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## Information and Notices

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EN

## I

*(Information)*

## COMMISSION

Ecu <sup>(1)</sup>

6 April 1998

(98/C 107/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,8818	Finnish markka	6,01539
Danish krone	7,55532	Swedish krona	8,62072
German mark	1,98161	Pound sterling	0,648714
Greek drachma	344,797	United States dollar	1,07725
Spanish peseta	168,149	Canadian dollar	1,52593
French franc	6,64192	Japanese yen	145,095
Irish pound	0,786719	Swiss franc	1,64012
Italian lira	1955,19	Norwegian krone	8,22268
Dutch guilder	2,23196	Icelandic krona	78,2840
Austrian schilling	13,9418	Australian dollar	1,62949
Portuguese escudo	202,965	New Zealand dollar	1,95615
		South African rand	5,42505

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

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

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

<sup>(1)</sup> Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ L 379, 30.12.1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ L 189, 4.7.1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ L 349, 23.12.1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ L 349, 23.12.1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ L 345, 20.12.1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ L 345, 20.12.1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ L 311, 30.10.1981, p. 1).

**LIST OF DOCUMENTS FORWARDED BY THE COMMISSION TO THE COUNCIL  
DURING THE PERIOD 23.3. TO 27.3.1998**

(98/C 107/02)

(Text with EEA relevance)

*These documents may be obtained from the Sales Offices, the addresses of which are given on the  
back cover*

Code	Catalogue No	Title	Date adopted by the Commission	Date forwarded to the Council	Number of pages
COM(98) 141	CB-CO-98-140-EN-C	Amended proposal for a Council Regulation (EC) introducing a scheme to compensate for the additional costs incurred in the marketing of certain fishery products from the Azores, Madeira, the Canary Islands and the French overseas department of Guana as a result of those regions' remoteness <sup>(2)</sup>	20.3.1998	23.3.1998	12
COM(98) 192	CB-CO-98-202-EN-C	Proposal for a Council Regulation (EC) amending Regulations (EC) No 1890/97 and (EC) No 1891/97 imposing definitive anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway	23.3.1998	23.3.1998	17
COM(97) 627	CB-CO-97-702-EN-C	Proposal for a European Parliament and Council Directive amending Council Directive 88/77/EEC on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from diesel engines for use in vehicles <sup>(2)</sup> <sup>(3)</sup>	3.12.1997	23.3.1998	186
COM(98) 110	CB-CO-98-124-EN-C	Proposal for a Council Decision on the detailed provisions concerning the composition of the Economic and Financial Committee	25.2.1998	25.3.1998	6
COM(98) 173	CB-CO-98-170-EN-C	Report from the Commission to the Council on the implementation of the European Forestry Information and Communication System (Efics) established by Council Regulation (EEC) No 1615/89 <sup>(2)</sup> <sup>(3)</sup>  Proposal for a Council Regulation (EC) amending Regulation (EEC) No 1615/89 establishing a European Forestry Information and Communication System (Efics) <sup>(2)</sup> <sup>(3)</sup>	24.3.1998	25.3.1998	28
COM(98) 178	CB-CO-98-178-EN-C	The Phare Programme Annual Report 1996	24.3.1998	25.3.1998	91
COM(98) 186	CB-CO-98-200-EN-C	Report from the Commission on the application of the Community rules for State aid to the coal industry in 1995	24.3.1998	25.3.1998	21

Code	Catalogue No	Title	Date adopted by the Commission	Date forwarded to the Council	Number of pages
COM(98) 187	CB-CO-98-201-EN-C	Proposal for a Council Decision on the conclusion of the Agreements in the form of an Exchange of Letters between the European Community and, on the one hand, Barbados, Belize, the Republic of the Congo, Fiji, the Cooperative Republic of Guyana, the Republic of Côte d'Ivoire, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, the Republic of Mauritius, the Republic of Surinam, Saint Christopher and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe and, on the other hand, the Republic of India on the guaranteed prices for cane sugar for the 1997/98 delivery period	25.3.1998	25.3.1998	10
COM(98) 191	CB-CO-98-198-EN-C	Amended proposal for a Council Regulation (EC) amending Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European environment information and observation network <sup>(*)</sup> <sup>(*)</sup>	24.3.1998	25.3.1998	8
COM(98) 195	CB-CO-98-205-EN-C	Opinion of the Commission on the amendments proposed by the European Parliament to the Council's common position on the proposal for a Council Directive amending Directive 94/58/EC on the minimum level of training of seafarers <sup>(*)</sup>	25.3.1998	25.3.1998	6
COM(98) 156	CB-CO-98-154-EN-C	Proposal for a Council Decision on the conclusion of a bilateral agreement between the European Community and the Socialist Republic of Vietnam on trade in textile products	26.3.1998	26.3.1998	70
COM(98) 190	CB-CO-98-197-EN-C	Amended proposal for a Council Directive on limitation of emissions of volatile organic compounds due to the use of organic solvents in certain industrial activities <sup>(*)</sup> <sup>(*)</sup>	25.3.1998	26.3.1998	11
COM(98) 176	CB-CO-98-176-EN-C	Amended proposal for a European Parliament and Council Directive on connected telecommunications equipment and the mutual recognition of the conformity of equipment <sup>(*)</sup> <sup>(*)</sup>	26.3.1998	27.3.1998	24
COM(98) 184	CB-CO-98-199-EN-C	Proposal for a Council Decision authorising the Kingdom of Spain to apply a measure derogating from Articles 2 and 28a(1) of the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes	26.3.1998	27.3.1998	8
COM(98) 189	CB-CO-98-196-EN-C	Amended proposal for a Council Directive on the landfill of waste	26.3.1998	27.3.1998	11

(\*) This document contains an impact assessment on business, and in particular on SMEs.

(\*) This document will be published in the *Official Journal of the European Communities*.

(\*) Text with EEA relevance.

*NB:* COM documents are available by subscription, either for all editions or for specific subject areas, and by single copy, in which case the price is based pro rata on the number of pages.

**Notice of initiation of a review of the anti-dumping measures applicable to imports of certain large aluminium electrolytic capacitors originating in the Republic of Korea and Taiwan**

(98/C 107/03)

On 29 November 1997 <sup>(1)</sup>, following a complaint lodged by the Federation for Appropriate Remedial Anti-dumping (FARAD) on behalf of Nederlandse Philipsbedrijven BV (The Netherlands) and BHC Aerovox Ltd (United Kingdom), the Commission decided to initiate an anti-dumping proceeding and to commence an investigation concerning imports of certain large aluminium electrolytic capacitors originating in the United States of America and Thailand. On 3 December 1997 <sup>(2)</sup>, following a request for a review also lodged by the FARAD, a review investigation of the measures applicable to certain large aluminium electrolytic capacitors originating in Japan was initiated.

