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Notice to readers (see page 3 of the cover)

EN

(1) Text with EEA relevance

I

(Information)

COMMISSION

Ecu ([1])

18 February 1997

(97/C 49/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,3110	Finnish markka	5,80749
Danish krone	7,44988	Swedish krona	8,55594
German mark	1,95320	Pound sterling	0,714871
Greek drachma	305,731	United States dollar	1,14772
Spanish peseta	165,445	Canadian dollar	1,55666
French franc	6,59253	Japanese yen	142,570
Irish pound	0,732668	Swiss franc	1,70127
Italian lira	1933,08	Norwegian krone	7,78330
Dutch guilder	2,19273	Icelandic krona	81,7983
Austrian schilling	13,7452	Australian dollar	1,49873
Portuguese escudo	196,295	New Zealand dollar	1,66506
		South African rand	5,12746

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).

STATE AID

C 42/96 (NN 194/95)

France

(97/C 49/02)

(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 France has decided to grant to Société Marseillaise de Crédit

The Commission has sent the French Government the following letter, informing it that is has decided to initiate proceedings pursuant to Article 93 (2) of the EC Treaty.

'The Commission has decided to initiate proceedings pursuant to Article 93 (2) of the EC Treaty in respect of aid granted to Société Marseillaise de Crédit. Details of the decision to initiate proceedings and the reasons for it are set out in the Annex to this letter. The Commission accordingly gives the French Government notice to submit its observations, and to supply any information it considers necessary for an assessment of the case, within one month of the date of this letter. In particular, the Commission would ask the French Government to supply the information listed in point 6 of the Annex. The Commission would ask the French Government to inform Société Marseillaise de Crédit of the initiation of proceedings as soon as possible.

As part of the proceedings, the Commission will be publishing a notice in the *Official Journal of the European Communities* seeking observations from other Member States and interested parties. In accordance with Protocol 27 to the Agreement on the European Economic Area, it will also be sending a copy of this letter to the EFTA Surveillance Authority, and will publish a notice in the EEA supplement to the Official Journal. It will invite the EFTA Surveillance Authority, the EFTA Member States signatory to the Agreement on the European Economic Area and interested third parties to submit their observations.

Since this letter is to be published in the Official Journal, if the French authorities consider any information contained in it to be confidential for reasons of professional secrecy, they are asked to inform the Commission accordingly within 15 days of the date of this letter.

The Commission would draw the attention of the French Government to the letter which it sent to all the Member States on 3 November 1983 regarding their obligations pursuant to Article 93 (3) of the EC Treaty, and to the notice published in the *Official Journal of the European Communities* No C 318 of 24 November 1983, page 3, warning that any aid granted unlawfully, that is to say before the Commission has taken a final decision pursuant to Article 93 (2), may be the subject of a recovery order.

ANNEX

1. Introduction

In July 1993 the French authorities informed the Commission that Société Marseillaise de Crédit ("SMC"), a bank in which the French State is the sole shareholder, was to receive a capital injection of some FF 860 million, in two instalments, between August 1993 and the beginning of 1994.

After examining the case on the basis of the information provided by the French authorities, including the restructuring plan for the bank, the Commission concluded that no State aid was involved (letter of 13 October 1993, ref. D/9462).

At the end of 1994, following press reports that SMC had suffered substantial losses and that it needed additional capital resources in order to comply with the obligatory solvency ratio, the Commission sought further information from the French authorities. By letter dated 7 December 1994 the French authorities replied that the State had so far paid FF 715 million to SMC in respect of 1993 (FF 460 million and FF 160 million in 1993 and FF 95 million at the beginning of 1994), and that it had decided to provide an additional shareholders' advance of FF 326 million in order to restore the bank to solvency. The capital injections on which the Commission had given its opinion in 1993 were thus to be exceeded by FF 181 million.

The French authorities went on to say that the bank required additional recapitalization amounting to between FF 500 million and FF 1 000 million. On 24 April 1995 they informed the Commission that the State had decided to provide FF 1 060 million in recapitalization for SMC, in view of the bank's FF 1 216 million losses in 1994.

On 8 May 1995 the Commission requested further information to allow it to assess the new measures in support of SMC. It received no reply, and reiterated its questions by letter dated 21 June 1995. The French authorities sent a detailed memorandum on 7 November 1995 (ref. A/38149) in which they stated that the recapitalization did not constitute State aid, since it represented the solution which was least costly for the State.

At the same time they acknowledged that SMC's long-term viability could be ensured only if it were associated with a private group, and gave an undertaking to inform the Commission of the timetable for a privatization operation.

DG IV proceeded to analyse the information provided by the French authorities; it received no notification of the proposed privatization of SMC, and on 30 April 1996 wrote once again requesting further information from the French authorities, and stressing that it had very serious doubts as to the compatibility with the common market of the measures in support of SMC. The French authorities replied by fax on 10 May 1996 and sent a file (received on 13 May 1996) drawn up by Crédit National, the bank advising SMC in connection with the privatization operation.

In these documents, which provided only partial answers to the Commission's questions, the French authorities stated that a new business plan was being prepared. They also pointed out that the French State had been in the process of privatizing SMC since the end of 1995:

1. a privatization order had been approved on 26 October 1995, and a new chairman appointed to head the bank, with the explicit task of carrying out the operation as soon as possible;

2. the State and SMC had appointed advisory banks to assist them with the operation; work had begun in early March 1996 on the valuation of the business with a view to sale;

3. initial contact had been made with 10 or so potential buyers, both French and foreign, by SMC's chairman and the advisory banks; and a memorandum drawn up on 15 April 1996 by SMC's advisory bank, Crédit National, had been sent to the potential buyers (1).

The French authorities also stated that "the early initiation of assessment proceedings pursuant to Articles 92 and 93 of the Treaty would be particularly inopportune. The privatization process could be seriously disrupted or indeed compromised". Consequently, they requested "a few months" so that "everything necessary for completing the privatization process" could be "settled and ... submitted for assessment to the Commission".

On 6 June 1996 a fax was received from the French Representation containing a copy of a letter which the Minister, Mr Arthuis, had sent to Mr Van Miert on 31 May 1996.

In his letter, the Minister confirmed the intention of carrying out privatization "as rapidly as possible and at all events by the end of the year". However, SMC had made a fresh loss in 1995, amounting to FF 952 million at consolidated level, and the State accordingly proposed to carry out a further recapitalization of SMC, injecting the sum needed to bring the bank's own funds up to the European solvency ratio requirement, that is to say FF 858 million. He said that the alternative solution, which was to wind up

(1) This memorandum was also sent to the Commission.

the company, would be to the detriment of the interests of the public as owners of the bank. Moreover, if the bank had not been privatized by the end of the year, more radical measures might have to be taken.

He said that a restructuring plan was being drawn up which would make changes in the established conditions of employment of the staff of the bank and provide for the sale of non-strategic assets.

The annual accounts which the Minister proposed to send have not yet been received. The operations he envisaged have not been formally notified.

2. **Société Marseillaise de Crédit**

SMC has been a publicly-owned bank since its nationalization in 1982. Its legal form is that of a public limited company governed by the Commercial Companies Act of 24 July 1966, the Nationalization Act of 11 February 1982, and the Banking Act of 24 January 1984. It is also subject to the Public-sector Democratization Act of 26 July 1983: its board is made up of five representatives of the State, five employee representatives elected by the staff, and five government-appointed figures selected for their expertise. As a deposit bank its object is to carry out banking, financial and commission-based operations of all kinds both inside and outside France. It operates mainly in the south of France, where its clientele is made up principally of small and medium-sized enterprises operating in the region and traders and private individuals in the area served. Large companies established in the south and real estate firms are also important customers.

The bank has 156 branches in the south and altogether six offices in Paris. It has a number of specialized subsidiaries in banking-related areas, such as property financing. It has no foreign subsidiaries.

SMC was profitable up to 1990, though at a low and decreasing level: from 1987 to 1990, its profitability, expressed as the ratio between net profits and consolidated own funds, fell from 5 % to 1 %. In the 1990s SMC entered the property financing market, both on its own account and through its specialized subsidiaries. These activities, which were embarked on too rapidly just before the property market fell, often with insufficient selectivity and risk assessment, resulted in heavy losses. In addition, operating costs, and in particular staff costs, have remaind at too high a level, both in absolute terms and individually. In terms of the various productivity ratios (number of staff/net receipts from banking, number of senior staff and executives/total staff, staff costs/staff), SMC is well above the norm for banks belonging to the Association Française des Banques.

