

English edition

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2000/C 315/11

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I

(Information)

COMMISSION

Interest rate applied by the European Central Bank to its main refinancing operations ⁽¹⁾:**4,84 % on 1 November 2000****Euro exchange rates ⁽²⁾****3 November 2000***(2000/C 315/01)*

1 euro	=	7,4508	Danish krone
	=	339,9	Greek drachma
	=	8,5408	Swedish krona
	=	0,6013	Pound sterling
	=	0,873	United States dollar
	=	1,3354	Canadian dollar
	=	93,63	Japanese yen
	=	1,53	Swiss franc
	=	7,977	Norwegian krone
	=	74,25	Icelandic króna ⁽³⁾
	=	1,652	Australian dollar
	=	2,175	New Zealand dollar
	=	6,554	South African rand ⁽³⁾

⁽¹⁾ Rate applied to the most recent operation carried out before the indicated day. In the case of a variable rate tender, the interest rate is the marginal rate.

⁽²⁾ *Source:* reference exchange rate published by the ECB.

⁽³⁾ *Source:* Commission.

Euro exchange rates ⁽¹⁾**2 November 2000**

(2000/C 315/02)

1 euro	=	7,4446	Danish krone
	=	339,81	Greek drachma
	=	8,521	Swedish krona
	=	0,5956	Pound sterling
	=	0,8646	United States dollar
	=	1,3261	Canadian dollar
	=	93,63	Japanese yen
	=	1,5288	Swiss franc
	=	7,9395	Norwegian krone
	=	73,65	Icelandic króna ⁽²⁾
	=	1,638	Australian dollar
	=	2,1605	New Zealand dollar
	=	6,4743	South African rand ⁽²⁾

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

⁽²⁾ Source: Commission.

Euro exchange rates ⁽¹⁾**1 November 2000**

(2000/C 315/03)

1 euro	=	7,4434	Danish krone
	=	339,71	Greek drachma
	=	8,474	Swedish krona
	=	0,5912	Pound sterling
	=	0,8554	United States dollar
	=	1,3038	Canadian dollar
	=	92,83	Japanese yen
	=	1,5279	Swiss franc
	=	7,8765	Norwegian krone
	=	73,4	Icelandic króna ⁽²⁾
	=	1,6341	Australian dollar
	=	2,1484	New Zealand dollar
	=	6,4255	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 aid C 45/00 (ex N 106/99) — Italy — Ferriere Nord SpA — Aid towards investments in a new rolling line for welded steel mesh — EC Treaty

(2000/C 315/04)

(Text with EEA relevance)

By means of the letter dated 14 August 2000 reproduced in the authentic language on the pages following this summary, the Commission notified Italy of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty concerning the abovementioned aid.

Interested parties may submit their comments on the aid in respect of which the Commission is initiating the procedure within one month of the date of publication of this summary and the following letter, to:

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

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

SUMMARY

By letter dated 19 February 1999, the Italian authorities notified the Commission, in accordance with article 6(1) of Commission Decision 2496/96/ECSC (the Steel Aid Code, hereinafter referred to as SAC), that they intended to grant environmental aid to the ECSC steel company Ferriere Nord SpA under Regional Law 3 June 1978, n. 47, heading VI, as modified by Regional Law 2 January 1992, n. 2. This notification concerned aid towards investments in the continuous casting installations together with aid towards investments in a new rolling line for welded steel mesh.

By letter dated 3 June 1999, the Commission informed the Italian Government of its decision to initiate proceedings under Article 6(5) of the SAC concerning the abovementioned aids and invited it to submit its comments. This decision was published in the *Official Journal of the European Communities* C 288 of 9 October 1999, page 39.

