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Information and Notices

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I

(Information)

COMMISSION

Ecu ⁽¹⁾

27 August 1998

(98/C 269/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,7308	Finnish markka	6,01269
Danish krone	7,52193	Swedish krona	9,18839
German mark	1,97493	Pound sterling	0,662083
Greek drachma	341,865	United States dollar	1,09191
Spanish peseta	167,673	Canadian dollar	1,72084
French franc	6,62110	Japanese yen	155,597
Irish pound	0,786280	Swiss franc	1,63513
Italian lira	1949,84	Norwegian krone	9,09449
Dutch guilder	2,22705	Icelandic krona	79,3052
Austrian schilling	13,8967	Australian dollar	1,95262
Portuguese escudo	202,276	New Zealand dollar	2,25834
		South African rand	7,21204

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).

**Summary of Community Decisions on marketing authorisations in respect of medicinal products
from 15 July 1998 to 15 August 1998**

(Published pursuant to Article 12 or Article 34 of Council Regulation (EEC) No 2309/93 ()*

(98/C 269/02)

— Issuing of a marketing authorisation (Article 12 of Regulation (EEC) No 2309/93)

Date of the Decision	Name of the medicinal product	Holder of the marketing authorisation	Number of the entry in the Community register	Date of notification
17.7.1998	Echogen	Sonus Pharmaceuticals Ltd Knyvett House The Causeway Staines Middlesex TW18 3BA United Kingdom	EU/1/98/072/001	20.7.1998
29.7.1998	Xenical	Roche Registration Limited 40 Broadwater Road Welwyn Garden City Hertfordshire AL7 3AY United Kingdom	EU/1/98/071/001-006	30.7.1998
5.8.1998	Celvista	Eli Lilly Nederland BV Krijtwal 17-23 3432 ZT Nieuwegein Nederland	EU/1/98/074/001-004	6.8.1998
5.8.1998	Evista	Eli Lilly Nederland BV Krijtwal 17-23 3432 ZT Nieuwegein Nederland	EU/1/98/073/001-004	7.8.1998

— Modification to a marketing authorisation (Article 12 of Regulation (EEC) No 2309/93)

Date of the Decision	Name of the medicinal product	Holder of the marketing authorisation	Number of the entry in the Community register	Date of notification
17.7.1998	Tasmar	Roche Registration Ltd 40 Broadwater Road Welwyn Garden City Hertfordshire AL7 3AY United Kingdom	EU/1/97/044/001-006	20.7.1998
17.7.1998	Novoseven	Novo Nordisk A/S Novo Allé DK-2880 Bagsværd	EU/1/96/006/002-003	20.7.1998
17.7.1998	Taxotere	Rhône Poulenc Rorer SA 20, avenue Raymond-Aron F-92165 Antony Cedex	EU/1/95/002/001-002	20.7.1998
17.7.1998	Gonal F	Ares Serono (Europe) Ltd 24 Gilbert Street London W1Y 1RJ United Kingdom	EU/1/95/001/001-016	20.7.1998

(*) OJ L 214, 24.8.1993, p. 1.

Date of the Decision	Name of the medicinal product	Holder of the marketing authorisation	Number of the entry in the Community register	Date of notification
17.7.1998	Helicobacter Test Infai	Infai Institut für biomedizinische Analytic und NMR Imaging GmbH Universitätsstraße 142 D-44799 Bochum	EU/1/97/045/001	20.7.1998
24.7.1998	Sifrol	Boehringer Ingelheim International GmbH D-55216 Ingelheim am Rhein	EU/1/97/050/001-010	27.7.1998
5.8.1998	Revasc	Rhône-Poulenc Rorer SA 20, avenue Raymond-Aron F-92165 Antony Cedex	EU/1/97/043/001-002	6.8.1998
5.8.1998	Taxotere	Rhône-Poulenc Rorer SA 20, avenue Raymond-Aron F-92165 Antony Cedex	EU/1/95/002/001-002	6.8.1998

— Issuing of a marketing authorisation (Article 34 of Regulation (EEC) No 2309/93)

Date of the Decision	Name of the medicinal product	Holder of the marketing authorisation	Number of the entry in the Community register	Date of notification
7.8.1998	Suvaxyn Aujeszky 783+O/W	Ford Dodge Animal Health Holland 36 C. J. van Houtenlaan 1381 CP Weesp Nederland	EU/2/98/009/001-003	10.8.1998

Anyone wishing to consult the public assessment report on the medicinal products in question and the decisions relating thereto is invited to contact:

The European Agency for the Evaluation of Medicinal products
7, Westferry Circus, Canary Wharf
London E14 4HB
United Kingdom

Prior notification of a concentration**(Case No IV/M.1306 — Berkshire Hathaway/General RE)**

(98/C 269/03)

(Text with EEA relevance)

1. On 20 August 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 Berkshire Hathaway acquires within the meaning of Article 3(1)(b) of the Regulation control of the whole of the undertaking General RE Corporation by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- Berkshire Hathaway: holding company owning subsidiaries engaged primarily in the insurance and reinsurance business,
- General RE Corporation: holding company for global reinsurance and related risk management.

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.1306 — Berkshire Hathaway/General RE, to the following address:

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

⁽¹⁾ OJ 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 46/98 (ex N 791/97)

Italy

(98/C 269/04)

(Text with EEA relevance)

*(Article 6(5) of Decision No 2496/96/ECSC of 18 December 1996)***Commission notice pursuant to Article 6(5) of Decision No 2496/96/ECSC of 18 December 1996 to other Member States and other interested parties concerning aid granted by the Italian Government to Acciaierie di Bolzano**

By the letter reproduced below, the Commission informed the Italian Government of its decision to initiate the procedure provided for in Article 6(5).

'By the letter received on 25 November 1997, the Italian Government notified the Commission that the Autonomous Province of Bolzano planned to grant Acciaierie di Bolzano ("AB"):

- (a) environmental aid totalling ITL 10,8 billion for investments of ITL 49,5 billion;
- (b) research and development aid totalling ITL 1,6 billion for investments of ITL 7,8 billion.

The R & D investments are essentially aimed at the development of an innovative system for the production of a new range of "clean steel" stainless products for specific market niches. The industrial problems to be resolved concern the critical aspects of the processes and operations at the production plants, as regards the melting, working and refining of the molten metal. It should be noted that the aid recipient has undertaken to disseminate the new technologies for the production and characterisation of the stainless steels.