As from 1991 SMC began to register losses, which have today reached a total of almost FF 3 000 million at consolidated level (1991: FF 11 million; 1992: FF 451 million; 1993: FF 317 million; 1994: FF 1 257 million; 1995: FF 952 million). The State as shareholder has thus had to recapitalize SMC on several occasions so as to enable it to comply with the European solvency requirements for banks.

The following two tables show the changes in the bank's main accounting aggregates and profit and loss figures as communicated by the French authorities.

Table 1: Changes in the main accounting aggregates of SMC at consolidated level

(in FF million)

Consolidated balance sheet	1992	1993	1994
ASSETS			
Banks	3 960	3 127	2 972
Customers	16 359	16 526	16 789
Debt securities including fixed-income securities	2 329	2 344	2 530
Shares and participating interests	588	562	582
Fixed assets	802	767	719
Prepayments and accrued income, miscellaneous	3 549	2 773	3 219
Total assets	27 587	26 100	26 812
LIABILITIES			
Banks	3 731	2 648	1 920
Customers	12 386	14 401	16 392
Certificates	7 504	5 317	4 401
Accruals and deferred income, and miscellaneous	1 957	1 712	1 660
Provisions	248	318	774
Subordinated debts	913	914	771
Equity capital ([1])	1 106	1 300	2 147
Profit for the financial year	— 451	— 317	— 1 257
Total liabilities	27 587	26 100	26 812
OFF-BALANCE SHEET			
Commitments given	2 765	2 233	2 410
Commitments received	675	893	831
OTHER INFORMATION			
Average staff	2 476	2 309	2 123

([1]) Including FF 715 million in recapitalization in 1993 (460 + 255) and FF 1 386 million in recapitalization in 1994 (326 + 1 060).

Source: SMC annual reports.

Table 2: Changes in SMC's profit and loss accounts at consolidated level

(in FF million)

Profit and loss account	1992	1993	1994
Net interest income	988	974	955
Net commissions	140	221	235
Income from variable-yield securities	6	18	23
Net gains on financial operations	151	109	− 282
Other net receipts from banking	− 56	18	100
Net receipts from banking	**1 228**	**1 340**	**1 030**
Value adjustments on financial fixed assets	− 5	− 20	− 18
Holdings consolidated by equity method			− 1
Other net non-banking receipts	17	32	12
Overall operating income	**1 240**	**1 353**	**1 023**
Staff costs	− 850	− 893	− 805
Other administrative expenses	− 412	− 371	− 383
Provisions for depreciation and provisions against tangible and intangible fixed assets	− 82	− 70	− 74
Gross operating profit or loss	**− 104**	**18**	**− 240**
Value adjustments in respect of loans and advances, and off-balance sheet items	− 327	− 328	− 979
Current profit or loss before tax	**− 431**	**− 310**	**− 1 219**
Extraordinary income	10	23	35
Extraordinary charges	− 38	− 14	− 61
Allocated to fund for general banking risks	50	− 15	0
Tax on profits	− 42	0	− 11
Net profit or loss	**− 451**	**− 317**	**− 1 257**
Group share	− 454	− 296	− 1 245

Source: SMC annual reports.

The loss in 1994, which was almost equal to total own funds, is due to the large amount of allocations for provisions which was requested by the Commission Bancaire following the inquiry which it carried out into the bank. Provisions for real esate transactions amounted to a total value of FF 555 million ([2]), and losses on swaps and a capital loss on reclassification of a block of long-term securities amounted to FF 294 million. To this amount must be added FF 191 million by way of backdated provisions for long-standing bad debts and FF 240 million by way of provisions specific to 1994 for loans to SMEs.

SMC recently announced a FF 952 million loss at consolidated level for 1995. This is said to be linked to FF 330 million in provisions for real estate subsidiaries, to which must be added FF [. . .] (*) million in provisions for bad or doubtful debts (including FF 80 million in respect of real estate). According to the French authorities, such provisions are due to the continuing economic crisis in 1995, which was particularly serious in the south, and to SMC's continuing failure to monitor commitments sufficiently. In addition, operating costs remain too high in the light of market conditions as compared with those of competitors.

3. **Assessment of the aid content of the financial support measures**

In assessing State intervention measures, the Commission generally applies the test of the private market-economy investor, as it explained in its communication on public undertakings ([3]). That communication states that there is an aid component in a transaction if it would not have been acceptable to a private investor operating under normal market conditions.

Turning to the question of public holdings in company capital, the Commission made clear its view in a 1984 communication ([4]) that such a transaction would not be acceptable to a private investor, and that the presence of aid could therefore be presumed, where the financial position of the company was such that a normal return (in dividends or capital gains) could not be expected within a reasonable time from the capital invested or where the risks involved in such a transaction were too high or extended over too long a period.

Since SMC is a State-controlled bank, the Commission will apply the private investor test in order to determine whether there is a State aid element in the financial assistance being given to the bank. The Commission takes the view here as it has in other cases that the private investor test is applicable to banks, though the special features of the banking sector have to be borne in mind.

The measures which may contain elements of State aid are the capital increases in 1993 (FF 620 million) and 1994 (FF 421 million, the first FF 95 million instalment of which related to the 1993 financial year), and the other contributions to own funds carried out in 1995 (FF 1 060 million in respect of 1994). To these operations must be added the projected FF 858 million recapitalization for this year. The total amount of the measures which may contain a State aid component is thus FF 2 959 million.

On 13 October 1993 the Commission concluded on the basis of the information available that the capital injection proposed in 1993 for the period 1993 to 1994, totalling FF 860 million, was outside the scope of Article 92 of the Treaty. The capital increases actually carried out in the period 1993 to 1994 amounted to FF 1 041 million, so that FF 181 million in capital injections in 1994 were not covered by the Commission's assessment. The measures in support of SMC may thus be summarized as follows.

([2]) Including FF 320 million for the building in rue Auber in Paris alone. It should be noted that in 1990 a capital gain of FF 570,5 million on real estate promotion transactions involving the Paris branch enabled SMC to offset the current losses for the financial year with exceptional income of some FF 400 million. However, at that time the speculative bubble on the property market was at its peak.

(*) Business secret.

([3]) Commission communication to the Member States on the application of Articles 92 and 93 of the EC Treaty and of Article 5 of Commission Directive 80/723/EEC to public undertakings in the manufacturing sector (OJ No C 307, 13. 11. 1993).

([4]) *Bulletin of the European Communities* 9-1984.

Table 3: Provision of funds to SMC by the State

(FF million)

Date	Funds provided	Comments
1993 First instalment Second instalment	 460 160	On 13 October 1993, the Commission concluded that the contributions of funds planned for 1993 to 1994, totalling FF 860 million, were outside the scope of Article 92
1994 First instalment Second instalment	 95 326	The first instalment, FF 95 million, and FF 145 million of the second instalment, giving a total amount of FF 240 million, are to be regarded as included in the contributions proposed in 1993 which were approved by the Commission on 13 October 1993. The amount on which the Commission did not take a decision is FF 181 million
1995 (1)	1 060	Information supplied at the end of April 1995
1996	858	Information supplied at the beginning of June 1996
Total	2 959	

(1) In respect of the previous financial year.

The recapitalizations in 1994, 1995 and 1996 which were not assessed by the Commission, involving a total amount of FF 2 099 million, became necessary for SMC's survival because the measures contained in the 1993 recovery plan failed. Under that plan, the bank was to record a loss of about FF 190 million in 1993 and become profitable again in 1994. In fact, the 1993 losses were higher than had been estimated, at about FF 317 million, and 1994 saw a loss of FF 1 257 million. Consequently, SMC had to call on the support of its shareholder in order to comply with the 8 % minimum solvency ratio. The same thing happened in 1995.

To enable the Commission to establish whether the private investor test is satisfied, it must be shown that the State in its capacity as shareholder is indeed acting as a private shareholder would. A coherent and detailed restructuring plan must be presented which shows that it can reasonably be supposed that there will be a normal return on the State's investment on the whole operation which would be acceptable to a private investor in a market economy. Otherwise, there is a State aid component.

In this instance it must also be shown why the earlier plan failed. Although the Commission approved the capital increases notified in 1993, it must check whether its assessment was based on incorrect information, or whether there have been any material changes in circumstances that could affect the previous assessment. If it should prove that either of these two conditions is met, the FF 860 million in injections notified in 1993 might also be considered State aid.

3.1. *The measures provided for in the 1993 plan*

In November 1995 the Commission received information on the extent to which the previous restructuring plan had been achieved and the new plan being drawn up. The French authorities stated that the restructuring measures taken by SMC in 1993 an 1994 were focused on three objectives: a reduction in overstaffing, an increase in productivity, and a move back to its core business as a bank operating a network of branches.

