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Information and Notices

Notice No	Contents	Page
<i>I Information</i>		
Commission		
97/C 146/01	Ecu.....	1
97/C 146/02	Commission communication pursuant to Article 13 of Council Regulation (EC) 3281/94 of 19 December 1994.....	2
97/C 146/03	Commission notice.....	2
97/C 146/04	Prior notification of a concentration (Case No IV/M.911 — Clariant/Hoechst) ⁽¹⁾	3
97/C 146/05	Non-opposition to a notified concentration (Case No IV/M.866 — Cereol/Ösat-Ölmühle) ⁽¹⁾	3
97/C 146/06	Prior notification of a concentration (Case No IV/M.916 — Lyonnaise des Eaux/Suez) ⁽¹⁾	4
97/C 146/07	Prior notification of a concentration (Case No IV/M.908 — PTA/SMH/Mobilkom) ⁽¹⁾	5
97/C 146/08	Guidelines on State aid for undertakings in deprived urban areas ⁽¹⁾	6
97/C 146/09	Authorization for State aid pursuant to Articles 92 and 93 of the EC Treaty — Cases where the Commission raises no objections.....	12

II Preparatory Acts

.....

EN

<u>Notice No</u>	Contents (continued)	Page
	III <i>Notices</i>	
	Commission	
97/C 146/10	Notice of invitation to tender for the reduction in the import duty on maize imported from non-member countries	15
97/C 146/11	Amendment to notice of invitation to tender for the refund for the export of milled medium-grain and long-grain A rice to certain third countries	16
97/C 146/12	Amendment to notice of invitation to tender for the refund for the export of milled round-grain rice to certain third countries	16

I

(Information)

COMMISSION

Ecu ⁽¹⁾

13 May 1997

(97/C 146/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,3598	Finnish markka	5,89859
Danish krone	7,44525	Swedish krona	8,84759
German mark	1,95546	Pound sterling	0,708218
Greek drachma	311,897	United States dollar	1,14993
Spanish peseta	165,177	Canadian dollar	1,59427
French franc	6,58855	Japanese yen	137,130
Irish pound	0,759885	Swiss franc	1,65050
Italian lira	1934,53	Norwegian krone	8,12716
Dutch guilder	2,19948	Icelandic krona	81,0014
Austrian schilling	13,7636	Australian dollar	1,47674
Portuguese escudo	196,547	New Zealand dollar	1,65292
		South African rand	5,13687

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).

Commission communication pursuant to Article 13 of Council Regulation (EC) 3281/94 of 19 December 1994 ⁽¹⁾

(97/C 146/02)

The information included in the Commission communication announcing the suspension of generalized tariff preferences for certain products originating in certain countries ⁽²⁾ is hereby replaced with the following ⁽³⁾:

'CN code	Product	Country
2922 42 10	Monosodium glutamate	South Korea
3102 10 10 3102 10 90	Urea	Russia'

⁽¹⁾ OJ No L 348, 31. 12. 1994, p. 1.

⁽²⁾ OJ No C 100, 22. 4. 1995, p. 4.

⁽³⁾ The anti-dumping measures in respect of artificial corundum (CN code 2818 10 00) originating in Russian and Ukraine expired on 25 July 1996 and preferential treatment was restored forthwith. The preferential margin for microdisks (CN code ex 8523 20 90) and 'DRAMs' (CN codes ex 8473 30 10, 8542 11 12, 8542 11 14, 8542 11 16, 8542 11 18, ex 8542 11 01, ex 8542 11 05 and ex 8548 00 00) originating in South Korea was abolished on 1 January 1996 under the first indent of Article 4 (3) of Regulation (EC) No 3281/94.

Commission notice

(97/C 146/03)

Before 1 May 1997, the United States of America withdrew its requests for the setting up of a panel under the dispute-settlement procedures of the World Trade Organization concerning the Community's import arrangements for rice and cereals.

The Commission therefore draws attention to the applicability of the following Regulations from 15 May 1997:

- Council Regulation (EC) No 537/97 of 18 March 1997 opening a Community tariff quota for barley for malting falling within CN code 1003 00 ⁽¹⁾,
- Commission Regulation (EC) No 704/97 of 18 April 1997 laying down detailed rules for the application of Council Regulation (EC) No 537/97 and providing for the partial reimbursement of import duties levied on 30 000 tonnes of barley for malting ⁽²⁾, and
- Commission Regulation (EC) No 703/97 of 18 April 1997 introducing for a trial period from 1 July 1997 to 30 June 1998 a cumulative recovery system for determining certain import duties on rice and amending Regulation (EC) No 1503/96 ⁽³⁾.

⁽¹⁾ OJ No L 83, 25. 3. 1997, p. 7.

⁽²⁾ OJ No L 104, 22. 4. 1997, p. 20.