As regards the environmental aid, it should first be pointed out that, following the agreement concluded on 31 July 1995 between the Province of Bolzano and AB, a number of environmental conditions were imposed on the latter, compelling it to take a number of measures, including:

- (a) a new plant for the extraction and filtering of primary and secondary fumes and for the reduction of noise from the melting shop by enclosing the melting furnace in the dog house;
- (b) new plant for carrying and charging ferro-alloys and dust reduction equipment;

(c) construction of a new protected bay for reconstructing the ladles to avoid all discharge of powdered silicates;

(d) removal of asbestos cladding from buildings;

(e) construction of new plant to control post-combustion fumes to remove highly polluting sulphur dioxide emissions from the air, reducing to a minimum the presence of CO and NOX from stack emissions;

(f) new plant to filter and reduce oxide fumes and dusts from the ingot blooming line;

(g) new waste water treatment plant;

(h) new slag processing plant;

(i) new ecological pickling plant for steel coil with recovery of waste water that is too toxic to reprocess owing to the presence of acids;

As the measures referred to above will produce higher levels of environmental protection than required by the rules in force, the Italian authorities plan to grant aid amounting to a maximum of 30 % gross of admissible costs, in accordance with point 3.2.3.B of the Community guidelines on State aid for environmental protection⁽¹⁾, referred to in Article 3 of Commission Decision 2496/96/ECSC⁽²⁾ (hereinafter referred to as the steel aid code).

⁽¹⁾ OJ C 72, 10.3.1994.

⁽²⁾ OJ L 338, 28.12.1996.

Assessment

As AB is an undertaking which manufactures special steel products listed in Annex I to the ECSC Treaty, it is covered by the rules of that Treaty, Article 4(c) of which provides that subsidies or aids granted by States, in any form whatsoever, are recognised as incompatible with the common market for coal and steel and shall accordingly be abolished and prohibited with the Community. The only possible exceptions to the general ban on aid are specifically and exhaustively listed in the steel aid code, in Articles 2 (aid for research and development), 3 (aid for environmental protection) and 4 (aid for closures).

Aid for research and development

Article 2 of the code provides that aid granted to defray expenditure by steel undertakings on research and development projects may be deemed compatible with the common market if it is in compliance with the rules laid down in the Community framework for State aid for research and development⁽³⁾.

The framework includes the following provisions, insofar as they are relevant to this Decision:

- as regards the intensity of the aid: as a general rule the Commission considers that the level of aid for industrial research should not exceed 50 % of the eligible costs of the project. To the extent that the aided activity is close to the market or constitutes a precompetitive development activity, the Commission will require a lower intensity of less than 25 % of the gross costs of the project. These levels may be increased by 15 percentage points where the project is in accordance with the objectives of a Community R & D programme,
- industrial research must involve the acquisition of new knowledge, the objective being the development of new products, processes of services,
- precompetitive R & D projects are eligible provided they cannot be converted to or used for industrial

applications or easily exploited from a commercial point of view,

- R & D aid should serve as an incentive for firms to undertake new research in addition to their normal day-to-day operations. To that end the Commission will analyse changes in R & D spending, the number of people assigned to R & D activities and R & D spending as a proportion of total turnover.

In view of the foregoing, it would seem at this stage of the procedure that AB essentially intends to spread its range of products into new and more profitable markets, although its production process is undoubtedly innovative. In addition, the products already exist and are already in production; lastly, it would seem that a significant proportion of the investments will in fact be in the modernisation of the plant intended for the new products. Thus, rather than consisting in the development of new products in special steels, the project is aimed at the modernisation of AB's products and the plant required to manufacture them.

However, the production process described by AB, known as the "triplex" process, which allows methane to be injected at high pressure in order to cut argon consumption, is totally innovative and has not been used industrially by any other European firm in the industry. If it is viable, the new process will eventually produce savings in energy and decarburisation costs of some 20 % compared with conventional technologies.

Furthermore, the Commission does not have any serious doubts as to the incentive effect of the aid on the R & D aspect of the new production process. The aid appears to have been decisive in the firm's decision to undertake new engineering research in addition to its day-to-day research work on the triplex process. To that end, the Commission has analysed the difference between the firm's past and present research expenditure, set to rise from 0,5 % to a forecast 1,5 % in 1998. At the same time, its full-time staff will rise from 9 to 16.

Lastly, the amount earmarked for R & D in 1998 in connection with the notified project is appreciably higher than the average for the sector which ranges from 0,9 % to 1,1 %.

⁽³⁾ OJ C 45, 17.2.1996.

Thus the variation in the amount allocated to R & D (which doubles from 0,5 % to 1 % of turnover), the number of persons assigned to the research programme (which almost doubles from 9 to 16) and, finally, the investments in R & D compared with turnover (1,5 % of turnover against an industry average of some 1 %) appear to indicate that the condition that aid must serve as an incentive has been satisfied.

A large proportion of the investments in question do not therefore appear to be covered by the Community framework for State aid for R & D as they are not aimed at the acquisition of new knowledge of use in developing new products and/or production processes and can also be converted or used for industrial applications or commercial exploitation; however, the investments in the triplex process may be regarded as compatible with the common market. It is for the Italian authorities to present new figures on investments and aid in the light of the provisional conclusions reached by the Commission.

The Commission must conclude, at this stage of the procedure, that the costs set out in point 3.1 of the notification concerning plant, machinery and equipment do not appear to be eligible because they were decided by the firm independently, as part of the reconversion of the Bolzano plant: thus the aid in question has not apparently served as an incentive for the investments.

Aid for the protection of the environment

The compatibility of the environmental aid must be assessed under Article 3 of the steel aid code which provides that aid for environmental protection may be deemed compatible with the common market if it is in compliance with the rules laid down in the Community guidelines on State aid for environmental protection, in conformity with the criteria outlined in the code.

The guidelines on environmental aid provide that aid that allows significantly higher levels of environmental protection to be attained than those required by mandatory standards may be authorised up to a maximum of 30 % gross of the eligible costs. Furthermore, the Annex to the steel code provides *inter alia* that any advantage in regard to lower production costs as a result of the investment will be deducted from the environmental aid. The Annex also states that the higher aid level resulting from a significant improvement in environmental protection will apply only to the part of the investment aimed at the additional environmental protection.

In view of the foregoing, it is concluded that, with the exception of the investments in new cladding for the buildings and that referred to in point 2(i) (new

ecological plant for chemical pickling of steel coil and recovery of the liquid waste which cannot be recycled owing to the presence of toxic acids), which could be related to the steelmaking process, the other measures appear to be concerned solely with the protection of the environment. As a result, it is not necessary to deduct any production costs. It is also clear from information in the Commission's possession that the proposed ecological investments will enable AB to achieve a far higher level of environmental protection than the statutory minimum.

To that end, the independent experts' reports forwarded by the Italian authorities indicate that AB will reduce concentration of primary and secondary dusts in the scrubbed fumes to 1 mg/Nm³, the statutory threshold in Italy being 10 mg/Nm³ (Presidential Decree No 203/88 and the Ministerial Decree of 12 July 1990). Nor will the fumes contain any CO or bezofurans (PCDD + PCDF), although Italian law does not impose any standards. The measures will also help to reduce noise levels to below 50 dBA, compared with a legal threshold of 70 dBA. Dioxides, with a statutory limit of 1 700 mg/m³, will be completely eliminated as a result of the investments by means of a non-polluting methane heating system. Lastly, the reduction and filtering of fumes and dust, for which the statutory limit is 150 mg/m³, will be cut to just under 25 mg/m³, and will be totally eliminated from the workplace.

