by a Member State, they do use a satellite capacity granted by that Member State;
- (c) although they use neither a frequency nor a satellite capacity granted by a Member State, they do use a satellite up-link situated in that Member State.

4. This Directive shall not apply to broadcasts intended exclusively for reception in third countries, and which are not received directly or indirectly by the public in one or more Member States.'

3. The following Article 2a is inserted:

'Article 2a

Member States shall ensure freedom of reception and shall not restrict retransmission on their territory of television broadcasts from other Member States for reasons which fall within the fields coordinated by this Directive. They may, provisionally, take appropriate measures to restrict reception and/or suspend retransmission of television broadcasts if the following conditions are fulfilled:

- (a) a television broadcast coming from another Member State manifestly, seriously and gravely infringes Article 22 and/or Article 22a;
- (b) during the previous 12 months, the broadcaster has infringed the same provision(s) on at least two prior occasions;
- (c) the Member State concerned has notified the broadcaster and the Commission in writing of the alleged infringements and of its intention to take measures to restrict reception and/or suspend retransmission, should any such infringement occur again;
- (d) consultations with the transmitting State and the Commission have not produced an amicable settlement within 15 days of the notification provided for in point (c), and the alleged infringement persists.

AMENDED PROPOSAL

- (a) they use a frequency granted by that Member State;
- (b) although they do not use a frequency granted by a Member State they do use a satellite capacity appertaining to that Member State;
- (c) although they use neither a frequency granted by a Member State nor a satellite capacity appertaining to a Member State they do use a satellite up-link situated in that Member State.

5. This Directive shall not apply to broadcasts intended exclusively for reception in third countries, and which are not received directly or indirectly by the public in one or more Member States.'

3. The following Article 2a is inserted:

'Article 2a

Member States shall ensure freedom of reception and shall not restrict retransmission on their territory of television broadcasts from other Member States for reasons which fall within the fields coordinated by this Directive. They may, provisionally, derogate from the above if the following conditions are fulfilled:

- (a) a television broadcast coming from another Member State manifestly, seriously and gravely infringes Articles 22 or 22a;
- (b) during the previous 12 months, the broadcaster has infringed the same provision(s) on at least two prior occasions;
- (c) the Member State concerned has notified the broadcaster and the Commission in writing of the alleged infringements and of the measures it intends to take should any such infringement occur again;
- (d) consultations with the transmitting State and the Commission have not produced an amicable settlement within 15 days of the notification provided for in point (c), and the alleged infringement persists.

INITIAL PROPOSAL

The Commission shall, within no more than two months following notification of the measure taken by the Member State, take a decision on whether the measure is compatible with Community law. If it decides that it is not, the Member State will be required to put an end to the measure in question as a matter of urgency.

The provision referred to in the first paragraph is without prejudice to the application of any procedure, remedy or sanction to the infringements in question in the Member State which has jurisdiction over the broadcaster concerned.'

4. Article 3 is replaced by the following:

'Article 3

1. Member States shall remain free to require television broadcasters under their jurisdiction to comply with more detailed or stricter rules in the areas covered by this Directive. These rules, which must be compatible with Community law, may concern, *inter alia*:

- the achievement of language policy goals,
- the taking into account of the public interest in terms of television's role as a provider of information, education, culture and entertainment and the need to safeguard pluralism in the information industry and the media.

2. Member States shall, by appropriate means, ensure, within the framework of their legislation, that television broadcasters under their jurisdiction comply with the provisions of this Directive.

Each Member State shall determine the penalties applicable to television broadcasting organizations under their jurisdiction who do not comply with provisions adopted for the implementation of this Directive, which penalties shall be sufficient to enforce compliance.

3. Member States shall also provide in their legislation, as regards television broadcasting organizations under their jurisdiction, for the possibility of invoking interim measures aimed at remedying an infringement of the provisions of this Directive, if necessary by suspending the broadcasting licence.'

AMENDED PROPOSAL

The Commission shall, within no more than two months following notification of the measure taken by the Member State, take a decision on whether the measure is compatible with Community law. If it decides that it is not, the Member State will be required to put an end to the measure in question as a matter of urgency.

The provision referred to in the first paragraph is without prejudice to the application of any procedure, remedy or sanction to the infringements in question in the Member State which has jurisdiction over the broadcaster concerned.'

4. Article 3 is replaced by the following:

'Article 3

1. Member States shall remain free to require television broadcasters under their jurisdiction to comply with more detailed or stricter rules in the areas covered by this Directive.

2. Member States shall, by appropriate means, ensure, within the framework of their legislation, that television broadcasters under their jurisdiction effectively comply with the provisions of this Directive.

The measures shall include the appropriate procedures for third parties directly affected, including nationals of other Member States, to apply to the competent judicial or other authorities to seek effective compliance according to national provisions.'

INITIAL PROPOSAL

5. Article 4 is replaced by the following:

'Article 4

1. Member States shall, by appropriate means, ensure that broadcasters reserve for European works, within the meaning of Article 6, a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext and teleshopping services.

2. In the case of channels which devote at least 80 % of their transmission time, excluding the time appointed to advertising and teleshopping, to cinematographic works, drama, documentaries or animation, Member States shall allow television broadcasting organizations to choose between complying with the first paragraph or allocating 25 % of their programming budget to European works within the meaning of Article 6. For the purposes of this Directive, "programming budget" means the accounting cost of acquiring, commissioning, producing and coproducing all those programmes broadcast by the channel in question in any given year.

3. The proportions referred to in paragraphs 1 and 2 shall be attained progressively, in stages, no later than three years after the date of the first broadcast by the channel in question.

4. Channels broadcasting entirely in a language other than those of the Member States are not covered by the provisions of this Article or those of Article 5.

5. Member States shall provide the Commission with a report on the application of this Article and Article 5 every two years from the date of adoption of this Directive.

That report shall in particular include a statistical statement on the achievement of the proportion referred to in this Article and Article 5 for each of the channels falling within the jurisdiction of the Member State concerned. Member States shall notify the Commission of the reasons for the failure to attain those proportions and the measures they are taking in each case to ensure that the television broadcasting organization does actually attain them.

AMENDED PROPOSAL

5. Article 4 is replaced by the following:

'Article 4

1. Member States shall, by appropriate means, ensure that broadcasters reserve for European works, within the meaning of Article 6, a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext and teleshopping services.

2. In the case of channels which devote at least 80 % of their transmission time, excluding the time appointed to advertising and teleshopping, to cinematographic works, drama, documentaries or animation, Member States shall allow television broadcasting organizations to choose between complying with the first paragraph or allocating 25 % of their programming budget to European works within the meaning of Article 6. For the purposes of this Directive, "programming budget" means the accounting cost of acquiring, commissioning, producing and coproducing all those programmes broadcast by the channel in question in any given year.

3. The proportions referred to in paragraphs 1 and 2 shall be attained progressively, in stages, no later than three years after the date of the first broadcast by the channel in question.

4. Channels broadcasting entirely in a language other than those of the Member States are not covered by the provisions of this Article or those of Article 5.

5. Member States shall provide the Commission with a report on the application of this Article and Article 5 every two years from the date of adoption of this Directive.

That report shall in particular include a statistical statement on the achievement of the proportion referred to in this Article and Article 5 for each of the channels falling within the jurisdiction of the Member State concerned. Member States shall notify the Commission of the reasons for the failure to attain those proportions and the measures they are taking in each case to ensure that the television broadcasting organization does actually attain them.

INITIAL PROPOSAL

The Commission shall inform the other Member States and the European Parliament of the reports, which shall be accompanied, where appropriate, by an opinion. The Commission shall ensure the application of this Article and Article 5 in accordance with the provisions of the Treaty. The Commission may take account in its opinion, in particular, of progress achieved in relation to previous years, the share of first broadcast works in the programming, the particular circumstances of new television broadcasters and the specific situation of countries with a low audiovisual production capacity or restricted language area.'

6. Article 5 is replaced by the following:

'Article 5

Member States shall ensure, by appropriate means, that broadcasters reserve at least 10 % of their transmission time, excluding the time appointed to news, sports events, games, advertising, teleshopping and teletext services, or alternately, at the discretion of the Member States, at least 10 % of their programming budget, for European works created by producers who are independent of broadcasters.