Two social packages were implemented in the period 1992 to 1994, at a total cost of FF 256 million. In addition, the cutback in staff resulted in a rapid decrease in employees' contributions to the pension fund, and in the need to join an additional scheme, at a cost of FF 76 million over the same period. It may be noted that the reduction in staff provided for in the plan notified in 1993 was achieved. In 1994 staff leaving the bank were offset by new recruitments, for specified and unspecified terms, in line with the 1993 plan, which provided for stability in the workforce after 1993.

In the period 1992 to 1995 there was substantial investment in information technology and rationalization of procedures, at a cost of FF 60 million a year, in order to improve productivity. This expenditure was not detailed in the 1993 plan, probably because SMC had just carried out investments in information technology which were extremely high in proportion to its size, totalling some FF 1 290 million from 1983 to 1992. In 1993 SMC expected gradually to reduce spending information technology by about 10 %, but what actually happened was the opposite. This departure from the initial plan does not seem to be the main cause of SMC's problems, even if the hoped-for effect in terms of improved productivity cannot be described as satisfactory.

SMC refocused on its core business by reducing activity on the capital markets, where it reverted to straightforward cash management activities and the covering of its positions. However, it increased its market shares in deposits and in loans and advances.

It seems that SMC's poor results in 1994 compared to the 1993 plan are attributable to a less substantial than expected improvement in net receipts from banking and to an increase, instead of the hoped-for decrease, in provisions and the cost of bad debts in respect of real estate and SMEs. The inspection carried out by the secretariat of the Commission Bancaire in 1994 revealed that FF [...] million was required in additional provisions. Furthermore, core business before provisions showed no improvement over 1993. In 1994 gross operating profit or loss (which represents basic profitability before deduction of provisions for risks and losses) fell from a profit of FF 36 million to a loss of FF 221 million. SMC's operating ratio (the ratio between overheads plus depreciation and net receipts from banking) remained at a very high level, in excess of 100 %, which does not provide any grounds for expecting the bank to return to viability. Suffice it to say that the operating ratio of Crédit Lyonnais prior to restructuring was 80 % and that its recovery plan provides for a reduction to below 70 %.

Consequently, rather than being able to anticipate an appropriate return on its investment under the initial 1993 plan without further financing, the State had to inject even larger sums in own funds in 1994 and 1995.

It cannot be concluded on the basis of the information available to the Commission at this stage that the losses are linked to a failure to implement the plan notified in 1993 fully, or that the information provided at the time was incorrect. However, in order to rule out these possibilities definitely, the Commission needs further information on the reasons for the plan's failure, and in particular on the provisions called for by the Commission Bancaire in 1994. The Commission reserves the right to re-examine these transactions if the information obtained in the course of the present proceedings shows that the Commission's 1993 assessment was based on incorrect information, or if there have been material changes in the circumstances which prompted the Commission's approval, for example if it should prove that the restructuring plan notified to the Commission in 1993 was not implemented in full.

3.2. *Other support measures*

The further support measures taken in 1994, at a cost of FF 181 million, and in 1995 in respect of the 1994 financial year, at a cost of FF 1 060 million, amounted to a total of FF 1 241 million; in November 1995 the French authorities stated that these measures did not constitute State aid since they represented the solution which was least costly to the French State.

The French authorities also said that SMC had implemented far-reaching restructuring measures which ought to provide a credible basis for recovery. A development plan for the period 1995 to 1997 had been drawn up.

Lastly, the French authorities said that the prospect of profitability created by the operation should allow SMC to be associated with a private group under favourable conditions, which was the State's intention, as it felt that an association of this kind was essential for SMC's long-term viability.

3.2.1. The alternatives

The French authorities have stated that recapitalization is the solution which is least costly to the French State. They point out that towards the end of 1994 they examined three different scenarios: straightforward recapitalization; a hive-off of the traditional type, with the real estate subsidiaries, the building in rue Auber and the doubtful claims on real estate firms and SMEs being removed from the SMC balance sheet; and a hive-off of a different kind, in which a new company would be set up to take over SMC's healthy banking assets. The French State decided against the hive-offs for three reasons. Firstly, because of the administrative costs and risks which they entailed for the State over a prolonged period. Secondly, because SMC's staff did not seem to have a sufficiently firm grip on such a process. And thirdly, because they would have cost the State more than recapitalization.

According to the account given by the French authorities in November 1995, the choice was between the restoration of SMC's financial structures, requiring recapitalization but paving the way for privatization, or the continuation of the current process, which, unless the bank was rapidly brought under the wing of a larger structure, would inevitably lead to a winding up which would be costly to the State.

The Commission cannot at this stage accept the French authorities' position. In the first place, the French authorities have not given any assessment of the costs of winding up the bank. Nor have they provided any assessment of what the costs of winding up would be if they were limited to those which a shareholder would normally have to bear.

On the basis of the information available, the Commission sees no reason to conclude that the overall cost to the State in its capacity as shareholder which is foreseeable at this stage as a result of the mechanism actually chosen is any lower than that of a controlled liquidation. If anything the opposite might well be the case. At all events, figures allowing a precise comparison to be made have not been provided.

The cost of the rescue operation to the State would certainly have been lower if a detailed analysis such as that carried out by the Commission Bancaire in 1994 had been performed beforehand. Any private investor would have acted more rapidly to limit the risks referred to above. In the absence of any statement of the reasons for the failure of the first recovery plan, there are grounds for believing that the analysis of the reasons for SMC's weakness was not carried out in sufficient detail or sufficiently far in advance.

It should be noted that the French authorities have not presented any alternative solution involving controlled liquidation or sale in blocks, or any assessment of what such alternatives might cost. It is fair to ask here whether, in assessing the costs of alternative solutions, the losses of creditors should be added to the losses of the shareholder. It must of course be borne in mind that the costs of liquidation may be higher in the banking sector than in manufacturing industry, since the potential for rapidly realizing assets is impeded by the fact that the underlying customer relations are generally not easy to mobilize. However, the Commission considers that a distinction must be drawn at the outset between the costs to be borne by the depositors (excluding credit institutions) and the costs of the other creditors, who do not necessarily have to be protected; this is what Parliament and the Council did in Directive 94/19/EC of 30 May 1994 on deposit-guarantee schemes. That Directive requires all Member Sates to ensure that there are deposit-guarantee schemes intended to reimburse depositors in the event of a bank's liquidation, the amount covered being at least ECU 20 000 per depositor. In France, the Association Française des Banques protects depositors up to an amount of FF 400 000 in the event of the liquidation of one of its members. As the Directive states, too high a level of protection "might have the effect of encouraging the unsound management of credit institutions". Consequently, there is no reason for the State as shareholder to assume the costs of liquidation, except for the loss of own funds to the extent of its own holding.

An exception to this rule may be envisaged where the guarantee scheme is not sufficient to prevent liquidation of the bank from producing undesirable knock-on effects, or indeed a systemic crisis in the banking sector as a whole. In the case in point, given the modest size of the institution, it may be supposed that normal liquidation would in all probability not have caused a systemic crisis, even if certain financial institutions which had overexposed themselves in respect of SMC in recent years, trusting in the unlimited resources of the State as shareholder, would have suffered losses on their claims. Even if the cost had been similar to the cost of the recovery operation decided on, it is clear that this solution would have caused far less distortion of competition. Consequently, applying the principle of proportionality, the winding up solution should have been adopted if the operation was not to constitute State aid.

3.2.2. The restructuring plan presented in November 1995

The French authorities also stated that SMC had already embarked on overall restructuring measures. A development plan for the period 1995 to 1997 was presented in November 1995. The plan and the restructuring measures are described below. The Commission requested further information on the development plan; when they submitted the 1995 accounts the French authorities replied that the business plan for the years ahead was still being finalized between SMC and its shareholder. This means that the plan presented at the end of 1995 cannot be regarded as either final or sufficient, and cannot at this stage be accepted as a basis for determining whether the funds constitute State aid. The plan take into account the loss registered in 1995, for which year it assumed that the profit and loss account would be in equilibrium. It must be concluded that the funds were provided in the absence of any restructuring and recovery plan.

