

English edition

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I

(Information)

COMMISSION

Ecu ⁽¹⁾

25 September 1996

(96/C 281/01)

Currency amount for one unit:

Belgian and Luxembourg franc	39,4479	Finnish markka	5,74804
Danish krone	7,36086	Swedish krona	8,33453
German mark	1,91559	Pound sterling	0,812080
Greek drachma	302,470	United States dollar	1,26944
Spanish peseta	161,067	Canadian dollar	1,73431
French franc	6,48558	Japanese yen	139,855
Irish pound	0,789405	Swiss franc	1,56421
Italian lira	1922,18	Norwegian krone	8,18219
Dutch guilder	2,14802	Icelandic krona	84,6718
Austrian schilling	13,4777	Australian dollar	1,60628
Portuguese escudo	195,050	New Zealand dollar	1,81427
		South African rand	5,73153

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic fax answering service (No 296 10 97/296 60 11) providing daily data concerning calculation of the conversion rates applicable for the purposes of the common agricultural policy.

⁽¹⁾ Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

Average prices and representative prices for table wines at the various marketing centres

(96/C 281/02)

(Established on 24 September 1996 for the application of Article 30 (1) of Regulation (EEC) No 822/87)

Type of wine and the various marketing centres	ECU per % vol/hl	% of GP ^o	Type of wine and the various marketing centres	ECU per % vol/hl	% of GP ^o
<i>R I Guide price*</i>	3,828		<i>A I Guide price*</i>	3,828	
Heraklion	No quotation		Athens	No quotation	
Patras	No quotation		Heraklion	No quotation	
Requena	No quotation		Patras	No quotation	
Reus	No quotation		Alcázar de San Juan	No quotation	
Villafranca del Bierzo	No quotation		Almendraejo	2,694	70 %
Bastia	3,675	96 %	Medina del Campo	No quotation (1)	
Béziers	4,163	109 %	Ribadavia	No quotation	
Montpellier	4,160	109 %	Villafranca del Penedés	No quotation	
Narbonne	No quotation		Villar del Arzobispo	No quotation (1)	
Nîmes	4,206	110 %	Villarrobledo	No quotation	
Perpignan	No quotation		Bordeaux	No quotation	
Asti	No quotation		Nantes	No quotation	
Florence	No quotation (1)		Bari	No quotation	
Lecce	No quotation		Cagliari	No quotation	
Pescara	No quotation		Chieti	2,709	71 %
Reggio Emilia	No quotation		Ravenna (Lugo, Faenze)	2,955	77 %
Treviso	3,694	96 %	Trapani (Alcamo)	2,660	69 %
Verona (for local wines)	No quotation		Treviso	3,694	96 %
Representative price	4,156	109 %	Representative price	2,758	72 %
<i>R II Guide price*</i>	3,828			ECU/hl	
Heraklion	No quotation		<i>A II Guide price*</i>	82,810	
Patras	No quotation		Rheinfalz (Oberhaardt)	71,045	86 %
Calatayud	No quotation		Rheinhessen (Hügelland)	72,339	87 %
Falset	No quotation		The wine-growing region of the Luxembourg Moselle	No quotation	
Jumilla	No quotation (1)		Representative price	71,506	86 %
Navalcarnero	No quotation (1)				
Requena	No quotation		<i>A III Guide price*</i>	94,57	
Toro	No quotation		Mosel-Rheingau	No quotation	
Villena	No quotation (1)		The wine-growing region of the Luxembourg Moselle	No quotation	
Bastia	No quotation		Representative price	No quotation	
Brignoles	No quotation				
Bari	No quotation				
Barletta	No quotation				
Cagliari	No quotation				
Lecce	No quotation				
Taranto	No quotation				
Representative price	No quotation (1)				
	ECU/hl				
<i>R III Guide price*</i>	62,15				
Rheinfalz-Rheinhessen (Hügelland)	No quotation				

(1) Quotation not taken into account in accordance with Article 10 of Regulation (EEC) No 2682/77.

* Applicable from 1. 2. 1995.

o GP = Guide price.

SERVICES OF GENERAL INTEREST IN EUROPE

(96/C 281/03)

INTRODUCTION

1. Solidarity and equal treatment within an open and dynamic market economy are fundamental European Community objectives; objectives which are furthered by services of general interest. Europeans have come to expect high-quality services at affordable prices. Many of them even view general interest services as social rights that make an important contribution to economic and social cohesion. This is why general interest services are at the heart of the European model of society, as acknowledged by the Commission in its recent report on the reform of the European Treaties ⁽¹⁾.
2. The importance of general interest services was brought out by the Heads of State or Government, who acknowledged them as part of the set of values shared by all our countries that helps define Europe ⁽²⁾.
3. There are, however, differences between one Member State and another and between one sector and another in the design, scope and organizational approaches of general interest services, owing to different traditions and practices. More recently, adjustments have had to be made in response to technological change, the globalization of the economy and users' expectations.
4. These developments have given rise to worries about the future of these services accompanied by concerns over employment and economic and social cohesion. The economic importance of these services is considerable: for instance, public-sector companies, which provide only some of these services, account for around 9 % of employment, 11 % of non-agricultural activity and 16 % of

investment within the Community. Hence the importance of modernizing and developing services of general interest, since they contribute so much to European competitiveness, social solidarity and quality of life. It was against this backdrop that the Commission felt it was time to reaffirm the principles of its policies and set out its objectives for the future.

DEFINITION OF TERMS

Services of general interest

This term covers market and non-market services which the public authorities class as being of general interest and subject to specific public service obligations.

Services of general economic interest

This is the term used in Article 90 of the Treaty and refers to market services which the Member States subject to specific public service obligations by virtue of a general interest criterion. This would tend to cover such things as transport networks, energy and communications.

Public service

This is an ambiguous term since it may refer either to the actual body providing the service or to the general interest role assigned to the body concerned. It is with a view to promoting or facilitating the performance of the general interest role that specific public service obligations may be imposed by the public authorities on the body rendering the service, for instance in the matter of inland, air or rail transport and energy. These obligations can be applied at national or regional level. There is often confusion between the term public service, which relates to the vocation to render a service to the public in terms of what service is to be provided, and the term public sector (including the civil service), which relates to the legal status of those providing the service in terms of who owns the services.

Universal service

This evolutionary concept, developed by the Community institutions, refers to a set of general interest requirements which should be satisfied by operators of telecommunications and postal services, for example, throughout the Community. The object of the resulting obligations is to make sure that everyone has access to certain essential services of high quality at prices they can afford.

⁽¹⁾ Reinforcing political union and preparing for enlargement — Commission opinion for the Intergovernmental Conference, COM(96) 90 final, 28 February 1996: 'Europe is built on a set of values shared by all its societies and combines the characteristics of democracy — human rights and institutions based on the rule of law — with those of an open economy underpinned by market forces, internal solidarity and cohesion. These values include access for all members of society to universal services or to services of general benefit, thus contributing to solidarity and equal treatment.'

⁽²⁾ Cannes European Council, 26 and 27 June 1995 — Conclusions of the Presidency, SN 211/95, point A.I.1.7.

I. SERVICES OF GENERAL INTEREST: A KEY ELEMENT IN THE EUROPEAN MODEL OF SOCIETY

5. The Community's involvement with services of general interest is within the context of an open economy which is based on a commitment to mutual assistance ('solidarity' for short), social cohesion and market mechanisms.

A. SERVING THE PUBLIC

1. Shared values

6. European societies are committed to the general interest services they have created which meet basic needs. These services play an important role as social cement over and above simple practical considerations. They also have a symbolic value, reflecting a sense of community that people can identify with. They form part of the cultural identity of everyday life in all European countries.