Pursuant to Article 11(3) of Regulation (EC) No 384/96 <sup>(3)</sup> of 22 December 1995, as amended by Regulation (EC) No 2331/96 <sup>(4)</sup> (hereinafter referred to as the Basic Regulation), the Commission has now decided, on its own initiative, to also initiate an interim review of the anti-dumping measures in force on imports of certain large electrolytic aluminium capacitors originating in Korea and Taiwan on the grounds set out in paragraph 3.

### 1. Product

The product concerned is large electrical capacitors, non-solid, aluminium electrolytic, with a CV product (capacitance multiplied by rated voltage) between 8 000 and 550 000 micro-coulombs ( $\mu\text{C}$ ) at a voltage of 160 V or more.

The product is currently classifiable within CN code 8532 22 00. This CN code is only given for information.

### 2. Existing measures

The measures currently in force are definitive anti-dumping duties imposed by Council Regulation (EC) No 1384/94 <sup>(5)</sup> of 17 February 1994.

### 3. Grounds for the review

A preliminary analysis of available information appears to indicate that since the imposition of measures

in 1994, the volumes imported into the Community of capacitors from the Republic of Korea and from Taiwan have increased, whereas their average prices have decreased. This appears to show an increased market penetration by capacitors of South Korean and Taiwanese origin. This evolution can affect the dumping level of these imports and the resulting injurious situation of the Community industry as established in 1994.

In addition, in view of the internationally interdependent character of the market for this product, and the inter-relationship of the companies involved in this field, it is considered that the present review, together with the abovementioned two recently initiated investigations, will allow the Commission to form an overall view of the impact on the Community industry of the imports originating from the main exporting countries, on the basis of a global approach.

### 4. Procedure for determination of dumping and injury

Having determined, after consulting the Advisory Committee, that there is sufficient evidence to justify the initiation of an interim review, the Commission hereby initiates an investigation pursuant to Article 11(3) of Regulation (EC) No 384/96.

#### (a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community producers, exporters and importers which participated in the investigation leading to the existing measures. At the same time a copy of the questionnaire will be sent to any known representative association of exporters or importers.

The authorities of the exporting country will be notified of the exporters known to be concerned and provided with a copy of the questionnaire sent to them.

Other exporters and importers should contact the Commission forthwith and request a copy of the questionnaire as soon as possible and not later than 15 days from the publication of this notice in the *Official Journal of the European Communities*, as they are also subject to the time limit set out in paragraph 6. Any request for questionnaires must be made in writing to the address mentioned below and should indicate the name, address, telephone, fax and/or telex numbers of the interested party.

<sup>(1)</sup> OJ C 363, 29.11.1997, p. 2.

<sup>(2)</sup> OJ C 365, 3.12.1997, p. 5.

<sup>(3)</sup> OJ L 56, 6.3.1996, p. 1.

<sup>(4)</sup> OJ L 317, 6.12.1996, p. 1.

<sup>(5)</sup> OJ L 152, 18.6.1994, p. 1.

(b) *Collection of information and holding of hearings*

All interested parties, provided that they can show that they are likely to be affected by the results of the investigation, are hereby invited to make their views known in writing and to provide supporting evidence.

Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

**5. Community interest**

In accordance with Article 21 of the Basic Regulation, and in order that an informed decision may be reached as to whether to repeal, maintain or amend the anti-dumping measures currently in force would be in the Community interest, the Community producers, importers and their representative associations and representative users may, within the time limit specified in this notice, make themselves known and provide the Commission with information. It should be noted that any information submitted under this Article will only be taken into account if supported by factual evidence at the time of submission.

**6. Time limit**

Interested parties, if their representations are to be taken into account during the investigation, must make them-

selves known, present their views in writing and submit information within 40 days from the date of publication of this notice in the *Official Journal of the European Communities*. Interested parties may also apply to be heard by the Commission within the same time limit. This time limit applies to all interested parties, including the parties unknown to the Commission, and it is consequently in the interest of these parties to contact the Commission without delay.

Commission address for correspondence:

European Commission,  
Directorate-General I,  
External Relations: Commercial Policy and Relations  
with North America, the Far East, Australia and New  
Zealand,  
Directorates C & E,  
DM 24 8/38,  
Rue de la Loi/Wetstraat 200,  
B-1049 Brussels.  
Fax (32-2) 295 65 05  
Telex: COMEU B 21877.

**7. Non-co-operation**

In cases in which any interested party refuses access to, or otherwise does not provide necessary information **within the time limit**, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of Regulation (EC) No 384/96, on the basis of the facts available.

**Prior notification of a concentration****(Case No IV/ECSC.1252 — RAG/Saarbergwerke/Preussag Anthrazit)**

(98/C 107/04)

(Text with EEA relevance)

1. On 6 February 1998, the Commission received notification of a proposed concentration pursuant to Article 66 of the Treaty establishing the European Coal and Steel Community (ECSC Treaty) by which RAG Aktiengesellschaft (RAG) acquires within the meaning of Article 66 of the ECSC Treaty control of the whole of Saarbergwerke AG and Preussag Anthrazit GmbH by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— RAG: coal mining, coal trading and importing, production of coke, mining technology, energy, chemicals,

— Saarbergwerke AG: coal mining, coal trading and importing, production of coke, energy, rubber,

— Preussag Anthrazit GmbH: coal mining, coal trading.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of the ECSC Treaty. 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.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01/296 72 44) or by post, under reference 'IV/ECSC.1252 — RAG/Saarbergwerke/Preussag Anthrazit', 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.

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## Multisectoral framework on regional aid for large investment projects

(98/C 107/05)

(Text with EEA relevance)

### 1. Need for and scope of the measure

1.1. The need for more systematic controls on regional aid to large-scale mobile investment projects has been widely acknowledged in recent years. The completion of the single market makes it more important than ever to maintain tight controls on State aid for such projects, since the distortive effect of aid is magnified as other government-induced distortions of competition are eliminated and markets become more open and integrated. At the same time, it is important to strike an appropriate balance between three core objectives of EU policy, namely undistorted competition in the internal market, economic and social cohesion and industrial competitiveness.

1.2. Investors in large projects often consider alternative sites in different Member States, which may lead to a spiral of increasingly generous promises of aid. Such subsidy auctions carry a considerable risk of distorting competition in the single market. In addition, they clearly favour the richer Member States and/or regions with larger regional aid budgets. The Commission is therefore introducing this framework, initially for a trial period only, with the aim of limiting aid for large-scale projects to a level which avoids as much as possible adverse effects on competition but which at the same time maintains the attraction of the assisted area. The Commission's intention to adopt a horizontal framework on State aid to large-scale investment projects in all sectors of industry was first announced in its Communication to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on '*An industrial competitiveness policy for the European Union*'<sup>(1)</sup>.

1.3. Several sensitive industrial sectors are already subject to special rules on aid, notably agriculture, fisheries, steel, shipbuilding, synthetic fibres, the motor industry, transport and the coal industry. During the trial period these sectors will continue to be covered exclusively by their own existing sectoral codes and frameworks (with the exception of the textile and clothing sector which will

will be subject solely to the provisions of this framework<sup>(2)</sup>). This situation will be reviewed after an evaluation has been carried out of the efficacy of this framework. In other sectors the only current restriction on regional investment aid is that the amount of aid must not exceed the ceilings authorised by the Commission for the regional scheme in question. However, the regional ceilings are in general designed to provide an incentive for the type of investment facing the biggest problems and are usually in excess of the average regional handicaps. The purpose of this framework is to limit this net incentive for large projects to a level which avoids as much as possible adverse sectoral effects caused by the project.

