II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 30 October 2002

on State aid implemented by Germany for the Leuna 2000 refinery

(notified under document number C(2002) 4038)

(Only the German text is authentic)

(Text with EEA relevance)

(2003/281/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By letter dated 19 August 1997, registered under the number SG(97) D/7156, the Commission informed Germany that it had decided on 23 July 1997 to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of aid granted to the Leuna 2000 refinery in Saxony-Anhalt.

(2) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* [2]. The Commission invited interested parties to submit their comments on the aid.

(3) The Commission received four sets of comments from interested parties. It forwarded them on 6 March 1998 to Germany, which was given the opportunity to react. A response was received from Germany by letters dated 8 April 1998 and 15 May 1998.

(4) On 17 February 1999, the Commission decided to send an injunction requiring Germany to provide certain information.

(5) The Commission sent letters to the German authorities on 19 August 1997, 4 February 1998, 6 March 1998, 7 April 1998, 26 May 1998, 29 May 1998, 23 June 1998, 15 July 1998, 29 July 1998, 16 September 1998, 17 September 1998, 28 January 1999, 17 March 1999, 22 March 1999, 29 April 1999, 15 May 1999, 29 June 1999, 31 October 2000 and 27 November 2000.

(6) The Commission sent to letters to Elf on 31 July 1998, 16 September 1998, 23 September 1998, 4 January 1999, 15 January 1999, 4 February 1999, 24 February 1999, 13 October 1999, 21 January 2002 and 11 April 2002.

(7) The Commission received correspondence from Germany by letters dated 5 September 1997, 18 September 1997, 6 November 1997, 11 February 1998, 9 March 1998, 8 April 1998, 24 April 1998, 15 May 1998, 19 August 1998, 4 November 1998, 20 December 1998, 15 December 1998, 16 January 1999, 27 January 1999, 8 March 1999, 9 March 1999, 16 March 1999, 16 April 1999, 27 April 1999, 10 May 1999, 31 May 1999, 2 June 1999, 10 June 1999, 26 June 1999, 2 July 1999, 28 September 1999, 6 November 2001, 22 February 2002 and 17 July 2002.

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[1] OJ C 394, 30.12.1997, p. 14.
[2] See footnote 1.

(8) Correspondence from Elf or its representatives was received by letters dated 31 July 1998, 24 August 1998, 12 November 1998, 1 December 1998, 11 December 1998, 5 January 1999, 26 January 1999, 27 January 1999, 3 June 1999, 7 June 1999, 18 October 2000, 26 November 2001, 12 December 2001, 18 December 2001, 30 January 2002, 22 April 2002 and 28 May 2002.

(9) In addition, several meetings took place between the Commission and the parties involved.

II. **DESCRIPTION OF THE MEASURE**

(10) The Mitteldeutsche Erdöl-Raffinerie GmbH (Mider) refinery in Leuna/Spergau currently has a capacity of 10 million tonnes of crude oil a year. The crude oil comes directly through a pipeline from Russia and/or from Rostock and/or from Danzig. According to the company, the refinery employs around 2 550 persons. The main products are petrol, diesel, heating oil, kerosene and methanol.

(11) The origins of the present State aid case go back to the Commission decisions of 30 June 1993 (aid cases N 109/93 and NN 11/93) ([3]) and of 25 October 1994 (aid N 543/94). The decisions related to a package of aid to be paid by the *Treuhandanstalt*, the former east German privatisation institution and predecessor of the *Bundesanstalt für vereinigungsbedingte Sonderaufgaben* (BvS). The aid was to be paid to Elf ([4])/Mider in the context of the privatisation and restructuring of the Zeitz/Leuna refineries and the petrol station network Minol. In 1992 Elf set up Mider as a wholly owned subsidiary to build the new Leuna 2000 refinery.

(12) The privatisation and the construction of the new plant were part of the efforts to restructure the old Leuna chemical site. In its decision of June 1993, the Commission decided, *inter alia*, not to raise objections to EUR 749,3 million (DEM 1 465,5 million) in investment aid for the construction of the new refinery. In November 1994, the Commission approved EUR 20,5 million (DEM 40 million) in further aid for additional investment amounting to EUR 102,3 million (DEM 200 million).

