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Information and Notices

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I

(Information)

COMMISSION

Euro exchange rates ⁽¹⁾**11 August 2000**

(2000/C 232/01)

1 euro	=	7,4604	Danish krone
	=	337,10	Greek drachma
	=	8,3630	Swedish krona
	=	0,6061	Pound sterling
	=	0,9132	United States dollar
	=	1,3545	Canadian dollar
	=	99,310	Japanese yen
	=	1,5531	Swiss franc
	=	8,1195	Norwegian krone
	=	72,79	Icelandic króna ⁽²⁾
	=	1,5702	Australian dollar
	=	2,0188	New Zealand dollar
	=	6,3295	South African rand ⁽²⁾

⁽¹⁾ Source: reference exchange rate published by the ECB.

⁽²⁾ Source: Commission.

STATE AID

Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning Case C 33/98 — Spain: Aid involved in the privatisation arrangements of Babcock Wilcox España SA (BWE)

(2000/C 232/02)

(Text with EEA relevance)

By means of the letter dated 7 July 2000 reproduced in the authentic language on the pages following this summary, the Commission notified Spain of its decision to extend the Article 88(2) procedure C 33/98 to the aid elements involved in the privatisation arrangements of Babcock Wilcox España SA (BWE).

Interested parties may submit their comments within one month of the date of publication of this summary and the following letter, to:

European Commission
Directorate-General for Competition (COMP)
Directorate H
Rue de la Loi/Wetstraat 200
B-1049 Brussels
Fax (32-2) 296 95 80

These comments will be communicated to Spain. Confidential treatment of the identity of the interested party submitting the comments may be requested in writing, stating the reasons for the request.

In accordance with Article 14 of Council Regulation (EC) No 659/1999, all unlawful aid can be subject to recovery from the beneficiary.

SUMMARY

In April 1998 the Commission initiated the Article 88(2) EC procedure ⁽¹⁾. In July 1999 the Commission extended the procedure to cover additional aid to BWE ⁽²⁾.

By letter of 25 April 2000 the Spanish authorities have notified the privatisation arrangements of BWE. These arrangements involve the creation of a new company, NewCo, to which certain selected assets of BWE will be contributed. BWE shall also contribute to NewCo 650 workers. Subsequently, BWE will be liquidated. Babcock Borsing AG will buy NewCo's shares for a price of EUR 45 million. The privatisation arrangements also involve: cash payments to NewCo of EUR 250 million for investments and costs of adapting and relaunching former BWE's activities; the coverage of losses related to contracts transferred to NewCo; the coverage of costs related to claims addressed to NewCo for events occurred prior to the sale; and the coverage of the deficit in the liquidation of BWE with an estimated cost of EUR 210,4 million.

The aid involved in the privatisation arrangements of BWE appears at this stage incompatible with the common market

since it is not in line with the compatibility requirements set out in the Community Guidelines on State aid for rescuing and restructuring firms in difficulty.

TEXT OF THE LETTER

'La Comisión tiene el honor de comunicar a España que, tras haber examinado la información facilitada por sus autoridades sobre la ayuda arriba indicada, ha decidido ampliar el procedimiento establecido en el apartado 2 del artículo 88 del Tratado CE.

I. Procedimiento

(1) En abril de 1998, la Comisión inició el procedimiento del apartado 2 del artículo 88 del Tratado CE con relación a dos aportaciones de capital por un total de 20 000 millones de pesetas españolas (120,2 millones de euros) realizadas en 1994 y 1997 por el *holding* público SEPI en beneficio de BWE ⁽³⁾.

(2) En julio de 1999 la Comisión amplió el procedimiento para incluir ontra ayuda a BWE consistente en una nueva

⁽¹⁾ OJ C 249, 8.8.1998.

⁽²⁾ OJ C 280, 2.10.1999.

⁽³⁾ DO C 249 de 8.8.1998.

aportación de capital de 41 000 millones de pesetas españolas (246,4 millones de euros) ⁽⁴⁾.

- (3) Las autoridades españolas notificaron los acuerdos de privatización de BWE mediante carta de 25 de abril de 2000.

II. Babcock Wilcox España SA («BWE»)

- (4) BWE es una filial al 100 % del *holding* público español SEPI. Esta empresa fue adquirida por el Estado con una plantilla de 5 600 trabajadores en 1978, tras la crisis del petróleo. Desde que pertenece al sector público, BWE ha pasado por diversos procesos de reestructuración y reorganización, reduciendo sus actividades y centrándose en unas pocas operaciones fundamentales. En la actualidad, opera como fabricante de instalaciones «llave en mano» y de bienes de equipo para el sector energético. En la primera mitad de los años noventa, BWE registró beneficios moderados. El primer intento de privatizar BWE se produjo en septiembre de 1998, cuando el grupo Kvarner acordó la compra de BWE. Al final, el acuerdo no se firmó debido a los problemas financieros de Kvarner. A principios de 1999, las autoridades españolas iniciaron un segundo procedimiento de privatización de BWE. En mayo de 1999 las autoridades españolas seleccionaron sendas ofertas presentadas por los grupos McDermott y Babcock Borsing AG.

III. Los acuerdos de privatización

- (5) El 9 de febrero de 2000 SEPI firmó un contrato con Babcock Borsing AG («BB») por el que se compromete a vender a esta empresa al precio de 45 millones de euros las acciones de una sociedad de nueva constitución, NewCo, a la que se transferirán determinados activos seleccionados de BWE. Esta última también cederá a NewCo 650 empleados. A continuación, se procederá a la liquidación de BWE. El contrato está supeditado, entre otras cosas, a la autorización por parte de la Comisión de la ayuda objeto del presente procedimiento, así como de cualquier transacción prevista en los acuerdos de privatización que sea reputada de ayuda estatal.
- (6) BB persigue adquirir todo el capital de NewCo para integrar esta empresa en su grupo conforme a un plan industrial cuyas líneas de actuación se incorporaron a la oferta presentada a las autoridades españolas. El plan industrial persigue garantizar la continuidad de las actividades de BWE aportadas a NewCo.
- (7) Tras un análisis SWOT («puntos fuertes, puntos débiles, oportunidades y amenazas»), el plan industrial concluye que las actividades de producción de NewCo deben concentrarse en los ámbitos de la ingeniería energética, la protección del medio ambiente y la prestación de servicios de mantenimiento y explotación a instalaciones de generación de energía. Dentro del grupo BB, NewCo debe cubrir básicamente los mercados regionales de España, Portugal, Latinoamérica y el norte de África. El

volumen de negocios anual de NewCo ha de alcanzar una media de 250 a 400 millones de euros con una plantilla máxima de 650 trabajadores. De cumplirse estos objetivos, se espera que NewCo deje de arrojar pérdidas en cuatro años.

- (8) BB considera que la adaptación y relanzamiento de las actividades de NewCo exigirá unas inversiones del orden de los 135 millones de euros mientras que el valor estimado de las transferencias de tecnología es de aproximadamente 37,5 millones de euros.
- (9) En virtud del contrato de privatización, SEPI y BB compartirán dichos costes. BB se obliga durante un período de cinco años a: proporcionar gratuitamente a NewCo la tecnología y la asistencia tecnológica que precise, mantener la plantilla de NewCo en 650 empleados y efectuar las aportaciones dinerarias que sean necesarias para mantener en todo momento el nivel mínimo de fondos propios de NewCo en 20 millones de euros.

Además, BB se compromete a que NewCo no distribuya dividendos a sus accionistas con cargo a los resultados de los ejercicios fiscales 2000, 2001 y 2002.

- (10) Por su parte, BWE se obliga a efectuar los pagos siguientes, asumiéndolos SEPI, su actual propietario, como obligado solidario:
- Un pago de 55 millones de euros en la fecha de creación de NewCo.
 - Un pago de 100 millones de euros destinados a costes de adaptación de las actividades aportadas a NewCo.
 - Un pago de 95 millones de euros a NewCo para inversiones y formación previstas en el programa de inversión incluido en el plan industrial presentado por el comprador.
 - La cobertura de eventuales pérdidas relacionadas con contratos transferidos a NewCo, con un coste estimado de 8 000 millones de pesetas españolas (48,1 millones de euros).
 - La cobertura de los costes derivados de cualquier reclamación dirigida contra NewCo por perjuicios económicos o daños resultantes de hechos ocurridos con anterioridad a la venta que esté relacionada con cuestiones medioambientales, laborales, fiscales o de Seguridad Social y con obligaciones derivadas de planes de pensiones. La responsabilidad máxima asumida por BWE y SEPI se limita a 18 millones de euros (las autoridades españolas consideran que no habrá lugar a compensación alguna por este concepto).
 - La cobertura del déficit de la liquidación de BWE, con un coste estimado de 35 000 millones de pesetas españolas (210,4 millones de euros).

⁽⁴⁾ DO C 280 de 2.10.1999.

- (11) El programa de inversión presentado por BB para NewCo abarca el período 2000-2004. Las inversiones ascienden a un total de 135,5 millones de euros y pueden clasificarse así:

Tipo de inversión	Presupuesto 2000-2004 (en millones de euros)
A) Relanzamiento de actividades	41,5
B) Tecnologías de la información	20
C) Modernización de bienes de equipo	46
D) Red comercial y participación en empresas en participación	28
Total	135,5

- (12) Es de señalar que la notificación indica que el plan industrial presentado por BB es un primer borrador sujeto a modificaciones en función de las negociaciones que están celebrando las partes interesadas.

IV. Evaluación

- (13) Según los compromisos mencionados en el punto 10, el Estado español cubrirá, a través de SEPI, la sociedad *holding* de la que es propietario exclusivo, costes derivados de la reestructuración de las actividades de BWE que, de lo contrario, tendrían que sufragar BWE, NewCo o el comprador de esta última empresa.
- (14) Los compromisos a) a e) implican pagos a NewCo de los que esta empresa es el beneficiario nominal y real.

En cuanto al compromiso f) de cubrir el déficit de la liquidación de BWE, aunque conlleva pagos a BWE, la Comisión considera en esta fase del procedimiento que el verdadero beneficiario es NewCo. La creación de NewCo, la aportación de los activos de BWE y la cobertura del déficit de la liquidación de BWE no son el resultado de un procedimiento de liquidación normal sin la intervención del Estado, sino que constituyen la segregación artificial de una rama de actividad. Esta segregación viene posibilitada por la responsabilidad ilimitada que asume SEPI, y en última instancia el Estado español, frente a los acreedores de BWE. Además, la sociedad *holding* SEPI, que es el actual propietario de BWE y el futuro propietario inicial de NewCo, ha diseñado la segregación para liberar estas actividades de toda carga u obligación pasada sin trasladar a NewCo el coste de despido de los trabajadores. En estas circunstancias, la cobertura del citado déficit tiene por objeto y efecto liberar a las actividades de BWE transferidas a NewCo de los costes que deberían soportar.

- (15) La Comisión también desea subrayar que el compromiso estipulado en el contrato de privatización de cubrir el déficit de la liquidación de BWE constituye una garantía ilimitada para los acreedores de BWE que fue concedida por el Estado con posterioridad al nacimiento de las deudas en cuestión. La Comisión llama la atención de las autoridades españolas y demás interesados sobre las con-

secuencias legales de la concesión ilegal de garantías, expuestas en el capítulo 6 de su Comunicación relativa a la aplicación de los artículos 87 y 88 del Tratado CE a las ayudas estatales otorgadas en forma de garantía ⁽⁵⁾.

- (16) La Comisión también debe señalar en esta fase de la evaluación que la transferencia artificial a NewCo de las actividades en curso de BWE, que solamente seguirá existiendo en sus deudas pendientes a efectos de liquidación, no debe servir a las autoridades españolas para eludir el pleno cumplimiento de la normativa sobre ayudas estatales. Por consiguiente, NewCo será el destinatario de cualquier orden de devolución que la Comisión decida dictar con relación a la ayuda objeto del procedimiento inicialmente incoado en virtud del apartado 2 del artículo 88 y de su primera ampliación, que en su momento consideró a BWE como beneficiario de la ayuda. La evaluación de la compatibilidad de esta ayuda no puede dissociarse de la evaluación de las nuevas intervenciones, toda vez que todas ellas tienen por finalidad ayudar a la rama de actividad que se transferirá a NewCo.
- (17) Además de la ayuda a NewCo previamente mencionada, habida cuenta de que el grueso de los activos de BWE, con un valor contable neto de aproximadamente 50 millones de euros, se transferirá a NewCo libre de cargas y gravámenes y de derechos de terceros y con una plantilla del tamaño que precisa el comprador, en esta fase del procedimiento la Comisión duda de que el precio que BB pagará por las acciones de NewCo en virtud del acuerdo de privatización, 45 millones de euros, refleje el valor intrínseco de las actividades adquiridas.
- (18) Como se indicó con motivo de la incoación del procedimiento, hay un comercio significativo entre Estados miembros y las empresas compiten vigorosamente por conseguir pedidos tanto a escala comunitaria como internacional en el sector en que operan BWE y BB ⁽⁶⁾. Por lo tanto, las intervenciones estatales a que se refiere el punto 10 y cualquier elemento de ayuda que pueda encerrar el precio de compra de las acciones de NewCo constituyen una ayuda a efectos del apartado 1 del artículo 87 del Tratado CE.
- (19) Las nuevas ayudas notificadas persiguen culminar el proceso de reestructuración de las actividades de BWE iniciado en el marco de su privatización. Por consiguiente, la Comisión debe evaluar su compatibilidad a la luz de los principios establecidos en las Directrices sobre ayudas estatales de salvamento y de reestructuración. Como BWE y la rama de actividad que se segregará de ella para transferirla a NewCo son o serán grandes empresas, las nuevas Directrices comunitarias sobre ayudas estatales de salvamento y de reestructuración de empresas en crisis publicadas en el DO C 288 de 9.10.1999 (en adelante, denominadas «las Directrices») son aplicables a la ayuda notificada que se está evaluando ⁽⁷⁾.

⁽⁵⁾ DO C 71 de 11.3.2000.

⁽⁶⁾ Véase el punto 4 de la Decisión por la que se incoó el procedimiento del apartado 2 del artículo 88 del Tratado CE.

⁽⁷⁾ Véase el punto 7.4 de las Directrices.

(20) La Comisión puede autorizar una ayuda destinada a la reestructuración de una empresa en crisis siempre que se cumplan unos criterios muy estrictos. Entre otras condiciones: la ayuda debe estar supeditada a la ejecución de un plan de reestructuración que restablezca la viabilidad a largo plazo de la empresa en un plazo razonable⁽⁸⁾; el importe y la intensidad de la ayuda deben limitarse a lo estrictamente necesario para permitir la reestructuración en función de las disponibilidades financieras de la empresa, de sus accionistas o del grupo comercial del que forme parte⁽⁹⁾ y se han de adoptar medidas que mitiguen en lo posible las consecuencias negativas que la ayuda puede acarrear para los competidores⁽¹⁰⁾.

(21) Por lo que se refiere al primer criterio, un plan de reestructuración adecuado, las autoridades españolas han comunicado el plan industrial incorporado por BB en su oferta. Sin embargo, la Comisión observa que este plan industrial es un primer borrador sujeto a modificaciones en función de las negociaciones que están celebrando las partes interesadas. Por añadidura, la notificación española no facilita toda la información que necesita la Comisión para la evaluación de concesiones individuales de ayuda estatal con arreglo al anexo I de las Directrices. La notificación española no incluye, en particular, un estudio de mercado independiente ni un análisis de sensibilidad basado en las hipótesis contempladas en el plan industrial⁽¹¹⁾.