⁽³⁾ OJ No L 104, 22. 4. 1997, p. 12.

Prior notification of a concentration**(Case No IV/M.911 — Clariant/Hoechst)**

(97/C 146/04)

(Text with EEA relevance)

1. On 2 May 1997, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89⁽¹⁾ by which the undertaking Clariant AG, Switzerland, acquires Hoechst AG's business in speciality chemicals by acquisition within the meaning of Article 3 (1) (b) of that Regulation control of the whole of Virteon Spezialchemikalien GmbH by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— Clariant AG: development, production and distribution of specialty chemicals,

— Hoechst AG: development, production and distribution of specialty chemicals through Virteon Spezialchemikalien GmbH; other widespread industrial chemicals activities.

3. Upon preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32 2) 296 43 01/296 72 44) or by post, under reference number IV/M.911 — Clariant/Hoechst, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate B — Merger Task Force,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

⁽¹⁾ OJ No L 395, 30. 12. 1989. Corrigendum: OJ No L 257, 21. 9. 1990, p. 13.

Non-opposition to a notified concentration**(Case No IV/M.866 — Cereol/Ösat-Ölmühle)**

(97/C 146/05)

(Text with EEA relevance)

On 2 April 1997, 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 number 397M0866. Celex is the computerized documentation system of European Community law; for more information concerning subscriptions please contact:

EUR-OP,
Information, Marketing and Public Relations (OP/4B),
2, rue Mercier,
L-2985 Luxembourg.
Tel.: (352) 29 29-424 55; Fax: (352) 29 29-427 63.

Prior notification of a concentration
(Case No IV/M.916 — Lyonnaise des Eaux/Suez)
(97/C 146/06)

(Text with EEA relevance)

1. On 30 April 1997, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89⁽¹⁾ by which the group Lyonnaise des Eaux (France) enters into a full merger within the meaning of Article 3 (1) (a) of that Regulation with the group Compagnie de Suez (France) by way of purchase of shares.
2. The business activities of the undertakings concerned are:
 - Lyonnaise des Eaux: environmental services (water, sanitation, water treatment, waste management), management and maintenance of heating and air-conditioning equipment, industrial and electrical works, construction, estate management, communications,
 - Suez: banking services, personal financial services, energy, industrial and electrical works, engineering, environmental services (waste management), various industrial activities.
3. Upon preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32 2) 296 43 01/296 72 44) or by post, under reference number IV/M.916 — Lyonnaise des Eaux/Suez, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate B — Merger Task Force,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

⁽¹⁾ OJ No L 395, 30. 12. 1989. Corrigendum: OJ No L 257, 21. 9. 1990, p. 13.

Prior notification of a concentration
(Case No IV/M.908 — PTA/SMH/Mobikom)

(97/C 146/07)

(Text with EEA relevance)

1. On 5 May 1997, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89⁽¹⁾ by which the undertakings Post und Telekom Austria Aktiengesellschaft ('PTA') controlled by der Post und Telekom Beteiligungsgesellschaft mbH ('PTBG'), which is owned by the Republic of Austria, and STET Mobile Holding nv ('SMH'), belonging to the STET group, acquire within the meaning of Article 3 (1) (b) of that Regulation joint control of Mobikom Austria Aktiengesellschaft ('Mobikom') by way of a share purchase agreement. PTA is presently the sole owner of Mobikom.

2. The business activities of the undertakings concerned are:

- PTA: national Austrian post and telephone company,
- SMH: financial holding company for international participations by the STET Group in mobile telecommunication,
- Mobikom: mobile telephone company of PTA.

3. Upon preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32 2) 296 43 01/296 72 44) or by post under reference number IV/M.908 — PTA/SMH/Mobikom, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate B — Merger Task Force,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

⁽¹⁾ OJ No L 395, 30. 12. 1989. Corrigendum: OJ No L 257, 21. 9. 1990, p. 13.

Guidelines on State aid for undertakings in deprived urban areas

(97/C 146/08)

(Text with EEA relevance)

I. INTRODUCTION

1. Within the general framework of the search for solutions to problems linked with growth, competitiveness and employment, the White Paper⁽¹⁾ argues that every possible means of achieving this threefold objective should be mobilized. The priorities laid down by the White Paper for promoting employment include that of 'dealing with new needs' and, in this connection, specific mention is made of 'the need (...) to renovate the most disadvantaged urban areas', particularly through aid to businesses⁽²⁾. The Commission believes that the economic development of these areas can help resolve, or at least alleviate, some of their socio-economic problems. However, apart from the fact that existing State aid instruments provide only partial or inappropriate solutions, the play of market forces alone appears inadequate to achieve this objective. Such areas, for which the socio-economic indicators are significantly worse than the average for the cities to which they belong, have such a concentration of handicaps that they are incapable of attracting or merely maintaining an adequate business fabric, the cornerstone of any economic development. The aim of this communication, therefore, is to deal with the specific problem of the shortcomings of the market in deprived urban areas and the inadequacy of existing instruments by introducing a new instrument enabling financial incentives to be granted to businesses setting up or already established in these areas, provided that the conditions of competition and trade between Member States are not distorted to an extent contrary to the common interest.

