

English edition

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(\*) Text with EEA relevance

## I

*(Information)*

## COMMISSION

## STATE AID

C 2/94 (ex N 40/94)

Germany

(94/C 390/01)

*(Text with EEA relevance)**(Article 6 (4) of Decision No 3855/91/ECSC of 27 November 1991)***Commission notice pursuant to Article 6 (4) of Decision No 3855/91/ECSC of 27 November 1991 to other Member States and interested parties concerning aid that may be involved in an intended injection of public capital into the equity of Klöckner Stahl GmbH, Duisburg**

By means of the letter reproduced below, the Commission informed the German Government of its decision to terminate the procedure initiated on 26 January 1994 <sup>(1)</sup>.

'On 26 January 1994, the Commission decided to initiate the procedure pursuant to Article 6 (4) Steel Aids Code (Commission's Decision No 3855/91/ECSC of 27 November 1991, OJ No L 362 of 31 December 1991, p. 57) with respect to the intended injection of public capital to the equity of Klöckner Stahl GmbH, Duisburg (KS) in the framework of the so-called "Interessentenlösung" (Bremen group model). Your Government was informed of this decision by means of a letter dated 8 February 1994 (SG(94) D/1725), which was published in the *Official Journal of the European Communities* (OJ No C 110 of 20 April 1994) to give the other Member States and parties concerned notice to submit their comments. The European Surveillance Authority (ESA) was informed in line with Protocol 27 of the EEA Agreement.

The Commission concluded, on the basis of the information available, that the intended injection of risk capital (which finally took place on 9 February 1994) by Hanseatische Industriebeteiligungen GmbH (Hibeg) and Stadtwerke Bremen AG, both State controlled, and Bremer Vulkan Verbund AG, which the Commission doubted whether it could be considered to be a private company, may include State aid elements because the behaviour of the state in this case may not be comparable to usual investment practice in a market economy.

Your Government submitted its comments and some additional information concerning the shareholding of

BVV, the activities of the new shareholders of KS and the background of the "Interessentenlösung" by communication dated 14 March 1994. It referred to a copy of an expert study concerning the net value as going concern of Klöckner Stahl GmbH to stress the market adequacy of the behaviour of the Bremen group and provided additional information concerning the development of the restructuring of KS. It described some details of the "Interessentenlösung" and informed the Commission that the Belgian steel undertaking Sidmar NV, Gent, on 22 February 1994 initialed a contract providing for the take over of 25,01 % of the shares of KS in a first step, and the intention of Sidmar to take over an additional 25 % of the shares in 1996.

On 16 May 1994, your Government submitted a copy of the contract between Sidmar, Klöckner Werke AG (KW), KS and the members of the Bremen group, which had been signed on 8 April 1994. It provided some information concerning the recent financial performance of KS, stressing that the actual development was in line with the forecasts on which the expert study on the net value as going concern of KS was based.

By 20 May 1994, the Commission received several comments of other Member States and parties concerned in response to the publication in the Official Journal which may be summarized as follows.

It was called upon the Commission to examine closely the terms under which both private and public shareholders in KS will contribute capital to the company and to ensure that any possible State guarantee is in line with State aid rules and that the decision to participate was on a fully commercial basis.

<sup>(1)</sup> OJ No C 110, 20. 4. 1994.

The Commission was informed that some European companies were negotiating the acquisition and subsequent closure of the crude steel and hot-rolling facilities of KS. It was pointed out that the re-emerging of KS on the market would only be possible due to State aid because the plan of the European steel companies to contribute to the important cut in KS' capacity would have proven that the company cannot be considered viable in its present form.

A summary of recent developments was provided to conclude that the participation of Sidmar should be seen as a participation in an aided company, so that its readiness to take over shares of KS would not reflect the background under which the contract of the Bremen group was concluded.

The opinion that also a minority participation of public entities could represent State aid was put forward and that, at any rate, Sidmar could not be considered to be a private enterprise, because its majority shareholder Arbed SA is controlled by the State of Luxembourg.

These comments, including a German translation, were communicated to your Government by letter dated 14 June 1994 with the request to submit its reaction by 24 June 1994.

Your Government, in its communication dated 24 June 1994, stressed that the debt write-off agreed in the framework of the composition procedure was agreed by private creditors of KS and the European Coal and Steel Community (ECSC). The composition procedure was based on the assumption of a long-term viability of the company after the financial restructuring. It confirmed that there were no State guarantees in favour of KS or KW to back the financial restructuring.

The Bremen group and Sidmar, according to your Government, agreed to take over shares of KS and to inject risk capital because they expected a return on investment based on the recent positive development of the company. It submitted a copy of a letter of intent dated 22 October 1993, in which Sidmar stated that it would be interested in taking over a participation in KS, e.g. in the framework of an increase of nominal capital, if the examination concerning the viability and synergy effects of a cooperation would show a positive perspective.

By communications dated 14 July 1994 and 21 July 1994, your Government provided some additional information concerning details of the termination of the agreement on transfer of profits and losses between KW and KS and some particular provisions of the contract between KW and the Bremen group.

On the basis of the additional information received during the procedure the facts relevant in this case appear as follows:

After the composition procedure carried out mid 1993, Klöckner Stahl GmbH was released from 40 % of its financial obligations and started to implement a restructuring concept, which included a significant reduction of workforce, the outsourcing of several activities, such as data processing, and the improvement of logistic facilities. In addition, an arbitration procedure between Ruhrkohle AG and KS led to a reduction of yearly costs for coke by DM 30 million. The early effect was a business result of only DM - 3 DM million in the fourth quarter of 1993 compared to DM - 110 DM million in the fourth quarter of 1992.

An expert study, dated 17 December 1993, submitted by your Government, estimated the net value as going concern of KS at DM 560 million, based on the presumed positive prospects of the company.

The contract signed 19 November 1993 providing for the take-over of two-thirds of the shares of Klöckner Stahl GmbH Hibeg (31,99 %), Stadtwerke Bremen AG (SW, 13,33 %), Bremer Vulkan Verbund AG (BVV, 13,33 %) and Detlef Hegemann GmbH & Co. KG (Hegemann, 8 %) entered into force on 1 February 1994. The new shareholders paid the agreed injection of risk capital on 9 February 1994. Klöckner Werke AG became 33,35 % shareholder after the take-over of 66,65 % of the shares by the members of the Bremen group as of 1 February 1994.

In its communication dated 14 March 1994, your Government stressed that the contracting partners took over the shares for a symbolic purchase price of DM 1 each but, at the same time, the new shareholders Hibeg, SW, BVV and Hegemann (not followed by the existing shareholder KW) agreed to inject risk capital totalling DM 250 million to the equity (Eigenkapital) of the company. This contribution should, according to your Government, be considered to be comparable to a purchase price in return for the take-over of two-thirds of the shares.

By communication dated 14 March 1994, your Government informed the Commission that Hibeg holds only 0,07 % of the shares of Bremer Vulkan Verbund AG (BVV) and that the civil-law partnership founded by Hibeg and Fried. Krupp GmbH sold out the 19 % stake in BVV it held after some transactions connected to the take-over of Krupp Atlas Elektronik GmbH by BVV. It pointed out that it is not in a position to give any additional information concerning the shareholdership of BVV because the shares are bearer stock certificates while the German law (§ 20 I Aktiengesetz) only provides for an obligation to report the shareholding of more than 25 % of these shares. Such report has not been received by the company.

Your Government, in its communication dated 14 March 1994, further stressed that the former sole shareholder KW held 100 % of the shares of KS with an injected and available nominal capital (Stammkapital) of DM 300 million and an estimated net value as going concern of some DM 560 million.

There was no intention of KW to inject new risk capital in the framework of the agreement with the Bremen group because it injected already risk capital to the equity of the company when it was founded in 1986. This nominal capital (Stammkapital) was, according to your Government, still available and represented a part of the value of the company of which two-thirds were sold out to the members of the Bremen group.

On 8 April 1994, the contract between Sidmar NV, Klöckner Werke AG, Klöckner Stahl GmbH, Stadtwerke Bremen AG, Hibeg, Bremer Vulkan Verbund AG and Detlef Hegemann GmbH & Co. KG was signed. The contract has not entered into force so far.

It provides for an increase of nominal capital (Erhöhung des Stammkapitals) of KS by DM 100 million from DM 300 million to DM 400 million and the take-over of a DM 100 million share (i.e. 25 %) by Sidmar, entitled to a share in the profit as of 15 February 1994. Furthermore, it provides for the purchase of a DM 40 000 share of Hibeg by Sidmar for a purchase price of DM 50 000, the transfer of a DM 6 000 share from Hibeg to Stadtwerke Bremen and the transfer of a DM 6 000 share from Hibeg to BVV.

The resulting shareholding situation would be as follows:

Sidmar	DM 100,04 million	25,01 %
KW	DM 100,04 million	25,01 %
Hibeg	DM 95,92 million	23,98 %
BVV	DM 40,00 million	10,00 %
SW	DM 40,00 million	10,00 %
Hegemann	DM 24,00 million	6,00 %
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	DM 400,00 million	100,00 %

In return for the take-over of the DM 100 million share, Sidmar would have to inject DM 125 million new risk capital (Eigenkapital).

KS guarantees *vis-à-vis* Sidmar that the balance sheet as of 14 February 1994 (i.e. the end of the abbreviated financial year 1993/94) would show a financial worth (i.e. total equity including capital reserve, Eigenkapital einschließlich Kapitalrücklage) of at least DM 550 million.

The contract provides for a number of detailed provisions concerning the intended industrial leadership of Sidmar and the case that Sidmar would buy a majority share of KS by 30 June 1996. If Sidmar would take over a majority share, the so-called "second step" would enter into force, including some amendments of

the charter of the company and the founding of a common distribution company of Sidmar and KS to merge the trading of the products of both companies in cooperation with TradeArbed SA and Klöckner & Co. AG (Klöco).

On the basis of these facts, the Commission appraised as follows:

The contract between the Bremen group and KW, on which the Commission based its decision to initiate the present procedure, provided for the following shareholding situation:

KW	33,35 %
Hegemann	8,00 %
BVV	13,33 %
Hibeg	31,99 %
SW	13,33 %

The new shareholders accepted to inject new risk capital in return for the take-over of the shares as follows:

SW	DM 50 million	20 %
Hibeg	DM 120 million	48 %
BVV	DM 50 million	20 %
Hegemann	DM 30 million	12 %
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	250 million	100 %

The new shareholders would have injected approximately DM 3,75 million each to the equity (Eigenkapital) of the company in return for the transfer of a 1 % share in the stock capital (Stammkapital) of the company totalling DM 300 million.

The members of the Bremen group based their assessment of the value of Klöckner Stahl GmbH on an expert study that estimated the net value as going concern at DM 560 million. They took over a share of DM 200 million of the nominal capital with a corresponding value of DM 373,3 million (185 % of the nominal capital taken over) and paid, in the form of a capital injection to the equity of KS, an amount of DM 250 million (125 % of the nominal capital taken over).

The contract provided also for the termination of the agreement on transfer of profits and losses between Klöckner Stahl GmbH and Klöckner Werke AG, with the result, *inter alia*, that KW would be released from a number of obligations.

It further provided for the obligation of the shareholders to agree on an increase of nominal capital by DM 100 million in case another European steel company (only Sidmar was mentioned in the contract as a possible candidate) would be prepared to take over 25,01 % of the shares.

The Commission, as spelled out in the opening of procedure, had doubts whether the behaviour of the public members of the Bremen group would reflect usual investment practice in a market economy. Irrespective of

the question whether BVV would be private or public, the public members of the group (Hibeg and Stadtwerke) injected the major part (68 %) of the new risk capital in return for a 45,32 % stake in the company.

The Commission concluded, on the basis of the information available, that the balance of contribution and relief for pending liabilities of KW, the former sole shareholder of KS, in the framework of the contract with the Bremen group was rather intransparent, so that it was not considered sufficient to clear up the Commission's doubts.

The provisions of the contract help to assess the behaviour of the public parties of the first contract with the Bremen group.

The shareholding situation and the corresponding contribution to the equity of KS on the basis of the contract with Sidmar would be as follows:

Sidmar	25,01 %	DM 125 million
KW	25,01 %	
Hibeg	23,98 %	DM 120 million
SW	10,00 %	DM 50 million
BVV	10,00 %	DM 50 million
Hegemann	6,00 %	DM 30 million

Even, if BVV were to be considered to be a public company, what seems not probable, the private parties would hold 56,02 %.

The new shareholders would have injected approximately DM 5 million to the equity (Eigenkapital) of the company in return for a 1 % share in a company with a nominal capital (Stammkapital) of DM 400 million. They would have paid 125 % of the share in nominal capital taken over.