7. The roles assigned to general interest services and the special rights which may ensue reflect considerations inherent in the concept of serving the public, such as ensuring that needs are met, protecting the environment, economic and social cohesion, land-use planning and promotion of consumer interests. The particular concern of consumers is to obtain high-quality services at prices they can afford. The sector-specific economic characteristics of the activities they cover also enter into the equation, since they have considerable knock-on effects for the economy and society as a whole and may require the use of scarce resources or large-scale long-term investment. This implies certain basic operating principles: continuity, equal access, universality and openness.

8. Central to all these issues are the interest of the public, which in our societies involves guaranteed access to essential services, and the pursuit of priority objectives. General interest services are meant to serve a society as a whole and therefore all those living in it. The same applies in the Community to the universal service concept.

2. Different organizational set-ups

9. These shared values translate into different ways of organizing general interest services, varying from one country or region to another and from one sector to another. Although the same sort of services are provided, the way in which this is done will reflect the different circumstances, such as geographical or technical limitations, the political and administrative set-up, history and traditions.

10. The services may be provided — in either a monopoly or a competitive situation — by private companies, public bodies or by public-private partnerships. The activities of these operators, who are sometimes known as service managers, may be regulated by local, regional or national authorities with different roles and statuses. There may also be considerable variation in the nature of the relationship between the regulatory authority and the operator.

11. This diversity may give rise to a certain amount of terminological confusion. It is all too easy to treat public sector and public service as synonyms and fail to distinguish the legal status of a service provider from the nature of the service being provided⁽¹⁾. European policy is concerned with general interest, with what services are provided and on what terms, not with the status of the body providing them.

12. Be this as it may, these very different circumstances constitute a challenge for European economic integration. But rather than being an obstacle, they provide a range of possibilities that may be drawn on to identify the methods of organization that are the best suited both to the general interest in a fast-moving economic context and, that are the most effective for achieving European integration.

3. The challenge of change

13. The context in which general interest services are provided has changed enormously over recent years and differs in important respects from the context in which they were originally introduced. The major developments are as follows:

- consumers are becoming increasingly assertive in exercising their rights and desires as users of general interest services, including at European level, and are more demanding in terms of choice, quality and price,

- worldwide competition is forcing companies using services to seek out better price deals comparable to those enjoyed by their competitors,

- in contrast to the years immediately following the Second World War, it would now seem that private funding for maintaining and developing infrastructure networks is not as difficult to raise as public resources,

⁽¹⁾ See the definitions.

- new technologies are changing the economic profile of sectors traditionally operated as monopolies, such as telecommunications, television and transport, paving the way for new services,
 - in certain countries and sectors modernization has been slow to get off the ground, leaving little scope for change.
14. The creation of the single market and the introduction of greater competition requires providers of general interest services to meet the challenge of these developments and turn them to good account by improving range and quality and by lowering prices. This shift goes hand in hand with the implementation of an economic and social cohesion policy. The Community is also helping the modernization of general interest services to ensure that essential needs continue to be met and to improve performance. This dynamism is the life blood of the European model of society, without which European citizenship will never become a reality.
- B. GENERAL INTEREST AND THE SINGLE EUROPEAN MARKET: WORKING FOR EACH OTHER**
15. Market forces produce a better allocation of resources and greater effectiveness in the supply of services, the principal beneficiary being the consumer, who gets better quality at a lower price. However, these mechanisms sometimes have their limits; as a result the potential benefits might not extend to the entire population and the objective of promoting social and territorial cohesion may not be attained. The public authority must then ensure that the general interest is taken into account. This is the reason for the Commission's action on the following fronts.
- 1. Respecting diversity**
16. The Community's commitment to the European model of society is based on respect for the diversity of the organization of general interest services in Europe, which is underpinned by two basic principles:
- neutrality as regards the public or private status of companies and their employees, as guaranteed by Article 222 of the Treaty. The Community has nothing to say on whether companies responsible for providing general interest services should be public or private and is not, therefore, requiring privatization. Moreover, the Community will continue to clamp down on unfair practices, regardless of whether the operators concerned are private or public,
 - Member States' freedom to define what are general interest services, to grant the special or exclusive rights that are necessary to the companies responsible for providing them, regulate their management and, where appropriate, fund them, in conformity with Article 90 of the Treaty.
17. Respect for national choice over economic and social organization is a clear example of subsidiarity in action. It is for the Member States to make the fundamental choices concerning their society, whereas the job of the Community is merely to ensure that the means they employ are compatible with their European commitments.
18. It should be pointed out that the conditions of Article 90 do not apply to non-economic activities (such as compulsory education and social security) or to matters of vital national interest, which are the prerogative of the State (such as security, justice, diplomacy or the registry of births, deaths and marriages). The contribution these services make to various Community policies is essential hence the development of European-level cooperation and partnerships in these areas. However, it is clear that general interest services that are non-economic or the prerogative of the State are not to be treated in the same way as services of general economic interest. Any Community action in such areas, as is made clear in the Treaty, can be no more than complementary.
- 2. Striking a balance: the Community objective**
19. The real challenge is to ensure smooth interplay between, on the one hand, the requirements of the single European market and free competition in terms of free movement, economic performance and dynamism and, on the other, the general interest objectives. This interplay must benefit individual citizens and society as a whole. This is a very tricky balancing act, since the goalposts are constantly moving: the single market is continuing to expand and public services, far from being fixed, are having to adapt to new requirements.
20. The Community approach is, therefore, necessarily a gradual one and the balance sought must be capable of responding rapidly to developments. Services of general economic interest are normally subject to the Community rules designed to create the single market. This includes monopolies, which may obstruct the smooth functioning of the market, in particular by sealing off a particular market sector. The operation of these rules encourages these services to evolve accordingly, but the general interest services must be kept intact.

21. The suppliers of certain services of general interest may be exempted from the rules in the Treaty, where the rules would obstruct the performance of the general interest tasks for which they are responsible. Definitions of general interest duties do not necessarily determine how they are to be carried out. This is why any exemption from the rules is subject to the principle of proportionality. This principle, which underlies Article 90 of the Treaty, is designed to ensure the best match between the duty to provide general interest services and the way in which the services are actually provided, so that the means used are in proportion to the ends sought. The principle is formulated to allow for a flexible and context-sensitive balance that takes account of the Member States' different circumstances and objectives as well as the technical and budgetary constraints that may vary from one sector to another. It also makes for the best possible interaction between market efficiency and general interest requirements, by ensuring that the means used to satisfy the requirements do not unduly interfere with the smooth running of the single European market and do not affect trade to an extent that would be contrary to the Community interest.
22. The results achieved to date by this interaction have been extremely positive, in terms of both effectiveness of general interest services and implementation of the rules.
23. In terms of efficiency and quality, the provision of general interest services in the Community compares favourably with other areas of the world in many cases. Europe's showing is often very good when it comes to, say, the reliability of energy distribution, air transport safety or the quality of radio and television broadcasting. These achievements owe something to the Community's arrangements, which weed out unfair advantages, encourage openness in management and require general interest remits to be clearly and precisely defined. Gains in efficiency as a result of competition are, indeed, one of the best ways of lowering the cost of services and, in many cases, making them accessible to a larger number of people. They also make firms, in particular smaller firms, more competitive. There is none the less scope for improvement in many areas. The quest for higher quality and greater cost-effectiveness in services of general interest can in many cases require new approaches and a substantial effort to enhance efficiency.
24. The Community has always applied the rules impartially and been responsive to the concerns of industry, society and the political world. The legislative framework has been set up by the Council of Ministers and the European Parliament. All the legal instruments concerning air transport, rail transport and electricity were adopted unanimously by the Member States in the Council. The universal service concept for telecommunications and the postal service was also adopted by the Council and the European Parliament. In one-off cases the Commission has had to adopt measures on the basis of Article 90⁽¹⁾. However, before the final adoption of any such measures, the Commission always takes care to carry out extensive consultations with the European Parliament, the Council, the Member States and the parties concerned to reach the broadest possible consensus. For example, the two main directives adopted on the basis of Article 90 concerning telecommunications terminals and telecommunications services and the amendments to them received the support of the Member States within the Council.
25. As the appeal body and interpreter of the law, the Court of Justice has confirmed these instruments, making its own contribution to achieving the right balance. The Court has accepted that economic considerations, such as the overall cost-effectiveness of a general interest service, and other considerations, such as environmental protection, are admissible as legitimate grounds⁽²⁾.
26. In their approaches, the Commission, the European Parliament, the Council and the Court of Justice have also respected the different national definitions of the general interest, which are based on each country's special social and cultural characteristics and their choice of society.
- ### 3. Promoting the European general interest
27. As a source of economic vigour and efficiency, the economic integration of Europe, based on the single market and the cohesion policy, has had to take on board the issue of the general interest at European level with the concept of universal service or other public service obligations. The concept of universal service, which was originated by the Commission, has been developed in European Parliament and
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- (¹) Since 1958 only eight directives plus amendments and seven decisions have been based on this Article.
- (²) Case C-320/91 *Corbeau v. Kingdom of Belgium* (Public Prosecutor) [1993] ECR I-2565; Case C-392/92 *Almelo v. Energiebedrijf IJsselmij NV* [1994] ECR I-1509; Case T-32/93 *Ladbroke v. Commission* [1994] ECR II-1994.