II. CONTEXT AND OBJECTIVE

2. This Commission communication to the Member States falls within a specific legal and political framework. This framework opens up possibilities and defines priorities, but also defines

limits. The object of the guidelines is thus to establish a way for Member States to grant aid to certain firms situated in deprived urban areas, while meeting the criteria of necessity and proportionality. By means of this deliberate policy, the Commission hopes to boost employment and investments in such areas. The resulting economic growth should in turn help achieve major Community objectives, the instruments and priorities of which are defined below:

2.1. Legal framework:

- Article 92 (3) (c) of the EC Treaty enables the Commission to regard as compatible with the common market the fact that Member States grant State aid to undertakings 'to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest',
- Article 130 a lays down that 'In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion'⁽³⁾,
- after finding that there was an urgent need for action in this connection, the Commission adopted the 'Urban' Community initiative on measures to be carried out in certain deprived urban areas⁽⁴⁾. This initiative provides, *inter alia*, for the possibility of granting Community aid '... in an integrated way, supporting business creation'⁽⁵⁾. The objective is, in

⁽¹⁾ Commission White Paper 'Growth, competitiveness, employment: the challenges and ways forward into the 21st century', Decision of 5 December 1993, EC-Bulletin, Supplement 6/93.

⁽²⁾ *Ibid.* p. 20.

⁽³⁾ Title XIV 'Economic and social cohesion', as amended by Article G (38) of the Treaty on European Union.

⁽⁴⁾ Commission notice to the Member States laying down guidelines for operational programmes which Member States are invited to establish in the framework of a Community initiative concerning urban areas, OJ No C No 180, 1. 7. 1994, p. 6.

⁽⁵⁾ *Ibid.*, paragraph 6.

particular, to 'provide assistance to the responsible authorities in their efforts to provide the necessary amenities so as to attract economic activity and create confidence and security for the population living in the areas, integrating them into the economy and the social mainstream' (*). There is specific provision to that end for the combined effort of the ERDF and ESF 'to be complemented by other resources'.

2.2. Political framework:

- as already indicated above, the Commission recommended to the Member States in 1993, in its White Paper 'Growth, competitiveness and employment: the challenges and ways forward into the 21st century', that the dynamism of small businesses be underpinned and, more generally, that 'government intervention in industry ... be refocused on horizontal measures' (?). Aid to firms and, in particular, small and medium-sized enterprises is, therefore, clearly mentioned on several occasions in the context of the means to be employed to achieve the major objectives of the White Paper and deal with the new needs deriving from economic and social developments,
- in 1994, in defining the action to be carried out to improve the situation of employment and growth, the Essen European Council requested the implementation of such measures as 'the promotion of initiatives, particularly at regional and local level, that create jobs which take account of new requirements ...' (*),
- in 1995, the Cannes European Council clearly confirmed its previous guidelines and, in particular, emphasized the fact that 'small and medium-sized enterprises (SMEs) play a decisive role in job creation and, more generally, act as a factor of social stability and economic drive'; it also stressed the need to promote 'the initiative of entrepreneurs, their decisions on hiring and on investments ...' (?).

(*) *Ibid.*, paragraph 8.

(?) *Op. cit.*, p. 83.

(*) European Council meeting on 9 and 10 December 1994 in Essen, Presidency Conclusions SI(94) 1000, p. 4.

(?) European Council meeting on 26 and 27 July 1995 in Cannes, Presidency Conclusions SI(95) 500, pp. 4–5.

III. DEFINITION OF THE PROBLEM

3. Experience has shown that enterprises situated in and pursuing economic activities in certain deprived urban areas are confronted with many different problems which can influence their economic development, and even their viability. Pointers to the existence of such a syndrome include a level of education that provides firms with little skilled labour, the steady impoverishment of the population, which is a sign of a low purchasing power and low consumption, a crime rate that indicates a high degree of insecurity, a particularly high unemployment rate, decay of the environment and public infrastructure and a poor standard of local amenities.
4. These indicators, which are synonymous with urban problems and economic handicaps for firms, generally mean rejection by the business world. There is evidence that new investors seeking a location shun such areas in favour of districts that are more suited to sound economic activity, and that enterprises already established in such areas often prefer to relocate to the same districts. This situation may be explained in practice by the additional direct or indirect costs involved in setting up in such areas (theft, level of insurance premiums, vandalism, etc.) and the structural handicaps that are a feature of such areas (difficulty in finding skilled labour that is prepared to work, overall reduction in economic activity, lack and decay of public infrastructure, insecurity, financial problems faced by local authorities, problem of 'public image', etc.).
5. The existing Community competition framework provides an inadequate answer — or no answer at all — to such problems, although certain Member States have called for action ⁽¹⁰⁾. There are in fact no effective incentives at present which make it possible either to attract new productive investment projects which create jobs or to prevent the disintegration of the entrepreneurial fabric in the areas in question. One of the ways in which Member States and the Commission can combat this phenomenon — the former by making the necessary bud-