1.4. Under this framework the Commission will decide on a case-by-case basis a maximum allowable aid intensity for projects which are subject to the notification requirement. This might lead to aid intensities below the applicable regional ceiling. This framework does not apply to restructuring aid cases, which will continue to be covered by the Community guidelines on State aid for rescuing and restructuring firms in difficulty<sup>(3)</sup>. Similarly, this framework will not affect the operation of the existing horizontal frameworks, such as the Community framework for State aid for research and development<sup>(4)</sup> and the Community guidelines on State aid for environmental protection<sup>(5)</sup>.

1.5. The Commission would stress that it has no intention of seeking to interfere unnecessarily with the discretion of Member States in the field of regional policy. Nor does it seek to weaken the application of Article 92(3)(a) and (c) of the Treaty, which aims to encourage companies to invest in disadvantaged areas, despite the structural handicaps that they face there. On the contrary, the intention is strictly to limit the scope of the new rules to those large-scale projects, often capital intensive in nature, which could have a serious impact on unaided competitors located

<sup>(2)</sup> This framework consequently replaces the Community framework for aid to the textile industry SEC(71) 363 final, July 1971.

<sup>(3)</sup> OJ C 283, 19.9.1997, p. 2.

<sup>(4)</sup> OJ C 45, 17.2.1996, p. 5.

<sup>(5)</sup> OJ C 72, 10.3.1994, p. 3.

<sup>(1)</sup> COM(94) 319 final.



elsewhere in the EEA; and to examine more critically the planned levels of aid for those projects which do not have, directly or indirectly, a significant impact on employment in the region concerned, which is an important objective of regional policy. Member States will continue to be able freely to decide on the aid intensity in the vast majority of cases, within the terms of the approved regional aid schemes.

- 1.6. In drawing up this framework, the Commission has attempted to ensure that, as far as possible, it is clear and unambiguous, predictable, certain and efficient and that the additional administrative burden it entails is kept to a minimum.

## 2. Notification requirement

- 2.1. Under this framework Member States are required to notify pursuant to Article 93(3) of the Treaty any proposal to award regional investment aid<sup>(6)</sup> within the scope of an approved scheme<sup>(7)</sup>, where either of the following two criteria are met:

- (i) the total project cost is at least ECU 50 million<sup>(8)</sup>, and the cumulative aid intensity<sup>(9)</sup> expressed as a percentage of the eligible investment costs is at least 50% of the regional aid ceiling for large companies in the area concerned and aid per job created or safeguarded amounts to at least ECU 40 000<sup>(10)</sup>; or
- (ii) the total aid is at least ECU 50 million.

### *Notification format*

- 2.2. The standard notification form is contained in the Annex. This form should be sent directly to the Directorate-General for Competition.

## 3. Assessment rules

- 3.1. The Commission will determine, in accordance with the calculation formula set out in point 3.10,

<sup>(6)</sup> Regional investment aid awarded solely for the creation of jobs as described in the Community regional aid guidelines is not covered by this framework.

<sup>(7)</sup> The notification requirement also applies, of course, to proposals to award *ad hoc* aid.

<sup>(8)</sup> ECU 15 million in the case of projects carried out in the textile and clothing sector.

<sup>(9)</sup> Including any co-financing from the Structural Funds.

<sup>(10)</sup> ECU 30 000 in the case of projects carried out in the textile and clothing sector.

a maximum allowable aid intensity for a proposal to award aid. It will begin by identifying the maximum aid intensity (regional aid ceiling) which a large company could obtain in the assisted area concerned within the context of the authorised regional aid system valid at the moment of notification (unless it is *ad hoc* aid in which case the aid ceiling fixed for the region concerned will be applied). A range of adjustment factors will then be applied to that percentage figure, in accordance with three specific assessment factors (see below), in order to calculate a maximum allowable aid intensity for the project in question. In the case of the third criterion, the regional impact indicator, a positive factor or bonus may be applied, depending on the degree of benefit the project is likely to confer on the region concerned. The question of the viability of an individual project will be for Member States themselves to determine. However, the Commission will be entitled, if it deems it to be necessary, to request information on a project's viability. Finally, the Commission will, where appropriate, utilise independent external data to assess the likely impact on competition in the relevant market; where this is not easily obtainable, however, the Commission will give full weight to representations made by Member States.

### *The three assessment criteria*

#### (i) Competition factor

- 3.2. The authorisation of aid to companies operating in sectors which are in structural overcapacity poses particular risks for the distortion of competition. Any capacity expansion which is not compensated by capacity reductions elsewhere will exacerbate the problem of structural overcapacity. If such expansion is aided, the aid recipient may be left with excess capacity that it will not be able to use in the future or it may start a price-war in order to drive other producers out of the relevant market. It is also likely to threaten jobs elsewhere. Thus the competition factor will involve an analysis of whether the proposed project would take place in a sector or subsector suffering from structural overcapacity.

- 3.3. In determining whether structural overcapacity exists in the sector or subsector concerned, the Commission will consider, at the Community level, the difference between the average capacity utilisation rate for manufacturing industry as a whole and the capacity utilisation rate of the relevant sector or subsector. In order to allow for cyclical

fluctuations in relative capacity utilisation rates, the reference period will be the last five years for which data are available.

- 3.4. In the absence of sufficient data on capacity utilisation, the Commission will consider whether the investment takes place in a declining market. For this purpose, the Commission will compare the evolution of apparent consumption of the product(s) in question (that is, production plus imports minus exports) with the growth rate of EEA manufacturing industry as a whole.
- 3.5. For the purpose of determining whether the investment will result in a capacity expansion, the relevant capacity is the total viable capacity of the prospective beneficiary (and/or, if appropriate, the Group to which it belongs) for the relevant product. In all cases, viable capacity would include temporarily idle capacity (that is, capacity that would be reactivated when sales improve) but would exclude obsolete and inactive capacity (that is, idle capacity that cannot be reused without substantial additional investment).
- 3.6. Wherever a company, prior to making an application for aid, already has a high market share for the product(s) concerned, which for the purpose of this framework will be assumed to be at least 40 %, there is a risk that the award of maximum levels of aid normally permitted in the region concerned will unduly distort competition. In such circumstances the company should, in principle, receive less aid than would otherwise be the case, even if its investment contributes to regional development. There could, however, be exceptions to this general rule, for example where the company creates, through genuine innovation, a new product market.

(ii) Capital-labour factor

- 3.7. Since regional aid is usually granted in the form of capital subsidies, there is a natural tendency for capital intensive projects to locate in assisted areas. While this is a positive development, such a policy does not necessarily contribute to the creation of many new jobs and the reduction of unemployment. Only highly capital-intensive projects will be captured by this factor. The notion of jobs safeguarded will only be relevant where it is demonstrated that they are directly linked to the

investment project in question and can thus be assessed in terms of investment aid, as opposed to employment aid.

