

English edition

## Information and Notices

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(1) Text with EEA relevance

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## I

*(Information)*

## COUNCIL

## COUNCIL RESOLUTION

of 12 November 1996

**on a strategy towards blood safety and self-sufficiency in the European Community**

(96/C 374/01)

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING the Commission communication of 25 May 1993 on self-sufficiency in blood in the European Community and the Council conclusions of 13 December 1993 <sup>(1)</sup>;

RECALLING the Commission's communication of 21 December 1994 on blood safety and self-sufficiency in the European Community and the Council resolution of 2 June 1995 <sup>(2)</sup>;

TAKES NOTE of the resolution of 14 July 1995 of the European Parliament on blood safety in the European Union <sup>(3)</sup>;

TAKES NOTE of the resolution of 17 April 1996 of the European Parliament on the communication from the Commission on blood safety and self-sufficiency in the European Community <sup>(4)</sup>;

ACKNOWLEDGES the work of the Council of Europe in the blood transfusion area;

TAKES NOTE of the conclusions and recommendations agreed unanimously by the colloquium on blood safety and self-sufficiency held at Adare, Ireland, on 4 to 6 September 1996;

RECALLS that these conclusions and recommendations take account of the meeting of experts on public awareness relating to blood, held in Rome in April 1996;

AGREES that the conclusions and recommendations of the Adare colloquium provide for concrete steps in order to realize the strategy called for in previous resolutions towards promoting blood safety, in particular to reinforce trust and confidence in the safety of the blood-transfusion chain, and towards promoting self-sufficiency in the Community;

REITERATES that Community self-sufficiency must be based on the principle of voluntary and unpaid blood donations;

REQUESTS that steps be taken to ensure that rapid progress is made in taking forward this work;

Accordingly:

— INVITES the Member States to review their policies, procedures and programmes aimed at ensuring the safety of the blood-transfusion chain in the light of the conclusions and recommendations of the Adare colloquium on blood safety and self-sufficiency, towards achieving the objectives set out in this resolution,

— INVITES the Commission to submit proposals as a matter of urgency in support of the actions of the Member States, with a view to encouraging the development of a coordinated approach to the safety of blood and blood products, taking into account the aforementioned resolutions and using the conclusions and recommendations of the Adare colloquium on blood safety and self-sufficiency as a basis for its work.

<sup>(1)</sup> OJ No C 15, 18. 1. 1994, p. 6.

<sup>(2)</sup> OJ No C 164, 30. 6. 1995, p. 1.

<sup>(3)</sup> OJ No C 249, 25. 9. 1995, p. 231.

<sup>(4)</sup> OJ No C 141, 13. 5. 1996, p. 131.

**COUNCIL CONCLUSIONS****of 12 November 1996****on transmissible spongiform encephalopathies (TSEs)**

(96/C 374/02)

THE COUNCIL OF THE EUROPEAN UNION,

REFERRING to its conclusions of 18 June 1996 on transmissible spongiform encephalopathies (TSEs) <sup>(1)</sup>;

RECALLING the conclusions of the Council of 7 October 1996 on research on bovine spongiform encephalopathy (BSE) and related human diseases;

REITERATES that protection of public health is the top priority regarding the prevention of transmission of TSEs, as stated in the conclusions of the Florence Summit;

NOTES that the paramount importance to be accorded to the protection of health has been underlined on several occasions at Community level since its conclusions of 18 June 1996;

NOTES the initiatives taken by the European Parliament in relation to BSE and Creutzfeldt-Jacob disease (CJD);

NOTES the current epidemiological data relating to CJD supplied by Member States;

NOTES the developments which have taken place since its conclusions of 18 June 1996, in relation to:

- the surveillance of CJD, at the level of the Member States and at Community level,
- the monitoring of the scientific evidence relating to causes and transmission of CJD,
- the establishment of the Multidisciplinary Scientific Committee on BSE to advise the Commission on possible risks from, and routes of exposure to, TSEs and for examining priorities for scientific research,
- the establishment of the Weissmann Group to review the present state of research in relation to BSE and CJD, on possible links between BSE and CJD and to identify relevant research initiatives,

— other actions taken by the Commission services under various policy frameworks, including foodstuffs, pharmaceuticals, cosmetics, consumer protection, agriculture and health and safety;

REITERATES that, with a view to preventing the risk of possible transmission of BSE, appropriate measures should continue to be taken and the mechanisms identified in its resolution of 18 June 1996, appropriately developed, including in particular:

- the rapid establishment of epidemiological surveillance of CJD in all Member States, on the basis of comparable data, taking fully into account as a starting point the work of the research surveillance programme put in place in five Member States,
- the exchange, between Member States, of information, of experience and expertise in the area of diagnosis and control of cases of TSEs,
- cooperation, as appropriate, with competent international organizations in the field of public health,
- the promotion of appropriate research strategies aimed at the prevention of TSEs, taking fully into account public health needs, as well as the scientific advice from expert groups, such as the Weissmann Group and the Multidisciplinary Scientific Committee;

CONSIDERS that, for public health purposes, there is a need for appropriate coordination between all bodies concerned, including committees established by the Commission, relating to TSEs;

URGES the Member States to cooperate closely with each other, in close liaison with the Commission and with the advisory committees established by the Commission, in order to coordinate their health policies and programmes for the monitoring and control of TSEs in humans;

AGREES to keep the issue under consideration.

<sup>(1)</sup> OJ No C 194, 5. 7. 1996, p. 1.

## COUNCIL RESOLUTION

of 12 November 1996

on the integration of health protection requirements into Community policies

(96/C 374/03)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Drawing attention to the acts adopted by the Community in the field of public health or which have an impact on public health,

Pointing out that the health protection requirement of any proposal must be identified sufficiently early to enable the European Parliament and the Council to take it into account when adopting the proposal,

Noting that the Commission, in its first report of 29 May 1995 on the integration of health protection requirements in Community policies, which identifies which Community policies are directly relevant to health and shows that the multiplicity of policies and measures having an effect on health creates difficulties for a coherent overview of their repercussions for people's health, points to the need to achieve coherent, balanced and effective policies, from a health point of view, which must be supplementary, within the framework of Community action, to the social and economic aspects,

Noting that the Council, in its resolution of 20 December 1995 on the integration of health protection requirements in Community policies<sup>(1)</sup>, in which it welcomed that Commission report, agreed that better information and coordination mechanisms would be put in place to ensure that the Council can be informed of the health repercussions of proposals for Community action so that it could take appropriate steps and called upon the Commission to achieve early and transparent evaluation of the impact of Community policies on human health, to identify in its annual work programme all proposals which may have an impact on health protection and to produce further reports annually on the integration of health protection requirements in Community policies giving consideration *inter alia* to initiatives taken in the following policy fields: economic policy, in particular taxation; social policy, including questions of employment; free movement of goods and persons; agricultural and food policy; consumer protection, research and technological development; environment and transport,

WELCOMES the Commission's second annual report of 4 September 1996 on the integration of health protection requirements in Community policies as a further step towards giving full effect to the provisions of Article 129 of the Treaty;

NOTES that the report focuses on a number of key areas in which the most important developments concerning health have occurred, namely social policy, the internal market, agriculture, food and fisheries, research and development, environment and energy and transport and international cooperation;

NOTES also that in addition to comprehensive inter-departmental consultation on its proposals the Commission has put in place new coordination mechanisms including the examination of questions linked to health within the Commission departments through the Interservice Group on Health and the setting up of *ad hoc* groups for the more detailed examination, from the health point of view, of individual problems or specific policies;

NOTES, moreover, that in the report the Commission concludes that it is not always straightforward to determine the best way of integrating health requirements into policies or to judge the success achieved in the matter, and states that by publishing the report it wishes to foster public debate on those issues and to promote transparency and discussion on health questions within the Community;

REAFFIRMS that, in order to contribute to achieving a high level of health protection for the citizens of the European Union, the Community should continue to pay particular attention to the health requirements involved in other Community policies;

REAFFIRMS the need for coordination, consistency and complementarity for all Community activities with a health dimension and for coordination within Member States;

CALLS UPON the Commission to continue its efforts to give effect to the Council resolution of 20 December 1995 and to take the following measures, which will fuel and support the debate amongst and within Member States and further promote transparency and the discussion on health questions within the Community:

(<sup>1</sup>) OJ No C 350, 30. 12. 1995, p. 2.