(22) En cuanto al requisito de limitar la ayuda al mínimo imprescindible, la Comisión observa que la ayuda en forma de pagos destinados a la adaptación de las actividades industriales transferidas a NewCo [letra b) del punto 10], la ayuda ligada a categorías específicas de costes de inversión o de formación [punto 10] y la ayuda que representa la aportación dineraria de libre uso [letra a) del punto 10] suman 250 millones de euros. Este importe supera considerablemente el presupuesto de 135,5 millones de euros en inversiones de reestructuración presentado por el comprador y representa una intensidad bruta del 188 %⁽¹²⁾.

Además, algunas de las medidas subvencionadas en virtud del programa de inversiones, como la financiación tanto

⁽⁸⁾ Véanse los puntos 31 a 34 de las Directrices.

⁽⁹⁾ Véanse los puntos 40 y 41 de las Directrices.

⁽¹⁰⁾ Véanse los puntos 35 a 39 de las Directrices.

⁽¹¹⁾ Es de señalar que, a la vista del elevado valor de la ayuda cuya compatibilidad se cuestiona en la presente ampliación del procedimiento, que llega incluso a superar el volumen de negocios anual medio previsto para la rama de actividad segregada de BWE, es probable que, si la Comisión decide dictar una orden de devolución, la viabilidad de NewCo no quede garantizada por el plan industrial en sus términos actuales.

⁽¹²⁾ Es de señalar que BWE se halla en una región que puede recibir ayuda regional al amparo de la letra c) del apartado 3 del artículo 87 del Tratado CE. Para el período 1995-1999 la intensidad máxima de ayuda admisible era del 25 % del equivalente bruto de subvención (EBS). El 11 de abril de 2000, fecha en que la Comisión aprobó el mapa español de ayudas regionales para 2000-2006, la intensidad máxima se redujo al 20 % del EBS.

de los costes derivados del establecimiento de una red comercial en la regiones asignadas a la empresa como de las participaciones en otras empresas, parecen contrarias al principio según el cual las ayudas no han de destinarse a actividades agresivas susceptibles de provocar distorsiones en el mercado.

En lo que concierne a los pagos relacionados con contratos transferidos a NewCo [letra d) del punto 10] y las reclamaciones dirigidas contra NewCo [letra e) del punto 10], la Comisión constata que serán sufragados íntegramente por el Estado sin que la empresa o su comprador asuman riesgo alguno.

(23) En todo caso, a juzgar por la información disponible en esta fase del procedimiento, el plan industrial no conlleva ninguna contribución significativa del beneficiario de la ayuda o de su comprador con sus propios fondos al plan de reestructuración, en contra de lo exigido por las Directrices. A este respecto, hay que señalar que el comprador invertirá 45 millones de euros en la compra de las acciones de NewCo y que la transferencia de tecnología está valorada en 37,5 millones de euros, mientras que el Estado corre, en virtud de los acuerdos de privatización, con unos gastos de al menos 508,5 millones de euros que hay que sumar a los 384,6 millones de euros ya desembolsados en las anteriores aportaciones de capital cubiertas por el procedimiento.

(24) En cuanto a la intervención estatal señalada en la letra f) del punto 10, consistente en la cobertura del déficit de la liquidación de BWE, según la información recogida en la notificación, este déficit tendrá su origen básicamente en la compensación de pasivos que no guardan relación con las cargas laborales. Es de destacar que, como se indica en el punto 3.60, las Directrices adoptan una actitud positiva con respecto a las ayudas destinadas a cubrir los costes sociales de la reestructuración. Según la información facilitada por las autoridades españolas, los costes derivados de la supresión de los 500 puestos de trabajo sobrantes una vez transferidos 650 a NewCo se cubrieron con una parte de 24 500 millones de pesetas de españolas de la aportación de capital de 41 000 millones de pesetas españolas con relación a la cual la Comisión amplió el procedimiento en 1999.

(25) Por último, en lo tocante a la necesidad de evitar falseamientos indebidos de la competencia, la Comisión destaca que, aunque el plan industrial conlleva un sustancial recorte de plantilla, no se mencionan cesiones de activos o filiales ni supresiones de equipamientos industriales que impidan que las actividades en curso de BWE recuperen su nivel anterior a la intervención estatal. A este respecto, la Comisión llama la atención de las autoridades españolas sobre la necesidad de presentar información muy precisa y detallada sobre el plan de reestructuración, como se indica en el anexo I de las Directrices.

- (26) Por lo que se refiere a la ayuda que puede representar el precio de compra de las acciones de NewCo, señalada en el punto 16, cabe observar que, de confirmarse, constituiría una ayuda de funcionamiento en favor de BB. No parece, en esta fase del procedimiento, que dicha posible ayuda al comprador de NewCo cumpla las condiciones exigidas para acogerse a ninguna de las excepciones de los apartados 2 y 3 del artículo 87 del Tratado CE.
- (27) Por último, la Comisión recuerda a las autoridades españolas que, en el supuesto de que se considerase que NewCo es una empresa de nueva creación en el sentido de las Directrices sobre ayudas de salvamento y de reestructuración, no podrían autorizarse ayudas de reestructuración. Concretamente, el punto 2.7 de las Directrices reza así: «A efectos de las presentes Directrices, las empresas de nueva creación no pueden acogerse a las ayudas de salvamento y de reestructuración aunque su situación financiera inicial sea precaria. Tal es el caso especialmente si la empresa de nueva creación ha surgido de la liquidación de otra empresa anterior o de la absorción de sus activos».

Por consiguiente, la ayuda que constituyen los pagos a NewCo a que se refieren las letras a) a e) del punto 10 parece incompatible con el mercado común.

En el supuesto de considerarse que es una empresa de nueva creación, NewCo podría recibir ayuda a la inversión u otros tipos de ayuda dentro de los límites de intensidad y costes admisibles fijados para los regímenes horizontales autorizados en la región en que se halla la empresa. Sin embargo, por el momento la Comisión duda de que la ayuda cumpla tales condiciones de concesión ya que la intensidad del 188 % propuesta rebasa ampliamente el límite máximo del 25 % admisible en la región en cuestión. Además, la Comisión no está segura de que los elementos enumerados en el programa de inversión sean subvencionables al amparo de los referidos regímenes horizontales y, en consecuencia, solicita a las autoridades españolas que le faciliten información detallada al respecto.

- (28) Es de señalar que en su decisión final sobre este asunto la Comisión tendrá que adoptar una posición final sobre si la creación de NewCo y la transferencia de cierto número de activos y trabajadores libres de cargas, gravámenes y derechos de terceros equivale a crear un nuevo proyecto

empresarial o, antes bien, tiene que considerarse como la reestructuración global de una empresa existente sujeta a las Directrices de reestructuración, o ambas cosas.

V. Conclusión

- (29) Por consiguiente, las intervenciones del Estado en la privatización de BWE constituyen una ayuda en el sentido del apartado 1 del artículo 88 del Tratado CE y no parecen reunir en esta fase del procedimiento los requisitos exigidos para declarar que se cumplen las condiciones fijadas en la letra c) del apartado 3 del artículo 87 del Tratado CE, conforme a lo dispuesto en las Directrices comunitarias sobre ayudas estatales de salvamento y de reestructuración de empresas en crisis de 9 de octubre de 1999.

Habida cuenta de las consideraciones expuestas, la Comisión, en el marco del procedimiento del apartado 2 del artículo 88 del Tratado CE, insta a España para que presente sus observaciones y facilite toda la información pertinente para la evaluación de la ayuda en un plazo de un mes a partir de la fecha de recepción de la presente. Se recuerda a España que uno de los elementos de juicio esenciales para evaluar la compatibilidad de esta ayuda, así como de la ayuda precedente cubierta por el procedimiento, es el programa de reestructuración de las actividades de BWE que ejecutará el comprador. Por lo tanto, se requiere a España para que presente a la Comisión la versión definitiva del programa de reestructuración que se está negociando. La Comisión insta a sus autoridades para que transmitan inmediatamente una copia de la presente carta a SEPI, BWE y Borsing Babcock.

La Comisión desea recordar a España que el apartado 3 del artículo 88 del Tratado CE tiene efectos suspensivos y llama su atención sobre la carta remitida a todos los Estados miembros el 22 de febrero de 1995, en la que se advierte que toda ayuda concedida ilegalmente puede ser reclamada al beneficiario con arreglo a los procedimientos del Derecho nacional; la ayuda recuperable devengará intereses desde la fecha en que estuvo a disposición del beneficiario hasta la de su recuperación. Los intereses se calcularán sobre la base del tipo de referencia utilizado para el cálculo del equivalente de subvención en el marco de las ayudas regionales.'

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty

Cases where the Commission raises no objections

(2000/C 232/03)

(Text with EEA relevance)

Date of adoption of the decision: 1.3.2000

Member State: Germany (Nordrhein-Westfalen)

Aid No: N 379/99

Title: Rational utilization of energy and of inexhaustible energy sources — scheme part 'General promotion' — Land Nordrhein-Westfalen

Objective: To promote rational energy utilisation and energy saving

Legal basis: Richtlinie über die Gewährung von Zuwendungen aus dem Programm Rationelle Energieverwendung und Nutzung unerschöpflicher Energie (REN-Programm), Programmbereich Breitenförderung, Runderlass des Ministeriums für Bauen und Wohnen vom 29.10.1998, jährliche Haushaltsgesetze

Budget: Annually approximately DEM 50 million (EUR 25,5 million)

Aid intensity or amount: Including cumulation, not exceeding 40 %, for photovoltaic plants 49 % of eligible investment costs

Duration: Five years as of the date of approval

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 1.3.2000

Member State: Germany

Aid No: N 443/99

Title: R & D aid to 'Institut für Solare Technologien GmbH'

Objective: To support fundamental research in the field of photovoltaic materials

Legal basis: § 23 und § 24 der Landeshaushaltsordnung des Landes Brandenburg

Budget: 1 035 000 DEM (approximately EUR 530 000)

Aid intensity or amount: 90 %

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 1.3.2000

Member State: Germany

Aid No: N 743/99

Title: Mobility and ground traffic

Objective: To promote research projects with regard to mobility and ground traffic

Legal basis: Jährliche Haushaltsgesetze

Budget: Annual budget: approximately DEM 120 million (EUR 60 million) (including support for public research institutes)

Aid intensity or amount:

— For fundamental research: maximum 100 %;

— For industrial research: maximum 50 %;

— For precompetitive development: maximum 25 %;

— For feasibility studies: maximum 75 %;

— For demonstration projects: maximum 25 %; plus additional 10 %-points for projects carried out in assisted areas in accordance with Article 87(3); plus additional 10 %-points for SME's; plus additional 10 %-points pursuant to point 5.10.4. R & D-framework; altogether, including bonuses and cumulation, not exceeding 75 % for industrial research and 50 % for precompetitive development

Duration: Five years, as of 1.1.2000

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 7.3.2000

Member State: Austria (Upper Austria)

Aid No: N 595/99

Title: Tourism Impulse Programme Upper Austria 2000-2006 (Tourism)

Objective: To support investments by SMEs in tourism

Legal basis: Beschluss der OÖ. Landesregierung über die Richtlinien für das Tourismus-Impulsprogramm (TIP) des Landes Oberösterreich für den Zeitraum 2000—2006

Budget: EUR 2,2 million (ATS 30 million) per year

Aid intensity or amount: Maximum 7,5/15 % respectively to medium-sized and small enterprises; in regionally assisted areas intensities according to regional aid map plus 10 % gross bonus in areas eligible under Article 87(3)(c) EC Treaty

Duration: 1.1.2000 to 31.12.2006

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 10.3.2000

Member State: Germany (Niedersachsen)

Aid No: N 533/99

Title: Guidelines on promotion of innovative pilot projects for use of solar energy

Objective: To promote the use of renewable energy, in particular solar energy

Legal basis: Kabinettsbeschluss des Landes Niedersachsen; § 44 Landeshaushaltsordnung

Budget: Annually DEM 1,98 million (EUR 1 million)

Aid intensity or amount: Including cumulation, not exceeding 30 %, for SMEs 40 % of eligible investment costs

Duration: Until 31.12.2003

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 17.3.2000

Member State: Germany

Aid No: N 542/99

Title: R & D Collaboration Programme and Pilot Installations

Objective: To support environment-friendly R & D projects by companies operating in Bremen

Legal basis: Haushaltsgesetz

Budget: DEM 8 million (approximately EUR 4 million) per year

Aid intensity or amount: Up to 50 % for industrial research; 25 % for pre-competitive development plus bonus where appropriate

Duration: Until 31.12.2006

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 24.3.2000

Member State: Germany (Niedersachsen)

Aid No: N 531/99

Title: Guidelines on renewable energies

Objective: To promote the use of renewable energy

Legal basis: Kabinettsbeschluss des Landes Niedersachsen; § 44 Landeshaushaltsordnung

Budget: Annually DEM 15 million (EUR 7,5 million)

Aid intensity or amount: Including cumulation, not exceeding 30 %, for SMEs 40 % of eligible investment costs

Duration: Until 31.12.2003

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 29.3.2000

Member State: Germany

Aid No: N 631/99

Title: Development aid for the Philippines. Construction of two lifeboats

Objective: Shipbuilding

Legal basis: Finanzielle Zusammenarbeit mit den Philippinen

Budget: Not available (subsidised loan)

Aid intensity or amount: 34,1 % (DAC-subsidy equivalent — OECD consensus)

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 11.4.2000

Member State: Germany (Freie Hansestadt Bremen)

Aid No: N 700/99

Title: Bremerhavener Dockbetriebs GmbH (Bredo)

Objective: Rescheduling of debt. Ship repair

Legal basis: Bürgschaftsrichtlinie der Freien Hansestadt Bremen

Aid intensity or amount: No aid

Duration: 1999 to 2007

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 28.4.2000

Member State: Germany

Aid No: N 540/99

Title: Bavarian Technology Aid Scheme

Objective: To support R & D projects and investments by SMEs in Bavaria

Legal basis: Haushaltsgesetz des Freistaates Bayern 1999/2000, Programmrichtlinie

Budget: EUR 8,7 million (DEM 17 million) per year

Aid intensity or amount: R & D aid: 40 % for industrial research; 25 % for pre-competitive development; plus 10 % SME-bonus where appropriate investment aid, 15 % for small and 7,5 % for medium-sized companies

Duration: Until 31.12.2003

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 28.4.2000

Member State: Germany (Schleswig-Holstein)

Aid No: N 809/99

Title: Innovation scheme

Objective: To support R & D projects which increase the innovative capacity and competitiveness of the Schleswig-Holstein economy, especially of the SMEs

Legal basis: Landeshaushaltsordnung Schleswig-Holstein

Budget:

— EUR 3,2 million (DEM 6,6 million) 2000,

— EUR 4,95 million (DEM 9,9 million) 2001,

— EUR 5,7 million (DEM 11,4 million) 2002

Aid intensity or amount:

Up to: 35 % for industrial research; 25 % for precompetitive development bonus: 10 % SME — 50 % for consultancy services provided by outside consultants to SMEs

Duration: 1.1.2000 to 31.12.2002

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Date of adoption of the decision: 16.5.2000

Member State: Italy (Campania)

Aid No: N 716/99

Title: Regional aid for investment by Palumbo SpA, a mechanical engineering and shipbuilding firm

Objective: Mechanical engineering and shipbuilding

Legal basis: Legge 541/95

Budget: ITL 1,9 billion (EUR 900 000)

Aid intensity or amount: 22,5 % nge

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty**Cases where the Commission raises no objections**

(2000/C 232/04)

Date of adoption of the decision:	26.6.2000
Member State:	France
Aid No:	N 528/B/2000
Title:	Exceptional depreciation scheme for industrial and commercial buildings belonging to SMEs (agricultural sector)
Other information:	Decision not to proceed on the basis of the information provided by the French authorities that the scheme does not apply to agricultural buildings

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at

http://europa.eu.int/comm/sg/sgb/state_aids

Prior notification of a concentration

(Case COMP/M.2045 — **Salzgitter/Mannesmann-Röhrenwerke**, ECSC.1336 — **Mannesmann-Röhrenwerke**)

(2000/C 232/05)

(Text with EEA relevance)

1. On 1 August 2000 the Commission received a 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 Salzgitter AG acquires, within the meaning of Article 3(1)(b) of the Regulation, control of the whole of the undertaking Mannesmann-Röhrenwerke AG by way of purchase of shares.
2. The business activities of the undertakings concerned are:
 - Salzgitter AG: steel products and steel pipes,
 - Mannesmann-Röhrenwerke AG: steel plates, steel tubes and pipes.
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 to the Commission.