This proportion must be achieved by earmarking at least 50 % for recent works, that is to say works transmitted within five years of their production.'

7. Article 6 is amended as follows:

- (a) in paragraph 1, point (a) is replaced by the following:

'(a) works originating from Member States';

AMENDED PROPOSAL

The Commission shall inform the other Member States and the European Parliament of the reports, which shall be accompanied, where appropriate, by an opinion. The Commission shall ensure the application of this Article and Article 5 in accordance with the provisions of the Treaty. The Commission may take account in its opinion, in particular, of progress achieved in relation to previous years, the share of first broadcast works in the programming, the particular circumstances of new television broadcasters and the specific situation of countries with a low audiovisual production capacity or restricted language area.'

6. Article 5 is replaced by the following:

'Article 5

Member States shall ensure, by appropriate means, that broadcasters reserve at least 10 % of their transmission time, excluding the time appointed to news, sports events, games, advertising, teleshopping and teletext services, or alternately, at the discretion of the Member States, at least 10 % of their programming budget, for European works created by producers who are independent of broadcasters.

This proportion must be achieved by earmarking at least 50 % for recent works, that is to say works transmitted within five years of their production.'

7. Article 6 is amended as follows:

- (a) in paragraph 1, point (a) is replaced by the following:

'(a) works originating from Member States';

and a new point (d) is added:

'(d) the application of the provisions of paragraphs (b) and (c) is conditional on works originating from Member States not being the subject of discriminatory measures in the third countries concerned.';

INITIAL PROPOSAL

(b) paragraph 3 is replaced by the following:

'3. The works referred to in point (c) of paragraph 1 are works made exclusively or in coproduction with producers established in one or more Member States by producers established in one or more European third countries with which the Community has concluded agreements relating to the audiovisual sector, if those works are mainly made with authors and workers residing in one or more European States.';

(c) the following paragraph 3a is inserted:

'3a. Works that are not European works within the meaning of paragraph 1 but that are produced within the framework of bilateral coproduction treaties concluded between Member States and third countries shall be deemed to be European works provided that the Community coproducers supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of the Member States.';

(d) in paragraph 4, the words 'and paragraph 3a' are added after the words 'within the meaning of paragraph 1'.

8. Article 7 is replaced by the following:

'Article 7

Rightholders and broadcasters shall agree time limits for broadcasting cinematographic works. In the absence of such agreements, television broadcasting organizations shall not broadcast any cinematographic work until the following periods have elapsed since the work was first shown in cinemas in one of the Member States:

- (a) six months for pay-per-view services;
- (b) 12 months for pay-television services other than those referred to in (a);
- (c) 18 months for services other than those referred to in (a) and (b).

Member States shall ensure that the television broadcasting organizations under their jurisdiction comply with these provisions.'

9. Article 8 is deleted.

AMENDED PROPOSAL

(b) paragraph 3 is replaced by the following:

'3. The works referred to in point (c) of paragraph 1 are works made exclusively or in coproduction with producers established in one or more Member States by producers established in one or more European third countries with which the Community has concluded agreements relating to the audiovisual sector, if those works are mainly made with authors and workers residing in one or more European States.';

(c) the following paragraph 3a is inserted:

'3a. Works that are not European works within the meaning of paragraph 1 but that are produced within the framework of bilateral coproduction treaties concluded between Member States and third countries shall be deemed to be European works provided that the Community coproducers supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of the Member States.';

(d) in paragraph 4, the words 'and paragraph 3a' are added after the words 'within the meaning of paragraph 1'.

8. Article 7 is replaced by the following:

'Article 7

Unless otherwise agreed between rightholders and broadcasters, the latter shall not broadcast any cinematographic work until 18 months have elapsed since the work was first shown in cinemas in one of the Member States.

This period shall be reduced to 12 months:

- (a) for pay-per-view and pay-television channels;
- (b) in the case of cinematographic works coproduced by the broadcaster.'

9. Article 8 is deleted.

INITIAL PROPOSAL

AMENDED PROPOSAL

10. The title of Chapter IV is replaced by the following:

‘Television advertising and sponsorship, and tele-shopping’.

11. In Article 11, paragraph 3 is replaced by the following:

9a. Article 9 is replaced by the following:

‘Article 9

This chapter shall not apply to television broadcasts intended for local audiences and that do not form of a national network.’

10. The title of Chapter IV is replaced by the following:

‘Television advertising, sponsorship and tele-shopping’.

10a. Article 10 is replaced by the following:

‘Article 10

1. Television advertising and teleshopping shall be readily recognizable as such and kept quite separate from other parts of the programme service by optical and/or acoustic means.

2. Isolated advertising spots and teleshopping spots shall remain the exception.

3. Advertising and teleshopping shall not use subliminal techniques.

4. Surreptitious advertising and teleshopping shall be prohibited.’

11. Article 11 is replaced by the following:

‘Article 11

1. Advertisements and teleshopping shall be inserted between other programmes. Provided the conditions contained in paragraph 2 to 5 of this Article are fulfilled, advertisements and teleshopping may also be inserted during programmes in such a way that the integrity and value of the programme, taking into account natural breaks in and the duration and nature of the programme, and the rights of the rightholders are not prejudiced.

2. In programmes consisting of autonomous parts, or in sports programmes and similarly structured events and performances comprising intervals, advertisements and teleshopping shall only be inserted between the parts or in the intervals.

INITIAL PROPOSAL

'3. The transmission of feature films may be interrupted once for each complete period of 45 minutes. A further interruption is allowed if their scheduled duration is at least 20 minutes longer than two or more complete periods of 45 minutes.'

12. In Article 12, the introductory words are replaced by the following:

'Television advertising and teleshopping shall not:'.

13. Articles 13 and 14 are replaced by the following:

'Article 13

All forms of television advertising and teleshopping for cigarettes and other tobacco products shall be prohibited.

Article 14

Television advertising and teleshopping for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the broadcaster falls shall be prohibited.'

AMENDED PROPOSAL

3. The transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries) provided their scheduled duration is more than 45 minutes, may be interrupted once for each period of 45 minutes. A further interruption is allowed if their scheduled duration is at least 20 minutes longer than two or more complete periods of 45 minutes.

4. Where programmes, other than those covered by paragraph 2, are interrupted by advertisements or teleshopping spots, a period of at least 20 minutes should elapse between each successive advertising break within the programme.

5. Advertisements and teleshopping shall not be inserted in any broadcast of a religious service. News and current affairs programmes, documentaries, religious programmes, and children's programmes shall not be interrupted by advertisements or by teleshopping when their scheduled duration is less than 30 minutes. If their scheduled duration is of 30 minutes or longer, the provisions of paragraphs 1 to 4 shall apply.'

12. In Article 12, the introductory words are replaced by the following:

'Television advertising and teleshopping shall not:'

and paragraph (c) is replaced by the following:

'(c) be offensive to religious, philosophical or political beliefs;'

13. Articles 13 and 14 are replaced by the following:

'Article 13

All forms of television advertising and teleshopping for cigarettes and other tobacco products shall be prohibited.

Article 14

1. Television advertising for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the broadcaster falls shall be prohibited.

INITIAL PROPOSAL

AMENDED PROPOSAL

2. Teleshopping for medicinal products and medical treatment which are subject to a marketing authorization within the meaning of Directive 65/65/EEC ⁽¹⁾ as last amended by Directive 89/343/EEC ⁽²⁾ shall be prohibited.'

14. Article 15 is amended as follows:

- (a) the introductory words are replaced by the following:

'Television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:';

- (b) points (a) to (f) are replaced by the following:

'(a) they may not be aimed specifically at minors or, in particular, depict minors consuming such beverages;

(b) they shall not link the consumption of alcohol to enhanced physical performance or to driving;

(c) they shall not create the impression that the consumption of alcohol contributes towards social or sexual success;

(d) they shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;

(e) they shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;

(f) they shall not place emphasis on high alcoholic content as being a positive quality of the beverages.'

