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I

(Information)

COMMISSION

Ecu ([1])

10 June 1998

(98/C 179/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,6300	Finnish markka	5,98641
Danish krone	7,50207	Swedish krona	8,74661
German mark	1,96952	Pound sterling	0,675455
Greek drachma	334,327	United States dollar	1,10430
Spanish peseta	167,169	Canadian dollar	1,61537
French franc	6,60482	Japanese yen	155,463
Irish pound	0,781584	Swiss franc	1,62774
Italian lira	1940,71	Norwegian krone	8,32919
Dutch guilder	2,22009	Icelandic krona	78,6262
Austrian schilling	13,8590	Australian dollar	1,87710
Portuguese escudo	201,590	New Zealand dollar	2,21925
		South African rand	5,74623

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).

Average prices and representative prices for table wines at the various marketing centres

(98/C 179/02)

(Established on 9 June 1998 for the application of Article 30(1) of Regulation (EEC) No 822/87)

Type of wine and the various marketing centres	ECU per % vol/hl	% of GP °	Type of wine and the various marketing centres	ECU per % vol/hl	% of GP °
R I Guide price *	3,828		*A I Guide price* *	3,828	
Heraklion	No quotation		Athens	No quotation	
Patras	No quotation		Heraklion	No quotation	
Requena	No quotation (1)		Patras	No quotation	
Reus	No quotation		Alcázar de San Juan	2,247	59 %
Villafranca del Bierzo	No quotation (1)		Almendralejo	No quotation (1)	
Bastia	No quotation		Medina del Campo	No quotation (1)	
Béziers	3,943	103 %	Ribadavia	No quotation	
Montpellier	3,970	104 %	Villafranca del Penedés	No quotation	
Narbonne	4,037	105 %	Villar del Arzobispo	No quotation (1)	
Nîmes	4,007	105 %	Villarrobledo	No quotation (1)	
Perpignan	3,832	100 %	Bordeaux	No quotation	
Asti	No quotation		Nantes	No quotation	
Florence	No quotation		Bari	No quotation	
Lecce	No quotation		Cagliari	No quotation	
Pescara	No quotation		Chieti	No quotation	
Reggio Emilia	4,686	122 %	Ravenna (Lugo, Faenze)	2,786	73 %
Treviso	3,8	99 %	Trapani (Alcamo)	No quotation	
Verona (for local wines)	4,813	126 %	Treviso	3,546	93 %
Representative price	4,082	107 %	Representative price	2,822	74 %
R II Guide price *	3,828				
Heraklion	No quotation				
Patras	No quotation				
Calatayud	No quotation				
Falset	No quotation				
Jumilla	3,535	92 %			
Navalcarnero	3,564	93 %			
Requena	No quotation			ECU/hl	
Toro	No quotation				
Villena	No quotation (1)		*A II Guide price* *	82,810	
Bastia	No quotation		Rheinpfalz (Oberhaardt)	34,020	41 %
Brignoles	No quotation		Rheinhessen (Hügelland)	No quotation	
Bari	No quotation		The wine-growing region of the Luxembourg Moselle	No quotation	
Barletta	No quotation		Representative price	64,020	77 %
Cagliari	No quotation				
Lecce	No quotation				
Taranto	No quotation		*A III Guide price* *	94,570	
Representative price	3,549	93 %	Mosel-Rheingau	No quotation	
	ECU/hl		The wine-growing region of the Luxembourg Moselle	No quotation	
R III Guide price *	62,150		Representative price	No quotation	
Rheinpfalz-Rheinhessen (Hügelland)	No quotation				

(1) Quotation not taken into account in accordance with Article 10 of Regulation (EEC) No 2682/77.
* Applicable from 1.2.1995.
° GP = Guide price.

NOTICE PURSUANT TO ARTICLE 12(2) OF COUNCIL REGULATION (EEC) No 1017/68 CONCERNING CASE IV/36.215

Joint venture agreement concerning the operation of an inland transport service for intermodal freight

(98/C 179/03)

(Text with EEA relevance)

I. The application

1. On 27 September 1996, the Commission received an application pursuant to Article 12(1) of Council Regulation (EEC) No 1017/68 whereby the parties referred to below ('the Parties') seek an exemption pursuant [1] to Article 85(3) of the EC Treaty in respect of an agreement creating a joint venture (the 'Agreement') for the operation of an intermodal inland transport service for the carriage of freight. Following discussions with the Commission, the Parties informed the Commission on 25 August 1997 that they will be satisfied with an exemption of an initial duration of three years, the period provided by Article 12(3) of Regulation (EEC) No 1017/68.

II. The Parties

2. The Parties to the Agreement are the following:

CSX Europe Inc. ('CSX'), a wholly owned subsidiary of CSX Corporation. CSX Corporation is the United States parent company of a group with principal businesses in rail freight operations, ocean container shipping, intermodal carriage, distribution and related services. The group includes the wholly owned CSX Intermodal, a large intermodal transport operator active on the United States market, with advanced know-how in the field of rail and intermodal transport. Sea-Land Services Inc., another 100 % subsidiary is active in maritime container transport to European ports.

Deutsche Bahn AG ('DB'), the parent company of the DB group of companies, the German national railways. DB is active in the field of freight transport through a number of subsidiaries. However, the only subsidiary which provides as operator container transport services is the wholly owned Transfracht. The predominant part of DB's turnover in freight transport is attributable to national conventional freight transport, i.e. transport within Germany where closed units such as maritime containers, trailer and swap bodies are not used.

DB previously owned 20,5 % of Kombiverkehr GmbH. This share has been reduced to 0,87 %. Kombiverkehr is engaged in the purchase and resale of rail haulage and the loading/unloading at terminals. It does not provide any services beyond the railway terminals.

NS Cargo NV ('NS Cargo'), a subsidiary of NV, Nederlandse Spoorwegen ('NS'), the Dutch national railways, which regroups the freight transport activities of NS.

III. The Agreement

a) *General*

3. The Agreement was concluded by the Parties on 9 September 1996 and will be valid for an indefinite period of time. The joint venture is established in the form of a closed limited liability company under Dutch law, with its corporate seat in Amsterdam and with its operational head office in the surroundings of Rotterdam. The company was named 'NDX Intermodal BV' ('NDX').