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 COMP/M.2045 — Salzgitter/Mannesmann-Röhrenwerke, ECSC.1336 — Mannesmann-Röhrenwerke, to:

European Commission,
Directorate-General for Competition,
Directorate B — Merger Task Force,
Rue Joseph II/Jozef II-straat 70,
B-1000 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.

Prior notification of a concentration**(Case COMP/JV.51 — Bertelsmann/Mondadori/BOL Italia)**

(2000/C 232/06)

(Text with EEA relevance)

1. On 8 August 2000 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 companies Bertelsmann AG and Arnoldo Mondadori Editore SpA, which belongs to the Fininvest group, acquire, within the meaning of Article 3(1)(b) of the Regulation, joint control of the whole of BOL Italia SpA, a company constituting a joint venture.

2. The business activities of the undertakings concerned are:

- Bertelsmann AG: printing, publishing and distribution of books and magazines, book clubs, publishing and distribution of music and records and private television as well as related services,
- Arnoldo Mondadori SpA: publishing of books and magazines, graphics and printing as well as direct marketing of books,
- Fininvest: television and related services, production and distribution of films, advertising and financial services,
- BOL Italia SpA: the online sales of books in the Italian language via the Internet as well as music cassettes, CDs and CD ROMs, VHS and DVDs on a worldwide basis.

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

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

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 COMP/JV.51 — Bertelsmann/Mondadori/BOL Italia, to:

European Commission,
Directorate-General for Competition
Directorate C — Information, Communication and Multimedia,
Rue Joseph II/Jozef II-straat 70,
B-1000 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.

Prior notification of a concentration**(Case COMP/M.2114 — Sanpaolo/Schroders/Omega/CEG)**

(2000/C 232/07)

(Text with EEA relevance)

1. On 7 August 2000 the Commission received a 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 Dutch undertaking Sanpaolo Private Equity Schome BV (Sipes), belonging to the Sanpaolo IMI-group and the undertaking MWCR Lux SARL (MWCR Lux), Luxembourg, belonging to the Schroders group, acquire, within the meaning of Article 3(1)(b) of the Regulation, joint control of the two Italian undertakings Omega Bilance SpA (Omega) and CEG di Macchi & Piantanida (CEG) by purchase of shares.

2. The business activities of the undertakings concerned are:

- Sipes: banking and financial services,
- MWCR Lux: financial services and investment banking,
- Omega: manufacture and wholesale of scales and other weighing devices,
- CEG: manufacture and wholesale of slicers and miners.

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 COMP/M.2114 — Sanpaolo/Schroders/Omega/CEG, to:

European Commission,
Directorate-General for Competition,
Directorate B — Merger Task Force,
Rue Joseph II/Jozef II-straat 70,
B-1000 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.

Prior notification of a concentration
(Case COMP/M.2033 — Metso/Svedala)

(2000/C 232/08)

(Text with EEA relevance)

1. On 7 August 2000 the Commission received a 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 Metso Corporation (Metso) (Helsinki, Finland) acquires, within the meaning of Article 3(1)(b) of the Regulation, control of the whole of Svedala Industri AB (Svedala) (Malmö, Sweden) by way of a public bid announced on 21 June 2000.

2. The business activities of the undertakings concerned are:

— Metso: process engineering; development and manufacture of equipment. In particular, Metso operates in the area of rock and mineral processing machinery through its Nordberg division. Metso is also a supplier of automation and control systems and of pulp and paper machinery.

— Svedala: construction and mineral processing equipment.

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 COMP/M.2033 — Metso/Svedala, to:

European Commission,
Directorate-General for Competition,
Directorate B — Merger Task Force,
Rue Joseph II/Jozef II-straat 70,
B-1000 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.

III

(Notices)

COMMISSION

Call for proposals No SCRE/111352/C/G

Asia Information Technology & Communications Programme (Asia IT & C)

(2000/C 232/09)

Financing source and programme covering the fields of activity for which proposals are sought

- (a) Financing source: budget line B7-3010 (South and South-East Asia). An indicative global amount of EUR 4,5 million is available for this call for proposals.
- (b) **Asia IT & C Programme:** economic cooperation with South and South-East Asia. Proposals are sought for co-financing under five '**Programme Components**' co-financing partnerships in Information Technology and Communications.

Type and size of projects

- (a) Under the current call, Asia — IT & C supports projects under the following five programme components:
1. **Get-in-touch and keep-in-touch activities** — supports the identification and linking of organisations in the form of task forces, workshops, seminars, and conferences to search, specify and assess compatible solutions for adaptation between European and Asian IT & C environments.
 2. **Short (University level) courses** — supports courses and workshops, of a graduate or postgraduate standard, in either business or university contexts, to explore, transfer know-how and/or search for solutions around key IT & C issues.
 3. **Information society interconnectivity** — supports operations to substantially improve, publicise and intensify direct communication connections and electronic traffic both between Europe and Asia, and within Asia. Organisations who invest in the improvement of direct interconnectivity can be assisted by instrument in order to facilitate the strengthening of the communications network between the continents. Operations which are closely linked to such investments will also be supported, as are those which aim to improve the quality, reliability and security of connections.
 4. **Liase with European IT & C initiatives and programmes** — supports the identification and establishment of task forces, workshops and/or other events

which aim to facilitate and improve contacts, and/or the participation in, and transfer of know-how by Asian IT & C expertise to the development and implementation of existing European IT & C initiatives, for example — under the Community Research and Technological Development (RTD) Framework Programme.

5. **Understanding European and Asian regulatory and legislative organisation structures** — supports, studies, task forces, workshops, seminars, and/or conferences with the aim of improving the mutual understanding of European and Asian IT & C regulatory and legislative organisation structures, their capabilities and shortcomings, and the identification and definition of improvements that could be realised through the use of IT & C to achieve this goal.

Areas of activity comprise **agriculture, education, health, society, transport, tourism, intelligent manufacturing and electronic commerce**. For further details see the Asia IT & C web site (<http://www.asia-itc.org/>).

- (b) Maximum levels of co-financing and maximum and minimum amounts of grant for each programme component are:

(a) **Get-in-touch and keep-in-touch activities**

Maximum level of co-financing: 50 %

Maximum amount of grants: EUR 200 000

Minimum amount of grants: EUR 100 000

(b) **Short (University level) courses**

Maximum level of co-financing: 50 %

Maximum amount of grants: EUR 200 000

Minimum amount of grants: EUR 100 000

(c) **Information society interconnectivity**

Maximum level of co-financing: 50 %

Maximum amount of grants: EUR 400 000

Minimum amount of grants: EUR 200 000

(d) Liaise with European IT & C initiatives and programmes

Maximum level of co-financing: 80 %

Maximum amount of grants: EUR 400 000

Minimum amount of grants: EUR 200 000

(e) Understanding European and Asian regulatory and legislative organisation structures

Maximum level of co-financing: 75 %

Maximum amount of grants: EUR 200 000

Minimum amount of grants: EUR 100 000

(c) Maximum project implementation period: 36 months.

Eligibility: who may apply

A proposal may be submitted by an applicant together with a minimum of two partners.

(a) If the applicant derives from an Asian participant country/territory⁽¹⁾, it must have two partners from the EU Member States.

(b) If the applicant derives from an EU Member State⁽²⁾, it must have one partner from an Asian participant country/territory and one from a different EU Member State.

Applicants must be national or regional authorities, public sector operators or non-profit-making organisations from private sector or civil society (such as research centers, universities, professional associations or federations, NGOs) (see section 2.1.1 of the 'Guidelines for Applicants 2000 — Asia IT & C').

Type and maximum amount of costs to be taken into consideration for a grant

(a) Type of costs: see section 2.1.3 of the 'Guidelines for Applicants 2000 — Asia IT & C'.

(b) Maximum amount of grant: see amounts provided above per programme component.

Evaluation criteria

See section 2.3 of the 'Guidelines for Applicants 2000 — Asia IT & C'.

⁽¹⁾ Participant Asian countries/territories: Afghanistan, Bangladesh, Bhutan, Brunei, Cambodia, East Timor, India, Indonesia, Laos, Malaysia, Maldives, Nepal, Pakistan, Philippines, Sri Lanka, Thailand, Vietnam.

⁽²⁾ EU Member States: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, The Netherlands, United Kingdom.

Form, language, deadline and address for applications

(a) Form: Project proposals, including annexes, must be submitted in one original and five copies. Applicants will use the application forms annexed to the 'Guidelines for Applicants 2000 — Asia IT & C'.

(b) Language: Proposals must be submitted in the English language.

(c) Deadline for applications: There are two deadlines for this call for proposals: 2 October 2000 at 16h00 (Brussels time) and 15 January 2001 at 16h00 (Brussels time).

Any application arriving after 2 October 2000 at 16h00 (Brussels time) will automatically be included in the next batch of applications (deadline: 15 January 2001).

Any application received after 15 January 2001 at 16h00 (Brussels time) will be rejected.

(d) Applications should be sent by registered mail or hand-delivered to one of the addresses mentioned in section 2.2.3 of the 'Guidelines for Applicants 2000 — Asia IT & C', so as to arrive at the Commission before the deadline for applications.

Detailed information on the call for proposals and application form

(a) Detailed information on the present call for proposals is contained in the 'Guidelines for Applicants 2000 — Asia IT & C', which is available from the following Internet-address:

http://europa.eu.int/comm/scr/tender/index_en.htm

CLICK ON:

— Go directly to tender opportunities and Calls for Proposals

— ALA

— OPEN

— GRANTS

— Region = Asie

— Submit query

The 'Guidelines for Applicants 2000 — Asia IT & C' are downloadable from within the call for proposals only in English.

By e-mail: info@asia-itc.org

By fax: Europe: (32-2) 739 11 66

Asia: (91-33) 367 43 53

(b) Questions, indicating clearly the reference of the call for proposals, should be sent to richard.granville@cec.eu.int

which, together with the Commission's answers, will be published on the following website:

http://europa.eu.int/comm/scr/tender/index_en.htm

Additional information about the Asia IT & C Programme is available at:

<http://www.asia-itc.org/>

CORRIGENDA**Corrigendum to the Community guidelines for State aid in the agriculture sector**

(Official Journal of the European Communities C 28 of 1 February 2000)

(2000/C 232/10)

1. Corrigendum common to all linguistic versions

Following the publication of the Community guidelines for State aid in the agricultural sector, the Commission has become aware that the transitional provisions set out in Point 23.3 may be ambiguous, and that there are discrepancies between the different language versions. In order to clarify the original intention of the guidelines the Commission has therefore decided to replace the text of point 23.3 by the following:

‘23.3 APPLICATION TO AID NEWS

The Commission will apply these guidelines with effect from 1 January 2000 to new notifications of State aid and to notifications which are pending on that date.

Unlawful aid within the meaning of Article 1(f) of Regulation (EC) No 659/1999 will be assessed in accordance with the rules and guidelines in force at the time the aid is granted.’

In addition, in point 22, the words ‘Without prejudice to point 23.3’ are inserted before ‘the following texts are hereby repealed and replaced by these guidelines and appropriate measures.’

2. Corrigendum to the English version to Community guidelines for State aid in the agriculture sector

On page 5, in footnote 11:

for: ‘OJ C 283, 19.9.1997, p. 2’

read: ‘OJ C 288, 9.10.1999, p. 2’

On page 7, in footnote 16:

for: ‘OJ C 283, 19.9.1997, p. 2’

read: ‘OJ C 288, 9.10.1999, p. 2’.

— The complete text is republished here to ensure that it is in accord with all other language versions —

COMMUNITY GUIDELINES FOR STATE AID IN THE AGRICULTURE SECTOR

(2000/C 28/02)

1. INTRODUCTION

1.1. The maintenance of a system of free and undistorted competition is one of the basic principles of the European Community. Community policy in respect of State aids seeks to ensure free competition, an efficient allocation of resources and the unity of the Community market, whilst respecting our international commitments. Accordingly, the Commission has always shown particular vigilance in this field.

1.2. Article 33 of the Treaty defines the objectives of the common agricultural policy. In working out the common agricultural policy and the special methods for its application, account has to be taken of the particular nature of agricultural activity, which results from the special structure of agriculture and from structural and natural disparities between the various agricultural regions, the need to effect the appropriate adjustments by degrees and the fact that agriculture constitutes a sector closely linked with the economy as a whole.

1.3. It follows that recourse to State aid can only be justified if it respects the objectives of this policy. In addition, State aids must have regard to the Community's international obligations, which in the case of agriculture are specified in particular in the WTO Agreement on Agriculture. In accordance with that agreement, such aids are subject to notification and to classification according to the status of the aid in terms of its potential to distort trade.

1.4. Hitherto, the control of State aid to the agricultural sector has been undertaken on the basis of a variety of different instruments, including Council and Commission regulations, directives or decisions specific State aid frameworks covering certain types of aid and a large body of Commission practice which has from time to time been set out in various Commission working documents but which has not been published officially.

1.5. Following the adoption of the 'Agenda 2000' package, the Council has defined a new policy for rural development which seeks to establish a coherent and sustainable framework for the future of Europe's rural areas⁽¹⁾. It will complement the reforms

progressively introduced into the market sectors by promoting a competitive, multi-functional agricultural sector in the context of a comprehensive, integrated strategy for rural development. Rural development will, in effect, become the second pillar of the CAP. The new policy explicitly recognises that farming plays a number of roles including the preservation of the environment, traditional landscapes and the wider rural heritage, while emphasising the creation of alternative sources of income as an integral part of rural development policy. As a result of this process of reform, the Council has replaced a number of existing instruments that govern the granting of financial support in the agricultural sector, whether by the Community or by Member States alone, by a single Rural Development Regulation. Articles 51 and 52 of the Regulation contain specific provisions in respect of State aid, while Article 37 provides that support for rural development may be granted only for measures consistent with other Community policies and measures implemented thereunder.

1.6. Because the economic effects of an aid do not change depending on whether it is partly financed by the Community, or is financed by a Member State alone, the Commission considers that it is essential to ensure that there is consistency and coherence between its policy in respect of the control of State aid, and the support which is granted under the Community's own common agricultural and rural development policy. The Commission therefore considers it necessary to review its general policy with respect to State aid for the agricultural sector to take account of the most recent legislative developments. This review should also result in a simplification of the current rules and greater transparency, thus facilitating the task of the competent authorities when preparing notifications of State aid schemes to the Commission, and enabling the Commission to approve those schemes more quickly and efficiently.

1.7. In order to provide a stable regulatory framework for the preparation and implementation of rural development programmes, the Commission intends to apply the guidelines set out below throughout the next programming period that covers 2000 to 2006. It will therefore only propose changes to these guidelines where these are clearly necessary to take account of unforeseen developments or changes in economic circumstances.

