STATE AID
C 1/99 (N 267/98 and NN 133/98)

Ireland
(1999/C 99/02)
(Text with EEA relevance)

(Arrticles 92 to 94 of the Treaty establishing the European Community)

Commission notice pursuant to Article 93(2) of the EC Treaty to other Member States and interested parties concerning State aid which the Irish Government has granted and plans to grant to non-residential building tenants in the Customs House Docks Area in Dublin

The Commission has sent the Irish Government the following letter, informing it that it has decided to initiate proceedings pursuant to Article 93(2) of the EC Treaty.

By letter of 30 January 1998 the Irish authorities notified the scheme “Tax incentives for the Customs House Docks Area (CHDA)” in Dublin (then registered as N 91/98). The scheme provided for the following incentives:

— capital allowances (accelerated depreciation) to investors/owners of newly constructed/refurbished buildings, for which qualifying expenditure will have been incurred between 24 January 1999 and 31 December 1999.

— fiscal reliefs (double rent relief and local rates remission) in favour of the tenants in the above buildings. Tenants may also be financial services companies. According to national law currently in force, lease contracts which qualify for these reliefs may be entered into, theoretically up to 24 January 2001.

The double rent relief means that for tax purposes the enterprise is deemed to pay double the actual annual rent. The relief is granted against trading income for 10 years. The local rates remission is a relief for 10 years from local property tax. According to the Irish authorities this relief would be granted in the area in question on a sliding basis (full remission on the first year, 90% on the second year, reduction by 10% in each subsequent year until year 10 when relief of 10% is allowed. From year 11 onwards, full annual rates are payable).

All these reliefs were already provided for in the approved scheme “Incentives for development of certain inner city areas” (N 56/86, letter to the Irish authorities SG(86) D/1082, since then repeatedly modified by the Irish authorities).

The notification of 30 January 1998 has modified further the N 56/86 scheme in the following way; it has extended its geographical application and has set a date for completion of buildings eligible for capital allowances. Thus:

— the zone where the newly notified scheme applies is a new geographical extension to the CHDA. This geographical extension is not covered so far by the scheme “Incentives for development of certain inner city areas” (N 56/86) and its subsequent modifications,

— buildings eligible for capital allowances must be completed by the end of 31 December 1999 (with two exemptions for which the completion date is set in the end of June 2000).

Following discussions with the Commission, the Irish authorities informed the Commission on 8 May 1998 that they withdrew the reliefs for tenants. The scheme was re-registered as a new notification, concerning only capital allowances, with the number N 267/98. However, in a meeting of 28 July 1998 the Irish authorities stated that although they had withdrawn the reliefs in question only from the notification, in practice the reliefs to tenants continue to apply, as covered by previous Commission approval.

This position was made official in the Irish authorities' letter of 20 October 1998 where it was stated, among other arguments, that the capital allowances, double rent relief and rates remission are covered by Commission approval given in 1986 (the N 56/86, “Incentives for the development of certain inner city areas” mentioned above). The authorities stated that this scheme has since been extended as regards its geographical application and dates of termination of scheme and of enjoyment of the benefit but, according to the authorities, “this did not make a material change to the scheme to warrant notification”.

The Commission services, being unable to agree at this stage with this position of the Irish authorities, registered the above measures as a non-notified scheme (NN 133/98).

The situation, as it appears now, may be summarised as follows:

1. N 267/98 referring to the scheme as it was renotified on 8 May 1998 (N 267/98) which concerns only capital allowances for projects for which expenditure will be incurred between 24 January 1999 and 31 December 1999 in a new geographical area which is an extension to the CHDA.
2. NN 133/98 referring to all reliefs capital allowances (outside the new area) and double rent relief and rates remission (for the original and the new area) granted to or be granted to projects for which expenditure will have been incurred up to 24 January 1999 covered, according to the Irish authorities, by the Commission approval of N 56/86 in 1986.

With regard to point 1. the Commission may proceed with an assessment of its compatibility with the common market.

With regard to point 2. the Commission must verify whether all the reliefs concerned are covered by an approved aid scheme. For this purpose, the Commission had to reconstruct the facts since 1986 when the scheme N 56/86 was approved. The analysis was based on legislation, notably extracts from the relating Finance Acts sent to the Commission by the Irish authorities.