- 3.8. This criterion would also take account of the possible distorting effect of the aid on the price of the final product. Undertakings with a relatively high share of capital in total costs realise an important reduction of their unit cost through the aid and could obtain thereby a considerable competitive advantage over non-aided competitors. The higher the capital intensity of the supported investment project, the more distorting the effects of capital grants on competition are likely to be.

(iii) Regional impact factor

- 3.9. Whereas the competition and capital-labour factors look at the project's potentially distorting effects, the regional impact factor takes account of the beneficial effects on the economies of the assisted regions. The Commission considers that job creation can be used as an indicator of a project's contribution to the development of a region. Where a capital-intensive investment creates only a limited number of direct jobs, it may nevertheless create a significant number of indirect jobs in the assisted region concerned and any adjacent assisted region(s). Job creation in this context refers to jobs created directly by the project together with jobs created by first-tier suppliers and customers in response to the aided investment. When applying this factor to the calculation formula to arrive at an allowable aid intensity, the Commission will give a higher positive weighting to the indirect creation of jobs by aid recipients located in Article 92(3)(a) regions than in Article 92(3)(c) regions in recognition of the more severe economic problems faced by the former.

*Calculation formula*

- 3.10. The complete calculation formula is obtained by multiplying the regional aid ceiling by the coefficients that result from the examination of the three factors mentioned above, which are represented by the following symbols:

R = authorised maximum aid intensity for large companies in the assisted area concerned (regional ceiling),

T = competition factor,

I = capital-labour factor,  
M = regional impact factor.

The formula of the maximum allowable aid intensity is then:  $R \times T \times I \times M$ .

The following adjustment factors will apply to each of the three assessment criteria:

#### 1. Competition factor

- |  |      |
|--|------|
| (i) Project which results in a capacity expansion in a sector facing serious structural overcapacity and/or an absolute decline in demand                                  | 0,25 |
| (ii) Project which results in a capacity expansion in a sector facing structural overcapacity and/or a declining market and which is likely to reinforce high market share | 0,50 |
| (iii) Project which results in a capacity expansion in a sector facing structural overcapacity and/or a declining market   | 0,75 |
| (iv) No likely negative effects in terms of (i)-(iii)  | 1,00 |

#### 2. Capital-labour factor

New capital/jobs <sup>(1)</sup> (ECU 000s)	Factor
< 200	1,0
200 to 400	0,9
401 to 700	0,8
701 to 1 000	0,7
> 1 000	0,6

<sup>(1)</sup> Total amount of proposed capital divided by number of jobs created or safeguarded.

#### 3. Regional impact indicator

	Article 92(3)(a) regions	Article 92(3)(c) regions
(i) High degree of indirect job creation <sup>(1)</sup> for each job created by the aid recipient (more than 100 %)	1,5	1,2
(ii) Medium degree of indirect job creation for each job created by the aid recipient (between 50 %-100 %)	1,25	1,1
(iii) Low degree of indirect job creation for each job created by the aid recipient (less than 50 %)	1,0	1,0

<sup>(1)</sup> That is, jobs created with first-tier suppliers and customers in the assisted region where the company is located or in any adjacent assisted regions (i.e. Article 92(3)(a) or (c) regions).

*NB:* No project would of course be allowed to receive aid above the regional ceiling.

#### 4. Date of introduction and period of validity

- 4.1. This framework will be applicable from 1 September 1998 for an initial trial period of three years. Before the end of the trial period, the Commission will carry out a thorough review of the utility and scope of the framework, which will *inter alia* consider the question of whether it should be renewed, revised or abolished.

#### 5. Procedure for assessment of cases by the Commission

- 5.1. The Commission aims, in principle, to take a decision either to authorise the aid or to open the Article 93(2) procedure within a period of two months following the receipt of a complete notification, which should follow the standard format set out in the Annex. (In the case of incomplete notifications, the Commission will send a request for additional information to the Member State within ten working days). The two-month time-limit may only be extended with the consent of the Member State concerned.
- 5.2. In the event that the Commission initiates an Article 93(2) procedure, the Commission will take a final decision within four months following the decision to open the procedure. The Commission

will take account of all the evidence which can be gathered during that period, including information from interested third parties and any additional elements not considered during the initial investigation. Thus the maximum period for investigation into an individual case would normally not exceed six months.

## 6. *Ex-post monitoring*

6.1. In view of the sensitive nature of the large mobile investments involved, it is essential that a mechanism exists which helps to ensure that the level of aid actually disbursed to the beneficiary conforms with the Commission decision.

6.2. For each aided project approved by the Commission under this framework, the Commission will require either that any aid contract between the relevant authority of the Member State and the aid recipient contains a reimbursement provision in the event of non-compliance with the contract or that the final significant payment of the aid (e.g. 25 %) will be made only when the aid beneficiary has satisfied the Member State that execution of the project is in compliance with the Commission decision and on condition that the Commission, on the basis of information provided by the Member State concerning implementation of the project, has, within 60 working days, indicated its agreement or raised no objections to the final payment of the aid.

6.3. A copy of any aid contract between the Member State and the aid beneficiary must be communicated to the Commission immediately after it has been signed by the parties.

6.4. In order to ensure compliance with the Commission decision, the Member States, in cooperation with the aid beneficiaries, must provide the Commission with an annual report on the project, including information on the subsidies already paid, any interim report on the execution of the aid contract, and a final report indicating the objectives in terms of the timetable, the investments, and compliance with any specific conditions laid down by the authority granting the aid.

## 7. **Definition of terms used**

7.1. The following definitions of the terms used in this framework will apply.

### *Investment project*

7.2. 'Investment project' means an initial investment in fixed assets in the creation of a new establishment, the extension of an existing establishment or engaging in an activity involving a fundamental

change in the product or production process of an existing establishment (by means of rationalisation, diversification or modernisation). It may also take the form of the takeover of an establishment which has closed or which would have closed had such a takeover not taken place, but does not include the acquisition of assets from a company in financial difficulties (for which the Community guidelines on State aid for rescuing and restructuring firms in difficulty apply).

An investment project should not be artificially divided into sub-projects in order to escape the notification obligation.

### *Total project cost*

7.3. 'Total project cost' means the total expenditure on tangible and non-tangible new assets which are purchased by an undertaking to carry out an investment project and will be depreciated (or leased) over the lifetime of the assets concerned.

### *Eligible expenses*

7.4. 'Eligible expenses' mean expenditure on those tangible and non-tangible assets permitted under the Community regional aid guidelines<sup>(11)</sup>.

### *Jobs*

7.5. 'Job' means a permanent full-time job or its part-time equivalent. It may be a new job or the safeguarding of an existing job to the extent that the latter is directly associated with the investment project, would require a significant amount of re-training and would no longer exist at the start of the new production if not for that investment.