Council resolutions and implemented in various sector-specific pieces of legislation⁽¹⁾.

28. The basic concept of universal service is to ensure the provision of high-quality service to all at prices everyone can afford. Universal service is defined in terms of principles: equality, universality, continuity and adaptability; and in terms of sound practices: openness in management, price-setting and funding and scrutiny by bodies independent of those operating the services. These criteria are not always all met at national level, but where they have been introduced using the concept of European universal service, there have been positive effects for the development of general interest services⁽²⁾.
29. Universal service is, none the less, a flexible concept, which evolves gradually in line with specific structural and technical features and sector-specific requirements. It is also evolutionary in the way it has to adapt to technological change, new general interest requirements and users' needs.
30. There is nothing to prevent the Member States from defining additional general interest duties over and above universal service obligations, provided that the means used comply with Community law. For some services, the provisions of the universal service concept leave Member States the choice of whether or not to impose the general interest obligations and to offer compensations. In this way the development of the universal service concept at European level is sensitive to diversity, by continually taking account of the different national views of general interest, determined by each country in line with its own traditions and needs.
31. Public service obligations may also be imposed, subject to certain conditions, for reasons of general interest connected with matters such as land-use planning, security of supply and the environment.
32. The completion of the single market provides consumers with better services and puts European businesses in a stronger position to face up to international competition. The universal service principle and the other public service obligations

contribute to the objectives of equal treatment. They protect the general interest for the benefit of the public and European society. Universal service is the expression in Europe of the requirements and special features of the European model of society in a policy which combines a dynamic market, cohesion and solidarity.

II. THE COMMUNITY CONTRIBUTION: DYNAMISM, FLEXIBILITY AND SOLIDARITY

A. A SECTOR-SPECIFIC APPROACH

33. The principles and the approach outlined above combine the dynamism of opening up markets with general interest requirements at European and national levels. The Commission has already taken steps in this direction in several areas, such as telecommunications, postal services, transport and energy. These are solid examples of how the single market can protect and improve the satisfactory provision of general interest services to the public on the basis of universal service or public service obligations. Each case was approached in a flexible way, respecting the special characteristics of each sector, the principle of subsidiarity and the concern to get the best deal for everyone. The approach has always been a gradual one and involved consulting all the parties concerned.

Telecommunications

34. The Community approach to telecommunications is intended to improve the service provided to the public in the Community, by offering a greater range, while at the same time improving quality and keeping prices affordable. The market has been opened up gradually in accordance with a precise schedule. Since proposals made in 1987, consumers have been able to choose whichever fixed or mobile phone, fax or modem they wish. Measures were then introduced to provide free choice between at least two mobile phone or satellite service operators. By no later than 1 January 1998 (or 2003 in certain countries) voice telephony infrastructures and markets are to be opened up. For this purpose, regulatory bodies are to be separate from the operators and public networks will be open to other operators.
35. The opening-up of markets and infrastructures goes hand in hand with the definition of universal service obligations, which the Community has asked Member States to impose on operators to ensure the provision of a wide range of basic services. The Commission communication of 1996 on universal service stipulates that this service should provide

⁽¹⁾ European Parliament resolutions of 22 January 1993, OJ No C 42, 15. 2. 1993, p. 240; 6 May 1994, OJ No C 205, 25. 7. 1994, p. 551; 25 June 1995, OJ No C 166, 3. 7. 1995, p. 109; 14 July 1995, OJ No C 249, 25. 9. 1995, p. 212. Council Resolutions of: 22 July 1993, OJ No C 213, 6. 8. 1993, p. 1; 7 February 1994, OJ No C 48, 16. 2. 1994, p. 1; 22 December 1994, OJ No C 379, 31. 12. 1994, p. 4; and 18 September 1995, OJ No C 258, 2. 10. 1995, p. 1.

⁽²⁾ See the example of telecommunications in point 35.

affordable access for everyone to a network of voice, data and fax transmission and a voice telephony service. The Regulation lays down a framework for the financing of the costs relating to this service by market actors. The definition of this universal service is to be reviewed in 1998 and thereafter at regular intervals. The dynamic approach adopted is designed to adapt the service in line with technological developments, consumer needs and general interest considerations. The treatment of telecommunications as a universal service is already having a positive effect on how telecommunications services are being approached at national level. For example, the idea of guaranteeing access at affordable prices for everyone, including the socially, medically and economically disadvantaged, which was not an established principle in several countries, has now been introduced by the universal service concept.

36. In some Member States which have acted ahead of schedule, telephone services, in particular mobile phone services, are already being provided by new operators and this has helped to increase the spread of the telephone and the range of new services. A more open market will make it easier for telephone services to take on board the current flurry of technological developments at the same time as meeting customers' increasingly sophisticated demands and keeping prices down.

Postal services

37. The measures proposed by the Commission in July 1995 are being examined by the European Parliament and the Council. They aim to introduce common rules for developing the postal sector and improving the quality of service, as well as gradually opening up the markets to competition in a controlled way by the year 2000.
38. The basis of the proposal is to safeguard the postal service as a universal service in the long term. Universal postal service means providing a high-quality service countrywide with regular guaranteed deliveries at prices everyone can afford. This involves the collection, transport, sorting and delivery of letters as well as printed matter, catalogues and parcels within certain price and weight limits. It also covers registered and insured ('valeur déclarée') items and would apply to both domestic and cross-border deliveries. Due regard is given to considerations of continuity, confidentiality, impartiality and equal treatment as well as adaptability.
39. To guarantee the funding of the universal service, a sector is to be reserved for the operators of this universal service. The scope of the reserved sector

will be determined by two criteria: weight and price. The issue of mailing circulars is being looked into, as is that of incoming cross-border mail. In any case, the range of reserved services will be reviewed in the year 2000 in the light of technological, economic and social developments.

40. The remaining funding for the universal service may be found by writing certain obligations into commercial operators' franchises; for example, they may be required to make financial contributions to an equalization fund. There are also plans to keep regulatory authorities and postal service operators separate.

Transport

41. In civil aviation, national airlines often used to enjoy a monopoly in their country of origin, which allowed them to offset profit-making activities against loss-making activities connected with their public service role. The three aviation packages of 1987, 1990 and 1993 have gradually opened up the markets, while safeguarding the general interest.
42. For services to outlying areas and low-density regional services, which are vital for regional development, but not economically viable if left to market forces, the regulations allow Member States to impose public service obligations for a specific route, select a sole operator on the basis of a Community-wide invitation to tender and provide financial compensation for operating these services. Public intervention in the market is thus limited to the strict minimum.
43. Now that the process is nearly completed, it must be acknowledged that the opening-up of European aviation markets has succeeded in maintaining service and reliability levels and improved the quality of services for travellers appreciably. Competition is keener in terms of both traffic and prices, making air transport more accessible to a wider public.
44. The regulations governing the freedom to provide maritime transport services within a Member State (known as 'cabotage') allow Member States to impose public service obligations, without any discrimination between Community shipowners, as a condition for operating scheduled services to, from and between islands. Member States may take into account only considerations relating specifically to the ports to be served, the regularity, continuity and frequency of the service, the capacity to provide the service, the prices charged and the crew of the vessels. Apart from this, in a communication entitled

'Towards a new shipping strategy' the Commission has put forward the possibility of public funding to support general interest services.