15. Article 16 is amended as follows:

- (a) the introductory words are replaced by the following:

'Television advertising and teleshopping shall not cause moral or physical detriment to minors and shall therefore comply with the following criteria for their protection:';

14. Article 15 is amended as follows:

- (a) the introductory words are replaced by the following:

'Television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:';

- (b) points (a) to (f) are replaced by the following:

'(a) they may not be aimed specifically at minors or, in particular, depict minors consuming such beverages;

(b) they shall not link the consumption of alcohol to enhanced physical performance or to driving;

(c) they shall not create the impression that the consumption of alcohol contributes towards social or sexual success;

(d) they shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;

(e) they shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;

(f) they shall not place emphasis on high alcoholic content as being a positive quality of the beverages.'

15. Article 16 is amended as follows:

- (a) the introductory words are replaced by the following:

'Television advertising and teleshopping shall not cause moral or physical detriment to minors and shall therefore comply with the following criteria for their protection:';

⁽¹⁾ OJ No 22, 9. 2. 1965, p. 369/65.

⁽²⁾ OJ No L 142, 25. 5. 1989, p. 14.

INITIAL PROPOSAL

(b) points (a) to (d) are replaced by the following:

- '(a) they shall not directly exhort minors to buy a product or a service by exploiting their inexperience or credulity;
- (b) they shall not directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- (c) they shall not exploit the special trust minors place in parents, teachers or other persons;
- (d) they shall not unreasonably show minors in dangerous situations.'

16. Article 17 (2) is replaced by the following:

'2. Television programmes may not be sponsored by natural or legal persons whose principal activity is the manufacture or sale of products, or the provision of services, the advertising of which is prohibited by Article 13.'

17. Article 18 is replaced by the following:

'Article 18

1. The amount of advertising shall not exceed 15 % of the daily transmission time. However, this percentage may be increased to 20 % if it includes forms of advertising other than advertising spots and/or teleshopping spots inserted in a service that is not exclusively devoted to teleshopping, on condition that the amount of spot advertising does not exceed 15 %.

2. The amount of spot advertising within a given clock hour shall not exceed 20 %.'

AMENDED PROPOSAL

(b) points (a) to (d) are replaced by the following:

- '(a) they shall not directly exhort minors to buy a product or a service by exploiting their inexperience or credulity;
- (b) they shall not directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- (c) they shall not exploit the special trust minors place in parents, teachers or other persons;
- (d) they shall not unreasonably show minors in dangerous situations.'

16. Article 17 (2) is replaced by the following:

'2. Television programmes may not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products.

2a. Sponsorship of television programmes by undertakings whose activities include the manufacture or sale of medical products and medical treatment may promote the name or the image of the undertaking and may not promote specific medical products or medical treatments only available on prescription.'

17. Article 18 is replaced by the following:

'Article 18

1. The amount of transmission time of teleshopping spots, advertising spots and other means of advertising, with the exception of teleshopping windows in the sense of article 18a shall not exceed 20 % of the daily transmission time. The transmission time for advertising spots shall not exceed 15 % of the daily transmission time.

2. The amount of advertising spots and teleshopping spots within a given clock hour shall not exceed 20 %.

3. For the purposes of this article, advertising does not include announcements made by the broadcaster in connection with its own programmes.'

INITIAL PROPOSAL

18. The following Articles 18a and 18b are inserted:

'Article 18a

1. Teleshopping programmes and spots must be easily identifiable as such and if they are inserted in a service that is not exclusively devoted to this activity they must be clearly distinguished from that service's other broadcasts, including advertising broadcasts, by optical or acoustic means.

2. Teleshopping programmes and spots must comply with the provisions of the Council Directive concerning consumer protection with regard to distance selling, and in particular with those provisions that relate to information on contractual obligations.

Article 18b

1. Windows devoted to teleshopping and inserted in a service not exclusively devoted to this activity shall not exceed three hours in any 24-hour period.

2. Services devoted exclusively to teleshopping shall not be subject to any scheduling restrictions as regards time-limits.'

19. Article 19 is deleted.

20. Article 20 is replaced by the following:

'Article 20

Without prejudice to Article 3, Member States may, with due regard for Community law, lay down conditions other than those laid down in Article 11 (2) to (5) and Articles 18 and 18b in respect of broadcasts intended solely for the national territory which cannot be received, directly or indirectly, in one or more other Member States.'

21. Article 21 is deleted.

22. The title of Chapter V is replaced by the following:

'Protection of minors and public morality'.

AMENDED PROPOSAL

18. The following Article 18a is inserted:

'Article 18a

Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes. Their overall duration shall not exceed three hours per day. They must be clearly identified as teleshopping windows by optical and/or acoustic means.'

19. Article 19 is replaced by the following:

'Article 19

Articles 18 and 18a shall not apply to channels exclusively devoted to advertising and/or teleshopping.'

20. Article 20 is replaced by the following:

'Article 20

Without prejudice to Article 3, Member States may, with due regard for Community law, lay down conditions other than those laid down in Article 11 (2) to (5) and Articles 18 and 18a in respect of broadcasts intended for local audiences which cannot be received, directly or indirectly by the public, in one or more other Member States.'

21. Article 21 is deleted.

22. The title of Chapter V is replaced by the following:

'Protection of minors and public order'.

INITIAL PROPOSAL

23. Article 22 is replaced by the following:

'Article 22

1. Member States shall take appropriate measures to ensure that television broadcasts, including trailers, by broadcasters under their jurisdiction do not include programmes which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or gratuitous violence.

2. The measures provided for in paragraph 1 shall also extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts.'

24. The following Articles 22a and 22b are inserted:

'Article 22a

Member States shall ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality.

Article 22b

The Commission shall attach particular importance to application of this chapter in the report provided for in Article 26.'

AMENDED PROPOSAL

23. Article 22 is replaced by the following:

'Article 22

1. Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include any programmes, which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or gratuitous violence.

2. The measures provided for in paragraph 1 shall also extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts. Furthermore, when such programmes are broadcast in unencoded form Member States shall ensure that they are preceded by an acoustic warning or are identified by the presence of a visual symbol throughout their duration.'

24. The following Articles 22a and 22b are inserted:

'Article 22a

Member States shall ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality.

Article 22b

1. The Commission shall attach particular importance to application of this chapter in the report provided for in Article 26.

2. The Commission shall, in liaison with the competent Member State authorities, carry out an investigation of the possible advantages and drawbacks of further measures with a view to facilitating the control exercised by parents or guardians over the programmes that minors may watch.'

24a. In Article 23, paragraph 1 is replaced by the following:

'1. Without prejudice to other provisions adopted by the Member States under civil, administrative or criminal law, any natural or legal person, regardless of nationality, whose legitimate interests, in particular reputation and good name, have been damaged by an incorrect assertion in a television programme must have a right of reply or equivalent remedies. Member States shall ensure that

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the actual exercise of the right of reply is not hindered by the imposition of unreasonable terms or conditions. The reply shall be transmitted within a reasonable time subsequent to the request, in conditions as similar as possible to those of the broadcast the request refers to.'

25. Article 25 is deleted.

26. Article 26 is replaced by the following:

'Article 26

Not later than the end of the third year after the date of the adoption of this Directive and every two years thereafter, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to developments in the field of television broadcasting, in particular in the light of technological developments since its adoption.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one year after the date of its adoption. They shall immediately inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 1 point 5 shall be effectively applied for a period of ten years from the date of entry into force of this Directive.

Article 4

This Directive is addressed to the Member States.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than one year after the date of its adoption. They shall immediately inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 1 point 5 shall be effectively applied for a period of ten years from the date of entry into force of this Directive.

Article 4

This Directive is addressed to the Member States.