- drawing up appropriate methods and criteria as a basis for the integration of health requirements into other Community policies,
- drawing up appropriate methods and criteria and a formal mechanism for evaluating the effects of Community policies on human health,
- submitting a report on the preparation of methods, criteria and mechanisms for integrating health requirements into other Community policies and evaluating the impact of Community policies on health and on the degree to which those requirements are taken into consideration in the annual report on the matter,
- ensuring that health considerations are taken into account at every stage in the definition of proposals and that proposals containing health requirements are clearly defined as such.

## COUNCIL RESOLUTION

of 26 November 1996

on the reduction of smoking in the European Community

(96/C 374/04)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Acknowledging that, at its meetings in Milan in June 1985 and in Luxembourg in December 1985, the European Council underlined the advantages of launching a European programme of action against cancer;

Noting that the Council and the representatives of the Governments of the Member States, meeting within the Council, adopted on 7 July 1986 by their resolution <sup>(1)</sup> a programme of action of the European Communities against cancer, which set as one of the objectives a contribution to an improvement in the health and quality of life of citizens within the Community by reducing the number of cases of cancer and under this heading gave priority to measures against smoking;

Noting that the Council and the representatives of the Governments of the Member States, meeting within the Council, reinforced this objective on 17 May 1990 through Decision 90/238/Euratom, ECSC, EEC <sup>(2)</sup> adopting a 1990 to 1994 action plan in the context of the 'Europe against Cancer' programme;

Noting that the European Parliament and the Council, by Decision 646/96/EC <sup>(3)</sup>, adopting an action plan to combat cancer within the framework for action in the field of public health (1996 to 2000), on 29 March 1996,

stressed that the risk factors inherent in lifestyles, especially smoking, need to be reduced;

Recalling that smoking is a risk factor in certain diseases, in particular cancer and cardiovascular diseases, and contributes to the deaths of 500 000 people in the Community each year;

Considering that the population in general, and young people in particular, should be protected against smoking;

Recalling that a key objective of any smoking reduction strategy must be to discourage young people from taking up the habit, in view of the addictive nature of smoking, and its long-term effects;

Stressing that exposure to the smoke of tobacco products is damaging to the health of all persons exposed;

Taking into account that a number of Member States have sought to discourage smoking by a variety of measures, including the increasing of retail prices, in particular through the imposition of a high level of excise tax;

Noting that the Council and the Ministers for Education, meeting within the Council, in their resolution <sup>(4)</sup> of 23 November 1988 concerning health education in schools identified smoking as a risk to health;

Noting that the Council and the Ministers for Health, meeting within the Council, in their conclusions of 13 November 1992, agreed that schools are important

<sup>(1)</sup> OJ No C 184, 23. 7. 1986, p. 19.

<sup>(2)</sup> OJ No L 137, 30. 5. 1990, p. 31.

<sup>(3)</sup> OJ No L 95, 16. 4. 1996, p. 9.

<sup>(4)</sup> OJ No C 3, 5. 1. 1989, p. 1.

for providing information and education on the prevention of ill-health;

Considering that the initiatives set out in this resolution will have an even more beneficial effect on public health when combined with health education programmes during the years of compulsory education and with information and public awareness campaigns;

Considering that the protection of public health should form a constituent part of the Community's other policies;

Noting that the Council, in its resolution of 20 December 1995<sup>(1)</sup>, called on the Commission to ensure that health requirements are integrated into other Community policies;

CONSIDERS that it is necessary to evaluate the impact on tobacco consumption of, on the one hand, measures to promote smoking and other promotional activities and, on the other hand, interventions and measures intended to reduce smoking;

NOTES the 'Recommendations on Tobacco' of the High Level Cancer Experts Committee adopted at the Consensus Conference on Tobacco held in Helsinki in October 1996;

RECALLS that tobacco advertising and its influence on the incidence of smoking, particularly among young people, is the subject of a proposal from the Commission which is receiving separate consideration;

RECOGNIZES that, by cooperating and coordinating among themselves their policies and programmes to prevent illness and death associated with smoking and addiction to smoking in liaison with the Commission, the Member States can contribute to the reduction of smoking-induced diseases across the Community;

NOTES that the Member States have developed strategies to reduce the prevalence of smoking and that, while the choice of measures varies between Member States, examples include the following:

- allowing the sale of tobacco products only to adults,
- restricting access of young people to tobacco products by controls on their sale through automatic vending machines and by prohibiting the distribution of free samples of cigarettes or the sale of single cigarettes,

- encouraging measures to extend smoke-free areas in the workplace and providing for greater protection for workers from involuntary exposure to tobacco smoke,
- introducing restrictions on smoking in indoor premises open to the public such as restaurants, cinemas, offices, schools and colleges and on public transport facilities, with a particular emphasis on the protection of children, young persons, pregnant women and persons with respiratory diseases,
- increasing tobacco taxation levels with a view to maintaining the prices of tobacco products at a high level,
- strengthening health education measures to improve understanding of the risks of smoking as well as to discourage smoking, in particular measures focused on young people and on other groups of particular importance, such as pregnant women,
- introducing restrictions and controls on direct and indirect advertising, and on sponsorship and sales promotion of tobacco products;

NOTES that the Member States have introduced effective controls on labelling, including warning texts, and on the tar yield of cigarettes, applicable under Community directives;

URGES the Member States to continue to promote strategies and measures aimed at reducing the prevalence of smoking and regularly exchange information on these strategies and measures,

CALLS UPON THE COMMISSION:

- to take particular account in Community policies of the detrimental effect of smoking on the health and quality of life of citizens of the Community,
- to carry out surveys on best practices conducted in the Member States towards reducing the prevalence of smoking, and the evaluation of their impact,
- to examine, in the light of its assessment of measures taken by Member States, the possible further measures which might be taken by the Community to support actions taken by Member States directed towards the reduction of smoking,
- to support the efforts of Member States to reduce smoking and to present reports on a regular basis on the progress achieved by the Community in promoting coordination by Member States of their policies and programmes and on the potential for further initiatives.

<sup>(1)</sup> OJ No C 350, 30. 12. 1995, p. 2.

# COMMISSION

Ecu <sup>(1)</sup>

10 December 1996

(96/C 374/05)

Currency amount for one unit:

Belgian and Luxembourg franc	39,9561	Finnish markka	5,79756
Danish krone	7,41739	Swedish krona	8,52575
German mark	1,93793	Pound sterling	0,756585
Greek drachma	305,403	United States dollar	1,24746
Spanish peseta	163,030	Canadian dollar	1,69130
French franc	6,55290	Japanese yen	141,187
Irish pound	0,754252	Swiss franc	1,65400
Italian lira	1908,95	Norwegian krone	8,08478
Dutch guilder	2,17395	Icelandic krona	83,8167
Austrian schilling	13,6360	Australian dollar	1,55796
Portuguese escudo	195,851	New Zealand dollar	1,79104
		South African rand	5,84559

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.

<sup>(1)</sup> 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).



## Information procedure — technical regulations

(96/C 374/06)

(Text with EEA relevance)

- Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ No L 109, 26. 4. 1983, p. 8).
- Directive 88/182/EEC of 22 March 1988 amending Directive 83/189/EEC (OJ No L 81, 26. 3. 1988, p. 75).
- Directive 94/10/EC of the European Parliament and the Council of 23 March 1994 materially amending for the second time Directive 83/189/EEC (OJ No L 100, 19. 4. 1994, p. 30).

Notifications of draft national technical regulations received by the Commission.