One provision of the contract with Sidmar provides for the guarantee of KS, that the balance sheet as of 14 February 1994 (i.e. the end of the abbreviated financial year 1993/94) would show a financial worth (i.e. total equity (Eigenkapital) including capital reserve (Kapitalrücklage)) of at least DM 550 million. This provision was included after the examination of the financial and industrial situation of the company by Sidmar as announced in its letter of intent dated 22 October 1993.

The contract with Sidmar is clearly designed to prepare a later possible industrial leadership of Sidmar after the take-over of a majority of shares of KS.

It provides for a transfer of comparable amounts of production from Sidmar to KS (concerning hot-rolling capacities) and vice versa (concerning cold-rolling facilities). It also provides for the set-up of a company responsible for the trading of the products of both companies and a cooperation with TradeArbed and Klöco after the entry into the second step of the concept, i.e. the take-over of a majority by Sidmar.

The contract with the Bremen group was concluded on 19 November 1993 and entered into force on 1 February 1994. The contract with Sidmar was concluded on 8 April 1994 and will enter into force once the conditions are fulfilled. However, it would have retroactive economic effect as of 15 February 1994 because Sidmar would be entitled to a share in the profit of the company as of that date notwithstanding the actual date of the entry into force of the contract. There would therefore be only a short period between the entry into force of the first contract and the economic effect starting under the second contract. It should furthermore be kept in mind that the first contract was concluded under the expectation that Sidmar would participate as envisaged in the letter of intent of October 1993.

A comparison of the two contracts might help therefore to evaluate the behaviour of the parties of the first contract:

Under the first contract with the Bremen group the new shareholders accepted the obligation to inject approximately DM 3,75 million to the equity of Klöckner Stahl GmbH in return for the transfer of a 1 % share in the nominal capital (Stammkapital). The price paid by means of that capital injection represents 125 % of the nominal value of 1 % of the share capital. The total nominal capital remained unchanged at DM 300 million.

Sidmar would pay exactly the same share acquisition price as the other new shareholders did under the first contract, i.e. 125 % of the share in nominal capital taken over. An injection of DM 3,75 million in return for a 1 % share in a company with a nominal capital of DM 300 million is comparable to an injection of DM 5 million in return for a 1 % share of a company with a nominal capital of DM 400 million.

The assessment of the value of the company as by expert study of 17 December 1993 serving to prepare the decision of the members of the Bremen group led to the conclusion that the company's net value would amount to DM 560 million. The contract with Sidmar is based on the assumption that the value of the company would be at least DM 550 million. The difference between these two figures is negligible.

The first contract contains a number of provisions concerning the termination of the agreement on transfer of profits and losses between KS and KW. Since this prerequisite for the participation of new shareholders was already created when the contract with Sidmar was signed, it was no longer necessary to include provisions on that issue. It was also no longer necessary to include provisions for the possible later participation of further shareholders, because the entry of Sidmar completed the concept pursued from the outset.

The main difference between the two contracts so far is that the second contract with Sidmar provides for a number of regulations which would enter into force once Sidmar takes over a majority.

The parties of the contract between KW and the Bremen group and Sidmar, entering the group of shareholders under the second contract, accepted the same obligations to be fulfilled in return for the take-over of different shares of the stock capital. Every new shareholder injected or would inject the same amount of risk capital to the equity of the company in return for a 1 % share in the nominal capital.

All new shareholders based their decision to participate on a comparable assessment of the company's value.

The motivation of each new shareholder and the intended future role of the shareholders is different according to their background and present economic relationship with KS. Hegemann, Stadtwerke and BVV are customers and/or suppliers of KS; Sidmar is interested in an industrial cooperation and a possible later majority control. The contracts reflect these different motivations and future concepts. However, these differences are normal in every situation in which several market investors join in a common project.

It is necessary to examine the public capital injection in the light of behaviour of the private investors operating under normal market conditions and in particular taking into account the Commission's communication of 1984 (see Bulletin CE 9-1984).

The Commission recognizes that KS has already carried out an important restructuring which permitted it to achieve a healthy financial situation and viability. In this regard it is to be noted that its debts were considerably reduced (the composition procedure led to an income of non-recurrent nature of more than DM 1 billion).

With regard to the sector concerned, although it suffers from important overcapacities, it must be noted that the private sector has already carried out important closures of capacities, i.e. 5,4 million tonnes. For its part, the Commission recently (Decisions 94/256-261/ECSC of 12 April 1994, see OJ No L 112 of 3 May 1994) authorized the granting of aid which will permit the closure of 5,8 million tonnes of capacity. Further reductions should occur in the near future.

Consequently, the Commission considers that the structural overcapacities which characterize the particular sector will, as already stated, disappear within a reasonable time.

Under these circumstances the Commission considers that the injection of public capital in the equity of KS does not constitute aid. This analysis is confirmed by the fact that the private shareholders also inject capital in a similar manner (see table above).

The Commission concludes that the behaviour of the public parties involved in the contracts is comparable to the behaviour of the private parties, including Sidmar which was involved in the negotiations since the outset with the clear intention to take over a participation as finally agreed. This is being confirmed by the letter of intent dated 22 October 1993 and the fact that the first contract already provided for a number of provisions preparing the later participation of Sidmar exactly under the terms and conditions finally agreed. There is no extra obligation of the public parties compared to the private participants. The behaviour of the State in this case is therefore in line with usual investment practice in a market economy. The Commission consequently concluded that there is no State aid involved in the injection of public capital to the equity of Klöckner Stahl GmbH.

Your Government informed the Commission that the nominal capital of DM 300 million, injected by Klöckner Werke AG when it founded Klöckner Stahl GmbH in 1986, was still available at the time when the participation of the Bremen group was agreed and that the company was about to implement a financial restructuring concept which led to a remarkable improvement of the quarterly results by the end of 1993.

Therefore, it seems to be reasonable not to compare the financial contribution of Klöckner Werke AG on the one hand and of the members of the Bremen group on the other hand to assess the compatibility of the behaviour of the public participants with normal market investor practice. It is not general practice to buy shares of a company only if the seller injects additional risk capital.

Your Government, by communication dated 14 July 1994, informed the Commission that the amount of obligations to be taken over by KW for the benefit of KS in the framework of the disengagement procedure would exceed the amount of the obligations of KS in favour of KW by approximately DM 80 million.

It stressed that the creditors (including the ECSC) of both companies would have to concur with the transactions agreed to terminate the agreement on transfer of profits and losses before they could enter into force, so that an efficient control of the disengagement procedure between KW and KS would be ensured.

Therefore, the contribution of KW through the provision of loans totalling DM 215 million would not be balanced by economic advantages KW might have as a result of the disengagement procedure.

In addition, your Government pointed out that KW agreed in the framework of the composition procedure to pay one-third of the profits of KW during eight years to the creditors who participated in that procedure. Since

a main part of these creditors were those of KS, the agreement of KW would mainly be a contribution of KW to KS. This obligation of KW is not affected by the termination of the agreement on transfer of profit and losses between KS and KW.

The total amount of the aforementioned contributions of KW cannot be compared with the contribution of the new shareholders because they are different in nature from the injection of risk capital to the equity of KS. Nevertheless, it may be concluded that also KW as the former sole shareholder is prepared to contribute. This proves that also KW considers KS to have future prospects and a considerable value.

One provision in the contract with the Bremen group stipulated that KS would have to provide securities covering its obligation to compensate KW for payments on liabilities connected to the activities in Bremen arising from the time before 1986, when the plant in Bremen was run as a branch of KW, if Hibeg would lower its share before 1 January 1995 down to less than 10 %. The fact that only Hibeg is mentioned in that provision caused doubts of the Commission whether it might, different from the other new shareholders, be considered to be a surety for these obligations.

By communication dated 21 July 1994, your Government explained that KW had to face the theoretical possibility that the newly created shareholding situation in KS would change if the new shareholders would transfer its shares with the result that the claim of KW *vis-à-vis* KS to cover the old obligations connected to the conduct of the Bremen plant might become less reliable. Since only Hibeg, under another provision of the contract, is allowed to lower its share before 14 December 1994 (the date on which the obligations of KW under the guarantee given in the framework of the composition procedure would expire) without the prior assent of KW, it was considered necessary to include the said provision concerning additional securities.

All the other new shareholders are not allowed to sell out the shares without the prior assent of KW, so that there is in fact no difference being made between the private and the public shareholders. KW considers the stability of the new shareholding situation in line with the concept and the timetable as spelled out in the contracts to be crucial for the future economic stability of its debtor KS. It reserves its right to ask for additional securities in case the shareholding situation would be changed. If one of the shareholders would like to sell shares to another party, KW may make its assent subject to the provision of new securities. Since it cannot oppose Hibeg to sell out its shares (but a share of DM 30 million in the nominal capital, i.e. 7,5 % after the increase of nominal capital already agreed in the first contract) it was held necessary to include such condition already in the contract.

One of the parties concerned putting forward its comments in the framework of the procedure was of the opinion that the participation of Sidmar should be seen as a participation in an aided company.

The question whether there was State aid involved in the first contract between KW and the Bremen group was, however, the subject of the opening of the present procedure. The short-term intervals between the interventions under the first and the second contract and the fact that the first contract was concluded while the letter of intent of Sidmar was already in existence as well as the similarities of the financial contributions of the investors, the relationship between the price paid and the established net value of the company and the fact of the private majority shareholding represent a very strong substantiation of the private investors character of the minority public intervention.

Another interested party pointed out that Sidmar could not be considered to be a private enterprise and that therefore its behaviour could not be taken into account when assessing the behaviour of the public participants in this case.

The shareholders of Sidmar are Arbed (67 %), Falck (5 %) and Gimvindus, a subsidiary of GIMV, the Flemish regional investment society (28 %). The shareholders of Arbed are the Luxembourg Government (35 %), the Société Générale de Belgique (19,8 %) and the common holding of both, LGA (12,4 %). The remaining 19,8 % of the shares are held by the Schneider group and other private shareholders. Consequently, some 80 % of the Sidmar shares are, directly or indirectly, controlled by State entities.

However, the behaviour of Sidmar in this case cannot be considered in the same way as the behaviour of the two State parties of the Bremen group. The Flemish and the Luxembourg Governments are not interested in spending public financial means to retain a company in Germany in business that is in competition with their own steel company Sidmar. They would not allow Sidmar to sign an agreement that is not in line with the proper business interest of the company itself and hereby in line with the economic interest of its public shareholders. Consequently, the behaviour of Sidmar may be considered to be equivalent to private market investors' behaviour for the purposes of the present procedure.

The party further stressed that also a minority public participation could represent State aid.

It is true that the amount of the public participation in an investment is not necessarily the only indicator to establish the market adequacy of the behaviour of the public investors. It is only one element of a number of different parameters which are to be examined in every case according to its own particular circumstances. As



already has been demonstrated above, it is, in the present case, not only the fact that the public parties would finally be minority shareholders which leads to the conclusion that there is no aid to be identified. The short period between the contract and the fact that the final combination of interventions was already intended, as proven by the letter of intent of October 1993, the similar financial contributions accepted by all new shareholders and the similar estimations of the company's value are the other elements leading to the above conclusion.

The comparison between the behaviour of Sidmar as agreed in the contract concluded on 8 April 1994 on the

one hand and the behaviour of the public members of the Bremen group under the contract of 19 November 1993 on the other hand shows that the behaviour of the public entities in this case is comparable to usual investment practice in a market economy. The Commission consequently concluded that there is no State aid involved in the behaviour of the State in this case.

I therefore have the honour of informing you that the Commission decided to close the procedure pursuant to Article 6 (4) of its Decision No 3855/91/ECSC of 27 November 1991 with regard to the injection of public capital to the equity of Klöckner Stahl GmbH, Duisburg.'