4. The aim of the Agreement is to establish a joint venture in which the Parties will contribute their know-how on freight transport so as to develop and operate a high-quality and cost-competitive door-to-door cross-border transport service.

b) *Corporate governance*

5. DB will hold 50 % of the NDX shares and CSX and NS Cargo 25 % each. NDX will be jointly controlled by CSX, DB and NS Cargo.

6. NDX will be managed and administered by a managing director under the supervision of a supervisory board. The managing director, currently a former staff member of CSX, is appointed by

[1] OJ L 175, 23.7.1968, p. 1.

unanimous vote at the shareholders' meeting. The supervisory board will consist of six members, of whom each shareholder will nominate two, and will decide by simple majority of the votes cast, except for certain categories of decisions, as for instance the approval of the business plan, which require unanimity.

c) *Substance*

7. The purpose of the Agreement is to operate a door-to-door inland transport service for intermodal freight, i.e. for maritime containers and continental freight units. The service will be operated through the use of a combination of rail block trains and shuttle services, with the option for other modes of transport such as trucking. Mostly transport by road will be used for the transport from the shipper to the terminal and for on-transport to the final destination. According to the Agreement, the services offered by the joint venture will include *inter alia*:

— door-to-door services,

— terminal-to-terminal services,

— block and shuttle train services in a network structure,

— support services for depots, storage and repair,

— trucking,

— terminal handling,

— IT support, including tracking and tracing.

8. The services will be marketed and sold directly to cargo owners and ocean carriers. NDX in its turn will purchase transport services principally from railways, but could also purchase from trucking companies and possibly from water transport companies, if necessary.

9. NDX will initially focus on transport between North Sea ports in Belgium, Germany and the Netherlands and key inland destinations, as well as between other destinations within the EC Member States and EFTA States. At present, NDX provides services on Rotterdam—Antwerp, Rotterdam—Munich, Hamburg—Milan and (as of 30 september 1997) Rotterdam—Barcelona. Within the near future, the business will expand into additional geographic areas [2], since NDX intends to establish a 'European network' for inland combined transport, covering destinations throughout Europe. The initial five-year business plan identifies 42 possible routes. Generally, NDX targets routes which now move substantial intermodal container traffic, relatively little of which now moves by train. The NDX network will be centrally managed and controlled and, according to the Parties, it will enable NDX to grant commercial network benefits to customers using different routes.

10. According to the Parties, NDX will operate as an independent transport operator, at arm's length from its parents, which means that NDX will be entitled to compete with its parent companies and *vice versa*, either directly or indirectly through other companies. NDX will be entitled to select its own terminals according to market requirements.

11. The original Agreement notified to the Commission contained a clause according to which NDX gave DB and NS Cargo a chance of first refusal as regards the provision of traction (but only in regard to traction in Germany and the Netherlands and only if supply is offered on non-discriminatory terms as compared with the terms offered by other intermodal rail operators). The chance of first refusal meant that the parent companies would be offered the possibility to make first an offer to supply the traction and might provide it if they offered the best competitive price. NDX would, however, be free to purchase traction wherever it would be economically most advantageous.

The original Agreement does not however provide a chance of first refusal as regards the supply of rail wagons. NDX is thus entirely free to select the rail wagon types it would find fit and to contract them.

After discussions with the Commission concerning the foreclosure effects that such a clause, either as regards the provision of traction or the supply of rail wagons, might cause, through the creation of barriers to entry for potential new entrants on the rail transport market, the Parties agreed to withdraw the chance of first refusal from their Agreement.

[2] The aim of NDX is to operate not only on routes from the North Sea ports to destinations throughout Europe but also on routes which do not touch the home countries of any of the shareholders.

The Parties have however indicated that in their view the chance of first refusal in the current stage of liberalisation of the market does not have practical consequences, and that it merely reflects a normal business relationship between NDX and its parent companies DB and NS Cargo.

12. DB and NS Cargo will be free to continue their participation in competing businesses, such as Transfracht (100 % DB), Trailstar (10 % NS Cargo), Intercontainer (15,15 % DB and 8,4 % NS Cargo) and European Rail Shuttle BV ('ERS') ([3]) (7,6 % NS Cargo and 23,1 % CSX Corporation's subsidiary Sea-Land). According to the Parties, DB will, through its subsidiary Transfracht, compete directly with NDX as a result of its intention to expand its maritime and international continental business ([4]). Some of the abovementioned companies are competing with NDX on the routes on which both NDX and these operators provide services, i.e. Rotterdam—Antwerp, Rotterdam—Munich. As far as rail transport is concerned, the Parties underlined that Kombiverkehr will be in direct competition with NDX on the Hamburg—Milan lane and on many other lanes as the network of NDX develops.

13. The Agreement contains no provisions on sanctions against participating undertakings, such as penalty clauses, exclusions, etc.

IV. **The market**

14. According to the Parties, the relevant service market should be defined as international transport of goods travelling in the same road vehicle, container or swap body, the goods remaining unloaded throughout the operation.

15. The Parties argue that as NDX intends, as shown in its business plan, to become active on routes between a substantial number of destinations throughout Western and Central Europe, the relevant geographical market should be held to extend to this entire geographic area. According to the parties the delimitation of the relevant geographic market may, however, remain open, since in the near future the market share of NDX will be insignificant anyway.

V. **Exemption pursuant to Article 5 of Regulation (EEC) No 1017/68**

16. The Parties consider that the Agreement does not contravene the provisions of Article 85(1) of the EC Treaty and that, in any case, the Agreement meets the exemption criteria laid down in Article 5 of Regulation (EEC) No 1017/68, for the following reasons.

a) *Contribution to an improvement in the provision or distribution of services or the promotion to technical or economic progress*

17. The creation of NDX will according to the Parties contribute to improving the quality of transport services, to increasing the productivity of undertakings and to furthering technical and economic progress, as follows.

(i) The Agreement aims at improving the flexibility, reliability and speed of the transport services within the European Community, while maintaining a reasonable price.

(ii) The Agreement will enable the Parties to meet the demand from customers for transport operators offering a European-wide network and which can provide a one-stop-shop for inland multimodal transport through this network more rapidly than would have been the case if the Parties acted independently.