The report drawn up by Crédit National, SMC's advisory bank, cannot be accepted either, since it is not a restructuring plan, but a document intended to give information additional to the annual reports to a restricted number of potential buyers of SMC. Although it contains estimates on how SMC's profit and loss situation might develop up to 1998, it does not present any analysis of the losses suffered in 1995, since it was drawn up before the 1995 accounts were finalized. In addition, since Crédit National as the advisory bank specifically to SMC is only one of the advisory banks, its analysis cannot be accepted without examination, and without a comparison with the analysis made by the Treasury's advisory bank and with other more independent sources. Such sources are lacking at this stage. Lastly, the estimates of the Crédit National cannot be regarded as final, since a new forward plan is being drawn up, as the French authorities have stated.

The measures described in the plan presented in November 1995 relate mainly to the restructuring of posts in the branch network, general management, the information technology structure, and the structure of the administrative centre. [...].

The plan is intended to improve the situation in several ways. The shedding of posts should allow a long-term reduction in overheads, while redeployment should make it possible to develop network business and net receipts from banking.

On the basis of the projected changes in the workforce and SMC's assumptions in estimating the savings and costs of the shedding of jobs (5), staff costs are to fall from FF [...] million in 1994 to FF [...] million in 1999. Other administrative costs are to rise from FF [...] million to FF [...] million over the same period. In total, then, overheads will fall from FF 1 234 million to FF 1 224 million.

Rationalization of the network of branches is expected to allow an increase in the capital managed of the order of 6 % a year from 1997 and 1998 onward. SMC's financial structure is to be strengthened by the recapitalization, which will bring a reduction of some FF 60 to 70 million in financial charges; by the sale of the real estate subsidiary Soficim in 1997; and by the sale of the rue Auber building in 1998, with a reduction of FF 35 million in carrying costs. The estimated profits and losses of the cash and foreign exchange department are expected to be in balance over this period, thanks to the provisions made in 1994 and the results obtained through cash management for clients or to cover the bank's own positions.

Forecasts for business are based on the assumption that resources will increase by 5 % in 1995 and 1996 and then by 3 % from 1997 to 1999, and that jobs will increase by 5 % a year over the whole period. The implicit objective is to arrive at an average FF 20 million managed per member of staff. The banking margin is to fall from 8,34 % in 1995 to 7,8 % in 1997 and then to 7,5 % in 1999. This would bring the net receipts from banking from FF 1 261 million in 1995 to FF 1 416 in 1997, an increase of 12,3 % in two years. This improvement can be achieved only if the increase in productivity does in fact take place, and allows the volume of business to be substantially increased, so as to offset the reduction in the margin, by following an aggressive policy. In a market which is growing steadily more competitive, scenarios of this kind have to be regarded as ambitious.

(5) The following assumptions are made by SMC: (1) the annual saving in staff costs generated by the shedding of one job is FF 360 000; (2) as regards the other costs, savings are estimated at 25 % of staff costs; (3) the annual impact of the jobs shed over one year on the accounts is 50 % of the savings generated for a full year, assuming that departures are evenly spread over the year; the cost of shedding one job is FF 400 000; (5) staff costs excluding jobs shed are expected to increase by 2 % a year.

Provisions for doubtful clients and for subsidiaries are estimated at FF 130 million a year for the period 1995 to 1997. No estimates have been submitted for the succeeding period. It is also expected that FF 60 million in provisions will be written back in 1995, providing a one-off book profit. Taking account of this and of FF 10 million a year in accessory products, consolidated net profits should be zero in 1995 and should reach FF 85 million in 1997. The following table shows changes in SMC's main accounting aggregates as submitted by the French authorities in November 1995.

Table 4: SMC's business plan

	1993	1994	1995	1996	1997	1998
Profit and loss account						
Net receipts from banking (a)	1 364	1 234	1 261	[. . .]	[. . .]	n.d.
Charges (b)	— 1 265	— 1 189	— 1 202	— 1 209	— 1 211	— 1 200
including staff costs	— 893	— 806	— 767	[. . .]	[. . .]	[. . .]
Gross operating profit or loss	121	58	59	[. . .]	[. . .]	n.d.
Losses and provisions	— 357	— 1 204	— 70	— 130	— 130	n.d.
Extraordinary items	9	— 26	11	0	0	n.d.
Consolidated net profit or loss (c)	— 317	— 1 257	0	30	85	n.d.
Balance sheet						
Balance sheet total (d)	26 700	22 895	23 105	24 725	25 190	n.d.
Risk-adjusted assets (e)	19 082	19 500	n.d.	n.d.	n.d.	n.d.
Own funds ([1]) (f)	1 535	1 565	n.d.	n.d.	n.d.	n.d.
including core, group share (g)	782	820	820	850	935	n.d.
Ratios						
Solvency (f/e, %)	8,0	8,0	n.d.	n.d.	n.d.	n.d.
Profitability on balance sheet assets (c/d, %)	n.d.	n.d.	0,0	0,12	0,34	n.d.
Profitability on capital (c/g, %)	n.d.	n.d.	0,0	3,5	9,1	n.d.

([1]) Including FF 255 million in recapitalization in 1993 (160 + 95) and FF 1 386 million in recapitalization in 1994 (326 + 1 060).

It should be noted at the outset that the figures supplied are not directly comparable with those in the annual reports; this makes comprehension and analysis more difficult ([4]). Detailed and comparable information is needed for an assessment of the restructuring measures and SMC's capacity for recovery. The Commission feels that questions have to be asked regarding SMC's ability to maintain and indeed substantially to increase its net receipts from banking at a time of weak economic recovery in France and persistent competitive pressure in the banking sector.

([4]) In particular, the business plan gives higher figures for gross operating profit and for provisions than the annual reports do.

The Commission also feels that the improvement in productivity will be difficult to secure in the very competitive context in which SMC operates. The projected growth in lending, at 5 %, seems too high, while the reduction in the margin on financing from [. . .] in 1995 to [. . .] in 1997 and [. . .] in 1999 may be too slow. It should be pointed out, too, that the earlier plan envisaged an increase in productivity through in increase in the margin on loans, as a result of a policy of setting base rates independently of the big banks. The negative results of the first plan in terms of gross profitability raises questions as to SMC's capacity to define a strategy for the development of its business and of its rates policy.

Turning to the reduction in costs, the Commission takes the view that the restructuring efforts are not sufficient to enable SMC to achieve a basic level of profitability in which the relation between overheads and net receipts from banking — the operating ratio in other words — is comparable to that of its competitors. This ratio was well over 100 % in 1994, whereas the average is about 70 %. Crédit Lyonnais had a ratio of 80 % before restructuring, and its restructuring plan calls for a reduction to below 70 %. Only if SMC's ratio can be reduced substantially, to a level around that of the competition, will there be a basis for a return to viability.

The plan provides for a level of provisions which at FF 130 million is particularly low as compared with the recent past, and is in fact constant in nominal terms over the period 1995 to 1997. It is true that large provisions were set aside in 1994 following the inquiry carried out by the Commission Bancaire, but it is fair to ask whether this level is adequate given SMC's past inability to evaluate risk correctly. The 1995 results seem to confirm this analysis. In addition, it seems unrealistic to maintain provisions at the same level when the average capital managed is to grow by FF 2 000 million between 1995 and 1997. Provisions of FF 130 million a year represent only 0,8 % of outstanding loans in 1995 and 0,7 % in 1997, though the first restructuring plan regarded 1 % as a proper level.

It is clear that if we adopt slightly more cautious assumptions for the development of productivity and provisions it becomes highly probable that SMC will not be able to return to profitability in a reasonable time. The level of profitability will be far below the minimum necessary for viability.

But even if the assumptions and estimates in the business plan were realistic, one would still have to conclude that the funds provided constituted State aid. They were intended to offset a loss of FF 1 257 million in 1994, and would enable a profit to be made only in 1996, even if no account is taken of the losses in 1995. But it has to be said that a return to profitability will only partly make up the original loss: even if we accept the asumptions in the business plan, SMC will show profits of FF 30 million in 1996 and FF 85 million in 1997, and these will not be sufficient to offset the initial loss in 1994 (and the normal revenue foregone) either in nominal or in discounted terms (7).

It is not possible to establish from the data supplied by the French authorities whether a level of profitability sufficient to make SMC viable can be achieved by the end of the restructuring process in 1998. But even assuming that a level of profitability equal to the minimum internal rate of return will be reached in 1998 or later, it is in any event safe to say that SMC will not be able to generate sufficient profit to offset the earlier losses and at the same time give its shareholder an adequate rate of return. It has to be concluded, therefore, that the operation does include a State aid component. In other words, the discounted value of the future gross operating margins is less than the capital injected. A private investor would not enter into such a transaction.