### Authorization for State aid pursuant to Articles 92 and 93 of the EC Treaty

#### Cases where the Commission raises no objections

(94/C 390/02)

(Text with EEA relevance)

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 481/94

**Title:** Industrial equipment grant (measure 11 of the Integrated Operational Programme)

**Objective:** Modernization, investment in companies and financial engineering. Recipients: local SMEs and SMIs

**Budget:** FF 64,5 million (ECU 9,8 million)

**Aid intensity:** Investment grant amounting to 50 % of investment, with a maximum of FF 7,5 million (ECU 1,12 million) for each project

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 482/94

**Title:** Regional enterprise grant (measure 11 of the Integrated Operational Programme)

**Objective:** Modernization, investment in companies and financial engineering. Recipients: industrial enterprises and craft firms in the productive sector

**Budget:** FF 52,4 million (ECU 7,9 million)

**Aid intensity:** Investment grant amounting to 50 % of investment, with a public aid ceiling of FF 500 000 (ECU 75 000) for each project

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 483/94

**Title:** Modernization, investment in companies and financial engineering (measure 11 of the integrated Operational Programme)

**Objective:**

Aid to SMEs and SMIs

Modernization of production unit

Equipping with machine tools, robots, and computer-aided production and design systems

Investment in safety measures, gaseous and liquid waste management, noise management

**Budget:** FF 42,5 million

**Aid intensity:**

Ceiling for eligible investments fixed at ECU 750 000

— SMEs: 75 % (not more than 250 persons)

— SMIs: 50 % (not more than 500 persons)

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 484/94

**Title:** Regional grant for modernization of craft industries (measure 11 of the Integrated Operational Programme)

**Objective:** Modernization, investment in companies and financial engineering. Recipients: (craft firms registered for more than three years)

**Budget:** FF 8 million (ECU 1,2 million)

**Aid intensity:** Financial support for investment in modernization of production units: maximum rate of grant 40 %; ceiling of ECU 30 000

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 485/94

**Title:** Interest-rate subsidy (measure 11 of the Integrated Operational Programme)

**Objective:** Modernization, investment in companies and financial engineering. Recipients: local production or service companies (except those in the building and public works sectors) tourism firms and export firms experiencing difficulties

**Budget:** FF 34 million (ECU 5,2 million)

**Aid intensity:** Interest-rate subsidy of 3 percentage points over 10 years on a maximum amount of FF 10 million (ECU 1,5 million) for each project

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 486/94

**Title:** Acquisition of holdings (measure 11 of the Integrated Operational Programme)

**Objective:** Modernization, investment in companies and financial engineering. Recipients: local production or service companies (except those in the building and public works sectors) and tourism firms experiencing difficulties

**Budget:** FF 27,5 million (ECU 4,2 million)

**Aid intensity:** Acquisition of a holding of up to 30 % of capital and FF 1 million (ECU 150 000) for each intervention

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 487/94

**Title:** Loan guarantees (measure 11 of the Integrated Operational Programme)

**Objective:** Modernization, investment in companies and financial engineering. Recipients: local production or service companies (except those in the building and public works sectors) and tourism firms experiencing difficulties

**Budget:** FF 18,5 million (ECU 2,8 million)

**Aid intensity:** Guarantee of 50 % to 70 % of the amount outstanding; risk limited to FF 2 million (ECU 300 000)

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 488/94

**Title:** Reunion holdings fund (measure 11 of the Integrated Operational Programme)

**Objective:** Modernization, investment in companies and financial engineering. Recipients: individual businessmen, single-member limited-liability companies, and private or public limited companies with a turnover not exceeding FF 5 million

**Budget:** FF 12,5 million (ECU 1,9 million)

**Aid intensity:** Acquisition of a holding of up to FF 250 000 (ECU 38 000) to stimulate and finance company growth; the exit period is set at five years

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 489/94

**Title:** Aid to identify export markets/stimulate production (measure 12 of the Integrated Operational Programme)

**Objective:** To stimulate production; advisory services fund. Recipients: companies in the productive sector: goods and services

**Budget:** FF 20 million (ECU 3 million)

**Aid intensity:**

Grants: financing of up to 70 % of expenditure incurred in identifying export markets; travel and subsistence expenses, promotional material, etc.

Cost of carrying out studies — market studies, counselling, etc.

Maximum amount per company: ECU 140 000 per year

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 491/94

**Title:** Export guarantee fund (measure 12 of the Integrated Operational Programme)

**Objective:** To stimulate production; advisory services. Recipients: SMEs with export potential

**Budget:** FF 3,33 million (ECU 500 000)

**Aid intensity:**

Guarantee: cover for any risks attaching to export transactions, e.g. payment arrears or default, deterioration of goods supplied, etc. Ceilings fixed at 75 % of the risk and at ECU 750 000 for each transaction

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 492/94

**Title:** Aid for advisory services (measure 12 of the Integrated Operational Programme)

**Objective:** To stimulate production; advisory services. Recipients: SMEs in the productive sector, in the building and public works sectors, and in the craft and tourist industries Possible intervention by intermediate bodies

**Budget:** FF 39,5 million (ECU 6 million)

**Aid intensity:**

Grants: payment for the services of outside consultants relating to organizational matters, new technologies, quality control, human resources, etc.

Maximum rate: 80 % of the cost of services for small businesses, 50 % for medium-sized businesses (more than 250 persons). Ceiling: ECU 45 000

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 493/94

**Title:** Oparcat (measure 13 of the Integrated Operational Programme)

**Objective:** To restructure craft businesses and small rural firms. Recipients: small firms, craft workers, traders, suppliers of tourist services. Excluded: mobile snack bars, pharmacies, wholesalers, shops with a surface area in excess of 400 m<sup>2</sup>, classified hotels, furnished accommodation

**Budget:** FF 34,2 million (ECU 5,2 million)

**Aid intensity:**

Grants for the purchase of commercial vehicles with a ceiling of ECU 3 000 (not exceeding 3,5 tonnes) or ECU 7 500 (in excess of 3,5 tonnes), for architectural studies (70 % of the cost of the study) and for construction and renovation work (50 % of investment)

Maximum aid: ECU 37 500 (craft businesses), ECU 22 500 (distributive trades and tourism)

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 494/94

**Title:** Groupings and agencies (measure 13 of the Integrated Operational Programme)

**Objective:** Aid to small businesses in the agri-food, timber, building, fashion, and arts and crafts sectors. Recipients: craft businesses (production and services) chambers of commerce, trade organizations, craft co-operatives, groupings and associations

**Budget:** FF 39,5 million

**Aid intensity:** Ceilings: FF 450 000 (over three years) for operating aid;

FF 200 000 for investment aid

**Duration:** 1994 to 1999

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**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 495/94

**Title:** Start-up and extension aid for businesses (measure 14 of the Integrated Operational Programme)

**Objective:** Investment and support for firms in the alternative economy. Recipients: individual and local-service projects, enterprises in the market, non-profit-making (voluntary services, support networks) and non-market sectors

**Budget:** FF 8,8 million (ECU 1,3 million)

**Aid intensity:** Grants at a maximum rate of 75 %, with ceiling fixed at FF 150 000 (ECU 22 700), both for project creation and for logistical follow-up in connection with:

- advisory services for business start-ups,
- the operational equipment necessary

**Duration:** 1994 to 1999

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**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 496/94

**Title:** Business start-up/incubator facilities (measure 15 of the Integrated Operational Programme)

**Objective:** To assist business start-ups. Recipients: business start-ups in the craft, service and industrial sectors

**Budget:** FF 18,33 million (ECU 2,8 million)

**Aid intensity:**

Indirect aid:

- to alleviate for a period of 30 months the burden of rental costs on business start-ups employing fewer than 30 persons,
- to reduce over the same period the cost of services used jointly by businesses benefiting from start-up/incubator facilities

Maximum amount per business: ECU 15 000 (estimate)

**Duration:** 1994 to 1999

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**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 497/94

**Title:** Multiservice centre in the highlands of Réunion (measure 15 of the Integrated Operational Programme)

**Objective:** Provision of business facilities. Recipients: small firms in the highlands of Réunion

**Budget:** FF 9,33 million (ECU 1,4 million)

**Aid intensity:**

Indirect aid to facilitate the operation of three centres offering SMEs in the highlands of Réunion:

- logistical support for joint measures,
- business information,
- services

Maximum amount per firm: ECU 10 000 (estimate)

**Duration:** 1994 to 1999

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**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 498/94

**Title:** ZIA, free zones (measure 15 of the Integrated Operational Programme)

**Objective:** Provision of business facilities. Recipients: local SMEs. Industrial or small-scale production companies, excluding activities involving distribution, independent storage and services to individuals

**Budget:** FF 240,73 million (ECU 35,5 million)

**Aid intensity:** Grant to local authorities to develop land and to construct or refurbish business accommodation

Rebate on the purchase price or rent of developed land and business premises (workshops, factories). This rebate to businesses represents some 40 % of the property investment (the price of the land is excluded from the basis for calculating the rebate)

Maximum amount of aid (in nge) is put at ECU 14 000 per year for craft firms and ECU 55 000 per year for industrial firms

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 499/94

**Title:** Support for tourist facilities (measure 16 of the Integrated Operational Programme)

**Objective:** To assist the development of tourist facilities (sport and leisure activities) and other amenities (saunas, gardens, etc.)

**Budget:** FF 16,66 million

**Aid intensity:** 40 % of investment

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 500/94

**Title:** Measures to support the structuring of tourist facilities (measure 16 of the Integrated Operational Programme)

**Objective:** To support the development and structuring of tourist facilities (computerized reservation systems, chains of voluntary marketing groups)

**Budget:** FF 5 million

**Aid intensity:**

Ceiling for investment aid: FF 200 000

Ceiling for logistical aid: FF 450 000

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 502/94

**Title:** CRITTs (Innovation and Technology Transfer Centres) (measure 17 of the Integrated Operational Programme)

**Objective:** Technology transfer. Recipients: industrial enterprises and craft firms in the productive sector

**Budget:** FF 32,16 million (ECU 4,9 million)

**Aid intensity:** Services in the form of technical assistance, feasibility studies, information, provision of workshops or materials.

Grants limited to 80 % of services provided, up to a ceiling of ECU 30 000

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 503/94

**Title:** CORTECHS procedure (measure 17 of the Integrated Operational Programme)

**Objective:** Technology transfer. Recipients: industrial enterprises and craft firms in the productive sector

**Budget:** FF 12 million (ECU 1,8 million)

**Aid intensity:** Flat-rate grant of ECU 12 000 for the recruitment of a skilled technician to carry out an innovative project, with the help of a skills centre (lycée, technical centre, CRITT, etc.) that will receive ECU 4 500

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 504/94

**Title:** Waste treatment investment aid (measure 32 of the Integrated Operational Programme)

**Objective:** Environmental aid: building of waste sorting and composting facilities. Recipients: local SMEs (including in industry)

**Budget:** FF 182,3 million

**Aid intensity:** SMEs 75 %

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 505/94

**Title:** Start-up aid for waste collection schemes (measure 32 of the Integrated Operational Programme: waste and energy management)

**Objective:** Environmental aid: waste collection.  
**Recipients:** local SMEs

**Budget:** FF 2,5 million

**Aid intensity:** ECU 68 000 over three years

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 506/94

**Title:** Tourist development and facilities (measure 35 of the Integrated Operational Programme)

**Objective:** Aid to tourism in seaside and mountain regions

**Budget:** FF 50 million

**Aid intensity:** 40 % of the investment, with a ceiling of ECU 52 230

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 507/94

**Title:** CIFRE procedure (measure 85 of the Integrated Operational Programme)

**Objective:** Research grants and aid to recruit executive staff. Recipients: industrial enterprises and craft firms in the productive sector

**Budget:** FF 12 million (ECU 1,8 million)

**Aid intensity:** Aid under a research programme for the fixed-duration employment (three years) of students preparing theses

Aid of FF 150 000 per contract, with a ceiling of 50 % of remuneration and costs relating to employment contract

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 508/94

**Title:** Recruitment aid (measure 85 of the Integrated Operational Programme)

**Objective:** Research grants and aid to recruit executive staff. Recipients: industrial enterprises and craft firms in the productive sector

**Budget:** FF 15,3 million (ECU 2,3 million)

**Aid intensity:** Recruitment of executive staff for indefinite duration: aid equivalent to 65 % of wages, costs and training costs, with a ceiling of FF 300 000 (ECU 45 000) over two years;

contribution towards remuneration of on-the-job trainees for a period of six months: FF 200 000 per training period (ECU 30 000)

**Duration:** 1994 to 1999

**Date of adoption:** 7. 10. 1994

**Member State:** France (Réunion)

**Aid No:** N 509/94

**Title:** Regional employment premiums (measure 86 of the Integrated Operational Programme)

**Objective:** To foster competitiveness and employment. Recipients: industrial, agricultural, crafts and tourist enterprises

**Budget:** FF 60 million (ECU 9 million)

**Aid intensity:** Employment aid for new or expanding enterprises: premium of between FF 20 000 (ECU 3 050) and FF 40 000 (ECU 6 100) per job, depending on the region, for a maximum of 30 jobs, with a ceiling equal to twice the enterprise's equity capital and 60 % of the investment (70 % for agricultural enterprises)

**Duration:** 1994 to 1999

**Authorization for State aid pursuant to Articles 92 and 93 of the EC Treaty**

**Cases where the Commission raises no objections**

(94/C 390/03)

(Text with EEA relevance)

**Date of adoption:** 29. 3. 1994

**Member State:** Germany (Former GDR)

**Aid No:** N 108a/94

**Title:** Amendments to the guidelines concerning the ERP programme for assisting areas in West Germany (ERP-Regionalprogramm)

**Objective:** Regional development

**Legal basis:** Richtlinie für ERP-Darlehen an kleine und mittlere Unternehmen in regionalen Fördergebieten

**Budget:** Subsidized loans totalling DM 1,4 billion in 1994

**Aid intensity:** 7,5 % (gross) maximum; the turnover ceiling has been raised from DM 40 million to DM 100 million

**Duration:** Indefinite

**Conditions:** Annual report

**Date of adoption:** 29. 3. 1994

**Member State:** Germany (Former GDR)

**Aid No:** N 108b/94

**Title:** Amendments to the guidelines concerning the ERP programme for promoting investment in the former GDR (ERP-Aufbauprogramm)