### *Relevant market*

7.6. The relevant product market(s) for determining market share comprises the products envisaged by the investment project and, where appropriate, its substitutes considered by the consumer (by reason of the products' characteristics, their prices and their intended use) or by the producer (through flexibility of the production installations)<sup>(12)</sup>. The

<sup>(11)</sup> Adopted on 16 December 1997 (OJ C 74, 10.3.1998).

<sup>(12)</sup> If the investment concerns the production of intermediates, the relevant market may be the market for the final product if most of the production is not sold on the open market.

relevant geographic market comprises usually the EEA or, alternatively, any significant part of it if the conditions of competition in that area can be sufficiently distinguished from other areas of the EEA. Where appropriate the relevant market(s) may be considered to be global.

*Structural overcapacity*

- 7.7. Structural overcapacity is deemed to exist when, on average over the last five years, the capacity utilisation rate of the relevant sector or subsector<sup>(13)</sup> is more than two percentage points below that of manufacturing as a whole. Serious

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<sup>(13)</sup> The sector or subsector will be established at the lowest available segmentation of the NACE classification.

structural overcapacity is deemed to exist when difference with respect to the average for manufacturing is more than five percentage points.

*Declining market*

- 7.8. The market for the product(s) in question will be deemed to be declining if, over the last five years, the average annual growth rate of apparent consumption of the product(s) in question is significantly (more than 10 %) below the annual average of EEA manufacturing industry as a whole, unless there is a strong upward trend in the relative growth rate of demand for the product(s). An absolutely declining market is one in which the average annual growth rate of apparent consumption over the last five years is negative.

*ANNEX***Standard notification form pursuant to the multisectoral framework on regional aid for large investment projects****Introduction**

This form specifies the information to be provided by a Member State when notifying the European Commission of an investment project to be located in an assisted area which is subject to the notification rules of the multisectoral framework on regional aid for large investment projects.

The Member States should note that:

- (a) all information requested by this form must be provided. However if notifying parties, in good faith, are unable to provide a response to a question or can only respond to a limited extent on the basis of available information they should indicate this and give reasons;
- (b) unless all sections are completed in full or adequate reasons are given explaining why it has not been possible to answer the questions in full, the notification will be incomplete and will become effective only on the date on which all the information is received;
- (c) the Commission may request the Member State and the aid recipient concerned to provide additional information and/or explanation on the information supplied in this form in order to facilitate the initial assessment, which should be provided within ten working days and may form the subject of a technical meeting to be arranged by the Directorate-General for Competition with the competent public authority.

**Supporting documentation**

- (a) a copy of the draft aid agreement or, if that is unavailable, a copy of the envisaged aid offer letter. If the draft aid agreement is unavailable at the time of the notification, it should be submitted as soon as possible and not later than when it is posted to the aid recipients;
- (b) copies of the most recent annual reports and accounts of the aid recipient(s), and if the recipient is part of a larger group, the most recent annual reports and accounts of the group;
- (c) a list and short description of the contents of all other analyses, reports, studies and surveys prepared by or for the aid recipient(s) for the purpose of assessing or analysing the proposed aided investment with respect to competitive conditions, competitors (actual and potential), and market conditions. Each item in the list must include the name and position of the author.

**How to notify**

The notification must be completed in an official language of the European Union appropriate for the Member State concerned. This language will thereafter be the language of the proceeding for all notifying parties.

Supporting documents must be submitted in their original language; where this is not an official language of the European Union they must be translated into the language of the proceeding.

The financial data requested must be provided in local currency or ecu/euro indicating the conversion rates used.

The notification should be sent to:  
 European Commission,  
 Directorate-General for Competition,  
 (DG IV),  
 State Aid Directorate,  
 (Cort. 150),  
 rue de la Loi/Wetstraat 200,  
 B-1049 Brussels,

or delivered by hand during normal Commission  
 working hours to the following address:  
 European Commission,  
 Directorate-General for Competition,  
 (DG IV),  
 State Aid Directorate,  
 avenue de Cortenberg/Kortenberglaan 150  
 B-1040 Brussels.

#### Secrecy

The Member State and/or the aid recipient concerned should take note that any of the information requested may be used as a basis to prepare a decision on the case. Notifying parties should indicate that part of the information submitted in this notification which should not be published or otherwise divulged to other parties by marking it 'Business secrets'. They should also set out the reasons why this information should not be divulged or published. However, if sensitive information is needed in the preparation of the decision, the Commission would first consult the Member State and/or the aid recipient about the publication of the parts of the decision containing sensitive information.

#### *Ex-post* control

The Commission acknowledges that part of the information requested in this notification form cannot be given entirely accurately in advance. The Member State and/or the aid recipient concerned are requested to give their best estimate and to provide a justification of the information to be provided. The aided investment project will be subject to *ex-post* control by which the Commission can verify the accuracy of the information provided in the context of the notification.

### SECTION 1

#### MEMBER STATE

##### 1.1. *Information on notifying public authority*

1.1.2. name and address of notifying authority;

1.1.3. name, telephone, fax and e-mail address of, and position held by, the person(s) to be contacted in case of further inquiry.

##### 1.2. *Information of contact in permanent representation*

1.2.1. name, telephone, fax and e-mail address of, and position held by, the person to be contacted in case of further inquiry.

### SECTION 2

#### AID RECIPIENT

##### 2.1. *Structure of a company or companies investing in the project*

2.1.1. identity of aid recipient;

2.1.2. if the legal identity of the aid recipient is different from the undertaking(s) that finance(s) the project or that receive(s) the aid, describe also these differences;

2.1.3. identify the parent group of the aid recipient, describe the group structure and ownership structure of each parent company.

##### 2.2. *For a company or companies investing in the project, provide the following data for the last three financial years:*

2.2.1. worldwide turnover, EEA turnover, turnover in Member State concerned;

2.2.2. profit after tax and cash flow (on a consolidated basis);

2.2.3. employment worldwide, at EEA level and in Member State concerned;

2.2.4. market breakdown of sales in the Member State concerned, in the rest of the EEA and outside the EEA.

2.3. *If the investment takes place in an existing industrial location, provide the following data for the last three financial years of that entity*

2.3.1. total turnover;

2.3.2. profit after tax and cash flow;

2.3.3. employment;

2.3.4. market breakdown of sales: in the Member State concerned, in the rest of the EEA and outside the EEA.

### SECTION 3

#### PROVISION OF PUBLIC ASSISTANCE

**For each measure of proposed public assistance, provide the following:**

3.1. *Details*

3.1.1. scheme title (or indicate if it is an 'ad-hoc' aid);

3.1.2. legal basis (law, decree, etc.);

3.1.3. public entity providing the assistance;

3.1.4. if the legal basis is an aid scheme approved by the Commission, provide the date of the approval and the State aid case reference number.

3.2. *Form of the proposed assistance*

3.2.1. is the proposed assistance a grant, interest subsidy, reduction in social security contributions, tax credit (relief), equity participation, debt conversion or write off, soft loan, deferred tax provision, amount covered by a guarantee scheme, etc.?

