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Information and Notices

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I

(Information)

COURT OF AUDITORS

Report of the Court of Auditors of the European Communities on the financial statements of the European Coal and Steel Community as at 31 December 1984

(85/C 360/01)

1. This report deals with the regularity of the accounting operations and the financial management of the Commission (High Authority) in accordance with Article 78f (5) of the Treaty establishing the European Coal and Steel Community, as amended by Article 8 of the Treaty of 22 July 1975 amending certain financial provisions of the Treaty establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities.
2. The Court has examined the accounting and the financial statements of the European Coal and Steel Community as at 31 December 1984. This examination was carried out in accordance with generally accepted auditing standards and included the audit procedures considered necessary.
3. In the opinion of the Court the attached financial statements (balance sheets at 31 December 1984 and 31 December 1983, profit and loss accounts for the years ending 31 December 1984 and 31 December 1983, allocation of profit for the years ending 31 December 1984 and 31 December 1983) drawn up in accordance with generally accepted accounting principles (and in particular the directives published by the Council), give a true and fair view of the financial position of the European Coal and Steel Community as at 31 December 1984 and of the results of its operations for the year ending at that date.

ECSC FINANCIAL STATEMENTS

Balance sheets at 31 December 1984 and 31 December 1983

(Amounts expressed in ECU)

Before allocation of profit

Assets

	1984	1983 (according to new accounting methods - see note 1)
Cash in hand and balances with central banks	1 709 396	39 020 734
Balances with credit institutions		
— repayable on demand	42 805 402	27 334 442
— with agreed maturity dates or periods of notice	1 018 812 461	890 768 726
Debt securities held in portfolio (notes 2 and 3)	619 248 668	437 644 829
Loans outstanding (note 4)	7 161 948 902	6 646 152 831
Issuing costs and redemption premiums for amortization	72 651 843	41 338 595
Bank deposits for coupons and bonds due but not yet presented for payment	51 220 169	37 499 892
Land and buildings (note 5)	469 126	453 319
Other assets (note 6)	114 938 841	129 371 754
Accruals and deferred income (note 7)	215 168 904	203 940 097
	9 298 973 712	8 453 525 219

The notes on pages 6 to 13 are an integral part of these financial statements.

Before allocation of profit

	Liabilities	
	1984	1983 (according to new accounting methods - see note 1)
Coupons and bonds due but not yet presented for payment	51 220 169	37 499 892
Amounts owed to credit institutions:		
— repayable on demand	—	2 760 832
— with agreed maturity dates or periods of notice	44 195 479	6 651 590
Long-term and medium-term debts (note 8)	7 118 762 833	6 539 006 887
Other liabilities	1 448 496	74 355 141
Accruals and deferred income (note 9)	415 224 972	327 389 285
Commitments for ECSC operating budget (notes 2 and 10)		
— legal commitments	700 600 303	618 479 306
— provision for commitments to be implemented	186 176 545	146 361 287
Total liabilities towards third parties	8 517 628 797	7 752 504 220
Provisions for the financing of the ECSC operating budget for the financial year (note 11)	113 200 000	106 000 000
Reserves (note 12)		
— guarantee fund	380 000 000	340 000 000
— special reserve	163 000 000	156 500 000
— former pension fund	44 742 334	43 772 724
	587 742 334	540 272 724
Profit brought forward	78 665	88 651
Profit for the financial year	80 323 916	54 659 624
	9 298 973 712	8 453 525 219

Profit and loss accounts for the years ending 31 December 1984 and 31 December 1983
(Amounts in ECU)