**Objective:** Regional development

**Legal basis:** Richtlinie für ERP-Darlehen zur Förderung von betrieblichen Aufbauinvestitionen

**Budget:** Subsidized loans totalling DM 3,2 billion in 1994

**Aid intensity:** 7,5 % (gross) maximum; the turnover ceiling has been raised from DM 40 million to DM 100 million

**Duration:** Indefinite

**Conditions:** Annual report

**Date of adoption:** 21. 6. 1994

**Member State:** Germany (Berlin)

**Aid No:** N 288/94

**Title:** Scheme introduced by the Land of Berlin for selling at reduced prices land intended for industrial purposes

**Objective:** Regional development and promotion of SMEs

**Legal basis:** Grundsätze für den verbilligten Verkauf landeseigener bebauter und unbebauter Grundstücke für die Gewerbe- und Industrieansiedlung

**Budget:** DM 88 million

**Aid intensity:** 1,25 % (gross)

**Duration:** 1994 to 1998

**Conditions:** Annual report

**Date of adoption:** 22. 6. 1994

**Member State:** Germany (Former GDR)

**Aid No:** N 294/94

**Title:** Amendments to the consultancy aid scheme for promoting the sale of consumer goods produced in the former GDR

**Objective:** Regional development of the former GDR

**Legal basis:** Richtlinien für die Förderung von Marketing-Beratungen zur Verbesserung des Absatzes ostdeutscher Konsumgüter

**Budget:** ECU 18 million

**Aid intensity:** 50 % of eligible costs (fees), up to ECU 50 000

**Duration:** 1994 to 1995

**Conditions:** Annual report

**Date of adoption:** 29. 6. 1994

**Member State:** Germany (Saxony-Anhalt, areas affected by flooding)

**Aid No:** N 332/94

**Title:** Scheme introduced by the Land of Saxony-Anhalt to assist firms affected by flooding

**Objective:** To repair the damage caused by natural disasters

**Legal basis:** Richtlinie über die Gewährung von staatlichen Beihilfen bei Notständen durch Hochwasser im Land Sachsen-Anhalt für die gewerbliche Wirtschaft

**Budget:** DM 25 million (indicative forecast)

**Aid intensity:** As a rule, ECU 60 000

**Duration:** 1994

**Conditions:** Annual report

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**Date of adoption:** 14. 7. 1994

**Member State:** United Kingdom (TTWAs of Nottingham, Stafford, Stoke and Walsall (parts))

**Aid No:** N 182/94

**Title:** Extension of the Regional Enterprise Grant scheme to coal closure areas

**Objective:** Regional development/Support of SMEs activities/innovation

**Legal basis:** Industrial Development Act 1982 (Section 8)

**Aid intensity:**

Per project:

— 15 % gross (investment grant)

— £ 25 000 (innovation support grant)

**Duration:** Not specified

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**Date of adoption:** 14. 7. 1994

**Member State:** United Kingdom (objective 2 areas in Great Britain)

**Aid No:** N 189/94

**Title:** Retex programme for Great Britain

**Objective:** To support the diversification of the economic activities in the regions of Great Britain heavily dependent on the textiles and clothing sector

**Legal basis:** Council resolution (OJ No C 178, 15. 7. 1992, p. 2)

**Budget:** ECU 11,62 million

**Aid intensity:** 50 % gross of eligible costs

**Duration:** Two years

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**Date of adoption:** 15. 7. 1994

**Member State:** Germany (Entire country for SMEs; assisted regions for other firms)

**Aid No:** N 108c/94

**Title:** Amendments to the guidelines concerning the ERP programme for promoting start-up ventures (ERP-Existenzgründungsprogramm)

**Objective:** Regional development and promotion of SMEs

**Legal basis:** Richtlinie für ERP-Darlehen zur Förderung der Existenzgründung

**Budget:** Subsidized loans totalling DM 6,57 billion in 1994

**Aid intensity:** Up to 7,5 % (gross) maximum

**Duration:** Indefinite

**Conditions:** Annual report

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**Date of adoption:** 19. 7. 1994

**Member State:** Germany (Assisted regions in Germany)

**Aid No:** N 157/94

**Objective:** Improvement of regional economic structure:

— aid for infrastructure projects

— aid for productive investments

— aid for consultations

— guarantees

**Legal basis:** Gesetz über die Gemeinschaftsaufgabe 'Verbesserung der regionalen Wirtschaftsstruktur' vom 6. Oktober 1969 (BGBl. I, S. 1861), zuletzt geändert durch das Gesetz vom 24. Juni 1991 (BGBl. I 1991, S. 1336)

**Budget:** 15,3 billion DM in 1994 (commitment appropriations) of which 95 % in favour of former GDR regions

**Duration:** The Joint Task scheme is unlimited; the present framework programme covers the period 1994 to 1998

**Conditions:** Annual report

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**Date of adoption:** 19. 7. 1994

**Member State:** Germany (Former GDR)

**Aid No:** NN 47/94

**Title:** Amendments to the Investment Allowance Law with a view to promoting investment in the former GDR

**Objective:** Regional development and promotion of SMEs

**Legal basis:** Investitionszulagengesetz

**Budget:** Not available

**Aid intensity:** Net grant equivalent 3,25 to 6,5 %

**Duration:** End 1996 (investments made in 1996)

**Conditions:** Annual report

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**Date of adoption:** 29. 7. 1994

**Member State:** Germany (Baden-Württemberg)

**Aid No:** N 300/94

**Title:** Programme introduced by the Land of Baden-Württemberg to develop rural areas

**Objective:** To develop rural areas in Baden-Württemberg

**Legal basis:** Richtlinie Entwicklungsprogramm ländlicher Raum

**Budget:** ECU 22,5 million a year

**Aid intensity:**

— 7,5 % (gross) (medium-sized enterprises)

— 15 % (small enterprises)

— ceiling of ECU 250 000 per enterprise

**Duration:** Indefinite

**Conditions:** Annual report

**Date of adoption:** 13. 9. 1994

**Member State:** Greece (Objective 1 areas in Greece)

**Aid No:** N 386/94

**Title:** Retex programme for Greece

**Objective:** To support the diversification of the economic activities in the regions of Greece heavily dependent on the textiles and clothing sector

**Legal basis:** Council resolution (OJ No C 178, 15. 7. 1992, p. 2)

**Budget:** ECU 23,5 million

**Aid intensity:** ECU 50 000 to ECU 163 000

**Duration:** One year

**Date of adoption:** 19. 9. 1994

**Member State:** Greece

**Aid No:** N 330/94

**Title:** Amendments to Law No 1892/90 (Part A)

**Objective:** Regional development

**Legal basis:** Τροποποίηση του νόμου 1892/90 (κεφάλαιο Α)

**Aid intensity:** 75 % net grant equivalent (Thrace)

**Duration:** Indefinite

**Conditions:** Annual report

**Date of adoption:** 7. 10. 1994

**Member State:** France

**Aid No:** N 411/94 (\*)

**Title:** Renewal of parafiscal charge allocated to the 'Comité professionnel de la distribution de carburants' (Trade Committee on Fuel Distribution)

**Objective:** To modernize, diversify, open, maintain or close independent fuel retail businesses. Investment or closure grants

**Legal basis:** Projets de décret et d'arrêté du ministre de l'industrie et du commerce extérieur

**Budget:** FF 43 million (ECU 6,15 million) for 1995

**Aid intensity:**

— Aid to modernization, diversification, setting-up or maintenance of business: 50 %, subject to a ceiling of FF 120 000 (ECU 17 417)

— Closure aid: maximum FF 120 000 (ECU 17 417)

**Duration:** Five years (1995 to 2000)

(\*) Decision to close the file; Article 92 (1) not applicable.

**Date of adoption:** 25. 10. 1994

**Member State:** Denmark

**Aid No:** N 684/93 (\*)

**Title:** System for the collection and disposal of used tyres

**Objective:** To collect and dispose of used tyres in an environmentally-friendly way

**Legal basis:** Bekendtgørelse om gebyr og tilskud til bortskaffelse af dæk

**Budget:** Dkr 17 million (ECU 2 million)

**Duration:** 31. 12. 1998

(\*) Decision to close the file; Article 92(1) not applicable.

**Date of adoption:** 30. 11. 1994

**Member State:** Ireland

**Aid No:** N 512/94

**Title:** Energy efficiency measures under the economic infrastructure operational programme (EIOP)

**Objective:** To encourage energy conservation by offering grants for energy efficiency projects which aim to reduce energy consumption and improve the environment. The scheme is open to all firms.

**Legal basis:** Ministers and Secretaries Acts

**Budget:** Total budget of ECU 42,2 million from which ECU 19,7 million is to be co-financed by the ERDF

**Aid intensity:** Up to 50 % gross

**Duration:** 1994 to 1999

**Date of adoption:** 30. 11. 1994

**Member State:** Germany

**Aid No:** N 563/d/94

**Title:** ERP-Environment programme

**Objective:** Aid for environmental protection and energy efficiency to firms by offering soft loans

**Legal basis:** ERP-Wirtschaftsplangesetz 1995

**Budget:** Total funds available for lending in 1995: DM 2,43 billion (ECU 1,27 billion)

**Aid intensity:** Maximum 4,28 % gross

**Duration:** 1995

**Date of adoption:** 30. 11. 1994

**Member State:** United Kingdom (Blyth Valley)

**Aid No:** NN 26/94

**Title:** Blyth Valley District Council: Flexible assistance for business development and expansion

**Objective:** Support new and expanding businesses

**Legal basis:** Local Government and Housing Act 1989

**Budget:**

- ECU 128 700 (1994)
- ECU 64 350 (1995)
- ECU 64 350 (1996)

**Aid intensity:**

- 75 % gross of eligible costs (business plan)
- 50 % gross of eligible costs (consultancy)
- 100 % rent payments (over three years)

**Duration:** Indeterminate

**Conditions:** Approval until the end of 1996 when the scheme must be renotified

**Date of adoption:** 1. 12. 1994

**Member State:** The Netherlands

**Aid No:** N 620/94

**Title:** Credit for Stork Wärtsilä Diesel BV

**Objective:** To support the development of the diesel engines SW26

**Legal basis:** Approved scheme credits for technical development (N 783/F/93 (TOK))

**Budget:** ECU 9,4 million (FL 20,2 million)

**Aid intensity:** 40 % in the case of a failure of the project and no aid in the case of a success

**Duration:** 12. 1. 1994 to 31. 12. 1997

**Conditions:**

- To notify in advance pursuant to Article 93 (3) of the EC Treaty any change in the modalities of the aid and/or refinancing
- Annual report

**Date of adoption:** 7. 12. 1994

**Member State:** Ireland (Dublin and Mid-West)

**Aid No:** N 562/94

**Title:** International Financial Services Centre (Dublin) — Shannon Customs-Free Airport Zone

**Objective:** Job creation and regional development

**Legal basis:** Financial Bill 1994

**Budget:** Variable (operating aid)

**Aid intensity:** Variable (operating aid)

**Duration:** Until 31. 12. 2005 (deadline for approval of new projects: 31. 12. 2000)

**Conditions:** Annual report

**Date of adoption:** 12. 12. 1994

**Member State:** Spain (Castile-Leon)

**Aid No:** N 638/94

**Title:** Aid to encourage investment in tourism facilities

**Objective:** To increase the supply and improve the quality of tourism services in Castile-Leon

**Legal basis:** Proyecto de Orden de la Consejería de Cultura y Turismo

**Budget:** Pta 645 million approximately ECU 4,5 million) for 1995

**Aid intensity:** 35 % net grant equivalent (this may be exceeded in exceptional cases within the limits laid down in the Community frameworks for the region concerned)

**Duration:** Indefinite

**Date of adoption:** 13. 12. 1994

**Member State:** Germany (Baden-Württemberg)

**Aid No:** N 586/94

**Title:** Grant scheme for renewable energy from woodchippings

**Objective:** Aid for investment in energy generation installations using woodchippings and for heating networks connected to these installations

**Legal basis:** Richtlinienentwurf des Ministeriums für Ländlichen Raum, Ernährung, Landwirtschaft und Forsten, Baden-Württemberg

**Budget:** DM 2 million per annum (ECU 1,04 million)

**Aid intensity:** 20 % gross, cumulation up to 40 % for SMEs

**Duration:** 1995 to 1997

**Date of adoption:** 19. 12. 1994

**Member State:** Spain (Comunidad de Madrid)

**Aid No:** N 326/94

**Title:** Technology development programme

**Objective:** To support research activities carried out by companies established in Madrid

**Legal basis:** Orden de la Consejería de Economía

**Budget:** Pta 1,45 million (1994 to 1996); (ECU 9,1 million) 1994: ECU 2,9 million; 1995: ECU 3,1 million; 1996: ECU 3,1 million.