1.8. The Working Group on conditions of competition in agriculture was consulted on these guidelines at its meetings of 7 and 8 September 1999 and 26 and 27 October 1999.

⁽¹⁾ Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ L 160, 26.6.1999, p. 80), hereinafter referred to as 'the Rural Development Regulation'.

2. SCOPE

2.1. These guidelines apply to all State aids, including aid measures financed by parafiscal taxes, granted in connection with activities related to the production, processing and marketing of agricultural products falling within the scope of Annex I of the Treaty. These guidelines do not apply to:

- State aids in the fisheries and aquaculture sector ⁽²⁾,
- aids for the forestry sector, including aids for the afforestation of agricultural land, which will be the subject of separate guidelines.

2.2. For the purpose of these guidelines, 'agricultural product' means the products listed in Annex I of the Treaty, products falling under CN codes 4502, 4503 and 4504 (cork products) and products intended to imitate or substitute milk and milk products ⁽³⁾, excluding those products covered by Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organisation of the market in fishery and aquaculture products ⁽⁴⁾.

2.3. For the purpose of these guidelines, the processing of an agricultural product means an operation on an agricultural product where the product resulting from the operation remains such a product, for example the extraction of juice from fruit or the slaughter of animals for meat. The processing of Annex I agricultural products into non-Annex I products therefore falls outside the scope of these guidelines.

3. GENERAL PRINCIPLES

3.1. Article 36 of the EC Treaty provides that the Treaty rules on competition are to apply to production of

and trade in agricultural products only to the extent determined by the Council. In contrast to other sectors, therefore, the Commission's authority to control and supervise State aids in the agricultural sector does not derive directly from the Treaty, but from legislation adopted by the Council under Article 37 of the Treaty and is subject to any restrictions which may have been laid down by the Council. In practice however, all the regulations establishing the common organisations of the market provide for the application of the State aid rules of Articles 87, 88 and 89 EC to the products concerned. Furthermore, Article 51 of the Rural Development Regulation expressly provides that Articles 87, 88 and 89 are to apply to aid granted by Member States to support rural development. It follows therefore that subject to any specific limitations or derogations which may have been laid down in the regulations concerned, the provisions of the Treaty are fully applicable to State aid granted in the agricultural sector, with the exception of those aids which are specifically aimed at the limited number of products which are not covered by common organisations of the market (see point 3.8 below).

3.2. Although Articles 87, 88 and 89 are fully applicable to the sectors covered by the common organisations of the market, their application nevertheless remains subordinate to the provisions established by the regulations concerned. In other words recourse by a Member State to the provisions of Articles 87, 88 and 89 cannot receive priority over the provisions of the regulation on the organisation of that sector of the market ⁽⁵⁾. It follows that under no circumstances can the Commission approve an aid which is incompatible with the provisions governing a common organisation of the market or which would interfere with the proper functioning of the common organisation.

3.3. The present guidelines apply to any aid measure, in whatever form, which falls within the definition of State aid laid down in Article 87(1) of the EC Treaty. In this context it should be emphasised that the Commission has consistently taken the view that because of the existence of the common agricultural policy, any aid in the agricultural sector, however small, in favour of certain undertakings or the production of certain goods, must be considered to have the potential to threaten to distort competition and affect trade between Member States. For this reason, the so-called *de minimis* rule ⁽⁶⁾ does not apply to aid towards expenditure in connection with agriculture.

⁽²⁾ State aids in the fisheries and aquaculture sector are examined within the framework of the Guidelines for the examination of State aids in the sector of fisheries and aquaculture (OJ C 100, 27.3.1997, p. 12) and Council Regulation (EC) No 2468/98 of 3 November 1998 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products (OJ L 312, 20.11.1998, p. 19).

⁽³⁾ For the purpose of these provisions, products to imitate or substitute for milk and/or milk products means products which could be confused with milk and/or milk products but whose composition differs from such products in that they contain fat and/or protein of non-milk origin with or without protein derived from milk ('Products other than milk products' as referred to in Article 3(2) of Council Regulation (EEC) No 1898/87 of 2 July 1987 on the protection of designations used in the marketing of milk and milk products (OJ L 182, 3.7.1987, p. 36)).

⁽⁴⁾ OJ L 388, 31.12.1992, p. 1.

⁽⁵⁾ Judgment of the Court of Justice of the European Communities in Case 177/78 Pigs and Bacon Commission v. McCarren [1979] ECR 2161.

⁽⁶⁾ Commission Notice on the *de minimis* rule for State aid (OJ C 68, 6.3.1996, p. 6).

3.4. These guidelines apply subject to any specific derogations which may be set out in the Treaties or in Community legislation.

The Commission will assess any aid measures which are not covered by the present guidelines on a case-by-case basis, taking into account the principles set out in Articles 87, 88 and 89 of the Treaty and the Community's common agricultural and rural development policies.

3.5. In order to be considered compatible with the common market, any aid measure must contain some incentive element or require some counterpart on the part of the beneficiary. Unless exceptions are expressly provided for in Community legislation or in these guidelines, unilateral State aid measures which are simply intended to improve the financial situation of producers but which in no way contribute to the development of the sector, and in particular aids which are granted solely on the basis of price, quantity, unit of production or unit of the means of production are considered to constitute operating aids which are incompatible with the common market. Furthermore, by their very nature, such aids are also likely to interfere with the mechanisms of the common organisations of the market.

3.6. For the same reason, aid which is granted retrospectively in respect of activities which have already been undertaken by the beneficiary cannot be considered to contain the necessary incentive element, and must be considered to constitute operating aid which is simply intended to relieve the beneficiary of a financial burden. Except in the case of aid schemes which are compensatory in nature, all aid schemes should therefore provide that no aid may be granted in respect of work begun or activities undertaken before an application for aid has been properly submitted to the competent authority concerned.

3.7. Because the very specific conditions of agricultural production must be taken into account during the assessment of aid which is intended to favour the less-favoured regions, the Commission's guidelines on national regional aid⁽⁷⁾ do not apply to the agricultural sector. Where they are relevant for the agricultural sector, regional policy considerations have been incorporated into the present guidelines. Similarly, because of the particular structure of agricultural enterprises, the Community framework on State aid for small and medium sized enterprises⁽⁸⁾ is not applicable in the agricultural sector.

⁽⁷⁾ OJ C 74, 10.3.1998, p. 9.

⁽⁸⁾ OJ C 213, 23.7.1996, p. 4.

3.8. As noted at point 3.1, certain types of Annex I agricultural products are not yet subject to a common organisation of the market, in particular potatoes other than starch potatoes, horsemeat, honey, coffee, alcohol of agricultural origin and vinegars derived from alcohol and cork. In the absence of a common organisation of the market, the provisions of Article 4 of Council Regulation No 26⁽⁹⁾ of 4 April 1962 applying certain rules of competition to production of and trade in agricultural products remain applicable to State aids which are specifically targeted at these products. Article 4 provides that only the provisions of Article 88(1) and the first sentence of Article 88(3) apply to these aids. Therefore, the Member States are required to inform the Commission, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. For its part, the Commission cannot oppose the granting of such aids, although it may submit its comments. In assessing such aids the Commission will take into account the absence of common organisations of the market at the Community level. Thus, provided that the national aid schemes have comparable effects to measures applied at Community level to support producers' incomes in other sectors, and provided that they pursue similar objectives to the common organisations of the market, the Commission will not formulate observations, even if the measures concerned consist of operating aids which would normally be prohibited.

3.9. Article 6 of the EC Treaty provides that 'environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development'. The activities referred to in Article 3 cover both agricultural and competition policy. Particular attention therefore needs to be given to environmental issues in future State aid notifications, even in cases where the aid schemes are not specifically concerned with environmental issues. For example, in the case of an aid scheme for investments which are intended to increase production, and which involve an increased use of scarce resources or an increase in pollution, it will be necessary to show that the scheme will not result in an infringement of Community environmental protection legislation, or otherwise cause environmental damage. All State aid notifications should in future contain an assessment of the expected environmental impact of the activity aided. In many cases, this will involve no more than a confirmation that there is no expected environmental impact.

3.10. Unless otherwise indicated, all aid rates in these guidelines are expressed in terms of the total amount of support expressed as a percentage of the volume of eligible expenses (gross subsidy equivalents).

⁽⁹⁾ OJ 30, 20.4.1962, p. 993/62.

4. AIDS FOR INVESTMENTS

4.1. AIDS FOR INVESTMENT IN AGRICULTURAL HOLDINGS

4.1.1. GENERAL PRINCIPLES

4.1.1.1. In order to facilitate the general development of the agricultural sector, aids for investments in agricultural holdings should contribute to the improvement of agricultural incomes and of living, working or production conditions. The investment should pursue one or more of the following objectives: to reduce production costs, to improve and re-deploy production, to increase quality, to preserve and improve the natural environment, hygiene conditions and animal welfare standards or to promote the diversification of farm activities. Aids for investments which do not pursue any of these objectives, in particular aids for simple replacement investments which in no way improve the conditions of agricultural production, cannot be considered to facilitate the development of the sector and do not therefore fall within the scope of the derogation provided for by Article 87(3)(c) of the Treaty.

4.1.1.2. Subject to the exceptions provided for in point 4.1.2 below, the maximum rate of public support, expressed as a volume of eligible investment is limited to a maximum of 40 %, or 50 % in the less-favoured areas, as defined in Article 17 of the Rural Development Regulation⁽¹⁰⁾. However, in the case of investments made by young farmers within five years after setting-up, the maximum rate of aid is increased to 45 %, or 55 % in the less-favoured areas.

4.1.1.3. Aid for investments may only be granted to agricultural holdings the economic viability of which can be demonstrated by an assessment of the prospects of the holding⁽¹¹⁾ and where the farmer possesses adequate occupational skill and competence. The holding must comply with minimum Community standards regarding the environment, hygiene and animal welfare. However, where investments are made in order to comply with newly introduced

minimum standards regarding the environment, hygiene and animal welfare, aid may be granted in order to reach these new standards⁽¹²⁾.

4.1.1.4. No aid may be granted for investments having as their objective increased production for which normal market outlets cannot be found. The existence of normal market outlets should be assessed at the appropriate level, in terms of the products concerned, the types of investments and existing and expected capacities. Any restrictions on production or limitations of Community support under the common market organisations must be taken into account. Where, under a common market organisation, restrictions on production or limitations of Community support exist at the level of individual farmers, holdings or processing plants, no aid may be granted for investments which would increase production beyond these restrictions or limitations.

4.1.1.5. The eligible expenses may include:

- the construction, acquisition or improvement of immovable property,
- new machinery and equipment⁽¹³⁾, including computer software,
- general costs, such as architects, engineers and consultation fees, feasibility studies, the acquisition of patents and licences, up to 12 % of the expenditure referred to above,

⁽¹²⁾ In this case any time period which has been provided for in accordance with the second paragraph of Article 2 of Commission Regulation (EC) No 1750/1999 of 23 July 1999 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ L 214, 13.8.1999, p. 31, hereinafter referred to as 'the Implementing Regulation') shall be taken into consideration.

⁽¹³⁾ The purchase of second-hand equipment may be regarded as eligible expenditure in duly substantiated cases when the four following conditions are met simultaneously: a declaration by the seller of the equipment confirms its exact origin and that the equipment has not already been the subject of national or Community assistance; the purchase of the equipment represents a particular advantage for the programme or project, or is made necessary by exceptional circumstances (no new equipment available on time, thus threatening proper execution of the project); reduction of the costs involved (and therefore of the amount of aid) as compared with the cost of the same equipment purchased new, while maintaining a good cost-benefit ratio; the second-hand equipment acquired must have the necessary technical and/or technological characteristics consistent with the requirements of the project.

⁽¹⁰⁾ Rural Development Regulation, Article 51(2).

⁽¹¹⁾ Aid for agricultural holdings in financial difficulty may not be granted unless that aid meets the conditions set out in the Community guidelines on State aid for rescue and restructuring firms in difficulty (OJ C 288, 9.10.1999, p. 2).

— land purchase, including legal fees, taxes and land registration costs.

Commission therefore takes a favourable view of such aid.

4.1.1.6. No aids may be granted for the purchase of production rights except in accordance with the specific provisions of the common organisation of the market concerned, and the principles set out in Articles 87, 88 and 89 of the Treaty.

As regards investments or capital works intended for the conservation of non-productive heritage features located on agricultural holdings, such as archaeological or historical features, the Commission will allow aid to be granted up to 100 % of real costs incurred. These costs may include reasonable compensation for the work undertaken by the farmer himself, or his workers.

4.1.1.7. As regards the purchase of animals, only the first purchase of livestock and investments intended to improve the genetic quality of the stock through the purchase of high-quality breeding animals (male or female) which are registered in herd books or their equivalent are eligible for aid under this section ⁽¹⁴⁾.

4.1.1.8. The maximum expenses eligible for support may not exceed the limit for total investment eligible for support set by the Member State in accordance with Article 7 of the Rural Development Regulation.

As regards investments or capital works intended to conserve the heritage features of productive assets on farms, such as farm buildings, provided that the investment does not entail any increase in the production capacity of the farm, the Commission will allow aid up to a maximum of 60 % of the eligible expenses, or 75 % in the less-favoured areas.

4.1.1.9. The Commission will also apply the rules set out in this section by analogy to investments in primary agricultural production which are not made by farmers, for example where equipment is purchased for shared use by a group of producers.

In cases where there is an increase in production capacity, and in other cases at the request of the Member State concerned, the Commission will apply the normal aid rates set out in point 4.1.1.2 as regards eligible expenses resulting from undertaking the relevant work using normal contemporary materials. In addition, however, the Commission will permit additional aid to be granted, at a rate of up to 100 % to cover the extra costs incurred by using traditional materials necessary to maintain the heritage features of the building.

4.1.2. SPECIAL CASES

4.1.2.1. In accordance with Article 51(2) of the Rural Development Regulation, the maximum aid rates set out in point 4.1.1.2 do not apply to aid for investments relating to:

- investments undertaken predominantly in the public interest related to the conservation of traditional landscapes shaped by agricultural and forestry activities or relocation of farm buildings,
- the protection and improvement of the environment,
- improvement of the hygiene conditions of livestock enterprises and the welfare of animals.

In assessing the compatibility of such aids with Articles 87, 88 and 89 of the Treaty, the Commission will apply the following principles.

4.1.2.3. Relocation of farm buildings in the public interest

There are many reasons for which it may become necessary to relocate farm buildings in the public interest.

Where the need to relocate results from an expropriation which, in accordance with the legislation of the Member State concerned gives rise to a right to compensation, the payment of such compensation will not normally be considered as State aid within the meaning of Article 87(1) of the Treaty.

4.1.2.2. Conservation of traditional landscapes

Aid to promote heritage conservation is expressly referred to in Article 87(3)(d) of the EC Treaty. The

In other cases, where relocation simply consists of the dismantling, removal and re-erection of existing facilities, the farmer derives little direct benefit from the operation, and the Commission therefore considers that aid of up to 100 % of the actual costs incurred may be accepted without any risk of a distortion of the conditions of competition.

⁽¹⁴⁾ Aid for the purchase of replacement stock following outbreaks of animal disease is covered by section 11.4.

In other cases, however, relocation may result in the farmer benefiting from more modern facilities. In such cases the aid rate should be adjusted so that the contribution from the farmer is at least equivalent to 60 % (50 % in the case of the less-favoured areas) of the increase in the value of the facilities concerned after relocation, or 55 % or 45 % respectively in cases where the beneficiary is a young farmer.

Where relocation results in an increase in production capacity, the contribution from the beneficiary must be at least equal to 60 %, or 50 % in the less-favoured areas, of the corresponding proportion of the expenses, or 55 % or 45 % respectively in cases where the beneficiary is a young farmer.