Reference (*)	Title	End of three-month standstill period (‡)
96/411/DK	Order on the control of water meters used to measure consumption of hot and cold water	24. 1. 1997
96/412/DK	Order on the control of heating cost distributors used to measure consumption of heat	24. 1. 1997
96/413/A	Order of the Federal Minister for Science, Transport and Art concerning road traffic signs (Traffic signs order 1996 — German designation: StVZVo 1996)	22. 1. 1997
96/414/A	RVS 9.261 Tunnels; ventilation systems; principles	3. 2. 1997
96/415/F	Order on the mandatory enforcement of standards	27. 1. 1997
96/416/NL	Regulation amending the Green Projects Regulation	(*)
96/417/A	Draft law amending the Carinthian Construction Regulations	5. 2. 1997
96/418/D	Air worthiness requirements for manned gas balloons	29. 1. 1997
96/419/D	Air worthiness requirements for anchored hot-air balloons for the transportation of persons	27. 1. 1997
96/420/D	Air worthiness requirements for normal and commuter category airships	29. 1. 1997
96/421/D	Air worthiness requirements relating to the development and manufacture of hot-air ships	29. 1. 1997

(\*) Year — registration number — Member State of origin.

(‡) Period during which the draft may not be adopted.

(\*) No standstill period since the Commission accepts the grounds of urgent adoption invoked by the notifying Member State.

(\*) No standstill period since the measure concerns technical specifications or other requirements linked to fiscal or financial measures, pursuant to the third indent of the second paragraph of Article 1 (9) of Directive 93/189/EEC.

(\*) Information procedure closed.

The Commission draws attention to the judgment given on 30 April 1996 in the 'CIA Security' case (C-194/94), in which the Court of Justice ruled that Articles 8 and 9 of Directive 83/189/EEC are to be interpreted as meaning that individuals may rely on them before the national court which must decline to apply a national technical regulation which has not been notified in accordance with the Directive.

This judgment confirms the Commission's communication of 1 October 1986 (OJ No C 245, 1. 10. 1986, p. 4).

Accordingly, breach of the obligation to notify renders the technical regulations concerned inapplicable, so that they are unenforceable against individuals.

Information on these notifications can be obtained from the national administrations, a list of which was published in *Official Journal of the European Communities* No C 324 of 30 October 1996.

**Recapitulation of current tenders, published in the *Supplement to the Official Journal of the European Communities*, financed by the European Community under the European Development Fund (EDF) or the European Communities budget**

(week: 3 to 7 December 1996)

(96/C 374/07)

Invitation to tender No	Number and date of 'S' Journal	Country	Subject	Final date for submission of bids
4165	S 235, 4. 12. 1996	Guinea	GN-Conakry: support with the recovery of the electricity sector in Guinea	5. 3. 1997
IB/AMS/019	S 235, 4. 12. 1996	Belgium	B-Brussels: technical support for the Asia-Invest secretariat	21. 2. 1997
4196	S 236, 5. 12. 1996	Botswana	BW-Selebi-Phikwe: underground dump trucks	5. 3. 1997
4197	S 236, 5. 12. 1996	Botswana	BW-Selebi-Phikwe: load haul dump machines	5. 3. 1997
4198	S 236, 5. 12. 1996	Botswana	BW-Selebi-Phikwe: locomotive batteries	5. 3. 1997
4199	S 236, 5. 12. 1996	Botswana	BW-Selebi-Phikwe: front-end loaders	5. 3. 1997
4205	S 237, 6. 12. 1996	Botswana	BW-Selebi-Phikwe: geological planning facilities	5. 3. 1997
4192	S 238, 7. 12. 1996	Angola	AO-Luanda: prequalification for technical assistance	10. 2. 1997
4187	S 238, 7. 12. 1996	South Afrika	ZA-Pretoria: technical assistance <i>(additional information)</i>	13. 1. 1997

**Non-opposition to a notified concentration**

**(Case No IV/M.791 — British Gas Trading Ltd/Group 4 Utility Services)**

(96/C 374/08)

(Text with EEA relevance)

On 7 October 1996, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6 (1) (b) of Council Regulation (EEC) No 4064/89. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CEN' version of the Celex database, under document No 396M0791. Celex is the computerized documentation system of European Community law; for more information concerning subscriptions please contact:

EUR-OP,  
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2, rue Mercier,  
L-2985 Luxembourg.  
Tel: (352) 29 29 424 55, fax: (352) 29 29 427 63.

## STATE AID

C 23/94

France

(96/C 374/09)

(Text with EEA relevance)

*(Articles 92 to 94 of the Treaty establishing the European Community)***Commission communication concerning the third tranche of restructuring aid to Air France, approved by the Commission on 27 July 1994**

By the following letter the Commission informed France of its position in respect of the third tranche of restructuring State aid in favour of the French air carrier Air France (AF):

The Commission adopted a Decision ("the 1994 Decision") on 27 July 1994, under which aid to be provided to AF is, under certain conditions, compatible with the common market and the EEA Agreement by virtue of Article 92 (3) (c) of the Treaty and Article 61 (3) (c) of the Agreement<sup>(1)</sup>. The aid consists of a FF 20 billion capital increase to be paid out in three tranches (FF 10 billion in 1994, FF 5 billion in 1995 and FF 5 billion 1996). The aid measures form part of a restructuring programme called "Projet pour l'entreprise" ("the Plan") aimed at restoring the economic and financial health of the company over the period 1994 to 1996.

The first tranche of the aid was actually paid out in 1994 and 1995, the second tranche was paid in September 1995 after the Commission had adopted a Decision in July 1995<sup>(2)</sup> ("the 1995 Decision"), stating that it had no objections to the payment of the second instalment of the capital increase. In the 1995 Decision, the Commission considered that "... taking into account market developments that have occurred since the date of the preparation of the Plan, the results of the first year of the implementation of the Plan are generally satisfactory. In addition it considers that France has fulfilled the obligations set out in Article 1 of the decision". However, the Commission deferred, until payment of the third tranche in 1996, any possible consideration of the effects of the disposal by AF of its interest in the Belgian carrier Sabena and of the company's intention to defer the purchase of new

aircraft. Moreover, the Commission expressed concerns about a trend of declining revenues and the failure to implement the planned savings in personnel costs, which may affect the airline's viability in the long run. Therefore, the Commission expressed the view that AF had to increase its efforts to implement the Plan as originally foreseen in order to achieve the levels of efficiency being achieved by other Community carriers.

Article 2 of the 1994 Decision provides, *inter alia*, that France must submit to the Commission, at least eight weeks before the release of the second and third tranches of aid, a report on the progress of the restructuring programme and on the economic and financial situation of AF. In accordance with the same Article, the Commission shall have the proper implementation of the plan and fulfilment of the conditions verified, *inter alia*, in the light of the business environment and market trends, by independent consultants.

Accordingly, France transmitted to the Commission by letter of 26 April 1996, registered with the Secretariat-General on 29 April 1996, a progress report describing the measures taken by France to fulfil the conditions attached to the 1994 Decision. In addition, the progress report sets out the main events and the results achieved by AF in 1995, the second year of the Plan, and the expectations for 1996. Revised financial and economic projections for the period from 1994 to 1997 are attached to the report.

Under Article 2 of the 1994 Decision, the Commission, in consultation with the French authorities, appointed an independent consultant, WS Atkins ("the consultant"), to assist in the verification of the proper implementation of the Plan and fulfilment of the conditions attached to the approval of State aid. The consultant held several meetings with AF, the French authorities and interviewed

<sup>(1)</sup> OJ No L 254, 30. 9. 1994, p. 73.

<sup>(2)</sup> JO No C 295, 10. 11. 1995, p. 2.

some of AF's competitors. The consultant submitted a first draft of its report to the Commission on 7 June 1996 providing an extensive review of France's report. The eight-week deadline provided for under Article 2 of the 1994 Decision was extended to 30 July 1996.