(13) Most of the aid measures were granted on the basis of various regional aid programmes authorised by the Commission. The original investment was estimated to be EUR 2 301 million (DEM 4 500 million) for the construction of the new refinery, corresponding to a gross aid intensity of 32,56 %. The total amount of investment aid approved amounted to EUR 769.7 million (DEM 1 505,5 million) on a total investment volume of EUR 2 403,1 million (DEM 4 700 million). The aid intensity of the overall investment project amounted to 32 % gross, i.e. below the maximum permitted ceiling of 35 % gross for large firms in the new *Länder*.

(14) The most important part of the overall project was the construction of the refinery installations. For this, Mider concluded a building contract on which a fixed price was agreed for turnkey delivery, a so-called 'lump-sum turnkey EPC ([5]) contract', with the consortium Thyssen-Lurgi-Technip joint venture (TLT) to carry out the construction. The costs agreed for building the plant by the TLT consortium were budgeted at EUR 1 692,4 million (DEM 3 310 million). The other costs were the costs for the preparation of the project, the accompanying infrastructure and the costs for putting the plant into operation.

(15) In 1997, the Commission received from Germany, in the context of its monitoring obligation, a copy of a report on a 1996 study carried out by the consultants Solomon Associates Ltd for the BvS. The report was intended to determine the price for the acquisition of shares in the new refinery. In a Memorandum of Understanding of 30 April 1994, the BvS granted Elf/Mider a put-option on the Mider shares that would allow the BvS to enter the project at the request of Elf/Mider ([6]).

(16) The Solomon study initially concluded that the costs indicated by Elf, on which the Commission's decisions were based, were well above the normal building costs for a comparable plant. Solomon calculated the costs on the basis of a statistical method for a theoretical plant.

(17) The Solomon report puts the normal costs for an EPC contract at EUR 1 207 million (DEM 2 400 million). The difference between the figure calculated by Solomon and the costs calculated on the basis of the EPC contract amounted to EUR 340 million (DEM 665 million), including adjustments made by Solomon ([7]).

([3]) OJ C 214, 7.8.1993.
([4]) Elf is currently part of Total Fina Elf SA.

([5]) Engineering, planning and construction.
([6]) The Memorandum of Understanding and the corresponding put-option were the subject of the Commission Decision of 2 February 2000 on the so-called 'Settlement Agreement' (N 94/98) between the BvS, the *Land* of Saxony-Anhalt and Elf/Mider. It is described in section VII of this Decision.
([7]) In its decision to initiate proceedings, the Commission specified an amount of EUR 460,2 million (DEM 900 million), but it did not take into account adjustments made by Solomon totalling DEM 235 million which reduced the gap.

III. GROUNDS FOR INITIATING THE PROCEDURE PROVIDED FOR IN ARTICLE 88(2)

(18) When the Commission initiated the procedure provided for in Article 88(2) of the EC Treaty, it expressed doubts as to the implementation of its original decisions and as to the information on which its decisions approving the aid were based. Consequently, the Commission also expressed doubts as to the compatibility of the aid. In particular, the Commission regarded the information provided by Germany as insufficient to remove its doubts regarding the actual costs of the construction of Leuna 2000 and the funds actually invested by Elf/Mider. ([8]).

(19) The Commission found that the information received until then did not contain any documentation that would justify the divergence between the investment expenditure estimated by Elf and the price determined by Solomon.

(20) An inflated presentation of the costs of the eligible investment on which the aid measures were based could have resulted in an amount of aid that was higher than the amount strictly needed for carrying out the project. This would be in conflict with the principle of the necessity of aid.

(21) Moreover, the level of aid could exceed the maximum aid intensity for investment aid allowed for the region. If misuse of aid were to be established, the Commission would be obliged under Article 88(2) of the EC Treaty to decide that the Member State abolish or alter the aid within a period of time to be determined by the Commission.

IV. COMMENTS FROM INTERESTED PARTIES

(22) The Commission received four sets of comments from interested parties, including Elf/Mider, in response to the initiation of the formal investigation procedure.

