

Case C-44/93

Namur-Les Assurances du Crédit SA
v
Office National du Ducroire and the Belgian State

(Reference for a preliminary ruling
from the Cour d'Appel de Bruxelles)

(State aid — Existing or new aid —
Widening of the field of activity of a public undertaking
benefiting from advantages accorded by the State)

Opinion of Advocate General Lenz delivered on 22 June 1994	I - 3831
Judgment of the Court, 9 August 1994	I - 3863

Summary of the Judgment

State aid — Existing and new aid — Extension of the field of activity of a public undertaking providing export credit insurance and benefiting under unchanged rules from aid predating entry into force of the Treaty — Classification of existing aid — Obligation of prior notification — None

(EEC Treaty, Art. 93(1) and (3))

Where a public establishment, which was only marginally involved in providing credit insurance for exports to other Member States, decides, with the approval of its supervisory authority, in future to carry on this activity without any geographical limit so that the public aid it receives under legislation predating entry into force of the Treaty will in future benefit widened activities, this cannot be regarded as a case of granting or alteration of aid, as envisaged in Article 93(3), where this decision is taken without any amendment of the aid scheme established by the legislation.

It follows that, in so far as aid granted in such circumstances is governed by rules on aid existing before entry into force of the Treaty, such aid is not subject to the obligation of prior notification and the prohibition

on putting aid into effect laid down by Article 93(3) but must be kept under constant review, as provided for in Article 93(1).

A factor of legal uncertainty would be introduced if Member States were to be required to notify to the Commission and submit for its preventive review not only new aid or alterations of aid properly so-called granted to an undertaking in receipt of existing aid but also all measures which affect the activity of the undertaking and which may have an impact on the functioning of the common market, on competition or simply on the actual amount, over a specific period, of aid which is available in principle but which varies in amount according to the undertaking's turnover.