3.2.2. provide the conditions attached to the payment of the proposed assistance.

3.3. *Amount of the proposed assistance*

3.3.1. nominal amount of support and its gross and net grant equivalent;

3.3.2. is the assistance measure subject to corporate tax (or other direct taxation)? If only partially, to what extent?

3.3.3. provide a complete schedule of the payment of the proposed assistance.

**For the package of proposed public assistance, provide the following:**

3.4. *The characteristics of the assistance measures*

3.4.1. are any of the assistance measures of the overall package not yet defined? If yes, specify;

3.4.2. indicate which of the abovementioned measures does not constitute State aid and for what reason(s).

3.5. *Financing<sup>(1)</sup> from Community sources (EIB, ECSC instruments, Social Fund, Regional Fund, other)*

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(<sup>1</sup>) The notion of State aid may include Community financing.



- 3.5.1. are some of the abovementioned measures to be co-financed by Community funds? Explain;
- 3.5.2. is some additional support for the same project to be requested from any other European or international financing institutions? If so, for what amounts?
- 3.6. *Cumulation of public assistance measures*
- 3.6.1. estimated gross grant equivalent (before taxation) of the combined aid measures;
- 3.6.2. estimated net grant equivalent (after taxation) of the combined aid measures.

## SECTION 4

## ASSISTED PROJECT

(The information to be given in this section is used *inter alia* to determine the outcome of the application of the capital-labour assessment factor.)

4.1. *Location of the project*

- 4.1.1. Specify the region and the municipality as well as the address.

4.2. *Duration of the project*

- 4.2.1. Specify the start date of the investment project as well as the completion date of the investment.
- 4.2.2. Specify the planned start date of the new production and the year by which full production may be reached.

4.3. *Description of the project*

- 4.3.1. Specify the type of the project and whether it is a new establishment or a capacity expansion or other.
- 4.3.2. Provide a short general description of the project.

4.4. *Breakdown of the project costs*

- 4.4.1. Specify the total cost of capital expenditure to be invested and depreciated over the lifetime of the project;
- 4.4.2. Provide a detailed breakdown of the capital and non-capital<sup>(2)</sup> expenditure associated with the investment project by filling in the following table:

	Total expenditure				Eligible expenditure			
	Year 1	Year 2	Year 3	Etc.	Year 1	Year 2	Year 3	Etc.
<b>Capital</b>								
land								
buildings								
installations, machines								
tools								
intangibles <sup>(1)</sup>								
other (specify)								
<b>Non-capital</b>								
additional working capital								
R&D								
launching costs								
other (specify)								
<b>Total</b>								

<sup>(1)</sup> For large enterprises, certain categories of intangible investments can be included in the eligible capital expenditure, however, not exceeding 25 % of the total eligible capital expenditure (cf. Regional aid guidelines, point 4.6).

<sup>(2)</sup> Investment expenditure that cannot be depreciated over the lifetime of the investment project.

4.5. *Financing of total project costs*

4.5.1. Indicate the financing of the total cost of the investment project by filling in the following table:

	Amount			
	Year 1	Year 2	Year 3	Etc.
Internal resources				
Equity contributions				
Borrowing from private institutions				
Borrowing from public institutions				
Public assistance (national and Community)				
Other (specify)				
Total				

4.6. *Employment creation*

4.6.1. Does the project create new permanent jobs (full-time equivalent)? If yes, provide a number of the jobs to be created and over which period as well as a description of the jobs to be created.

4.7. *Safeguard of existing employment*

4.7.1. Does the project safeguard existing permanent jobs? If yes, provide a number of the jobs to be safeguarded and over which period as well as a description of the jobs to be safeguarded;

4.7.2. explain in detail the re-training in average number of hours and cost (excluding the salaries of the trainees) necessary to safeguard these permanent jobs;

4.7.3. explain why these jobs would be at imminent risk if the project was not realized.

## SECTION 5

## CAPACITY CONSIDERATIONS AND AFFECTED MARKET(S)

(The information to be given in this section is used to determine the outcome of the application of the competition assessment factor. A definition of the relevant market(s) as well as a definition of structural overcapacity and market(s) in decline are given in the appendix.)

5.1. *Characterisation of product(s) envisaged by the project*

5.1.1. Specify the product(s) that will be produced in the aided facility upon the completion of the investment (indicate the CN code) and the relevant (sub-)sector(s) to which the product(s) belong(s) (indicate the NACE code);

5.1.2. what product(s) will it replace? If these replaced products are not produced at the same location, indicate where they are currently produced;

5.1.3. what other product(s) can be produced with the same new facilities at little or no additional cost?

5.2. *Characterisation of relevant geographic market(s)*

5.2.1. Specify the relevant geographic market(s) where different from EEA;

5.2.2. why is the geographic market considered to be different from EEA?

5.3. *Capacity considerations*

5.3.1. Quantify the impact of the project on the aid recipient's total viable capacity in the EEA (including at Group level) for each of the product(s) concerned (in units per year in the year preceding the start year and on completion of the project).

5.3.2. Provide an estimate of the total EEA (or of the relevant geographic market) capacity utilisation rate of the relevant (sub-)sector(s) for the last five years. What proportion of this capacity during this period is accounted for by the aid recipient and what has been its rate of capacity utilisation in the relevant (sub-)sector?

5.4. *Market data*

5.4.1. Provide for each of the last five financial years data on apparent consumption<sup>(3)</sup> of the product(s) concerned. If available, include statistics prepared by other sources to illustrate the answer;

5.4.2. provide for the next three financial years a forecast of the evolution of apparent consumption of the product(s) concerned. If available, include statistics prepared by other sources to illustrate the answer;

5.4.3. is the relevant market in decline and for what reasons? If not, why?

5.4.4. An estimate of the market share (in value) of the aid recipient or of the group to which the aid recipient belongs in the year preceding the start year and on completion of the project.

## SECTION 6

### REGIONAL IMPACT

(The information to be given in this section is used to determine the outcome of the application of the regional impact assessment factor.)

6.1. *Information on the employment created with first-tier suppliers and customers of the aid recipient*

6.1.1. In the opinion of the Member State and/or aid recipient, which of the three options below best describes the degree of jobs created with first-tier suppliers and customers resulting from the project:

(i) high degree of job creation for each job created by the aid recipient (more than 100 %);

(ii) medium degree of job creation for each job created by the aid recipient (between 50 %-100 %);

(iii) low degree of job creation for each job created by the aid recipient (less than 50 %)?

6.1.2. Justify and explain your answer to the previous question.

6.1.3. Provide as complete a list as possible of the prospective first-tier suppliers for the new production within the assisted region and/or assisted regions.

6.1.4. Provide as complete a list as possible of the prospective customers for the new production within the assisted region and/or assisted regions.

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<sup>(3)</sup> Production plus imports minus exports.