**Aid intensity:** 50 % for basic industrial research; 25 % for applied research and development. Enhancements: 10 % for SMEs and 10 % in case the project is linked to Community R&D programmes

**Duration:** 1994 to 1996

**Conditions:**

- Annual report
- Notification of individual awards of aid to projects with a value in excess of ECU 20 million (ECU 30 million) for Eureka projects with a national participation of more than ECU 4 million
- Notification of aid measures granted to undertakings operating in the motor vehicle sector where the cost of the project exceeds ECU 12 million

**Date of adoption:** 19. 12. 1994

**Member State:** Italy (Campania)

**Aid No:** N 351/94

**Title:**

1. Measures to assist tourism
2. Measures to promote the development of the craft industry
3. Measures to promote training and employment in the craft industry
4. Financial assistance for craft products
5. Measures to assist craft businesses
6. Measures to safeguard and promote traditional craft products

**Objective:** Development of tourism and craft trades

**Legal basis:** Leggi di delibera del Consiglio regionale

**Budget:**

1. Lit 18 billion (ECU 9,3 million) for 1994
2. Lit 20 billion (ECU 10,25 million) for 1993 to 1995
3. Lit 2,5 billion (ECU 1,28 million) for 1994 to 1996 (including EC financing)
4. Lit 2 billion (ECU 1,1 million) for 1993
5. Lit 2 billion (ECU 1,1 million) for 1993, Lit 6 billion (ECU 3 million) for 1994 to 1996
6. Lit 300 million (ECU 154 000) for 1993 Lit 1,5 billion (ECU 0,7 million) for 1994 to 1996

**Aid intensity:** Between 10 and 60 % (gross grant)

**Duration:** 1993 to 1996 (see above)

**Date of adoption:** 21. 12. 1994

**Member State:** Denmark

**Aid No:** N 666/94

**Title:** Proposal for a modification to the Danish Electricity Act

**Objective:** Restructuring aid to the electricity company SEAS

**Legal basis:** Forslag til lov om ændring af lov om elforsyning (Indregning af tab ved sideordnede aktiviteter)

**Budget:** Approximately Dkr 230 million (ECU 30 million)

**Duration:** Approximately 15 years

**Date of adoption:** 21. 12. 1994

**Member State:** France (Six areas affected, with a total population of less than 50 000)

**Aid No:** N 699/94

**Title:** Marginal changes to the map for the PAT (regional planning grant) scheme (see Case No N 515/94, OJ No C 346, 20. 12. 1994)

**Objective:** Regional development

**Legal basis:** Décret relatif à la prime d'aménagement du territoire (PAT)

**Budget:** Unchanged with respect to Case No N 515/94

**Aid intensity:** 17 or 25 % gross, depending on areas

**Duration:** Indefinite

**Conditions:** Unchanged with respect to Case No N 515/94

**Date of adoption:** 22. 12. 1994

**Member State:** Italy (Abruzzi)

**Aid No:** N 369/94

**Title:** Measures to promote farm tourism

**Objective:** Development of farm tourism

**Legal basis:** Disegno di legge della Giunta Regionale

**Budget:** Lit 20,423 billion (ECU 10,48 million) for 1994

**Duration:** 1994

#### Authorization for State aid pursuant to Articles 92 and 93 of the EC Treaty

##### Cases where the Commission raises no objections

(94/C 390/04)

(Text with EEA relevance)

**Date of adoption:** 27. 7. 1994

**Member State:** Italy

**Aid No:** N 336/94

**Title:** Aid to shipbuilding

**Objective:** To assist the shipbuilding industry

**Legal basis:** Decreto legge n. 564 del 24. 12. 1993

**Budget:** Lit 45 billion (ECU 24,1 million)

**Aid intensity:**

— 9 % maximum of the contract value

— 4,5 % maximum in the case of ships with a value of less than ECU 10 million

**Duration:** 1994

**Date of adoption:** 14. 9. 1994

**Member State:** Portugal

**Aid No:** N 533/93

**Title:** Social and environmental aid for the enterprise Siderurgia Nacional

**Objective:** To supplement the financing of the enterprise's restructuring plan, in addition to aid approved pursuant to Article 95 of the ECSC Treaty

**Budget:** Esc 5,925 billion (ECU 30,06 million)

**Duration:** Until 1997

**Date of adoption:** 14. 9. 1994

**Member State:** Italy

**Aid No:** N 161/94

**Objective:** To cover operating losses of mines for 1992

**Legal basis:** Legge n. 221/90

**Budget:** Lit 32 billion ( $\pm$  ECU 16,6 million)

**Date of adoption:** 27. 9. 1994

**Member State:** Italy

**Aid No:** NN 66/93

**Objective:** R&D in steel tubular products

**Legal basis:** Legge n. 46/82 'Interventi per i settori dell'economia di rilevanza nazionale'

**Budget:**

— Eligible costs: Lit 18,334 billion

— Aid: Lit 1,857 billion (ECU 960 000)

**Aid intensity:** < 10 %

**Date of adoption:** 27. 9. 1994

**Member State:** Italy

**Aid No:** NN 67/93

**Objective:** R&D in the steel sector

**Legal basis:** Legge n. 46/82 'Interventi per i settori dell'economia di rilevanza nazionale'

**Budget:**

— Eligible costs: Lit 45,325 billion

— Aid: Lit 4,409 billion (ECU 2,3 million)

**Aid intensity:** 10 %

**Date of adoption:** 27. 9. 1994

**Member State:** Germany (Lower Saxony)

**Aid No:** N 303/94

**Title:** Guarantee for bank loan to the enterprise Pleissner

**Objective:** To secure for the enterprise the financial resources needed to carry through its restructuring

**Legal basis:** Bürgschaftsrichtlinien des Landes Niedersachsen

**Aid intensity:** Guarantee for 80 % of DM 6 million loan

**Duration:** Until the end of 1995

**Date of adoption:** 27. 9. 1994

**Member State:** Belgium (Flemish Region)

**Aid No:** N 323/94

**Title:** Assistance to the enterprise ALZ for environmental investments

**Objective:** To bring plant into line with new environmental legislation (Vlarem II) adopted on 7 January 1992

**Legal basis:** Wet van 30 december 1970 betreffende de economische expansie

**Budget:** Bfrs 45 796 000

**Aid intensity:** 8 % nge

**Duration:** Four years, starting six months after the decision authorizing the aid

**Date of adoption:** 27. 9. 1994

**Member State:** Belgium (Flemish Region)

**Aid No:** N 324/94

**Title:** Assistance to the enterprise SIDMAR for environmental investments

**Objective:** To bring plant into line with new environmental legislation (Vlarem II) adopted on 7 January 1992

**Legal basis:** Wet van 30 december 1970 betreffende de economische expansie

**Budget:** Bfrs 55 226 000

**Aid intensity:** 8 % nge

**Duration:** Four years, starting six months after the decision authorizing the aid

**Date of adoption:** 12. 10. 1994

**Member State:** Greece

**Aid No:** N 546/94

**Title:** Aid to shipbuilding

**Legal basis:** Κοινή υπουργική απόφαση αριθ. 1402/4027/2. 9. 1994 για την παράταση της ισχύος του προεδρικού διατάγματος 30512/1991 για ενισχύσεις στις ναυπηγήσεις σύμφωνα με την έβδομη οδηγία 90/684/ΕΟΚ

**Aid intensity:** As determined by the Seventh Directive 90/684/EEC

**Duration:** 1. 1.-31. 12. 1994

**Date of adoption:** 19. 10. 1994

**Member State:** Italy

**Aid No:** N 133/94

**Title:** Restructuring of the Italian steel industry

**Objective:**

- (a) Closure aid for ECSC undertakings
- (b) Conversion aid

**Legal basis:** Legge 3 agosto 1994, n. 481

**Budget:** Lit 790 billion (ECU 410 million)

**Duration:** 1994-1996

**Conditions:**

- (i) Subsequent notification of conversion aid
- (ii) Prior notification of any closure aid

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**Date of adoption:** 25. 10. 1994

**Member State:** Germany

**Aid No:** NN 102/94

**Title:** Application of aid schemes to shipbuilding in 1994; the following aid schemes are involved:

- guarantee schemes of Schleswig-Holstein, Bremen, Hamburg and Niedersachsen
- Gemeinschaftsaufgabe
- Investitionszulagengesetz
- R&D programmes of the State and Schleswig-Holstein
- interest free loans for shipowners
- special tax rules for shipowners and investors in ships

**Objective:** Aid to German shipbuilding

**Aid intensity:** Under 9 %

**Duration:** 1994

**Conditions:** No excess of common maximum aid ceiling by a scheme alone and in combination with other aid schemes

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**Date of adoption:** 16. 11. 1994

**Member State:** Federal Republic of Germany

**Aid No:** N 401/94

**Title:** 22nd and 23rd framework-programme of the Joint Task 'Improvement of the regional economic structure'

**Objective:** Improvement of regional economic structure

**Legal basis:** Gesetz vom 6. 1. 1969 (BGBl. I, S. 1861), zuletzt geändert durch Gesetz vom 24. 6. 1991 (BGBl. I, S. 1336)

**Budget:**

22nd: DM 9,9 billion in 1993 (payment appropriations) of which 89 % in favour of former German Democratic Republic regions

23rd: DM 15,3 billion in 1994 (commitment appropriations) of which 95 % in favour of former German Democratic Republic regions

*Note:* these budgets cover EC and ECSC activities and have already been approved by the Commission

**Aid intensity:** 35 % gross (including cumulation possibilities)

**Duration:** The Joint Task scheme is unlimited; the 22nd framework-programme covers the period 1993-1997 and the 23rd the period 1994-1998

**Conditions:** Annual report; notification of individual cases

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**Date of adoption:** 16. 11. 1994

**Member State:** Germany (Niedersachsen)

**Aid No:** N 533/94

**Title:** Guarantee for a conversion contract of Mützelfeldt shipyard

**Objective:** To grant a guarantee on part of the financing of a ship conversion contract

**Legal basis:** Bürgschaftsrichtlinien der Küstenländer

**Aid intensity:** 4,4 % of contract value before aid

**Duration:** Five years

**Conditions:** No other aid to be provided on the contract

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## II

*(Preparatory Acts)*

## COMMISSION

**Proposal for a European Parliament and Council Regulation (EC) concerning the creation of a supplementary protection certificate for plant protection products**

(94/C 390/05)

*(Text with EEA relevance)*

COM(94) 579 final — 94/0285(COD)

*(Submitted by the Commission on 12 December 1994)*

THE EUROPEAN PARLIAMENT AND THE COUNCIL  
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community, in particular Article 100a thereof,

Having regard to the proposal from the Commission,

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

- (1) Whereas plant protection research contributes to the continuing improvement in crop production;
- (2) Whereas plant protection products, especially those that are the result of long, costly research, will not continue to be developed in the Community and in Europe unless they are covered by favourable rules that provide for sufficient protection to encourage such research;
- (3) Whereas at the moment the period that elapses between the filing of an application for a patent for a new plant protection product and authorization to place the product on the market makes the period of effective protection under the patent insufficient to cover the investment put into the research and to generate the resources needed to maintain a high level of research;
- (4) Whereas this situation leads to a lack of protection which penalizes plant protection research and the competitiveness of the sector;
- (5) Whereas, in its Resolution of 1 February 1993 <sup>(1)</sup> on a Community programme of policy and action

in relation to the environment and sustainable development, the Council adopted the general approach and strategy of the programme presented by the Commission, which stressed the interdependence of economic growth and environmental quality; whereas improving protection of the environment means maintaining the competitiveness of industry; whereas, accordingly, the issue of a supplementary protection certificate can be regarded as a positive measure in favour of environmental protection;

- (6) Whereas a uniform solution at Community level should be provided for, thereby preventing the heterogeneous development of national laws leading to further disparities which would be likely to create obstacles to the free movement of plant protection products within the Community and thus directly affect the establishment and the functioning of the internal market; whereas this is in accordance with the principle of subsidiarity as defined by Article 3b of the Treaty on European Union;
- (7) Whereas, therefore, the creation of a supplementary protection certificate granted, under the same conditions, by each of the Member States at the request of the holder of a national or European patent relating to a plant protection product for which marketing authorization has been granted is necessary; whereas a Regulation is therefore the most appropriate legal instrument;
- (8) Whereas the duration of the protection granted by the certificate should be such as to provide adequate, effective protection; whereas, for this purpose, the holder of both a patent and a certificate should be able to enjoy an overall maximum of fifteen years of exclusivity from the time the plant protection product in question first obtains authorization to be placed on the market in the Community;

<sup>(1)</sup> OJ No C 138, 17. 5. 1993, p. 1.