(iii) The Agreement involves a pooling of the complementary know-how and market presence of CSX, DB and NS Cargo ([5]). It will enable NDX to offer advanced services such as tracking and tracing and door-to-door

([3]) It is specified that the activities of ERS differ significantly from those of NDX in that ERS does not provide door-to-door services and that they are confined to transport to and from the port of Rotterdam. ERS is described as the joint purchasing agency of some ocean carriers which does not constitute a core activity on its own and whose basic role is to satisfy the in-house demands of its shareholders. On the contrary NDX is an undertaking which is operating combined transport services as its core business and its development depends on the development of the demand NDX may be able to generate in the market and not on the own transport needs of its shareholders.

([4]) For the moment, Transfracht Neu does not however operate on any lane served by NDX and has specified to the Commission that it tends to focus its activities on lanes which are not yet served by any other transportation service provider but which are opened to any other provider including NDX.

([5]) NS Cargo contributes commercial and logistics know-how concerning Rotterdam whereas DB has similar know-how concerning the large German ports. CSX, a new market entrant in Europe, has advanced know-how in the field of information technology (IT), marketing and transport logistics which is not yet available on the European market.

transport, services which none of the existing rail operators have so far been able to develop. The provision of such services could be one method to create the right climate to respond to opportunities and improve performance and use of railways, an objective promoted by the Commission.

(iv) The Agreement will allow a more flexible operation of transport services, as NDX will be independent from suppliers.

(v) The Agreement will result in advanced technology in regard to tracking and tracing, benefiting customers directly in regard to superior services, but also indirectly as it allows NDX itself to better allocate and thus save costs.

(b) *Whether the consumers receive a fair share of the benefits resulting from the Agreement*

18. According to the Parties the Agreement takes fair account of the interests of transport users as the creation of NDX reflects the determination of the participating railways to become more customer oriented, and thus to increase the competitiveness of rail transport *vis-à-vis* other transport modes.

(c) *Whether restrictions are imposed on the Parties which are not indispensable to the attainment of the above objectives*

19. The Parties submit that the Agreement does not impose on the Parties any restrictions which are not essential for the attainment of the objectives.

20. The Parties also consider that the Agreement is necessary in order for them to be able to offer a European-wide network, as they on their own would not be able to do this within the coming years.

21. The Parties point out that the Agreement enables the Parties to develop such advanced services as tracking, tracing and door-to-door transport, a product which the participating railways have not been able to develop themselves.

22. Furthermore, the Parties maintain that the participation of NS Cargo and DB is indispensable. In order to be viable, NDX could not introduce its services in a gradual process, since the market is dominated by large, well-established companies that are capable of reducing rates. Therefore NDX needs the complementary know-how, experience and market presence that the two railway undertakings have, in order to introduce from the beginning NDX's service on a widespread basis and to create a significant market presence.

23. They also stress that the participation of both railway companies facilitates the market acceptance of NDX as a free-standing entity and that the presence of NS Cargo provides a guarantee against coordination of competitive behaviour between NDX and Transfracht which ensures that NDX will be perceived as acting totally independently from Transfracht.

(d) *Whether the Agreement affords its parties the possibility of eliminating competition in respect of a substantial part of the transport services provided*

24. The Parties submit that the Agreement does not eliminate competition in respect of a substantial part of the transport market concerned, because:

(i) NDX's share of the relevant market will be only 0,5 % for the first year and after five years not more than an estimated 1 to 1,5 %. On this market, road transport still has a very dominant market share since the overwhelming majority of containers in Europe move by truck.

(ii) NDX will in the future also have to face competition from a considerable and growing number of rail tansport operators in a liberalising market, although of existing operators, the main one is Intercontainer (6), the only one so far to have developed a network which covers all of Western Europe and the main routes already operated by NDX.

(6) The Parties stressed that neither DB nor NS have any form of control over the commercial policy of Intercontainer, a joint venture of a large number of railway undertakings, in which they both have a very minor shareholding and that NDX will be the first real challenge to the position of Intercontainer which so far has been the only operator of a truly pan-European combined transport network.

(iii) The Parties to the Agreement are free to continue with competing activities and to embark on new competing activities.

NOTICE

25. This notice is issued to the procedure established by Article 12 of Regulation (EEC) No 1017/68. The Commission has not at this stage taken any position as to the applicability of Article 85 and in accordance with Article 12(2) of Regulation (EEC) No 1017/68, the Commission invites all interested third parties to submit any comments they may have within 30 days from the date of publication of this notice quoting reference Case IV/36.215 to:

European Commission
Directorate-General for Competition Services
Transport and transport infrastructure
Rue de la Loi/Wetstraat 200
B-1049 Brussels

Fax: (32-2) 296 98 12

X.400: G=Eric; S=VANGINDERACHTER; O=DG4; P=CEC; A=RTT; C=BE
Internet: Eric.Vanginderachter@dg4.cec.be

or

X.400: G=Joaquin; S=FERNANDEZ MARTIN; O=DG4; P=CEC; A=RTT; C=BE
Internet: Joaquin.FernandezMartin@dg4.cec.be

Notification of a joint venture

(Case No IV/F-1/37.018 — Tamrock/Caterpillar)

(98/C 179/04)

(Text with EEA relevance)

1. On 21 April 1998, the Commission received notification pursuant to Article 4 of Council Regulation No 17 [1], of a joint venture formed by Caterpillar Inc. (USA) and Tamrock Corp. (Finland). The joint venture company will design, assemble, manufacture and market hydraulic hammers for Caterpillar excavators and backhoe loaders.

2. On preliminary examination, the Commission finds that the notified joint venture could fall within the scope of Regulation No 17.

3. 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 98 08) or by post, under reference IV/F-1/37.018 to the following address:

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

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

Re-notification of a previously notified concentration

(Case No IV/M.1140 — Halliburton/Dresser)

(98/C 179/05)

(Text with EEA relevance)

1. On 23 April 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 undertaking Halliburton Company acquires within the meaning of Article 3(1)(b) of that Regulation control of the whole of the undertaking Dresser Industries, Inc.

2. This notification did not contain some essential information. The undertakings concerned have now provided the further information required. The notification became complete within the meaning of Article 10(1) of Regulation (EEC) No 4064/89 on 3 June 1998. Accordingly, the notification became effective on 4 June 1998.