Amended proposal for a European Parliament and Council Directive amending Council Directive 93/6/EEC of 15 March 1993 on the capital adequacy of investment firms and credit institutions and Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field ⁽¹⁾

(96/C 221/08)

(Text with EEA relevance)

COM(96) 292 final — 95/0188(COD)

(Submitted by the Commission pursuant to Article 189a (2) of the EC Treaty on 20 June 1996)

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first and third sentences of Article 57 (2) thereof,

Having regard to the proposal from the Commission ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189b of the Treaty,

Whereas Council Directive 93/6/EEC ⁽³⁾ on the capital adequacy of investment firms and credit institutions and Council Directive 93/22/EEC ⁽⁴⁾ on investment services in the securities field were adopted on 15 March and 10 May 1993 respectively;

Whereas implementing measures are necessary for the application of Council directives on securities, securities markets and securities intermediaries, particularly in view of the need to adapt the directives to new developments in the financial sector;

Whereas in Article 10 of Directive 93/6/EEC and in Article 29 of Directive 93/22/EEC the Council retained for itself the powers to adopt implementing measures pending the adoption of a subsequent act designed to enable the Commission to exercise those powers;

Whereas, in accordance with the provisions of Article 145, third indent, of the Treaty, the Council confers on the Commission powers for the implementation of the rules which the Council lays down;

Whereas, on its second reading of the proposals for the Directives on capital adequacy and investment services the European Parliament had called for those powers to be conferred on the Commission;

Whereas it is necessary for this purpose to establish a Securities Committee to assist the Commission in these areas;

Whereas it is appropriate that implementing measures shall be taken in accordance with the procedure laid down in Article 2, procedure III, variant (a), of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾;

Whereas an agreement on a *modus vivendi* ⁽⁶⁾ between the European Parliament, the Council and the Commission concerning the implementing measures for acts adopted in accordance with the procedure laid down in Article 189b of the EC Treaty was reached on 20 December 1994;

Whereas Directives 93/6/EEC and 93/22/EEC should therefore be amended, the aforementioned Articles 10 and 29 being replaced by new articles establishing the Securities Committee and giving the Commission, assisted by that Committee, responsibility for adapting the said Directives to technical progress;

Whereas the creation of the Securities Committee necessitates a number of other amendments to Directives 93/6/EEC and 93/22/EEC in order to modify certain of their provisions put in place pending the establishment of the said Committee;

Whereas the examination of matters concerning securities, securities markets and securities intermediaries makes the exchange of views between the competent authorities and the Commission desirable; whereas it is appropriate to entrust this task also to the Securities Committee,

⁽¹⁾ OJ No C 253, 29. 4. 1995, p. 19.

⁽²⁾ OJ No C 152, 21. 6. 1990, p. 6 and OJ No C 50, 25. 2. 1992, p. 5; OJ No C 43, 22. 2. 1989, p. 7, and OJ No C 42, 22. 2. 1990, p. 7 and ...

⁽³⁾ OJ No L 141, 11. 6. 1993, p. 1.

⁽⁴⁾ OJ No L 141, 11. 6. 1993, p. 27.

⁽⁵⁾ OJ No L 197, 18. 7. 1987, p. 33.

⁽⁶⁾ OJ No C 293, 8. 11. 1995, p. 1.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Article 10 of Directive 93/6/EEC is hereby replaced by the following three articles:

'Article 10

The technical adaptations to be made to this Directive in the following areas shall be adopted in accordance with the procedure laid down in Article 10a:

- clarification of the definition in Article 2 in order to ensure uniform application of this Directive throughout the Community,
- clarification of the definitions in Article 2 to take account of developments on financial markets,
- alteration of the amounts of initial capital prescribed in Article 3 and the amount referred to in Article 4 (6) to take account of developments in the economic and monetary field,
- the alignment of terminology on and the framing of definitions in accordance with subsequent acts on institutions and related matters.

Article 10a

1. The Commission shall be assisted by a Securities Committee, hereinafter in this Article referred to as "the Committee", composed of representatives of the Member States and chaired by a representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States in the Committee shall be weighted as laid down in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the Committee's opinion or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referred to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 10b

1. The Committee may, at the request of its chairman or of one of its members, examine any question relating to the application of Community provisions concerning securities, securities markets and securities intermediaries.

2. The Committee shall not consider specific problems relating to individual cases.'

Article 2

Article 29 of Directive 92/22/EEC is hereby replaced by the following three articles:

'Article 29

The technical adaptations to be made to this Directive in the following areas shall be adopted in accordance with the procedure laid down in Article 29a:

- expansion of the list in Section C of the Annex,
- adaption of the terminology of the lists in the Annex to take account of developments on financial markets,
- the areas in which the competent authorities must exchange information as listed in Article 23,
- clarification of the definitions in order to ensure uniform application of this Directive in the Community,
- clarification of the definitions in order to take account in the implementation of this Directive of developments on financial markets,
- the alignment of terminology and the framing of definitions in accordance with subsequent measures on investment firms and related matters,
- the other tasks provided for in Article 7 (5).

Article 29a

1. The Commission shall be assisted by the Securities Committee established in Article 10a of Directive 93/6/EEC, hereinafter in this Article referred to as "the Committee", composed of representatives of the Member States and chaired by a representative of the Commission.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States in the Committee shall be weighted as laid down in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the Committee's opinion or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 29b

1. The Committee may, at the request of its chairman or of one of its members, examine any question relating to the application of Community provisions concerning securities, securities markets and securities intermediaries.

2. The Committee shall not consider specific problems relating to individual cases.'

Article 3

Article 7 (1) of Directive 93/22/EEC shall be replaced by the following:

'1. The competent authorities of the Member States shall inform the Commission:

- (a) of the authorization of any firm which is the direct or indirect subsidiary of a parent undertaking governed by the law of a third country. The Commission shall inform the Securities Committee accordingly;
- (b) whenever such a parent undertaking acquires a holding in a Community investment firm such that the latter would become its subsidiary. The Commission shall inform the Securities Committee accordingly.

When authorization is granted to any firm which is the direct or indirect subsidiary of a parent undertaking governed by the law of a third country, the competent authorities shall specify the structure of the group in the notification which they address to the Commission.'

Article 4

1. In Article 2 (12), fifth paragraph of Annex III (9) and Annex VI (9) to Directive 93/6/EEC, 'the Council and' shall be deleted.

2. In Article 7 (3) of Directive 93/6/EEC 'the Council and the Commission' shall be replaced by 'the Securities Committee'.

Article 5

This Directive is addressed to the Member States.

III

(Notices)

COMMISSION

Phare — road construction

On behalf of the Government of the Republic of Poland

The Implementing Authority for Cross-Border Cooperation Programme Phare

Council of Ministers' Office

invites contractors who meet the conditions, have sufficient experience and references to
participate in the international open tendering procedure

(96/C 221/09)

1. Participation

Participation is open on equal terms to all natural and legal persons of the Member States of the European Union and Phare/Tacis beneficiary countries.

Goods imported for the implementation of the contract must originate in 1 of these countries.

2. Subject

Construction of the approach roads to the border crossing at Gubinek - PL 9402-01-02/01.

3. Works to be performed

Construction of national road No 274 (from km 0 + 000 to km 12 + 297.78), including construction of new engineering structures:

- bridge over Lubsza River 19,30 m long, 14,62 m wide;
- bridge over Weinica River 10,14 m long, 14,62 m wide;
- roads and culvert under the road 9,4 m long, 14,62 m wide.

4. Financing of the works

The works are co-financed by the European Union under the Phare Cross Border Cooperation Programme 1994 and the use of national budget funds by the Polish Government.

5. Acquisition of tender documents and information

Interested eligible tenderers may obtain further information and purchase the complete tender documents at the address given below on workdays (between 08.00 and 15.00) upon certificate of payment of a non-refundable amount of PLN 1 000 + 22 % VAT at:

Dyrekcja Okręgowa Dróg Publicznych w Zielonej Górze, ul. Boh. Westerplatte 31, Office No 35, PL-65-950 Zielona Góra, tel. (48-68) 27 07 57, facsimile 25 34 68.

Remittances are to be made to the account of DODP Zielona Góra. NBP O.O. Zielona Góra No 97026-1892-223-1.

6. Tender bond

All tenders must be accompanied by a tender bond of 250 000 ECU in the form of a bank guarantee and should be submitted in accordance with the 'Instructions to tenderers'.