- (9) Whereas all the interests at stake in a sector as complex and sensitive as plant protection must nevertheless be taken into account; whereas, for this purpose, the certificate cannot be granted for a period exceeding five years; whereas the protection granted should furthermore be strictly confined to the product which obtained authorization to be placed on the market as a plant protection product;
- (10) Whereas a fair balance should also be struck with regard to the determination of the transitional arrangements; whereas such arrangements should enable the Community plant protection industry to catch up to some extent with its main competitors, while making sure that the arrangements do not compromise the achievement of other legitimate objectives concerning the agricultural and environment policies pursued both at national and Community level;
- (11) Whereas only action at Community level can be effective in attaining the objective, which consists in ensuring adequate protection for innovation in the field of plant protection, while guaranteeing the proper functioning of the internal market for plant protection products,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

##### **Definitions**

For the purposes of this Regulation, the following definitions shall apply:

1. 'plant protection products': active substances and preparations containing one or more active substances, put up in the form in which they are supplied to the user, intended to:
  - 1.1. protect plants or plant products against all harmful organisms or prevent the action of such organisms, in so far as such substances or preparations are not otherwise defined below;
  - 1.2. influence the life processes of plants, other than as a nutrient (e.g. plant growth regulators);
  - 1.3. preserve plant products, in so far as such substances or products are not subject to special Council or Commission provisions on preservatives;
  - 1.4. destroy undesired plants;

or

  - 1.5. destroy parts of plants, check or prevent undesired growth of plants;

2. 'substances': chemical elements and their compounds, as they occur naturally or by manufacture, including any impurity inevitably resulting from the manufacturing process;
3. 'active substances': substances or micro-organisms including viruses, having general or specific action:
  - 3.1. against harmful organisms;

or

  - 3.2. on plants, parts of plants or plant products;
4. 'preparations': mixtures or solutions composed of two or more substances, of which at least one is an active substance, intended for use as plant protection products;
5. 'plants': live plants and live parts of plants, including fresh fruit and seeds;
6. 'plant products': products in the unprocessed state or having undergone only simple preparation such as milling, drying or pressing, derived from plants, but excluding plants themselves as defined at point 5;
7. 'harmful organisms': pests of plants or plant products belonging to the animal or plant kingdom, and also viruses, bacteria and mycoplasmas and other pathogens;
8. 'product': the active substance is defined at point 3 or combination of active substances of a plant protection product;
9. 'basic patent': a patent which protects a product as defined at point 8 as such, a preparation as defined at point 4, a process to obtain a product or an application of a product, and which is designated by its holder for the purpose of the procedure for grant of a certificate;
10. 'certificate': the supplementary protection certificate.

#### *Article 2*

##### **Scope**

Any product protected by a patent in the territory of a Member State and subject, prior to being placed on the market as a plant protection product, to an administrative authorization procedure as laid down in Article 4 of Council Directive 91/414/EEC<sup>(1)</sup>, or pursuant to an equivalent provision of national law if it is a plant protection product in respect of which the application for authorization was lodged before the entry into force

<sup>(1)</sup> OJ No L 230, 19. 8. 1991, p. 1.



of Directive 91/414/EEC for the Member State concerned, may, under the terms and conditions provided for in this Regulation, be the subject of a certificate.

### Article 3

#### Conditions for obtaining a certificate

A certificate shall be granted if, in the Member State in which the application referred to in Article 7 is submitted, at the date of that application:

- (a) the product is protected by a basic patent in force;
- (b) a valid authorization to place the product on the market as a plant protection product has been granted in accordance with Article 4 of Directive 91/414/EEC or an equivalent provision of national law;
- (c) the product has not already been the subject of a certificate;
- (d) the authorization referred to in (b) is the first authorization to place the product on the market as a plant protection product.

### Article 4

#### Subject-matter of protection

Within the limits of the protection conferred by the basic patent, the protection conferred by a certificate shall extend only to the product covered by the authorizations to place the corresponding plant protection product on the market and for any use of the product as a plant protection product that has been authorized before the expiry of the certificate.

### Article 5

#### Effects of the certificate

Subject to the provisions of Article 4, the certificate shall confer the same rights as conferred by the basic patent and shall be subject to the same limitations and the same obligations.

### Article 6

#### Entitlement to the certificate

The certificate shall be granted to the holder of the basic patent or his successor in title.

### Article 7

#### Application for a certificate

1. The application for a certificate shall be lodged within six months of the date on which the authorization referred to in Article 3 (b) to place the product on the market as a plant protection product was granted.

2. Notwithstanding paragraph 1, where the authorization to place the product on the market is granted before the basic patent is granted, the application for a certificate shall be lodged within six months of the date on which the patent is granted.

### Article 8

#### Content of the application for a certificate

1. The application for a certificate shall contain:
  - (a) a request for the grant of a certificate, stating in particular:
    - (i) the name and address of the applicant;
    - (ii) if he has appointed a representative, the name and address of the representative;
    - (iii) the number of the basic patent and the title of the invention;
    - (iv) the number and date of the first authorization to place the product on the market, as referred to in Article 3 (b) and, if this authorization is not the first authorization to place the product on the market in the Community, the number and date of that authorization;
  - (b) a copy of the authorization to place the product on the market, as referred to in Article 3 (b), in which the product is identified, containing in particular the number and date of the authorization and the summary of the product characteristics listed in Part A.I or B.I of Annex II to Directive 91/414/EEC or in equivalent national laws of the Member State in which the application was lodged;
  - (c) if the authorization referred to in (b) is not the first authorization to place the product on the market as a plant protection product in the Community, information regarding the identity of the product thus authorized and the legal provision under which the authorization procedure took place, together with a copy of the notice publishing the authorization in the Official Journal or any other document including the information required.

2. Member States may provide that a fee is payable upon application for a certificate.

### Article 9

#### Lodging of an application for a certificate

1. The application for a certificate shall be lodged with the competent industrial property office of the Member State which granted the basic patent or on whose behalf it was granted and in which the authorization referred to in Article 3 (b) to place the product on the market was obtained, unless the Member State designates another authority for the purpose.

2. Notification of the application for a certificate shall be published by the authority referred to in paragraph 1. The notification shall contain at least the following information:

- (a) the name and address of the applicant;
- (b) the number of the basic patent;
- (c) the title of the invention;
- (d) the number and date of the authorization to place the product on the market, referred to in Article 3 (b), and the product identified in that authorization;
- (e) where relevant, the number and date of the first authorization to place the product on the market in the Community.

#### *Article 10*

#### **Grant of the certificate or rejection of the application**

1. Where the application for a certificate and the product to which it relates meet the conditions laid down in this Regulation, the authority referred to in Article 9 (1) shall grant the certificate.
2. The authority referred to in Article 9 (1) shall, subject to paragraph 3, reject the application for a certificate if the application or the product to which it relates does not meet the conditions laid down in this Regulation.
3. Where the application for a certificate does not meet the conditions laid down in Article 8, the authority referred to in Article 9 (1) shall ask the applicant to rectify the irregularity, or to settle the fee, within a stated time.
4. If the irregularity is not rectified or the fee is not settled under paragraph 3 within the stated time, the authority shall reject the application.
5. Member States may provide that the authority referred to in Article 9 (1) is to grant certificates without verifying that the conditions laid down in Article 3 (c) and (d) are met.

#### *Article 11*

#### **Publication**

1. Notification of the fact that a certificate has been granted shall be published by the authority referred to in Article 9 (1). The notification shall contain at least the following information:
  - (a) the name and address of the holder of the certificate;
  - (b) the number of the basic patent;

- (c) the title of the invention;
- (d) the number and date of the authorization to place the product on the market referred to in Article 3 (b) and the product identified in that authorization;
- (e) where relevant, the number and date of the first authorization to place the product on the market in the Community;
- (f) the duration of the certificate.

2. Notification of the fact that the application for a certificate has been rejected shall be published by the authority referred to in Article 9 (1). The notification shall contain at least the information listed in Article 9 (2).

#### *Article 12*

#### **Annual fees**

Member States may require that the certificate be subject to the payment of annual fees.

#### *Article 13*

#### **Duration of the certificate**

1. The certificate shall take effect at the end of the lawful term of the basic patent for a period equal to the period which elapsed between the date on which the application for a basic patent was lodged and the date of the first authorization to place the product on the market in the Community, reduced by a period of five years.
2. Notwithstanding paragraph 1, the duration of the certificate may not exceed five years from the date on which it takes effect.

#### *Article 14*

#### **Expiry of the certificate**

The certificate shall lapse:

- (a) at the end of the period provided for in Article 13;
- (b) if the certificate-holder surrenders it;
- (c) if the annual fee laid down in accordance with Article 12 is not paid in time;
- (d) if and as long as the product covered by the certificate may no longer be placed on the market following the withdrawal of the appropriate authorization or authorizations to place it on the market in accordance with Article 4 of Directive 91/414/EEC or equivalent provisions of national law. The authority referred to in Article 9 (1) may decide on the lapse of the certificate either on its own initiative or at the request of a third party.

*Article 15***Invalidity of the certificate**

1. The certificate shall be invalid if:
  - (a) it was granted contrary to the provisions of Article 3;
  - (b) the basic patent has lapsed before its lawful term expires;
  - (c) the basic patent is revoked or limited so that the product for which the certificate was granted would no longer be protected by the claims of the basic patent or, after the basic patent has expired, grounds for revocation exist which would have justified such revocation or limitation.
2. Any person may submit an application or bring an action for a declaration of invalidity of the certificate before the body responsible under national law for the revocation of the corresponding basic patent.

*Article 16***Notification of lapse or invalidity**

If the certificate lapses in accordance with Article 14 (b), (c) or (d), or is invalid in accordance with Article 15, notification thereof shall be published by the authority referred to in Article 9 (1).

*Article 17***Appeals**

The decisions of the authority referred to in Article 9 (1) or of the body referred to in Article 15 (2) taken under this Regulation shall be open to the same appeals as those provided for in national law against similar decisions taken in respect of national patents.

*Article 18***Procedure**

1. In the absence of procedural provisions in this Regulation, the procedural provisions applicable under national law to the corresponding basic patent shall apply to the certificate, unless that law lays down special procedural provisions for certificates.
2. Notwithstanding paragraph 1, the procedure for opposition to the granting of a certificate shall be excluded.

**TRANSITIONAL PROVISIONS***Article 19*

1. Any product which, on the date on which this Regulation enters into force, is protected by a valid basic patent and for which the first authorization to place it on the market as a plant protection product in the Community was obtained after 1 January 1985 under Article 4 of Directive 91/414/EEC or an equivalent national provision may be granted a certificate.
2. An application for a certificate as referred to in paragraph 1 shall be submitted within six months of the date on which this Regulation enters into force.

**FINAL PROVISION***Article 20***Entry into force**

This Regulation shall enter into force three months after its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

**Proposal for a European Parliament and Council Directive amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution from emissions from motor vehicles**

(94/C 390/06)

(Text with EEA relevance)

COM(94) 558 final — 94/0286(COD)

*(Submitted by the Commission on 19 December 1994)*

THE EUROPEAN PARLIAMENT AND THE COUNCIL  
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 189b of the Treaty,

Whereas measures should be adopted within the framework of the internal market; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas the first programme of action of the European Community on protection of the environment <sup>(2)</sup>, approved by the Council on 22 November 1973, called for account to be taken of the latest scientific advances in combating atmospheric pollution caused by gases emitted from motor vehicles, and for Directives adopted previously to be amended accordingly; whereas the fifth programme of action, which in its general approach was approved by the Council in its Resolution of 1 February 1993 <sup>(3)</sup> provides for additional efforts to be made to effect a considerable reduction in the present level of pollutants emitted from motor vehicles;

Whereas the objective of reducing the level of pollutant emissions from motor vehicles and the establishment and operation of the internal market for vehicles cannot be adequately achieved by individual Member States and can therefore be better achieved by the approximation of the laws of the Member States relating to measures to be taken against air pollution by motor vehicles;

Whereas it is recognized that the development of transport in the Community has entailed significant constraints for the environment; whereas a certain number of official estimates of the increase in traffic

density have proved to be lower than the actual figures; whereas for that reason stringent emission standards should be laid down for all motor vehicles;

Whereas the Commission has adopted a European programme on emissions, fuels and engine technologies (EPEFE); whereas that programme was established to ensure that proposals for future directives on pollutant emissions seek the best solutions both for the consumer and for the economy; whereas that programme deals with the pollution emitted by vehicles and the fuels which propel them;

Whereas Council Directive 70/220/EEC <sup>(4)</sup>, as last amended by Directive 94/12/EC <sup>(5)</sup>, which deals with the measures to be taken against air pollution by emissions from motor vehicles, is one of the separate directives under the type-approval procedure laid down by Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers <sup>(6)</sup>, as last amended by Commission Directive 93/81/EEC <sup>(7)</sup>;

Whereas Directive 70/220/EEC lays down the limit values for carbon monoxide and unburnt hydrocarbon emissions from the engines of such vehicles; whereas these limit values were first reduced by Directive 74/290/EEC <sup>(8)</sup> and supplemented, in accordance with Commission Directive 77/102/EEC <sup>(9)</sup>, by limit values for permissible emissions of nitrogen oxides; whereas the limit values for those three types of pollution were successively reduced by Commission Directive 78/665/EEC <sup>(10)</sup> and Council Directives 83/351/EEC <sup>(11)</sup> and 88/76/EEC <sup>(12)</sup>; whereas limit values for particulate pollutant emissions from diesel engines were introduced by Directive 88/436/EEC <sup>(13)</sup>, whereas more stringent European standards for the emissions of gaseous pollutants of motor vehicles below 1 400 cm<sup>3</sup> were introduced by Directive 89/458/EEC <sup>(14)</sup>; whereas

<sup>(1)</sup> OJ No L 76, 6. 4. 1970, p. 1.