France, further to a number of meetings held with the Commission, gave the following commitments in its letter of 12 July 1996:

- “1. CNAF (Compagnie Nationale Air France) will continue to respect the prescripts of condition No 9 referred to in Article 1 of the Commission Decision of 27 July 1994. Taking into account the Commission's observations, CNAF will, in particular, implement the provisions indicated in its letter of 3 July 1996.
2. With regard to condition No 16, the French Government will ensure that the measures resulting from the agreement between France and the Commission will be respected fully.
3. As already indicated in condition No 5 of the aforementioned Commission Decision, in accordance with Community law, no new appropriation or any other form of aid will be granted to CNAF.
4. The planned merger of CNAF and Air France Europe will be carried out under conditions which hamper neither CNAF's return to viability nor the recovery of Air France Europe. It is essential, therefore, that both the two-year Air France Europe Plan and the CNAF Plan, supplemented by the cabin crew voluntary departure scheme (the PNC Plan) are implemented and further extended by the 'Pact for competitiveness and growth'.
5. When the third tranche of aid amounting to FF 5 billion is paid, part of this amount, totalling FF 1 billion, will initially remain blocked as an interest-free shareholder's loan. CNAF will submit to the French Government a report containing the financial results of the company drawn up on 31 December 1996. This report will describe in a detailed way the state of progress of the cabin crew voluntary departure scheme and all necessary information regarding the Pact for competitiveness and growth and the dates of the entry into force of the various measures contained in this Pact. This report, accompanied by observations of the French Government, will be forwarded by the latter of the Commission by 1 March 1997 at the latest.

Our first hypothesis is that the French Government will indicate to the Commission that the content of

the report is such that the situation may be considered satisfactory.

If, as a second hypothesis, it should turn out that the financial results obtained or delays in implementing the planned restructuring measures, the cabin crew voluntary departure scheme, the measures for employment or other measures mentioned above were of a kind to jeopardize the outlook for CNAF's viability, the French authorities would communicate in their observations to the Commission the additional measures they plan to guarantee the viability of the company.

Whichever hypothesis proves valid, the Commission will check whether the information communicated is satisfactory by 31 March 1997 at the latest, although this deadline may be extended if the report is not complete. On expiry of this deadline, and if there is no objection from the Commission, the sum of FF 1 billion will be definitively incorporated into the capital of CNAF.”

The Commission examines below the fulfilment of the conditions of the 1994 Decision, the results achieved by AF and its financial position, the actual implementation of the Plan, the new restructuring measures undertaken by the management, and the future viability of the company.

As regards the conditions, the situation is as follows:

- as recognized in the 1995 Decision, a holding company (Groupe Air France), which controls AF and Air Inter, was set up at the end of 1994. AF and Air Inter are commercially co-operating especially in view of the operation of the hubbing activities at CDG Paris airport (see below). However, the transactions between the two companies (e.g. maintenance, handling and computerization), whose value is relatively modest, have been under market conditions. Similarly, AF's relationships with Air Charter have been on a strictly commercial basis (conditions Nos 1 and 13);
- according to France, AS has already started an internal privatization process by encouraging its worker's participation in the share-capital of the company. As a consequence of the dissolution of the cooperative company SCMO (the “Société coopérative de main-d'œuvre”), following the change of AF's legal status (from a “société anonyme à participation ouvrière” into a “société anonyme”) at the beginning of 1995, AF must pay FF 180 million by way of compensation to the workers participating in the SCMO. The payment will be in kind by distributing free shares for an equivalent amount. In addition, the employees who, in accordance with the Plan, agreed to a reduction in their wages until

- 31 December 1997 in exchange for free shares, received their first shares in March 1996 (condition No 2);
- chapter 2 gives details of the implementation of the Plan. The ratio ERPK/employee for 1995 is 1 780 000 (65 567 000 000 ERPK/36 837 employees). This figure compares favourably with the productivity target for 1995, set out in Article 1 (3) of the 1994 Decision: 1 725 500 ERPK/employee (condition No 3);
  - the Commission has no evidence of France having intervened in the management of AF in a fashion other than that expected from a normal shareholder and having granted it any other aid (conditions Nos 4 and 5);
  - the aid has been used for restructuring purposes to improve the debt position of the company (see below), which has acquired no shareholding in any other air carrier (condition No 6);
  - in respect of capacity, two constraints are set out in the 1994 Decision: AF must not increase its operating fleet above 146 aircraft and its supply expressed in ASKs is limited to certain ceilings, depending on traffic growth. AF's capacity, even including wet leases (the number of aircraft wet-leased by AF has been reduced from 19 to 13 and a half over the restructuring period), declined in 1995 compared with 1994. In 1995, supply in ASKs on the Paris-EEA routes and on the routes between the French provincial cities and the EEA declined by 4,8 % and 3,8 %, respectively. AF has not increased, pursuant to the Decision of 1994, the number of routes operated between France and the EEA; the number of routes operated by AF declined from 89 in 1993 to 75 in the summer of 1995 and 73 in the winter of 1995/96.
- Air Charter's supply has also declined. The fleet was reduced from 13 aircraft at the end of 1994 to 12 aircraft as of 31 December 1995, and the number of seats offered decreased by 6 % over 1995 compared with the previous year (conditions Nos 7, 8, 11 and 12);
- France has not granted AF any preferential treatment in the matter of award of traffic rights (condition No 10);
  - the Méri­dien hotel chain, as observed in the 1995 Decision, was sold to the Forte group in September 1994 in accordance with the commitment given by France to the Commission (condition No 14);
  - the traffic distribution rules at Orly airport now comply, as recognized in the 1995 Decision, with the Commission's Decision of 27 April 1994 (condition No 15);
  - in respect of price leadership, by way of a general remark, price comparisons must refer to comparable services. From a consumer's standpoint, direct and indirect flights (i.e. flights where the passenger has to make a connection) are different products and bear different prices. An indirect flight is an inferior service compared with a direct flight. This is particularly true for the routes within the EEA, to which condition No 9 refers, where the duration of most flights is between 1 and 2 hours. An indirect flight lasts at least 2 more hours (i.e. the time of the diversion plus the stopover) and thus brings about a significant difference in service. Particularly, business travellers who make a return daily flight on an EEA route will, for obvious reasons, tend to avoid indirect flights, and will prefer direct ones.
- The Commission has investigated complaints relating to the pricing policy of AF on 26 EEA routes. In particular, SAS, KLM, and Lufthansa have complained about AF's pricing behaviour on several routes within the EEA. These routes may be grouped into two categories. The first concerns those where AF has provided adequate evidence to demonstrate that its pricing policy is in compliance with condition No 9. The second group refers to those routes where it appears that the condition has not been fulfilled.
- The situation in respect of the routes of the first group is the following. SAS lodged a complaint in respect of the routes between Lyon/Nice and Gothenburg, Stockholm, Oslo and Copenhagen. AF was able to demonstrate that a price lower than its own existed. KLM complained in respect of the routes between Stockholm and Mulhouse and Strasbourg, the route between Gothenburg and Strasbourg, and the route between Marseilles and Hanover. AF proved, for all these routes, the existence of a price lower than its own or of the same price as its own. Specifically, on the route between Stockholm and Strasbourg, AF had aligned its fare with the lowest fare

posted by KLM. On 9 April 1996 KLM withdrew the fare and left AF with the lowest price. AF then withdrew its fare when the matter was brought to its attention. The Commission does not consider this a case of price leadership since AF did not take the initiative of introducing the lowest fare, undercutting the fares of its competitors. Lufthansa complained with regard to the routes between Berlin and Oslo, Florence, Milan, Naples and Lisbon, the routes between Lisbon and Frankfurt, Dusseldorf, Hanover and Munich, and the route between Frankfurt and Rome. Lufthansa either did not compare like-for-like services or was not able to prove the existence of lower comparable fares offered by AF. AF proved that it does not offer the lowest fare.