Expenditure

	1984	1983 (according to new accounting methods — see note 1)
Interest payable	625 889 826	588 033 104
Issuing costs and redemption premiums	21 806 582	21 913 444
Commission payable	5 053 521	4 968 803
Capital losses on securities	221 332	1 705 059
Charges for value adjustments in respect of securities	—	9 200 306
Other financing costs	349 365	563 987
Charges for values adjustments in respect of claims	73 802 823	69 227 095
Administrative expenditure (fixed amount) (note 13)	5 000 000	5 000 000
Expenditure relating to fines, deposits and levies (note 16)	1 745 935	10 816 427
Legal commitments of the financial year (notes 2 and 10)		
— Redeployment	140 000 000	125 000 000
— Social measures in connection with the restructuring of the steel industry	62 500 000	50 000 000
— Social measures in connection with the restructuring of the coal industry	60 000 000	—
— Research	39 190 401	50 521 967
— Interest subsidies (Article 54)	6 243 389	3 973 000
— Interest subsidies (Article 56)	34 018 024	6 972 796
— Coking coal and metallurgical coke	6 000 000	6 000 000
— Parity charges for legal commitments	87 238	426 018
Allocation to provisions for commitments to be implemented (notes 2 and 10)	55 365 906	49 169 157
Other expenditure	1 980 754	—
Total expenditure	1 139 255 096	1 003 491 163
Profit for the financial year	80 323 916	54 659 624
	1 219 579 012	1 058 150 787

The notes on pages 6 to 13 are an integral part of these financial statements.

	Revenue	
	1984	1983 (according to new accounting methods – see note 1)
Interest receivable (note 14)	803 287 504	759 124 606
Issuing and redemption premiums	11 353 320	11 893 357
Gains on own bonds (notes 2 and 3)	2 317 031	11 392 790
Gains on other securities	8 176 734	7 994 886
Income from value adjustments in respect of securities	4 066 438	—
Other financial revenue	788 244	530 353
Exchange gains, net	2 635 040	5 173 916
Income from value adjustments in respect of claims	54 227 460	794 896
Levy (note 15)	136 761 312	136 839 095
Fines (note 16)	41 739 644	64 980 095
Deposits in accordance with Decision No 3717/83	414 489	—
Contributions from the General Budget of the European Communities (note 17)	122 500 000	50 000 000
Cancellations of legal commitments (note 10)	15 712 352	5 732 160
Cancellations of legal commitments not yet implemented (note 10)	15 550 648	1 567 276
Other revenue	48 796	2 127 357
	1 219 579 012	1 058 150 787

Allocation of profit for the years ending 31 December 1984 and 31 December 1983
(Amounts in ECU)

	1984	1983 (according to new accounting methods – see note 1)
	Profit not allocated at 1 January	78 665
Profit for the year to be allocated	80 323 916	54 659 624
	80 402 581	54 748 275
Allocations:		
Guarantee fund	40 000 000	40 000 000
Special reserve	2 000 000	6 500 000
Former pension fund	896 934	969 610
To provisions for the financing of the ECSC operating budget	3 800 000	7 200 000
To the heading 'fines to be allocated to the financing of the ECSC operating budget'	33 600 000	—
	80 296 934	54 669 610
Profit not allocated at 31 December	105 647	78 665

The notes on pages 6 to 13 are an integral part of these financial statements

Notes to financial statements
at 31 December 1984 and 31 December 1983

(Amounts given in ECU)

1. Presentation of financial statements

The European Coal and Steel Community (ECSC) was established by the Treaty of 18 April 1951. According to the Treaty, the task of the ECSC is to contribute to the economic expansion of the Member States through the establishment of a common market for coal and steel. Most of the ECSC's funds come from levies, borrowings raised on the financial markets and direct bank loans.

In the financial statements at 31 December 1984, several changes have been made in the order of presentation and the wording of the accounts, in order to clarify their content. Changes have also been made in the accounting methods for the closure of accounts at 31 December 1984 and are explained in Note 2. For purposes of comparison, the figures for the financial year 1983 have been amended accordingly and therefore differ from those given in the approved and published statements.

ECSC accounts are kept in the various currencies used for its financial activity. The financial statements are expressed in ECU.

The following rates for 1 ECU have been used for converting balance sheet amounts expressed in currency into ECU.