According to the information submitted for the period up to 1997 SMC's profitability will remain below the minimum necessary. For the years beyond 1997 the French authorities have not secured estimates, so we may proceed on the assumption that the bank will have reached its cruising speed in 1997. In the Crédit Lyonnais case the Commission applied a minimum rate of 12 %. An equity investment in SMC carries a high risk, given its past results and the fact that its spread is narrower than that of Crédit Lyonnais, so that one could even argue that at the end of the period of restructuring SMC's profitability ought actually to be higher than that called for in Crédit Lyonnais's business plan.

(7) The Commission described the use of the net discounted value for the assessment of State intervention in its communication on public undertakings in the manufacturing sector. The method has been used in other cases, and specifically in the banking sector in Crédit Lyonnais and Comptoir des Entrepreneurs, where the same minimum internal rate of return of 12 % was applied. In the present case it is clear that the internal rate of return should be above 12 %, because SMC is an institution specialized in lending to SMEs, with less scope than Crédit Lyonnais for spreading risk over a range of business, and because an equity investment in SMC carries a very high level of risk given its results in the past.

Regarding the projected profitability of SMC the French authorities have put forward conflicting arguments. On the one hand they maintain that it is not possible to calculate the return on the capital injected by the State, given the hoped-for privatization and the bank's structural difficulties. On the other hand they have said that the prospect of profitability after the operation is such that it should allow SCM to be associated with a private group under favourable conditions, as is the State's intention. They have also said that an association of this kind is essential for SMC's long-term viability. These quite contradictory statements show that the projected level of profitability cannot be accepted as sufficient, because it will not ultimately ensure the viability of the bank.

To sum up, the recapitalization operations in 1994 and 1995 were not based on a realistic restructuring plan, and are not sufficient to ensure that SMC will return to viability. This analysis was in fact recently confirmed by the French authorities themselves, when they said that a new business plan for the company was in preparation. The aid was intended to cover the serious losses made by SMC between 1991 and 1994, which would otherwise have forced it to seek a winding up. The scale of the assistance involved is very high, both in absolute terms and in relation to the size of the bank: it amounts to 8 % of the balance sheet total, as compared with 2 % in the case of Crédit Lyonnais.

The Commission consequently takes the view that the total of FF 2 099 millions in funds provided to SMC constitute State aid. As for the capital increases totalling FF 860 million notified in 1993, the Commission does not at present possess enough information to be able to say for certain whether they are compatible with Article 92.

4. **Distortion of trade between Member States**

The liberalization of financial services and the integration of financial markets are making intra-Community trade more and more sensitive to distortions of competition. In principle banks carry on their business, based mainly on the taking of deposits and the granting of loans, without regard to frontiers, but in fact they do encounter obstacles to expansion abroad ([8]). These obstacles are frequently due to the roots that domestic banks have in their own ares, which make entry to the market more expensive for foreign banks. Liberalization will make it easier for banks to offer their services in other Member States, as Crédit Lyonnais, Deutsche Bank and Westdeutsche Landesbank have done, for example; and any aid given to a local bank will obstruct this possibility. Aid measures designed to permit the survival of a domestic bank operating on a regional basis, like the aid to SMC, are consequently liable to distort competition in the Community, because they make it more difficult for foreign banks to enter the French regional banking markets.

Without the aid SMC would probably have had to be liquidated or sold to a more solid institution. In that event the bank or its business might have been bought by a foreign competitor seeking to establish itself in the south of France. Failing a takeover, SMC's clientele would have had to seek services of another bank, which might well have been a foreign bank.

Studies carried out by a mumber of international commercial banks, for example in connection with the plan to privatize the CIC network of regional banks owned by GAN, have drawn attention to the attraction of a French domestic banking network for a foreign bank which hopes to establish itself or increase its presence in France.

It should also be noted that SMC is a regional bank which operates in the south of France and has one branch and several permanent offices in Paris. The economic region in which it does business is highly developed and very dynamic in terms of tourism, industry and commerce, with a large volume of trade with other Member States. According to the information in SMC's annual reports, which has not been verified in detail, a large proportion of SMC's clientele is composed of small and medium-sized enterprises. Large companies in the south and property developers are also important clients.

([8]) The entry of foreign banks into the French market is a relatively recent phenomenon; they reached 8 % of the whole in 1993, but fell back to 7,7 % in 1994.

It must be concluded, therefore, that the measures are caught by Article 92 (1) of the EC Treaty, because they constitute State aid which distorts competition in a manner liable to affect between Member States.

5. **Examination of the compatibility of the aid**

Having determined that the measures do constitute State aid caught by Article 92 (1), the Commission has then to examine the question whether they can be considered compatible with the common market within the meaning of Article 92 (2) and (3).

It should be noted, first of all, that the aid was not notified, despite the fact that if the French authorities had applied the tests of viability which they have applied in other cases, such as those of Comptoir des Entrepreneurs and Crédit Lyonnais, they ought to have concluded that there would not be a proper return on the capital injected, and consequently that there was an aid component in the capital injection. The capital injection is consequently and unlawful State aid measure.

This is not aid with a social character granted, to individual consumers; nor is it designed to remedy a serious disturbance in the economy, being intended to remedy the difficulties of the recipient, SMC, rather than those of all enterprises in this sector; nor is it designed to facilitate the development of certain regions of France; the only exemption which may apply is that in Article 92 (3) (c).

The aid is not designed to remedy a serious disturbance in the economy, being intended to remedy the difficulties of the recipient, SMC, rather than those of all enterprises in this sector. The Commission considers that SMC's problems do not stem from a systemic banking crisis in France, although SMC is not the only French bank in trouble; some other banks are also facing difficulties. The causes of SMC's losses are specific to it and appear to be connected to a large extent to the lending policy which the bank pursued in its property market and SME business, without sufficiently strict monitoring of risks and costs. The aid consequently cannot be considered to be of common European interest.

The compatibility with the common market of measures of this kind has to be assessed in the light of the special guidelines on State aid for rescuing and restructuring firms in difficulty (9). The general principles are that aid of this kind may be compatible if it is limited to what is strictly necessary, so that as much as at all possible of the cost of recovery is borne by the enterprise itself; if steps are taken to compensate competitors for the distortion of competition caused, and if there is full compliance with a restructuring plan which will secure the necessary minimum level of profitability, and thus restore the enterprise to viability, within a reasonable time.

The Commission is aware of the special nature of the banking sector and of the great sensitivity of financial markets, even where the difficulties are limited to one or other institution; this has to be borne in mind in applying the State aid rules. But SMC is a small bank, and given the existence of a depositor's guarantee fund the adverse effects on the financial markets of a failure of the bank would clearly be marginal.

The Commission takes the view that the aid contemplated by the guidelines on restructuring aid will as a rule be necessary only once.

The Commission has first to examine the bank's restructuring plan. It needs the plan in order to be able to evaluate the prospects for a return to viability, and to establish how the distortion of competition which the aid will cause is to be compensated for in the restructuring plan itself. This *quid pro quo* must affect the bank's overall competitive position. If this vital factor is missing the Commission cannot find the aid compatible.

The first plan failed, and the new plan must consequently supply a convincing explanation of the reasons why. It is not enough to establish that the first plan was complied with: there must be a critical analysis of the plan which seeks to understand whether mistakes were made and how the new plan can avoid making the same mistakes. The French authorities have not submitted any such analysis, but have confined them-

(9) OJ No C 368, 23. 12. 1994.

selves to showing that the social package provided for in the plan was implemented. As far as the future is concerned it seems that the French authorities take the view that the bank's difficulties — excessive risk in the property market and SMEs — have been fully explored by the Commission Bancaire, and that the new restructuring effort, with a further reduction in staff and the reorganization of the branch network, will finally secure the hoped-for and necessary improvement in productivity. To be able to assess SMC's capacity for recovery the Commission will need, among other things, the full report of the Commission Bancaire.

Lastly, the Commission takes the view that if aid is to be declared compatible there must be adequate compensation for the recipient's competitors, to offset the distortion of competition caused by the aid. There is nothing in the information in the Commission's possession at this stage to suggest any such compensation. The business plan does not seek to reduce SMC's size. If SMC moves out of the property business and reduces its margins on lending as planned, the aid will probably have the effect of enabling it to follow an aggressive policy aimed at winning market share in certain sectors and even overtaking competitors. It is true that the Commission has to establish that the bank is returning to viability, and this may require a change in previous policy, and a more aggressive strategy in certain areas regarded as fundamental; but the Commission has also to satisfy itself that the aid does not cause distortion incompatible with the common market. It is clear that in order to compensate competitors, measures must be taken to reduce SMC's size and its market share. The present plan does not appear to comprise any such measures.