7. Submission of tenders

The tender shall be drawn up in English. The submission of offers in a Polish version would be considered an advantage. Tenders must be delivered no later than 24. 9. 1996 (10.00), local time, at:

Dyrekcja Okręgowa Dróg Publicznych w Zielonej Górze, ul. Boh. Westerplatte 31, Office No 35, PL-65-950 Zielona Góra, tel. (48-68) (0-88) 27 07 57, facsimile 25 34 68.

Tenders will be opened on 24. 9. 1996 (10.00), local time, in the presence of tenders' representatives who wish to attend.

Call for proposals for services related to the development of a mine-detection system for use in civil mine-clearance operations

Open procedure

(96/C 221/10)

1. **Adjudicating body:** The European Commission, Directorate-General IA, External Relations: Europe and the Newly Independent States, Common Foreign and Security Policy and External Missions, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel, for the attention of Mr Ivan Schroef.

Facsimile (32-2) 295 05 80.

2. **Description of the services to be provided:** CPC reference 85. To initiate the development of a mine-detection system for use in civil mine-clearance operations. It is expected that the eventual system will involve enhancement and integration of a number of different mine-detection sensors, and their refinement for operation in specific geographical regions. The objective of the call for proposals, therefore, is to:

- a) establish the management framework and overall project plan for a wider follow-on development programme,
- b) carry out supporting feasibility studies for each of the selected sensor systems (probably 3) and the multi-sensor data fusion,
- c) conduct trial measurements in a selected region (probably Bosnia).

The emphasis will be placed on assisting the most rapid development and introduction into service of enhanced, user-friendly mine-detection equipment, designed for civil use and relevant to the requirements of the terrain and environment and which will significantly increase the speed of civilian mine-clearance operations to humanitarian standards.

3. **Place of delivery:** As in 1.

4.

5. **Possibility of tendering for a part of the service:** Yes.

It is very probable that different specialist firms may wish to tender for different parts of the project shown as 2a, 2b and 2c above).

6.

7. **Date limit for the conclusion of the work:** 9 months from award of contract.

8. a) **Address for the request of tender documentation:** As in 1.

b) **Date limit for the request of tender documentation:** 14. 8. 1996 (12.00) (time of physical arrival of the request by mail of facsimile).

9. a) **Date limit for the submission of proposals:** 23. 9. 1996 (12.00) (time of physical arrival of the proposal).

b) **Address to which the proposal must be forwarded:** As in 1.

c) **Languages in which the proposal must be prepared:** Any official language of the European Union. A translation in English would be appreciated.

10. a) **Persons authorized to be present at the opening of proposals:** European Commission personnel and representatives from the proposing organizations.

b) **Date and place of the opening of proposals:** 27. 9. 1996 at the European Commission, DG IA, rue Montoyer/Montoyerstraat 34, B-1040 Bruxelles/Brussel.

11.

12. **Financing payment schedule:** Will be specified in the tender documentation.

13. **Legal status of the contractor:** Any type of public institution, private company or consortium can participate in the call for tender. In case of a consortium, 1 of the partners should be responsible for the call of tender.

14. **Appraisal of the service providers:** Will be specified in the tender dossier.

15. **Period of validity of the proposal:** 6 months from the date limit of submission.

16. **Criteria for awarding the contract:** The contract will be awarded in favour of the economically most advantageous tender on the basis of the following award criteria:

— technical experience and understanding of the subject;

- clarity, precision and efficiency of the proposals; 17., 18.
- capacity for successful completion of the project in good time;
- ease of integration into the subsequent development programme;
- price.

The Commission reserves the right not to select a contractor if the price of the offer proposed is in excess of the budget allocated to this project.

19. *Date of dispatch of this notice:* 16. 7. 1996.

20. *Date of receipt by the Office for Official Publications of the European Communities:* 16. 7. 1996.

21. The services in question are not covered by GATT.

Studies 'preparatory work for ETS'

Open call for tenders

(96/C 221/11)

1. **Awarding authority:** The European Commission, Directorate-General for Telecommunications, Information Market and Exploitation of Research, Security of Telecommunication and Information Systems, DG XIII/7 for the attention of Mme F. Allan BU-9 2/23, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.

Tel. (32-2) 296 34 59. Facsimile (32-2) 296 62 71.
Email fiona.allan@bxl.dg13.cec.be.

2. **Category of service and description:** The European Commission is, as part of its work on the security of information systems, inviting proposals to cover the lots defined in the attached terms of reference. The objective of this limited programme is, essentially, preparatory work on operational, technical and legal aspects which will form a baseline to support the action foreseen in the area of European Trust Services (ETS), which will secure information such as signatures, envelopes, registration, sealing, depositing and special delivery by electronic equivalents.

The need to complete the study of the issues within the workplan for 1996/1997 is essentially based on the growing diversity of services and applications of telematics in the security of information systems. These needs evolve with demands to reduce the threats to privacy and safety while avoiding the obstruction of innovation or economic and social developments.

The studies tackle the area of ETS infrastructure specification, design and implementation in the form of 'pilots', as well as performing studies on all following functions. The major functions of ETS addressed by this call from an organizational and management point of view are:

- 2.1 Name authentication (authentication of individuals, enterprises, names and addresses):
- 2.2 Certification (e.g. validation of a name):
- 2.3 Key management (e.g. generation of key pairs):
- 2.4 Directory management (administration of directories):
- 2.5 Inter-domain-communication (e.g. establishing links):
- 2.6 Legal services (e.g. legal acceptance of digital signatures):
- 2.7 Document transactions (electronic shares):

These functions will be analysed in 3 different lots:

Lot 1) covering functions 2.3, 2.5 and 2.7

Lot 2) covering functions 2.1, 2.2 and 2.4

Lot 3) covering function 2.6

Each lot contains part a), which asks for functional specifications, functional design, and assessment criteria.

Part b) of lot 1 and 2 requests setting up and testing of a small pilot in relation to 1 of the functions analysed in the lot.

Part b) of lot 3 requests an investigation based on currently existing and planned legal frameworks.

3. **Place of delivery:** As in 1.
- 4.
5. **Tenders:** May apply to participate in 1 or more of the above lots under separate cover.
6. **Variants:** Would not be acceptable.
7. **Time limit for completion of work:** The studies will be completed within 12 months following signature of the contract.
8. a) **Name and address of the service from which the terms of reference for the studies may be requested:** As in 1.
b) **Final date for making such requests:** 30 calendar days from date of dispatch of notice, as in 19.
c) **Requests for the terms of reference for the studies may be made by facsimile or letter:** When requests are made by facsimile, they must be confirmed by letter dispatched before the expiry of the time limit referred to in 8. b).
9. a) **Final date for submission of tenders:** 52 calendar days from date of dispatch of notice (see point 19).
b) **Name and address of the service to which proposals must be sent:** As in 1.
10. a) **Persons authorized to be present at the opening of tenders:** Official representatives of the European Commission and 1 authorized representative of each tenderer.
b) **The opening will take place on:** 1. 10. 1996 (11.00). Address: The European Commission, Directorate-General for Telecommunications, Information Market and Exploitation of Research, avenue de Beaulieu 9, Room 2/1.
11. **Guarantees:** The contractor will be asked to provide a bank guarantee of the amount equivalent to the advance paid by the European Communities upon signature of the contract.
12. **Main terms concerning financing:** The studies will receive up to 100 % funding.
13. **Legal form in the case of group bidders:** Proposals may be submitted individually or jointly. If 2 or more applicants submit a joint bid, 1 must be designated as the lead contractor and agent responsible.
14. **Information concerning the proposer's position:** The proposer will be required to provide economic and technical information for appraisal purposes. These requirements will be specified in the specifications.
15. **Validity period:** 12 months.
16. **Evaluation criteria:** Will be included in the terms of reference. Preference will be given to a combination of contractors that can demonstrate experiences in the various areas relevant to ETS and which have an European coverage.
- 17., 18.
19. **Date of dispatch of the notice:** 16. 7. 1996.
20. **Date of receipt by the Office for Official Publications of the European Communities:** 16. 7. 1996.
21. This procurement is covered by the World Trade Organisation (WTO) Government Procurement Agreement (GPA).