45. For inland transport (rail, road and inland waterways) the Treaty itself refers (Article 77) to certain obligation inherent in the concept of a public service. In 1969 the Council adopted regulations interpreting this article and guaranteeing the supply of adequate transport services which contribute to sustainable development, social cohesion and regional balance. A great deal of progress has already been made in the process of opening up the inland transport markets and the importance of the quality of public services in this area has been fully taken into account.
46. In its Green Paper on the citizens network the Commission confirmed this approach and at the same time highlighted the need to improve the effectiveness of these regulated public services. Similarly, for rail transport, in a recent White Paper the Commission defended its 1995 proposals to open up the freight and international passenger markets and announced a study on the best practical means of introducing market rules in domestic passenger services, with due account for public service requirements. Two other proposals have been put forward in 1996 to strengthen the internal road passenger transport market; they comply in full with the proportionality principle and the public service regulations.

Electricity

47. The draft directive that is currently going through the adoption procedure is intended to open up electricity markets to new operators gradually over a period of nine years. In order to protect the very long-term investments which are typical of this sector and to take account of the diversity of national structures, Member States are being offered two options: either access to the networks for third parties or a single buyer system. It will be up to the Member States to decide who are the eligible parties, subject to certain conditions.
48. The proposed solution is based on free competition, but gives Member States the possibility of laying down general interest obligations. In line with the principle of subsidiarity, the Member States will be responsible for defining these obligations in terms of general interest objectives on the basis of openness, objectivity and equal treatment.

49. The Commission is sure that this policy will succeed in reducing energy costs for European industry and therefore boost its competitiveness on the international scene. Lower prices should also be one of the benefits passed on to consumers.

50. An initial mid-term evaluation of the directive will be carried out by the Commission, after which it will be reviewed once it has been in force for nine years.

Broadcasting

51. In most Member States, television and radio have a general interest dimension, despite the structural and technological changes affecting these markets. The general interest considerations basically concern the content of broadcasts, being linked to moral and democratic values, such as pluralism, information ethics and protection of the individual. The way these general interest considerations are catered for varies considerably from one country and region to another, particularly as regards how they are funded.
52. The main piece of Community legislation directly relating to this sector is the so-called Television without frontiers Directive of 1989, which provides the legal framework to guarantee freedom of movement for television programmes by coordinating the national rules which might have raised legal obstacles to free movement. The coordinated areas are rules applying to promotion of the production and distribution of television programmes, advertising and sponsorship, the protection of minors and the right of reply. The Member States must ensure freedom to receive programmes and must not hinder the retransmission of programmes broadcast from other Member States for reasons relating to the coordinated areas. The European Parliament and the Council are currently in the process of revising the Directive to clarify and adapt the present rules.
53. In addition, the rules on competition provide a safeguard against the abuse of dominant positions and, via the merger control arrangements, prevent the development of oligopolistic and monopolistic market structures.

B. THE CONTRIBUTION OF OTHER COMMUNITY POLICIES

54. The Community's involvement in developing general interest services goes beyond just the development of the single market, incorporating other activities

under various Community policies such as:

- drawing up standards to ensure the interoperability and interconnection of networks; developing certification systems,
- developing European plans for major trans-European transport, energy and telecommunications infrastructure networks that form the backbone of the information society; policy coordination and financing for the development of these infrastructures,
- supporting investment projects as part of economic and social cohesion policy, particularly for infrastructure in less-advantaged regions of the Community and regions undergoing industrial reconstruction, and for projects designed in general to promote general interest services in partnership with local and regional actors,
- research and development activities in general interest service sectors, such as rail and air transport, the audiovisual industry, information technology, education and training, and health,
- encouraging legislators, regulators and operators to exchange experiences and emulate the best practices, for example as regards financing methods, price-setting and serving the public ⁽¹⁾.

In all these activities the Community is attentive in particular to the need for a healthy and sustainable environment and consumer interests. The Community is taking measures for consumers to promote choice, quality, openness, access to objective information, rapid and inexpensive means of redress and participation.

55. However, none of these Community activities will be effective, unless the various parties concerned work together in the necessary way. Partnerships between the public and private sectors will inevitably play a decisive role, particularly when it comes to investment and research, but partnerships also need to be developed between the regional, national and European levels.
56. As regards non-economic services ⁽²⁾, various cooperation activities undertaken at European level

⁽¹⁾ An example of this in the area of public transport is the recent Commission communication *The citizens network*, COM(95) 601 final, 23 January 1996.

⁽²⁾ See point 18.

may help to support or add an extra dimension to national policies, for example in the areas of employment, welfare, public health, education and training and culture. The Community is encouraging cooperation between the Member States on combating cancer. The education and training exchange and cooperation programmes, Leonardo and Socrates, involve large numbers of students and young workers. The Community also supports various activities to preserve and protect Europe's cultural heritage. These activities do not, of course, imply harmonization at the European level, but rather they are additional ways in which the Community supports the general interest and are vital for achieving the Community's cohesion and solidarity objectives.

III. OBJECTIVES FOR THE FUTURE

57. The Community's aim is to support the competitiveness of the European economy in an increasingly competitive world and to give consumers more choice, better quality and lower prices, at the same time as helping, through its policies, to strengthen economic and social cohesion between the Member States and reduce certain inequalities. This objective, which is laid down in the Treaty, is served mainly by the Structural Funds and the trans-European networks. General interest services have a key role to play here, since they contribute to economic and social cohesion and economic performance. The Community is committed to maintaining these services intact, while improving their efficiency.
58. The importance of striking this balance was brought out by the Heads of State or Government at their summit in Cannes in June 1995 ⁽³⁾:

'The European Council reiterates its concern that the introduction of greater competition into many sectors in order to complete the internal market should be compatible with the general economic tasks facing Europe, in particular balanced town and country planning, equal treatment for citizens, including equal rights and equal opportunities for men and women, the quality and permanence of services to consumers and the safeguarding of long-term strategic interests.'

⁽³⁾ Cannes European Council, 26 and 27 June 1995, conclusions of the Presidency, SN 211/95, point A.I.1.7.

59. Both this political statement and the changes currently under way point to the need to clarify future objectives. In this vein, the Commission is planning to promote European general interest services on three fronts: by making the most of operations to boost the single market and European competitiveness; by strengthening European solidarity and coordination; and by deploying Community instruments. These developments should be reflected in the Treaty, when it comes up for discussion at the Intergovernmental Conference.

A. A EUROPEAN PERSPECTIVE

1. Making the most of operations to boost European competitiveness

60. The opening up of markets on a sector-by-sector basis for economic services and, in particular, networked services, and the introduction of universal service obligations should be continued, given the positive effects they have on the general interest functions and on the competitiveness of the European economy in the world. These activities are crucial for the modernization of the services, enabling Europe to make the most of its competitive advantages in the sectors in question and enabling the companies that use the services to obtain quality at lower cost.

61. Whatever happens, the Commission will continue to play its role of impartial referee. It intends to apply the following principles in its policy of opening up markets in the future:

- introducing evaluation tools to assess the operation, performance and competitiveness of general interest services on a sector-by-sector basis, so that the best examples can be emulated and the services adapted in line with technological changes, new consumer needs and new public interest demands. The Commission has already launched a study to get an overview of forms of regulation and methods of organizing and financing networked services in the Member States,
- adopting a step-by-step approach based on consultation with the various parties concerned, including consumers,
- applying openness by issuing a communication on the application of the Article 90 procedures.