(23) A competitor in the petrochemical sector drew attention to the negative impact of the Leuna investment project on competition in the petroleum industry. A response came also from the United Kingdom, which expressed its concern that the maximum regional aid ceiling might be exceeded. It also referred to the detrimental impact of the aid on competition in the petroleum sector and on British competitors, particularly in view of European refinery capacities. A letter was also received from a consortium of two Russian companies interested in the acquisition of a holding in Mider and contesting the statement in the initiation of proceedings that they had withdrawn from the planned acquisition of shares. They claimed that the consortium would be willing to pay a purchase price equalling the amount to be paid by the BvS under the put-option for the Mider shares.

(24) In its comments, Elf/Mider focussed on the procedural aspects of the initiation proceedings as well as on substantive aspects. As concerns the procedure, Elf/Mider stated that the Commission's powers in reviewing existing aid schemes are restricted to issues related to compliance with the original decisions only. The review should not lead to a complete re-examination of the existing aid measures and their compatibility with the common market. Moreover, according to Elf/Mider, the initiation of the investigation procedure was not justified in this case as it was based principally on the Solomon report. That report had a different purpose, namely the valuation of the Mider shares possibly to be purchased by the BvS. Solomon's approach consisted of a subjective assessment of whether construction costs were justified or reasonable on the basis of what another oil company would be willing to invest. The assessment was thus unrelated to and lower than the actual costs borne by Mider. A final procedural comment related to the text of the Commission's decision to initiate the investigation procedure, arguing that the Commission's notice on the decision to initiate the Article 88(2) procedure was unclear and at times contradictory.

(25) The substantive comments from Elf/Mider aim to demonstrate that the information on which the Commission based its original decisions on State aid for the Leuna 2000 refinery was correct and that the investments had been made as envisaged. In addition, it was argued that the regional aid programmes had been administered properly, while the amount of aid and the aid intensity approved by the Commission had not been exceeded.

(26) Elf/Mider also stated that the conditions of the put-option on the Mider shares contained in the 1994 Memorandum of Understanding could not be considered part of the initiation of proceedings. The put-option was already part of the 'settlement agreement' between Elf and the BvS of 30 December 1997. The Settlement Agreement had become the subject of separate State aid proceedings (N 94/98). Therefore, questions concerning the Memorandum of Understanding and the put-option had no relevance to the present case.

([8]) In its decision to initiate proceedings, the Commission also requested information on the put-option contract, which was to be examined at a subsequent stage.

V. COMMENTS FROM GERMANY

(27) Information was provided on the actual construction costs, and explanations were given to justify additional costs. Germany also argued that the fixed-price lump-sum contract was justified by the tight schedule within which the refinery had to be constructed and the unforeseeable factors that had to be covered.

VI. EXPERT'S STUDY AND INFORMATION INJUNCTION

(28) In the course of its investigation, the Commission commissioned an independent study of its own to re-examine the construction costs of the refinery. Parpinelli Tecnon from Milan, a member of the Tecnon Consulting Group, (Tecnon) had been selected by the Commission in July 1998 to undertake a study. The external consultants had to examine whether the aid granted by Germany for the construction of the new petrochemical refinery at Leuna had been used in line with the Commission's approval decisions. Tecnon's study was to focus on two main issues. Firstly, establishing the value of the refinery and of the building contract between Elf/Mider and the TLT consortium. Secondly, auditing and verifying the actual payments for the overall project and comparing these with the initial plan on which the Commission's decisions were based.

(29) Tecnon submitted a preliminary report in January 1999. The study confirmed that the eligible overall investment project costs were approximately EUR 2 403,1 million (DEM 4 700 million) ([9]), as noted in the original Commission decisions. This amount comprised EUR 1 730,7 million (DEM 3 385 million) to be paid out to the consortium TLT, commissioned by Elf/Mider to construct the refinery on a turnkey EPC contract basis.

(30) Tecnon had full access to the accounting and financial data of Elf/Mider relating to the construction of the Leuna 2000 refinery. However, Tecnon did not have access to the accounts of TLT and other data not directly involved in the investigation proceedings.

(31) As Tecnon consequently did not have information on vendor bids or data on actual invoices from subcontractors, it determined the market price of the EPC contract and the refinery investment on the basis of data on other refinery projects. Tecnon declared that this method was basically the same methodology as that used in the previous estimate of the EPC contract value made by Solomon, but now tailored to the specific plant.