The Commission thus has grounds for concluding that AB is making a significant contribution to environmental protection in relation to its obligations under the legislation in force.

Furthermore, it is clear from the notification that the increase in aid for the abovementioned ecological investments is not calculated on the basis of total investments but solely according to the additional investment aimed at achieved a higher standard of protection.

As regards the replacement of the cladding at the "Sede" and "Erre" establishments, for which the investments are to total some ITL 6,5 billion, it must be concluded from the experts' reports that the state of dilapidation is such that the investment is essential. It seems likely, therefore, that the work would have had to be carried out in any event in view of the urgency and the state of disrepair of the cladding. In accordance with the steel aid code, the Commission concludes that if the ecological investments concern projects which cannot in any case be delayed, they cannot be regarded as eligible for environmental aid.

Lastly, it seems that the new ecological chemical pickling plant will have an effect on the production process; accordingly, the Commission informed the Italian authorities of its reservations concerning the admissibility of the measures, as they should have been confined to environmental protection. In reply, the Italian authorities submitted new figures on the admissible investments and the relevant aid and outlined the economic benefits derived by AD as a result of the new plant.

Therefore, with the exception of the investments in new cladding at the Sede and Erre establishments, the only ones to be included in the present initiation of proceedings, the Commission's preliminary assessment of all the other plans to grant environmental aid is favourable.

With regard to the environmental aid in question, in respect of which the Commission at this stage does not have any reservations, this Decision simply constitutes a formal request for consultation to the Member States in accordance with the Annex to the steel aid code.

In view of the foregoing, it is difficult at this stage for the Commission to determine whether the aid for R & D and the environmental aid for renewal of the cladding at the Sede and Erre establishments are compatible with the common market. It is therefore necessary to initiate the procedure under Article 6(5) of Decision 2496/96/ECSC.

As part of that procedure, the Commission hereby requests the Italian Government to present its observations within one month of receipt of this letter.

The Commission would draw the attention of your Government to the fact that any aid granted unlawfully, i.e. without awaiting the Commission's final decision, may have to be recovered from the recipient. The Commission hereby informs the Italian authorities that it will publish this letter in the *Official Journal of the European Communities*, giving the other Member States and interested parties notice to submit their comments.'

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

European Commission
Directorate-General for Competition (DG IV)
State Aid Directorate II
Rue de la Loi/Wetstraat 200
B-1049 Brussels
Fax (32-2) 296 98 17.

The comments will be communicated to the Italian Government.

EUROPEAN INVESTMENT BANK

BOARD OF GOVERNORS

Increase in the capital of the EIB and related decisions

(98/C 269/05)

The Board of Governors of the European Investment Bank, at its annual meeting on 5 June 1998, unanimously adopted the following decisions:

- the Board of Governors of the EIB decided to increase the Bank's subscribed capital from ECU 62 013 million to ECU 100 000 million,
 - the paid-in capital shall with effect from 1 January 1999 rise to ECU 6 000 million, or 6 % of the subscribed capital of ECU 100 000 million; the increase in the paid-in capital shall be effected, as of 1 January 1999, through a transfer of ECU 1 348 014 839 from the Bank's free additional reserves,
 - the increase in the callable capital shall in part take effect subject to formal completion of certain parliamentary procedures at the national level; consequently, the Bank's total subscribed capital shall rise as from 1 January 1999 to at least ECU 95 549 597 250, in which case the remainder shall take effect as soon as the required formalities have been completed,
 - of the abovementioned amount of free reserves, a further ECU 3 798 700 000 shall be transferred from the free additional reserves to the statutory reserve, so as to establish this at ECU 10 000 million, or 10 % of the ECU 100 000 million subscribed capital,
- based on a review of the Bank's requirements of own funds, the Board of Governors further unanimously decided to distribute to the Member States, as an exceptional payment, pro rata of their contributions to the Bank's subscribed capital, ECU 1 000 million, to be funded as to ECU 676 795 744 from the unallocated earned surplus remaining from 1996, the balance of ECU 323 204 256 to be drawn from the ECU 1 105 169 722 operating surplus for 1997,
 - on 20 August 1997, as part of its endorsement of the Amsterdam special action programme (*Official Journal of the European Communities* C 10 of 15 January 1998), the Board of Governors approved the appropriation from the Bank's unallocated earned surplus of ECU 200 million for financing sound projects extending the scope of the Bank's financing as specified in the said decision, forming part of an overall amount of up to ECU 1 000 million set aside for that purpose for the period ending in the year 2000. The Board of Governors has now decided to make a further allocation of ECU 300 million for the said purposes from the 1997 surplus,
 - in connection with the capital increase, the Board of Governors has endorsed the following strategic framework of the Bank.

ANNEX

THE STRATEGIC FRAMEWORK FOR THE BANK

1. Introductory background

The last increase in the Bank's capital (aside from the upwards adjustment to ECU 62 billion made as a result of the accession of Austria, Finland and Sweden in 1995) was its doubling to ECU 57,6 billion in 1990. All recent increases (as opposed to adjustments), have also doubled the Bank's existing capital (1978, 1981, 1986). In 1990, the new ceiling on lending represented by this amount (namely 250 % of subscribed capital) was expected to suffice until the end of 1995: in the event, operations have continued for two years beyond the prospective horizon for the lending ceiling.

Since 1990, Bank lending has risen, in current terms, from a total of ECU 13,4 billion (1990) to ECU 26,2 billion (1997). This represents an average annual growth of 10 %. Within the total, operations outside

the Union rose from ECU 0,7 billion in 1990 to ECU 3,2 billion in 1997. Looking at the balance sheet, loans outstanding increased from ECU 61,6 billion to ECU 142,4 billion.

The increase during this period reflected a number of fundamental policy and market developments affecting the Bank, including the integration of the East German *Länder* and the accession of three new member countries. As in the past, several of the developments took their origin or were formalised in a number of European Councils. The Edinburgh European Council at the end of 1992 decided the establishment of the ECU 5 billion Edinburgh facility, with a focus on trans-European networks (TENs) and the environment. It also gave a decisive impetus to the process, launched by the Bank and the Commission, which ultimately led to the creation of the European Investment Fund, in partnership with the banking sector. Another important outcome was closer cooperation between the Bank and the Commission on the Cohesion Fund and the Structural Funds, now in their turn about to be reformed.