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## STATE AID

C 82/97 (ex NN 168/97)

Greece

(98/C 107/06)

*(Articles 92 to 94 of the Treaty establishing the European Community)***Commission communication pursuant to Article 93(2) of the EC Treaty to other Member States and interested parties concerning aids which Greece has decided to grant for reimbursement of cooperative debts**

By the following letter, the Commission informed the Greek Government of its decision to open the procedure.

‘On 7 June 1993, the Commission was informed by letter of the Greek Minister for Agriculture of the intention of the Greek Government to apply the provisions of Article 32(2) of Greek law No 2008/92 to write off debts by several types of cooperatives towards the Agricultural Bank of Greece (ABG), concerning the period 1982 to 1989.

According to the Minister’s letter the beneficiary must be considered viable on the basis of restructuring plans approved by a special committee created for this purpose. According to these provisions, the Greek Government was committed to reimburse to the ABG part of the outstanding debt from these organisations, totalling GRD 91,769 billion concerning a global amount of GRD 266 126 billion. The present letter does not prejudge the Commission’s position on an eventual aid to the ABG.

The Minister’s letter refers to the fact that these debts provide for reductions in the retail price for goods, benefiting consumers. As a result, the Minister indicates that it is impossible for the benefiting cooperatives to recover the sums involved. The abovementioned letter gave a list of the 61 cooperatives that applied for benefit from these provisions.

Taking this into account, the Commission considered this information as a notification within the meaning of Article 93(3) of the EC Treaty. It was registered as notified aid N 515/93.

However, in the framework of the assessment of conformity with the provisions of Articles 92 and 93 of the Treaty of State aid NN 33/96, the Commission was

informed of the fact that aid provided by Article 32(2) of Greek law No 2008/92 has already been granted, at least to one cooperative, without previous Commission approval. Taking this into account, the Commission has decided to include this aid in the register of non-notified aids NN 168/97.

The Commission does not have all information necessary to assess conformity of the State aids granted with the provisions of the Treaty. Indeed, by letter dated 31 October 1993 to the Greek authorities, the Commission has requested additional information on the measures foreseen. Furthermore, by letter dated 5 February 1997, the Commission has reminded the Greek authorities of the previous letter. In its last letter, the Commission has clearly informed the Greek authorities that failure to provide the additional information requested might oblige the Commission to open the procedure provided for in Article 93(2) of the Treaty. Both the original letter and the reminder remain to date unanswered.

According to the letter of the Greek Minister and the attached legislative provisions, this scheme intended to grant aids to cover debts resulting from the execution during the 1982 to 1989 period of a social policy by the Greek Government or the realisation of other interventions on the order or on behalf of the Greek State. Nevertheless, the scheme can also cover debts deriving from other reasons such as natural disasters, investments, lack of capital, etc.

Firstly, the Greek authorities failed to communicate to the Commission information on the total amount of debt and aid granted to each cooperative, according to its different causes.

Regarding writing off debts resulting from a social policy and other interventions by the Greek State in the market, the Greek authorities failed to supply documents showing the existence of such social policy, and supply details on its objectives, duration, etc. They did not provide the Commission with copies of texts by which

the Greek State has imposed on the cooperatives the execution of this social policy (for instance, obligation to sell products at low prices). They have failed to supply data on the calculation of prices and incomes of cooperatives which justify market losses.

Apart from the questions directly linked to the execution of an alleged social policy, the Commission noted that the Greek authorities did not submit details of the criteria used to assess the viability of agricultural cooperatives benefiting from the scheme. The Commission also noted that they have not supplied any justification for the fact that only outstanding ABG debts (and not to other operators) are covered by the present aid scheme.

Finally, since most Annex II products produced by the benefiting cooperatives are covered by common market organisations and are not, as a general rule, regulated by Member States, the Commission noted that the Greek authorities have failed to demonstrate to what extent the execution of a social policy in agriculture should be considered compatible with common market organisations.

Concerning aid to cover debts relating to the execution of investments, the Commission took into account the fact that the Greek authorities have not supplied information which allows the assessment of conformity with the special rules for rescue and restructuring of companies in difficulty in the agricultural sector, applicable at the time the aid was granted. The Commission's previous practice on the agricultural sector can be summarised as follows.

“The aids in question must concern the financial burdens resulting from debts incurred to finance investments already made.

The aggregate subsidy equivalent of any aid granted when the debts were contracted plus the aid in question may not exceed the rates generally allowed by the Commission, namely:

- in the case of investments in primary agricultural production, 35 % or 75 % in less-favoured areas within the meaning of Article 21(2) of Regulation (EC) No 950/97 (see Directive 75/268/EEC);
- in the case of investments in the processing and marketing of agricultural products, 55 % (or 75 % in Objective 1 areas) for projects not excluded by the

Community guidelines for investments in processing and marketing of agricultural products <sup>(1)</sup>.

The aids in question must be granted following adjustments of the interest rates on new loans, and to take account of changes in the exchange rate (the amount of aid must be less than or equal to the rates of the new loans) or must concern farms that offer viability guarantees, in particular in cases where the financial burdens resulting from existing borrowings are such that the farms are at risk, possibly of bankruptcy.”

Concerning aid to cover debts relating to past investments and also for lack of own capital, the Commission must examine to what extent the general Community guidelines for rescue and restructuring of firms in difficulty are applicable <sup>(2)</sup>. The most recent version of these guidelines, *Official Journal of the European Communities* C 283 of 19 September 1997 will enter into force after 1 January 1998, and is therefore not applicable.

Concerning the general rules on aid for rescue and restructuring, two key requirements are that an appropriate restructuring plan leading to viability should be established and adhered to by the beneficiary of the aid, and that a counterpart to the aid is normally required in the form of a physical reorganisation of the company. In markets where structural overcapacity exists, the Commission normally requires a durable cut in production capacity. An important principle of such aid is that viability should be secured without further recourse to rescue and restructuring aid. To the extent that the general rules are applicable, no evidence of the requirement of a restructuring plan has been submitted to the Commission, and in particular no details have been provided regarding any physical reorganisation of the cooperatives that has been required. In particular, for sectors where surplus capacity exists, there is no information which demonstrates that a durable reduction of capacity has been requested. Finally, there is no indication to conclude that beneficiaries have adequately participated in the restructuring scheme.

The Commission noted that, concerning natural disasters and extraordinary events, aid was paid to cooperatives under Greek law No 2008/92. Apart from the information supplied in relation to State aid case NN 33/96, analysed in the framework of the Decision

<sup>(1)</sup> OJ C 29, 2.2.1996, p. 4.

<sup>(2)</sup> OJ C 368, 23.12.1994.

concerning this case, the nature of these calamities and assimilable disasters, its duration and effects were not specified. In addition, the Greek authorities failed to provide information for the Commission to assess respect of the conditions of its established policy for granting State aid to offset losses related to natural and assimilable disasters<sup>(3)</sup>. Commission policy in this area is to allow offset up to 100 % of losses exclusively related to natural and assimilable disasters. Some climatic events (like rain, drought, hail, snow, etc.) can only be assimilated to natural disasters when damage caused reaches 30 % of production relating to a normal period (average of the last three years production). This established policy applies in principle at the level of agricultural enterprises and not at the processing and marketing level. It was not indicated under which conditions the Greek authorities granted compensation for agricultural cooperatives and whether these conditions fulfilled the Commission's requirements.