3. 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.1140 — Halliburton/Dresser, 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

C 14/98 (ex NN 19/95)

France

(98/C 179/06)

(Text with EEA relevance)

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

Commission notice pursuant to Article 93(2) of the EC Treaty to other Member States and interested parties concerning aid which France has decided to grant to Gooding Consumer Electronics Ltd in connection with the purchase of the former Grundig plant at Creutzwald

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

'Following the publication of various articles in the press, the Commission's attention was drawn to the aid which the authorities plan to grant to the former Grundig plant in Creutzwald recently acquired by Gooding Consumer Electronics Ltd (hereinafter GCE). Accordingly, on 14 April 1994, the Commission asked the authorities to confirm the existence of the measures in question. The reply from the authorities was received on 16 June 1994.

A second request for information was sent to the French Government on 20 July 1994, and replies received on 1 September 1994 and 5 January 1995. As the letter of 5 January confirmed that the aid had been granted without the Commission having expressed its views, the aid was registered as unnotified aid NN 19/95 on 2 February 1995. In addition, in view of the doubts created by the letter in question concerning the destination of the backup aid, the Commission asked for further details by letter dated 3 February 1995. It received the information on 29 March 1995.

On 3 and 25 July 1995, the authorities informed the Commission that the former Grundig plant at Creutzwald (Gooding Electronique SA, hereinafter referred to as Gesa), purchased by GCE, filed for bankruptcy on 22 June 1995. Other data on the position of the firm and the compulsory administration and winding-up proceedings reached the Commission on 11 October 1995, 2 April 1996, 23 December 1996, 28 February 1997, 16 April 1997, 25 June 1997, 22 September 1997 and 20 October 1997.

On 25 June 1997, the authorities also notified the Commission of their plan to grant fresh aid to Cofidur, which took over Gesa's assets. This case is being examined separately by the Commission.

In 1993 Grundig decided to close its television manufacturing plant in Creutzwald. The closure formed part of an overall plan to concentrate manufacturing activities in the largest plant belonging to the group, in Vienna (Austria). The authorities then became involved in the case in order to find a reputable buyer with a plan guaranteeing the viability of the firm and development prospects in the sector.

The approach taken in the recovery plan presented by the British company GCE was two-pronged: restructure the firm and restore its long-term viability. The implementation of the plan began as soon as the plant was acquired on 30 March 1994. The buyer put forward the following guidelines for action: (a) reorient production, (b) reduce output, (c) reduce the workforce and (d) create a distribution and manufacturing network — Original equipment manufacturing (OEM).

(a) Before it was acquired by GCE, the plant specialised in the production of top-range stereo television sets with diagonal-sized screens in the 55 to 70 cm range. This particular market was suffering at the time from excess production in Europe. The proposed takeover plan was to produce quality (mono) television sets with screens in the 37 to 55 cm range, at particularly competitive prices comparable to the prices for bottom-range products from South-East Asia. The prices would, nevertheless, have produced a sufficient margin to ensure the viability of the firm.

(b) In order to rationalise the investment, Gesa was obliged to cut production in relation to capacities at the former Grundig plant which amounted to 578 000 units in 1990 to 1991 and 290 000 in 1993 to 1994. However, in view of market trends, it was possible that production would increase in the next few years.

(c) In the years preceding the closure of the Creutzwald plant, Grundig considerably reduced the firm's number of employees. In 1992, there were 890 workers and 562 in 1993. Of the 562 employees remaining on the day of the takeover, 212 were made redundant by Gesa, provision being made for a social plan. In 1994 there were 350 employees, i.e. a reduction of 38 %.

(d) Gesa proceeded to acquire two other reputable brands, Minerva, which is marketed in Germany, Italy and Austria, and Continental Edison, which is no longer marketed but has a good reputation among consumers. The distribution network structure was to rely on Grundig, for certain countries, and other agents to be determined at the time of the takeover. The network was to cover the entire European Union and Eastern Europe.

In addition, Gesa planned to set up an Original equipment manufacturing (OEM) project, i.e. production for third parties, in this case large distribution networks, which market television sets made by Gesa under their own brand. Contact was made with major European television manufacturers, which planned to subcontract to Gesa the production of their television sets (37 cm), using the latter's chassis but their own design.

Lastly, although it was not mentioned at the time of the takeover, the authorities recently informed the Commission that GCE had undertaken to diversify production at the site by introducing satellite receiver technology.

The transaction was financed on the basis of capital of FRF 80 million provided by the shareholder GCE for the purchase of land, buildings, equipment and other plants, a final instalment of FRF 75 million for the social plans made by Grundig to Gesa and two State aid grants totalling FRF 46 million for R & D and restructuring.

The first aid measure amounted to FRF 10 million granted on the basis of and in compliance with the "electronics industry" scheme approved by the Commission [1]. The assistance provided by the public authorities for the R & D project accounted for almost 25 % of the cost of the project, in accordance with the provisions of the scheme concerning applied research.

In particular, the R & D project was aimed at studying and designing a new, innovatory chassis to reduce production costs by 30 % and improve the production process. However, the authorities indicated in September 1994, i.e. after the site was acquired by GCE, that the project had not been definitively adopted.

The second aid grant amounted to FRF 36 million, of which FRF 24 million was provided by the State and FRF 12 million by the regional authorities. The total aid was intended to provide support for Gesa's restructuring plan. According to the authorities, the aid complied with the criteria laid down by the Commission for monitoring rescue and backup aid (*Eighth competition report*, paragraph 228). The Commission was never informed, however, of the date on which the aid was granted.

After a petition for bankruptcy had been filed on 22 June 1995 following cash-flow difficulties, themselves apparently linked to a difficult economic climate and the difficulties of the holding company GCE Ltd, Gesa was placed under compulsory administration. According to the authorities, it was the banks' fears concerning the possible insolvency of the holding company which led them to cut off Gesa's credit line and hence caused the filing for bankruptcy.

According to the authorities, the Metz Court of First Instance (Tribunal de grande instance) (TGI) acknowledged that, rather than being due to internal causes, the firm's financial difficulties were due to the removal of credit which created a shortfall in the cashflow. Accordingly, it granted Gesa an observation period of six months, renewable several times, in accordance with Law No 85/98 of 25 January 1985 on compulsory administration and winding-up proceedings.

During that period, business is continued by the debtor unless it appears necessary to the Court to appoint a legal administrator, which was done in the case of Gesa. In 1995, the firm increased output by 36 % over 1993 to 1994. New investment was made in order to develop a successor to the television chassis which was in production at the time, and which had allowed production to continue. As the lifetime of a chassis is only two years, further investment in research was necessary.

