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(1) Text with EEA relevance

I

(Information)

COMMISSION

Ecu ([1])

4 June 1998

(98/C 171/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,6249	Finnish markka	5,98519
Danish krone	7,50123	Swedish krona	8,63144
German mark	1,96945	Pound sterling	0,675785
Greek drachma	334,906	United States dollar	1,11187
Spanish peseta	167,247	Canadian dollar	1,61866
French franc	6,60417	Japanese yen	153,827
Irish pound	0,780697	Swiss franc	1,63945
Italian lira	1940,05	Norwegian krone	8,29454
Dutch guilder	2,21985	Icelandic krona	78,7982
Austrian schilling	13,8583	Australian dollar	1,82124
Portuguese escudo	201,693	New Zealand dollar	2,12391
		South African rand	5,69221

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 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).

Notification of standard distribution agreements

(Case No IV/37.067 — Belgacom)

(98/C 171/02)

(Text with EEA relevance)

1. On 21 May 1998, the Commission received notification pursuant to Articles 2 and 4 of Council Regulation No 17 [1] of standard distribution agreements which Belgacom, the Belgian incumbent telecommunications operator, intends to use for the distribution of telephone services and equipment in Belgium.

2. The notified standard agency agreements contain a non-compete clause, while agents which are also resellers of equipment, are bound by a non-compete as well as an exclusive purchasing obligation. The notified agreements apply for a term of three years with the possibility of a maximum prolongation of two years.

3. On preliminary examination, the Commission finds that the notified agreements could fall within the scope of Regulation No 17.

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

5. Observations must reach the Commission not later than 20 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 70 81) or by post, under reference IV/37.067 — Belgacom, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
Directorate C,
Office 3/100,
Avenue de Cortenberg/Kortenberglaan 150,
B-1040 Brussels.

E-mail: Laurence.de-Wit@dg4.cec.be
Internet DG IV: http://europa.eu.int/en/comm/dg04/dg4home.htm

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[1] OJ 13, 21.2.1962, p. 204/62.

Prior notification of a concentration

(Case No IV/M.1165 — Lufthansa/Menzies/LCC)

(98/C 171/03)

(Text with EEA relevance)

1. On 27 May 1998, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 [1], as last amended by Regulation (EC) No 1310/97 [2], by which the undertakings Lufthansa Airport and Ground Services GmbH, controlled by Deutsche Lufthansa AG, and Menzies Transport Services Ltd, controlled by John Menzies plc, acquire, within the meaning of Article 3(1)(b) of the Regulation, joint control of the The London Cargo Center Ltd, by way of purchase of shares and assets.

2. The business activities of the undertakings concerned are:

— Lufthansa Airport and Ground Services GmbH: passenger and aircraft handling services,

— Menzies Transport Services Ltd: freight forwarding, landside and airside air cargo trucking,

— The London Cargo Center Ltd: cargo handling in the three London airports Heathrow, Gatwick and Stansted (London Airport System).

3. On 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.

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 or 296 72 44) or by post, under reference IV/M.1165 — Lufthansa/Menzies/LCC, 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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[1] OJ L 395, 30.12.1989, p. 1; Corrigendum: OJ L 257, 21.9.1990, p. 13.
[2] OJ L 180, 9.7.1997, p. 1; Corrigendum: OJ L 40, 13.2.1998, p. 17.

STATE AID

GERMANY

(98/C 171/04)

(Text with EEA relevance)

(Articles 92 to 94 of the Treaty establishing the European Community)

Commission notice pursuant to Article 93(2) of the EC Treaty to other Member States and interested parties regarding Germany's refusal to accept the introduction of the multisectoral framework on regional aid for large investment projects

By the letter reproduced below, the Commission informed the German Government of its decision to open the procedure provided for pursuant to Article 93(2) of the EC Treaty.

'Over a period of several years, the Commission worked on the formulation of new rules to apply to the control of regional aid to large investment projects. The Commission's intention to consider the adoption of a horizontal approach to State aid control to such projects was first signalled in its Communication to the Council, the Parliament, the Economic & Social Committee and the Committee of the Regions called "An industrial competitiveness policy for the European Union" [1]. Subsequently, the Council Resolution of 23 November 1994 on the strengthening of the competitiveness of Community industry explicitly referred to the need for consideration of a horizontal approach.