4.1.2.4. **Investments relating to the protection and improvement of the environment, the improvement of the hygiene conditions of livestock enterprises and the welfare of animals**

Where investments result in extra costs relating to the protection and improvement of the environment, the improvement of hygiene conditions of livestock enterprises or the welfare of farm animals, the maximum aid rates of 40 % and 50 % referred to in point 4.1.1.2 may be increased by 20 or 25 percentage points respectively.

This increase may only be granted for investments which go beyond the minimum Community requirements in force. It may also be granted for investments made to comply with newly introduced minimum standards, subject to the conditions laid down in Article 2 of the Implementing Regulation 1750/1999. The increase must be strictly confined to the extra eligible costs necessary to meet the objective referred to and does not apply in the case of investments which result in an increase in production capacity.

4.2. AIDS FOR INVESTMENTS IN CONNECTION WITH THE PROCESSING AND MARKETING OF AGRICULTURAL PRODUCTS

4.2.1. In the field of aids for investments in connection with the processing and marketing of agricultural products, it has been consistent Commission policy to ensure a coherent approach to the application of the common agricultural policy and to the application of competition policy by maintaining a parallel approach both as regards the aid rates payable for investments and the range of eligible investments. At the same time, in order to take account of regional policy considerations, the Commission has allowed a degree of flexibility in respect of the rates of aid which

may be paid to support investments which are undertaken as a part of regional aid schemes ⁽¹⁵⁾.

4.2.2. In order to maintain this parallelism, it is necessary to amend the guidelines governing this type of State aid to take account of the changes to the Community regulations brought about by the adoption of the Agenda 2000 proposals.

4.2.3. As a general rule aid granted to support investments in connection with the processing and marketing of agricultural products may only be granted to enterprises which can be demonstrated to be economically viable, based on an assessment of the prospects of the enterprise ⁽¹⁶⁾, and which comply with minimum standards regarding the environment, hygiene and animal welfare. However, where investments are made in order to comply with newly introduced minimum standards regarding the environment, hygiene and animal welfare, aid may be granted in order to reach these new standards. The aid rate may not exceed 50 % of eligible investments in Objective 1 regions and 40 % in the other regions. For this purpose, the eligible expenses may include:

- the construction, acquisition or improvement of immovable property,
- new machinery and equipment, including computer software,
- general costs, such as architects, engineers and consultation fees, feasibility studies, the acquisition of patents and licences, up to 12 % of the expenditure referred to above.

4.2.4. However, in the case of State aids for investments in connection with the processing and marketing of agricultural products which are granted within the framework of a regional aid scheme which has previously been approved by the Commission in accordance with the Community guidelines on national regional aid ⁽¹⁷⁾, aid may be granted up to the intensity of the State aid approved under that scheme. In such cases the eligible expenses are to be those specified in the Guidelines on National Regional Aid, and may include aid for intangible investments and aids for job creation linked to the carrying out of an initial investment project in accordance with those guidelines.

⁽¹⁵⁾ Guidelines for State aid in connection with the processing and marketing of agricultural products (OJ C 29, 2.2.1996, p. 4) which are replaced by the present guidelines.

⁽¹⁶⁾ Aid for enterprises in financial difficulty may not be granted unless that aid meets the conditions set out in the Community guidelines on State aid for rescue and restructuring firms in difficulty (OJ C 288, 9.10.1999, p. 2).

⁽¹⁷⁾ OJ C 74, 10.3.1998, p. 9.

4.2.5. No aid may be granted under points 4.2.3 or 4.2.4 unless sufficient evidence can be produced that normal market outlets for the products concerned can be found. This must be assessed at the appropriate level in relation to the products concerned, the types of investments, and existing and expected capacities. To this end, any restrictions on production or limitations of Community support under the common market organisations must be taken into account. In particular no aid may be granted in contravention of any prohibitions or restrictions laid down in the common organisations of the market ⁽¹⁸⁾.

No aid may be granted which concerns the manufacture and marketing of products which imitate or substitute for milk and milk products.

4.2.6. Aids for investments with eligible expenses in excess of EUR 25 million, or where the actual amount of aid will exceed EUR 12 million must be specifically notified to the Commission in accordance with Article 88(3) of the Treaty.

4.3. AIDS FOR INVESTMENTS TO PROMOTE THE DIVERSIFICATION OF FARM ACTIVITIES

4.3.1. The promotion of the diversification of farm activities forms an important part of the Community's rural development policy. The Commission therefore takes a favourable view of such aids which it considers likely to favour the development of the rural economy as a whole.

4.3.2. Although they fall within the scope of the Rural Development Regulation, aids granted to promote diversification into activities which are not connected to the production, processing and marketing of Annex I agricultural products, such as agro-tourism, the development of craft industries or aquaculture, fall outside the scope of the present guidelines. These aids will therefore be assessed in accordance with the usual principles applied by the Commission for the assessment of aids outside the agricultural sector, in particular the *de minimis* rule, the guidelines on aid for small and medium-sized enterprises, the guidelines on national regional aid and, in appropriate cases, the guidelines on State aids in the sector of fisheries or aquaculture.

4.3.3. In the case of aids intended to promote diversification into other activities connected with the production,

processing and marketing of Annex I agricultural products, some questions have arisen in the past concerning the correct basis for the assessment of these aids. For example, it has not been clear whether aids for on-farm processing and marketing activities should be evaluated as aids for investments in agricultural holdings or as aids for investments in connection with the processing and marketing of agricultural products. In future, the Commission will take the following approach to the assessment of such aids.

In the case of aid for small-scale investments, where the total eligible expenses do not exceed the limit for total investment eligible for support set by the Member State in accordance with Article 7 of the Rural Development Regulation, the Commission will consider these measures as aids for investments in agricultural holdings, and therefore assess them in accordance with point 4.1. Aid for larger-scale investments will be assessed as aids for processing and marketing activities in accordance with point 4.2.

5. ENVIRONMENTAL AID

5.1. GENERAL PRINCIPLES

5.1.1. In accordance with Article 174 of the EC Treaty, Community policy on the environment is to aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It is to be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

5.1.2. The Rural Development Regulation recognises the very close links which exist between agriculture and the environment and contains specific provisions that the beneficiaries of aid which is financed by the Community should respect minimum environmental standards. The Commission will apply these provisions by analogy when assessing State aid schemes.

5.1.3. All environmental aid schemes in the agricultural sector should be compatible with the general objectives of Community environmental policy. In particular, aid schemes which fail to give sufficient priority to the elimination of pollution at source, or to the correct application of the polluter pays principle cannot be considered compatible with the common interest, and therefore cannot be authorised by the Commission.

⁽¹⁸⁾ In particular, the Commission considers that subject to the derogations specifically provided for in the relevant legal texts, aids for investments in processing and marketing activities in the sugar sector are in general implicitly prohibited by the provisions of the common organisation of the market.

5.2. AID FOR ENVIRONMENTAL INVESTMENTS

Since the guidelines on aids for investments set out above take full account of the particular case of aids for environmental investments, it is no longer necessary to maintain any specific derogations for this category of aid. These aids will therefore be evaluated in accordance with the general rules set out in section 4.

5.3. AID FOR AGRI-ENVIRONMENTAL COMMITMENTS

5.3.1. Chapter VI of Title II of the Rural Development Regulation sets out a framework for Community support for agricultural production methods designed to protect the environment and to maintain the countryside. Community support is given in respect of commitments voluntarily entered into by farmers for a period of at least five years, and is subject to a maximum payment of EUR 600 per hectare for annual crops, EUR 900 per hectare for specialised perennial crops and EUR 450 per hectare for other land uses. The conditions for the payment of Community support are set out in Articles 22, 23 and 24 of the Regulation and in Articles 12 to 20 of the Implementing Regulation⁽¹⁹⁾. In accordance with Article 51(4) of the Rural Development Regulation, State aid to support farmers who give agri-environmental commitments which fail to satisfy the conditions laid down are prohibited.

5.3.2. However, according to Article 51(4), additional State aid exceeding the maximum amounts fixed according to Article 24(2) of the Rural Development Regulation may be granted if justified under paragraph 1 of that Article. Moreover, in duly justified exceptional cases, derogations may be permitted in respect of the minimum duration of these commitments.

5.3.3. According to Article 24(1) of the Rural Development Regulation, support in respect of an agri-environmental commitment is to be granted annually and be calculated on the basis of income foregone, additional costs resulting from the commitment given and the need to provide an incentive. Therefore, if a Member State wishes to grant additional aid exceeding the maximum amounts fixed in accordance with Article 24(2) it must provide supporting evidence that the measure meets all the conditions laid down in the Rural Development Regulation and the Implementing Regulation and a justification for the additional aid payments including a detailed breakdown of the cost components involved on the basis of income foregone, additional costs resulting

from the commitment given and the need to provide an incentive.

The cost of any non-remunerative capital works necessary for the fulfilment of the commitments may also be taken into account in determining the level of annual support. For this purpose, capital works are considered non-remunerative provided that they do not normally lead to any significant net increase in farm value or profitability.

5.3.4. In evaluating the compatibility of the additional State aid payments, the Commission will apply the principles set out in the Rural Development Regulation and the Implementing Regulation. This means, in particular, that the reference level for calculating income foregone and additional costs resulting from the commitment given must be the usual good farming practice in the area to which the measure applies. Where justified by the agronomic or environmental circumstances, the economic consequences of abandonment of land, or cessation of certain farm practices may be taken into account.

5.3.5. The need to provide an incentive payment must be determined by the Member State on the basis of objective criteria. The incentive payment must not exceed 20 % of the income foregone and additional costs resulting from the commitment given, unless a higher rate can be demonstrated to be indispensable for the effective implementation of the measure.

5.3.6. Where, exceptionally, a Member State proposes to grant State aid in respect of commitments of a shorter duration than that prescribed in accordance with the Rural Development Regulation, it should provide a detailed justification, including a demonstration that the full environmental effects of the measure can be realised in the shorter time proposed. The amount of aid proposed should reflect the shorter duration of the undertakings given.

5.4. AID FOR FARMERS IN AREAS SUBJECT TO ENVIRONMENTAL RESTRICTIONS UNDER COMMUNITY LEGISLATION

5.4.1. Article 16 of the Rural Development Regulation establishes a new form of Community support for farmers to compensate for costs incurred and income foregone resulting from restrictions on agricultural use in areas with environmental restrictions as a result of the implementation of limitations based on Community environmental protection rules, if and in so far as such payments are necessary to solve the specific problems arising from those rules. Payments are to be fixed at a level which avoids overcompensation.

⁽¹⁹⁾ See footnote 12.

This is especially necessary in the case of payments in less-favoured areas. The maximum amounts eligible for Community support are fixed at EUR 200/ha. In accordance with Article 21 of the Rural Development Regulation, the total surface of these areas, combined with other areas which may be assimilated to less-favoured areas by virtue of Article 20 of the Regulation, may not exceed 10 % of the surface area of the Member State.

5.4.2. The Commission will examine proposals to grant State aid in favour of such areas on a case-by-case basis, having regard to the principles set out above and the principles which are established for granting Community support within the framework of rural development programming. During this assessment, the Commission will take account of the nature of the restrictions imposed on farmers. Aid will only normally be permitted for obligations going beyond good farming practice. Any aid which is granted in breach of the polluter pays principle should be exceptional, temporary and degressive.

5.5. OPERATING AID

5.5.1. In accordance with long-standing policy, the Commission does not normally approve operating aid which relieves firms, including agricultural producers, of costs resulting from the pollution or nuisance they cause. The Commission will only make exceptions to this principle in well-justified circumstances.

5.5.2. Temporary relief to offset the costs of new mandatory national environmental requirements which go beyond existing Community rules may be justified where necessary to offset a loss of competitiveness at the international level. The aid should be both temporary and degressive, in principle over no more than five years, and the initial amount of aid should not exceed the amount necessary to compensate the producer for the additional cost of compliance with the relevant national provisions in comparison with the cost of compliance with the relevant Community provisions. In addition, the Commission will take account of what the beneficiaries have to do to reduce their pollution.

5.5.3. In duly justified cases, such as aids for the development of biofuels, the Commission may also approve operating aids in cases where these can clearly be shown to be necessary to offset the additional costs arising from the use of environ-

mentally friendly inputs in comparison with conventional production processes. The aid component should be limited to neutralising the effects of the additional costs, and should be subject to periodic review at least every five years to take account of changes in the relative costs of the different inputs and the commercial benefits which may result from the use of more environmentally friendly inputs.

5.5.4. In order to internalise environmental costs, Member States are increasingly having recourse to environmental taxes or levies such as energy taxes or levies on environmentally sensitive agricultural inputs such as pesticides or herbicides. Sometimes, in order to ensure that the overall burden of taxation on the agricultural sector is not increased, these taxes are wholly or partially offset by reductions in other taxes, such as labour taxes, property taxes or income taxes. Provided that these tax reductions are applied on an objective basis to the entire agricultural sector, the Commission will generally take a favourable view of these measures, if indeed they constitute State aid within the meaning of Article 87(1) of the Treaty. However, in certain cases specific exemptions from the whole or part of these taxes may be granted in favour of specific sectors of agricultural production, or in favour of certain types of producer. The Commission has certain reservations about these types of exemptions, which by their very nature tend to be granted in favour of more intensive production systems which present the greatest environmental, hygiene and welfare difficulties. It can therefore only accept aids to compensate producers for this type of aid on a temporary and degressive basis, over a maximum of five years, where aid can be shown to be necessary to offset a loss of international competitiveness and where the aid scheme constitutes a real incentive to reduce use of the inputs concerned.

5.6. OTHER ENVIRONMENTAL AIDS

5.6.1. Aids for information activities, training and advisory services to help agricultural producers and firms on environmental matters will be authorised in accordance with sections 13 and 14 below.

5.6.2. Other environmental aids in the agricultural sector will be assessed on a case-by-case basis, having regard to the principles set out in the Treaty and the relevant Community guidelines on State aid for environmental purposes ⁽²⁰⁾.

⁽²⁰⁾ Currently OJ C 72, 10.3.1994, p. 3.

6. **AID TO COMPENSATE FOR HANDICAPS IN THE LESS-FAVOURLED AREAS**

6.1. Article 51(3) of the Rural Development Regulation prohibits the payment of State aid to farmers to compensate for natural handicaps in less-favoured areas, unless the aid meets the conditions laid down in Articles 14 and 15 of the Regulation.

6.2. Where State aid measures are combined with support under the Rural Development Regulation, the total support granted to the farmer must not exceed the amounts determined in accordance with Article 15 of the Regulation.

7. **AID FOR THE SETTING UP OF YOUNG FARMERS**

7.1. Support for the setting-up of young farmers tends to encourage the development of the sector as a whole and prevent the depopulation of rural areas. Articles 7 and 8 of the Rural Development Regulation therefore provide for a Community regime to support the setting-up of young farmers.

7.2. State aid to support the setting-up of young farmers may be granted under the same conditions. The combined total of support granted under the Rural Development Regulation and support granted in the form of State aids should normally not exceed the maximum limits provided for in Article 8(2) of the Rural Development Regulation. The Commission will permit the granting of additional State aid exceeding these limits up to a maximum of EUR 25 000 in particular where this is justified by the very high costs of setting-up in the region concerned.

8. **AID FOR EARLY RETIREMENT OR FOR THE CESSATION OF FARMING ACTIVITIES**

8.1. The Commission takes a favourable view of aid schemes which are designed to encourage older farmers to take early retirement. Provided they are subject to conditions requiring a permanent and definitive cessation of commercial farming activities, such aid schemes have only a limited effect on competition, whilst contributing to the long-term development of the sector as a whole. Therefore, in addition to the Community support which is provided for by Articles 10, 11 and 12 of the Rural Development Regulation, the Commission will allow State aid for this type of measure.