(32) According to the estimate based on Tecnon's file data, the amounts paid by Mider to TLT under the EPC contract and other orders exceeded by DEM 700 million the market value of the goods and services provided; this was in line with the estimate made by Solomon. As regards the payments made by Elf/Mider, however, the study concluded that the available accounting documents indicated that the declared costs were paid in conformity with the amounts specified. It was also established that the suppliers received the invoiced payments and that the investments were effected in line with the amended 1994 TLT contract. Tecnon also concluded that the amendments and changes that were made during the construction period fell within the norm that could be expected for a project of this nature and size.

(33) Germany and Elf/Mider contested the results of the study and the methodology applied. Major objections were that the report was based, like the Solomon report ([10]), on assumptions of the market value and not on the costs of the refinery which was actually constructed. Moreover, the study did not take into account specific circumstances related to the Leuna 2000 project. Comments were made on the estimation of the market value, the accuracy of the analysis and the fact that a number of site-specific issues that justified additional costs had not been taken into account. These included the stricter environmental standards Elf/Mider had to apply, the conditions of the old Leuna site and other unexpected costs.

(34) The Commission continued to have serious doubts as to the credibility and completeness of the information provided by Germany. The results of the expert's report suggested that the price paid by Elf/Mider to TLT for the construction of the refinery had been inflated, and thus the aid was not limited to the minimum required. Moreover, the Commission was convinced that crucial documentation had not yet been made available. In order to assess indisputably whether an abuse of aid had occurred, the Commission needed access to TLT's financial and market-related data, notably the vendor bids and data on actual invoices from subcontractors.

(35) The Commission therefore requested Germany by Decision of 17 February 1999 to submit the vendor bids received by TLT at the time the EPC contract was

([9]) The actual overall building costs amounted to EUR 2 607,6 million (DEM 5 100 million), including the interest costs.

([10]) In November 1998, Solomon issued a second revision of the report commissioned by the BvS. In this study, it revised its estimate upwards, and the difference between Solomon and TLT was now EUR 181,5 million (DEM 355 million) instead of the previous EUR 340,1 million (DEM 665 million).

prepared and used by TLT in formulating the contract price. Germany was also requested to provide documents showing the actual prices paid to subcontractors by TLT for specified work done and the corresponding invoices. Germany was further required to provide detailed cost statistics and financial reports of TLT.

(36) TLT expressed its willingness to provide the requested information. Tecnon carried out an additional study to review and analyse the supplementary information. The consultants considered the documentation supplied to be complete, with all the information requested in the injunction having been made available. The new information from TLT allowed Tecnon to submit a final version of its report in August 1999.

(37) In its final report, Tecnon stated that the difference of EUR 357,9 million (DEM 700 million) in cost calculations had been explained in a plausible way and seemed to be justified by the specific features of the Leuna site. Additional costs of DEM 400 million arising from increased material and construction necessities were verified mainly on the basis of audited financial data ([11]). These higher costs were explained by expensive infrastructure development as a result of many factors including meeting German regulations, notably environmental requirements. These costs were effectively incurred. They relate to transactions with third parties –the subcontractors- as a result of bids in a free and competitive market. Higher engineering costs of DEM 100 million were explained by a higher man-hour rate in comparison with Tecnon's file data. However, Tecnon had no reason to doubt TLT's rates because of the competitive nature of the TLT consortium's structure. The division of revenue to the three consortium partners was formulated in such a way that Technip and Lurgi earned revenue from the sale of engineering services, whilst Thyssen's share was mainly based on a percentage allocation of net profit. Therefore, it was in Thyssen's interest to monitor the actual engineering costs. Additional engineering costs of DEM 300 million relate to overrun costs. On the basis of its analysis, Tecnon considered TLT's explanation to be conceptually valid. These overrun costs were caused by several factors and included underestimation of the influence of the new pressure code for piping, the complexity of instrument systems, the change in the Mider team and numerous bankruptcies of suppliers.