	31 December	
	1984	1983
Convertible Belgian and Luxembourg franc	44,7168	46,0969
German mark	2,23176	2,25748
Dutch guilder	2,51853	2,53713
Pound sterling	0,609846	0,570600
Danish krone	7,98805	8,18269
French franc	6,83069	6,90358
Italian lire	1371,10	1371,99
Irish pound	0,715023	0,728961
Greek drachma	91,0428	81,7773
u.a.	0,450111	0,441732
US dollar	0,708946	0,827370
Swiss franc	1,83830	1,80408
Canadian dollar	0,935808	1,03024
EMU	0,609770	0,616797
Japanese yen	178,052	191,743

2. Summary of accounting policies

2.1. Changes in accounting methods

The changes in accounting methods detailed below were introduced in 1984:

ECSC securities repurchased

The ECSC no longer enters the profit accrued at 31 December on own bonds repurchased which mature during the following financial year. The profit is now entered at the annual due date; at 31 December 1984 this change in method reduced the result for the financial year by 10 860 213 compared with the figures that would have resulted if the previous method had been applied. In

view of the fact that this change in method had a significant impact on only one year, it was decided not to amend the 31 December 1983 figures for the items concerned.

ECSC operating budget

(a) Commitments for the financial year

Since 1 January 1984 the ECSC has entered as expenditure all the commitments for the financial year, making a distinction between legal commitments for the year and commitments still to be implemented (corresponding to Commission decisions which have not yet led to a contract with the recipient of the assistance). According to the previous accounting method, commitments where no payments had yet been made to the recipients were recorded directly as allocations of the profit.

This change has been introduced for the sake of harmonization with the accounting methods currently in force for the implementation of the ECSC operating budget, the criteria used for the latter being not the payment of financial assistance but the commitment to do so.

This change in method led to a fall of 121 926 806 in the 1984 figure (1983: 82 015 198).

(b) Fines

There is a difference in the accounting methods for fines between the ECSC financial statements and the rules for implementing the ECSC operating budget.

For the implementation of the ECSC operating budget, fines are entered under resources when they are actually paid. In its financial statements, the ECSC enters fines imposed during the financial year, whether paid or not, under revenue for the financial year. Beginning with 1984, an allocation for fines to be paid has gradually been built up in order to compensate for this difference in timing.

The figure to be entered in the 1985 budget will be included after allocation under the heading 'provisions for the financing of the ECSC operating budget'. The figures to be entered in the budget after 1985 will be entered after allocation of the profit under the heading 'fines to be allocated to the financing of the ECSC operating budget'.

Conversion rates

Since 1 January 1984, operations in currency have been expressed in ECU in the profit and loss account according to a monthly rate and not, as previously, a daily rate.

2.2. Other accounting methods

The balances in currency are included in the balance sheets at the rates of exchange for the ECU as at 31 December. The conversion differences due to the revaluation of the opening balance at the rates of exchange for the ECU at year-end are deferred and entered under accruals and deferred income. On the other hand, the conversion differences relating to operations for the year are included in the profit and loss accounts.

Securities held are valued at the lower of the average cost or market value.

Value adjustments are made in the accounts in respect of loans and other claims to allow for the potential risks of default or non-recovery.

Post-maturity interest due to the ECSC on loans and fines imposed are kept under review, but are not entered in the accounts until payment is received.

3. Debt securities held in portfolio

The portfolio is made up mainly of government bonds and repurchased ECSC bonds.

At 31 December 1984, the gross book value repurchased ECSC bonds in portfolio was 117 652 726 (1983: 91 792 402).

4. Loans outstanding

This item mainly covers the balance due but not yet payable on loans made to undertakings in the steel industry and coal mining in the Member States and loans granted to undertakings to finance conversion. These loans are paid out of borrowed funds and total 6 982 955 475 (1983: 6 476 751 743). Repayments due on the loans but not yet paid at 31 December are entered under the heading 'other assets'.