6. **Conclusions**

At this stage it would appear that the capital increases in 1994 and 1995, totalling FF 1 241 million (FF 181 million of the FF 326 million injected in 1994, and the FF 1 060 million injected in 1995, both operations being entered in the accounts for 1994), and the projected capital increase of FF 858 million in 1996, which brings the total amount to FF 2 099 million, may contain elements of State aid within the scope of Article 92 (1) of the EC Treaty, and consequently have to be examined in the light of Article 92 (3) (c) of the Treaty in order to establish whether they can be considered compatible wiht the common market.

That examination cannot be carried out now, owing to a lack of information. In addition, the restructuring plan submitted in November 1995 does not appear to ensure the viability of the bank. The Commission has accordingly decided to initiate proceedings pursuant to Article 93 (2) of the EC Treaty.

Additional documents and information must be supplied to the Commission to enable it to perform the examination provided for in Article 93. The Commission will need more detailed financial information on SMC's various areas of business in order to satisfy itself that the bank can return to viability without further State support in the future and within a reasonable time, and that there is an adequate *quid pro quo* in return. This information is vital to an assessment of the degree of realism of the reference scenario for the coming years, and particularly of the possibility of bringing the operating ratio down to a level comparable to that of SMC's main competitors.

Turning to the capital increases notified in 1993, which totalled FF 860 million, on the information in its possession at this stage the Commission cannot say for certain that the plan notified in 1993 was fully implemented, and that the information supplied at the time was entirely correct. In order to establish once and for all that these aspects are in order, the Commission will need further information on the reasons why the plan failed, with particular reference to the provisions called for by the Commission Bancaire in 1994. The Commission may if necessary re-examine these transactions if the information assembled in the course of the present proceedings shows that the assessment that the Commission made in 1993 was based on incorrect information, or that there have been material changes in the circumstances which led the Commission to form a favourable opinion of the aid, which would be the case, for example, if the restructuring plan was not in fact implemented in the form notified to the Commission in 1993.

The Commission would accordingly ask the French authorities to supply it with the following additional documents and explanations:

(a) a critical analysis of the first recovery plan, with an explanation of the reasons for its failure; among other things this analysis should explain why the Commission Bancaire in 1994 asked SMC to make provisions for assets whose valuations had already been drastically changed in the past;

(b) SMC's profit and loss accounts and balance sheets for 1995 and its detailed estimated profit and loss accounts and balance sheets for 1996 to 1998, stating the assumptions used in their preparation; the way in which this information is presented should allow easy comparison between years and with the information in the bank's annual accounts;

(c) the reports of the Commission Bancaire on the inspections it carried out at SMC, and any other evaluation reports which may have been drawn up by advisory banks or other experts;

(d) an evaluation of the net cost of winding up SMC to the State as shareholder;

(e) an account of SMC's market position in relation to other banks and its closest competitors, giving figures, and explaining the projected development of SMC's market shares in the different areas of its business;

(f) an account of SMC's pricing policy in the past in the future as compared with those of its competitors;

(g) an account of the renewal of SMC's management;

(h) a realistic restructuring plan, broken down by activity and geographically, showing how SMC is to return to viability;

(i) a detailed account of SMC's activities in the real estate business, with particular reference to its subsidiary Soficim, listing the assets it holds, their valuation in relation to the market, their sales prospects and the current carrying costs;

(j) an account of changes in risk-adjusted assets, own funds and the solvency ratio between 1995 and 1998;

(k) an account of the assumptions made for the movements in depreciation, doubtful claims, losses on loans and provisions (particularly for real estate and swaps), and extraordinary items, including the cost of membership of the Agirc and Arrco schemes over the period 1995 to 1998;

(l) an account of spending on automation, explaining why the level is especially high;

(m) an evaluation of the present possibilities for a future integration of SMC into a larger banking group;

(n) the details of future operations to finance SMC and of the capital measures called for, with particular reference to the participation of the private sector and the direct or indirect participation of the French State;

(o) the compensation offered to competitors to offset the distortion of competition caused by the aid;

(p) any other information which might be relevant to an assessment of present or future operations benefiting SMC.

If necessary the Commission may request further information once it has analysed the information listed here.'

The Commission hereby gives other Member States and interested parties notice to submit any observations on the measures in question within 30 days of the date of publication of this notice, to:

European Commission,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels.

The observations will be communicated to the French Government.

List of establishments in Canada approved for the purpose of importing fresh meat into the Community

(97/C 49/03)

(Text with EEA relevance)

Commission Decision C(97) 247 of 10 February 1997

(Council Directive 72/462/EEC, Article 4 (1))

Approval No	Establishment/address	Category (*)							
		SL	CP	CS	B	S/G	P	SP	SR
4	Maple Leaf Foods Inc., Les Aliments Maple Leaf Inc., Burlington, Ontario	×					×		(2)
54	Alsask Beef Company Ltd, Edmonton, Alberta	×	×		×				(4) (5)
76	Viande Richelieu Inc., Massueville, Québec	×	×					×	(3) T
87	Société en Commandite Olymel, St. Simon, Québec		×				×		(2) TF
98	Abattoir Les Cèdres Ltée, Les Cèdres, Québec	×			×				(2)
147	Société en Commandite Olymel, Vallée Jonction, Québec	×					×		(2) TF
191	Or-Fil Inc., Laval, Québec		×				×		TF
235 A	XL Foods Ltd, Calgary, Alberta		×		×				(4) (5)
253	Barton Feeders Co. Ltd, Owen Sound, Ontario	×	×					×	(3) T
320	Société en Commandite Olymel, St. Valérien, Québec	×					×		
330	Les Salaisons Brochu, St. Henri de Levis, Québec	×					×		(2) TF
401	XL-Beef, Calgary, Alberta	×			×				
506	Bouvry Export Calgary Ltd, Fort Macleod, Alberta	×	×		×				(4)
		×	×					×	(3) T
S-223	Trans Canada Freezers (1989) Corporation, Lethbridge, Alberta			×					(1)
S-520	Tri-County Apple Growers, Trenton, Ontario			×					(1)
S-528	Lang's Cold Storage, Hamilton, Ontario			×					(1) TF
S-529	Conestoga Cold Storage, Mississauga, Ontario			×					(1)
S-704	Entreposage St. Hyacinthe Inc., St. Hyacinthe, Québec			×					(1)
S-738	La Corporation Frigo Trans Canada (1989), Lachine, Québec			×					(1)

Approval No	Establishment/address	Category (*)							
		SL	CP	CS	B	S/G	P	SP	SR
S-763	Congebel Ltée, Ville Vanier, Québec			×					(1)
S-788	Les Entrepôts Frigorifiques SN Enr., Montreal-Nord, Québec			×					(1)

(*) SL: Slaughterhouse
CP: Cutting premises
CS: Cold store
B: Bovine meat
S/G: Sheepmeat/goatmeat
P: Pigmeat
SP: Meat from solipeds
SR: Special remarks

TF: The establishment is authorized, within the meaning of Article 4 of Directive 77/99/EEC, to perform the freezing treatment provided for in Article 3 of the same Directive.

T: The establishments with the indication 'T' are authorized, within the meaning of Article 4 of Directive 77/96/EEC, as last amended by Directive 94/59/EC, to perform the examination for detection of trichinae, provided for in Article 2 of the aforementioned Directive.

(1) Packaged meat only.
(2) Packaged offal only.
(3) Livers and kidneys excluded.
(4) Including bison.
(5) Fresh meat may be introduced into the territory of the Community until the 30 June 1997 at the latest.