Periodic discussions on the provisions of a new framework took place between the Commission and Member States. As a result of these discussions, the Commission tabled revised draft rules entitled "The multisectoral framework on the control of regional aid to large investment projects" on the occasion of the multilateral meeting of Member States' State aid experts held in Brussels on 15 January 1997. Following that meeting, at which a large majority of Member States responded positively to the Commission's revised proposal, the Commission consulted Member States on the technical details of the proposal by letter dated 25 February 1997 and had a number of bilateral discussions with Member States, including Germany. The introduction of the multisectoral framework also constituted a specific priority under the Commission's action plan for the single market which the European Council welcomed at its meeting on 16 and 17 June held in Amsterdam.

By letter dated 5 March 1998, the Commission informed all Member States of its decision adopted on 16 December 1997 to propose the introduction of a new Community State aid framework in the area of regional aid to large investment projects in the form of an appropriate measure within the meaning of Article 93(1) of the EC Treaty. The Commission invited Member States to signify their consent within 20 working days to the introduction of the multisectoral framework in so far as it related to the notification procedure. The letter stated that if any Member State did not signify its agreement within that time period the Commission would, if necessary, immediately open proceedings under Article 93(2) of the EC Treaty with regard to all schemes in operation in the Member State concerned under which aid coming within the scope of the new measures might be provided.

Under the framework Member States are required to notify pursuant to Article 93(3) of the EC Treaty any proposal to award regional investment aid [2] within the scope of an approved scheme [3], where either of the following two criteria are met:

(i) a total project cost of at least ECU 50 million [4], **plus** a cumulated aid intensity [5] expressed as a percentage of the eligible investment costs of at least 50 % of the regional aid ceiling for large companies in the area concerned **plus** aid per job created or safeguarded amounting to at least ECU 40 000 [6] or

(ii) at least ECU 50 million total aid.

[1] COM(94) 319 final.

[2] Regional investment aid awarded solely for the creation of jobs as described in the Community regional aid guidelines is not covered by this framework.

[3] The notification requirement also applies of course to proposals to award *ad hoc* aid.

[4] ECU 15 million in the case of projects carried out in the textile and clothing sector.

[5] Including any co-financing from the Structural Funds.

[6] ECU 30 000 in the case of projects carried out in the textile and clothing sector.

14 Member States have communicated their written agreement with regard to the introduction of the multisectoral framework. By letter dated 31 March 1998, the Government informed the Commission that it did not agree with its introduction. The arguments put forward in that letter are detailed and evaluated below.

1. In general terms, the Government states that it still supports the Commission's objective of replacing sector-specific rules by a horizontal approach. It has a number of serious objections however to the formulation of the multisectoral framework which it previously expounded to the Commission but which the latter has not taken up.

The Commission notes that it made considerable efforts during the course of 1997 to take account of Germany's reservations on the draft text of the framework, despite the fact that Germany failed to reply in writing to the Commission's letter dated 25 February 1997 in which all Member States were invited to comment on specific elements of the text. Several subsequent bilateral discussions between the Commission and the authorities took place as a result of which the Commission made certain modifications to the draft text. These bilateral exchanges included a meeting held on 15 July 1997, following which there were exchanges of correspondence (Commission letters dated 28 July 1997 and 15 December 1997 and a letter from the authorities to the Commission dated 24 November 1997).

During these bilateral and multilateral discussions, and in recognition of the compromises that most if not all Member States had to make in order to arrive at a consensus, the Commission made clear that the multisectoral framework would be introduced on a trial basis only for three years and that before the end of that period the Commission would carry out a thorough review of the utility and scope of the framework, which would, *inter alia*, consider the question of whether it should be renewed, revised or abolished.

2. The authorities state that the three assessment factors and the calculation formula linked to them could lead in individual cases to the Commission decision not being predictable and investors not having the necessary legal certainty.