(38) Tecnon stated that there was sufficient evidence to conclude that the differences between the actual reported results and Tecnon's estimate were likely to be covered by the ± 20 % accuracy margin of its analysis and by additional costs which were not foreseen by TLT in drawing up its budget. These costs were difficult to establish without direct knowledge of the negotiations between the contractors and the local, regional and national authorities during the construction phase. Tecnon was able to confirm that the higher costs verified by it were actually paid by TLT. Tecnon also confirmed that TLT's reported profit on the project was not excessive if compared to the risks that TLT incurred.

VII. COMMISSION DECISIONS RELATING TO THE CASE

(39) In the context of this investigation, two other Commission decisions relating to the Leuna 2000 investment project should be mentioned. The first case concerns the Commission's Decision of 1 October 1997 ([12]) not to approve the extension of the Investment Premium Law (C 28/96). This Law served as the legal basis for the granting of an EUR 184,1 million (DEM 360 million) investment premium covering 8 % of the investment costs of the refinery. The decision made the aid already awarded to Elf/Mider illegal and incompatible. The investors have in the meantime reimbursed the aid that had been paid out already. Elf/Mider requested the Court of First Instance to annul this Decision (Case T-9/98). On 22 November 2001, the Court annulled the Commission's Decision in so far as it concerned the situation of the applicant ([13]). The Commission will deal with the consequences of this Court judgment separately, but the judgment will not lead to additional aid being paid to Elf/Mider (see in that regard paragraphs 31 and 37 of the judgment in Case T-9/98).

(40) As concerns the other related case N 94/98, the Commission approved by decision of 2 February 2000 a settlement agreement concluded between the BvS, the *Land* of Saxony-Anhalt and Elf/Mider on 30 December 1997. In it, Germany recognised an EUR 184,1 million (DEM 360 million) claim for damages by Elf/Mider. The contribution of the BvS was intended to compensate, in particular, a claim that had emerged from the breach of the Memorandum of Understanding concluded between both parties on 30 April 1994 on the put-option.

([11]) It was established that independent auditors had verified the financial and cost accounting data. Their reports and statements were made available. For instance, the Commission had access to statements on the actual cost value which has been certified by KPMG.

([12]) OJ L 73, 12.3.1998, p. 38.

([13]) *Mitteldeutsche Erdöl-Raffinerie* v *Commission* [2001] ECR II-3367.

Moreover, the settlement agreement expressly provided that Elf/Mider was to repay to the BvS any sum paid to it as 8 % investment premium in excess of the amount of EUR 184,1 million (DEM 360 million).

(41) The Commission found that the sum of EUR 122,7 million (DEM 240 million) to be paid by the BvS did not constitute aid. The remaining amount of EUR 61,4 million (DEM 120 million) to be paid by Saxony-Anhalt as compensation for the non-receipt of the investment premium under the Investment Premium Law was considered to be aid. In its decision the Commission declared, however, that this aid was compatible with the Community rules on State aid. Germany undertook that this amount would not be paid directly to the beneficiary, but would be put in a so-called escrow account (blocked account) and would remain blocked until a final decision in the present case was taken.

VIII. **ASSESSMENT OF THE AID**

(42) According to the information provided by Germany, the overall eligible investment costs for the refinery amounted to EUR 2 403,1 million (DEM 4 700 million). The Commission's experts have checked this figure and have found no evidence that the eligible costs were improperly calculated. The amount was also confirmed by a report drawn up by the authorities of the *Land* of Saxony-Anhalt (*Verwendungsnachweisprüfung*). The amount of aid in support of the investment originally amounted to EUR 769,7 million (DEM 1 505,5 million). The aid intensity of the project was 32 % and consequently below the permissible aid ceiling of 35 % of eligible investment costs. The project did not receive any resources from the EU Structural Funds.

(43) The aid for the refinery construction so far amounts to EUR 585,7 million (DEM 1 145,5 million). This figure corresponds with the original amount approved by the Commission minus the DEM 360 million deducted after the negative decision on the Investment Premium Law. If the EUR 61,4 million (DEM 120 million) aid blocked on the escrow account following the decision on the settlement agreement were to be added, the project would receive an aid amount of EUR 647 million (DEM 1 265,5 million).