1. SCHEME N 267/98: DESCRIPTION

The legal basis of the scheme is the 1998 Finance Act, section 25. The scheme provides for capital allowances in favour of owners who are themselves the occupiers or lessors of new or newly refurbished industrial/commercial buildings in a new geographical extension to the original CHDA in Dublin. This extension is a 12 acre site in the remainder of the Worth Wall Quay area including Sherrif Street.

In order to be able to enjoy the capital allowances, the owners/investors must incur expenditure for the qualifying buildings by the 31 December 1999.

As the Irish authorities have clarified in a meeting with the Commission on 22 December 1998 (later confirmed in fax dated 24 December 1998), construction works have started and all eligible buildings will be completed by 31 December 1999, with two exemptions for which the completion date will be not later than 30 June 2000. The Irish authorities have stated that there are six candidate projects for buildings in the new area. The authorities have confirmed in their last communication of 24 December 1998, that no new contracts beyond those concerning the six cases in question will be signed.

The zone concerned is part of the Docklands area in the city of Dublin, and thus, situated in a region eligible for national regional aid on the basis of Article 92(3)(a) EC and for aid from the Structural Funds (Objective 1 area).

In the CHDA severe dereliction and decay had become established, largely due to the combination of two factors: Dublin Port moving further downstream out of that area, and the modernisation of port practices which led to the decline of the traditional port related industries. Since 1986, that area had been partially renewed through the establishment of the International Financial Service Centre (IFSC) which occupies part of it. It is underlined though, that none of the projects assisted under this scheme are in the IFSC area. An extensive land use survey carried out in 1996, found that most of the main commercial, social and cultural city centre cases are at a much lower level in that area than in Dublin’s inner city. Development in the new area in question has been virtually static since 1974.

Furthermore, a socioeconomic and employment survey carried out in the wider Docklands area found that unemployment rates are substantially higher than in Dublin City and County as a whole (30,2 % compared to 17,8 %). 250 young docklands residents are coming onto the labour market in each year from 1997 to 2001. Of the total 20 800 persons employed in the Docklands area only 8 % are also resident in the area. Social problems including high crime rates, drug dependence etc have been particularly severe in areas adjoining the new zone.

The incentives under this scheme form part of a master plan for the socioeconomic and physical regeneration of the entire Docklands area, which includes both commercial and residential developments.

Inducing the provision of high quality office accommodation to attract companies in the area in question, is part of an effort to raise the levels of working and living population and to consolidate the effect of the regeneration and regional development policies in the area. In this way the scheme is aimed to contribute to regional development.

There are certain parts in the area in which development would not have taken place without incentives (the 12 acre site has lain derelict at least since 1988). Granting incentives provides the authorities with a mechanism to encourage and control the location, the sequence and the type of development in the area in accordance with the master plan.

The beneficiaries are the investors/owners of the buildings. These cannot be property developers.

For the six projects concerned beneficiaries are companies subject to 32 % rate (top rate for service companies) or individuals subject to top income tax rate (46 %). If SMEs, they are defined according to the Commission’s recommendation for the definition of SMEs (OJ L 107, 30.4.1996, p. 4).

In specific the reliefs provided consist in the following:

— For the owner/occupant of the building:

  accelerated depreciation up to 100 % in the first year or,

  year one depreciation of 50 % and annual allowance of 4 % up to a maximum of 100 %

— For the owner lessor of the building:

  year one depreciation of 50 % and annual depreciation of 4 % up to a maximum of 100 %

In all six candidate projects the beneficiaries are owners/lessors.
It is possible to measure the intensity of the aid granted in form of capital allowances (accelerated depreciation) by comparing the advantage due to the incentive, to the advantage obtained through the normal depreciation process for such buildings in Ireland. The intensities resulting from these calculations are the following:

- Accelerated depreciation of 100% in year one:
  - For companies subject to the 32% corporation tax rate: 12.39% NGE
  - For individuals subject to the 46% income tax rate: 17.81% NGE

- Accelerated depreciation of 50% in year one and 4% in subsequent years up to 100%:
  - For companies subject to the 32% rate: 8.3% NGE
  - For individuals subject to the 46% income tax rate: 11.93% NGE

In the case of accelerated depreciation of 50% in year 1, the period for claiming the capital allowances will be 13 1/2 years. According to assurance given by the Irish authorities, proposals to shorten this period are currently being examined, they will be submitted to the Government and will be further communicated to the Commission.

The Irish authorities have given the Commission written assurance of the fact that the right to the capital allowances for all projects covered by this scheme, will be acquired before the end of 1999, i.e. before the loss of the assisted area status under Article 92(3)(a) of the area in question.