This approach should get the best out of the activities undertaken, particularly as regards the development of the universal European service concept.

62. It is, however, important that the decisions on the Commission's pending proposals should be taken as soon as possible. The Commission is expecting the Directive on the opening up of the internal market in electricity, which had been blocked, to be finalized soon. The Commission is also counting on the Council and the European Parliament adopting the drafts on the opening up of international markets in rail passenger transport, completing the opening up of the rail freight markets and the opening up of the natural gas markets. These proposals incorporate the general interest considerations.

2. Strengthening European coordination and solidarity

63. In the interests of solidarity, the general interest criteria could be extended to other activities following the evaluations referred to above. There are several sectors that have a cross-border dimension, especially in terms of their particular technical characteristics, which means that the general interest role is not necessarily best fulfilled at national level. There are other sectors with European implications too, such as land-use planning and environmental protection.

64. To meet the requirements of these sectors and ensure the best possible performance and service, the Commission could envisage future activities, in some form or another and using the powers it already possesses, designed to facilitate the coordination of national general economic interest bodies in matters such as public financing arrangements and control systems. Development of the universal service concept or public service obligations could be a fruitful avenue to explore, particularly in terms of the quality of service and users' rights.

65. The level of European integration in certain sectors could also give food for thought on means of increasing European-level coordination for monitoring the activities of regulators and operators in these sectors. In some cases, more developed forms of cooperation could be envisaged, such as the introduction of a regulatory body for air traffic control, which is under discussion⁽¹⁾.

⁽¹⁾ See Commission White Paper entitled 'Air traffic management: freeing Europe's airspace', COM(96) 57 final.

3. Deploying Community instruments

66. Economic and social cohesion, harmonious urban and rural development and environmental conservation are objectives of shared interest in Europe. In this context, general interest services share the same objectives as various other common policies introduced by the Community.
67. This is why the Commission will be pushing ahead with those policies which are needed to get the most out of general interest services. With this in mind, next year the Commission is due to submit a draft plan on developing land use in the Community to the European Parliament, the Council and the Committee of the Regions. This is to be based on the recommendations of the 'Europa 2000 plus' document, which will give general interest services the sort of coverage they deserve.
68. The Commission is planning to develop the trans-European networks in line with the commitments already made by the Heads of States or Government. The commitments should be acted on as soon as possible, particularly on the financial level. The networks have such huge potential that their introduction should not be held up any longer.

When presenting its initial guidelines for the fifth research framework programme (1999 to 2003), the Commission stressed the need for research to be made to work resolutely for the benefit of the European citizen.

69. Making sure that everyone is provided with other general interest services, such as health, welfare, education, water and housing, is a matter of national or regional responsibility. None the less, there are ways in which the Community can help (cooperation, financial support and coordination activities) and greater use should be made of them in connection with these services to promote equality of opportunity and to combat poverty and marginalization ('social exclusion').

B. A REFERENCE IN THE TREATY

70. Now that the Union is discussing reforming its institutions in preparation for the transition to a new political phase, the debate is open on how to

consolidate and clarify our commitment to the European model of society and the values on which it is based, as reiterated by the Commission in its opinion for the Intergovernmental Conference⁽¹⁾. The provision of public interest services is central to these values.

71. One option would be to leave the Treaty as it stands. Article 90 has proved its worth in fully guaranteeing the beneficial interaction between liberalization and general interest. It is best left untouched. The Treaty also contains various other instruments that provide ways and means of supporting the European model of society in several ways, for example as back-up for general interest roles: trans-European networks, Community research, consumer policy and social and economic cohesion.
72. The Commission feels, however, that the role of general interest services in the development of the concept of European citizenship should be commensurate with the place they occupy among the shared values on which the European societies are founded. With this in mind, the stage should be set for developing general interest services in Europe and for deploying the means available to achieve this end in a coherent way.
73. The Commission is advocating in the Intergovernmental Conference that a reference be inserted in the Treaty. This would mean adding a new paragraph (u) to Article 3 to read as follows:
- '(u) a contribution to the promotion of services of general interest.'
74. This would confirm, given the programmatic value of Article 3, that general interest services already fall within the Community remit. They none the less continue to be primarily an area for action by the Member State. Without actually creating a new legal basis, this addition would establish that general interest services are something which the Community should take into account when drawing up its policies and planning its activities.

⁽¹⁾ 'Reinforcing political union and preparing for enlargement'. Commission opinion on the Intergovernmental Conference, COM(96) 90, 28. 2. 1996.

Notice of the impending expiry of certain anti-dumping measures

(96/C 281/04)

1. The Commission gives notice that, unless a review is initiated in accordance with the following procedure, the anti-dumping measures mentioned below will expire on the date mentioned in the table below, as provided in Article 11 (2) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾.

2. Procedure

Community producers may lodge a written request for a review. This request must contain sufficient evidence that the removal of the measures would be likely to result in a continuation or recurrence of dumping and injury.

Should the Commission decide to review the measures concerned, importers, exporters, representatives of the exporting country and Community producers will then be provided with the opportunity to amplify, rebut or comment on the matters set out in the review request.

3. Time limit

Community producers may submit a written request for a review on the above basis, to reach the European Commission, Directorate-General I — External Relations: Commercial Policy and Relations with North America, the Far East, Australia and New Zealand (Division I-C-2), rue de la Loi/Wetstraat 200, B-1049 Brussels ⁽²⁾ at any time from the date of the publication of the present notice but no later than three months before the date mentioned in the table below.

If no request for a review is received in adequate form within the time limit specified above, the measures will expire in accordance with Article 11 (2) of the abovementioned Regulation.

4. This notice is published in accordance with Article 11 (2) of Regulation (EC) No 384/96.

Product	Country(ies) of origin or exportation	Measures	Reference	Date of expiry
Certain thermal paper	Japan	Duty	Regulation (EEC) No 729/92	28. 3. 1997
		Undertaking	Decision 92/177/EEC (OJ No L 81, 26. 3. 1992)	

⁽¹⁾ OJ No L 56, 6. 3. 1996, p. 1.

⁽²⁾ Telex: COMEU B 21877; fax: (32 2) 295 65 05.

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Product	Country(ies) of origin or exportation	Measures	Reference	Date of expiry
Cotton yarn	Brazil Turkey	Duty	Regulation (EEC) No 738/92 (OJ No L 82, 27. 3. 1992)	28. 3. 1997

⁽¹⁾ OJ No L 56, 6. 3. 1996, p. 1.

⁽²⁾ Telex COMEU B 21877, fax: (32-2) 295 65 05.

STATE AID

C 41/94 (ex NN 37/94)

Germany

(96/C 281/06)

(Text with EEA relevance)

*(Articles 92 to 94 of the Treaty establishing the European Community)***Commission notice pursuant to Article 93 (2) of the EC Treaty to other Member States and interested parties concerning aid which Germany has granted to Fritz Egger Spanplatten-industrie GmbH & Co. KG, Brilon**

By means of the letter reproduced below, the Commission informed the German Government of its decision to close the Article 93 (2) procedure.

The Commission after having, received several complaints from competitors, decided on 27 July 1994 to initiate a procedure pursuant to Article 93 (2) of the EC Treaty with regard to possible State aid elements in a land transfer arrangement between the City of Brilon and Fritz Egger Spanplattenindustrie GmbH & Co KG (hereinafter referred to as "Egger"), a producer of chipboard.

Your Government was informed about the Commission's decision by letter dated 18 August 1994. The Commission asked, *inter alia*, the German authorities to submit a new expert valuation (Verkehrswertgutachten) for the sites transferred to Egger as by 31 January 1989, the date of the contract between the City of Brilon and Egger.