In respect of the second group of routes, the Commission's position is as follows. There was a minor breach of this condition last year when AF offered a fare between Amsterdam and Paris at Fl 220 compared with a Fl 353 fare by KLM. AF promptly rectified this upon the Commission's intervention in response to KLM's complaint. Moreover, the Commission considers that AF was price leader on 4 routes between Paris and Scandinavia (i.e. the routes between Paris and Gothenburg, Stockholm, Oslo and Copenhagen), in respect of which SAS filed a complaint. Since 1 April 1996, AF has been offering on these routes two types of tariffs, which are the promotional return tariffs VSX4 from Paris to Copenhagen and Gothenburg, and return tariffs Le Kiosque QSX3 from Paris to Copenhagen, Gothenburg and Stockholm. Both the VSX4 and the QSX3 tariffs are lower than the lowest tariffs offered by AF's only competitor (SAS) for comparable direct services on the abovementioned routes. The price variations ranged from 2,6 % on the routes between Paris and Stockholm and Oslo, to 25 % on the route between Paris and Copenhagen. This commercial behaviour amounts to price leadership since the conditions attached to AF's tickets are the same as those of its competitor and thus the product may be considered as equivalent to that of the competitor pursuant to Article 1(9) of the 1994 Decision. However, AF informed the Commission by letter of 3 July 1996 that the abovementioned QSX3 tariffs had been increased so that AF was no longer price leader and the QSX3 tariffs had been withdrawn (condition No 9);

where the situation at Orly airport is concerned, the Commission has concluded that the decision by Aéroports de Paris (hereinafter referred to as ADP) to change the distribution of traffic between the two airports (the idea being in principle to concentrate flights by the Air France group and Corsair in the Orly West Terminal in 1996 and the flights by other companies in the Orly South Terminal) was likely to lead to a situation where equality of treatment between carriers operating from this airport could not be guaranteed.

During meetings held with the Commission, the airport authorities acknowledged that a three-pronged action was necessary, namely:

- additional transfers of traffic from the South to the West Terminal,
- introduction of an instrument to guarantee transparency for operating conditions,
- agreement to carry out additional work and to speed up the work initially planned at the South terminal.

As a result, by letters dated 5 July and 11 July 1996, ADP undertook to comply with the seven commitments listed below. By letter dated 12 July 1996, the French Prime Minister confirmed to the Commission that the French Government would ensure that ADP's commitments would be respected in full.

The commitments are:

- 1) to follow the pattern of the use made of existing capacity in each of the Orly terminals in order to plan any necessary changes in distribution, whether quantitative or qualitative, as soon as the need for them is perceived;
- 2) to transfer, at the latest by 30 October 1996, which heralds the start of the IATA winter season, a volume of traffic amounting to 15 000 flights and 1,2 million passengers annually from the South to the West terminal, following the situation which prevailed at the beginning of 1996 in both terminals (an announcement to this effect will be made to operators on 15 August 1996);
- 3) to make it possible, whenever the size of an operator so permits, to deploy preferential areas; this does not imply the exclusive use of such areas, nor that such deployment is to become generalized;
- 4) to publish, on a monthly basis as from 1 September 1996, detailed indicators regarding the deployment of Orly airport resources concerning:
  - (a) *contact boarding/disembarkation rates at the airport of jetty-served reachable aircraft when parked*

Apart from the average contact boarding/disembarkation rates calculated globally for each airport, the relative rates for each airline will be published monthly regarding

  - Schengen category flights at peak times and at off-peak times,
  - short haul flights at peak times and at off-peak times,
  - long haul flights at peak times and at off-peak times,

- charter flights at peak times and at off-peak times.

Specific requests for contact boarding/disembarkation rates for precise destinations will be guaranteed insofar as they concern direct flights.

Between 1 September 1996 and 31 December 1996, these data will be collected manually and hence could be subject to certain inaccuracies;

(b) *the number of check-in desks used according to the capacity of the aircraft*

The ratio of check-in desks offered according to aircraft capacity is published in the form of tables used by the Coordinating Committee. This ratio amounts to 25 passengers per hour.

Publication of the real use of the desks presupposes recording the number of passengers checked in. Generalized recording of this type implies:

- manual recovery of data for airlines which do manual checking at Orly South,
- a manual procedure at Orly West because of the scant use of computer terminals and the non-accessibility of the Air France Europe system;

5) to put into effect the following improvements to the works planned for the South terminal:

- bringing forward to July 1997 the renovation of check-in area No 4, regular flights under the Schengen scheme not being affected in this area, installation of tour operators in July 1997 and re-fitting out of the check-in area being completed in December 1997;
- bringing forward to the end of 1997 the completion of works to improve circulation in the West Pier by enlarging the entrance to this pier, speeding up the construction of the staircase in Hall 3 for the area to be in service as early as possible in 1997, depending on constraints linked to the safety committee requirements;

6) to carry out or initiate the following complementary works:

- improvements to a pedestrian walkway between the terminals which will be completed on 15 October 1996,

- separation of traffic flows in the West Pier, completed in 1999, in order to improve waiting conditions in that area,

- reprogramming and bringing forward the construction of a satellite to the south of the airport to improve capacity and contact boarding/disembarkation rates (first phase, January 1999, second phase, December 1999);

7) to carry out the works planned according to the following timetable:

- installation, for November 1996, of a VIP room in the West Pier to supplement the first room at the entrance to the Pier,
- complementary improvements to the domestic/Schengen hall of the West Pier in 1997,
- improvement of the check-in areas on the ground floor (Zone 1 for 15 September 1996, Zone 2 for 15 June 1997 and Zone 3 for March 1999),
- signposting in passenger halls for October 1996,
- extension of the baggage claim area for September 1997,
- operation, for March 1997, of a lift in car park P1,
- improvements to the waiting area and shops in the duty-free area for December 1996,
- improvement of car-hire desks for December 1996,
- improvement of the surface of the taxi stand by 30 October 1996 and installation of a canopy by January 1997,
- introduction of a second bus stop in front of the departure area for the shuttle bus serving distant carparks.

With regard to the economic performance of AF and the implementation of the Plan, the situation is as follows:

**1. AF's results and financial position in 1995**

By way of a preliminary remark, it is worth recalling that AF revised the financial projections of the Plan last year. Such revised projections were provided to the Commission, together with the progress report for 1994, before payment of the second tranche of State aid. It

resulted from these revised projections that AF's operating results in 1995-1996 would be lower than originally forecast ([...]). This was due to the fact that revenues would decline over the restructuring period and personnel costs would be higher than originally forecast. The Commission, as stated above, expressed concerns about the projected downturns and urged AF to take further restructuring steps in order to reach the productivity levels of other European Union carriers.

In general, in 1995 AF faced a number of difficulties within (conflict with cabin crew personnel, see below), but mainly outside, its control, such as the suspension of the services to and from Algeria, protests against the French nuclear tests in the Pacific, terrorist activities in the third quarter of 1995 and the French air traffic controllers' strikes at the end of 1995. The company's financial performance in 1995 was worse than expected if measured against the original financial projections of the Plan.

After setting aside a redundancy provision of FF 630 million (see below), AF posted a net loss of FF 1,869 billion compared with a loss of [...], according to the Plan. This loss, which is FF 604 million worse than the loss made in 1994, was caused by a decrease in revenues, higher than expected personnel costs, lower exceptional gains and, principally, by an additional provision to meet new restructuring costs.

The downward trend of revenues observed in 1994 was confirmed in 1995. Turnover was FF 39,370 billion in 1995, which is 1,6 % lower than 1994, [...] lower than originally forecast and [...] lower than that resulting from the revised financial forecasts. This drop in revenues is due to the abovementioned events (AF estimates the loss of revenues imputable to the exogenous factors mentioned above to be between FF 800 million and 900 million), to lower than expected yields and to exchange rate movements that reduced the value of its tickets denominated in currencies which depreciated against the French franc. The reduction in revenues was not fully offset by the corresponding decrease in expenses denominated in US dollars (e.g. fuel). This resulted in an operating loss of FF 21 million in 1995 compared with a forecast operating profit of [...] according to the original plan ([...], according to the revised projections). On the other hand, the exchange rate movements, together with lower interest rates, contributed to a considerable decrease in interest paid by AF (23 % lower than originally forecast and 31 % lower than the revised forecasts).

The reduction in personnel costs was FF 596 million below the target set in the Plan, representing a 5 % shortfall (the shortfall is 1,4 % compared with the revised projections).

Exceptional gains were lower than expected because AF disposed of less assets than forecast in the Plan. AF had planned to sell its shareholdings in Mériidien and dispose of 22 aircraft and other assets. In spite of having obtained for Mériidien a price considerably higher than expected (AF received [...] in 1994 and 1995 and a further [...] are outstanding as discussions are still continuing on this subject; the forecast price, according to the Plan, was [...]) and having sold its stake in Sabena (for approximately FF 680 million), the disposal of which had not been originally planned, the total cash raised from disposals fell short of the Plan by approximately [...] at the end of 1995 ([...] compared with the revised projections). The reason for this resides in the fact that [...] and the number of aircraft sold was much lower than expected (at the end of 1995, cash raised from disposals of aircraft was [...] less than forecast in the Plan).