List of establishments in the United States of America approved for the purpose of importing fresh meat into the Community

(97/C 49/04)

(Text with EEA relevance)

Commission Decision C(97) 248 of 10 February 1997

(Council Directive 72/462/EEC, Article 4 (1))

Approval No	Establishment/address	Category (*)							
		SL	CP	CS	B	S/G	P	SP	SR
3 W	Swift & Company, Worthington, MN	×	×				×		(10a) (13) (15)
I-30	New Orleans Inspection Service Inc., New Orleans, LA			×					(1)
53	American Freezer Services, Norfolk, NE			×					(1)
72	Golden Valley Meat, Blackfoot, ID	×	×		×				(15)
85 B	Excel, Bairdstown, IL	×	×				×		(9) (13) (15)
I-113	US Cold Storage, Philadelphia, PA			×					(1)
137	Colonial Beef Company, Philadelphia, PA		×		×		×		(15)
I-149	CW Storage, Albany, NY			×					(1)
I-182	Garden State Cold Storage Inc., Mullica Hill, NJ			×					(1) TF
I-183	Blue Grass Inspection Service, Philadelphia, PA			×					(1)
I-195	Rosenberger's Cold Storage Inc, Hatfield, PA			×					(1)
244 P	Transcontinental Cold Storage, Perry, IA			×					(1) TF

Approval No	Establishment/address	Category (*)							
		SL	CP	CS	B	S/G	P	SP	SR
244 W	IBP, Waterloo, IA	×	×				×		(5) (15) (17)
245 L	IBP, Lexington, NE	×	×		×				(15)
I-305	Georgia Ports Authority, Savannah, GA			×					(1)
I-320	South Carolina State Ports Authority, North Charleston, SC			×					(1)
320 M	Premium Standard Foods, Milan, MO	×	×				×		(15) T
I-335	Service Cold Storage, Miami, FL			×					(1)
I-346	Primliks, Miami, FL			×					(1)
382 G	Smithfield Packing Co., Norfolk, VA			×					(1)
410	Green Bay Dressed Beef Inc., Green Bay, WI	×			×				(10) (15)
532	Conagra Northern State Beef, Omaha, NE	×			×				(15) (18)
E-713	Central Nebraska Packing Inc., North Platte, NE	×	×					×	(16)
889 A	J. F. O'Neill Packing Co., Omaha, NE	×	×		×				(14) (15)
1134	Independent Meat Co., Easton, PA		×		×		×		(15)
1620	Quality Pork Processors Inc., Austin, MN	×					×		(7) (13) (15)
E-2018	Dallas Crown Inc., Kaufman, TX	×	×					×	(16)
2508	The Bruss Company, Chicago, IL		×		×		×		(15)
3056	Termicol Inc., Wallula, WA			×					(1)
3131	Minnesota Freezer Warehouse Company, Worthington, MN			×					(1) TF
3136	Cloverleaf Cold Storage of Fairmont, Fairmont, MN			×					(1) TF
3149	Milliard Warehouse (L&B Corp.), Des Moines, IA			×					(1) TF
3150	Beatrice Cold Storage Warehouse, Denver, CO			×					(1)
3157	Des Moines Cold Storage Co. Inc., Des Moines, IA			×					(1) TF
3158	Freezer Services Inc., Amarillo, TX			×					(1)
3161	Monument Distribution Warehouse Inc., Indianapolis, IN			×					(1)
3170	Logansport Refrig Services, Logansport, IN			×					(1)
3190	American Freezer Services Inc., Fremont, NE			×					(1)
3198	Milliard Warehouse (L&B Corp.), Denison, IA			×					(1)
3215	Napoleon Warehouse Inc., Napoleon, OH			×					(1)
3216	Freezer Services Inc. of Texas, Garden City, KS			×					(1)
3219	Christian Salvesen, Denver, CO			×					(1)
3229	Iowa Beef Processors Inc., Emporia, KS			×					(1)
3241	AMC Warehouses, Grand Prairie, TX			×					(1)
3245	United Refrigerated Services, Marshall, MO			×					(1)
3256	Nobel Inc., Denver, CO			×					(1)
3261	Rosenberger's Cold Storage Inc., Hatfield, PA			×					(1)
3338	Millard Warehouse, Iowa City, IA			×					(1)

Approval No	Establishment/address	Category (*)							
		SL	CP	CS	B	S/G	P	SP	SR
3363	Millard Warehouse (L&B Corp.), Friona, TX			×					(1)
3396	Americold, Bettendorf, IA			×					(1)
3397	Landmark Logistical Services, Richardson, TX			×					(1)
3398	Millard Warehouse, Grand Island, NE			×					(1) TF
3407	Bell Cold Storage, St Paul, MN			×					(1)
3431	Texas Cold Storage, Fort Worth, TX			×					(1)
3447	Mohawk Cold Storage Division Wauwatosa, WI			×					(1)
3474	Nordic Warehouses Inc., Benson, NC			×					(1)
3477	Northland Cold Storage, Greenbay, WI			×					(1)
3490	Oneida Cold Storage, Salt Lake City, UT			×					(1)
3505	Dakota Cold Storage, Huron, SD			×					(1)
3507	Zollinger Cold Storage Corp., Logan, UT			×					(1)
3535	Ashland Cold Storage Co., Chicago, IL			×					(1)
3552	Cloverleaf Cold Storage Co., (No 2), Sioux City, IA			×					(1)
3554	Cloverleaf Cold Storage Co., Sioux City, IA			×					(1)
3555	Cloverleaf Cold Storage Co., (No 5), Sioux City, IA			×					(1) TF
3573	Albert Lea Freezer Warehouse Co., Albert Lea, MN			×					(1) TF
3610	Millard Cold Storage, Dodge City, KS			×					(1)
3688	Newport St Paul Cold Storage, Newport, MN			×					(1)
3707	United States Cold Storage Inc., Omaha, NE			×					(1)
3738	Artesian Ice and Cold Storage Co., St Joseph, MO			×					(1) TF
3748	Cloverleaf Cold Storage Co., Sioux City, IA			×					(1)
3854	Merchants Refrigerating Co., Vinita Park, MO			×					(1)
3860	Central Storage and Warehouse Inc., Eau Claire, WI			×					(1)
3871	York Cold Storage Co., York, NE			×					(1)
3910	United States Cold Storage, East Peoria, IL			×					(1)
3942	Wilkerson Cold Storage, Lubbock, TX			×					(1)
5736 A	VMI Corporation, Omaha, NE		×		×				(4) (15)
E-7041	Beltex Corporation, Fort Worth, TX	×	×					×	(16) (19)
7271	Custom Meat Corp., Dallas, TX		×		×	×	×		(15)
E-8861	Amfran Packing Co., Plainfield, CT	×	×					×	(16)
8904	Bell Cold Storage, St Paul, MN			×					(1)
8984	Provimi Veal Corp., Seymour, WI	×	×		×				(3) (15)
E-9294	Cavel West Inc., Redmond, OR	×	×					×	(16)
9400	Taylor Packing Inc., Wyalusing, PA	×			×				(2) (15)
E-9910	Cavalier Export Co., Evington, VA	×	×					×	(16)
13182	Millard Refrigerated Services, Omaha, NE			×					(1) TF
13225	Quality Refrigerated Services, Omaha, NE			×					(1)

Approval No	Establishment/address	Category (*)							
		SL	CP	CS	B	S/G	P	SP	SR
13331	Millard Processing Services, Omaha, NE (West)			×					(1) TF
13531	Gerber Foods Inc., York, NE		×		×	×	×		(15)
E-15849	Cavel International, De Kalb, IL	×	×					×	(16)
17054	RCS/Smithfield Inc., Smithfield, VA			×					(1)
17068	US Coldstorage, Cumberton, NC			×					(1)
17233	Millard Refrigerated Services, Batavia, IL			×					(1) TF
17354	CSW Central Storage & Warehouse Co. Inc., Madison, WI			×					(1)
17461	Millard Refrigerated Services, Greeley, CO			×					(1)
17624	Wiscold Inc. Rochelle, Rochelle, IL			×					(1) TF
17756	Millard Refrigerated Services, Sioux City, IA			×					(1) TF
18079	Carolina Food Processors, Tar Heel, NC	×					×		(8) (13) (15)
18163	Quality Refrigerated Services, Spencer, IA			×					(1) TF
18294	Marshall Cold Store, Marshalltown, IA			×					(1)(15)TF
18435	Carolina Cold Storage, Tar Heel, NC			×					(1) TF
18674	Millard Refrigerated Services, Edwardsville, KS			×					(1) TF
18793	Cloverleaf Cold Storage, Austin, MN			×					(1) TF
18859	North American Bison Cooperative, New Rockford, ND	×	×		×				(15)
19086	Gress Refrigerated Services, Scranton, PA			×					(1)
19087	Inter Cities Cold Storage Inc., Pittston, PA			×					(1)
19246	Cloverleaf Cold Storage, Sioux City, IO			×					(1) TF
19593	Ball Packing Inc., Idaho Falls, ID			×					(1)

(*) SL: Slaughterhouse
CP: Cutting premises
CS: Coldstore

B: Bovine meat
S/G: Sheepmeat/goatmeat
P: Pigmeat
SP: Meat from solipeds

SR: Special remarks

(1) Only storage of meat already finally packaged in approved slaughtering or cutting establishments.
(2) Offal only.
(3) Also for sliced bovine livers.
(4) Only sliced bovine livers.
(5) Tongues, hearts and carcase meat only.
(6) Tongues, hearts and kidneys only.
(7) Tongues, hearts, kidneys and livers only.
(8) Tongues, hearts, kidneys, livers and brains only.
(9) Tongues, hearts, stomachs and carcase meat only.
(10) Tongues, hearts, kidneys, livers and stomachs only.
(10a) Tongues, hearts, kidneys, livers, stomachs and carcase meat only.
(11) Carcase meat, tongues, hearts, kidneys, livers and brains only.
(12) Hearts and stomachs only.
(13) Only packaged offal which has undergone the freezing treatment provided for in Article 3 of Directive 77/96/EEC.
(14) Offal excluded.
(15) Fresh meat must be unloaded onto the territory of the Community by 31 July 1997.
(16) Livers and kidneys excluded.
(17) Only carcase meat and packaged offal which has undergone the freezing treatment provided for in Article 3 of Directive 77/96/EEC.
(18) Tongues, hearts, kidneys, livers, brains and tails.
(19) Bison included.