Study on conditions of access to China's and Korea's markets for machinery and for Japan's market for machinery covered by third-party approval — technical regulations and standards

Open invitation to tender No III/96/79

(96/C 221/12)

1. **Awarding authority:** European Commission, Directorate-General III, Industry Unit D/1 - Mechanical Engineering and Electrical Engineering, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.

Facsimile (32-2) 296 62 73.
2. **Category of service:** Study on conditions of access to China's and Korea's markets for machinery and Japan's for machinery covered by third-party approval to assess the extent to which market-access difficulties of EU exporters are due to regulations and what action, if any, might be appropriate in this regard.

The study aims at providing the Commission with details of the regulatory regime governing placing on the market and evaluation of its impact on market access for:
 1. machinery (mechanical equipment under division 29 of the NACE revision 1 except Groups 6 and 7) in:
 - a) China,
 - b) Korea,
 2. and for construction machinery; agricultural machinery; wood-working machinery and steel presses in Japan (respectively 29.5.2; 29.3.; 29.40.42; 29.40.32 under NACE Revision 1).
3. **To be delivered to:** See 1 above.
4. a) **Restricted to a particular profession:** Not applicable.
 b) **Laws regulations or administrative provisions:** Not applicable.
 c) **Names and positions of staff:** Specify where appropriate.
5. **Division into batches:** The services required includes 3 lots:

lot 1) regulatory regime governing placing on the market of machinery in China and its impact on market access,

lot 2) regulatory regime governing placing on the market of machinery in Korea and its impact on market access,

lot 3) regulatory regime governing placing on the market in Japan of construction machinery and other machinery subject to third-party certification and its impact on market access.

Candidates may submit bids for 1, several or all the above lots, but may bid for any given lot only in its entirety.
6. **Variants:** Variants are not permitted.
7. **Duration of contract:** 9 months following signature of contract.
8. a) **Name and address of the department from which the necessary documents may be obtained:** See 1 above.
 b) **Final date for submitting requests:** 6. 9. 1996.
 c) **Price of documents and payment procedures:** Free of charge.
9. a) **Final date for receipt of tenders:** 18. 9. 1996.
 b) **Address to which tenders must be submitted:** See 1 above.
 c) **Language(s) in which the tender must be drawn up:** One of the official languages of the European Union.
10. a) **Persons authorized to be present at the opening of the tenders:** Commission services, 1 representative of each tenderer may attend.
 b) **Date, time and place of the opening:** 23rd of September. Hour and place are specified in the terms of reference.
11. **Security and guarantee:** None.
12. **Principal methods of financing a payment and/or references to the texts governing them:** See specifications.
13. **Legal form required of the group of service providers awarded the contract:** No special conditions.
14. **Information on the situation of the service provider and particulars necessary for assessing the economic and technical standards required of him - selection criteria:**
 - a) CVs describing the professional capabilities of the persons responsible for providing the services.

- b) Evidence of professional experience based on similar studies.
 - c) Evidence of sufficient language skills to study local legislation and standards.
 - d) General understanding of product-safety legislation and standards.
 - e) Knowledge of the export markets concerned.
15. **Period during which the tenderer is bound to keep open his tender:** 9 months.
16. **Award criteria:**
- a) the price; and
 - b) the quality of the tender:
 - methodology proposed;
 - resources (i.e. in terms of man/months) and skills devoted.
17. **Date of publication of the prior information notice in the Official Journal:** No prior information notice has been published.
18. **Date of dispatch of the notice:** 17. 7. 1996.
19. **Date of receipt by the Office for Official Publications of the European Communities:** 17. 7. 1996.
20. **WTO Agreement:** This market is not governed by the WTO agreement.

Project development and execution of works for the head office building of the Office for Harmonization in the Internal Market (COSOAMI)

Agreement by the Supervisory Board of the Works and Services Consortium of the Office for Harmonization in the Internal Market in relation to the organization of an open invitation to tender for the drafting of a project and the construction of a head office building for the Office for Harmonization in the Internal Market in Alicante

(96/C 221/13)

The invitation to tender is issued by virtue of this notice of competition:

1. **Name, address, telephone and facsimile numbers of the awarding authority:** Works and Services Consortium of the Office for Harmonization in the Internal Market in Avda. de Aguilera, 20, segunda planta, E-03006 Alicante.

Tel. (96) 513 91 07, Facsimile (96) 513 91 62.

2. a) **Award procedure chosen:** The contract will be awarded by means of a open, public invitation to tender.
- b) **Details of the contract for which tenders are being sought:** Drafting of the project and execution of construction works for the head office building of the Office for Harmonization in the Internal Market.
3. a) **Place of execution:** Avda. de Elche, Alicante (Spain).
- b) **Nature and extent of the services and general characteristics of the works:** Drafting of the project and preparation of new plans for the first phase of the head office building of the Office

for Harmonization in the Internal Market, with a surface area comprising 15 500 m² on ground level and 16 000 m² of useful surface area under ground.

The overall value of the contract amounts to 4 427 195 690 PTA.

- c) 1 single lot.
- d) **Indications concerning the nature of the works, if these include the drawing up of plans:** The tenderers must submit, along with their tender, an overall architectural draft proposal for the final version of the building of 38 000 m² erected at ground level, to be executed in 3 phases, and the basic project of the first phase, as described in 2. b) above.
4. **Delivery period:**
- 60 working days for drafting the project,
 - 18 months for execution of the works.
5. a) **Name and address of the service from which the contract documents may be obtained:** Requests

for contract documents may be addressed to: Planos y Fotocopias L. Gomis, SL, ubicada en la calle Navas, 40 de Alicante, DP 03001, tel. (96) 520 05 58, facsimile (96) 521 20 89.

- b) The entity indicated in 5. a) will provide copies of the relevant legal and economic provisions, including the technical specifications with their appendices, against cash payment for the reproduction costs amounting to 10 000 PTA, excluding VAT.
6. a) **Deadline for the receipt of tenders:** El 22. 10. 1996, until 20.00 hours, if delivered to the head office of COSOAMI.
- b) **Address to which they must be sent:** As in 1.
- c) **Language in which they must be drawn up:** 1 of the official languages of the European Communities.
7. a) Persons admitted to the tender opening session: The tender opening session will be open to the public. Representatives of tendering organizations and the general public will be authorized to attend.
- b) **Date, time and place of the opening of tenders:** The opening of tenders will take place on 11. 11. 1996 (10.30), at the address in 1.
8. **Guarantees required:** Tenderers will be required to produce a provisional deposit of 88 543 914 PTA.
The successful contractor must produce a final deposit of 4 % and, in addition, subscribe to insurance policies listed in paragraph 20 of the relevant contract documents, specifying legal and economic provisions.
9. **Terms of financing and payment and/or references to the relevant provisions:** The contract will be financed by the COSOAMI budget, subject to the presentation of monthly invoices.
The contract is governed by the relevant contract documents, specifying legal and economic provisions, and the technical specifications of the law governing public contracts and their implementing rules.
10. **The legal form to be taken by the grouping of successful tenderers:** The written tenders submitted by provisional groupings of companies will contain the names and positions held by staff members, and the degree of participation of each member with respect to the grouping. In addition, particular reference will be made to the person or entity responsible to the awarding authority, and for the entire duration of the contract, for all members of the grouping.

Should the contract be awarded to a grouping of suppliers, the composition of the grouping must be stated in due form, with respect to the standards in force, by an official statement.

11. **Minimum economic and technical standards required by the tenderer:** Tenderers must comply with the requirements set out in paragraph 9 of the relevant contract documents, specifying legal and economic provisions. In fact, the classification to which the contractor is subject, in conformity with Spanish legislation, is as follows: Group A, sub-group 1, category e; group C, all sub-groups, category f; group I, sub-groups 1-6, category e; group J, sub-group 2, category e; group K, sub-groups 1-5-6-9, category e.
Tenderers must show evidence of their capacity to carry out the requirements of this contract, and their economic, financial and technical capacity in accordance with paragraph 11 of the relevant contract documents.
12. **Tender validity period:** 180 working days from the opening date for the submission of tenders.
13. **Contract award criteria:** The contract will be awarded having regard to the criteria listed in paragraph 11 of the relevant contract documents. A technical commission will be set up for the purpose of examining projects, and the awarding authority will be notified of the results.
14. Variants are not permitted.
15. **Other information:**
 - a) Any questions concerning the contract documents must be addressed to the awarding authority, in writing and in Spanish, no later than 26. 9. 1996; answers will also be given in writing to all persons having requested the tender documents.
 - b) Tenderers will include with their documents the model and plans mounted on rigid panels, in accordance with technical specifications of the contract documents.
 - c) Prizes for basic projects. Notwithstanding the selected project, prizes will be established for contracts of 'equal merit' for a maximum of 3 projects amounting to 3 000 000 PTA each.
 - d) The supervision of the works will be divided equally (50 %) between the contractor and COSOAMI.
16. **Date of dispatch of the notice:** 18. 7. 1996.
17. **Date of receipt by the OPEC:** 18. 7. 1996.