The Irish authorities have confirmed that the sectors of industrial activity where special rules and frameworks of Community law apply (among which those falling under the ECSC Treaty, the sectors of shipbuilding, motor vehicle industry, synthetic fibres, transports, of fisheries and agriculture including the sectors of processing and marketing of agricultural products (OJ C 29, 2.2.1996, p. 4)) are excluded from the application of this scheme.

The fiscal reliefs under examination may be cumulated with the regional aid (in form of grant) granted by the Irish Development Agency (IDA). For the moment, the IDA grant is foreseen only for one of the five projects already known to the national authorities.

In order to measure the intensity of the cumulated aid that a beneficiary has received, the Irish authorities add the discounted cost of the IDA grant (where applicable) to the discounted cost of the tax incentives and divide the sum by the discounted cost of the total fixed assets (building costs) to arrive at a percentage net grant equivalent figure.

The Irish authorities have confirmed that they will duly monitor the implementation of the scheme in the whole course of its application, in order to ensure that neither the intensity of the reliefs included in this scheme nor the cumulated intensity of the overall aid granted to the beneficiaries will exceed the regional aid ceiling which is also the cumulation aid intensity ceiling for the region i.e. 57.3% NGE (State aid N 267.88, SG(88) D/14386, 8.12.1988).

Particularly as regards monitoring, the Irish authorities have also stated the following:

The Minister of Environment and Local Government will require all beneficiaries to submit details annually of the amount of capital allowances claimed. The relating figures will be communicated to the Commission in detailed annual reports.

The Irish authorities have also clarified what happens to the capital allowances in case the owner sells the building during the write-off period. Indeed, if the sales price equals the written-down value for tax purposes due to capital allowances, the remainder of the capital allowances passes on to the new owner, who is entitled to claim them on an annual straight line basis for the remaining tax life of the building. If the sales price exceeds the written-down value for tax purposes, the capital allowances in the excess price are withdrawn from the old owner and transferred to the new owner.

Furthermore, it is specified that the leasing contracts between building owners and tenants will be long-term ones (duration beyond five years). If, for any reason, such commitment to lease the premises for a long term (more than five years) is not honoured, then the aid paid by way of capital allowances will be repaid. Moreover, it is excluded that the tenants receive investment aid in relation to the buildings in respect of which investment aid has already been granted.

The Irish authorities estimate the cost of the discounted accelerated capital allowances to amount to a maximum of IEP 68.21 million (approximately EUR 85.5 million).

2. SCHEME NN 133/98: RECONSTRUCTION OF FACTS

In 1986, the Commission approved the scheme N 56/86 “Incentives for development of certain inner city areas”. Part of the CHDA in Dublin was already included together with other zones. The incentives provided were local rates remission, capital allowances and double rent relief on the basis of the Finance Act 1986. According to the approved scheme, the double rent relief is granted for rental agreements entered into by traders within five years of the approval of a planning scheme for the site.

In 1990, following request by the Commission the Irish authorities communicated certain modifications of the N 56/86, namely, extensions of the termination date for capital allowances, first up to 31 May 1991 and subsequently up to 31 May 1993 as well as geographical extensions. The reliefs remained the same. The Commission did not react to this communication.

The 1994 Finance Act modified the above, by extending the termination date for eligibility or capital allowances to 24 January 1997. The following clause was added with regard to the CHDA (The Commission could not conclude on the basis of the material available whether this clause was valid also for other zones concerned):
a lease for double rent relief purposes may be entered into for up to two years after termination date of tax incentive scheme (i.e. up to 24 January 1999).

These modifications were not notified to the Commission.

The 1995 Finance Act modified the above, by extending the termination date for capital allowances eligibility to 24 January 1999. This means that on the basis of the above clause, lease contracts for double rent relief purposes may be entered into up to 24 January 2001.

This modification was also not notified to the Commission.

APPRAISAL:

1. SCHEME N 267/98

The Irish authorities have duly notified the scheme under examination to the Commission on the basis of Article 93(3) of the EC Treaty.

The scheme in question provides to certain undertakings or individuals investing in the zone concerned, an economic advantage in form of tax saved through accelerated depreciation. Given the fact that this scheme is not limited to sectors or undertakings which, by their nature, are not involved in trade between Member States, there is a potential that this scheme produces an effect on trade between Member States. Therefore, it constitutes a State aid in the sense of Article 91(1) of the EC Treaty. The scheme in question is subject to a course in calculation and implementation of the scheme will take place before 30 June 2000. In all cases the right to claim capital allowances will be acquired before the end of 1999, i.e. before the loss of the assisted area status of the area in question, currently based on Article 92(3)(a) of the EC Treaty.