TF: The establishments which the indication 'TF' are authorized, within the meaning of Article 4 of Directive 77/96/CEE, to perform the freezing treatment provided for in Article 3 of the same Directive.

T: This establishment is authorized, within the meaning of Article 4 of Directive 77/96/EEC, to perform the examination for detection of trichinae provided for in Article 2 of the aforementioned Directive.

Notice from the Danish Government to the effect that specific areas in Denmark are available for the successive awarding of new licences for exploration and production of hydrocarbons

(97/C 49/05)

(Text with EEA relevance)

With reference to Article 3 (3) of European Parliament and Council Directive 94/22/EC of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons [1], it is hereby announced that as from 90 days after the publication of this notice, all unlicensed areas in Denmark, with the exception of areas on the Danish continental shelf west of 6° 15′ last longitude (the central Graben), are available for the successive awarding of new licences for exploration and production of hydrocarbons.

Thereafter, applications may be submitted to the Danish Energy Agency every year, in the period 2 January to 30 September. Applications will be considered in the order they are received. It should be noted that the procedure outlined above may be discontinued subject to three monts' notice following the publication of a notice to this effect in the *Official Journal of the European Communities* and in a special Executive Order. Further information, including information about the licensing terms and requirements for applications, is available from:

The Ministry of Environment and Energy,
The Danish Energy Agency,
Amaliegade 44,
DK-1256 Copenhagen K,
Tel. (45) 33 92 67 00,
Fax (45) 33 11 47 43.

(1) OJ No L 164, 30. 6. 1994, p. 3.

III

(Notices)

COMMISSION

HARMONIZATION OF THE OPTIONAL BOXES OF THE SINGLE ADMINISTRATIVE DOCUMENT

Consultation with business

(97/C 49/06)

The European Commission has initiated an exercise aimed at rationalizing the use of the single administrative document (SAD). This form constituted, at the time of its introduction in 1988, a considerable improvement in terms of administrative documentation and of data requirements. Since then, the context of the use of the form has been modified by various factors (implementation of the internal market, suppression of controls at internal borders, introduction of computerized systems to process customs declarations, generalization of the simplified procedures).

Therefore, in order to improve the operation of the customs union with a view to strengthening the internal market, and in particular with the aim of guaranteeing to economic operators equal treatment throughout the Community and to enable them to optimize their administrative management, the Commission considered it was necessary to seek the solutions which could lead, in the long term, to the harmonization of optional data of the SAD.

This action is to be seen in the context of the conclusions of the White Paper of the Commission on growth, competitiveness and employment which identified the constraints of administrative origin imposed on the companies as one of the elements likely to affect their creation or their existence. That is also a major concern of the customs authorities of the Community.

The Commission services and the Member States are currently carrying out an analysis of the conclusions of a study that DG XXI ordered on this subject in order to identify the elements which could usefully be exploited to rationalize the use of the SAD. This work will necessarily result in modifications of a legislative nature which, for reasons of costs, will have to be introduced together and will have to follow a timetable which leaves time for the various participants to adapt to the new rules.

It seems however neither necessary nor convenient to adapt the form.

This analysis could not be complete without being fully informed of the concerns of business. Therefore, the Commission attaches the greatest importance to receiving from business constructive contributions (maximum five pages) established on the basis of the questionnaire annexed hereto. These can be forwarded to the Commission up until **15 March 1997** to the address below where a copy of the conclusions of the abovementioned study is available on request in French and in English:

European Commission,
Directorate-General XXI,
Jean-Luc Delcourt,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels,
Fax (32 2) 296 59 83; e-mail: Jean-luc.Delcourt@dg21.cec.be.

This text, accompanied with the questionnaire and with the conclusions of the study, is also available in electronic form on the Europa server at the following address:

http://europa.eu.int/en/comm/dg21/intro.htm.

HARMONIZATION OF THE OPTIONAL BOXES OF THE SINGLE ADMINISTRATIVE DOCUMENT CONSULTATION WITH BUSINESS — QUESTIONNAIRE (1)

I. IDENTIFICATION OF THE COMPANY/ORGANIZATION

Name of company/organization	
Name of the person replying	
Position of the person replying	
Date of the reply	
Telephone number	
Fax number	
e-mail	

II. TYPE OF COMPANY/ORGANIZATION

A. SIZE

Small Company	
Major company	
Multinational company	
Other (please specify)	

B. TYPE/SECTOR OF ACTIVITY

Customs agent	
Company comprising a customs clearance service	
Other (please specify)	

(1) It is understood that the information that you would provide in the context of this consultation will remain confidential.

C. **USE OF THE SIMPLIFIED PROCEDURES**

Do you only use the simplified procedures?	
Do you use at the same time the normal procedure and the simplified procedures?	
Do you only use the normal procedure?	

III. SPECIFIC QUESTIONS

Are you overall in favour of this exercise of harmonization: ☐

If so, are you in favour of initiatives aiming at:

— harmonizing at Community level the information collected on the SAD? ☐

— reducing the number of data elements collected on the SAD? ☐

IV. ADDITIONAL COMMENTS THAT YOU WOULD WISH TO FORMULATE

NOTICE TO READERS

Since 1 January 1997, the public contract notices of the Commission will no longer be published in the 'C' series of the Official Journal, but in the *Supplement to the Official Journal* ('S' series) only.

It must also be noted that the publication of the summary table of calls for competitive bidding under the European Development Fund (EDF) is hereby cancelled.

A CD-ROM version of the *Supplement to the Official Journal* is on sale at the various points of sale indicated on page 4 of the cover.

The information contained in *the Supplement to the Official Journal* may also be accessed in real time (TED database).

Further information concerning the TED database may be obtained from the 'gateway' agents below:

Belgique/België

Credoc

Rue de la Montagne 34/
Bergstraat 34
Boîte 11/Bus 11
B-1000 Bruxelles/Brussel
Tel: (32-2) 511 69 41
Fax: (32-2) 513 31 95
E-Mail: credoc@infoboard.be

Danmark

J. H. Schultz Information A/S

Herstedvang 10-12
DK-2620 Albertslund
Tel: (45) 43 63 23 00
Fax: (45) 43 63 19 69
E-Mail: schultz@schultz.dk
URL: www.schultz.dk

Deutschland

Outlaw Informationssysteme GmbH

Postfach 62 65
D-97012 Würzburg
Tel: (49-931) 35 31 24-0
Fax: (49-931) 35 31 24-1

Greece/Ellada

Helketec Ltd

D. Aeginitou Street 7
GR-115 28 Athens
Tel: (30-1) 723 52 14
Fax: (30-1) 729 15 28

España

Sarenet

Parque Tecnológico
Edificio 103
E-48016 Zamudio
Tel: (34-4) 420 94 70
Fax: (34-4) 420 94 65

France

FLA Consultants

27, rue de la Vistule
F-75013 Paris
Tel: (33-1) 45 82 75 75
Fax: (33-1) 45 82 46 04

Ireland

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Italia

Cerved SpA

Via A. Staderini, 93
I-00155 Roma
Tel: (39-6) 22 77 40 10
Fax: (39-6) 22 77 40 08

Luxembourg

Infopartners SA

4, rue Jos Felten
L-1508 Luxembourg - Howald
Tel: (352-) 40 11 61
Fax: (352-) 40 11 62-331

Nederland

Samsom Bedrijfsinformatie BV

Postbus 4
2400 MA Alphen aan den Rijn
Tel: (31-172) 46 65 52
Fax: (31-172) 44 06 81

Österreich

EDV (Elektronische Datenverarbeitungs GmbH)

Altmannsdorfer Str. 154-156
A-1231 Wien
Tel: (43-1) 667 23 40
Fax: (43-1) 667 13 90

Portugal

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P-1495 Lisboa
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