A pilot project on the use of active microwave satellite remote-sensing data for rapid area estimation of agricultural crops during winter and spring

(96/C 221/14)

1. **Adjudicating body:** Commission of the European Community, General-Directorate for Agriculture, VI/A/2: Statistical information, economic analysis and forecasts, Mr Saverio Torcasio, rue de la Loi 130, B-1049 Brussels.

Tel. (32-2) 295 34 40. Facsimile (32-2) 295 84 53.

2. **Service category and description:** The General-Directorate for Agriculture (DG VI) receives timely monthly estimates on the variations of area of some economically important crops from April to November. The area variation estimates are obtained on the basis of the analysis of satellite remote-sensing data collected over 60 sites in the European Union. The satellite remote-sensing data used are acquired by passive radiometers on board the Spot and Landsat satellites in the optical and infra-red parts of the electromagnetic spectrum. To complement and improve the information obtained on area variations with the optical/IR sensors, DG VI is calling for proposals for the implementation of a pilot project on the use of active microwave satellite remote-sensing data acquired by the synthetic aperture radar instruments which are part of the payload of the European remote-sensing satellites ERS-1, and ERS-2. During an 8-month period, from October to May, the pilot project will twice produce a crop classification of the 60 sites on the basis of multi-temporal ERS1/2 SAR data. The classification results will follow the standardized nomenclature currently used in the MARS (Monitoring Agriculture with Remote Sensing) activity B on 'Rapid estimates of annual crop area changes'. They will be delivered, on a per site basis, to DG VI for further statistical analysis and integration in 2 timely crop area reports. The project is not considered an operational activity, although the data acquisition, processing and interpretation task will be performed following a realistic operational schedule,

in order to evaluate a potential future operational implementation.

3. **Place of delivery:** As in 1.

4. a), b)

c) Will be specified in the tender documentation.

5. Proposals must cover all elements requested in the tender documentation.

6. Will be specified in the tender documentation.

7. **Duration of contract:** The expected duration of the contract is 9 months.

8. a) **Address for the request of the tender documentation:** As in 1.

- b) **Date limit for the request of the documentation:** 30. 8. 1996.

9. a) **Date limit for the submission of proposals:** 25. 9. 1996.

- b) **Address to which the proposals must be forwarded:** As in 1.

- 10., 11., 12., 13.

14. **Period of validity of the proposal:** 6 months.

15. **Criteria for awarding the tender:** Will be specified in the tender documentation.

- 16.

17. 18. 7. 1996.

18. 18. 7. 1996.

Study on integration of the mechanical and electrical engineering industries of Poland, Hungary, Slovakia, the Czech Republic, Bulgaria and Romania into the EU economy

Open invitation to tender No III/96/80

(96/C 221/15)

1. **Awarding authority:** European Commission, Directorate-General III, Industry Unit D/1 - Mechanical engineering and Electrical engineering, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.

Facsimile: (32-2) 296 62 73.
2. **Category of service:** Fact-finding study of the integration into the EU economy of the mechanical and electrical engineering industries of Poland, Hungary, Slovakia, the Czech Republic, Bulgaria and Romania aimed at complementing information to be provided by the countries concerned and giving the Commission an updated description of the current situation and an assessment of the prospects for:
 - a) the mechanical and electrical engineering industries in the abovementioned countries (economic and trade analysis);
 - b) the regulatory regime governing the placing on the market of mechanical and electrical engineering products in the abovementioned countries, including legislation, de facto mandatory standards and public and private certification infrastructure (regulatory analysis).
3. **To be delivered to:** As in 1.
4. a) **Restricted to a particular profession:** Not applicable.

b) **Laws, regulations or administrative provisions:** Not applicable.

c) **Names and positions of staff:** Specify where appropriate.
5. **Division into batches:** The services required include 2 lots:

lot 1) economic and trade analysis of the mechanical and electrical engineering industries in the abovementioned countries,

lot 2) regulatory regime governing the placing on the market of mechanical and electrical engineering products in the abovementioned countries, including legislation, de facto mandatory standards and public and private certification infrastructure.

The candidates may submit bids for 1, or both of the above lots, but may bid for any given lot only in its entirety.
6. **Variants:** Variants are not permitted.
7. **Duration of contract:** 9 months following signature of the contract.
8. a) **Name and address of the department from which the necessary documents may be obtained:** As in 1.

b) **Final date for submitting requests:** 6. 9. 1996.

c) **Price of documents and payment procedures:** Free of charge.
9. a) **Final date for receipt of tenders:** 18. 9. 1996.

b) **Address to which tenders must be submitted:** As in 1.

c) **Language(s) in which the tender must be drawn up:** One of the official languages of the European Union.
10. a) **Persons authorized to be present at the opening of the tenders:** Commission officials and 1 representative of each tenderer.

b) **Date, time and place of the opening:** 23. 9. 1996. Hour and place are specified in the terms of reference.
11. **Security and guarantee:** Not applicable.
12. **Principal methods of financing a payment and/or references to the texts governing them:** See specifications.
13. **Legal form required of the group of service providers awarded the contract:** No special conditions.
14. **Information on the situation of the service provider and particulars necessary for assessing the economic and technical standards required of him - selection criteria:**
 - a) CVs describing the professional capabilities of the persons responsible for providing the services.
 - b) Evidence of professional experience acquired in carrying out similar studies.

- c) Detailed list of the main services provided in areas covered by the study during the preceding 3 years.
15. **Period during which the tenderer is bound to keep open his tender:** 9 months.
16. **Award criteria:**
- a) price; and
- b) quality of the tender, in particular of the research,
- c) the resources (i.e. in terms of man/months) and skills provided.
17. **Date of publication of the prior information notice in the Official Journal:** No prior information notice has been published.
18. **Date of dispatch of the notice:** 18. 7. 1996.
19. **Date of receipt by the Office for Official Publications of the European Communities:** 18. 7. 1996.
20. **WTO Agreement:** This market is not governed by the WTO Agreement.

Technical assistance unit for the European Community investment partners ('ECIP') instrument

Open procedure

(96/C 221/16)

1. **Contracting authority:** Commission of the European Communities, Directorate-General 1 B, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.
2. **Category of service:** CPC references 865 and 866.
- Description:** Service contract for the setting up and running of a technical assistance unit ('TAU') for the ECIP instrument.
- ECIP is a European Community instrument that has, since its inception in 1988, promoted the creation of joint ventures in the developing countries of Asia, Latin America and the Mediterranean and, since 1994, in South Africa. The Commission now seeks to set up a TAU that will assist in implementing ECIP for the benefit of the countries of Asia, Latin America and the Mediterranean and for South Africa, such assistance to be provided under the control of the services of the European Commission.
3. **Place of delivery:** Brussels.
4. a) Not applicable.
- b) Not applicable.
- c) Tenderers should indicate the names and qualifications of the personnel that will be responsible for the TAU.
5. Tenderers may not tender for only part of the services required.
6. No variants will be accepted.
7. **Duration of contract:** Two years from 1. 1. 1997. At the end of this period the contract may, by agreement between the parties, be extended for a year. A maximum of 2 such 1-year extensions will be allowed.
8. a) **Name and address of the service from which the necessary documents (invitation to tender and specifications) may be requested:** Commission of the European Communities, Directorate-General IB, Unit D.3, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel (Mr Tom Roe, L-53 4/8), tel. (32-2) 299 09 26, facsimile (32-2) 299 10 34.
- Requests must be made in writing by letter, telegram or facsimile.
- b) **Final date for making such requests:** Requests for the invitation to tender and technical specifications will be admitted only if received at the address in (8. a) by 6. 9. 1996 (12.00).
- c) Not applicable.
9. a) **Final date for receipt of tenders:** 13. 9. 1996.