However, the Commission decided to apply the derogation provided in Article 92(3)(a) of the EC Treaty on the basis of the following considerations:

— The whole of Ireland qualifies on the basis of Article 92(3)(a) as an assisted region for national regional aid (area where the standard of living is abnormally low or where there is serious underemployment (Commission Decision in State aid N 267/88, letter to the Irish Government SG(88) D/14386, 8 December 1988) and for the purposes of the Structural Funds (Objective 1 region).

— The tenants will stipulate long term leasing contracts with the building owners (duration beyond five years). The commitment to a long term leasing contracts will be plausible having regard to the nature of the occupier's business and all the circumstances of the case. If, for any reason, the commitment to stipulate long term leasing contracts with the tenants is not honoured, then the aid paid by way of capital allowances will be repaid. In these circumstances, the capital allowances in question, having regard to the arrangements as a whole, can be considered to constitute investment aid granted to investors in the construction or refurbishment of buildings in the area, in compliance with the definition of "initial investment" as laid down in the Commission guidelines on national regional aid. Indeed, the building owner receives the incentive of accelerated depreciation related to its investment, an operation which adds value and changes dramatically a fixed asset (land/building) through construction or refurbishment, whilst assuring sustained occupation of the development. The asset-building allows the developer to carry out a task consisting in the provision of office space, to be occupied for sufficiently long time, in an underdeveloped area, designated for regional aid. Furthermore, there will be no double granting of aid, that is occupiers will not receive investment aid in relation to buildings in respect of which investment aid has already been granted. The Irish authorities have provided evidence in support of the fact that the market forces alone would not have sufficed in reaching this result in the area in question and thus, an incentive is needed to stimulate investors.

— When SMEs are the beneficiaries they will be defined according to the Commission recommendation for the definition of SMEs (referred to above).

— The intensity of this aid, expressed as a percentage of investment costs, is measurable and found to be far below the regional aid ceiling established for Ireland with the abovementioned Commission Decision (N 267/88).

— The Commission takes note of the fact that there are going to be only six building projects eligible for capital allowances in the area in question. Construction works are currently in course and the Irish authorities have provided written assurance that the works will be completed by the end of 1999 with the exemption of two cases where completion will take place before 30 June 2000. In all cases the right to claim capital allowances will be acquired before the end of 1999, i.e. before the loss of the assisted area status of the area in question, currently based on Article 92(3)(a) of the EC Treaty.

— The Commission notes in particular the fact that no contracts will be signed allowing eligibility for the capital allowances, others than those relating to the six projects in question. Thus, the number of beneficiaries who will be offered access to this aid, in a period which precedes the change in the status as assisted region of the area in question, is limited and known to the Commission.

— Note is also taken of the fact that beneficiaries will only be companies taxed at the top corporation tax rate or individuals taxed at the top income tax rate. The Commission also notes that none of the projects assisted under the scheme are in the IFSC area. Companies liable to the 10 % corporation tax rate as well as property developers do not qualify.

— According to written assurance and methodological explanations given by the Irish authorities, the regional aid ceilings and aid accumulation ceilings established for Ireland in the abovementioned Decision (N 267/88) will be respected, and the implementation of the scheme will be duly monitored for this purpose.
The Irish authorities will submit detailed annual reports on the implementation of the scheme.

The Commission takes note of the fact that the sectors of industrial activity where special rules and frameworks of Community law apply (among which those falling under the ECSC Treaty, the sectors of shipbuilding, motor vehicle and synthetic fibres, transports, of fisheries and agriculture including the sectors of processing and marketing of agricultural products listed in Annex II to the EC Treaty (OJ C 29, 2.2.1996, p. 4)) are excluded from the application of this scheme.

Finally, the Commission notes that the Irish authorities engage themselves to observe the rules governing the combination of aids, whether such combination involves aids for different purposes (OJ C 3, 5.1.1985) or aids for the same purpose under schemes adopted by the same entity or by different entities (central, regional and/or local). In the latter case the combined aid must not exceed the highest ceiling for the different schemes introduced.