By letter dated 19 October 1994, your authorities submitted its comments concerning the opening of the procedure. On 24 October 1994, the Commission explained that it would insist on the submission of a new expert valuation as requested in the opening of the procedure. On 21 November 1994, the Commission requested additional informations and explanations concerning the particular procedure (land consolidation procedure — Flurbereinigungsverfahren) chosen for the transfer of the site in question. By letter dated 12 December 1994, the Commission informed your Government about a necessary correction in its letter informing it about the decision to open the procedure.

On 24 December 1994, the decision of the Commission to initiate the procedure was published in the *Official Journal of the European Communities* ⁽¹⁾ with the request to other Member States and third parties to submit their comments.

By letter dated 17 January 1995, the Commission reminded your authorities of its request to submit an expert valuation. On 23 January 1995, your Government submitted the expert valuation with some additional remarks.

In reaction on the publication the Commission received comments from a Danish and a Swedish competitor of Egger. They explained that there is fierce competition in the chipboard sector and expressed their opinion that the aid in favour of Egger could distort competition in this market severely. By letter dated 7 February 1995 your Government was provided with copies of these reactions with the request to comment. The Commission received they reply hereto on 4 April 1995.

By communication dated 4 May 1995, your Government submitted some additional information concerning the expert valuation. By letter dated 9 October 1995, your Government invited the Commission to hold a meeting with representatives of the City of Brilon and the Government of the *Land* Nordrhein-Westfalen. This meeting, however, did not take place due to prior commitments of the envisaged participants from the regional and local authorities.

On the basis of the information received in the course of the procedure, the relevant facts appear as follows:

In March 1988, the municipality of Brilon and Egger entered into negotiations concerning the settlement of a new chipboard plant of the Austrian Egger group in Brilon. The municipality was in a position to propose a 22 ha area approximately 2,5 km from the center of Brilon. On 7 July 1988, it was decided to amend the municipal development plan (Flächennutzungsplan) and the building scheme (Bebauungsplan) so that the agricultural area can be used for industrial purposes. This decision entered into force on 13 January 1989. The different sites (Flurstücke) of which the area consisted were owned by a number of private individuals and families, the municipality and the church. The administration of Brilon decided to run a land consolidation procedure (Flurbereinigungsverfahren) in order to allow an easy and cheap transfer of ownership to Egger. Such

(1) OJ No C 369, 24. 12. 1994, p. 6.

procedure is normally designed to allow an easy consolidation of agricultural areas. It is, however, also possible to use this procedure for the creation of new industrial areas. The procedure is, in its effects, fully comparable to an acquisition of the entire area by the municipality and the subsequent sale of the area, after a new cadastral demarkation (Abmarkung), to Egger. In the framework of this procedure it was decided that those giving up their ownership would receive a financial compensation of DM 15 per m². Egger, however, had to pay DM 10 per m² to become owner of the 221 771 m² site by allocation from the Agricultural Land Use Office (Amt für Agrarordnung) on 31 January 1989.

Also on 31 January 1989, the City of Brilon and Egger concluded an agreement in which the municipality undertakes to ensure that the acquired land is designated in the municipal development plan as industrial area and in the building scheme as building land. The municipality further undertook to level, at its own expense, the land in accordance with the elevation plan of the firm. In Section 4 of the agreement it is stated that the land is in principle fully developed ("an sich voll erschlossen"). In addition, the municipality undertook to carry out further development work, in particular the provision of sewerage facilities and connection to the water mains, a road link to the district road suited to heavy goods vehicles, etc.

As result of this agreement the City had to cover costs of DM 3 million concerning the external development measures and DM 6 million for the levelling and other internal development measures on the site acquired by Egger. Egger commenced construction of the new plant in 1989, which was completed in October 1991.

In 1989 Brilon was included in Germany's assisted areas map and was eligible for regional investment aid of up to 18 %, plus certain allowances for the creation of high-quality jobs and training places. In 1991, Brilon was with drawn from the list of eligible regions due to its economic development with the result that only applications for regional investment aid filed until July 1991 could be honoured.

Regional aid totalling DM 46,752 million (ECU 24,6 million) was granted for the investment project under the 17th framework programme (Rahmenplan) of the joint task "Improvement of the regional economic structure" (Gemeinschaftsaufgabe "Verbesserung der regionalen Wirtschaftsstruktur") and the Investment Allowance Act (Investitionszulagengesetz). Both aid programmes were approved by the Commission. This amount was made up of a joint task investment grant (including boni for high quality jobs and training places) of DM 21,232 million, towards a volume of investment put at DM 231,2 million in the application submitted by the firm before commencement of the project, and an investment allowance of DM 25,52 million towards a volume of

eligible investment of DM 291,7 million. The investment grant was at 9,19 % of the eligible investment costs taken into account and the investment allowance was at 8,74 % of the eligible costs. The total aid intensity on the basis of the eligible costs taken into account for the different programmes was therefore at 17,93 %.

The difference between the eligible investment costs taken into account is related to a special provision of the guidelines of the *Land Nordrhein-Westfalen* for the granting of investment aid under the joint task "Improvement of the regional economic structure", which provides for investments only to be taken into account up to the amount declared in the application of the firm concerned before starting the investment. A later increase of the investment costs is not taken into account. The Investment Allowance Act, however, allows investment to be taken into account according to the level of activated investments in the balance sheet close to the termination of the investment, so that higher investments compared to the initial planning are recognized when calculating the eligible costs.

By the end of 1990 (balance sheet of 30 April 1991) Egger had activated eligible investment costs for the project of DM 297,3 million. By the end of 1991 (balance sheet of 30 April 1992) Egger had activated eligible investment costs for the project of DM 325,1 million.

The expert valuation of the site, submitted by your Government on 23 January 1995, calculated a market value of the land as by 31 January 1989 of DM 12,75 per m². The experts took into account a number of contracts covering the sale of comparable sites in the area during the period 1986 to 1988 and came to the conclusion that a value of DM 20 per m² should be considered as the market value of building land carrying no obligation on development charges (erschließungsbeitragsfreies Bauland). Since the experts considered the land to be non-developed they deducted an amount of DM 5 per m² for expected development charges, arriving at DM 15 per m². Furthermore, they held the land not to be building land (Bauland) but only prospective building land (Bauerwartungsland) because they considered the plans not finalized and deducted 15 % of DM 15 per m² to arrive at a market value of DM 12,75 per m².

Your Government is of the opinion that the land transfer arrangement does not contain any State aid element. It argues that the relevant date for the evaluation is the 1 July 1988, when the land consolidation procedure was initiated, first expert evaluation for this date set the market value of the land at DM 7,25 per m² so that Egger, in the view of the German Government, finally paid approximately 138 % of the market value. The fact that the former owners received a compensation of DM 15 per m² was explained with the good market position of these owners knowing that the project was urgent.

Only by way of precaution, for the case that the Commission would not share this view, your authorities explained that the approved regional investment aid scheme under which Brilon was an eligible region during the time of the investment allowed for investment aid with an intensity of up to 18 %. They explained that the entire investment normally eligible under the approved programme was at DM 325,1 million as activated by the end of 1991. Since the region was eligible for planned investments notified to the administrations until July 1991, the full investment of this amount could have been held eligible under the approved regional aid programme. According to your authorities, it was only due to the special guidelines of the *Land Nordrhein-Westfalen*, aiming at a simplification of administrative procedures, that only eligible costs according to the investment plan submitted before the commencement of the project were taken into account for the investment grant. The eligible investments for the investment allowance were accordingly much higher because under this programme the deadline for the notification of investments does not apply, with the result that the actual eligible costs that occurred during the implementation of the project until the submission of the application for the investment allowance were taken into account.