[...] The sale of aircraft was less than expected due to lack of demand for second-hand aircraft and the deferment of aircraft purchases.

The additional restructuring provision of FF 630 million made by AF is aimed at financing further restructuring measures to reduce, in particular, personnel costs and to improve revenues. These new restructuring measures are described below.

As regards the use of the FF 15 billion State aid already received, AF had repaid up to 31 December 1995 FF 7,3 billion of the short- and long-term debt. In addition, AF held FF 8,4 billion in cash and short-term securities which will be available to pay off loans when they become due. The interest earned on the securities is used to meet interest charges on the debt which cannot be repaid at this time without incurring significant penalties. The net debt position at the end of 1995 was slightly better than that expected in the Plan and should improve further in 1996. The company's debt/equity ratio was worse in 1995 than originally expected (2,6 compared with 2,1), because of a lower than expected value of shareholders' funds caused by higher losses.

In general, although AF's financial results in 1995 were lower than initially expected, the situation in 1996 is improving. For example, the net result after the restructuring provision made by AF as of 31 March 1996 is - FF 877 million, which is very close to the net result forecast in the Plan for the end of 1995 ([...])<sup>(1)</sup>. This improvement is, *inter alia*, due to the additional cost-cutting measures implemented by the management (see below).

<sup>(1)</sup> In 1995 AF changed the end of its accounting year from 31 December to 31 March to reflect the IATA year, which is based on the winter and summer seasons.



## 2. The implementation of the Plan and economic performance in 1995

Total staff reductions are ahead of the Plan, as 1 699 employees left the company in 1995, making staff reductions over the first two restructuring years amount to 4 220 employees (2 537 in 1994). This is equivalent to 85 % of the target initially set in the Plan of 5 000 employees. At the end of 1995, the total number of staff was 36 837 instead of the planned 37 251. However, the reductions for cabin crew and flight crew were lower than initially scheduled, and this explains why reductions in personnel costs were lower than planned.

AF had fully implemented the reorganization of the company according to the Plan into 11 results centres (CDRs) by 1 April 1995. The allocation of cabin crew to CDRs affected AF's industrial relations, but the industrial unrest experienced by the company had only a minor effect on its financial performance. The management abandoned the original idea of allocating cabin crew to the results centres as this would have led to under-utilization of staff in some CDRs and over-utilization in others. The management is now developing, with the help of the consultant KPMG, a system to optimize staff allocation, which is based on the rostering of staff among the CDRs and which it will start to implement in the next few months.

According to the Plan, the number of new planes to be delivered over the restructuring period would be 17 and the corresponding fleet investment would amount to FF 11,5 billion. On the other hand, AF had planned to sell 34 aircraft. As a consequence of its acquisitions and disposals, AF was supposed to rationalize its fleet by reducing the types of aircraft it comprised.

This investment plan was delayed, through negotiations with aircraft manufactures, since AF chose to spend less money on new aircraft and more money on social issues in order to improve the operating result. This is demonstrated by the provisions in the 1995 and 1996 accounts, which are aimed at financing the new restructuring measures and mainly consist of initiatives to reduce personnel costs. AF in fact realized that it had to reduce its personnel costs further in order to improve its operating result. It therefore delayed investing in new aircraft in order to finance increased expenditure linked to voluntary redundancies.

In respect of fleet renewal, the situation is as follows. At the end of 1995, AF had disposed of only 10 aircraft and no disposals are expected to take place in 1996. Of the

original investment plan, only 8 aircraft have been delivered and the other deliveries have been delayed or cancelled. The average age of the operating fleet was 8,5 years at the end of 1995 (7,8 years excluding Concorde and freighters). As regards the rationalization of the fleet, AF's policy has shifted from the purchase of new aircraft to aircraft refurbishment. AF is making up for the cancellations and deferrals of purchases by converting aircraft. However, the target of reducing the types and versions of aircraft in the fleet has been delayed, compared with the Plan, but should now be achieved by the end of 1997. By this date, AF will have removed 4 types or versions of aircraft from its fleet (DC 10, B747-300 Combi, Long Haul A300, Medium Haul A310) and converted two versions into one version (conversion of B747-100 and B747-200 combi into B747 Triclass).

AF's supply, in terms of ASKs, increased in 1995 compared with 1994 (+ 1,5 %), but it was 2 % lower than expected in the revised projections which were themselves lower than the original forecasts. As a result, the number of seats offered increased and the number of passengers flown and freight transported was higher than originally planned. Despite such productivity improvements, turnover was lower than expected, showing a worrying fall in yields per passenger ([...] compared with the revised projections and [...] compared with 1994). Load factor, in accordance with AF's expectations, has decreased slightly since 1994 from 73 % to 71 %, although it compares favourably with the European average (the AEA total load factor was 69,8 % in 1995). What is more, despite the drop in load factor, the increase in productivity represented by the ERPK (equivalent revenue passenger kilometres) per employee has exceeded the target figure in the Plan. In terms of cargo, volume (RTKs) was higher than expected, even if yields were again below expectations [...] compared with the revised projections and [...] compared with 1994).

## 3. The new restructuring measures

In order to correct some of the financial trends described above, AF, in accordance with the Commission's recommendations set out in the 1995 Decision, has taken and intends to take additional steps to increase revenues and further reduce its costs. To increase revenues, AF has been operating a new hub at CDG airport since April 1996, which should improve interconnections between its services. The revenues resulting from this new hubbing coordination system at CDG should also be improved through the full implementation of the new yield management system acquired by AF. The full effects of these measures should be seen by September/October 1996.

In respect of cost reductions, where a major area of concern is represented by personnel costs, two initiatives are worth mentioning. In September 1995, the management launched a new manpower restructuring programme focused on cabin crew (the "Plan de départ volontaire PNC" (cabin crew voluntary departure plan), hereinafter the "PNC Plan"). The PNC Plan aims at recruiting younger staff on lower wage scales and foresees 1 200 voluntary redundancies to be financed through a provision of FF 630 million (see above), which has been recorded in the 1995 accounts. There were two alternative scenarios for the implementation of the PNC Plan. The first, which is the one chosen by AF, envisaged an accelerated voluntary redundancy programme over two years (1997-1998). The second provided for 1 200 redundancies to be spread over three years. This plan also provided for the introduction of more flexible working arrangements. AF posted in the 1995 accounts a FF 630 million provision to cover the cost of redundancy (the average cost for the redundancies is estimated at FF 525 000 per person). The estimated pay-back period on this investment is three years, as the cumulative cashflow on this investment will become positive in 1999. As regards the implementation of this plan, Air France had already obtained two-thirds of the expected voluntary redundancies by early 1996.

Moreover, the management intends to start implementing in the first three months of 1997 a new three-year programme called the "Pact for Competitiveness and Growth" ("the Pact"), which will provide for a further reduction of ground staff, through voluntary redundancies, to be financed through an FF 1,365 billion provision to be made in 1996, and for increased pilot and cabin crew productivity [...]. The objective of the Pact is to yield cost savings and productivity improvements amounting to FF 830 million per year by 1999. The Pact is now being adopted by the management and will be made public in the summer of 1996.

#### 4. Future viability

The new financial projections show a more realistic assessment of the revenues AF is likely to generate. Revenues in 1996 will be below the original forecast ([...]) and the revised projections of last year ([...]) The principal cause of this decrease is that the increasing competition faced by AF is driving down load factors and yields, especially in the European market (even if AF's load factor was comparable to the AEA average in 1995). According to the new financial projections, AF will post a loss, before the new restructuring provisions of FF 1,365 billion (see below), of FF 212 million in 1996. This figure compares unfavourably with the [...] profit forecast in the Plan. However, the loss for 1996 is a conservative forecast, and on the basis of the latest

trend. AF would break even at the end of this year. In spite of the higher than expected losses made over the restructuring period, AF will almost achieve the capital structure envisaged in the Plan. This conclusion follows from the fact that the gearing ratio achieved by AF in 1996 is very close to the level originally planned. Specifically, it results from the new financial projections that the gearing ratio for 1996, after deducting from the result of 1996 the FF 1,365 billion redundancy provisions, is 1,1.