[1] The Commission decision was communicated to the French authorities by letter of 1 December 1986.

The TGI decided on several occasions to extend the observation period, until it reached the maximum allowed in February 1997. The extensions were granted to allow the company to explore the various possibilities for recovery existing at that time. At the end of the period, the company was declared bankrupt by the TGI. The order was, however, suspended by the Court of Appeal following an application for suspension of enforcement. The suspension was confirmed at the beginning of April 1997 in view of the real prospect of recovery offered by the French group Cofidur.

The TGI allowed Gesa's assets to be transferred to Cofidur. In accordance with the transfer procedure. Cofidur also selected the staff it wished to take over and did not inherit Gesa's liabilities. According to the authorities, a completely new company, with no attachments to the past, was created.

After two difficult years in 1992 and 1993, the Community market and output in the consumer electronics industry started to improve in 1994 and 1995. While Asian firms dominate the consumer electronics sector, especially the camcorder and video recorder markets, Community firms have a firm presence on the colour television and decoder markets. The television sets segment, however, dominates the market for consumer electronics.

Despite the rationalisation of production costs, worldwide competition makes it difficult to achieve large profits, except in the growth niches which do not include television sets, an area which remained stable between 1990 and 1996. In this segment, the proportion of Community households with at least one television is almost 100 %, a large proportion of sales thus consisting of replacement sets or second sets.

The next few years should continue to be difficult despite the recovery of the Community economy as a whole, owing to saturation of the market, fierce price competition and excess capacity in the sector [2]. It is possible, however, that digital and multimedia techniques in the audiovisual sector will give fresh impetus to the industry.

The price variable is a decisive factor in the television segment where major innovations are rare and differences between products and brands tend to disappear. The very large distribution outlets play a relatively important part here, as the growing share of the market held by hypermarkets contributes to the price war. The other distribution circuits are obliged to reduce their prices to avoid being forced out of the market. Thus a self-perpetuating trend is established.

According to a study sent to the Commission by the authorities, the television production sector is composed of four main categories of products classified according to size of screen: the "Tiny" (screens not exceeding 45 cm), the "Medium" (from 46 to 55 cm), the "Large" and the "Super large". European demand accounted for 20,8 million television sets in 1993.

According to the same study, demand is strongest for televisions in the under-45 cm category. This is also the category where non-member country imports are the strongest. This is due to low labour costs in non-member countries and also to the fact that the technical content of the sets in question attracts the lowest rate of customs duties on entry to the EU. Despite a fierce price war being waged in the "Tiny" and "Medium" segments, these essentially remained growth niches in 1993, chiefly as regards the 37,51 and 55 cm sizes.

According to the information in the possession of the Commission, intra-Community trade in colour television sets was worth ECU 3 063 million in 1992, ECU 2 880 million in 1993, ECU 3 082 million in 1994, ECU 4 048 million in 1995 and ECU 4 287 million in 1996. France's share of these totals averaged (i.e. average exports and imports) 18,7 % in 1992, 19,5 % in 1993, falling in 1996 to 15,7 %. France's trade balance with the EU remained in deficit throughout the period 1992 to 1996, with the exception of 1993 where it was slightly in surplus.

GCE was operating on a European market with an estimated output, according to the figures communicated by the authorities, of 16,7 million television sets in 1993. Its market share was approximately 1,74 % at the time.

The Commission very much regrets that the French Government did not notify the restructuring aid of FRF 36 million to allow it to submit its comments in accordance with Article 93(3) of the EC Treaty. By failing to notify the measures, the authorities have not complied with their obligations under the Treaty.

During the preliminary scrutiny, the Commission sought information on the status of the compulsory administration proceedings and the recovery efforts undertaken by the company. On 16 April 1997, however, the authorities informed the Commission that the Metz Court of First Instance (TGI) had wound up Gooding Electronique SA (formerly the Grundig plant, referred to below as Gesa) on 21 February 1997.

(2) *Source: Panorama of EU industry,* 1997: European Commission.

In view of its continued doubts as to the compatibility of the aid to Gesa, the Commission has decided to initiate the abovementioned proceedings for the reasons set out below. Both the grant of FRF 10 million for R & D and the backup grant of FRF 36 million constitute State aid within the meaning of Article 92(1) because they enable Gesa to invest in R & D and to restructure without having to bear all the full costs, unlike any other firm operating under normal market conditions.

Nevertheless the Commission does not intend to rule on the R & D aid as it was granted under the "Electronics industry" scheme already approved by it.

The authorities consider that the aid of FRF 36 million complies with the criteria defined by the Commission for monitoring rescue and support aid [3]. This does not appear to be sufficient since, as regards unnotified aid, the Commission's decision is based on the data in its possession and the rules in force at the time of the decision.

On 23 December 1994 the Commission published the Community guidelines on State aid for rescuing and restructuring firms in difficulty [4].

The Guidelines are still in force and are applicable to the case under examination. According to the Guidelines "... for the Commission to approve aid, a restructuring plan will need to satisfy all the following general conditions":

(i) restoration of long-term viability of the firm within a reasonable time, on the basis of realistic assumptions as to its future operating conditions;

(ii) avoidance of undue distortions of competition;

(iii) aid in proportion to the restructuring costs and benefits;

(iv) full implementation of restructuring plan and observance of conditions;

(v) monitoring and annual report.

According to the information received, it would seem that not all the conditions have been satisfied to date.

1. Assessment of the first condition is based on the realistic nature of the hypothesis used to calculate the restructuring plan and on the ability of the firm to achieve sufficient profitability to bear production and financial charges. At this stage, as regards the realistic nature of the hypothesis underlying the restructuring plan, the Commission can comment as follows.

(a) Estimated turnover is predicted to rise from FRF 406 million in 1994 to FRF 674 million in 1995 and FRF 885 million in 1996. Taking account of the fact that the first financing year comprises only 10 months of activity, a full year's operation can be estimated at a little under FRF 500 million. This trend would amount to an increase in turnover of over 80 % in two years.

Because of the price war being waged, according to the authorities, in the segment where Gesa wished to diversify, the average price of products falls considerably each year which, of course, reduces profits. It must therefore be concluded that production volume was expected to increase even more than production value, i.e. a twofold increase between 1994 and 1996. However, such growth in such a short time appears to be extremely ambitious.