The Commission considers on the contrary that the multisectoral framework should offer a sufficient degree of predictability via the application of three clearly defined quantifiable assessment criteria. Since the prospective aid beneficiaries know their sectors and sub-sectors intimately and their relative position within them, the Commission is confident that they should generally be able to predict with reasonable accuracy the likely results of the Commission's application of the competition assessment factor. With regard to the number of direct and indirect jobs created by a project, which is relevant to the applicaton of the second and third assessment criteria (the capital-labour factor and the regional impact factor), the Commission accepts that it will only be possible to verify the accuracy of the figures submitted at the time of the notification by means of *ex-post* monitoring. This will make allowance for the outcome of the assumptions made at the time of the notification which subsequently may prove to be unrealistic. Aid beneficiaries will be aware at the time of notification of the possible consequences of this monitoring. It should however also be noted that, since the factors are based on a range of values, there will, in practice, be a certain margin within which the actual number of jobs created can vary from that notified and still not result in any reduction in the allowable aid level at the *ex-post* monitoring stage.

The Commission therefore considers that the degree of predictability and legal certainty offered by the multisectoral framework is sufficient. It should be borne in mind at the same time that the margin of appreciation available to the Commission for the application of Article 93(3) of the EC Treaty has been confirmed by the Court of Justice ([7]).

3. The authorities state that the three assessment factors proposed by the Commission in examining individual cases would lead to Commission interference in assessing the merits of supporting a particular aid proposal, especially since the Commission reserves the right to request details concerning the viability of a project. The authorities wonder whether this type of assessment is necessary for State aid control and whether it respects the division of competences between the European Commission and Member States.

The Commission reiterates, as stated in paragraph 1.5 of the framework, that it has no intention of

([7]) See case C-225/91 Matra v. Commission for example.

seeking unnecessarily to interfere 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 EC 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 elsewhere in the EEA, and to examine more critically the planned levels of aid for those projects which do not have a significant impact on the region concerned in terms of employment, directly or indirectly, which is an important objective of regional policy. By helping to restore a balance with regard to aid which supports the creation of jobs, the framework is fully consistent with the conclusions of the Luxembourg Summit on Jobs held on 20 and 21 November 1997. Member States will continue to be able to decide freely on the aid intensity in the vast majority of cases, within the terms of the approved regional aid schemes. The Commission considers that it is vital for the effective functioning of the single market to maintain strict control on State aid to such projects. The fifth State aid survey for the years 1992 to 1994 ([8]), which showed no diminution in the overall levels of aid, underlined the necessity for concrete action.

As regards the assessment of the potential viability of a project, the Commission stresses that it has no intention of assuming the responsibility of investigating this aspect. On the contrary, the text of the framework explicitly states in paragraph 3.1 that "the question of the viability of an individual project will be for Member States themselves to determine". While the Commission would not usually expect to need to request data from Member States on this point, it nevertheless considers that there may be certain circumstances in which such information, which should be readily available, could facilitate its analysis of a case.

4. The authorities argue that as a result of the possible reduction in the permissible aid intensity by up to 85 % of the regional aid ceiling there would no longer be a sufficient incentive to attract firms to invest in assisted regions and that aid would simply be given to those firms which would have invested in them irrespective of the possibility of aid. The framework could therefore lead not simply to a reduction in aid but actually prevent the granting of incentives to large projects in structually weak regions. The authorities state that in view of the support which such regions deserve, such an approach would not be justified, since a minimum investment incentive is indispensable.

The Commission notes firstly that the authorities do not state the level at which the minimum incentive level should be set. The Commission stresses that the framework is not concerned with banning aid to the projects coming within the scope of control of the framework but avoiding excessive levels of aid in a small minority of regional aid cases. It should be recalled that the application of the framework does not *a priori* mean the reduction in the permissible aid intensity below the regional aid ceiling in all, or even in most cases. Even in those cases where the Commission may foresee a reduction in the proposed aid intensity below the regional aid ceiling as a result of the application of either or both of the first two assessment factors, namely the capital-labour ratio factor and the competition factor, a "bonus" would be possible under the third regional impact factor, the effect of which would be at least, in part, to restore the cuts made under the first two factors. Finally, the hypothetical example quoted by the authorities of a cut of 85 % in the permissible aid intensity is an extreme one. It would involve a project in which the amount of proposed capital invested per job created would be at least ECU 1 million, in which the aided project would result in a capacity expansion in a sector facing serious structural overcapacity and/or an absolute decline in demand and one which created few indirect jobs in the assisted regions concerned in relation to the direct jobs created. Even in such circumstances, the permissible amount of aid in absolute terms would probably be substantial given the size of the projects covered by the framework.