On the basis of these considerations, your Government is of the opinion that the total aid, even if the market value of the site were to be considered at DM 20 per m², does not exceed the level for regional investment aid of up to 18 % the Commission had accepted. The total costs eligible for regional investment aid were at DM 325,1 million, so that a maximum of DM 58,518 million would have been permissible under the approved regional aid system of Germany at that time. Since the total amount of regional aid granted was only DM 46,725 million, the German Government is of the opinion that any possible aid element related to the terms and conditions of the transfer of the land of up to DM 11,766 million cannot be deemed incompatible with the common market. Even if, as a maximum possible amount, the market value of the site would be considered at DM 20 per m², this amount would not be exceeded.

In the present case the question of the existence or not of State aid within the meaning of Article 92 (1) of the EC Treaty related to the land transfer arrangement centers on whether the terms and conditions of the transfer of the site to Egger by the City of Brilon depart from normal commercial practice and criteria to such an extent as to constitute State aid (1).

In general, the Commission is of the opinion, that the market value of a site that public authorities intend to

sell may best be established by an open and unconditional bidding procedure in which all potential buyers have the chance to submit their bids and after which the best or only bid is honoured or by an adequate effort to sell the site at best market conditions (2).

In cases in which the public authorities decide not to apply such a procedure and decide to sell a site to a certain investor and to establish the price to be paid after this choice, the Commission is of the opinion that the market value of the site in question should be established by independent land valuers using general and well accepted methods to establish the market value/purchase price of the land to be sold on the basis of the terms and conditions of sales of comparable sites during the recent past and other generally accepted market indicators.

In the present case, your authorities did not choose one of these procedures when concluding the land sales arrangement with Egger. Therefore, the Commission, in its decision to initiate the procedure pursuant to Article 93 (2) of the EC Treaty, requested an expert valuation establishing the market value of the site in question at the date the relevant agreement was concluded.

It is to be noted, as already explained in the decision to initiate the procedure, that Egger received the land by 31 January 1989 as a result of the land consolidation procedure that was only initiated to provide the firm with industrial building land. The contractual agreement between the municipality and Egger is also dated 31 January 1989 and is to be seen as the contract covering the entire arrangement between these two parties concerning the investment of Egger in Brilon. A land sales agreement was not part of this contract only because the municipality chose the land consolidation procedure. Therefore, the relevant date for the valuation of the market value of the land is to be set at 31 January 1989.

The expert valuers came to the conclusion that the market value of the site in question on this date was DM 12,75 per m². However, they took two factors into account to deduct from the "normal" market value established at DM 20 per m². Firstly, the land was in their opinion carrying charges to contribute towards development costs. Secondly, the land was considered only prospective building land, not building land. These two factors cannot be accepted. The municipality of Brilon expressly stated in the agreement with Egger that the site in question is "in principle" fully developed ("an

(1) See Commission decision of 31 July 1991 (Toyota) (OJ No L 6, 11. 1. 1992, p. 36) and Commission decision of 14 April 1992 (Daimler Benz) (OJ No L 263, 9. 9. 1992, p. 15).

(2) See Commission decision of 13 October 1993 (Fresnius) (OJ No C 21, 25. 1. 1994, p. 4).

sich voll erschlossen"). In addition the municipality undertook to carry out some additional measures related to the external development, such as the road link to the district road suited to heavy goods vehicles, etc. Therefore, the site cannot be valued taking into account prospective charges for external development. In addition, the planning decisions of the responsible bodies to change the land into building land for industrial purposes entered into force before the relevant date of 31 January 1989. The mere possibility of a third party filing an action (Anfechtungsklage) in front of the Court was neither well motivated nor fully considered in its possible implications for the market value. The deductions proposed by the valuers are therefore not acceptable. The market value of the site on 31 January 1989 is consequently to be considered at DM 20 per m².

Egger paid only 50 % of the market value, so that the difference is to be considered as State aid totalling DM 2 217 750.

On the basis of the agreement between the City of Brilon and Egger, the municipality carried out several internal development measures on the site in question, such as the levelling of the ground. The total expenses for these measures borne by the municipality amounted to DM 6 million. As already explained in the decision to open the procedure, the costs for the internal development of a site are normally to be covered by the owner. The prices for larger areas are in general also calculated under this assumption. Therefore, the expenses for the internal development of the site are also considered as State aid.

The costs for the external development DM 3 million, are not to be considered as aid because Egger acquired a site considered as fully developed and the market value, as explained above, is calculated on this assumption. Furthermore, the external development is in general also in favour of other owners of land in the relevant area so that it is not to be considered as a specific contribution towards a certain project.

By way of conclusion it is to be noted that the terms and conditions of the land transfer arrangement between the City of Brilon and Egger contained State aid elements totalling DM 8 217 750. The aid is to be considered as *ad hoc* regional investment aid, because it was granted in connection with a settlement project (Ansiedlungsvorhaben) aiming at the amelioration of the economic structures in the City of Brilon. Any preferential treatment of Egger, be it consciously or not, is to be seen in relation to the wish of the Brilon authorities to attract the Egger investment in order to have jobs created in that area.

The Commission approved the German regional investment aid scheme in force at the time of the

investment, the 17th framework programme (Rahmenplan) of the joint task "Improvement of the regional economic structure" (Gemeinschaftsaufgabe "Verbesserung der regionalen Wirtschaftsstruktur"). Under this regional aid scheme the region of Brilon was during the time of the investment eligible for investment aid up to an aid intensity of 18 %.

The total eligible investments effectively carried out amounted to DM 325,1 million. Only a portion of DM 231,2 million of these investments was taken into account for the purposes of the aid under the joint task programme. This goes back to the special provisions of the guidelines of the *Land* Nordrhein-Westfalen. The limitation is not compulsory under the approved Federal aid scheme joint task "Improvement of the regional economic structure". A portion of DM 297,3 million was taken into account for the investment allowance scheme (Investitionszulage). The result of this was that the total regional investment aid received for the investment project under approved general aid schemes is DM 46,752 million i.e. 14,4 % of the total investment. Taking the additional *ad hoc* regional aid related to the land transfer agreement into account the total regional aid received was at DM 54,97 million, i.e. 16,9 % of the total investment.

It is true that the Commission approved the regional aid schemes relevant in this case in its entirety, i.e. including the rules of the *Land* Nordrhein-Westfalen concerning the calculation of eligible costs and the deadline for costs to be notified in order to have them accepted. The Commission, doing so, also accepted that the amount of eligible costs taken into account under the different schemes that were applied in this case was different due to the diverging closing dates for applications.

However, when approving regional investment aid schemes, the Commission considers the basic principles of the schemes, e.g. the nature of eligible costs and the maximum aid intensities provided for. An aid scheme that, in the interest of a clear and easy administration of the programmes by the national authorities, provides for certain closing dates regarding the notification of effective investment costs is not approved under the assumption that there is in general an important difference between the eligible costs notified in advance and the total costs of the investment finally activated. The aim of the community State aid control is to ensure that the general aid intensity thresholds for eligible regions are respected, not that the aid intensities effectively and systematically fall short of the general threshold authorized.

It seems therefore reasonable to take the full costs of investment into account when assessing *ex-post* whether the maximum threshold for regional investment aid was exceeded when *ad hoc* aid, granted in addition to aid under approved schemes, was discovered, as in the present case. Compared to the full investment costs that

were in general eligible under the approved regional aid scheme, the entire amount of aid granted does not exceed the maximum aid intensity of 18 %. Consequently, the distortive effect of the total regional aid granted falls short to the maximum amount that was considered compatible with the common market to foster the economic development of Brilon until 1991.

By way of summary the Commission noted that:

- Fritz Egger Spanplattenindustrie GmbH & Co. KG received regional investment aid up to the maximum that was possible under approved regional aid schemes,
- the total aid intensity of the regional aid granted under approved schemes represents 14,4 % of the total investment costs effected,
- the company further received *ad hoc* regional investment aid of DM 8 217 750 through the transfer of the land below market value and the covering of internal development costs by the State,

- the total aid intensity of the regional aid granted under approved schemes and the *ad hoc* regional investment aid does not exceed the maximum aid intensity approved by the Commission for the area of Brilon for the period in question.