These loans are usually secured by guarantees from the Member States, banks or undertakings and by mortgages.

Cumulative value adjustments at 31 December 1984 amounted to 148 339 364 (1983: 117 435 323).

This item also includes loans financed from the ECSC's own funds, as follows:

	31 December	
	1984	1983
Loans paid from the special reserve for financing subsidized housing	152 017 095	143 426 813
Loans paid from the pension fund to officials of the European Communities for the construction of housing	23 087 490	21 616 616
Loans paid from the pension fund for the Friuli steel industry	2 297 425	2 623 926
Loans paid for technical and economic research	1 489 747	1 614 045
Loans paid for redeployment	101 670	119 688
	178 993 427	169 401 088

5. Land and buildings

The ECSC owns a building in Washington DC, entered in the ECSC books at 469 125.

Another building in Paris (purchased in 1958 for FF 1 679 311) is held jointly with the European Atomic Energy Community and the European Economic Community. It is entered in the ECSC books at a token value of 1 ECU.

6. Other assets

	31 December	
	1984	1983
Levy receivable	8 323 547	10 162 455
Member States' contributions receivable	6 786 429	8 386 588
Fines receivable (note 16)	121 146 184	88 384 957
Loans, payments due and not received	16 954 232	73 569 511
Other	5 280 050	3 748 522
	158 490 442	184 252 033
Cumulative value adjustments	(43 551 601)	(54 880 279)
	114 938 841	129 371 754

The item 'levy receivable' includes 3 524 838 (1983: 5 709 885) in respect of coal in stock, payment of which has been temporarily suspended under a general decision taken in 1972. In addition, 1 545 749 (1983: 1 955 917) relates to claims on debtors against whom legal proceedings have been instituted.

The 'cumulative value adjustments' refer to the items 'levy receivable', 'fines receivable' and 'loans, payments due and not received'

7. Accruals and deferred income (assets)

This item comprises mostly interest on loans, time deposits and the portfolio of bonds, accrued but not due, amounting to 193 305 910 (1983 175 736 629) together with levies declared for November and December but not payable until after 31 December

8. Long-term and medium-term debts

The debt consists of private and public bond issues maturing between 1985 and 2001

9. Accruals and deferred income (Liabilities)

This item comprises mostly interest and commission on borrowings accrued but not yet due at 31 December 1984 amounting to 294 281 382 (1983 277 189 026).

The exchange differences arising from the revaluation of the opening balances at the ECU rate of exchange for the year end, amounting to 67 998 849, are also included in this item (1983 43 614 453)

10. Commitments for ECSC operating budget

In 1984, commitments for the ECSC operating budget were as follows

1. Legal commitments

movements for 1984

	Commitments at 31 12 1983	Legal Commitments	Cancellations	Payments	Parity changes	Commitments at 31 12 1984
Redeployment	291 069 201	140 000 000	(13 105 567)	(88 453 361)	79 443	329 589 716
Social measures, steel industry	188 938 903	62 500 000	—	(93 796 717)	—	157 642 186
Social measures, coal industry	—	60 000 000	—	—	—	60 000 000
Research	84 230 990	39 190 401	(1 996 217)	(35 055 822)	63	86 369 415
Subsidies Article 54	20 194 653	6 243 389	(74 200)	(9 533 006)	8 715	16 839 551
Subsidies Article 56	30 700 359	34 018 024	(536 368)	(17 366 797)	(983)	46 814 235
Coking coal	3 345 200	6 000 000	—	(6 000 000)	—	3 345 200
Total	618 479 306	347 951 814	(15 712 352)	(250 205 703)	87 238	700 600 303