In mid-1993 the Copenhagen European Council decided to increase the Edinburgh facility by ECU 2 billion, extending its duration and adding an ECU 1 billion subsidised facility for stimulating investment by small and medium-sized enterprises (SMEs) to support employment. In December of that year, the Brussels European Council saw the focus shift to growth, competitiveness and employment, with the emphasis for the Bank on investment-intensive transport and energy TENs and the environment. In 1995, TENs financing was intensified with the process of prioritisation instigated by the Essen Council.

In 1997, the Amsterdam European Council invited the Bank to step up its activities, with special reference to a number of sectors, in order to promote the creation of employment in the European Union. Accordingly, the Bank introduced its Amsterdam special action programme (ASAP), involving:

- the creation of a special SME window, designed to provide support for new instruments to help finance high-technology and high-growth small and medium-sized enterprises; this can be backed where appropriate by recourse to the annual surpluses of the Bank, up to a ceiling of ECU 1 billion,
- the development and reinforcement of EIB activity in the sectors of education, health, urban environment and environmental protection,
- a new impetus to the financing of trans-European networks and other large infrastructure networks.

The Special Luxembourg Council on employment in November 1997 confirmed the steps already taken and encouraged the Bank to maintain and reinforce the momentum of this programme.

On the external side, the activity of the Bank over the period in question has been characterised by the renewal of various mandates, for the African, Caribbean and Pacific Countries (Lomé IV-B), the Mediterranean (including also METAP) and the countries of Central and Eastern Europe (CEEC). To these have been added new theatres of operations, notably the countries of Asia and Latin America, and South Africa, and most recently the preaccession facility for the CEEC accession countries and Cyprus.

Against this background, the Board of Directors has discussed the strategic framework for the period expected to be covered by the proposed increase in capital.

2. Bank strategy

The Bank's strategy will need to develop in line with changing circumstances. However, the main pillars of the Bank's strategy for the duration of the new capital increase that have emerged from these discussions are:

- concentrating the Bank's effort on 'peripheral economic areas', in accordance with its principal mission to support economic convergence and integration. The main priority is to support lagging regions within the Union and the integration of those countries seeking membership of the Union,

- also continuing to support key areas of EU policy, as authorised from time to time by its governing bodies, taking account of policy decisions or requests by the European Council, such as the development of TENs, international competitiveness, small and medium-sized enterprises, energy and the environment, and financing operations under specific mandates or other agreements in support of EU external cooperation and development policies.

This broad strategy was agreed by the Board in January, 1997. As mentioned above, its main thrust has been reinforced by recent developments:

- there has been increasing recognition that the fiscal and monetary disciplines of EMU must be accompanied by a concerted policy to reduce unemployment, including structural changes and increasing competitiveness. The Bank has, among other things, started implementing ASAP in support of the European Council's resolution on growth and employment,
- the European Council's decisions on enlargement have given a sharper focus to the Bank's role in this area, and the Bank has now introduced its preaccession lending facility for the candidate countries.

In the immediate future, within the above broad strategy, the Bank's top priority is to support economic and monetary union. On the lending side, this is reflected in the ASAP programme. As regards its borrowing strategy, the Bank will continue its innovative euro policy. This involves assisting with the establishment of euro benchmarks, investor diversification, and the creation of an organised market for EIB eurobonds. Diversification of markets, particularly in the Central and East European Countries, will be developed together with innovation into attractive, cost-effective products.

3. Priority-setting in an evolving environment

While financial sector integration over time should have the effect of further increasing the access of project promoters to alternative sources of capital, there will remain a significant role for the Bank in the coming years. Investment levels have fallen, in part due to the macroeconomic adjustment of preparing for EMU, and public investment is likely to remain constrained. However, the Bank can help to support investment growth by providing low-cost, long-term finance, and through lending to new forms of public-private partnerships.

Owing both to its own resource constraints and to the principle of subsidiarity, an assessment of the Bank's priorities is needed. These must evolve with time, but there are a number of general observations that can be made.

It is important for the Bank to focus on those sectors that are of highest priority for the EU, and the projects financed should be particularly relevant for attaining these goals. However, this is not sufficient to ensure the Bank contributes added-value. Under its Statute (Article 18(1)), the Bank lends to the extent that funds are not available from other sources on reasonable terms. An additional contribution from the EIB comes about when, in complement to other sources of finance:

- it can demonstrate in project financing proposals that an EIB loan is more appropriate than other sources for the project in question (for example, when the project has a long economic life, thus justifying a long maturity),
- the Bank advances or improves the project in some additional way. This can come about because its presence lends comfort to private investors regarding a project's regulatory risks (the EU 'stamp of approval'). This also applies to the political risks of lending outside the Union. In this way the Bank can act as a catalyst for other sources of finance, not least in public-private partnerships. Equally, the technical expertise of the Bank can itself add value.

In developing its future lending strategy, as to both sectors and regions, the Bank should be guided by the above principles. The Bank should seek to focus on those areas of highest added-value, while lower emphasis should be accorded to projects of lesser added-value. When adequate funding on appropriate terms is available from the market and the Bank's intervention does not otherwise enhance the speed of implementation or quality of the project, the Bank should leave the financing of the project to other sources in accordance with Article 18(1) of the Statute.

The evolution of such priorities will be discussed with the Board on an annual basis in the context of a forward-looking corporate operational plan, to be approved by the Board. This is explained in more detail below.

4. Subsidiarity and cooperation with the financial sector

Within the above framework, cooperation with the banking sector and other financial intermediaries operating on the capital markets is one of the guiding principles for implementing the Bank's strategy. Indeed, the development and diversification of this cooperation will remain a priority for years to come. This reflects both the goal of subsidiarity and straightforward practical considerations.

In order to maximise its leverage, the Bank will act in all circumstances according to the principle of complementarity and will only fund that share of the project deemed necessary to fulfil its agreed policy objectives. The Bank will work even more closely with other banks to make the partnership more efficient, and will seek (for example, by developing new products) to enhance its catalytic role.

This may include encouraging the access of borrowers to capital markets as well as collaborating in the financing plan with commercial lenders. For example, the Bank will assist regional banks and specialist institutions (such as for SMEs) as they face the challenge of adapting to the single market in financial services. Reflecting the EIB's primary mission, this would be particularly relevant in assisted areas. A similar role could be played in the preaccession countries, or other neighbouring countries of the Union. In developing this collaboration, as with other spheres of its activity, the Bank will pay careful attention to avoiding any distortions to competition. One consequence of the annual discussion of priorities is that, for investments of lesser added-value, the Bank would reduce the proportion of project costs that it finances. The complementarity of the Bank's loan will be outlined fully in project documentation.

The practical need for cooperation with the financial sector applies generally, but is most prominent in the case of lending to SMEs. Indeed, in terms of cost-effectiveness the global loan instrument is the only viable and economical mechanism it can deploy to support a large number of SMEs. However, the global loan approach will be reviewed in order to ensure that, among other things, the maximum benefits possible are received by the ultimate recipients of SME financing. In the medium term, the Bank's approach to SME finance could be further enriched through experience gained with alternative instruments under the ASAP SME window.