8.2. In recent years, several Member States have notified the Commission of aid schemes which are intended to facilitate the withdrawal from the agricultural sector of

farmers who are forced to give up farming for economic reasons. The Commission considers that aid schemes which help non-viable farmers to withdraw from farming activities benefit the long-term development of the sector as a whole. Moreover such aid schemes may also have an important social dimension, since they are intended to facilitate the integration of the individuals concerned into other areas of economic activity. Provided they are subject to conditions requiring a permanent and definitive cessation of commercial farming activities, the Commission will therefore allow State aid for this type of measure.

9. **AID FOR CLOSING PRODUCTION, PROCESSING AND MARKETING CAPACITY**

9.1. In recent years, a number of aid schemes have been notified to the Commission involving the payment of State aid for the abandonment of capacity. In the past, the Commission has taken a favourable view of such aid schemes provided that they are coherent with any Community arrangements to reduce production capacity, and provided that certain conditions are met, namely:

- the aid must be in the general interest of the sector concerned,
- there must be a counterpart on the part of the beneficiary,
- the possibility of the aid being for rescue and restructuring must be excluded,
- there must be no over-compensation of loss of capital value and of future income.

9.2. If it is not to be considered as pure operating aid in favour of the undertakings concerned, a pre-condition for the payment of such aid is that it must be demonstrated to be in the interest of the sector as a whole. Where excess capacity does not exist and it is clear that capacity is being closed for sanitary or environmental reasons, this will be sufficient to show that this condition is met.

In other cases, aid should only be granted for closing production capacity in sectors where clear excess capacity exists, either at regional or national level. In such cases, it would appear reasonable to expect that market forces will eventually result in the necessary structural adjustments. Aid for capacity reduction can therefore only be accepted if it is part of a

programme for the restructuring of the sector which has defined objectives and a specific timetable. In these cases, the Commission will no longer accept aid schemes of unlimited duration, since experience suggests that these may result in postponing the necessary changes. The Commission reserves the right to attach conditions to the authorisation of the aid and it will normally expect to receive an annual report on the implementation of the scheme.

9.3. No aid may be paid which would interfere with the mechanisms of the common organisations of the market. Aid schemes applying to sectors which are subject to production limits or quota will be evaluated on a case-by-case basis.

9.4. There must be a sufficient counterpart from the beneficiary of the aid. This counterpart will normally consist of a definitive and irrevocable decision to scrap or irrevocably close the production capacity concerned. This will involve either the complete closure of capacity by the undertaking concerned or the closure of a specific plant. Legally binding commitments must be obtained from the beneficiary that the closure is definitive and irreversible. These commitments must also bind any future purchaser of the facility concerned. However, in cases where the production capacity has already closed definitively, or where such closure appears inevitable, there is no counterpart on the part of the beneficiary, and aid may not be paid.

9.5. It must be possible to exclude the possibility that aid is being paid for the rescue and restructuring of companies in difficulty. Therefore where the beneficiary of the aid is in financial difficulty, the aid will be assessed in accordance with the Community guidelines on rescue and restructuring of firms in difficulty.

9.6. The scheme should be accessible to all economic operators in the sector concerned on the same conditions. The amount of aid should be strictly limited to compensation for the loss of value of assets plus an incentive payment which may not exceed 20 % of the value of the assets. However, aid may also be paid to offset the obligatory social costs resulting from the implementation of the scheme.

9.7. Since the objective of these aid measures is the restructuring of the sector concerned, to the ultimate

benefit of those economic operators who remain active in that sector, and in order to reduce any potential risk of a distortion of the conditions of competition, and the dangers of overcompensation, the Commission considers that at least half the costs of these aids should be met by a contribution from the sector, either through voluntary contributions or by means of compulsory levies. This requirement does not apply where capacity is closed for health or environmental reasons.

10. AID FOR PRODUCER GROUPS

10.1. Because of the disparate nature of agricultural production, the Commission has traditionally taken a favourable view of the payment of 'start-up' aids intended to provide an incentive for the constitution of producer groups to promote the bringing together of farmers with a view to concentrating their supply and adapting their production to market requirements. In the past, support for the establishment of producer organisations in certain regions has been provided by the Community in accordance with Council Regulation (EC) No 952/97 on producer groups and associations thereof⁽²¹⁾. However, when adopting the Rural Development Regulation, the Council considered that having regard to the existence of aids for producer groups and associations thereof in several of the common organisations of the market, it was no longer necessary to provide specific support for these groups within the framework of rural development. The Commission considers that this change should not prevent the granting of State aid for the establishment of producer organisations which help farmers adapt production to demand, particularly in those sectors where support is not available under the common organisations of the market. Nevertheless, it is necessary to review Commission policy towards this type of aid in the light of recent developments.

10.2. This selection only concerns start-up aid granted to producer groups or producer associations which are entitled to assistance under the legislation of the Member State concerned. A producer group is a group which is set up for the purpose of jointly adapting the production and output of its members to market requirements, in particular by concentrating supply. A producer association consists of recognised producer groups and pursues the same objectives on a larger scale.

10.3. The rules of the producer group must provide an obligation on members to market production in accordance with the rules on supply and placing on the market drawn up by the group. Those rules may permit a proportion of the production to be marketed directly by the producer. They must provide that producers joining the group must remain members for at least three years and must give at least 12

⁽²¹⁾ OJ L 142, 2.6.1997, p. 30.

months notice of withdrawal. In addition they must provide common rules on production, in particular relating to product quality, or use of organic practices, common rules for placing goods on the market and rules on product information, with particular regard to harvesting and availability. Subject to these requirements, however, the producers should remain responsible for managing their holdings. No aid may be given under this section to production organisations such as companies or cooperatives the objective of which is the management of one or more agricultural holdings and which are therefore in effect single producers. In all cases assurances will be sought that the producer organisations respect competition rules.

10.4. Where the common organisations provide for support for producer groups or producer associations in the sector concerned, the Commission will examine proposals for State aid on a case-by-case basis, having regard to the compatibility of the aid measures with the objectives of the common organisation.

10.5. In other cases the Commission will continue to assess proposals for State aid in accordance with the principles it has previously applied. This means that aid may be granted on a temporary and degressive basis to cover administrative start-up costs of the group or association. For this purpose, the eligible expenses include the rental of suitable premises⁽²²⁾, the acquisition of office equipment, including computer hardware and software, administrative staff costs, overheads and legal and administrative fees. In principle, the amount of aid may not exceed 100 % of costs incurred in the first year, reducing by 20 percentage points for each year of operation, so that in the fifth year the amount of aid is limited to 20 % of actual costs in that year. No aid may be paid in respect of costs incurred after the fifth year, and no aid may be paid following the seventh year after recognition of the producer organisation.

10.6. In derogation from the previous paragraph, the Commission will permit a new start-up aid to be granted in the case of a significant extension of the activities of the producer group or association concerned, for example the extension of the activities of the group to cover new products or new sectors⁽²³⁾. The expenses eligible for the new aid

should be limited to those arising from the additional tasks undertaken by the producer group or association, and the other conditions set out in this section apply.

10.7. Aids granted to other agricultural associations, which undertake tasks at the level of agricultural production, such as mutual support and farm relief and farm management services, in the members' holdings without being involved in the joint adaptation of supply to the market are not covered by this section. However, the Commission will apply the principles set out in this section to aids which are granted to cover the start-up costs of associations of producers which are responsible for the supervision of the use of denominations of origin or quality marks.

10.8. Aids which are granted to producer groups or associations to cover expenses which are not linked to setting-up costs, such as investments or promotion activities, will be assessed in accordance with the rules governing such aids. In the case of aids for investments in primary production, the maximum limit for expenses eligible for support referred to in point 4.1.1.8 will be determined by reference to the individual members of the group.

10.9. Aid schemes authorised under this section will be subject to a condition requiring them to be adjusted to take account of any change in the regulations governing the common organisations of the market.

10.10. As an alternative to providing aid to producer groups or associations thereof, aid may be granted directly to producers to offset their contributions to the cost of running the groups during the first years following the formation of the group. The principles for calculating the amount of aid set out in point 10.5 apply.

11. AIDS TO COMPENSATE FOR DAMAGE TO AGRICULTURAL PRODUCTION OR THE MEANS OF AGRICULTURAL PRODUCTION

11.1. GENERAL

11.1.1. State aids for agriculture include a group of measures intended to safeguard farmers against damage to agricultural production or the means of production, including buildings and plantations caused by unforeseen occurrences such as natural disasters, adverse weather conditions or outbreaks of animal

⁽²²⁾ If premises are purchased, the eligible expenses are limited to rental costs at market rates.

⁽²³⁾ The accession of new members to a group is not of itself considered a significant extension of the activities of the group, unless it results in quantitative expansion of the activities of the group of at least 30 %.

or plant disease ⁽²⁴⁾. The Treaty itself in Article 87(2)(b) provides that aids to make good the damage caused by natural disasters or exceptional occurrences are compatible with the common market. The Commission, however, taking as its basis Article 87(3)(c) of the Treaty has also accepted two further groups of aids of this nature, namely:

- aid to encourage preventative measures against the outbreak of plant and animal diseases, including compensation for damage arising as a result of certain diseases, and
- aid to encourage the conclusion of insurance contracts against the risks of loss of agricultural production or the means of production.

11.1.2. In order to avoid a risk of the distortion of the conditions of competition, the Commission considers it important to ensure that, subject to administrative and budgetary constraints, aid to compensate farmers for damage caused to agricultural production is paid as soon as possible after the occurrence of the adverse event concerned. Where aid is paid only several years after the occurrence of the event in question, there is a real danger that the payment of such aid will produce the same economic effects as operating aid. This is particularly the case where aid is paid retrospectively in respect of claims which were not properly documented at the time. Therefore in the absence of a specific justification, resulting for example from the nature and extent of the event, or the delayed or continuing nature of the damage, the Commission will not approve proposals for aid which are submitted more than three years after the occurrence of the event.

11.2. AID TO MAKE GOOD THE DAMAGE CAUSED BY NATURAL DISASTERS OR EXCEPTIONAL OCCURRENCES

11.2.1. Because they constitute exceptions from the general principle of the incompatibility of State aid with the common market laid down by Article 87(1) of the Treaty, the Commission has consistently held that the notions of 'natural disaster' and 'exceptional occurrence' contained in Article 87(2)(b) must be interpreted restrictively. Hitherto the Commission has

accepted that earthquakes, avalanches, landslides and floods may constitute natural disasters. Exceptional occurrences which have hitherto been accepted by the Commission include war, internal disturbances or strikes, and with certain reservations and depending on their extent, major nuclear or industrial accidents and fires which result in widespread loss. On the other hand the Commission did not accept that a fire at a single processing plant which was covered by normal commercial insurance could be considered as an exceptional occurrence. As a general rule, the Commission does not accept that outbreaks of animal or plant diseases can be considered to constitute natural disasters or exceptional occurrences. However, in one case the Commission did recognise the very widespread outbreak of a completely new animal disease as an exceptional occurrence. Because of the inherent difficulties in foreseeing such events, the Commission will continue to evaluate proposals to grant aid in accordance with Article 87(2)(b) on a case-by-case basis, having regard to its previous practice in this field.

11.2.2. Once the existence of a natural disaster or an exceptional occurrence has been demonstrated, the Commission will permit aid of up to 100 % to compensate for material damage. Compensation should normally be calculated at the level of the individual beneficiary, and in order to avoid over-compensation, any payments due, for example under insurance policies, should be deducted from the amount of aid. The Commission will also accept aid to compensate farmers for loss of income resulting from the destruction of the means of agricultural production, provided that there is no over-compensation.

11.3. AID TO COMPENSATE FARMERS FOR LOSSES CAUSED BY ADVERSE WEATHER CONDITIONS

11.3.1. The Commission has consistently held that adverse weather conditions such as frost, hail, ice, rain or drought cannot of themselves be regarded as natural disasters within the meaning of Article 87(2)(b). However, because of the damage that such events may cause to agricultural production or the means of agricultural production, the Commission has accepted that such events may be assimilated to natural disasters once the level of damage reaches a certain threshold, which has been fixed at 20 % of normal production in the less-favoured areas and 30 % in other areas. Because of the inherent variability of agricultural production, the maintenance of such a threshold also appears necessary to ensure that weather conditions may not be used as a pretext for the payment of operating aid. In order to enable the Commission to assess such aid schemes, notifications

⁽²⁴⁾ For the purposes of this section, plant diseases also include plant pests.

of aid measures to compensate for damage caused by adverse weather conditions should include appropriate supporting meteorological information.

11.3.2. Where damage occurs to annual crops the relevant threshold of loss of 20 % or 30 % should be determined on the basis of the gross production of the relevant crop in the year in question compared with the gross annual production in a normal year. In principle the gross production in a normal year should be calculated by reference to the average gross production in the previous three years, excluding any year in which compensation was payable as a result of other adverse weather conditions. The Commission will however accept alternative methods of calculation of normal production, including regional reference values, provided it is satisfied that these are representative and not based on abnormally high yields. Once the volume of loss of production has been determined, the amount of aid payable should be calculated. In order to avoid over-compensation, the amount of aid payable should not exceed the average level of production during the normal period multiplied by the average price during the same period minus actual production in the year the event took place, multiplied by the average price for that year. The amount of aid should also be reduced by the amount of any direct aid payments.

11.3.3. As a general rule, the calculation of loss should be made at the level of the individual holding. This is particularly the case where aid is paid to compensate for damage caused by localised events. However, in the case where the adverse weather conditions have affected a wide area in the same way the Commission will accept that aid payments are based on average losses provided that these are representative and will not result in significant overcompensation of any beneficiary.

11.3.4. In the case of damage to the means of production the effects of which are felt over several years (for example the partial destruction of tree crops by frost) for the first harvest following the occurrence of the adverse event the percentage real loss in comparison with a normal year, determined in accordance with the principles set out in the previous paragraphs, must exceed 10 % and the percentage real loss multiplied by the number of years in which production is lost must exceed 20 % in the less-favoured areas and 30 % in other areas.

11.3.5. The Commission will apply the principles set out above by analogy in the case of aids to compensate

for losses to livestock caused by adverse weather conditions.

11.3.6. In order to avoid over-compensation, the amount of aid paid should be reduced by any amount received under insurance schemes. Furthermore, normal costs not incurred by the farmer, for example because of the non-harvesting of the crop, should also be taken into account. However, where such costs are increased as a result of the adverse weather conditions, additional aid may be granted to cover these costs.

11.3.7. Aids to compensate farmers for damage to buildings and equipment caused by adverse weather events (for example damage to glasshouses caused by hail) will be accepted up to 100 % of actual costs, without any minimum threshold being applied.

11.3.8. In principle, aid under this section may only be paid for farmers or, alternatively, to a producer organisation of which the farmer is a member, in which case the amount of aid should not exceed the actual loss incurred by the farmer.

11.4. AID FOR COMBATING ANIMAL AND PLANT DISEASES

11.4.1. Where a farmer loses livestock as a result of animal disease, or where his crops are affected by plant disease, this does not normally constitute a natural disaster or an exceptional occurrence within the meaning of the Treaty. In such cases aids to provide compensation for the losses incurred, and aids to prevent future losses may only be permitted by the Commission on the basis of Article 87(3)(c) of the Treaty, which provides that aids to facilitate the development of certain activities may be considered compatible with the common market provided that it does not affect trading conditions to an extent contrary to the common interest.