2. SCHEME NN 133/98

This part of the appraisal is concerned with the reliefs for building owners (capital allowances) in the original CHDA and the reliefs for tenants (double rent relief and rates remission) in the original CHDA and in the new extension, as these reliefs are defined in the approved N 56/86 and its subsequent modifications. The Irish authorities have stated that this legal basis, as modified subsequently, covers the projects for which expenditure will have been incurred before 24 January 1999, also if this expenditure has been incurred in the new geographical extension of the CHDA, notified on 30 January 1998.

Existence of State aid

It was already recognised in the Commission Decision approving the scheme N 56/86, that the 1986 Urban Act, that the reliefs granted to commercial and industrial building owners as well as to business tenants constitute State aid in the sense of Article 92(1) of the EC Treaty.

Coverage by the Commission approval of N 56/86

Approval under the 1986 decision was given for specific areas. Beneficiaries which have been granted capital allowances, double rent relief and rates remissions rights, on the basis of this approval decision, are covered by it.

The modification of the above (first an extension of the expiry date of the scheme to 31 May 1991, secondly an extension of the geographical areas where the incentives could apply in 1988, and thirdly geographical extensions as well as extension of the scheme expiry date to 31 May 1993 by means of the Finance Act 1990) were communicated to the Commission following request by the Commission itself. The Commission failed to react to this communication.

As regards the modifications introduced in 1994 and 1995 (extensions of termination dates and new formulation of the clause for eligibility of lease contracts for tenants' reliefs), these were never notified to the Commission.

Consequently, the reliefs granted under the 1994 and 1995 Finance Acts also in the geographical extension provided in the scheme N 267/98, to all projects for which expenditure will have been incurred up to 24 January 1999, constitute non notified and therefore illegal aid.

Compatibility of the aid with the common market

(a) Capital allowances

The modifications made with regard to the scheme N 56/86 did not concern the terms for the granting of the capital allowances to non-residential building owners. The capital allowances have been granted under the same terms (aid intensity, respect of ceilings, types of beneficiaries) which have been re-iterated in the notification of N 267/98. As regards the beneficiaries it is noted that there has been one liable to the 10 % rate of corporation tax, as manufacturing company.

In the meeting with the Commission on 22 December 1998 and in their last communication of 24 December 1998, the Irish authorities provided the complete list of projects which benefited or will benefit from the capital allowances in the original CHDA and confirmed the following: for non-completed projects the deadline for completion will also be 31 December 1999. Two of the projects will be completed not later than the end of June 2000; beyond the projects known to the Commission, no new contracts will be signed. In all cases the right to the capital allowances will be acquired before the end of 1999, i.e. before the loss of assisted area status of the area in question, currently based on Article 92(3)(a) of the EC Treaty.

As regards the sectors and activities where special Community law rules apply with respect to State aid, including the processing and marketing of agricultural products listed in Annex II to the EC Treaty, the Irish authorities had taken a commitment in 1986, to respect such rules in the implementation of the scheme.

In view of this, and by applying the reasoning illustrated above for the appraisal of the scheme N 267/98, the Commission may accept this aid under Article 92(3)(a) of the EC Treaty.

(b) Reliefs for tenants

The Commission has doubts as to the compatibility of this aid with the common market. It is the Commission's view that the double rent relief and the rates remission constitute operating
aid because they support the ordinary taxation burdens of a company, which is not the original investor in the premises but only a tenant.

No derogation among those provided under Article 92(2) applies to this aid. Article 92(3)(b) cannot apply because the aid is not aimed to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State. Article 92(3)(c) (aid to facilitate the development of certain economic activities) cannot apply because this is not the purpose of the scheme. Article 92(3)(c) (aid to facilitate the development of certain economic areas) also does not apply, because the areas where the scheme is applicable are not eligible for national regional aid on the basis of this derogation. Finally, Article 92(3)(d) does not apply since the aid in question is not aimed to promote culture and heritage conservation.

The only possibility for a derogation from Article 92(1) of the EC Treaty in relation to this aid would be the one provided under Article 92(3)(a) of the EC Treaty (aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment). This is possible first, because Ireland as a whole qualifies as an assisted area for national regional aid on the basis of this Article. Secondly, because, according to the 1988 communication on the method for the application of Article 92(3)(a) and (c) to regional aid and specifically point 6 concerning the range of aid instruments required to promote regional development in Article 92(3)(a) areas (OJ C 212, 12.8.1988), it is accepted that the Commission may, by way of derogation, authorise certain operating aid in Article 93(2)(a) regions under certain conditions which must be proven by the Member State:

— the aid must be limited in time and designed to overcome the structural handicaps of enterprises located in these regions,