⁽¹⁰⁾ See in particular 'City Revival Pact' (State aid N 159/96, France), EU Bulletin 3-1996, point 1.3.43; OJ No C 215, 25. 7. 1996.

getary resources available and the latter by adopting a position that is, in principle, in favour of such a policy — lies in economic and financial incentives. Existing provisions appear inappropriate for the following reasons:

— the rules governing regional aid⁽¹¹⁾ contain eligibility criteria which do not generally allow aid to be granted to enterprises of any size whatsoever which are situated in or on the outskirts of large conurbations (mainly on account of the per capita GDP indicator) or to existing enterprises outside the scope of an investment (only initial investments are taken into account). In addition, they do not permit consideration to be given to such small geographical entities (the territorial basis of assessment being NUTS level III)⁽¹²⁾. Moreover, the scope of the rules is too great, *ratione personae*, in that the instruments also apply to large undertakings, which makes it impossible to focus action on small and medium-sized enterprises and solve their specific problems, or to maintain a proper degree of proportionality between the local nature of the problems and the impact of aid granted to a large undertaking traditionally engaged in transnational activities,

— the rules governing aid to SMEs⁽¹³⁾, while applicable in any part of the territory, offer only limited possibilities, in terms of aid intensity, outside areas assisted under regional aid arrangements,

— lastly, while the rules on aid to employment⁽¹⁴⁾ can contribute to the net creation of jobs horizontally, they do not cover aid for the creation of jobs linked to a productive investment, which is subject to the normal conditions and criteria applicable to investment aid.

6. In order to take account of the abovementioned concerns and make good the shortcomings, the Commission wishes to state that it will give favourable consideration to State aid

restricted to certain enterprises situated in urban areas which meet the conditions set out below. The Commission will take the view that such measures either are not generally liable to affect trade between Member States and do not, therefore, constitute aid within the meaning of Article 92 (1) of the EC Treaty⁽¹⁵⁾, or contain an aid element but may be considered compatible with the common market in so far as the conditions laid down in this communication guarantee that any effect on trade will not be contrary to the common interest.

IV. CRITERIA GOVERNING ELIGIBILITY OF AREAS

7. In order to benefit from the possibilities set out in these guidelines, aid which is to be granted by Member States and of which the Commission has been notified pursuant to Article 93 (3) of the EC Treaty must be confined to enterprises situated in difficult, geographically limited urban areas which must:

either:

— be geographically identifiable and homogeneous, and

— have a population of between 10 000 and 30 000 and belong to cities or urban agglomerations with at least 100 000 inhabitants (the Commission could, in justified cases falling just above or below these limits, exercise some discretion as regards the cumulative elements making up this condition), and

— have significantly worse statistics than both the national average and the average for the cities or urban agglomerations to which they belong, irrespective of the absolute or relative prosperity level of the latter. The socio-economic indicators to be taken into account in selecting these areas could include: the unemployment rate (with particular emphasis on the most underprivileged

⁽¹¹⁾ See Commission communication on the method for the application of Article 92 (3) (a) and (c) to regional aid, OJ No C 212, 12. 8. 1988.

⁽¹²⁾ Nomenclature of Statistical Territorial Units, level III.

⁽¹³⁾ See Community guidelines on State aid for small and medium-sized enterprises, OJ No C 213, 23. 7. 1996.

⁽¹⁴⁾ See Guidelines on aid to employment, OJ No C 334, 12. 12. 1995, p. 4.

⁽¹⁵⁾ This will normally be true of aid to existing firms carrying on a local activity (see point 11).

categories of unemployed persons⁽¹⁶⁾), the proportion of persons under 25, the proportion of unqualified young persons over the age of 15, per capita wealth, etc.,

or

— have been selected under the Urban Community initiative.

8. Is it reasonable to believe that restricting the scope to a small number of people is likely to maintain a balanced competitive environment and prevent the possibilities opened up by this communication from being used to pursue objectives or policies which are contrary to its letter or spirit. The total population covered by all the areas ultimately selected by a Member State under the present guidelines must, therefore, stand at a level which takes account of the diversity of national situations, while respecting the principles of proportionality and necessity. This level has been fixed at 1 % of the national population. However, in circumstances justified by the Member State on the basis of objective socio-economic data, a level slightly above this ceiling might be accepted by the Commission.