5. The authorities state that the application of the capital-labour factor could lead to a reduction of up to 60 % of the original amount and thereby discriminate against capital-intensive investments in favour of labour-intensive investments and contribute to the preservation of labour-intensive economic structures which are not sufficiently competitive. The result would be to hamper the competitiveness of European enterprises.

([8]) COM(97) 170 final, 16.4.1997.

The Commission rejects this argument. Since regional aid is usually granted in the form of capital subsidies, there is an apparent tendency for such aid measures to encourage 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 significant job creation in less favoured regions which is an important objective of regional policy. The application of the capital-labour factor will only affect those projects, on the basis of a sliding scale, where the level of proposed aid per job created or safeguarded is very high (above ECU 200 000). As for the hypothetical case cited by the authorities, a reduction of 40 % below the regional ceiling would only affect projects where the aid per job created or safeguarded is at least ECU 1 million. Moreover, as mentioned above, any reduction made under the capital-labour ratio factor could be mitigated or offset by the application of the regional impact factor, i.e. where the forecast indirect jobs created would be significant in relation to direct jobs. The framework leaves to the entrepreneur all decisions concerning the appropriate structure and staffing of his investment. It does not seek to preserve insufficiently competitive operations which the authorities consider, without evidence, to be the case.

6. The authorities maintain that the formulation of the competition assessment factor does not take account of the problem of the "relevant market" and that it does not differentiate between the general market situation and the special development of particular market segments (market niches). This gives rise to doubts about the required predictability and the material correctness of the Commission decision. Even investment projects, which contain innovative elements and would secure the longer-term competitiveness of the enterprise and thereby the location (*Standort*) of Europe, would have to reckon with a large reduction in the aid intensity in case of doubts about a capacity expansion or a declining market.

The Commission cannot accept these arguments. Firstly, the prime consideration in the competition assessment factor is not the "relevant market" but the relevant sector or sub-sector. This is in line with the constant Commission practice of focusing in State aid cases (as distinct from other areas of competition policy) on the recipient of the aid and on the industry in which those firms operate rather than the identification of competitive constraints faced by the products of the aid recipient. This practice is confirmed in the Commission notice on the definition of the relevant market for the purposes of Community competition law (9) (footnote 1). As regards the sector to be taken into consideration, the framework makes clear (in the section on definitions) that this will be established at the lowest available segmentation of the NACE classification.

The framework states in the section on definitions that the relevant product market for determining market share comprises the products envisaged by the investment project and, where appropriate, their substitutes considered by the consumer or by the producer. The relevant geographic market usually comprises the EEA or, alternatively, any significant part of it.

As regards the assessment of projects undertaken by companies possessing more than 40 % market share for the producer(s) concerned, the framework expressly states in paragraph 3.6 that there could be exceptions to the general rule of imposing a reduction in the permissible aid intensity, "for example where the company creates, through genuine innovation, a new product market".

As to whether or not a declining market exists, the framework also states in the section on definitions that this will be assessed on the basis of the average annual growth rate of apparent consumption of the product(s) over the previous five years in relation to the annual average of the EEA manufacturing industry as a whole. A declining market would not be deemed to exist where there was a strong upward trend in the relative growth rate of demand for the product(s).

7. The authorities assert that the application of the regional impact factor may conflict with the operation of free competition in the Community, since an investor will seek suppliers/purchasers where it makes commercial sense for it to do so. If the investing firm were to make its suppliers/purchasers dependent on

(9) OJ C 372, 9.12.1997, p. 5.

the extent of the aid available, this would lead to an overall misallocation of resources. The authorities also have doubts about how a company can state *ex-ante* what suppliers/customers it will deal with and the number of jobs a project will create. An investment project is not a static operation but has to react to changing market circumstances. Finally, the promotion of regional development by means of encouraging export-oriented companies to locate in an assisted region by means of aid measures, would be counteracted by this assessment factor.