— the aid must be designed to promote a durable and balanced development of economic activity and not give rise to overcapacity at the Community level such that the resulting Community sectoral problem produced is more serious than the original regional problem; in this context a sectoral approach is required and in particular the Community rules, directives and guidelines applicable to certain industrial (steel, shipbuilding, synthetic fibres, textile and clothing) and agricultural sectors, and those concerning certain industrial enterprises involving the processing of agricultural products are to be observed,

— that such aid is not granted in violation of the specific rules on aid granted to companies in difficulties,

— that an annual report on their application is sent to the Commission, indicating total expenditure (or loss of revenue in the case of tax concessions and social security reductions) by type of aid and an indication of the sectors concerned,

— that aid designed to promote exports to other Member States is excluded.

It is worth noting that the 1988 communication mentioned above, recognises that in the early stages of development (of the Article 92(3)(a) regions) maintenance of existing investment, perhaps on a short or medium-term basis, can form a sine qua non for the attraction (through operating aid) of new investment which will help in turn to develop the region. Considering that in 1994, the regions concerned were no longer in the early stages of their development and also that the operating aid awarded through the reliefs for tenants is enjoyed for 10 years, the Commission at this stage, has doubts as to how the repetitive geographical and time extensions of a scheme with long-lasting effects could correspond to the above position taken in the 1988 communication.

The Commission did not have the opportunity to assess the Irish authorities arguments on the justification of operating aid. The Commission has now doubts as to the compatibility of the reliefs for tenants under the 1994 and 1995 Finance Act, with the common market.

Additionally, the Commission needs clarifications concerning the areas throughout the territory of Ireland where the reliefs in question may apply and also the exact modalities of the application of the clause for eligibility of lease contracts to the reliefs offered by the scheme.

In view of the appraisal illustrated above the Commission has taken the following decisions:

As regards the scheme N 267/98

I have the honour to announce to you that the Commission decided to approve the scheme in question on the basis of Article 93(2)(a) of the EC Treaty.

The Irish authorities are requested to provide an annual report concerning the implementation of the scheme.

As regards the scheme NN 133/98

The Commission regrets the fact that the reliefs provided in this scheme were implemented without having been notified on the basis of Article 93(3) of the EC Treaty and approved by the Commission.

In specific with regard to:

(a) Capital allowances

I have the honour to announce to you that the Commission has decided to approve the capital allowances granted to
building owners in relation to projects for which expenditure will have been incurred up to 24 January 1999 on the basis of the Finance Acts of 1994 and 1995.

The Irish authorities are requested to provide an annual report concerning the granting of this incentive.

(b) Reliefs for tenants

As regards the reliefs granted to tenants on the basis of the Finance Acts of 1994 and 1995, the Commission has decided to initiate the Article 93(2) procedure and requests the Irish authorities to submit their comments and furnish all such information as may help to evaluate the scheme in question, within one month following the date of receipt of this letter. In particular the Irish authorities should provide the arguments showing that the conditions for the granting of operating aid in the zones in question, as delineated in the 1988 communication, are fulfilled. The Irish authorities are also requested to provide a list of the eligible areas, as well as information on the modalities of the application of the clause for eligibility of lease contracts to the reliefs for tenants offered by the scheme.

The Commission wishes to remind the Irish authorities that Article 93(3) of the EC Treaty has a suspensive effect and would draw your attention to the letter sent to all Member States on 22 February 1995, stating that all aids granted unlawfully could be recovered from the recipient according to the relevant provisions of national law; the amounts thus recovered will include interest calculated on the basis of the reference rates used to calculate the grant-equivalent for the purposes of regional aids, running from the date on which the aid was paid to the recipient until the date of actual recovery.

The Commission warns the Irish authorities that it will inform interested parties by publishing this letter in the Official Journal of the European Communities. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a Notice in the EEA supplement to the Official Journal of the European Communities and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month following the date of such publication.

The comments will be communicated to the Irish Government.

If this letter contains confidential information which should not be published, please inform the Commission within fifteen working days from the date of receipt. If the Commission does not receive a reasoned request by the stipulated deadline, you will be deemed to agree to publication of the full text of this letter. Your request specifying the relevant information should be sent by registered letter or fax to:

European Commission,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels,
Fax (32-2) 296 98 15.

The Commission hereby gives notice to the other Member States and interested parties to submit their comments on the aid in question within one month following the date of this Notice to the following address:

European Commission,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels,
Fax (32-2) 296 98 15.

These comments will be communicated to Ireland.