The aid related to the terms and conditions of the land transfer agreement between Fritz Egger Spanplattenindustrie GmbH & Co. KG and the municipality of Brilon may therefore be deemed compatible with the common market pursuant to Article 92 (3) (c) of the EC Treaty.

The Commission consequently decided to close the procedure pursuant to Article 93 (2) of the EC Treaty initiated on 27 July 1994.

The Commission reminds your authorities that the agreement between Egger and the City of Brilon in paragraph 4 (d) of the agreement of 31 January 1989 covering the possible future sale of additional land owned by the municipality in Brilon at a pre-fixed purchase price of DM 10 per m² would most probably contain State aid elements and should therefore not be implemented before the Commission was given the opportunity to take a position thereon.

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

Notice of the EFTA Surveillance Authority updating the notice on Agreements of minor importance of 12 January 1994

(96/C 281/07)

A. The present notice is issued pursuant to the rules of the Agreement on the European Economic Area (EEA Agreement) and the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice (Surveillance and Court Agreement).

B. The Commission issued, on 23 December 1994, a notice concerning the updating of the 1986 communication ⁽¹⁾ on agreements of minor importance (OJ No C 368, 23. 12. 1994, p. 20).

C. The EFTA Surveillance Authority considers the subject of the abovementioned act to be EEA relevant. The Authority adopts the present notice in order to maintain equal conditions of competition and to ensure a uniform application of the EEA competition rules throughout the European Economic Area.

1. The EFTA Surveillance Authority has decided to update its notice on agreements of minor importance which do not fall under Article 53 (1) of the EEA Agreement ⁽²⁾. The turnover threshold below which undertakings may benefit from the advantages of the application of that notice is raised from ECU 200 million to ECU 300 million.

2. Consequently, point 7 of that notice reads as follows:

‘7. The EFTA Surveillance Authority also holds the view that agreements between undertakings engaged in the production or distribution of goods or in the provision of services generally do not fall under the prohibition of Article 53 (1) if:

— the goods or services which are the subject of the agreement (hereinafter referred to as “the contract products”) together with the participating undertakings’ other goods or services which are considered by users to be equivalent in view of their characteristics, price and intended use, do not represent more than 5 % of the total market for such

⁽¹⁾ OJ No C 231, 12. 9. 1986, p. 2.

⁽²⁾ OJ No L 153, 18. 6. 1994, p. 32 and the EEA Supplement to the OJ No 15, 18. 6. 1994, p. 31.

goods or services (hereinafter referred to as "products") in the area of the territory covered by the EEA Agreement affected by the agreement,

and

- the aggregate annual turnover of the participating undertakings does not exceed ECU 300 million (*).

(*) For the purpose of this notice "ecu" shall have the meaning set out in Protocol 39 to the EEA Agreement, i.e. the European currency unit as defined by the competent Community Authorities. The value of the ecu is published daily in the "C" series of the *Official Journal of the European Communities*.

III

(Notices)

COMMISSION

Phare — telecommunications

Notice of invitation to tender issued by the Committee of Posts and Telecommunications, Bulgaria, and by the Commission of the European Union within the framework of the Phare Programme

(96/C 281/08)

Project title: Fixed radio monitoring station and mobile direction finder for Bulgaria

Supply of the following equipment and services:

- 1 receiving system;
- 1 antenna system;
- 1 VHF/UHF direction finder;
- 1 mobile direction finder;
- 1 smart-monitoring-software (SMS);
- 1 computer system;
- 1 audio signal analysis equipment;
- 1 frequency standard;
- 1 optional database;
- system integration;
- training;
- after sales service.

1. Participation and origin

Participation is open on equal terms to all natural and legal persons of the Member States of the European Union and of Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic and Slovenia.

Supplies and services offered must originate in the above states.

2. Subject

The supply of the equipment and services will be executed within the framework of the financial and technical assistance provided by the European Union to Bulgaria under the Phare programme for assistance in the construction of modern telecommunications systems in Bulgaria.

3. Invitation to tender

Interested contractors may obtain further information and obtain the tender documents at the address given below, from 16. 9. 1996 to 23. 10. 1996, on weekdays between 10.00 and 14.00 or by post to:

Committee of Posts and Telecommunications, Director, Phare Programme Management Unit, Room 322, Gourko Street, 6, BG-1000 Sofia, tel. (359-2) 80 10 99, facsimile (359-2) 80 00 44.

4. Tender

Tender documents should be submitted not later than 4. 11. 1996 (12.00), local time, to:

Committee of Posts and Telecommunications, Director, Phare Programme Management Unit, Room 322, Gourko Street, 6, BG-1000 Sofia.

The tenders will be opened in the presence of the tenderers' representatives on 4. 11. 1996 (13.30), local time, at the same address.

CORRIGENDA

Validation and technology transfer projects

(Official Journal of the European Communities No C 271, 17. 9. 1996, p. 20)

(96/C 281/09)

European Commission, Directorate-General XIII - Telecommunications, Information Market and Exploitation of Research, DG XIII/D/1, EUFO 2174, rue Alcide de Gasperi, L-2920 Luxembourg.

Facsimile (352) 43 01-341 29.

instead of:

3. Proposals must reach the Commission on 15. 12. 1996(17.00), local time, either at the address in point 6 below or at 1 of the Commission's offices within the Community (date as on acknowledgement of receipt).

read:

3. Proposals must reach the Commission on 15. 12. 1996(17.00), local time, either at the address in point 6 below or at 1 of the Commission's offices within the Community (date as on acknowledgement of receipt).

Programme Alfa

Call for submission of applications in the framework of the Alfa programme

Alfa stands for 'Amérique latine — Formation académique', a programme approved by the Commission on 10 March 1994. The programme runs over five years and began on 1 November 1994.

Alfa's main objectives are:

- (i) to encourage cooperation between Latin America and Europe in the field of higher education in order to make up for the deficiencies and overcome the disparities and imbalances between those two regions by improving the scientific, academic and technological potential of Latin America;
- (ii) to promote cooperation programmes through networks of higher education institutions from Europe and Latin America with a view to carrying out common academic activities, facilitating the exchange of postgraduates and university students and other activities, thus contributing to the regional integration of Latin American countries and to the reinforcement of exchanges among those countries.

Its activities are grouped in two sub-programmes:

- sub-programme A: cooperation for institutional management,
- sub-programme B: cooperation for scientific and technological training.

Sub-programme A: cooperation for institutional management aims at:

- academic and administrative management,
- academic recognition of grades, titles and degrees,
- improvement, adaptation and, if needed, harmonization of curricula,
- cooperation between institutions of higher education and companies,
- innovation and systematization of the educational task,
- institutional assessment.

Sub-programme B: cooperation for scientific and technological training aims at:

- supporting curricula for:
 - advanced training (Ph.Ds, master's degrees and professional specializations),
 - complementary training (of students from the last two years of a higher education (degree)),
- devising common research projects.

Alfa will give priority to academic projects related to:

- economic and social sciences in general and, in particular:
 - company management,
 - public service,
 - economics and economic law,
 - environmental studies,
 - regional integration,
 - rural development,
 - regional and urban planning,
 - social and educational policy,
 - engineering science,
 - medicine and other health sciences.

The higher education institutions from the Member States of the European Communities and from the countries of Latin America are invited to submit projects under sub-programme A or sub-programme B. The Guide of the Alfa Programme and the forms for submitting projects can be obtained through the Technical Assistance Office of the Alfa Programme, the Offices of the European Commission in the Member States and the Delegations of the European Commission in Latin America.

Information and application forms:

BAT/CEEETA, Rue Joseph II 36-4°, B-1000 Brussels, tel. (32 2) 219 04 53, facsimile (32 2) 219 63 84.

Final date for the submission of the applications: 31. 10. 1996.

Next calls:

April 1997

October 1997.