2. *Provision for commitments to be implemented*
movements for 1984

	Commitments at 31. 12. 1983	Decisions	Transfers to legal commitments	Cancellations	Total movements	Commitments at 31. 12. 1984
Social measures, steel industry	—	62 500 000	(62 500 000)	—	—	—
Social measures, coal industry	—	60 000 000	(60 000 000)	—	—	—
Research	15 437 113	50 896 320	(39 190 401)	(270 900)	11 435 019	26 872 132
Subsidies Article 54	19 164 230	20 921 400	(6 243 389)	—	14 678 011	33 842 241
Subsidies Article 56	111 759 944	63 000 000	(34 018 024)	(15 279 748)	13 702 228	125 462 172
Total	146 361 287	257 317 720	(201 951 814)	(15 550 648)	39 815 258	186 176 545

11. **Provision for the financing of the ECSC operating budget**

In 1984 provisions were as follows:

	Provisions at 31.12.1983 before allocation of the profit for 1983	Allocations for the 1983 financial year entered in 1984	Provisions at 31.12.1984 before allocation of the profit for 1984
— Allocation to the operating budget of income from interest	80 000 000	(10 000 000)	70 000 000
— Provisions for 'budgetary contingencies'	26 000 000	4 000 000	30 000 000
— Surplus for the budgetary year	—	13 200 000	13 200 000
	106 000 000	7 200 000	113 200 000

The allocations of the profit at 31 December 1984 which will be entered for 1985 are indicated in the 'Allocation of profit for the years ending 31 December 1984 and 31 December 1983' (see page 11). After these allocations, provision for the financing of the ECSC operating budget will be as follows:

	Provisions at 31.12.1984 before allocation of the 1984 profit	Allocations for the 1984 financial year to be entered in 1984	Provisions at 31.12.1984 before allocation of the 1984 profit
— Allocation to the operating budget of income from interest	70 000 000	—	70 000 000
— Provision for 'budgetary contingencies'	30 000 000	—	30 000 000
— Surplus for the budgetary year	13 200 000	(13 200 000)	—
— Fines to be paid in 1985	—	17 000 000	17 000 000
Total	113 200 000	3 800 000	117 000 000
— Fines to be allocated to the financing of the ECSC operating budget	—	33 600 000	33 600 000

The items 'fines to be paid in 1985' and 'Fines to be allocated to the financing of the ECSC operating budget' (after 1985) were introduced in 1984 (see note 2, paragraph 1 b).

12. Reserves

Allocations to the guarantee fund and other reserve accounts are decided by the Commission.

The special reserve is used to grant loans from ECSC own funds for financing subsidized housing.

The former pension fund originally represented the total pension obligations covered by the ECSC prior to 5 March 1968. From that date, the Member States have assumed responsibility for the payment of staff pensions. This fund is used to finance housing loans for officials of the European Communities, and has also been used to grant special loans to the coal and steel industries.

13. Administrative expenditure (fixed amount)

The ECSC paid 5 000 000 to the administrative budget of the Commission of the European Communities to cover its administrative costs.

14. Interest received

At 31 December 1984, this item comprised 653 326 872 (1983: 611 873 993) in interest received from loans, 86 700 695 (1983: 93 124 487) in interest received from deposits and 63 259 937 (1983: 54 126 126) in interest received from fixed income securities.

15. Levy

The ECSC is authorized under the Treaty to impose a levy on coal and steel produced by undertakings in the Community. The calculation is based on the Community average values of the products concerned. The levy rate has been 0,31 % since 1 January 1980.

16. Fines

This item comprises the revenue from fines imposed by the Commission in accordance with Articles 58 and 60 of the ECSC Treaty.

Some undertakings have appealed to the Court of Justice of the European Communities against fines. At 31 March 1985, six appeals against fines totalling 11 527 973 were still awaiting judgment from the Court of Justice.

In 1984 fines totalling 1 404 294 were cancelled or reduced by the Court of Justice or the Commission of the European Communities. This amount is included in the item 'expenditure relating to fines, deposits and levies'.

17. Contributions from the general budget of the European Communities

In accordance with the Council Decisions of 23 July and 23 October 1984, the ECSC received 122 500 000 in 1984 (1983: 50 000 000) as a contribution from the general budget of the European Communities. This amount is for Community financing of social intervention in the coal industry and social measures in connection with the restructuring of the European steel industry.