As regards asset disposals (see chapter 1 above for the 1995 situation), by the end of 1996 the cumulative shortfall of cash from disposals is expected to be FF 0,2 billion. The sale of aircraft will continue to be less than expected due to the deferment of aircraft purchases. On the other hand aircraft investment, as noted above, is going to be lower than originally planned. With regard to modernization of the fleet, AF has revised its original delivery schedule. As stressed above, the delay incurred in the investments initially planned is due to the decision by management to spend more on social restructuring measures to bring about an improvement in the operating result.

Out of the 17 aircraft which, according to the Plan, were to be delivered over the restructuring period, only 7 new aircraft have actually entered service. This amounts to a reduction in net investment of approximately [...] over the Plan period 1994-1996 ([...] in 1995). From this sum, FF 500 million could be deducted because the actual exchange rate of the US dollar was more favourable to AF in 1994 and 1995 than originally expected, thus reducing the actual net savings by a corresponding amount. This reduction in net investment is overcompensated by the shortfall in cash from operations (cashflows from operations are [...] lower than expected), which rules out any risk that AF will be overcapitalized. This is confirmed by the gearing ratio attained by AF in 1996, which is the same as that originally forecast.

The lower cost base that AF will achieve as a consequence of the implementation of the new restructuring measures will enable the company to use the new aircraft in a more efficient way.

#### 5. Legal assessment

The Commission considered the FF 20 billion capital increase in 1994 as aid compatible with the common

market, under Article 92 (3) (c), provided a set of conditions were fulfilled. In order to assess whether the aid is still compatible with the common market, despite the infringements noted with respect to conditions Nos 9 and 16 and despite divergences from the Plan, the Commission has taken a global standpoint, taking into account and comparing any divergences from the objectives with the conditions that have been respected, and also the new commitments pledged by France.

The aid to AF was approved as restructuring aid aimed at restoring the company's financial and commercial viability. The return to viability is, therefore, one of the main conditions for aid being compatible with the common market. Whilst recognising the restructuring efforts undertaken by AF, the Commission nevertheless considers that it is unlikely that the company will meet all the original financial targets by the deadline given in the Plan (31 December 1996). In order to remedy this situation the management is introducing further restructuring measures to cut costs and improve efficiency. The correct implementation of these measures is vital for AF. Some of these measures are to be implemented over the restructuring period, others will be implemented afterwards. These restructuring measures require AF to make additional restructuring provisions in the 1995 and 1996 accounts. Therefore, these measures have a direct impact on AF's financial statements for the period 1994/96 and, particularly, on the net losses in 1995 and 1996, which are made worse by the provisions which correspond to the restructuring measures, provisions which were not provided for in the Plan.

The implementation of the PNC Plan is well under way (two-thirds of the personnel concerned having agreed to the voluntary redundancies) [...]. This Plan will enable AF to improve considerably its results at the end of this year. Moreover, as emphasized earlier, the payback period for the corresponding investment is only three years. In this context, the Commission takes note of the fifth commitment entered into by France in its letter of 12 July 1996, according to which AF will forward by 1 March 1997 to the Commission a report describing, *inter alia*, progress with the PNC Plan. This report will enable the Commission to follow the unfolding of this Plan.

Where the Pact is concerned, the Commission considers on the basis of data in its possession that it provides for a series of coherent and thorough measures. This agreement has not yet entered into force and some elements still have to be agreed with the trade unions.

The success of the Pact is dependent on the cooperation of the unions. One result of the fifth commitment entered into by France in its letter of 12 July 1996 is that the Commission will have all the information it needs on the Pact by 1 March 1997, including the dates on which its various measures were applied.

The Commission takes note of the management's efforts to continue restructuring the company even after the end of the Plan. AF has already undertaken most of the restructuring steps notified to the Commission in 1994. In particular, despite the higher than expected loss made in 1995, the State aid money has been used to reduce debt and so repair the balance sheet. Divergences from the Plan in its actual implementation are justified and reasonable and reflect the management's responsible attitude to the economic facts. In particular, the Commission understands the management's choice to reallocate financial resources from aircraft investment to focus on personnel cost reductions so as to improve the operating performance of the company. After examination of the new business forecasts for the period 1996/99 provided by AF and on the basis of the consultant's findings, the Commission considers that AF is a viable business, taking into account the injection of the third tranche of State aid. As a consequence of the new restructuring measures, AF should move into profit in 1997 and become commercially viable. On the basis of the fifth commitment given by France in its letter of 12 July 1996, the Commission will be in a position on 1 March 1997 to assess the results actually achieved by AF in 1996.

The Commission was also concerned about the effects of the possible merger of AF and Air France Europe (the former Air Inter), which was expected to take place in the first half of 1997. Air France Europe, which is currently implementing a two-year restructuring programme, is loss-making and its incorporation into AF could delay and adversely affect the recovery of the latter. The Commission takes note in this connection of the fourth undertaking given by France, according to which the prospective merger will in no way affect AF's return to viability or the recovery of Air France Europe. The two-year restructuring plan of Air France Europe and the Plan itself will be duly carried out and completed by the Pact.

In addition, the Commission has noted France's third undertaking that it will not give additional aid to AF.

In the light of the foregoing, the Commission is of the opinion that the progress of the restructuring and the

results already achieved are satisfactory. AF is recovering and will soon become profitable. The Commission nevertheless acknowledges that some uncertainties persist due to the fact that the restructuring period is not yet over and that some parts of the Pact, which require agreement from the unions, have not yet been approved in their entirety. At the beginning of next year, on the basis of the report forwarded by France pursuant to the fifth undertaking in its letter of 12 July 1996, the Commission will examine the results achieved by AF in 1996, developments in the PNC Plan and all other information necessary to analyse the Pact.

With regard to the conditions of the 1994 Decision, the Commission regrets to note that there have been some minor infringements with respect to conditions Nos 9 and 16. The Commission acknowledges that France has not respected condition No 9 regarding the Amsterdam-Paris route and certain other routes between Paris and Scandinavia. These breaches have, however, been halted, were limited in time, and occurred on only five of the 73 routes operated by AF within the EEA and there were only two significant price distortions (Paris-Amsterdam and Paris-Copenhagen). Where Orly airport is concerned, the Commission felt that the decision by the Paris airport authorities to change the rules for the distribution of traffic between the two terminals (leading in principle to the redeployment of the AF group and Corsair at the West terminal and the other airline companies at the South terminal in 1996) was likely to heighten the difference between the two terminals as regards operating conditions. The Commission believes that the undertakings made by ADP regarding additional traffic transfers, transparency and the abovementioned renovation works are sufficient to minimize the drawbacks connected with the renovation of the two terminals undertaken following the change in rules on traffic distribution. Consequently, the Commission considers that condition No 16 is respected.

Overall, the Commission is satisfied with the results which will be achieved by AF at the end of the restructuring period (31 December 1996) and considers that the

company is becoming viable again. What is more, the Commission considers that the breaches of conditions Nos 9 and 16 of the 1994 Decision have had a minor impact on conditions of competition within the common market and have not affected trade to an extent which is contrary to the common interest.

In the light of the above, the Commission believes that the breaches of the abovementioned conditions have not been sufficiently serious to disrupt the equilibrium achieved in the 1994 Decision, to compromise the authorization for aid given in 1994, nor to raise questions as to the compatibility of this aid with the common market so long as the new undertakings by France are respected in full. These breaches are not serious enough to raise doubts as to the compatibility of the third tranche with the common market. Consequently, the Commission has decided to authorize France to pay the third tranche of State aid. When coming to this conclusion, the Commission took into account the new undertakings given by France, in particular the first and second undertaking given in its letter of 12 July 1996, according to which AF will continue to respect condition No 9 on price leadership and France will guarantee that the conditions of the Commission/ADP agreement on Orly will be respected in full.