Even taking account of the output on behalf of Grundig, a fairly stable figure over time, other outlets would have had to develop considerably to allow such targets to be reached. The difficulties are further enhanced by the fact that the authorities acknowledge the existence of strong pressure from non-member country imports. What is more, the outlets were still at the planning or negotiating stage when the plan was drawn up.

Lastly, there is also the fact that the firm appears to have been unable to predict the shortage of components that occurred less than a year after it acquired the plant, especially components (small tubes) for which production capacity in Europe was known to be inadequate and which experienced sharp fluctuations in demand and breaks in supplies.

(b) The Commission notes that Gesa's aim was to produce television sets at particularly competitive prices, comparable to the prices for bottom-range products from South East Asia. The extensive

[3] *Eighth competition report*, 1979, paragraph 228.
[4] OJ C 368, 23.12.1994.

presence of the latter on this segment of the European market is due to low labour costs but also to the fact that the sets in question are the least penalised by customs duties on entry to the EU because they incorporate the minimum technical contributions.

The Commission cannot state, on the basis of the information supplied, how Gesa could have cut labour costs to a level comparable to that of its Asian competitors.

Nor is this shown in the forward accounts. The Commission questions the relevance of the strategy adopted by Gesa of concentrating production on the small sizes, whereas its main competitors prefer to build plants in low-wage countries and produce top-range television sets in Europe. The strategy is also partly challenged by the Cofidur recovery plan, which intends to resume production of large-screen sets.

(c) The ratio of turnover to production costs improved by 6,5 % between 1994 and 1995 and by 2 % between 1995 and 1996, i.e. a little under 9 % over the reference period. It is unclear whether this is sufficient to counter the annual cut in prices. Furthermore, it appears to be unrelated to the firm's objective of reducing production costs by 30 % as stated by the authorities.

In addition to these comments concerning the hypothesis underlying the plan, there is a certain lack of clarity in the forward accounts, for example the apparent contradiction between the result of the operating account and its entry on the balance sheet or the taking into account of the grant in the balance sheet, referred to once as inventory and also as flow. Lastly, it is stressed that no estimate of net profit is provided.

2. As regards the viability of the firm, the Commission notes that this no longer exists. This is doubtless an indication that the financial solidarity of the firm was not sufficient to ensure its long-term viability. Despite the fact that the firm had the advantage of not having to carry its full liabilities, the authorities stated that, during the period of observation stipulated by the TGI, Gesa's cash-flow position was stretched.

In order to establish that Gesa's long-term viability was catered for by the restructuring plan presented by the authorities, it was also necessary to show that the firm could have generated sufficient profits to repay its debts itself and continue to finance investment in research. According to the authorities, investment in research must be continuous as the lifetime of a television chassis is only about two years.

At this stage, in view of the above-mentioned reservations concerning the forward accounts, it is not possible to come to a conclusion on this point. The authorities are therefore requested to submit their views on this matter to the Commission. The Commission would also require copies of the decisions and reasoning of the TGI, concerning the compulsory administration by virtue of which the firm was considered capable of remaining in business.

Lastly, the Commission notes that the authorities appear not to have carried out any investigation into the financial position of the Gooding group, a Gesa shareholder. It seems unlikely that the difficulties of that group, which allegedly caused the banks to cut off the funding to Gesa, appeared suddenly, following the acquisition of the Creutzwald site. On the contrary, it would seem that the difficulties, as well as their possible repercussions, were foreseeable. The fragility of the group in question should have been a major factor in the choice of purchaser.

3. As regards the avoidance of undue distortions of competition, the Commission notes that, according to the restructuring plan, the firm should have produced twice as much in 1996 as in 1994. But, even if it was proven that Gesa could have become almost as competitive as South East Asian producers as a result of State aid and restructuring, it is reasonable to believe, especially in view of its cost objectives, that its products would have replaced those of other Community producers rather than third-country imports.

In cases such as this, the Commission does not necessarily seek a reduction in capacity as it does not seem, according to a study provided by the authorities, that

the surplus capacity in some of the segments of the television set market was structural. Nevertheless, it is necessary to prove that there has been no undue distortion of competition, owing to the large share held by France of intra-Community trade. France, owing to its imports, constitutes an important outlet for producers in other Member States.

What is more, according to some of the letters from the authorities, the restructuring plan provided on the one hand for a major cut in production capacity and on the other for a cut in output. The authorities should therefore explain whether the firm simply reduced output in the first year or whether it made structural adjustments to reduce capacity.

The Commission does not have sufficient data at this juncture to determine whether the condition has been satisfied.

4. The Commission also notes that the restructuring plan was not completed. According to the authorities, a number of outside factors impeded restructuring during the first year. They consisted of serious component supply problems, the impossibility of making use of the Continental Edison brand and the failure of the shareholder to fulfil its promise to set up a diversified activity on the site.

As regards to supply of certain electronic components, the authorities acknowledge that the firm made mistakes in its orders, as confirmed in a letter from the firm's component supplier.

The Commission takes the view that, in 1995 when the component shortage occurred, it was normal for the supplier to give priority to customers placing firm orders rather than those simply making enquiries. Nor is there any indication that the supplier in question attempted to profit from Gesa's difficulties in order to force the latter out of the market. The firm's difficulties in this area are attributable to its own behaviour. The Commission therefore considers, unlike the French authorities, that this aspect cannot be regarded as caused by external factors.

Furthermore, the French authorities state that Gesa's supply of cathode tubes from Thomson Multimédia was halted and this caused its output to fall sharply. They also state that production capacity in Europe is inadequate in this segment, which suffers from rapidly fluctuating demand and breaks in the supply of glass for tubes. When shortages occur, tube manufacturers give first priority to internal requirements, then to their traditional customers, to the detriment, it is claimed, of smaller customers, especially if they are new on the market or their solvency is in doubt.

The Commission notes that GCE took over the production plant in 1994 on the basis of a restructuring plan which failed to predict or take account of a series of consecutive shortages of vital components for television sets. This appears to confirm that the restructuring plan was based on overly optimistic hypotheses. This factor is not due to external causes either.

The same comments seem to apply to the impossibility of using the Continental Edison brand. As the authorities state, a legal dispute arose between Gooding and Thomson SA (the brand owner) as to the quantities of television sets the former was authorised to sell under that brand name in the first few years of operation. Again according to the authorities, such clauses are classical business practice when brands are transferred. It would therefore seem that such "classical" and therefore foreseeable facts were not correctly taken into account in Gooding's recovery plan.