18. Other commitments

(a) *Loans granted*

At 31 December 1984 the Commission had granted but not yet paid over loans as follows:

- loans from borrowed funds: 127 075 698 (1983: 25 310 795),
- loans from own funds: 10 910 093 (1983: 15 598 303).

(b) *Borrowings contracted and lines of credit*

At 31 December 1984 a borrowings contract had been signed for 25 000 000, but no payments had yet been made.

(c) *Commitments arising from forward transactions*

To cover borrowing operations leading to loans in different currencies (swap operations), the ECSC committed itself to the forward purchase of currencies amounting to 138 522 541 (1983: 140 898 268) and forward sales amounting to 144 702 514 (1983: 140 863 070).

At 31 December 1984, the ECSC had bought forward securities to the value of 83 882 620 (1983: 0) and sold forward securities to the value of 8 107 880 (1983: 0).

Outturn of the ECSC operating budget for 1984

(million ECU)

Requirements	Budget		Resources	Budget	
	Forecast (¹)	Outturn		Forecast (¹)	Outturn
OPERATIONS TO BE FINANCED FROM 1984 RESOURCES (NON-REPAYABLE)			RESOURCES FOR THE FINANCIAL YEAR		
1. Administrative expenditure	5	5	1. Current resources		
2. Aid for redeployment (Article 56)	130	140	1.1 Yield from levy at 0,31%	141	136,4
3. Aid for research (Article 55)	51	50,9	1.2 Interest on investments and on loans from non-borrowed funds	70	70
3.1 Steel		24	1.3 Fines and surcharges for late payment (²)	5	8,8
3.2 Coal		19	1.4 Miscellaneous	p.m.	p.m.
3.3 Social		8			
4. Aid in the form of interest subsidies	70	83,9	2. Cancellation of commitments unlikely to be implemented	3	31,3
4.1 Investment (Article 54)		9	3. Revaluation of assets and liabilities	p.m.	p.m.
4.2 Conversion (Article 56)		61	4. Resources from 1983 not used	13,2	13,2
5. Aid for coking coal and metallurgical coke (Article 95)	6	6	5. Exceptional revenue		
6. Measures connected with restructuring of steel industry	62,5	62,5	5.1 Measures connected with restructuring of steel industry	62,5	62,5
7. Measures connected with restructuring of coal industry	60	60	5.2 Measures connected with restructuring of coal industry	60	60
			6. Drawings on contingency reserve	29,8	26,1
Subtotal	384,5	408,3	Subtotal	384,5	408,3
Surplus	—	—	Deficit	—	—
Total	384,5	408,3	Total	384,5	408,3
OPERATIONS FINANCED BY LOANS FROM NON-BORROWED FUNDS			ORIGIN OF NON-BORROWED FUNDS		
8. Workers' housing	10	10	7. Special reserve and former ECSC pension fund	10	10

(¹) On the basis of the Commission's forecasts of 10 August 1984.

(²) The 8,8 million ECU is the total collected in 1984 and does not include the 121,1 million ECU outstanding at 31 December 1984.

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Directive on the legal protection of original topographies of semiconductor products

COM(85) 775 final

(85/C 360/02)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Articles 100 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas the functions of semiconductor products depend in large part on the topographies of such products and whereas the development of such topographies requires the investment of considerable resources, human, technical and financial, while topographies of such products can be copied at a fraction of the cost needed to develop them independently;

Whereas semiconductor products are playing an increasingly important role in a broad range of industries and semiconductor technology can accordingly be considered as being of fundamental importance for the Community's industrial development;

Whereas topographies of semiconductor products are at present not clearly protected in all Member States by existing legislation and such protection, where it exists, has different attributes;

Whereas certain existing differences in the legal protection of semiconductor products offered by the laws of the Member States have direct and negative effects on the functioning of the common market as regards semiconductor products and such differences could well become greater as Member States introduce new legislation on this subject;