Of course, cooperation with the financial sector extends to the liability side of the Bank's balance sheet, through its financial operations. Every year, reports on the overall cooperation between the Bank and the financial sector, for both lending and borrowing activities, will be addressed to the Board of Directors.

5. Partnership with the EIF

An additional concrete example of the philosophy of partnership is the creation of the European Investment Fund, as the shareholding structure of the EIF brings together both public and private partners in an innovative way. The development of the partnership between the Bank and the Fund is one of the EIB's priorities. This was exemplified in the establishment in October 1997 (following the Amsterdam European Council) of the European technology facility to act through specialist venture capital funds in support of technology-oriented and high-growth SMEs.

The Bank and the Fund will continue to pursue the reinforcement and widening of their cooperation. In order to make this as effective as possible, the Bank will rationalise its working relationships with the EIF, while ensuring that it still provides the greatest possible operational support for the Fund.

Moreover, to support more effectively key EU policies, the Bank will consult with the EIF on the possibility of enhancing its operations in the following two directions: firstly, it will examine the possibility of extending its sphere of activity to the environmental sector; secondly, within the framework of the pre-accession facility, it will explore the possibilities for the selective extension of operations in Central and Eastern Europe to include trans-European networks between the countries of the region. Subject to the views of the Fund's other shareholders and the decisions of its general meeting, proposals along these lines may in due course be brought forward.

6. Cooperation with the Commission

Within the broader EU context, lending by the Bank for regional development is complemented by EU budgetary resources. Coordination of these two sources of funds, and hence cooperation between the Bank and the Commission, is essential for effective support for the regions.

Both the Bank and the Commission already cooperate closely, but they have looked at ways to improve their effectiveness in the next decade. Improvements to operating procedures by both institutions will make for even better collaboration in the future. This is a timely issue since the Commission has produced its Agenda 2000, and the next round of negotiations with Member States concerning the Structural Funds is getting under way.

The Bank, while taking into account the respective roles of the regions and the Commission in this process, has proposed the following specific measures, approved by the Board of Directors:

- the Bank will seek to strengthen its participation in the preparatory programming and negotiating stages of structural operations,
- the Bank will seek to increase consultation between the institutions on co-financing operations. Subject to any considerations of commercial confidentiality, the Bank will make its project analysis available to the Commission for these projects,
- the Bank will continue to offer its technical services to the Commission on a cost-covering remunerated basis. Such services are already used to appraise projects for the Cohesion Fund, and, as appropriate, this could be extended to selected ERDF or TEN projects.

7. Implementing the strategy: Pricing policy

The Bank achieves its basic objective of promoting the balanced development of the European Union by making available in all Member States, and especially the less prosperous regions of the Union, the collective benefits of its financial strength. Its pricing policy is based on the principles of non-profit seeking (meeting obligations and covering expenses, Article 19(1) of the Statute), non-discrimination, and transparency. Within the specific ASAP mandate, an additional guideline is the goal of achieving an appropriate balance between risk and remuneration.

An important evolution in the operations of the Bank is that the variation in appraisal costs between projects is increasing, and this trend may well accelerate over the coming years. The Bank has already adapted its uniform pricing approach to some degree to take into account the varying costs of different categories of loans (notably a lower margin for large loans and for loans with repeat borrowers). It proposes to modulate prices further, in particular through adding a further mark-up for certain high cost operations. These include:

- structured/project-finance when obtaining privileged status as secured lender presents difficulties for the Bank,
- and certain corporates that are only able to offer security or collateral which is less immediately recoverable.

The Bank's Statute requires that each individual operation carry adequate guarantees. The Bank continues to believe that for normal operations there are sufficient ways to control risk by externalising (i.e. mitigating or transferring) it to third-party guarantees or other securities. In this way, the overall price of EIB finance also reflects credit risk. Indeed, externalising the risk of projects is also an important source of collaboration between the EIB and the commercial banking sector.

However, there are certain categories of projects, within guidelines and limits to be agreed by the Board of Directors (such as some TENs, public-private partnerships, or corporate and structured project loans) and workouts where it may not be possible to externalise some elements of risk in accordance with the Bank's normal practice. In these cases, and subject to maintaining an acceptable risk profile, the Bank will reconsider its approach and, where appropriate, include a premium in the mark-up. The Bank will develop more specific proposals on the above guidelines, limits and other aspects, as soon as possible. However, it is clear that there will be no change as to the assessment of sovereign risks for Member States, and thus no discrimination on grounds of risk between this group of borrowers.

8. Operations outside the European Union

The Bank's operations outside the Union are based on mandates from the European Council. The general approach to such lending was last reviewed by the Board of Governors at the annual meeting in 1994, when the key issues pinpointed were the indicative ceiling on operations of 10 % of the Bank's average overall activity and the need for further reflection on the question of the Union's guarantee.

An important subsequent development has been the establishment of the preaccession facility for Central and Eastern Europe. This has no EU budgetary guarantee, and is not included in the 10 % guideline mentioned above. In general, a system of risk-sharing by the Bank has been established for a range of operations.

The immediate priority is to execute existing mandates: Lomé (for the African, Caribbean and Pacific countries), South Africa, Asia and Latin America, Central and Eastern Europe, the Mediterranean. These will progressively come to an end over the next two years, and the governing bodies of the Bank will have to consider its overall role in supporting EU external cooperation and development policies.

These issues cannot be decided immediately, but, at the present stage, there are a number of principles for guiding future strategy discussions. For example:

- the Bank will continue to be the financial institution of the Member States and its core activity should be within these States or to their direct benefit. Lending outside the Union will be carried out under specific mandates from the Member States and should remain a complementary activity,
- it will pursue close collaboration with the Commission, (in conformity with the Union's overall development strategy in the individual country or group of countries concerned) and with other international financial institutions and national agencies. It will seek to coordinate its operations and project conditionality with those agencies,
- it will contribute to the development of the private sector, including the building of appropriate financing institutions and support to SMEs. As for lending within the European Union, it will finance investments to the extent that funds are not available from other sources on reasonable terms (Article 18(1) of the Statute),
- the Bank will require adequate guarantees from budgetary sources, though it will continue to share risks in appropriate cases.

The observations made in earlier sections regarding additionality, maximising leverage, and partnership with the commercial banking sector also apply, *mutatis mutandis*, both within and outside the Union. Among other things, the 10 % indicative ceiling on outstandings for loans outside the Union will have to be considered in line with lending policies. Further discussion of these issues will take place with the Board of Directors in anticipation of the next round of external mandates.