V. BENEFICIARIES OF THE AID

9. In defining the enterprises which qualify under this communication, it is necessary to reconcile requirements linked to the solution of a socio-economic problem with the limits imposed by the need to safeguard the common interest and a competitive balance within the Community. Aid to firms falls within the scope of Article 92 (1) of the EC Treaty only in so far as trade between Member States is affected. Accordingly, aid to small firms in deprived urban areas which carry on the activities listed in the Annex do not come under Article 92 (1) to the extent that the activities are not of a transnational nature. Similarly, public financial assistance

benefiting certain categories of firms, such as small enterprises engaged in local services or local employment initiatives, cooperative, mutual and non-profit associations and enterprises involved in reintegration work should not, in general, constitute State aid. In the case of aid falling within the scope of Article 92 (1), however, it is necessary to define the enterprises which are potentially eligible under the present provisions so that any distortions of competition or impact on intra-Community trade remain at a level which is not contrary to the common interest.

10. *Size of eligible enterprises*

The problems encountered by firms in such deprived urban areas are problems of an essentially local nature which do not justify regional aid of the kind available to large undertakings. Extending the benefit of the aid to large undertakings would have disproportionate effects in terms of distortion of competition and the negative impact on cohesion. Furthermore, in view of the fact that the deprived areas could be situated within generally prosperous cities or cities which constitute the most prosperous part of a disadvantaged region⁽¹⁷⁾, it is appropriate to limit the specific possibilities opened up by this communication to small enterprises as defined in the Commission recommendation of 3 April 1996 concerning the definition of small and medium-sized enterprises⁽¹⁸⁾, without prejudice to the provisions of point 16.

11. *Types of eligible enterprises*

In order to avoid discriminating against enterprises which are already installed in the areas in question and have not benefited from initial investment aid, the Commission proposes that both new enterprises and existing enterprises should be able to benefit under the guidelines. However, since the latter may qualify for aid that is connected with neither investment nor job-creation, it would be appropriate to limit the benefits to enterprises carrying on a local activity contained in Annex 1 on the basis of the NACE code⁽¹⁹⁾. An existing enterprise making a new investment (material or human) and receiving aid in connection with that investment would fall within the scope of the normal arrangements for new enterprises.

⁽¹⁶⁾ These traditionally comprise the long-term unemployed, young persons, women, older workers and the handicapped.

⁽¹⁷⁾ Urban initiative, *op. cit.*, point 5.

⁽¹⁸⁾ OJ No L 107, 30. 4. 1996.

⁽¹⁹⁾ Council Regulation (EEC) No 3037/90, OJ No L 293, 24. 10. 1990.

12. *Special conditions*

In order to be considered eligible under the guidelines, an enterprise must:

- carry on its principal economic activity and invest in the area designated as a deprived urban area. The mere existence of a registered office or any other form of non-productive establishment (administrative address, post box, etc.) could not, save in exceptional circumstances, justify the granting of State aid ⁽²⁰⁾,
- reserve at least 20 % of the new jobs created for persons having their domicile in a deprived urban area within the meaning of this Communication.

VI. FORM AND INTENSITY OF THE AID

13. From the point of view of both their socio-economic situation and the handicaps and additional costs which have to be borne by enterprises situated within them, deprived urban areas are characterized by problems of a degree comparable with those of regions assisted under the derogation from Article 92 (3) (c) of the EC Treaty. In order to satisfy the proportionality criterion, a balance must be struck between, on the one hand, the type of aid and the maximum intensity which may be permitted and, on the other, the nature, urgency and intensity of the problems to be solved.

14. In the case of new firms or existing firms deciding to invest, aid will have to be conditional on job-creation and fixed in relation to either the initial investment, using the standard basis of assessing aid ⁽²¹⁾, or the number of jobs created. The

maximum level of aid allowed, taking all forms of aid into account, is fixed at 26 % net grant equivalent of the investment ⁽²²⁾ or ECU 10 000 per job created ⁽²³⁾. This level is similar to that which SMEs situated in Article 92 (3) (c) regions may obtain in the form of regional aid.

15. The conditions of competition peculiar to local markets justify extending to existing firms not making new investments the advantages made available to new firms. However, in view of the nature of the aid to which existing firms may have access, it is necessary to ensure that the competitive advantage enjoyed by an existing firm is under no circumstances greater than that received by a new firm setting up in the same urban area. To that end, it is necessary in any event to limit the aid available to existing firms to the levels applied to new firms. For that purpose, it is possible, *mutatis mutandis*, to transfer the rate of 26 % net grant equivalent to the investment already made by the existing firm ⁽²⁴⁾ and the rate of ECU 10 000 per job created to the number of permanent employees already working in the firm. In general, considering that aid to existing firms will be confined exclusively to small enterprises carrying on the local activities laid down in Annex 1, intra-Community trade will not be affected.