Whereas existing differences having such effects need to be removed and new ones prevented from arising, while differences not adversely affecting the functioning of the common market to a substantial degree need not be removed or prevented from arising;

Whereas the export to non-member States of semiconductor products manufactured within the Community will depend in large part on those States extending substantially on the basis of reciprocity adequate legal protection to the topographies of such products; therefore to safeguard such

exports a Community measure is needed to provide such legal protection in accordance with developing international standards; whereas the basis on which topographies of semiconductor products developed by persons outside the Community are to be protected within the Community should accordingly be such as to favour the extension of legal protection in those countries to topographies of semiconductor products developed by nationals and residents of the Member States; and whereas this basis is thus a matter of significance to the Community as a whole and, if necessary, should be decided at Community level;

Whereas the Community's legal framework on the protection of original topographies of semiconductor products can accordingly in the first instance be limited to certain basic principles by provisions specifying who and what should be protected, the exclusive rights on which protected persons should be able to rely to authorize or prohibit certain acts and for how long the protection should last;

Whereas other matters can for the time being be decided in accordance with national law, in particular, whether Member States rely on the provisions of copyright laws or on provisions enacted specifically for the purpose of protecting topographies of semiconductor products or on a combination of these provisions, whether registration or deposit is required as a condition for the subsistence of protection and, with the exception of a provision applicable to innocent infringers, whether and on what conditions third parties may obtain licences in respect of protected topographies;

Whereas, however, this flexibility in the Community framework for the time being needs to be balanced by provisions designed to prevent new obstacles arising to trade between Member States in semiconductor products, in particular as regards marking of such products and, as soon as circumstances permit, a common registration and deposit procedure in the event that more than one Member State makes the subsistence of protection conditional on the fulfilment of such conditions;

Whereas protection of original topographies of semiconductor products under copyright laws or some specific form of protection should be without prejudice to the application in appropriate cases of some other forms of protection;

Whereas further measures designed to facilitate reliance on laws granting protection to original topographies of semiconductor products in the Community can be considered at a later stage, while the application of common basic principles by all Member States in accordance with the provisions of this Directive is an urgent necessity;

HAS ADOPTED THIS DIRECTIVE

CHAPTER 1

Definitions

Article 1

For the purposes of this Directive,

- (a) a *semiconductor product* means the final or an intermediate form of any product,
 - (1) consisting of a body of material which includes a layer of semiconducting material, and
 - (2) having one or more other layers composed of conducting, insulating or semiconducting material, the layers being arranged in accordance with a pre-determined three-dimensional pattern, and
 - (3) intended to perform, exclusively or in part, an electronic function.
- (b) the *topography* of a semiconductor product means a series of related images, however fixed or encoded,
 - (1) representing the three-dimensional pattern of the layers of which a semiconductor product is composed; and
 - (2) in which series, each image has the pattern or part of the pattern of the surface of the semiconductor product in its final or any intermediate form.
- (c) *commercial exploitation* of the topography of a semiconductor product means to make available to the public by sale, rental, leasing or any other method of commercial distribution the topography or a semiconductor product manufactured by using the topography.

CHAPTER 2

Protection of original topographies of semiconductor products

Article 2

1. The Member States shall protect the topographies of semiconductor products by conferring exclusive rights in accordance with the provisions of this Directive

2. Exclusive rights may be conferred by the provisions of national copyright laws, by provisions enacted for the specific purpose of protecting the topographies of semiconductor products, or by a combination of these provisions.

3. However, the topography of a semiconductor product shall not be protected unless it satisfies the condition that it be original in the sense that it is the result of its creator's own intellectual effort. Where the topography of a semiconductor product consists of elements that are commonplace in the semiconductor industry, it shall not be considered original unless the combination of such elements, taken as a whole, is original and not commonplace.