In addition to debts resulting from the execution of a social policy on behalf of the Greek State, investment, lack of own capital and natural disasters, the Commission noted that the Greek authorities failed to provide information about aid granted to offset debt for "other" reasons.

Consequently, the Commission has decided to open the procedure provided for in Article 93(2) of the Treaty in respect of the provisions of Article 32(2) of Greek law No 2008/92.

Aids granted within this provision are illegal, given that they have been introduced without prior clearance by the Commission under Articles 92 and 93 of the Treaty. The Commission regrets that the Greek authorities have not fulfilled their obligations under Article 93(3) of the EC Treaty and requests the Greek Government to take the adequate measures to respect this obligation in future.

Within the framework of this procedure, the Commission requests the Greek Government to submit its observations, which should reach the Commission within one month of the date of this letter. This

information should be based on the considerations set out in this letter and should allow the Commission to form a judgment as to compliance or otherwise of these aids with Community State aid provisions. The Commission invites the Greek authorities to inform all aid beneficiaries as soon as possible of this decision to open the Article 93(2) procedure.

Further, the Commission informs the Greek authorities that, within the framework of this same procedure, it will invite the other Member States and any interested party, by publication of this letter in the *Official Journal of the European Communities*, to present any comments within one month of publication.

The Commission draws the attention of the Greek authorities to the letter which it sent to all Member States on 3 November 1983 concerning their obligations under Article 93(3) of the EC Treaty, and to the memorandum published in the *Official Journal of the European Communities* C 318 of 24 November 1983 where it was stated that aid granted illegally, that is aid granted without awaiting the final decision of the Commission under the Article 93(2) procedure, may be required to be recovered. Recovery must be made in accordance with the provisions of Greek law. Interest, which is payable from the date of granting the aid in question, must be calculated according to the reference rate used by the Commission in connection with regional aid.

Independently of possible recovery of aid, the Commission may refuse to charge to the EAGGF expenditure on national measures directly affecting Community measures.'

The Commission hereby gives the other Member States and interested parties notice to submit their comments on the measures in question within one month of the date of the publication of this notice to:

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

*The comments will be communicated to the Greek Government.*

<sup>(3)</sup> Commission services' working document VI/5934/86 of 10 November 1986.

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

**Cases where the Commission raises no objections**

(98/C 107/07)

(Text with EEA relevance)

**Date of adoption:** 16.4.1997

**Member State:** Spain

**Aid No:** N 163/97

**Title:** Aid to shipbuilding

**Objective:** Assistance towards shipbuilding in Spain

**Legal basis:** Seventh Council Directive on aid to shipbuilding (90/684/EEC)

**Budget:**

Operating aid:

— Contract-related aid to shipyards: PTA 8 billion

— Ship financing: PTA 10 billion

Restructuring aid: PTA 20 billion

**Aid intensity:** For operating aid, up to 9 % of contract value before aid (4,5 % for vessels less than ECU 10 million und for conversions)

**Duration:** Until expiry of Directive and up to 31 December 1997 at the latest

**Date of adoption:** 4.6.1997

**Member State:** Spain

**Aid No:** N 254/97

**Title:** Aid to shipbuilding

**Objective:** Ship financing assistance on OECD terms for owners outside EEA

**Legal basis:** Seventh council Directive on aid to shipbuilding (90/684/EEC)

**Aid intensity:** Zero (OECD terms are not under counted aid ceiling for Directive)

**Duration:** Until expiry of Directive and up to 31 December 1997 at the latest

**Date of adoption:** 30.7.1997

**Member State:** The Netherlands

**Aid No:** N 20/97

**Title:** Tax exemption CO<sub>2</sub>/energy

**Objective:** Promote energy efficiency and reduce pollution (ECSC steel)

**Legal basis:** Wet belastingen op milieugrondslag

**Date of adoption:** 16.9.1997

**Member State:** Greece

**Aid No:** N 154/97

**Title:** State aid to Halyvourgia Thessalias SA

**Objective:** To support investment (ECSC-steel)

**Legal basis:** Νόμος αριθ. 1892/90 περί εκσυγχρονισμού και ανάπτυξης

**Aid intensity:**

— Grant: GRD 96 million

— Interest subsidy: GRD 114 million

**Date of adoption:** 16.12.1997

**Member State:** Belgium (Flanders)

**Aid No:** NN 76/95

**Title:** Export promotion

**Objective:** Soft aid for export promotion

**Legal basis:**

1. Besluit van de Vlaamse Executieve van 9.4.1992 tot vaststelling van het reglement inzake de toekenning van financiële tussenkomsten voor exportgerichte initiatieven van ondernemingen
2. Besluit van de Vlaamse Executieve van 28.10.1992 tot vaststelling van het reglement inzake de toekenning van financiële tussenkomsten bij jaarlijkse exportpromotieprogramma's
3. Besluit van de Vlaamse regering van 26.10.1994 tot toekenning van rentesubsidies in het kader van de buitenlandse handel
4. Besluit van de Vlaamse regering van 26.10.1994 tot het ter-beschikking-stellen van Vlaamse uitrustingsgoederen, met het oog op exportbevordering; extended by 'Besluit van de Vlaamse regering van 15.4.1997'

**Budget:** Not specified

**Aid intensity:**

1. < ECU 100 000
2. 50 % of eligible costs (maximum ECU 250 000)
3. OECD conditions
4. 10 % of contract value (maximum ECU 250 000)

**Duration:**

1. Indefinite
2. Indefinite
3. 1.11.1994 to 31.12.1995
4. 1.11.1994 to 31.12.1996 (extended until 31.12.1998)

**Date of adoption:** 25.2.1998

**Member State:** Germany

**Aid No:** N 854/B/97

**Title:** Aid to improve processing and marketing structures in the fisheries sector

**Objective:** To improve the conditions under which fishery products are processed and marketed

**Legal basis:** Entwurf der Förderungsgrundsätze des Rahmenplans 1998—2001 der Gemeinschaftsaufgabe 'Verbesserung der Agrarstruktur und des Küstenschutzes'

**Budget:** Not laid down

**Aid intensity:** In accordance with the rates laid down in Table 3 of Annex IV to Regulation (EC) No 3699/93 of 21 December 1993

**Duration:** 1998 to 2001

**Date of adoption:** 5.3.1998

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

**Aid No:** N 847/97

**Title:** Aid for direct marketing of fisheries products

**Objective:** To improve processing and marketing conditions for fisheries products

**Legal basis:**

- Zuwendungsbescheid des Landkreises Cuxhaven (Entwurf)
- Zuwendungsbescheid des Landkreises Aurich (Entwurf)

**Budget:** DEM 36 750 (approximately ECU 18 890,9)

**Aid intensity:** According to the scales and rates set out in Annex IV to Council Regulation (EC) No 3699/93

**Duration:** 1998