VII. PROCEDURE, DURATION AND COEXISTENCE WITH OTHER RULES

16. The present guidelines will apply without prejudice to the possibilities offered by other State aid rules,

⁽²⁰⁾ Such exceptional circumstances involve a limited number of cases involving certain types of enterprises, such as those belonging to the construction sector, whose personnel may have been recruited in a deprived urban area or a part of whose economic activity may be carried on in such an area, while the principal economic activity is physically carried on elsewhere. Consequently, even if part of the activity is exercised outside the urban area in question, the positive effects within the area (in terms of jobs in particular) may justify the enterprise's eligibility.

⁽²¹⁾ The initial investment is defined in point 18 of the Annex to the Commission communication on regional aid systems, OJ No C 31, 3. 2. 1979, and the common method of assessing aid in point 5 of the Annex to the Council resolution on general systems of regional aid, OJ No C 111, 4. 11. 1971.

⁽²²⁾ The rate of 26 % net corresponds to the rate of 20 % net which the Commission generally uses in practice as a basic regional aid ceiling (applicable to large firms) in Article 92 (3) (c) regions, plus a further 10 % gross (equivalent on average to 6 % net) under the 'bonus' arrangements for small firms, as provided for in the Guidelines on State aid for small and medium-sized enterprises', *op. cit.*

⁽²³⁾ The ceiling of ECU 10 000 per job created corresponds to an aid level of 20 % net grant equivalent on the basis of an average investment of ECU 50 000 per job.

⁽²⁴⁾ The method of calculating aid in respect of an investment already carried out in the past must be based on the net value of the equipment at the time when the aid is granted (taking account of any depreciation that has already taken place).

particularly the *de minimis* rule⁽²⁵⁾, which should be sufficient to meet requirements in many cases, and the guidelines on aid to employment, which are applicable in all cases where there is a net creation of jobs and aid is not linked to investment⁽²⁶⁾.

17. Aid granted on the basis of the present guidelines to firms or activities involving products or belonging to sectors which are governed by specific Community codes must meet the basic and procedural conditions laid down in respect of the sector in question.
18. Application of the present guidelines is also subject to the provisions of Community law on the cumulation of aid for different purposes (see OJ No C 3, 5. 1. 1985) or aid for the same purpose under schemes adopted by a single entity or different entities (central, regional or local). In the

latter case, the cumulative aid must not exceed the highest ceiling laid down by the different aid schemes involved.

19. On the basis of Article 93 (3) of the EC Treaty, Member States are obliged to notify the Commission, prior to implementation, of any aid schemes drawn up with a view to implementing these guidelines. Proposals of which the Commission is notified must contain all the relevant information required to check that the scheme complies with the present guidelines. Schemes must be notified in accordance with the joint notification procedure⁽²⁷⁾.
20. These guidelines have been approved for a period of five years from the date of publication in the *Official Journal of the European Communities*. Prior to the expiry of that period, the Commission will review the functioning of the guidelines in order to decide whether they should be extended or any amendments should be made.

⁽²⁵⁾ Commission notice on the *de minimis* rule for State aid, OJ No C 68, 6. 3. 1996.

⁽²⁶⁾ *Op. cit.*

⁽²⁷⁾ See letters from the Commission to the Member States dated 2 August 1995 and 15 May 1996.

ANNEX 1

Activities not involved	Excluded activities (non-local market)	Eligible activities (local market)
Section A: agriculture, hunting and forestry		
Section B: fishing, fish farms		
Section C: mining and quarrying		
	Section D: manufacturing	
Section E: electricity, gas and water supply		
		Section F: construction
	Section G: — division 51: wholesale trade and commission trade	Section G: — division 50: sale and repair of motor vehicles — division 52: retail trade and repair of household goods

Activities not involved	Excluded activities (non-local market)	Eligible activities (local market)
		Section H: hotels and restaurants
	Section I: transport and communication — except group 60.22: taxis	Section I: transport and communication — group 60.22: taxis
	Section J: financial intermediation	
	Section K: real estate, renting and business activities	
Section L: public administration		
Section M: education		
		Section N: health and social work
		Section O: community, social and personal service activities
		Section P: domestic services
	Section Q: extra-territorial activities	

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

Cases where the Commission raises no objections

(97/C 146/09)

Date of adoption: 31. 10. 1995

Budget: 1995: DM 0,3 million (approximately ECU 0,16 million)

Member State: Germany (Saxony-Anhalt)

Aid intensity: Up to 75 % of eligible costs (Objective 1 region)

Aid No: N 820/95

Duration: 1995 to 1999

Title: Aid to improve processing and marketing conditions for forestry products

Date of adoption: 14. 11. 1995

Objective: To improve the processing and marketing conditions for wood by encouraging the purchase of forestry machinery