If the report referred to above contains elements indicating that the results achieved by AF at the end of 1996 differ significantly from those expected or if it reveals that some conditions of a substantial kind resulting from the Commission decision of 1994 have not been fulfilled or that the undertakings provided by the French authorities in their letter of 12 July 1996 have not been respected, the Commission reserves the right to re-open the procedure concerning this case.

This decision will be published in the *Official Journal of the European Communities* without commercially sensitive information. France is requested to indicate within two weeks the information it considers to be commercially sensitive.'

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## III

*(Notices)*

## COMMISSION

## Notice of open competition

(96/C 374/10)

The European Commission is organizing an open competition COM/A/1035 for the post of Head of Unit (for Austrian nationals only) (\*).

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(\* OJ No C 374 A, 11. 12. 1996 (German edition).

## Phare — research equipment

## Notice of invitation to tender issued by the Phare Higher Education and Science Reform programme management unit on behalf of the Government of Estonia

(96/C 374/11)

**Project title and number:** Procurement of a Thermoluminescent Dosimetry (TLD) Reader

**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 offered must originate in the aforementioned states.

**2. Subject**

Supply of a TLD reader for use under high-standard laboratory conditions, meeting, among others, the following requirements:

- a single sample will be measured at each time,
- use of non-standard samples should be possible,

— the maximum size of chips must not exceed  $3 \times 3 \text{ mm}^2$ , for disks -5 mm in diameter,

— the maximum attainable temperature must be  $450 \text{ }^\circ\text{C}$  or higher,

and its installation at Tartu Institute of Physics, Estonia.

**3. Tender dossier**

The tender dossier, including the complete technical specifications, may be obtained free of charge from:

Phare HESR - PMU in EE-2400 Tartu, Tähetorn Toomel, for the attention of Mr Rene Tõnnisson, tel. (37 27) 44 73 28, facsimile (37 27) 46 57 95, e-mail: rene@physic.ut.ee.

**4. Tenders**

Should arrive at the aforementioned address by 6. 1. 1997 (18.00), local time, at the latest and will be evaluated on 7. 1. 1997.

**Phare — computer equipment**

**Notice of invitation to tender for the procurement of computer equipment, issued by the Commission of the European Communities on behalf of the Government of Bulgaria for the Ministry of Labour and Social Welfare and financed in the framework of the Phare programme**

(96/C 374/12)

**Project title:** Procurement of equipment for an integrated information system for the Ministry of Labour and Social Welfare in Bulgaria

**1. Participation and origin**

Participation is open on equal terms to all natural and legal persons of the Member States of the European Communities and the beneficiary countries of the Phare programme and goods must originate in 1 of these countries.

**2. Subjects**

Supply, in 1 lot, of computer equipment and associated services for the Ministry of Labour and Social Welfare.

**3. Invitation to tender documents**

The complete tender documents may be obtained free of charge from:

a) European Project Consultants, Avenue des Arts 50, B-1000 Bruxelles, facsimile (32-2) 513-77 81;  
European Project Consultants, Roman House, Wood Street, UK-London EC2Y 5BP, facsimile (44-171) 628-38 80;

b) Offices in the Community:

A-1040 Wien, Hoyosgasse 5 [Tel. (43-1) 505 33 79/ 505 34 91; Telefax (43-1) 50 53 37 97],

B-1140 Bruxelles, DG VIII/C/3, rue de Genève 12, bureau 4/15 [tél. (32-2) 299 49 30; télécopieur (32-2) 299 28 70],

D-53113 Bonn, Zitelmannstraße 22 [Tel. (49-228) 53 00 90; Telefax (49-228) 530 09 50],

DK-1004 København K, Højbrohus, Østergade 61 [tlf. (45) 33 14 41 40; telefax (45) 33 11 12 03],

E-28046 Madrid, Paseo de la Castellana 46, [tel. (34-1) 431 57 11; telefax (34-1) 431 14 09],

GR-10674 Αθήνα, Βασιλίσσης Σοφίας 2 [τηλ. (30-1) 724 39 82, τηλεφάξ (30-1) 724 46 20],

F-75007 Paris, 288, boulevard Saint-Germain [tél. (33-1) 40 63 38 38; télécopieur (33-1) 45 56 94 17],

FIN-00131 Helsinki, Pohois-Esplanadi 31, Pl. Box 234 [tel. (358-0) 65 64 20; telefax (358-0) 65 67 28],

I-00187 Roma, via Poli 29 [tel. (39-6) 69 99 91; telefax (39-6) 679 16 58],

IRL-Dublin 2, Dawson Street 18 [tel. (353-1) 662 51 13; facsimile (353-1) 662 51 18],

L-2920 Luxembourg, ch. de Commerce 7, rue Alcide de Gasperi, BP 1503 [tél. (352) 430 11; télécopieur (352) 43 01 44 33],

NL-2594 AG Den Haag, E.V.D., afdeling PPA, Bezuidenhoutseweg 181 [tel. (31-70) 379 75 01; telefax (31-70) 379 78 78],

P-1200 Lisboa, Centro Europeu Jean Monnet, Largo Jean Monnet 1-10º [tel. (351-1) 354 11 44; telefax (351-1) 350 98 01],

S-11147 Stockholm, Hamngatan 6 [tel. (46-8) 611 11 72; telefax (46-8) 611 44 35],

UK-London SW1P 3AT, 8 Storey's Gate [tel. (44-171) 973 19 92; facsimile (44-171) 973 19 00].

c) Phare Programme PMU, Ministry of Labour & Social Welfare, Triaditsa Str. No. 2, BG-Sofia 1000, facsimile (35 92) 981-45 37;

European Commission, Delegation in Sofia: 'Interpred' World Trade Centre, Block 'A', 3rd Floor, 35 Dragan Tsankov Blvd, BG-1056 Sofia, facsimile (35 92) 73 83 95.

**4. Tenders**

Tenders should arrive, at the latest, on 17.2.1997 (16.00), local time, at the following address:

Phare Programme PMU, Ministry of Labour and Social Welfare, Triaditsa Str. 2, BG-Sofia 1000.

Tenders will be opened in closed session.

**Computer training****Notice of contract****Prior information****Computer training ref. DI/9612 FORM**

(96/C 374/13)

1. **The name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority and, if different, of the service from which additional information may be obtained:** European Commission, Informatics Directorate, Logistical Support and Training Unit, for the attention of Mr F. Peltgen, Acting Head of Unit, IMCO 1/3, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.  
Facsimile (32-2) 295 77 02.
2. **The nature and quantity or value of the products to be supplied: CPA reference number:** Computer training for office applications covering, in 1 lot:
  - the design, development and delivery of training courses;
  - the design, formulation and production of training tools (manuals, slide shows, etc.);
  - other training tasks (design of computer-based training, etc.).Services have to be provided in French and English and possibly any other official language of the European Union. Training is to take place on Commission premises, principally in Brussels and Luxembourg and possibly on other Commission sites world-wide. In 1995 the size of the contract was approximately 2 600 tutor working days. This figure is provided by way of information only. The contract will be for 2 years, with a first possible extension for 2 years and a last possible extension of 1 further year.
3. **Estimated date for initiating the award procedures in respect of the contract or contracts (if known):** During first quarter of 1997.
4. **Other information:**
  - Ref. DI/9612 FORM please quote this reference for all correspondence.
  - In order to secure the provision of services, the Commission might select a principal and 1 replacement contractor or several.
5. **Date of dispatch of the notice:** 2. 12. 1996.
6. **Date of receipt by the Office for Official Publications of the European Communities:** 2. 12. 1996.
7. **Indication of whether or not the contract is covered by the GATT Agreement:** This contract is covered by the GATT Agreement.

**CORRIGENDA**

**Implementation of the Council Decision of 22.12.1995 on the Medium-Term Community Action Programme on Equal Opportunities for Women and Men (1996-2000)**

*(Official Journal of the European Communities No C 363, 3. 12. 1996, p. 12)*

(96/C 374/14)

**European Commission, Directorate-General V, Employment, Industrial Relations and Social Affairs, directorate D, Social dialogue and free movement of workers, unit V/D/5, Equal opportunities for women and men, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.**

Tenderers are hereby advised that a notice of corrigendum has been published in German.

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