(44) Since the eligible investment costs for the project amount to EUR 2 403,1 million (DEM 4 700 million) and the aid to EUR 647 million (DEM 1 265,5 million), the gross aid intensity would amount to 26,9 % ([14]). This would mean that, according to the information available to the Commission and after verification of this information, the aid intensity of the project would be well below the ceiling of 35 % allowed for the region of Saxony-Anhalt. On the basis of this calculation, the aid ceiling would only be exceeded if the findings of the Commission's investigation indicated that the refinery construction costs were inflated by more than EUR 554,4 million (DEM 1 084,3 million) ([15]).

(45) This figure of EUR 554,4 million is well above the possible overstated amount of EUR 357,9 million (DEM 700 million) specified in Tecnon's preliminary report. It is also well beyond the cost difference specified in the Solomon study, which was the basis for the present investigation. The findings in Tecnon's final report on the basis of actual company data did not show any overstatement of costs.

(46) Moreover, it has been established that the costs presented were justified, actually paid by Elf/Mider and fully accounted for. Court and parliamentary inquiries in Germany into the construction costs of the Leuna 2000 refinery have similarly not revealed any misrepresentation of costs or any misuse of State aid. Nor did the report of the German parliamentary investigation committee (*Untersuchungsausschuss Parteispenden*) published in July 2002 establish any irregularities in connection with the construction of the Leuna refinery.

(47) As far as the Solomon report is concerned, the objective was to establish a market value for the shares with a view to a possible sale to the BvS. This valuation was not intended to represent the actual construction costs of the refinery. It was based on an estimate and not on actual company data. Although the consultants of Tecnon had information from Elf/Mider on the specific features of the Leuna refinery, the methodology applied in their preliminary study was also based on estimates in the absence of the market-related data used by the TLT consortium to determine their bid. The provision of the requested data from TLT explained the differences between their initial analysis and the actual construction costs based on the EPC contract. Tecnon concluded that the difference in cost calculations was explained in a plausible way and within the accuracy margin of their study.

(48) As regards the third party comments following the initiation of proceedings, the Commission notes that no evidence has been found that aid was granted beyond

([14]) Elf/Mider stated that this percentage has been reduced to between 22 % and 24,3 % due to changes in the financial and physical design of the project.

([15]) This calculation is based on the difference between 35 % of DEM 4 700 million (DEM 1 645 million) and the amount actually granted (DEM 1 265,5 million). The difference between these two amounts (DEM 379,5 million) is the aid that could theoretically still be paid out in compliance with the aid intensity of 35 %. It corresponds to an eligible investment base of DEM 1 084,3 million.

the scope originally approved. As demonstrated above, the aid intensity remains well within the maximum percentage allowed. The conditions of the put-option of the BvS were dealt with separately in the decision taken in 2000 on the settlement agreement.

IX. **CONCLUSION**

(49) The information received and the analysis that has been carried out by the Commission in the course of this investigation procedure have not shown any evidence of any misuse of aid. No overstatement of eligible costs or granting of aid beyond the scope of the original decisions authorising aid for the Leuna 2000 investment project has been demonstrated. Consequently, the Commission's doubts as to the compatibility of the aid granted to Elf/Mider with Article 87 of the EC Treaty and Article 61 of the EEA Agreement have been allayed and the proceedings can be terminated.

(50) As already stated in the decision on the settlement agreement, the Commission will not object to the amount of EUR 61,4 million (DEM 120 million) currently blocked in an escrow account ([16]) being paid to the beneficiary. In accordance with the provisions of this agreement, any amount exceeding the sum of EUR 184,1 million (DEM 360 million) is to be repaid to the BvS.

(51) However, the Commission's decision to terminate the investigation proceedings is subject to the condition that the Commission may reopen the investigation if new facts come to light which contradict the conclusions reached in this examination,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Germany has granted in the context of the construction of the Leuna 2000 refinery and which was the subject of the Commission Decisions N 109/93, NN 11/93 and N 543/94 is compatible with the common market within the meaning of Article 87 of the Treaty. The full implementation of aid measures amounting to EUR 647 million (DEM 1 265,5 million) is accordingly authorised. This amount comprises EUR 61,4 million (DEM 120 million) approved under the Commission's Decision on the settlement agreement (N 94/98).

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 30 October 2002.

For the Commission

Mario MONTI

Member of the Commission

([16]) Plus the corresponding interest.