- b) Tenderers should send by registered post, or deliver, their tenders to the address in (8. a) above.
 - c) Tenders may be drawn up in any official language of the European Community.
10. a) Tenders will be opened by an ad hoc committee set up for this purpose. One representative of each tenderer will be permitted to attend this opening ceremony.
- b) Tenders will be opened by the abovementioned ad hoc committee on 20. 9. 1996 (09.30) at the Commission's offices at rue de la Loi/Wetstraat 53, Bruxelles/Brussel.
11. **Deposit or guarantee required:** See technical specifications.
12. **Financing and payment terms:** See technical specifications.
13. Tenderers will specify which legal form the service provider will take.
14. **Selection criteria:** The selection criteria are set out in full in the technical specifications. They require tenderers to provide, inter alia:
- a) audited financial statements;
 - b) a detailed description of their organization and activities;
 - c) a list of services similar to the undermentioned envisaged services they have provided;
 - d) a statement of their average annual manpower and the number of their managerial staff;
 - e) confirmation of their payment of social security contributions and taxes;
 - f) proof of enrolment in professional or trade registers;
 - g) evidence that they can ensure confidentiality and have no conflicts of interest.
 - h) information on the competence of the tenderer in the sector and activity in question;
 - i) information on the qualifications of the staff proposed for the activity as evidenced by their curricula vitæ;
 - j) information on the quality of the resources available to the tenderer (premises, office and computer equipment, other); and
 - k) information on the tenderers' measures for ensuring quality and timeliness.
- For further information, refer to the technical specifications.
15. **Period:** Tenderers are required to keep open their tenders for a period of 6 months from the final date for receipt of tenders in 9. a) until 13. 3. 1997.
16. **Criteria for the award of the contract:** The award will be made to the economically most advantageous tender. The award criteria are as follows:
- quality of the organization proposed by the tenderer for the TAU and its functioning;
 - methodology and content of proposed procedures for carrying out the assistance;
 - price.
17. **Other information:** See technical specifications.
18. **Date and reference of publication of the prior information notice:** OJ No C 203 of 13. 7. 1996; OJ No S 104 of 13. 7. 1996.
19. **Date of dispatch of the notice:** 18. 7. 1996.
20. **Date of receipt by the Office for Official Publications of the European Communities:** 18. 7. 1996.
21. The contract is covered by the GATT Agreement.
-

Open call for tender for technical services in the pharmaceutical sector

(96/C 221/17)

1. **Awarding authority:** The European Commission, Directorate-General III, Industry, Unit E/3 - Pharmaceutical products, for the attention of Mr Patrick Deboyser, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.

Telex COMEU B 21877. Telegraphic address: COMEUR Bruxelles.

2. **Category of service and description:**

a) Category of services:

computer services and related services, category 7, reference No CPC 88442, organization of public events.

b) Description:

this call for tenders involves 5 lots:

Lot 1 (ref. CSA96L1): EudraMat - Market transparency

General context:

The European Parliament and the Council of Ministers have called upon the Commission to establish a data base containing economic information (price, cost of treatment reimbursement rate, legal status, etc.) on medicinal products commercialized in the European Union.

Object of the procurement:

implementation of a database of pharmaceutical products for limited distribution on-line and on CD-ROM; regular provision of data; production of dissemination media.

Lot 2 (ref. CSA96L2): EudraTrack - Decision-making process

General context:

Under the new system for the authorization of medicinal products it is for the Commission to transform the scientific opinion of the EMEA (European Medicine Evaluation Agency) into binding decisions, through a regulatory committee procedure.

Object of the procurement:

Maintenance and upgrade of the EudraTrack computer system of support to the decision-making process for the authorization of medicinal products.

Lot 3 (ref. CSA96L3): EudraLex - Legislation and terminology

General context:

Applications for marketing authorization of medicinal products have to be presented in accordance with the requirements set out in the notice to applicants drawn up and published by the Commission, and taking into account the Community guidelines relating to the quality, safety and efficacy of medicinal products drawn up by the EMEA and published by the Commission. In view of the frequent changes brought to these documents, it is important to facilitate the accessibility to the latest version in an efficient manner.

Object of the procurement:

Operation, improvement and regular update of the EudraLex dissemination system that support on-line access to legislation and other relevant texts in the pharmaceutical sector.

Lot 4 (ref. CSA96L4): Technical support to ICH M2

General context:

ICH, the International Conference on Harmonization, aims at harmonizing the technical requirements for the pharmaceutical products for human use.

Object of the procurement:

Technical support in the preparation of the positions of the European Union representatives, as well as in the implementation of technical activities.

Lot 5 (ref. CSA96L5): EudraLex - Publication of documentation

General context:

The legislation and other relevant texts in the pharmaceutical sector are published in 7 volumes, 2 of them further subdivided into 2 volumes, in the 11 languages of the European Union.

Object of the procurement:

Preparation and edition of the paper version of the Rules Governing Medicinal Products in the European Community.

Lot 6 (ref. CSA96L6): EudraLex - Publication of promotional material

General context:

A number of projects are being developed by the European Commission in the pharmaceutical products sector. In particular EudraLex is targeted at facilitating the dissemination of legislation and other relevant texts.

Object of the procurement:

Preparation, production and replication of brochures and other promotional material.

3. Place of delivery: As in 1.**4. Regulatory/administrative restrictions of tenders:**
Not applicable.**5. Bids for part of the services:** Tenderers may bid for 1 or several lots. For each lot a separate quotation must be submitted.**6. Acceptance of variances:** Variants are not permitted.**7. Duration of contract:** According to the lot, as indicated in the information package.**8. Request for tender documents:**

a) Address for submission of requests: Mr R. de Raat, European Commission, DGIII/E/3, RP11 4/33, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel, facsimile (32-2) 296 15 20. Requests must be made in writing, mentioning the name and address of the persons issuing the request and referring to the lots requested.

b) Final date for submission of requests: 13. 9. 1996.

c) Documents available: interested parties are advised to request from the Commission a complete, free-of-charge information package on the tendering procedures and the specifications of the present call for tenders.

9. Submission of tenders:

a) Final date for receipt of tenders: 20. 9. 1996 (17.00).

b) Address to which tenders must be submitted: Mr R. de Raat, European Commission, DGIII/E/3, RP11 4/33, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.

c) Language in which tenders may be drawn up: Any official language of the European Union.

10. Opening of the tenders: The opening of tenders will take place on the 10th working day counting from the day after the closing date for the submission of tenders, at 10.20, at the following address:

European Commission, Rond Point Schuman 11, room 4/9, B-1049 Bruxelles.

One representative per tender is authorized to be present at the opening of tenders.

11. Deposit/guarantees required: For contracts worth over 300 000 ECU, the service provider will be required to provide a security for the initial payment.**12. Main financing and payment terms:** In line with the Commission's 'General terms and conditions for contracts'.**13. Possibility of tenders in association:** Tenderers may submit their tender(s) individually or in association with others. In the event of submission of a joint tender by several partners, 1 of them is to be designated prime contractor for the purpose of the contract(s).**14. Information on the supplier's position and formalities required:** See specifications.**15. Validity of tenders:** Tenderers are bound to keep their tender(s) open for 7 months from the date of closure of this call for tenders.**16. Contract award criteria and their order of importance:** The contract will be awarded in favour of the most economically advantageous tender on the basis of the award criteria stated in the specifications established for each lot.**17. Other information:** Further information is contained in the information package referred to in 8. a).**18. Date of publication of the prior information notice in the Official Journal:** No prior information notice has been published.**19. Date of dispatch of the notice:** 18. 7. 1996.**20. Date of receipt by the Office for Official Publications of the European Communities:** 18. 7. 1996.**21. GATT Agreement:** This market is governed by the GATT Agreement.