11.4.2. In accordance with these principles, the Commission considers that the payment of aid to farmers to compensate for losses resulting from animal or plant diseases may only be accepted as part of an appropriate programme at Community, national or regional level for the prevention, control or eradication of the disease concerned. Aids which simply compensate farmers for losses incurred without taking any steps to remedy the problem at source must be considered as pure operating aids which are incompatible with the common market. Therefore the Commission will require that Community or national provisions exist, whether laid down by law, regulation or administrative action, to the effect that the competent national auth-

authorities should deal with the disease in question, either by organising measures to eradicate it, in particular through binding measures giving rise to compensation, or initially by setting up an alert system combined, where appropriate, with aid to encourage individuals to take part in preventative measures on a voluntary basis ⁽²⁵⁾. Accordingly, only diseases which are a matter of concern for the public authorities, and not measures for which farmers must reasonably take responsibility themselves may be the subject of aid measures.

11.4.3. The objectives of the aid measures should be either:

— preventative in that they involve screening measures or analyses, the extermination of pests which may transmit the disease, preventative vaccinations of animals or treatment of crops, and preventative slaughtering of livestock or destruction of crops, or

— compensatory in that the affected livestock is slaughtered or crops are destroyed on the orders or recommendation of the public authorities or die as a result of vaccinations or other measures recommended or ordered by the competent authorities, or

— combined in that the compensatory aid scheme for the losses resulting from the disease is subject to the condition that the recipient undertakes to take suitable future preventative measures as laid down by the public authorities.

11.4.4. In the notification, the Member State should show that aids for combating animal and plant diseases are compatible with both the objectives and the specific provisions laid down in Community veterinary and phyto-sanitary legislation. The animal or plant

diseases concerned should be clearly identified, together with a description of the measures concerned.

11.4.5. Subject to compliance with the principles set out above aid may be granted at up to 100 % of actual costs incurred in respect of measures such as health checks, tests and other screening measures, purchase and administration of vaccines, medicines and plant protection products, slaughter costs and cost of destruction of crops. However, no aid may be paid in respect of preventative measures if Community legislation specifies specific charges for certain types of disease control measures. Similarly, no aid may be provided where Community legislation provides that the cost of the measures is to be borne by the agricultural holding, unless the cost of such aid measures is entirely offset by compulsory charges on producers.

Compensation may be granted up to the normal value of crops destroyed or animals slaughtered. It may include reasonable compensation for loss of profit, taking into account the difficulties involved in restocking the herd or replanting and any quarantine or waiting period imposed or recommended by the competent authorities to allow the elimination of the disease before the holding is restocked or replanted.

Where aid is provided under Community and/or national and/or regional aid schemes, the Commission will require evidence that there is no possibility of overcompensation through the cumulation of the different schemes. Where Community aid has been approved, the date and references of the relevant Commission decision should be provided.

11.5. AID TOWARDS THE PAYMENT OF INSURANCE PREMIUMS

11.5.1. As an alternative to the payment of ex post compensation for losses caused by natural disasters, several Member States have established aid schemes to encourage farmers to obtain insurance cover against such events. It is consistent Commission policy to allow aid of up to 80 % of the cost of insurance premiums to cover against losses caused by natural disasters and exceptional occurrences, falling within the scope of point 11.2, and by adverse climatic events which can be assimilated to natural disasters in accordance with point 11.3. Where the insurance also covers other losses caused by adverse climatic events, or losses caused by animal or plant diseases, the aid rate is reduced to 50 % of the cost of the premium.

⁽²⁵⁾ In cases where animal or plant diseases have been shown to result from adverse weather conditions, the Commission will evaluate the aid measure in accordance with point 11.3 and these requirements will not apply.

11.5.2. The Commission will examine other aid measures in connection with insurance against natural disasters and exceptional occurrences on a case-by-case basis, in particular reinsurance schemes and other aid measures to support producers in particularly high risk zones.

11.5.3. Aids towards the payment of insurance premiums may not constitute a barrier to the operation of the internal market for insurance services. This would be the case, for example if the possibility to provide insurance cover was limited to a single company or group of companies or if a condition of the aid was that the insurance contract had to be taken out with a company established in the Member State concerned.

12. AID FOR LAND REPARCELLING

The exchange of plots of agricultural land within the framework of land reparacling operations undertaken in accordance with the procedures laid down by the legislation of the Member State concerned facilitates the establishment of economically viable holdings and therefore contributes to the development of the agricultural sector as a whole, while producing limited effects on competition. The Commission therefore allows aid to be granted to cover the legal and administrative costs, including survey costs, of reparacling up to 100 % of actual costs incurred. However, where aid for investments is granted within the framework of a reparacling scheme, including aids for land purchase, the maximum rates of aid set out in point 4.1 applies to those investments.

13. AIDS TO ENCOURAGE THE PRODUCTION AND MARKETING OF QUALITY AGRICULTURAL PRODUCTS

13.1. Aid measures intended to provide an incentive to improve the quality of agricultural products tend to add to the value of agricultural production, and help the sector as a whole to adjust to consumer demand, which places increasing emphasis on quality. The Commission has generally taken a favourable position in respect of such aids. However, experience has shown that such aid measures may present a risk of a distortion of the conditions of competition, and may affect trade between Member States in a manner contrary to the common interest. This is particularly the case where large amounts of aid are granted, or where the payment of aid continues after the aid has ceased to have any incentive effect, and therefore takes on the nature of operating aid. For this reason, the Commission has decided to review its policy in respect of these aids.

13.2. The Commission will allow aids for consultancy and similar support, including technical studies, feasibility and design studies and markt research, to be given for activities related to the development of quality agricultural products, including;

- market research activities, product conception and design ⁽²⁶⁾, including aids granted for the preparation of applications for recognition of denominations of origin or certificates of specific character in accordance with the relevant Community regulations,
- The introduction of quality assurance schemes such as the ISO 9000 or 14000 series, systems based on hazard analysis and critical control points (HACCP) or environmental audit systems,
- the costs of training personnel to apply quality assurance and HACCP-type systems.

Aid may also be granted to cover the cost of the charges levied by recognised certifying bodies for the initial certification of quality assurance and similar systems.

In order to prevent the possibility of large amounts of aid being granted to large companies, the total amount of aid which may be granted under this section should not exceed EUR 100 000 per beneficiary over any three-year period, or, in the case of aid granted to undertakings falling within the scope of the Commission definition of small and medium-sized enterprises ⁽²⁷⁾, 50 % of the eligible costs, whichever is greater. For the purpose of calculating the amount of aid, the beneficiary is considered to be the recipient of the services.

Aid for investments which are necessary to upgrade production facilities, including investments necessary to manage the documentation system and perform process and product controls, may only be granted in accordance with the rules set out in points 4.1 and 4.2, as appropriate.

13.3. Previously the Commission has taken a favourable view of aids to cover the cost of quality control measures allowing aid of up to 100 % for the costs of compulsory controls and 70 % for non-compulsory controls. However, in view of the increasing emphasis

⁽²⁶⁾ Aid for promotion activities may only be granted in accordance with the relevant framework.

⁽²⁷⁾ OJ L 107, 30.4.1996, p. 4.

on the safety and quality of agricultural products, and in particular the obligation to use HACCP type systems to ensure the hygiene of foodstuffs, the range of controls undertaken routinely during the production process has increased substantially, and the cost of such controls has become a normal part of production costs. Because of the direct impact of the costs of quality control on production costs, such aids present a real risk of a distortion of competition, particularly where they are paid selectively. Therefore the Commission considers that no aid should be granted in respect of routine in-process quality controls and routine product controls undertaken by the manufacturer, irrespective of whether they are undertaken on a voluntary basis or on a compulsory basis as a part of HACCP or similar systems. Aid should only be granted in respect of controls undertaken by or on behalf of third parties, such as the competent regulatory authorities, or bodies acting on their behalf, or independent organisms responsible for the control and supervision of the use of denominations of origin, organic labels, or quality labels.

- 13.4. Because of the different policies of the Member States as regards the passing on of the costs of compulsory control measures which are undertaken pursuant to Community or national legislation by or on behalf of the competent authorities, the Commission will continue to permit aid to be paid up to a rate of 100 % of the costs of such controls unless Community legislation has fixed the amounts to be paid by producers for control measures. Where Community legislation provides that the cost of control is to be met by producers, without specifying actual level of charges, the Commission will only allow aid to be paid as part of a system of aids financed by parafiscal taxes which ensures that the full economic cost of the controls is met by producers. The Commission will examine proposals to grant temporary and degressive aid to provide time for producers to adjust to such controls on a case-by-case basis having regard to the legislative provisions concerned.

In the specific case of aids paid to cover the cost of control measures undertaken to ensure the authenticity of denominations of origin, or certificates of specific character in the framework of Council Regulations (EEC) Nos 2081/92 ⁽²⁸⁾ and 2082/92 ⁽²⁹⁾, the Commission will permit temporary and degressive aids

to be paid to cover the cost of the controls during the first six years of following the establishment of the control system. Existing aids to cover the cost of such controls must be progressively reduced, so that they are eliminated within six years of the entry into force of these guidelines.

In view of the specific Community interest in ensuring the development of organic production methods ⁽³⁰⁾, the Commission will continue to allow aid for controls of organic production methods conducted within the framework of Council Regulation (EEC) No 2092/91 ⁽³¹⁾ at the rate of up to 100 % of actual costs incurred.

- 13.5. The Commission will allow aid at an initial rate of up to 100 % of the cost of controls carried out by other bodies responsible for supervising the use of quality marks and labels under recognised quality assurance schemes. Such aids shall be reduced progressively, so that by the seventh year following its establishment, they are eliminated. Existing aids to cover the cost of controls carried out by such bodies must be progressively reduced, so that they are eliminated within six years of the entry into force of these guidelines.

14. PROVISION OF TECHNICAL SUPPORT IN THE AGRICULTURAL SECTOR

- 14.1. The Commission takes a favourable view of aid schemes which are intended to provide technical support in the agricultural sector. Such soft aids improve the efficiency and professionalism of agriculture in the Community, and thus contribute to its long-term viability while producing only very limited effects on competition. Aid may therefore be granted at a rate of up to 100 % of costs to cover activities such as:

— education and training; the eligible costs may include the actual cost of organising the training programme, travel and subsistence expenses together with the cost of the provision of replacement services during the absence of the farmer or the farm worker,

⁽²⁸⁾ OJ L 208, 24.7.1992, p. 1.

⁽²⁹⁾ OJ L 208, 24.7.1992, p. 9.

⁽³⁰⁾ See recital 41 of the preamble to the Rural Development Regulation.

⁽³¹⁾ OJ L 198, 22.7.1991, p. 1.

— the provision of farm management services and farm replacement services,

— consultant's fees,

— the organisation of competitions, exhibitions and fairs, including support for the costs incurred by participating in such events, and

— other activities for the dissemination of knowledge relating to new techniques, such as reasonable small scale pilot projects or demonstration projects.

14.2. In order to avoid the creation of distortions of competition, this type of aid measure should in principle be available to all those eligible in the area concerned based on objectively defined conditions. Aids which are restricted to identified groups in order to provide support only for their members cannot be considered to facilitate the development of the sector as a whole and must be considered as operating aids. Thus, where the provision of such services is undertaken by producer groups or other agricultural mutual support organisations, the Commission will seek assurances that the services concerned are available to all eligible farmers. In such cases any contribution towards the administrative costs of the group or organisation concerned should be limited to the costs of providing the service.

14.3. The total amount of support granted under this section should not exceed EUR 100 000 per beneficiary over any three-year period, or, in the case of aid granted to undertakings falling within the scope of the Commission definition of small and medium-sized enterprises ⁽³²⁾, 50 % of the eligible costs, whichever is greater. For the purpose of calculating the amount of aid, the beneficiary is considered to be the person receiving the services.

15. SUPPORT FOR THE LIVESTOCK SECTOR

15.1. In addition to the aid measures described above, the Commission will also permit the following aids to be granted in the livestock sector in order to support the maintenance and improvement of the genetic quality of Community livestock:

— aid at a rate of up to 100 % to cover the administrative costs of the establishment and maintenance of herd books,

— aid at a rate of up to 70 % for tests to determine the genetic quality or yield of livestock,

— aid at a rate of up to 40 % of the eligible costs for investments in animal reproduction centres and for the introduction at farm level of innovative animal breeding techniques or practices,

— aid at a rate of up to 30 % of the cost of keeping individual male breeding animals of high genetic quality registered in herd books.

Aids for the preservation of endangered species or breeds will be assessed in accordance with the provisions of Chapter VI of Title II of the Rural Development Regulation.

16. STATE AIDS FOR THE OUTERMOST REGIONS AND THE AEGEAN ISLANDS

16.1. Following the adoption of the Rural Development Regulation, the various derogations provided for by the rules currently in force in favour of the outermost regions and the islands of the Aegean Sea, which in certain circumstances provide for additional State aid, have been repealed. Nevertheless, the Regulation is based on the principle that new provisions providing the necessary flexibility for the adjustments and derogations necessary to meet the specific needs of these regions are to be established during the programming of rural development measures for these regions. The Commission will therefore examine proposals to grant State aid designed to meet the needs of these regions on a case-by-case basis, having regard to the compatibility of the measures concerned with the Rural Development Programmes for the regions concerned, and their effects on competition.

16.2. As regards the outermost regions, in derogation from the general prohibition on operating aid set out in these guidelines, the Commission will examine proposals to grant operating aid in the outermost regions on a case-by-case basis, having regard to the principles laid down in the Treaty and in particular the potential effects of the measures on competition in the regions concerned and in other parts of the Community.

17. AIDS FOR RESEARCH AND DEVELOPMENT

Aids for research and development will be examined in accordance with the criteria set out in the applicable Community framework for State aid for research and development ⁽³³⁾. The increase in aid rates of 10 % in favour of small and medium-sized enterprises provided for by point 4.2.6 of the

⁽³²⁾ OJ L 107, 30.4.1996, p. 4.

⁽³³⁾ OJ C 45, 17.2.1996, p. 5, as subsequently amended as regards its application in the agricultural sector (OJ C 48, 13.2.1998, p. 2).

Community framework for small and medium-sized enterprises also applies in the agricultural sector ⁽³⁴⁾.

involving the defraying of a proportion of the insurance premiums covering such risks ⁽⁴⁰⁾,

18. **AIDS FOR PROMOTION AND ADVERTISING OF AGRICULTURAL PRODUCTS**

— framework for national aids to producer organisations ⁽⁴¹⁾,

Aids for the promotion and advertising of agricultural products will be assessed in accordance with the framework applicable to the advertising of agricultural products and certain products not listed in Annex I of the Treaty, excluding fisheries products ⁽³⁵⁾.

— guidelines for State aid in connection with investments in the processing and marketing for agricultural products ⁽⁴²⁾.

19. **AIDS IN THE FORM OF SUBSIDISED SHORT-TERM LOANS**

Following the entry into force of these guidelines, subject to point 5.6.2, the Community guidelines on State aid for environmental protection will no longer apply to the agricultural sector ⁽⁴³⁾.

Subsidised short-term loans (*Credits de Gestion*) for the agricultural sector will be assessed in accordance with the applicable guidelines on State aid: subsidised short-term loans in agriculture ⁽³⁶⁾.

23. **PROCEDURAL MATTERS**

23.1. NOTIFICATION

20. **AIDS FOR RESCUE AND RESTRUCTURING FIRMS IN DIFFICULTY**

23.1.1. Subject to point 23.1.2 below, all new aid schemes and all new individual aids must be notified to the Commission before they are put into effect in accordance with Article 88(3) of the Treaty and the provisions of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 88 of the Treaty ⁽⁴⁴⁾.