In addition, it is claimed that the shareholder failed to fulfil its commitment to set up a diversified activity in Creutzwald (satellite receivers), which would have provided fairly substantial supplementary income for the firm.

In view of the foregoing, the Commission questions whether the shareholder actually intended to carry out the full recovery plan it had developed.

The Commission's doubts are confirmed by the authorities, which consider that the actions of the firm's executives seriously handicapped the running of the firm. The aid of FRF 10 million granted under the "Electronics industry" scheme could not be paid, although the research work had been completed,

because the firm failed to submit the necessary administrative certificates to the competent authorities. No mention is made of the aid of FRF 36 million intended to accompany the restructuring. The Commission therefore assumes that the firm received the aid in full. The Commission would also like to know how Gesa obtained the necessary funds to conduct the research, as it would seem that it did not receive the R & D aid.

Furthermore, the company was unable to benefit from the banking funds provided for in the restructuring plan, amounting to FRF 53 million, as it failed to communicate the consolidated financial accounts required by the financial institutions. The Commission cannot agree with the authorities at this stage that the obstacles encountered by the firm are external, as neither the behaviour of the firm's directors nor that of its shareholders may be regarded as external to the firm. The Commission was informed that the management of Gooding SA by its directors is the subject of judicial proceedings, as criminal acts are suspected. The Commission wishes to be kept informed about the development of this aspect as it would affect its assessment of the external nature of the obstacles impeding the recovery plan.

In conclusion, the Commission considers that the difficulties encountered by Gesa in implementing the restructuring plan were either foreseeable in view of the characteristics of the segment in which it opted to concentrate its business, or are related to the behaviour of its executives and shareholders, in which case they cannot be regarded as external.

Accordingly, it would seem that the conditions provided for in the Community guidelines on State aid for rescuing and restructuring firms in difficulty have not been satisfied.

In view of the foregoing, the amount of FRF 36 million granted to GCE, Creutzwald constitutes aid within the meaning of Article 92(1) of the EC Treaty and Article 61(1) of the EEA Agreement. Firstly, the aid is unlawful. Secondly, at the present stage, on the basis of the information in the possession of the Commission, the aid does not appear to qualify for exemption under Article 92(3) of the EC Treaty and Article 61(3) of the EEA Agreement as certain conditions concerning the compatibility of the restructuring aid have not been satisfied.

The Commission would accordingly inform the French Government that it has decided to initiate proceedings under Article 93(2) of the EC Treaty in respect of the restructuring and backup aid of FRF 36 million granted to Gooding Consumer Electronics Ltd, Creutzwald.

As part of the proceedings, the authorities are requested to submit their observations within one month of the date of receipt of this letter. They are also requested to supply any information they consider necessary for an assessment of the case.

The Commission would draw attention to the communication published in the *Official Journal of the European Communities* C 318 of 24 November 1983 and to the letter sent to all the Member States on 4 March 1991 and 22 February 1995 stating that all aid granted unlawfully may have to be recovered.

In the event of a negative decision concerning the aid, the recipient firms are required in principle to repay the aid, in accordance with the procedures and provisions of French law, together with interest based on the reference rate used for regional aid, running from the date on which the aid was granted.'

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

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

The comments will be communicated to the French Government.

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation (EC) amending Regulation (EEC, Euratom, ECSC) No 259/68 laying down the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the Communities

(98/C 179/07)

COM(1998) 312 final — 98/0176(CNS)

(Submitted by the Commission on 18 May 1998)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing a single Council and a single Commission of the European Communities, and in particular Article 24 thereof;

Having regard to the proposal from the Commission, made after consulting the Staff Regulations Committee;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Court of Justice;

Having regard to the Opinion of the Court of Auditors;

Whereas the European Parliament's rules of procedure allow Members to engage one or more persons to assist them in the exercise of the functions conferred on them by the Treaties;

Whereas the assistants exercise functions in identical conditions, which warrants their appointment as auxiliary staff pursuant to Article 3 of the Conditions of Employment of Other Servants;

Whereas, in view of the specific functions exercised by Parliamentary assistants and the autonomy of Members of the European Parliament to determine the number of assistants to be recruited and their remuneration, by reference to the secretarial allowance to which they are entitled, they should be subject to specific rules on grading, duration of engagement and level of remuneration on the basis of internal rules to be laid down by Parliament;

Whereas a new Article should accordingly be inserted in Title III of the Conditions of Employment of Other Servants,

HAS ADOPTED THIS REGULATION:

Article 1

The following new point (c) is inserted in Article 3 of the Conditions of Employment of Other Servants of the Communities:

'(c) staff engaged to act as assistants to one or more Members of the European Parliament for the duration of their term of office;'.

Article 2

The following Article is inserted after Article 78 of the Conditions of Employment of Other Servants:

'*Article 78 a*

By way of derogation from the provisions of this Title, the conditions and duration of recruitment and the level of remuneration of Parliamentary assistants engaged as auxiliary staff to perform services for one or more Members of the European Parliament shall be determined by the general implementing provisions adopted by the European Parliament.

The budgetary authorities shall be notified of the general implementing provisions determining the level of remuneration, and of any amendments thereto, no later than one month before they enter into force.'

Article 3

This Regulation shall enter into force and take effect on the day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

III

(Notices)

COMMISSION

Notice issuing partial invitation to tender No 31/98 for the sale of vinous alcohol pursuant to Regulation (EEC) No 3777/91

(98/C 179/08)

By Regulation (EEC) No 3777/91 of 18 December 1991 ([1]), the Commission issued a standing invitation to tender for vinous alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Council Regulation (EEC) No 822/87 ([2]) and held by the intervention agencies.

In accordance with Article 4 of Regulation (EEC) No 377/93 ([3]), as last amended by Regulation (EC) No 1448/97 ([4]), a partial invitation to tender No 31/98 is hereby issued for 100 000 hectolitres of alcohol at 100 % vol.

The reference numbers of the vats, the places of storage and the quantity of alcohol at 100 % vol in each vat are specified in Section X.

Tender prices expressed in ecus per hectolitre, submitted under invitations to tender for vinous alcohol, must take account of any amendments made under the agri-monetary system established by Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ([5]), as last amended by Regulation (EC) No 150/95 ([6]).