In the Commission's view job creation can be used as an indicator of a project's contribution to the development of a region. As mentioned above, this approach is fully consistent with the conclusions of the Luxembourg Summit on Jobs held on 20 and 21 November 1997 which stated that "the European Council believes that it is important to focus on aid arrangements which favour economic efficiency and employment without causing distortions of competition". It accepts that it will not necessarily be possible to state *ex-ante* the precise effects of a project in terms of direct and indirect job creation. It is mainly for this reason that the framework contains specific *ex-post* monitoring provisions in order to assess implementation of the project against the estimates made at the time of notification of the project.

The Commission agrees that companies will of course seek suppliers/purchasers where it makes commercial sense for them to do so. The framework is not intended to nor does the Commission believe it will influence companies in this regard. It should also be stressed that no reductions in aid will be made under this assessment factor (unlike potentially under the other two factors) because its minimum value is equal to 1. This prevents the factor from having a counteracting effect on policies encouraging export-oriented companies to locate in an assisted region. On the other hand, the Commission believes it is reasonable to offer a bonus to those projects which generate a relatively high number of indirect jobs in the assisted regions concerned.

8. The authorities express doubts that the Commission will adhere to the two months' time limit for initial investigations and to the four months' time limit for the Article 93(2) procedure. Even a time period of six months could act as a deterrent to an investor since it will not be in a position to calculate the likely permissible aid level. In addition, the information requirements imposed by the framework would lead to a considerable bureaucratic burden.

The Commission has previously stated to the authorities that it shares their concern that the application of the framework should not act as a deterrent to large investments. It is for that very reason that the Commission undertakes in good faith to meet the strict targets for the assessment of notified cases falling within the scope of this framework, namely two months in the case of the initial assessment and an additional four months where the Commission may be obliged to open Article 93(2) proceedings. These time limits will pose a considerable challenge for the Commission, which it is determined to meet. In order to further meet the concerns of the authorities, the framework states that the Commission will send any request for missing information in respect of incomplete notifications to the Member State within 10 working days.

On the question of the bureaucratic burden involved, the Commission reiterates that this framework is intended, through setting the notification thresholds at a high level, only to capture a small number of projects each year which, by virtue of their size, pose particular concerns from the point of view of distortion of competition. This is fully in line with the Commission's policy, shared by Member States, of concentrating resources on the most important cases. In order to limit the scope for misunderstanding about the information required by the Commission and speed up the decision-making process, the framework contains a detailed standard notification form as an annex.

Conclusion

The authorities conclude in their letter dated 31 March 1998 that they cannot accept the new framework.

The notification requirement in the multisectoral framework is an appropriate measure in the sense of Article 93(1) of the EC Treaty. In the light of the reasons detailed above, the Commission considers that

there is no justification for the Commission to modify the appropriate measure proposed to Member States by letter dated 5 March 1998.

14 Member States have accepted unconditionally the notification requirement contained in the multisectoral framework. Thus Germany is the only Member State not to have approved it. Consequently, in order to apply the framework and ensure an equality of treatment in the whole of the Community, the Commission needs to open the Article 93(2) procedure with regard to all the aid schemes in Germany under which aid could be awarded covered by the notification requirement of the multi-sectoral framework on regional aid for large investment projects. These include all approved aid schemes under which aid can be awarded at a level which meets either of the two notification thresholds plus any aid scheme under which aid can be cumulated with aid from another aid scheme to reach the same level: notably the principle German regional aid scheme, the programme for the improvement of regional economic structures *(26. Rahmenplan der Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsstruktur* ([10])) and the fiscal aid scheme the *Investitionszulagengesetz* ([11]).

([10]) Case N 123/97.
([11]) Case N 494/A/95.

In the context of this procedure, the Commission hereby gives the German Government the opportunity to present, within two weeks of receipt of this letter, any observations and supplementary information required for the Commission assessment.

The Commission hereby informs the German Government that it will publish this letter as a notice in the *Official Journal of the European Communities*, giving other Member States and interested parties notice to submit comments, and in the EEA supplement to the Official Journal, giving interested parties in the EFTA States similar notice to submit comments.'