Aids for rescuing and restructuring firms in difficulty will be assessed in accordance with the applicable Community guidelines on State aid for rescuing and restructuring firms in difficulty ⁽³⁷⁾.

21. **AIDS FOR EMPLOYMENT**

23.1.2. In accordance with Article 52 of the Rural Development Regulation, a separate notification under Article 88(3) of the Treaty is not required in respect of State aid intended to provide additional financing for rural development measures for which Community support is granted provided that this aid has been notified to and approved by the Commission in accordance with the provisions of the Rural Development Regulation as part of the programming referred to in Article 40 of that Regulation.

Aids for employment will be assessed in accordance with the applicable Community guidelines on aid for employment ⁽³⁸⁾.

22. **CANCELLATION OF EXISTING TEXTS**

Without prejudice to point 23.3, the following texts are hereby repealed and replaced by these guidelines and appropriate measures:

— proposal for appropriate measures concerning aids granted by the Member States in the livestock and livestock products sector ⁽³⁹⁾,

In order to benefit from this exception, the measures concerned and the amount of additional State aid allocated to each of them must be clearly identified in the rural development plan in accordance with the provisions of the Implementing Regulation. Commission approval of the plan will cover only measures which have been identified in this way. State aids granted for other measures, whether or not included in the plan, or measures which are subject to different conditions from those set out in the plan must be the subject of a separate notification to the Commission in accordance with Article 88(3).

— rules governing the grant of national aids in the event of damage to agricultural production or the means of agricultural production, and national aids

⁽³⁴⁾ Currently OJ C 213, 23.7.1996, p. 4.

⁽³⁵⁾ Currently OJ C 302, 12.11.1987, p. 6.

⁽³⁶⁾ Currently OJ C 44, 16.2.1996, p. 2.

⁽³⁷⁾ Currently OJ C 288, 9.10.1999, p. 2.

⁽³⁸⁾ Currently OJ C 334, 12.12.1995, p. 4.

⁽³⁹⁾ Commission letter to Member States (SG(75) D/29416 of 19.9.1975).

⁽⁴⁰⁾ Working Paper VI/5934/86-Rev. 2.

⁽⁴¹⁾ Working paper VI/503/88.

⁽⁴²⁾ OJ C 29, 2.2.1996, p. 4.

⁽⁴³⁾ OJ C 72, 10.3.1994, p. 3.

⁽⁴⁴⁾ OJ L 83, 27.3.1999, p. 1.

Furthermore, Commission approval of the plan will only cover the amount of aid set by the Member State. Any increase of more than 25 % in the amount of aid allocated to a particular measure in the year concerned, or any increase of more than 5 % in relation to the overall amount foreseen must be the subject of Commission approval ⁽⁴⁵⁾.

The same rules apply by analogy to amendments to rural development plans.

23.2. ANNUAL REPORTS

23.2.1. During the meeting of the Council of 2 October 1974, the Governments of the Member States decided to communicate to the Commission a complete Inventory of all State aids for agriculture existing in 1974. The Commission considered that these inventories constituted an essential instrument for ensuring a greater transparency of national aid measures, for their assessment according to common criteria and for ensuring the correct functioning of the common agricultural market. Accordingly, by letter of 24 June 1974 ⁽⁴⁶⁾, the Commission requested all Member States to provide an updated inventory of national aid schemes no later than the end of May each year.

23.2.2. These arrangements have now been superseded by Article 21 of Council Regulation (EC) No 659/1999 which provides that Member States are to submit to the Commission annual reports on all existing aid schemes with regard to which no specific reporting obligations have been imposed in a conditional decision.

23.2.3. In the agricultural sector, the arrangements for the provision of annual reports need to take account of the monitoring and evaluation procedures for rural development plans laid down in Chapter V of the Rural Development Regulation, and also of the various reporting systems laid down under the WTO agreements and by the Organisation for Economic Cooperation and Development. In so far as possible, the arrangements for reporting should avoid duplication of effort, or multiple presentations of the same underlying information in different formats.

23.2.4. For the time being, the reports should be presented in accordance with the following guidelines. However, the Commission reserves the right, after consultation with the Member States, to propose changes to these

guidelines, in particular to take account of the experience acquired in the implementation of the monitoring and evaluation procedures laid down by the Rural Development Regulation.

(a) A single report should be presented to the Commission, for the first time before 1 July 2001, and thereafter no later than 30 June each year, covering all aid schemes for the agricultural sector in the Member State concerned. The report should be provided in two parts, a general part, and individual reports on all existing aid schemes.

(b) The general part, about 5 to 10 pages in length, should provide an overview of the evolution of public policy in the Member State concerned towards the support of the agricultural sector. It should summarise important changes during the year in question, including a brief description of the reasons for introducing major new aid schemes or for ending existing schemes, and should describe major changes in the level of support granted to existing aid schemes.

Where responsibility for the implementation of State aid policy in the agricultural sector is devolved to the regions, a Member State may, if it considers it appropriate, provide separate general reports covering activities at the national and regional levels.

Annexed to the general part should be global financial data indicating the overall level of public financial support for the agricultural sector. This data should distinguish between:

- national contributions to the financing of measures which are supported by the Community under the Rural Development Regulation or other Community regulations,

- support for State aid measures which have been approved by the Commission as part of rural development programming pursuant to Article 52 of the Rural Development Regulation (see point 23.1.2),

- other State aid measures,

This global financial data should as far as possible be presented in the form of a single indicative table ⁽⁴⁷⁾.

⁽⁴⁵⁾ Article 35 of the Implementing Regulation.

⁽⁴⁶⁾ SG(76) D/6717.

⁽⁴⁷⁾ See points 8 and 16 of the Annex to the Implementing Regulation.

(c) Individual reports should be provided in respect of each existing aid scheme ⁽⁴⁸⁾ which has not been approved by the Commission as part of rural development programming pursuant to Article 52 of the Rural Development Regulation ⁽⁴⁹⁾.

In the case of aid schemes concerning investments in connection with the processing and marketing of agricultural products, these reports should be presented in accordance with the format set out in Section I of the Annex. In addition, the information necessary for the Commission to assess the compliance of the scheme with the restrictions set out in point 4.2.4 of these guidelines should also be provided in accordance with the conditions set out in the authorisation of the aid scheme concerned.

In other cases the reports should be presented in accordance with the simplified format set out in Section II of the Annex. In the case of aid schemes concerning investments in primary agricultural production, the information necessary for the Commission to assess the compliance of the scheme with the restrictions set out in points 4.1.1.3 and 4.1.1.4 of these guidelines should also be provided in accordance with the conditions set out in the authorisation of the aid scheme concerned.

In the case of aid schemes financed in whole or in part by parafiscal taxes, the yield of the taxes, and public expenditure on the scheme net of the contribution provided by the sector should also be stated.

23.2.5. The Commission reserves the right to seek additional information on existing aid schemes on a case-by-case basis, where this is necessary to enable it to fulfil its responsibilities under Article 88(1) of the Treaty.

23.2.6. Where annual reports are not provided in accordance with these guidelines, the Commission may proceed in accordance with Article 18 of Regulation (EC) No 659/1999.

23.2.7. Having regard to the annual reports provided by the Member States, the Commission will take appropriate steps to ensure an increase in the transparency of information regarding State aid in the agricultural sector.

23.3. APPLICATION TO NEW AIDS

The Commission will apply these guidelines with effect from 1 January 2000 to new notifications of State aid and to notifications which are pending on that date.

Unlawful aid within the meaning of Article 1(f) of Regulation (EC) No 659/1999 will be assessed in accordance with the rules and guidelines in force at the time the aid is granted.

23.4. PROPOSALS FOR APPROPRIATE MEASURES

In accordance with Article 88(1) of the EC Treaty, the Commission proposes that Member States amend their existing aid schemes relating to aids for investments in the production, processing and marketing of Annex I agricultural products to conform with these guidelines by 30 June 2000 at the latest and to amend other existing aid schemes covered by these guidelines by 31 December 2000 at the latest.

The Member States are invited to confirm that they accept these proposals for appropriate measures in writing by 1 March 2000 at the latest.

In the event that a Member State fails to confirm its acceptance in writing before that date, the Commission will assume that the Member State concerned has accepted these proposals, unless it explicitly indicates its disagreement in writing.

Should a Member State not accept the whole or part of these proposals by that date, the Commission will proceed in accordance with Article 19 of Regulation (EC) No 659/1999.

⁽⁴⁸⁾ Reports on individual aids which are granted outside of the framework of an aid scheme need only be submitted where this is a condition of Commission approval of the aid.

⁽⁴⁹⁾ Reports on aid schemes which have been approved pursuant to Article 52 of the Rural Development Regulation should be provided within the framework of the reports on the implementation of the rural development programmes.

ANNEX

Information under Article 88(1) EC Treaty on the aid scheme, individual aid granted under the terms of a scheme or individual aid granted outside an approved aid scheme**I. FORMAT OF DETAILED ANNUAL REPORT****1. Name of scheme or individual aid in original language:**

1(a) Main and secondary objective

2. Date of most recent approval by the Commission and aid number:**3. Expenditure under the scheme**

Separate figures should be provided for each aid instrument in the scheme (e.g. grant, low interest loans, guarantees). Provide figures on expenditure or commitments, revenue losses and other financial factors relevant to the granting of aid (e.g. period of loan, interest subsidies, default rates on loans net of sums recovered, default payments on guarantees net of premium income and sums recovered).

These expenditure figures should be provided on the following basis:

- 3.1. For year n ⁽⁵⁰⁾, provide expenditure forecasts or estimated revenue losses due to tax expenditure.
- 3.2. For year n-1, indicate:
 - 3.2.1. Expenditure committed, or estimated revenue losses due to tax expenditure, for new assisted projects and actual payments for new and current projects ⁽⁵¹⁾.
 - 3.2.2. Number of new recipients and number of new projects assisted.
 - 3.2.3. Regional breakdown of amounts at 3.2.1 by objective 1,2, LFR, other.
 - 3.2.4.1. Sub-sectorial breakdown of 3.2.1 by recipients' sub-sectors of activity (according to NACE three digit classification ⁽⁵²⁾ or equivalent national nomenclature, to be specified).
 - 3.2.4.2. Complete only if schemes are covered by the framework for State aids for R&D:
 - breakdown of total expenditure by R&D stage (fundamental, basic industrial, applied, etc.);
 - specify the number of projects involving Community or international cooperation;
 - give breakdown of expenditure by enterprise, research centre and university.
 - 3.2.5. To be completed only for schemes not reserved exclusively for SMEs and not involving the automatic granting of Aid. Aid is granted automatically where it is necessary only to satisfy all the eligibility conditions in order to qualify for aid or where it is shown that a public authority is not exercising its statutory discretionary right to select recipients.

Provide the following information for each of those recipients, starting with the one receiving the most aid, which account for 30 % of total commitments in year n-1 (with the exception of budget appropriations earmarked for fundamental research by universities and other scientific institutions not covered by Article 87 of the EC Treaty provided such research is not carried out under contract or in cooperation with the private sector):

- name,
- address,

⁽⁵⁰⁾ Year n is the year in which the report is received.

⁽⁵¹⁾ If the figures for actual tax expenditure are not yet available, estimates should be provided and the final figures sent with the next report.

⁽⁵²⁾ Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), as amended by Commission Regulation (EC) No 761/93 (OJ L 83, 3.4.1993, p. 1) and Corrigendum (OJ L 159, 11.7.1995, p. 31).

- recipient's sector of activity (following classification referred to in question 3.2.4.1),
- amount of aid committed (or authorised where tax aid is involved),
- eligible cost of project,
- total cost of project.

The list must contain at least 10, but not more than 50 recipients. This rule takes precedence over the 30 % rule. If there are fewer than 10 recipients in the report year, they must all be listed. If there are several assisted projects per recipient, the information request should be broken down by project. The information is not required in the case of aid subject to a ceiling where more than 50 recipients reach the ceiling. Only the level of the ceiling and the number of recipients reaching it need be given.

4. **Changes (administrative or other) introduced during the year**

II. **FORMAT OF SIMPLIFIED ANNUAL REPORT TO BE SUBMITTED FOR ALL SCHEMES NOT REPORTED UNDER 1**

For new aid schemes covered by the accelerated clearance procedure or schemes with an annual budget of not more than EUR 5 million, give only the information requested in points 1, 1(a), 2.1, 2.2.1 and 2.2.2 (very simplified report).

1. **Name of scheme in original language and aid number**

1(a) Main and secondary objective

2. **Expenditure under scheme**

Separate figures should be provided for each aid instrument in the scheme (e.g. grant, low interest loans, guarantees). Provide figures on expenditure or commitments, revenue losses and other financial factors relevant to the granting of aid (e.g. period of loan, interest subsidies, default rates on loans net of sums recovered, default payments on guarantees net of premium income and sums recovered).

These expenditure figures should be provided on the following basis:

- 2.1. For year n, provide expenditure forecasts or estimated revenue losses due to tax expenditure.
- 2.2. For year n-1, indicate:
 - 2.2.1. Expenditure committed, or estimated revenue losses due to tax expenditure, for new assisted projects and actual payments for new and current projects ⁽⁵³⁾.
 - 2.2.2. Number of new recipients and number of new projects assisted, together with estimated number of jobs created or maintained.
 - 2.2.3. Regional breakdown of amounts at 2.2.1 by objective 1,2, LFA, other.
 - 2.2.4. Sub-sectorial breakdown of 2.2.1 by recipients' sub-sectors of activity (according to NACE three digit classification or equivalent national nomenclature, to be specified).

3. **Changes (administrative or other) introduced during the year.**

⁽⁵³⁾ If the figures for actual tax expenditure are not yet available, estimates should be provided and the final figures sent with the next report.

Corrigendum to the Call for Proposals issued by the Commission of the European Communities for projects funded by the European Community — SCRE/110979/C/G

(Official Journal of the European Communities C 88 of 25 March 2000)

(2000/C 232/11)

On page 17,

— **Eligibility: who may apply?**

for: 'Non-profit-making Euro-Mediterranean private and public entities. Profit-making private organisations can participate as a partner provided that their participation is limited. For further details, see Section 2.1.1 of the **Guidelines for applicants.**'

read: 'Regional or international intergovernmental organisations, and non-profit-making European private and public entities in association with European and Mediterranean partners as set out in section 2.1.1 of the **Guidelines for Applicants.**'

— (c) *Deadline:*

for: '... 7 September 2000, 16.00 h ...'

read: '... 22 January 2001, 16.00 h ...'

— (d) *Address:*

for: 'Applications should be sent or hand-delivered to the following address so as to **arrive before the deadline for applications:**

Postal address

European Commission
Rue de la Loi/Wetstraat 200
Office SC 14 8/64
B-1049 Brussels

Adress for hand delivery

Rue de la Science/Wetenschapsstraat 14
Office 8/64
B-1049 Brussels'

read: '**See Section 2.2 of the Guidelines for Applicants.**'

On page 18,

— **Detailed information on the Call for Proposals**

for: '— *Post:*

European Commission (SCR/E/1)
Rue Belliard/Belliardstraat 28 — B-28 6/146
B-1049 Brussels'

read: '— *Post:*

European Commission (SCR/E/1)
Rue de la Loi/Wetstraat 41
Office 7/27
B-1049 Brussels'

Corrigendum to rates for conversion of currencies pursuant to Council Regulation (EEC) No 2615/79

(Official Journal of the European Communities C 221 of 3 August 2000)

(2000/C 232/12)

On page 3, column 'NOK', conversion rate line 'DKK':

for: '1,09518',

read: '1,09618'.