Article 3

1. Protection shall apply at least in favour of natural persons who are the creators of the original topographies of semiconductor products and who are nationals of and resident in a Member State and their successors in title.
2. However, where Member States provide for registration in accordance with Article 4, they may alternatively provide that protection shall apply at least to persons registering original topographies who are either nationals and residents of a Member State or companies and firms within the meaning of Article 58 of the Treaty.
3. Member States shall extend protection to persons who do not qualify for protection under paragraphs 1 or 2 in accordance with decisions to be adopted by the Council acting by qualified majority on a proposal from the Commission.
4. Paragraphs 1, 2 and 3 shall be without prejudice to Member States' obligations under international agreements.

Article 4

1. The Member States may provide that protection shall no longer apply to the topography of a semiconductor product unless it has been registered with a public authority within two years of its first commercial exploitation. Member States may require in addition to such registration that material identifying, describing or exemplifying the topography or any combination thereof has been deposited with a public authority.
2. Member States may subject registration and deposit in accordance with paragraph 1 to the payment of fees not exceeding their administrative costs.
3. Conditions prescribing the fulfilment of additional formalities shall not be admitted.

Article 5

1. The exclusive rights referred to in Article 2 shall include the rights to authorize any of the following acts.
 - (a) reproduction of the topographies in whole or in part;
 - (b) the sale, rental or leasing, or the offering for sale, rental or leasing, or any other method of commercial

distribution, or the importation of the topographies or of semiconductor products manufactured by using the topographies.

2. The exclusive right to authorize reproduction of the topographies shall not apply to reproduction for the purpose of analyzing, evaluating or teaching the concepts, processes, systems or techniques embodied in the topography or the topography itself.

3. The exclusive rights to authorize the acts specified in paragraph 1 shall not extend to any such act in relation to an original topography created on the basis of an analysis and evaluation of another topography carried out in conformity with paragraph 2.

4. The exclusive right to authorize the acts specified in paragraph 1(b) shall not apply to any such act:

- (a) committed after the topography or the semiconductor product has been put on the market in a Member State by the person entitled to authorize its marketing or with his consent; or
- (b) committed by a person who has purchased a semiconductor product without reasonable grounds to believe that its manufacture infringed the exclusive right specified in paragraph 1(a).

5. Where paragraph 4(b) applies, the Member States may subject the acts specified in paragraph 1(b) to the payment of royalties.

6. The exclusive right to authorize importation of a semiconductor product manufactured by using a protected topography shall not extend to products which are part of a land vehicle, vessel, aircraft or spacecraft which enters temporarily or accidentally the territory, waters or airspace of a Member State.

Article 6

1. The exclusive rights to which reference is made in Article 2 shall come to an end on a date 10 years from the date on which the topography is first commercially exploited or, where registration is a condition for the subsistence of protection, from the date on which the topography is first commercially exploited or the date on which it is registered, whichever is the later.

2. The exclusive rights shall come to an end not later than 15 years from the date on which the topography is first fixed or encoded. This provision shall be without prejudice

to rights conferred by the Member States in fulfilment of their obligations under the Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention and to corresponding rights conferred on a Member State's nationals or persons resident on its territory.

Article 7

The protection granted to the topographies of semiconductor products in accordance with Article 2 shall not extend to any concept, process, system or technique embodied in the topography other than the topography itself.

Article 8

Where the legislation of Member States provides that semiconductor products manufactured using protected topographies may be distinctively marked, the mark to be used shall be a capital T in a circle as follows: \textcircled{T}

CHAPTER 3

Continued application of other legal provisions

Article 9

The provision of this Directive are without prejudice to any legal provisions protecting the topographies of semiconductor products other than those referred to in Article 2(2).

CHAPTER 4

Final provisions

Article 10

1. Member States shall bring into force the laws, regulations or administrative provisions needed in order to comply with this Directive by 1 October 1987.

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

Article 11

This Directive is addressed to the Member States.

NOTICE

We inform readers that the *Official Journal of the European Communities* No C 340 of 31 December 1985 will not be published due to technical problems.