9. Lending priorities and the effective use of the Bank's resources

The evolving economic and financial environment means that the implementation of the broad strategy must be carefully monitored and adapted in the light of economic and financial developments as well as the Bank's past performance. To ensure the contribution to EU policies is maximised, and to make the most effective use of its resources, the Bank will develop a forward-looking corporate operational plan for annual discussion with, and approval by the Board. This will include sectoral analyses of lending both within and outside the Union. The operational plan, to be updated on a rolling basis, will provide a concrete framework for discussing priorities and objectives, and for setting new priorities and objectives on an ongoing basis, bearing in mind those tasks that may increasingly be left to other sources of finance. This would also provide a suitable context in which to review the annual report on the cooperation with the financial sector mentioned above.

The corporate operational plan will provide a framework for performance evaluation. It will integrate feedback from the analysis of the quality of the project portfolio according to a set of performance criteria and the findings of the Bank's Evaluation Unit. This could include ways of improving operational procedures, for example a programme approach in some areas. Over the last few years, the Bank has considerably developed its systems to monitor its performance as a financial intermediary. The Bank will continue to develop systems to monitor activities, including benchmarking its financial operations and the comprehensive analysis of risks.

Taking a longer-term perspective, the Bank will also consider further its capital and reserves requirements in preparation for a review with the Board of Directors in 2001 including a review of key ratios.

A related issue to the medium-term outlook is the resources needed to achieve the Bank's objectives. With a small staff and the objective of keeping administrative expenses firmly under control, the Bank must continue carefully to identify its human resource requirements, and appropriate staff skills should be developed in line with the strategic priorities. The Board's discussion of the corporate operational plan referred to above will also provide a framework for setting strategic orientations regarding the Bank's allocation of resources.

II

(Preparatory Acts)

COMMISSION

Proposal for a European Parliament and Council Directive amending Council Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value-added tax and certain excise duties

(98/C 269/06)

COM(1998) 364 final — 98/0206(COD)

(Submitted by the Commission on 26 June 1998)

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and
Social Committee,

Acting in accordance with the procedure laid down in
Article 189b of the Treaty,

Whereas the existing arrangements for mutual assistance
on recovery set out in Council Directive
76/308/EEC ⁽¹⁾, as last amended by the Act of
Accession of Austria, Finland and Sweden, should be
modified to meet the threat to the financial interests of
the Community and the Member States and to the
internal market posed by the development of fraud;

Whereas in order to safeguard better the financial
interests of the Member States and the neutrality of the
internal market, claims relating to certain taxes on
income and capital should be added to the scope of the
mutual assistance provided for by that Directive;

Whereas any claim in respect of which a request for
recovery has been made should be treated as a claim of
the Member State in which the requested authority is
situated but should not be given preferential treatment
over and above that given to similar claims arising in that
Member State;

Whereas in order to permit more efficient and effective
recovery of claims in respect of which a request for
recovery has been made, the instrument permitting
enforcement of the claim should be treated as an
instrument of the Member State in which the requested
authority is situated;

Whereas the use of mutual assistance on recovery by the
Member States should be encouraged by making the
mutual financial benefits inherent in mutual assistance
more transparent on a case-by-case basis;

Whereas, therefore, Directive 76/308/EEC should be
amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 76/308/EEC is hereby amended as follows:

1. The title is replaced by the following:

‘Council Directive 76/308/EEC of 15 March 1976
on mutual assistance for the recovery of claims
relating to certain levies, duties, taxes and other
measures’.

2. Article 2 is replaced by the following:

Article 2

1. This Directive shall apply to all claims relating
to:

(a) refunds, interventions and other measures
forming part of the system of total or partial

⁽¹⁾ OJ L 73, 19.3.1976, p. 18.

financing of the European Agricultural Guidance and Guarantee Fund, including sums to be collected in connection with these actions;

- (b) levies and other duties provided for under the common organisation of the market for the sugar sector;
- (c) import duties;
- (d) export duties;
- (e) value-added tax;
- (f) excise duties on:
 - manufactured tobacco,
 - alcohol and alcoholic beverages,
 - mineral oils;
- (g) taxes on income and capital;
- (h) interest and penalties, fines, and costs incidental to the recovery of the claims referred to in (a) to (g).

2. Articles 4, 5 and 6 shall apply only to claims not more than three years old, dating from the moment the claim is initially established in accordance with the laws, regulations or administrative provisions in force in the Member State in which the applicant authority is situated, to the date of the request. However, in cases where the claim is contested, those Articles shall apply only to such claims which are not more than three years old, dating from the moment the claim may no longer be contested'.

3. The following indents are added to Article 3:

- "import duties" means customs and charges having equivalent effect on imports, agricultural levies and other import charges laid down within the framework of the common agricultural policy or in that of specific arrangements applicable to certain goods resulting from the processing of agricultural products,
- "export duties" means customs and charges having equivalent effect on exports, agricultural levies and other export charges laid down within the framework of the common agricultural policy or in that of specific arrangements applicable to certain goods resulting from the processing of agricultural products,

— "taxes on income and capital" means those enumerated in Article 1(3) of Council Directive 77/799/EEC (*), read in conjunction with Article 1(4) of that Directive.

(*) OJ L 336, 27.12.1977, p. 15.'

4. Article 4 is amended as follows:

(a) in paragraph 2 the words 'the name and address' are replaced by 'the name, address and any other relevant information relating to the identification';

(b) in paragraph 3, point (b) is deleted.

5. In Article 5(2), the words 'the name and address' are replaced by 'the name, address and any other relevant information relating to the identification'.

6. Article 7 is amended as follows:

(a) Paragraph 2 is amended as follows:

(i) in point (a), the following is added: 'except in cases where the second subparagraph of Article 12(2), is applied';

(ii) point (b) is replaced by the following:

'(b) it has, in the Member State in which it is situated, applied and terminated appropriate recovery procedures available to it on the basis of the instrument referred to in paragraph 1, and the measures taken have not resulted in the payment in full of the claim'.

(b) Paragraphs 3 and 4 are replaced by the following:

'3. The request for recovery shall indicate:

(a) the name, address and any other relevant information relating to the identification of the person concerned;

(b) the name, address and any other relevant information relating to the identification of the applicant authority;

(c) a reference to the instrument permitting its enforcement issued in the Member State in which the applicant authority is situated;

- (d) the nature and the amount of the claim, including the principal, the interest, and any other penalties, fines and costs due indicated in the currencies of the Member States in which both authorities are situated;
- (e) the date of notification of the claim to the addressee by the applicant authority and/or by the requested authority;
- (f) the date from which enforcement is possible under the laws in force in the Member State in which the applicant authority is situated;
- (g) the compensatory percentage in accordance with Article 18(2), second subparagraph;
- (h) any other relevant information.

The request shall indicate the interest due as a fixed amount incurred up to the date of the request and as an additional amount to be determined on recovery. To permit the requested authority to calculate this additional amount, an interest rate and the method of calculation to be used by the requested authority in determining the interest due from the date of the request to the date of recovery from the debtor shall be indicated.