The Commission invites the Member States and other interested parties to submit their comments on the aid measures in question within a period of two weeks following the date of publication, to the following address:

European Commission,
Directorate-General for Competition (DG IV),
State Aid Directorate,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels,
Fax (32-2) 296 95 79.

These comments will be communicated to the German Government.

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Decision relating to the conclusion of an agreement between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe

(98/C 171/05)

COM(1998) 255 final — 98/0143(CNS)

(Submitted by the Commission on 5 May 1998)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, and in particular Article 7(3) thereof, in conjunction with Article 228(2), first sentence, and (3), first subparagraph, of the EC Treaty,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the agreement between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe, must be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The agreement between the European Community and the Council of Europe provided for by Article 7(3) of Regulation (EC) No 1035/97 establishing a European Monitoring Centre on Racism and Xenophobia is approved on behalf of the European Community.

The text of the agreement is annexed to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the agreement in order to bind the Community.

DRAFT AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE COUNCIL OF EUROPE FOR THE PURPOSE OF ESTABLISHING, IN ACCORDANCE WITH ARTICLE 7(3) OF COUNCIL REGULATION (EC) No 1035/97 OF 2 JUNE 1997 ESTABLISHING A EUROPEAN MONITORING CENTRE ON RACISM AND XENOPHOBIA, CLOSE COOPERATION BETWEEN THE CENTRE AND THE COUNCIL OF EUROPE

THE EUROPEAN COMMUNITY AND THE COUNCIL OF EUROPE,

Whereas the Council of the European Union adopted, on 2 June 1997, Regulation (EC) No 1035/97 establishing a European Monitoring Centre on Racism and Xenophobia (the Centre);

Whereas the objective of the Centre is to provide the Community and its Member States with objective, reliable and comparable data at European level on the phenomena of racism, xenophobia and anti-Semitism;

Whereas the Council of Europe already has considerable experience in this field;

Whereas, in pursuing its activities, the Centre must take account of activities already carried out by the Council of Europe and must thereby provide added value; whereas close links should now be established with the Council of Europe, and in particular the European Commission against Racism and Intolerance (ECRI);

Whereas the Centre must, pursuant to Regulation (EC) No 1035/97, coordinate its activities with those of the Council of Europe, particularly with regard to its programme of activities;

Whereas it is for the Council of Europe to appoint one independent person as a member of the Centre's Management Board;

HAVE AGREED AS FOLLOWS:

I. **Exchange of information and data**

1. Regular contacts shall be established at the appropriate level between the Director of the European Monitoring Centre on Racism and Xenophobia (hereinafter referred to as 'the Centre') and the General Secretariat of the Council of Europe, in particular, the Secretariat of the European Commission against Racism and Intolerance (hereinafter referred to as 'the ECRI').

2. The Centre and the ECRI shall provide each other with information and data collected in the course of their activities. This does not extend to confidential data and activities produced or undertaken by the two bodies.

3. Information and data provided to each other may be used by the Centre and the ECRI in the course of their respective activities.

4. The Centre and the ECRI shall ensure, through their networks, the widest possible dissemination of the results of their respective activities on a reciprocal basis.

5. The Centre and the ECRI shall ensure regular exchanges of information concerning activities proposed, underway or completed.

II. **Cooperation**

6. Regular consultations shall be held between the Centre and the ECRI, to coordinate their activities and in particular to draw up the Centre's work programme. The purpose of the consultations shall be to ensure that the programmes of the two bodies complement each other and to avoid, insofar as possible, unnecessary duplication.

7. Further, on the basis of such consultation, it may be agreed that the Centre and the ECRI should conduct joint and/or complementary activities on subjects of common interest. The aim of such cooperation would be to optimise total resources available, notably as regards scientific research projects.

III. **Appointment by the Council of Europe of a prominent figure to serve on the Centre's Management Board**

8. The Secretary General of the Council of Europe shall appoint an independent person from among the Members of the ECRI to serve on the Centre's Management Board, together with a deputy.