Member State: Austria

Aid No: N 445/A/95

Legal basis: Richtlinie über die Gewährung von Zuwendungen zur Verbesserung der Verarbeitungs- und Vermarktungsbedingungen für forstwirtschaftliche Erzeugnisse

Title: Aid for investments in agriculture

Objective: To improve agricultural structures

Legal basis: Sonderrichtlinie für die Förderung von Investitionen in der Landwirtschaft (Entwurf)

Budget: ÖS 1 070 million (approximately ECU 81 million)

Aid intensity: Various according to the measure and beneficiary

Duration: Unlimited

Date of adoption: 14. 11. 1995

Member State: Finland

Aid No: N 676/95

Title: Loans in agriculture

Objective: To reduce the financial costs of farms in difficulty

Legal basis: Laki maaseutuelinkeinolaisten muuttamisesta

Aid intensity: Various

Duration: Until 31. 12. 2001

Conditions: The Commission has taken account of the derogation provided for in the Act of Accession (Article 151, Annex XV, VII D, paragraph 2 (b)) for farms in difficulty

Date of adoption: 14. 11. 1995

Member State: Italy

Aid No: N 796/95

Title: AIMA national programme for the purchase and storage of ethyl alcohol distilled from fruit and potatoes

Objective: To encourage the disposal of ethyl alcohol of agricultural origin

Legal basis: Delibera CIPE del 10 gennaio 1995 — Disciplinare AIMA

Budget: Lit 4,104 billion (approximately ECU 1,9 million)

Aid intensity: Various

Duration: One year

Conditions: The Commission has noted the Italian authorities' assurance that all the agricultural products (except ware potatoes) undergoing distillation are obtained exclusively in accordance with Regulation (EEC) No 1035/72 on the common organization of the

market in fruit and vegetables and the implementing Regulations (EEC) No 1561/70, (EEC) No 1562/70 and (EEC) No 55/72.

The Commission reserves the right to review its position on the programme in question in the event of the creation of a common organization of the market in ethyl alcohol.

The Commission reminds the Italian authorities of their undertaking (by letter to the Commission dated 7 July 1995) to notify pursuant to Article 93 (3) of the EC Treaty all programmes applying the measures provided for in the CIPE decision of 10 January 1995 as soon as such programmes are established.

The Commission recommends that the Italian authorities ensure that this measure is implemented in accordance with the relevant international agreements under GATT

Date of adoption: 14. 11. 1995

Member State: Spain (Castile-Leon)

Aid No: NN 158/95

Title: Aid to offset the costs of certain transfers of rural real estate

Objective: To encourage the transfer of farm land in the context of farm restructuring on private initiative

Legal basis: Orden de la Consejería de Agricultura y Ganadería de Castilla y León por la que se regulan y convocan ayudas para determinadas permutas de fincas rústicas

Budget: Pta 75 000 000 (approximately ECU 586 000)

Aid intensity: Up to 50 % of the administrative costs of legally formalizing certain transfers of farm land

Duration: Unspecified

Date of adoption: 14. 11. 1995

Member State: Spain (Castile-Leon)

Aid No: NN 159/95

Title: Irrigation aid

Objective: To carry out investments in infrastructure to improve, replace and repair irrigation water supply systems

Legal basis: Orden de 17 de enero de 1995 por la que se regulan y convocan ayudas a las sociedades de regantes

Budget: Pta 100 million (approximately ECU 600 000) per year

Aid intensity: 40 % of expenditure

Duration: Unspecified

Date of adoption: 14. 11. 1995

Member State: Spain (Castile-Leon)

Aid No: NN 160/95

Title: Aid to encourage the reduction of electricity costs in irrigation installations

Objective: Investments to save energy in irrigation

Legal basis: Orden de 17 de enero de 1995 por la que se regulan y convocan ayudas para fomentar la reducción de los costes de la energía eléctrica en los regadíos

Budget: Pta 15 million (approximately ECU 93 000)

Aid intensity: Up to 45 %

Duration: Unspecified

Conditions: This aid falls within the scope of Council Regulation (EEC) No 2328/91

Date of adoption: 14. 11. 1995

Member State: Spain (Castile-Leon)

Aid No: NN 161/95

Title: Aid for extensive livestock holdings

Objective: To carry out investments in extensive livestock holdings

Legal basis: Orden de 17 de enero de 1995 por la que se establecen ayudas para la modernización de explotaciones de ganado en régimen extensivo

Budget: Pta 175 million (approximately ECU 1 million) for 1995

Aid intensity: Various

Duration: Unspecified

Conditions: These measures fall within the scope of Council Regulation (EEC) No 2328/91 and will be examined pursuant to that Regulation