<sup>(2)</sup> OJ No L 100, 19. 4. 1994, p. 42.

<sup>(3)</sup> OJ No L 42, 23. 2. 1970, p. 1.

<sup>(4)</sup> OJ No L 264, 23. 10. 1993, p. 49.

<sup>(5)</sup> OJ No L 159, 15. 6. 1974, p. 61.

<sup>(6)</sup> OJ No L 32, 3. 2. 1977, p. 32.

<sup>(7)</sup> OJ No L 223, 14. 8. 1978, p. 48.

<sup>(8)</sup> OJ No L 197, 20. 7. 1983, p. 1.

<sup>(9)</sup> OJ No L 36, 9. 2. 1988, p. 1.

<sup>(10)</sup> OJ No 214, 6. 8. 1988, p. 1.

<sup>(11)</sup> OJ No 226, 3. 8. 1989, p. 1.

<sup>(1)</sup> OJ No C 201, 26. 7. 1993, p. 9.

<sup>(2)</sup> OJ No C 112, 20. 12. 1973, p. 1.

<sup>(3)</sup> OJ No C 138, 17. 5. 1993, p. 1.

those standards have been extended to all passenger cars independently of their engine capacity on the basis of an improved European test procedure including an extra-urban driving cycle; whereas requirements relating to the evaporative emissions and to the durability of emission-related vehicle components as well as more stringent particulate pollutant standards for motor vehicles equipped with diesel engines were introduced by Directive 91/441/EEC<sup>(1)</sup>; whereas passenger cars designed to carry more than six passengers or having a maximum mass of more than 2 500 kg, light commercial vehicles, and off-road vehicles, covered by Directive 70/220/EEC, have, under Directive 93/59/EEC<sup>(2)</sup>, been subject to standards as stringent as those for passenger cars, taking into account the specific conditions of such vehicles; whereas the standards for passenger cars have been rendered more stringent by the adoption of Directive 94/12/EC, which also introduced a new method for checking on the conformity of production; whereas it is necessary to align in the standards for light commercial vehicles with those for passenger cars so as to make them once again at least as stringent as those for passenger cars;

Whereas the work undertaken by the Commission in this field has shown that the best technology currently available to the Community industry can be further improved in order to allow light commercial vehicles to comply with considerably reduced emission limits; whereas the proposed standards will apply both to the approval of new vehicle types and to check on conformity of production, since the amended method of sampling and statistical evaluation removes the tolerances allowed for the limit values set under previous stages of Directive 70/220/EEC;

Whereas the Commission has examined the feasibility of amalgamating vehicle categories II and III and has considered the actual conditions under which light commercial vehicles are driven in urban and extra-urban traffic and the special characteristics of those vehicles;

Whereas Member States should be allowed to encourage, by means of tax incentives, the introduction of vehicles which satisfy the requirements adopted at Community level; whereas such tax incentives should comply with the provisions of the Treaty and satisfy certain conditions intended to avoid distortions of the internal market; whereas the provisions of this Directive do not affect the Member States' right to include emissions of pollutants and other substances in the basis on which road traffic taxes on motor vehicles are calculated;

Whereas the prior notification requirement of this Directive is without prejudice to notification requirements under other provisions of Community law, notably Article 93 (3) of the Treaty;

Whereas the Council should adopt by 30 December 1997 the requirements for the stage from the year 2000, on the basis of a proposal to be submitted by the Commission by 30 June 1996; whereas that proposal is to be aimed at substantially reducing emissions of light commercial vehicles;

Whereas the measures to reduce exhaust emissions in the year 2000, must be part of a 'multifaceted' approach embracing all the measures for reducing air pollution due to road traffic; whereas all the parameters which have been set out as having a significant impact on such pollution have been set out in Article 4 of Directive 94/12/EC; whereas the Commission will undertake the necessary analysis of environmental, technological and cost-effective aspects in order to provide by the end of June 1996 quantified objectives for Community measures for the year 2000,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

Annex I to Directive 70/220/EEC is amended in accordance with the Annex to this Directive.

*Article 2*

1. With effect from 1 October 1995, Member States shall accept compliance with the requirements of Directive 70/220/EEC, as amended by this Directive, for the purposes of Articles 4 (1) and 7 (1) of Directive 70/156/EEC.

2. With effect from 1 January 1996, for vehicles of Class I and with effect from 1 January 1997 for vehicles of Classes II and III, Member States shall no longer grant:

— EEC type-approval in accordance with Article 4 (1) of Directive 70/156/EEC, or

— national type-approval unless the provisions of Article 8 (2) of Directive 70/156/EEC are invoked,

for a type of vehicle on grounds relating to air pollution by emissions, if the requirements of Directive 70/220/EEC, as amended by this Directive, are not fulfilled.

3. With effect from 1 January 1997 for vehicles of Class I, and with effect from 1 January 1998 for vehicles of Classes II and III, Member States:

<sup>(1)</sup> OJ No L 242, 30. 8. 1991, p. 1.

<sup>(2)</sup> OJ No L 186, 28. 7. 1993, p. 21.

- shall consider certificates of conformity which accompany new vehicles in accordance with the provisions of Directive 70/156/EEC as no longer valid for the purposes of Article 7 (1) of that Directive; and
- shall refuse the registration, sale and entry into service of new vehicles which are not accompanied by a certificate of conformity in accordance with the provisions of Directive 70/156/EEC, unless Article 8 (2) of Directive 70/156/EEC is pleaded,

on grounds relating to air pollution by emissions, if the requirements of Directive 70/220/EEC, as amended by this Directive, are not fulfilled.

For vehicles with a power-to-weight ratio of no more than 30 kW/t<sup>(1)</sup> and a maximum speed not exceeding 130 km/h the dates referred to in the first subparagraph are 1 January 1998 and 1 January 1999 respectively.

#### *Article 3*

Member States may make provisions for tax incentives only in respect of motor vehicles which comply with Directive 70/220/EEC, as amended by this Directive. Such incentives shall comply with the provisions of the Treaty and satisfy the following conditions:

- they shall apply to all new vehicles offered for sale on the market of a Member State which comply in advance with the requirements of Directive 70/220/EEC, as amended by this Directive,
- they shall be terminated with effect from the mandatory application of the emission values laid down in Article 2 (3) for new motor vehicles,
- for each type of motor vehicle, they shall be for an amount lower than the additional cost of the technical devices introduced to ensure compliance with the values set and their installation on the vehicle.

<sup>(1)</sup> Based on the technically permissible laden mass as stated by the manufacturer.

The Commission shall be informed in sufficient time of plants to institute or change the tax incentives referred to in the first paragraph, so that it can submit its observations.

#### *Article 4*

The Council, acting under the conditions laid down in the Treaty, shall decide before 31 December 1997 on proposals for a further stage of the Community's measures against air pollution caused by emissions from motor vehicles covered by this Directive, which the Commission shall submit before 30 June 1996. The measures shall apply from the year 2000 onwards.

In these proposals, the Commission shall follow the approach outlined in Article 4 of Directive 94/12/EC.

#### *Article 5*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the Directive before 1 October 1995. They shall forthwith inform the Commission thereof.

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

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

#### *Article 6*

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

#### *Article 7*

This Directive is addressed to the Member States.

## ANNEX

AMENDMENTS TO THE ANNEXES OF DIRECTIVE 70/220/EEC AS AMENDED BY  
DIRECTIVE 93/59/EEC

The table of section 5.3.1.4 is replaced by the following:

'Category/class of vehicle		Reference mass	Limit values				
			Mass of carbon monoxide		Combined mass of hydrocarbons and oxides of nitrogen		Mass of particulates
			L <sub>1</sub> (g/km)		L <sub>2</sub> (g/km)		L <sub>3</sub> (g/km)
Category	Class	RW (kg)	Petrol	Diesel	Petrol	Diesel (*)	Diesel
M (*)		all	2,2	1,0	0,5	0,7	0,08
N <sub>1</sub> (*)	I	RW ≤ 1 250	2,2	1,0	0,5	0,7	0,08
	II	1 250 < RW ≤ 1 700	4,0	1,25	0,7	1,1	0,14
	III	1 700 < RW	5,0	1,5	0,8	1,3	0,20

(\*) Until 30 September 1999, for vehicles fitted with diesel engines of the direct-injection type, the limit values L<sub>2</sub> and L<sub>3</sub> are the following:

	L <sub>2</sub>	L <sub>3</sub>
— category M (*) and N <sub>1</sub> (*), class I:	0,9	0,10
— category N <sub>1</sub> (*) class II:	1,4	0,19
— category N <sub>1</sub> (*) class III:	1,7	0,25

(\*) Except:

- vehicles designed to carry more than six occupants including the driver,
- vehicles whose maximum mass exceeds 2 500 kg.

(\*) And those category M vehicles which are specified in footnote (\*).

**Proposal for a European Parliament and Council Directive on energy efficiency requirements for household electric refrigerators, freezers and their combinations**

(94/C 390/07)

(Text with EEA relevance)

COM(94) 521 final — 94/0272(COD)

(Submitted by the Commission on 18 January 1995)

THE EUROPEAN PARLIAMENT AND THE COUNCIL  
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

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

Whereas it is important to promote measures aimed at the progressive establishment of the internal market; whereas the internal market comprises an area without internal frontiers, in which the free circulation of goods, persons, services and capital is ensured;

Whereas the Council resolution of 15 January 1985 on the improvement of energy-saving programmes in the Member States<sup>(1)</sup> invited Member States to pursue and, where necessary, increase their efforts to promote the more rational use of energy by the further development of integrated energy-saving policies.

Whereas the Council resolution of 16 September 1986<sup>(2)</sup> called for new Community energy policy objectives for 1995 and convergence of the policies of the Member States, and in particular the objective of improving the efficiency of final energy demand (the ratio of final energy demand to gross national product) by at least 20 % by 1995;

Whereas domestic refrigeration appliances account for a significant share of domestic electricity consumption by households in the Community and thus of total electricity consumption; whereas the electricity consumption of different models of refrigeration appliances available for purchase in the Community with the same volume and features, that is to say their energy efficiencies, vary very considerably;

Whereas several Member States are on the point of adopting provisions relating to the efficiency

performance of domestic refrigerators and freezers, which will create barriers to trade of these products in the Community;

Whereas it is appropriate to take as a base a high level of protection in measures for the approximation of the provisions laid down by law, regulation or administration action in Member States and concerning health, safety, environmental protection and consumer protection; whereas this Directive ensures a high level of protection both for the environment and the consumer, in aiming at a significant improvement of the energy efficiency of these appliances;

Whereas the adoption of such measures falls within Community competence and whereas the requirements of this Directive do not exceed those necessary to achieve its objectives, thus conforming to the requirements of Article 3b of the Treaty;

Whereas, moreover, Article 130r of the Treaty calls for the protection and improvement of the environment and prudent and rational utilization of natural resources; whereas electricity generation and use accounts for about 30 % of man-made carbon dioxides (CO<sub>2</sub>) emissions and about 35 % of primary energy use in the Community, and whereas these percentages are increasing;

Whereas, furthermore, Council Decision 89/364/EEC<sup>(3)</sup> which establishes a Community action programme for improving the efficiency of electricity use has as its twin objectives encouraging consumers to favour appliances and equipment with high electrical efficiency, as well as improving the efficiency of appliances and equipment;

Whereas on 29 October 1990 the Council set an objective of stabilizing carbon dioxide (CO<sub>2</sub>) emissions in the Community at 1990 levels by the year 2000;

Whereas Council Decision 91/565(EEC)<sup>(4)</sup> established a programme (the SAVE programme) to support and further promote energy efficiency in the Community;

<sup>(1)</sup> OJ No C 20, 22. 1. 1985, p. 1.

<sup>(2)</sup> OJ No C 241, 25. 9. 1986, p. 1.

<sup>(3)</sup> OJ No L 157, 9. 6. 1989, p. 32.

<sup>(4)</sup> OJ No L 307, 8. 11. 1991, p. 34.