   This question shall be dealt with in the context of the regular contacts between the European Commission and the Secretary General of the Council of Europe.

Amended proposal for a European Parliament and Council Regulation (EC) amending Council Regulation (EEC) No 3330/91 on the statistics relating to the trading of goods between Member States (Intrastat) [1]

(98/C 171/06)

(Text with EEA relevance)

COM(1998) 270 final — 97/0155(COD)

(Submitted by the Commission pursuant to Article 189a(2) of the EC Treaty on 27 April 1998)

[1] OJ C 203, 3.7.1997, p. 10.

ORIGINAL TEXT	AMENDED TEXT
(Amendment 1)	
Recital 6	
Whereas optional data should be abolished in order to limit the burden on providers of statistical information and to guarantee equal treatment of these; whereas the reporting of the country of origin is nevertheless of particular benefit to numerous users and should therefore be retained;	Whereas the mode of transport, the terms of delivery as well as optional data should be abolished for enterprises with limited trade, in order to limit the burden on providers of statistical information, particularly small and medium-sized enterprises; whereas the collection of such information from other enterprises should be limited according to national requirements;
(Amendment 2)	
Article 1(4)	
Article 23(2) (Regulation (EEC) 3330/91)	
2. Member States may not require the statistical data medium to mention data other than those provided for in paragraph 1, with the exception of the following:	2. In order to limit the number of small and medium-sized enterprises which are required to provide detailed statistical data the Commission shall determine, pursuant to Article 30 of this Regulation, a threshold below which the Member States may not require the statistical data medium to mention data other than those provided for in paragraph 1. The threshold shall be set at the highest level at which the compatibility of the information collected in the Member States can be guaranteed. To that end, the Commission may set different values for different Member States.

ORIGINAL TEXT	AMENDED TEXT
	Apart from the data provided for in paragraph 1, Member States may, solely in respect of providers of statistical information with dispatches or arrivals of an annual value in excess of the above threshold, require the statistical data medium to mention the following data:
(a) in the Member State of arrival, the country of origin;	(a) in the Member State of arrival, the country of origin;
(b) the terms of delivery until 31 December 1999.	(b) the terms of delivery until 31 December 1999;
	(c) in the Member State of dispatch, the region of origin and in the Member State of arrival, the region of destination.

III

(Notices)

COUNCIL

COMMISSION

EUROPEAN PARLIAMENT

Notice concerning the organisation of open competitions

(98/C 171/07)

The General Secretariat of the Council, the European Commission and the European Parliament are organising the following open competition:

EUR/C/140: English-speaking secretaries (m/f) [1]

The deadline for submitting applications is **17 July 1998**.

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[1] OJ C 171 A, 5.6.1998 (English edition).

COMMISSION

Media II — Development and distribution (1996 to 2000)

Implementation of a programme encouraging the development and distribution of European audiovisual works

Call for proposals 7/98

Support for the development of multimedia projects

(98/C 171/08)

(Text with EEA relevance)

1. **Introduction**

This call for proposals is based on Council Decision 95/563/EC on the implementation of a programme encouraging the development and distribution of European audiovisual works (Media II — Development and distribution 1996 to 2000), published in the *Official Journal of the European Communities* L 321 of 30 December 1995, page 5.

The measures covered by the Decision include promoting the development of production projects aimed in particular at the European market.

2. **Purpose**

This notice is intended for European companies producing multimedia projects whose activities contribute to the attainment of the above objectives. It explains how to obtain the necessary documents in order to apply for financial support from the Community for their proposal.

The Commission department responsible for administering this call for posposals is the Unit for 'Measures to develop the audiovisual industry' in Directorate-General X Information, Communication, Culture and Audiovisual Media.

European companies wishing to respond to this call for proposals and receive the document, Guidelines for the submission of proposals to obtain financial support, should send their request by post or fax to:

European Commission, Mr Jacques Delmoly, Head of Unit, DG X/C/2, L 102 7/923, Rue de la Loi/Wetstraat 200, B-1049 Brussels, fax (32-2) 299 92 14.

The Commission promises to send the above document within two days of receiving the request.

The closing date for the dispatch of proposals to the aforementioned address is **4 September 1998.**