Tenderers must comply with the provisions of Council Regulation (EEC) No 3877/88 of 12 December 1988 laying down general rules on the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies ([7]) and of Commission Regulation (EEC) No 377/93, laying down detailed rules of application and in particular those set out below.

I. **Tenders**

1. Tenders should be submitted for a quantity of alcohol in storage in a single Member State in the vats listed in Section X. A breakdown must be given by vat reference number. For each tender the quantity must be not less than 100 hectolitres and not more than 5 000 hectolitres of alcohol at 100 % vol where the final industrial use may be ranked as use as motor fuel.

   A tender may state that it is to be considered as having been submitted only if a contract is awarded for the entire quantity specified in a tender or a part thereof specified by the tenderer.

   Tenderers may submit only one tender per type of alcohol, per type of final use, and per partial invitation to tender.

2. Tenders must be submitted to the intervention agency holding the alcohol in question, namely:

   SAV, zone industrielle, avenue de la Ballastière, BP 231, F-33505 Libourne Cedex (tel.: (+33 5) 57 55 20 00, telex: 57 20 25, fax: (+33 5) 57 55 20 59),

   or sent to the above address by registered post.

3. Tenders must be enclosed in a sealed envelope marked 'Tender in response to partial invitation to tender No 31/98 (Community alcohol)', which itself must be enclosed in an envelope addressed to the intervention agency concerned.

4. *Tenders must reach the intervention agency concerned by 12 noon (Brussels time) on 29.6.1998 at the latest.*

5. Each tender must state the name and address of the tenderer and must specify:

   (a) the reference number of the vat or vats to which it relates;

   (b) the quantity concerned, with a breakdown by vat reference number;

   (c) the price tendered for the lot, expressed in ecus per hectolitre of alcohol at 100 % vol;

([1]) OJ L 356, 24.12.1991, p. 45.
([2]) OJ L 84, 27.3.1987, p. 1.
([3]) OJ L 43, 20.2.1993, p. 6.
([4]) OJ L 198, 25.7.1997, p. 4.
([5]) OJ L 387, 31.12.1992, p. 1.
([6]) OJ L 22, 31.1.1995, p. 1.
([7]) OJ L 316, 15.12.1988, p. 7.

(d) the precise use planned for the alcohol.

6. Each tender must be accompanied by proof that a tendering security of ECU 3,622 per hectolitre of alcohol at 100 % vol or the equivalent thereof in French francs has been lodged with the intervention agency concerned holding the alcohol in question:

   SAV, zone industrielle, avenue de la Ballastière, BP 231, F-33505 Libourne Cedex (tel.: (+33 5) 57 55 20 00, telex: 57 20 25, fax: (+33 5) 57 55 20 59).

7. Each tender must be accompanied by a statement from the tenderer whereby he undertakes to refrain from lodging any complaint relating to the quality and characteristics of the alcohol.

8. Each tender must be accompanied by a declaration from the tenderer whereby he undertakes to comply with all the provisions of Regulation (EEC) No 377/93.

9. The operative events determining the agricultural conversion rates to be applied for the conversion into national currencies of the payments and securities/guarantees referred to in Article 35 of Regulation (EEC) No 377/93 are specified in Article 2 of Regulation (EEC) No 2192/93 [1].

II. **Samples and examination of the alcohol**

1. Any interested party may obtain, on application to SAV and on payment of ECU 2,415 per litre or the equivalent thereof in French francs, samples of the alcohol offered for sale to be taken by a representative of SAV. The charge is to be converted into national currency at the rate specified in Regulation (EEC) No 2192/93.

   However, the quantity delivered per interested party and per vat may not exceed five litres.

2. SAV is to supply any relevant information concerning the characteristics of the alcohol offered for sale.

III. **Destination and use of the alcohol**

The alcohol offered for sale must be used within the Community for the implementation of small-scale projects designed in particular to find new industrial uses as referred to in Article 2 of Regulation (EEC) No 377/93.

The procedures for checking the destination and use of the alcohol are those laid down pursuant to Article 37 of Regulation (EEC) No 377/93.

IV. **Award of contract**

The Commission shall draw up a list of the tenders accepted, listing the prices offered in decreasing order until the contracts awarded cover the entire quantity of alcohol specified in the notice issuing the partial invitation to tender.

Where two or more tenders that may be awarded contracts cover in whole or in part the same vats or where they are at identical prices the alcohol shall be allocated in accordance with Article 7 of Regulation (EEC) No 377/93.

The intervention agency concerned will immediately inform each tenderer, in writing and with advice of receipt, of the result of his tender.

V. **Statement of award**

Successful tenderers shall obtain a statement of award from the intervention agency concerned within two weeks following receipt of the notification of acceptance, or if the procedure laid down in Article 7(4) of Regulation (EEC) No 377/93 is adopted, within two weeks of the day on which the declaration of allocation is made out, and at the same time will provide evidence to show that a performance guarantee of ECU 36,23 per hectolitre of alcohol at 100 % vol or the equivalent thereof in French francs, has been lodged with the intervention agency concerned; the rates to be used for converting ecus into national currencies are those specified in point 9 of Section I.

VI. **Taking over — removal**

The physical removal of all alcohol must be completed three months after the receipt of the notification of acceptance.

The removal of the alcohol is subject to presentation of a removal order issued by the intervention agency once payment has been made for the quantity to be removed.

VII. **Payment**

Successful tenderers will pay the price of the alcohol to the intervention agency concerned not later than the day preceding that on which they take over the alcohol.

VIII. **Securities**

The lodging and release of securities are subject to the relevant Community rules and in particular those laid down in Article 34 of Regulation (EEC) No 377/93.

IX. **Final date for the use of the alcohol**

All the alcohol must have been used within two years of the date of the first removal.

[1] OJ L 196, 5.8.1993, p. 19.

X. **Location of alcohol stocks to be sold under partial invitation to tender No 31/98**

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Regulation (EEC) No 822/87	Type of alcohol	Alcoholic strength (% vol)
France	Longuefuye F-53200 Château-Gonthier	22	8 941	35 + 36	Raw alcohol	+ 92
		8	1 767	35 + 36	Raw alcohol	+ 92
		16	22 449	35 + 36	Raw alcohol	+ 92
		15	22 681	35 + 36	Raw alcohol	+ 92
		9	21 791	35 + 36	Raw alcohol	+ 92
		4	22 371	35 + 36	Raw alcohol	+ 92
		Total	100 000			