Date of adoption: 14. 11. 1995

Member State: Spain (Castile-Leon)

Aid No: NN 163/95

Title: Aid to holdings rearing small animals

Objective: To assist non-traditional alternative livestock production

Legal basis: Orden de 17 de enero de 1995 por la que se establecen ayudas para el fomento de actividades ganaderas alternativas

Budget: Pta 60 million (approximately ECU 372 000) for 1995

Aid intensity: Various

Duration: Unspecified

Conditions: The projected aid falls within the scope of Council Regulation (EEC) No 2328/91 and will be examined pursuant to that Regulation

Date of adoption: 14. 11. 1995

Member State: Spain (Asturias)

Aid No: NN 164/95

Title: Aid to holdings growing apples for cider production

Objective: To encourage the plantation of new cider-apple orchards and the replanting of trees damaged by rodents

Legal basis: Resolución de 19 de enero de 1995 por la que se aprueban las normas que regirán la concesión de subvenciones destinadas al fomento del cultivo del manzano de sidra

Aid intensity: 70 % of total expenditure to a maximum of Pta 350 per tree

Conditions: The aid falls within the scope of Council Regulation (EEC) No 2328/91 and will be examined pursuant to that Regulation

III

(Notices)

COMMISSION

Notice of invitation to tender for the reduction in the import duty on maize imported from non-member countries

(97/C 146/10)

I. Subject

1. Notice is hereby given of an invitation to tender for the reduction in the duty on imports from non-member countries of maize falling within subheading 1005 90 00 of the combined nomenclature.
2. The total quantity in respect of which the reduction in the import duty may be fixed is 500 000 tonnes.
3. Contracts will be awarded in accordance with the provisions of Regulation (EC) No 848/97 ⁽¹⁾.

II. Time limits

1. The period for submission of tenders for the first weekly invitation begins on 16 May 1997 and expires on 22 May 1997 at 10 a.m.
2. The period for submission of tenders for subsequent weekly invitations begins on the Friday of each week and expires on the following Thursday at 10 a.m.

This notice is published only in respect of the issue of this invitation to tender. Unless amended or replaced, this notice is valid for all weekly invitations issued during the period of validity of this invitation to tender.

III. Tenders

1. Tenders must be submitted in writing and must either be delivered personally against a receipt or be sent by registered letter, telex, fax or telegram, arriving no later than the date and time stated in Title II, to the following address:

Servicio Nacional de Productos Agrarios (SENPA),
C/Beneficiencia 8, E-28004 Madrid (telex: 41819,
23427 SENPA E; fax: 5219832, 5224387).

Tenders not submitted by telex, fax or telegram must be enclosed in a sealed envelope marked 'Tender for the reduction in the import duty on maize — Regulation (EC) No 848/97'. This envelope must itself be enclosed in another sealed envelope bearing the address in question.

Tenders submitted shall remain firm until the Member State concerned informs the interested party that his tender has been successful.

2. The tender and the proof and declaration referred to in Article 6 (3) of Commission Regulation (EC) No 1839/95 ⁽²⁾ shall be written in the official language, or one of the official languages, of the Member State whose competent authority has received the tender.

IV. Tendering security

The tendering security shall be made payable to the competent authority.

V. Award of the contract

The award of the contract shall establish:

- (a) the successful tenderer's entitlement to be issued, in the Member State in which the tender was submitted, with an import licence stating the reduction in the import duty mentioned in the tender and awarded in respect of the quantity in question;
- (b) the successful tenderer's obligation to apply, in the Member State referred to in (a), for an import licence for that quantity.

⁽¹⁾ OJ No L 122, 14. 5. 1997, p. 7.

⁽²⁾ OJ No L 177, 28. 7. 1995, p. 4.

Amendment to notice of invitation to tender for the refund for the export of milled medium-grain and long-grain A rice to certain third countries

(97/C 146/11)

(Official Journal of the European Communities No C 236 of 14 August 1996)

On page 19, the text of paragraph 2 under heading I 'Subject', is amended as follows:

- '2. The total quantity in respect of which there may be fixed a maximum export refund as provided in Article 1 (2), of Commission Regulation (EEC) No 584/75 ^(*), as last amended by Regulation (EC) No 299/95 ^(*), is approximately 80 000 tonnes.'
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Amendment to notice of invitation to tender for the refund for the export of milled round-grain rice to certain third countries

(97/C 146/12)

(Official Journal of the European Communities No C 236 of 14 August 1996)

On page 21, the text of paragraph 2 under heading I 'Subject', is amended as follows:

- '2. The total quantity in respect of which there may be fixed a maximum export refund as provided in Article 1 (2), of Commission Regulation (EEC) No 584/75 ^(*), as last amended by Regulation (EC) No 299/95 ^(*), is approximately 50 000 tonnes.'
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