Whereas the energy efficiency measures incorporated in the more efficient models of refrigeration appliances available do not excessively increase their production costs and such measures can repay their initial cost in terms of electricity savings within a few years or less; whereas this calculation does not take into account the added benefit of the avoided external costs of electricity generation, such as the emission of carbon dioxide (CO<sub>2</sub>) and other pollutants;

Whereas Council Directive 92/75/EEC<sup>(1)</sup> (the framework directive) and Commission Directive 94/2/EC<sup>(2)</sup> (applying Directive 92/75/EEC) which require the compulsory labelling of appliances and the provision in other forms of energy consumption information will increase consumer's awareness of the energy efficiency of domestic refrigeration appliances; whereas this measure will therefore also heighten competition on the energy efficiency of appliances above the standards required by this Directive; whereas however the provision of information to consumers without standards would have only a partial effect in terms of improving the average overall efficiency of appliances sold;

Whereas this Directive, which is aimed at eliminating technical barriers with regard to the energy efficiency of domestic refrigeration appliances must follow the 'new approach' established by the Council resolution of 7 May 1985<sup>(3)</sup> which specifically lays down that legislative harmonization is limited to the adoption, by means of directives, of the essential requirements with which products put on the market must conform;

Whereas regard should be had to Council Decision 93/465/EEC<sup>(4)</sup> which concerns the procedures for conformity assessment intended to be used in the technical harmonization directives;

Whereas in the interest of international trade, international standards should be used wherever appropriate; whereas the electricity consumption of a refrigeration appliance is defined by the European Committee for Standardization Standard EN 153 of May 1990 which is based on an international standard;

Whereas domestic refrigeration appliances complying with the energy efficiency requirements of this Directive should bear the CE marking and associated information,

in order to enable them to move freely, and to be put into service in accordance with their intended purpose within the Community;

Whereas this Directive is confined to domestic refrigeration appliances for foodstuffs, excluding those with an insignificant use of energy in total, that is, domestic refrigeration appliances supplied by mains electricity; whereas commercially used refrigeration equipment is much more varied and not appropriate for inclusion in this Directive,

HAVE ADOPTED THIS DIRECTIVE:

#### *Article 1*

This Directive shall apply to electric mains operated household refrigerators, frozen food storage cabinets, food freezers, and combinations of these as defined in Annex I and referred to hereafter as 'refrigeration appliances'. However refrigeration appliances working on the absorption principle shall be excluded.

#### *Article 2*

Member States shall take all appropriate measures to ensure that refrigeration appliances can be placed on the market and put into service only if the electricity consumption of the appliance type to which that appliance belongs is less than or equal to the maximum allowable electricity consumption value as calculated according to the procedures defined in Annex I. Refrigeration appliances shall be considered to belong to the same type, referred to in this Directive as 'appliance type', if they are produced by the same manufacturer or under licence by a different manufacturer and differ only in aspects which do not significantly affect their energy consumption in use in any way.

#### *Article 3*

1. Member States may not prohibit, restrict or impede the placing on the market or putting into service on their territory of refrigeration appliances which bear the CE marking attesting to their conformity with all the provisions of this Directive.

2. Member States shall presume that refrigeration appliances bearing the CE marking required under Article 5 comply with all the provisions of this Directive.

3. At trade fairs, exhibitions, demonstrations, etc., Member States shall not prevent the showing of a refrigeration appliance which does not conform with the provisions of this Directive, provided that a visible sign

<sup>(1)</sup> OJ No L 297, 13. 10. 1992, p. 16.

<sup>(2)</sup> OJ No L 45, 17. 2. 1994, p. 1.

<sup>(3)</sup> OJ No C 136, 4. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 220, 30. 8. 1993, p. 23.

clearly indicates that such an appliance does not so conform and that it is not for sale until it has been brought into conformity by the manufacturer or his authorized representative established in the Community.

#### *Article 4*

The conformity assessment procedures to be applied to a given type of refrigeration appliance in order to affix the CE marking are indicated in Annex II.

#### *Article 5*

The CE marking shall consist of the initials 'CE'. The form of the marking to be used is shown in Annex III. The CE marking shall be affixed to the refrigeration appliance distinctly and visibly.

#### *Article 6*

1. Where a Member State establishes that the CE marking has been affixed unduly, the manufacturer or his authorized representative established within the Community shall be obliged to make the product comply and to end the infringement under the conditions imposed by the Member State;

2. Where non-conformity continues, the Member State must take all appropriate measures to restrict or prohibit the placing on the market on the product in question or to ensure that it is withdrawn from the market.

#### *Article 7*

Any decision taken pursuant to this Directive which includes any restriction on the placing on the market and/or putting into service of refrigeration appliances shall state the precise grounds on which it is based. It shall be notified without delay to the party concerned, which shall at the same time be informed of the legal remedies available to it under the laws in force in the Member State in question and of the time limits to which such remedies are subject.

#### *Article 8*

Before the expiry of a period of four years from the adoption of this Directive, the Commission in consul-

tation with interested parties shall make an assessment of the results obtained and expected. Following this assessment, the Commission shall consider the need for a new proposal for Community legislation to establish a second set of energy efficiency standards for household refrigeration appliances. If such a proposal is made, its energy efficiency standards and their timing for entry into force will be based on energy efficiency levels which can be economically and technically justified in the light of the circumstances at the time of the proposal. The proposal may also contain any other provisions judged necessary to improve the effectiveness of this Directive.

#### *Article 9*

(assumes European Parliament and Council final adoption early 1995)

1. Before 1 January 1996, Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

Member States shall apply such provisions as from 1 January 2000.

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

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

3. Member States shall, during the period up to 1 January 2000, permit the placing on the market and/or the putting into service of refrigeration appliances which comply with the regulations in force in the Member States at the date of adoption of this Directive.

#### *Article 10*

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

#### *Article 11*

This Directive is addressed to the Member States.

## ANNEX I

**Procedures for calculating the maximum allowable electricity consumption for a given refrigeration appliance type and for the verification of conformity therewith**

The electricity consumption of a refrigeration appliance (which may be expressed as kWh per 24 hours) is a function of the category of appliance to which it belongs, (e.g. 1 star refrigerator, chest freezer, etc.), its volume, and the energy efficiency of its construction, (e.g. thickness of insulation, compressor efficiency, etc.). In setting energy efficiency standards therefore, allowances must be made for the main exogenous factors which influence energy consumption (i.e. the category of the appliance and its volume). For this reason the maximum allowable electricity consumptions of a given refrigeration appliance type (\*) are defined by a linear equation which is a function of the volume of the appliance, with different equations defined for each category of appliance.

To calculate the maximum allowable electricity consumption of a given appliance type, it must therefore first be allocated to the appropriate category from the following list:

Category	Description
1	Refrigerator without frozen food compartment (*)
2	Refrigerator with 1 star frozen food compartment
3	Refrigerator with 2 star frozen food compartment
4	Refrigerator with 3 star frozen food compartment
5	Refrigerator with 4 star freezer
6	Refrigerator-Cellar
7	Chest freezer
8	Upright freezer

Because refrigeration appliances contain different compartments with different maintained temperatures, (which will clearly influence their electricity consumption), the maximum allowable electricity consumption is defined in fact as a function of the adjusted volume, which is a weighted sum of the volumes of the different compartments.

Thus, for the purposes of this Directive, the adjusted volume ( $V_{adj}$ ) of a refrigeration appliance is defined as:

$$V_{adj} = \sum V_c \times W_c \times F_c$$

where  $V_c$  is the net volume of a given type of compartment in the appliance.  $W_c$  is the weighting coefficient for that type of compartment and  $F_c$  is a factor which equals 1,2 for no frost compartments and 1 for other compartments. Both the adjusted volume and the net volumes are in litres. The weighting coefficients for the different types of compartment are:

$W_c$ (weighting coefficient)	
Cellar compartment	0,75
Fresh food compartment	1,00
0 °C compartment	1,25
0 star compartment	1,25
1 star compartment	1,55
2 star compartment	1,85
3 and 4 star compartment	2,15

(\*) The definition of refrigeration appliances belonging to the same type is given in Article 2.

(\*\*) Any compartment with a temperature below -6 °C.

The maximum allowable electricity consumption  $E_{\max}$  (in kWh per 24 hours expressed to two decimal places), for an appliance type with adjusted volume  $V_{\text{adj}}$  for each appliance category is defined by the following equations:

Category	Description	$E_{\max}$ (kWh/24 hours)
1	Refrigerator w/o FFC (*)	$(0,225 \times V_{\text{adj}} + 237) / 365$
2	Refrigerator with 1 star FFC	$(0,599 \times V_{\text{adj}} + 178) / 365$
3	Refrigerator with 2 star FFC	$(0,437 \times V_{\text{adj}} + 238) / 365$
4	Refrigerator with 3 star FFC	$(0,616 \times V_{\text{adj}} + 221) / 365$
5	Refrigerator with 4 star freezer	$(0,778 \times V_{\text{adj}} + 303) / 365$
6	Refrigerator-Cellar	$(0,225 \times V_{\text{adj}} + 237) / 365$
7	Chest freezer	$(0,480 \times V_{\text{adj}} + 195) / 365$
8	Upright freezer	$(0,478 \times V_{\text{adj}} + 289) / 365$

*Test Procedures for verifying whether an appliance type conforms to the electricity consumption requirements of this Directive*

If the electricity consumption of a refrigeration appliance representative of the production of the appliance type subject to verification is less than or equal to the maximum allowable electricity consumption value  $E_{\max}$  as defined above plus 15 %, the appliance type to which it belongs is confirmed as conforming to the electricity consumption requirements of this Directive. If the electricity consumption of the appliance is greater than the maximum allowable electricity consumption value plus 15 %, the electricity consumption of a further three appliances of the same type shall be measured. If the arithmetic mean of the electricity consumptions of these three appliances is less than or equal to the maximum allowable electricity consumption value plus 10 %, the appliance type to which they belong is confirmed as conforming to the electricity consumption requirements of this Directive. If the arithmetic mean exceeds the maximum allowable electricity consumption value plus 10 %, the appliance type to which they belong shall be judged not to conform to the electricity consumption requirements of this Directive.

*Definitions*

The terms used in this Annex are defined as in European Standard of the European Committee for Standardization EN 153 of May 1990.

(\*) Frozen food compartment.

## ANNEX II

### Conformity assessment procedures (Module A)

1. This module describes the procedure whereby the manufacturer or his authorized representative established within the Community, who carries out the obligations laid down in point 2, ensures and declares that the refrigeration appliance type (\*) satisfies the relevant requirements of this Directive. The manufacturer shall affix the CE mark to all refrigeration appliances of this type he manufactures and draw up a written declaration of their conformity.
2. The manufacturer shall establish the technical documentation described in paragraph 3 and he or his authorized representative established within the Community shall keep it, for a period ending not less than three years after the last of the refrigeration appliance type has been manufactured, at the disposal of the relevant national authorities for inspection purposes.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the refrigeration appliance type on the Community market.

(\*) The definition of a refrigeration appliance type is given in Article 2.

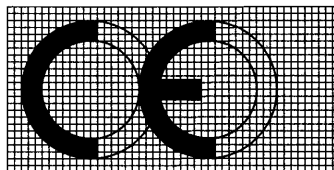
3. Technical documentation shall enable an assessment to be made of the conformity of the refrigeration appliance type with the relevant requirements of this Directive. It shall cover the design, manufacture and operation of the refrigeration appliance type and shall contain as far as is relevant for assessment:
  - (i) the name and the address of the manufacturer;
  - (ii) a general description of the model sufficient for it to be uniquely identified;
  - (iii) information, including drawings as relevant, on the main design features of the model and in particular on items which appreciably affect electricity consumption, such as dimensions, volume(s), compressor characteristics, special features, etc.;
  - (iv) the operating instructions, if any;
  - (v) reports of electricity consumption measurement tests carried out as required by paragraph 5;
  - (vi) details of the conformity of these measurement tests as compared to the energy consumption requirements as set out in Annex I.
4. Where differences between models are such that they have no significant effect on their energy consumption, that is they belong to the same appliance type as defined in Article 2, manufacturers may use the data from a 'base model'. In this case the technical documentation shall consist of the information listed above for the base model, supplemented for each other model produced by the manufacturer by a description of the differences between that model and the base model. Technical documentation established for other Community legislation may be used in so far as it meets the requirements of this paragraph.
5. Manufacturers of refrigeration appliances shall be responsible for establishing the electricity consumption of each refrigeration appliance type covered by this Directive according to the procedures specified in European Standard EN 153, as well as the appliance type's conformity with the requirements of Article 2.
6. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity with the technical documentation.
7. The manufacturer shall take all measures necessary in order that the manufacturing process shall ensure that the manufactured refrigeration appliances comply with the technical documentation referred to in point 2 and with the relevant requirements of the Directive.

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### ANNEX III

#### CE conformity marking

The CE conformity marking shall consist of the initials 'CE' taking the following form:



If the marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.

The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5 mm.

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