4. The request for recovery shall confirm that the conditions set out in paragraph 2 are fulfilled'.

7. Article 8 is replaced by the following:

'Article 8

The instrument permitting enforcement of the claim shall be directly recognised and automatically treated as an instrument permitting enforcement of a claim of the Member State in which the requested authority is situated'.

8. Article 9 is amended as follows:

(a) the following sentence is added to paragraph 1:

'The entire amount of the claim that is recovered by the requested authority shall be remitted by the requested authority to the applicant authority'.

(b) Paragraph 2 is amended as follows:

- (i) in the first subparagraph, second sentence, the words 'shall be remitted' are replaced by 'shall also be remitted';

(ii) the second subparagraph is deleted.

9. Article 10 is replaced by the following:

'Article 10

The claims to be recovered shall not be given preferential treatment over and above that given to similar claims arising in the Member State in which the requested authority is situated.'

10. In Article 11, the words 'the action' are replaced by 'any action'.

11. Article 12(2) is amended as follows:

(a) the following is added to the first sentence: ' ; unless the applicant authority requests otherwise in accordance with the second subparagraph.';

(b) the following subparagraph is added:

'If the applicant authority judges that the action will be held to be unfounded, it may request the requested authority to recover the claim. If the result of the action is subsequently favourable for the debtor, the applicant authority shall be liable for the reimbursement of any sums recovered, together with any compensation due, in accordance with the laws and regulations in force in the Member State in which the requested authority is situated'.

12. Article 14 is deleted.

13. In Article 17, the words 'and relevant documents' are replaced by ' ; the instrument permitting the enforcement and other relevant documents'.

14. Article 18 is replaced by the following:

'Article 18

1. The requested authority shall recover from the person concerned and retain any costs directly linked to recovery which it incurs, in accordance with the laws and regulations in the Member State in which it is situated that apply to similar claims.

2. Until 31 December 2004, all costs incurred by the requested authority, other than those referred to in paragraph 1, resulting from mutual assistance which led to recovery of part or all of the claim by the requested authority shall be reimbursed by the applicant authority in accordance with the second subparagraph.

On remittance by the requested authority to the applicant authority of the amount of the claim recovered by the requested authority, the applicant authority shall pay a sum equal to a percentage greater than 0,1% of the amount of the claim recovered and remitted by the requested authority. The percentage shall be indicated by the applicant authority in the original request for recovery.

3. From 1 January 2005, Member States shall renounce all claims on each other for the reimbursement of costs resulting from mutual assistance which they grant each other pursuant to this Directive.

4. The Member State in which the applicant authority is situated shall remain liable to the Member State in which the requested authority is situated for any costs and any losses incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument issued by the applicant authority are concerned'.

15. Article 22(1) is replaced by the following:

'1. The detailed rules for implementing Articles 4(2) and 4, 5(2) and (3), 7, 8, 9, 11, 12(1) and (2), 18(2) and 25 and for determining the means by which communications between the authorities may be transmitted, the rules on conversion, transfer of sums recovered, and the fixing of a minimum amount for claims which may give rise to a request for assistance, shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3 of this Article.'

16. The following paragraph is added to Article 25:

'Each Member State shall inform the Commission annually of the number of requests for information,

notification and recovery sent and received each year, the amount of the claims involved, the amounts recovered, the amounts deemed irrecoverable, and the time taken to carry out these actions. The Commission shall report to the European Parliament and the Council on the use made of these arrangements and on the results achieved biennially'.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1999 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the main provisions of national law which they adopt in the field covered by this Directive and a correlation table between this Directive and the national provisions adopted.

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Proposal for a Council Decision amending the Annex to Directive 91/628/EEC with respect to pigs passing through staging points

(98/C 269/07)

COM(1998) 478 final — 98/0248(CNS)

(Submitted by the Commission on 22 July 1998)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC ⁽¹⁾, and in particular Article 14 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas Chapter VII, point 5, of the Annex to Directive 91/628/EEC requires all animals passing through staging points to be unloaded;

Whereas pigs may be particularly affected by stress at the time of loading and unloading when they are transported;

Whereas recent technical developments in the design of road vehicles for carrying livestock have led to the possibility of constructing vehicles with much improved facilities for the transport of pigs;

Whereas, moreover, it may be necessary to allow breeding pigs to remain separate from other pigs at staging points in order to preserve their special health status;

Whereas it is therefore desirable, subject to very stringent conditions, to provide for the possibility of pigs being rested, fed and watered, and cared for at a staging point without being unloaded,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Directive 91/628/EEC is hereby amended in accordance with the Annex to this Decision.

Article 2

This Decision shall apply from 1 January 1999.

Article 3

This Decision is addressed to the Member States.

⁽¹⁾ OJ L 340, 11.12.1991, p. 17. Directive as last amended by Directive 95/29/EC (OJ L 148, 30.6.1995, p. 52).

ANNEX

Point 5 of Chapter VII of the Annex to Directive 91/628/EEC is replaced by the following:

- ‘5. After the journey time laid down, animals must be unloaded, fed and watered and be rested for at least 24 hours.

However, pigs need not be unloaded if the staging points and the road vehicles which carry the animals, fulfil, and are operated in accordance with the following conditions, in addition to compliance with the requirements laid down in point 3 of this Chapter and in Council Regulation (EC) No 411/98 of 16 February 1998 concerning additional standards for road vehicles used for the carriage of livestock on journeys exceeding a duration of eight hours (*):

A. Vehicle standards

1. The space available to each animal in accordance with Chapter VI is increased by not less than 40 %.
2. The height of each compartment on the vehicle in which pigs remain while at the staging point shall not be less than 150 cm.
3. A ventilation system fulfilling at least the requirements of Regulation (EC) No 411/98 as well as the following specific conditions:
 - the vehicle shall have ventilation equipment with a capacity to replace a minimum of 150 m³ of air per hour per m² floor surface throughout the vehicle whether or not the vehicle is in motion,
 - such equipment shall be maintained in good working order and shall be operated while livestock remain on the vehicle at all times when the rate of air replacement resulting from the movement of the vehicle falls below that laid down in the first indent. It shall not be necessary to operate the ventilation equipment at its full capacity where, because of low temperature, that would be harmful to the comfort or general welfare of the pigs. However, the ventilation system shall always be operated in such a way as to provide adequate fresh air to the animals and adequate evacuation of stale air and gases. Use of the vehicle's ventilation equipment shall not, however, be obligatory when it has stopped at a place where constant ventilation of equivalent capacity is provided by external equipment,
 - the ventilation system must be capable of operating continuously for periods of at least 24 hours,
 - the operation of the ventilation equipment shall be independent of the engine of the vehicle,
 - the temperature in each compartment and the outside temperature shall be monitored and the results displayed in the driver's cabin. The temperatures recorded whilst animals are on the vehicle must be registered as a retrievable thermographic record. Those records must be handed to the person in charge of the staging point before the lorry leaves. They must be held by the manager of the staging point at the disposal of the competent authority for at least three years.
4. The ventilation equipment must have an appropriate alarm system to warn of any malfunction.
5. Where the temperature in any compartment falls below 10 °C for pigs older than eight months and 15 °C for pigs under that age, appropriate heating arrangements must be available to ensure that the temperature is maintained above that minimum. Equipment on the lorries or at the staging point shall ensure that during the stay of the animals at the staging point the temperature inside the vehicle compartment does not exceed 20 °C.
6. The vehicle roof shall be white coloured. If the side and front walls are made of light metal, they shall either be of cavity-wall construction with a gap of ≥ 20 mm or be insulated to an equivalent thermal coefficient.
7. The vehicle must be designed so that persons responsible for the examination, care and treatment of the animals are able to have direct access to any animal without the need to unload it from the vehicle.
8. The bedding material must be replenished immediately after arrival of the vehicle at the staging point, immediately before its departure and at any time where it becomes necessary during the period the vehicle is at the staging point in order to maintain adequate absorption and dispersal of animal urine and dung.
9. The vehicle must be equipped with sufficient feeding facilities to ensure that all pigs in the same compartment may eat at the same time.
10. The vehicle must be connected permanently to a supply of fresh potable water during its stay at the staging point in order to allow the pigs to drink at any time.

11. The vehicle and the staging point shall be equipped in such a way that adequate lighting is available in each compartment of the vehicle to facilitate examination, care and treatment of the animals at any time of the day or night.

B. Additional staging point conditions

1. On arrival at the staging point the vehicle must be parked under a structure providing constant shade from sunlight and shelter of the animals from rain, snow, wind and other elements.
2. The staging point must have available in good working order adequate emergency equipment for use in the case of a breakdown of ventilation, heating and lighting equipment on vehicles.
3. The flooring of the parking place must be constructed of concrete or other impervious material which is easy to clean and has sufficient drainage installations to facilitate the constant evacuation of the waste escaping from the vehicle.
4. The record referred to in Article 5(h) of Council Regulation (EC) No 1255/97 (***) shall, in substitution for the requirement in point C.7(a) of Annex I to that Regulation, include the date and time when the vehicle is accommodated at the parking place referred to in paragraph 3.

C. General conditions

Notwithstanding the provisions in A and B, pigs shall be unloaded at staging points if an official veterinarian decides that this is necessary for veterinary or animal welfare reasons. Pigs shall also be unloaded if that is necessary in order to safeguard their health and welfare in the case of an accident, outbreak of fire, breakdown of equipment or similar occurrence, or if it proves to be impossible to carry out any mandatory check on or surveillance of them without unloading.

(*) OJ L 52, 21.2.1998, p. 8.

(**) OJ L 174, 2.7.1997, p. 1.

III

(Notices)

COMMISSION

Operation of scheduled air services

Invitation to tender issued by Ireland under Article 4(1)(d) of Council Regulation (EEC) No 2408/92 in respect of the operation of a scheduled air service between Dublin and Donegal

(98/C 269/08)

(Text with EEA relevance)

1. Introduction

Ireland has amended the public service obligations published in the *Official Journal of the European Communities* No C 3 of 6. 1. 1996, pursuant to Article 4(1)(a) of Regulation (EEC) No 2408/92 of 23. 7. 1992, on access for Community air carriers to intra-Community air routes, in respect of a scheduled air service operated between Dublin and Donegal with effect from 1. 1. 1999. The standards required by the revised public service obligations were published in the *Official Journal of the European Communities* No C 268 of 27. 8. 1998.

In so far as, with effect from 1. 1. 1999, no air carrier will have commenced or be about to commence such an air service in accordance with the public service obligations and without requesting financial compensation, Ireland has decided, in accordance with the procedure laid down by Article 4(1)(d) of that regulation, to limit access to the route to a single air carrier from 1. 1. 1999 and to offer the right to operate such services by public tender.

2. Object of invitation to tender

Operation from 1. 1. 1999 of a scheduled air service between Dublin and Donegal in accordance with the public service obligations imposed on that route and published in the *Official Journal of the European Communities* No C 268 of 27. 8. 1998.

3. Participation

Participation is open to all air carriers holding a valid operating licence issued by a Member State in accordance with Council Regulation (EEC) No 2407/92 of 23. 7. 1992 on licensing of air carriers.

4. Tender procedure

The present tender is subject to the provisions of points d), e), f), g), h) and i) of Article 4(1) of Regulation (EEC) No 2408/92.

5. Tender dossier

The complete tendering dossier, including application forms, a note on demographic and socio-economic features of Donegal airport catchment area, a note on Donegal airport (past passenger numbers, landing fees, technical facilities, etc.) and the full conditions of the contract, may be obtained free of charge from:

Department of Public Enterprise, Room 3.04, 44 Kildare Street, IRL-Dublin 2, tel. (01) 604 10 48, facsimile (01) 670 74 11.

6. Financial compensation

Tenders must explicitly mention the amount of reimbursement required for the operation of services on the route. The definite amount of the reimbursement will be established ex-post in accordance with the actual costs and revenue generated by the service, within the limit of the amount mentioned in the tender.

7. Period of validity, amendment and termination of the contract

The contract will be valid for the period up to 17. 2. 2001. A new invitation to tender will be made, if applicable, before the end of this period.

8. Penalties in the event of the carrier failing to comply with the contract

Except in cases of force majeure, where the number of flights cancelled for reasons directly attributable to the carrier exceeds 2% of the number of flights on an annual basis, the compensation payable will be reduced on a pro rata basis for each occasion on which such flights are not operated.

9. Deadline for submission of bids

31 days from publication of this communication in the *Official Journal of the European Communities*.

10. Application procedure

Bids must be submitted by registered letter, date as post-marked, or delivered to:

Department of Public Enterprise, Room 3.04, 44 Kildare Street, IRL-Dublin 2

before 17.00 on the date in point 9, in envelopes marked 'EASP tender'.

11. Validity of invitation to tender

In accordance with the first sentence of Article 4(1)(d) of Regulation (EEC) No 2408/92, the validity of this invitation to tender is subject to the condition that no Community air carrier presents, by 1.12.1998, a programme for operating the route in accordance with

the public service obligations without receiving any financial compensation.

Carriers are reminded of the fact the 89 IEP full return fare and 50 IEP single fare mentioned in the Commission's Communication published in the *Official Journal of the European Communities* No C 268 of 27.8.1998 have to be considered as maximum fares and that a range of lower fares may be freely set by the selected air carrier.

12. Other information

The award of an operating contract for the route will be contingent on the prompt production of a current tax clearance certificate from the revenue commissioners in Ireland or, in the case of an air carrier holding a valid licence issued by another EEA Member State, a statement from the revenue commissioners in Ireland confirming suitability on tax grounds.

The operating contract will be interpreted and construed in accordance with the laws of Ireland.