The Italian authorities submitted in their letter of 13 August 1999 that the new rolling line (nuova linea di laminazione) manufactures electro-welded wire mesh which is a product outside the scope of the ECSC Treaty and that the investment in this new rolling line aims not only at reducing noise levels, but primarily at reducing the amount of waste in the form of iron oxide. They also submitted that the reduction of noise levels for the workers is in line with one of the objectives of the Community policy on the environment as defined by Article 174 of the EC Treaty, namely the protection of human health. As to the compatibility of the aid with the

Community rules, the Italian authorities submitted that it is in line with point 3.2.1 of the Community Guidelines on State aid for environmental protection since the new rolling line does not create or substitute production capacity of the existing plant, but exclusively enables an innovative process which reduces notably the noise and eliminates the waste in the form of iron oxide.

Ferriere Nord SpA and the European Independent Steelworks Association (EISA) also submitted that the investment in the new rolling line should not be assessed under the ECSC rules but under the EC rules.

The aid to which the present notice refers consists of a subsidy of 15 % towards investment of ITL 11 billion (EUR 5,68 million) for a new rolling line for welded steel mesh to be granted by the Autonomous Region of Friuli-Venezia Giulia. This new line, compared to the traditional electro-welding lines, eliminates the cold drawing phase.

Ferriere Nord SpA manufactures products listed in Annex I to the ECSC Treaty, and is consequently an 'undertaking' within the meaning of Article 80 of that Treaty. This fact together with the fact that the Italian authorities submitted their notification under article 6(1) of the SAC, led the Commission to examine the aid under the ECSC rules exclusively. Subsequently, since the Commission had doubts as to the compatibility of the aid with the common market according to the ECSC rules, the formal investigation procedure was initiated in June 1999 under the provisions of the SAC only.

The Commission notes that welded mesh is a product falling outside the scope of Annex I of the ECSC Treaty and it has acknowledged in its decision in the Grödizer case⁽¹⁾ that 'as a rule, aid to an ECSC undertaking will be assessed under the ECSC Treaty. In some circumstances however, the EC Treaty may apply to aid to non-ECSC activities carried on by an ECSC undertaking, provided they are clearly separate from the same undertaking's ECSC activities'.

In the present case, the Commission notes that Ferriere Nord SpA is a single company which does not keep separate accounts for its various activities. In these circumstances, in order to exclude the applicability of the ECSC rules to the aided investment, the Commission must ensure that the aid does not benefit Ferriere Nord SpA's ECSC activities since otherwise the strict steel aid policy as implemented by the SAC would be at risk⁽²⁾. The Italian authorities have not provided any evidence to this end. If they were to provide sufficient evidence showing that there is no risk that the aid benefits Ferriere Nord SpA's ECSC activities, the Commission could assess this aid under the EC rules.

As to the eventual assessment under the EC rules, according to the Community guidelines on State aid for environmental protection, aid ostensibly intended for environmental protection measures but which in fact is aid for general investment is not covered by the Guidelines⁽³⁾. The same would apply to aid for the improvement of working conditions. The Italian authorities have not provided any evidence that the main objective of the new rolling line is environmental protection or the improvement of the working conditions. It appears, on the contrary, that the first goal of the new rolling line is the replacement or increase of Ferriere Nord's production capacity for welded steel mesh and the reduction of the number of operations necessary for obtaining the end product as compared to the existing lines. It is a brand new line whose main objective is the production of welded steel mesh in more competitive conditions. In these circumstances, at this stage, it appears that the effects on working conditions or the environment are only marginal consequences of the investment.

Consequently, the Commission feels bound to initiate proceedings pursuant also to article 88(2) as regards the State aid concerned.

TEXT OF THE LETTER

'Con la presente la Commissione si prega informare l'Italia che, dopo avere esaminato le informazioni fornite dalle autorità

⁽¹⁾ Commission Decision of 8 July 1999 on State aid granted by Germany to Gröditzer Stahlwerke GmbH and its subsidiary Burg GmbH (OJ L 292, 13.11.1999, p. 27, point 33).

⁽²⁾ OJ C 320, 13.12.1998, p. 3.

⁽³⁾ See point 3.2.1 of Environmental guidelines (OJ C 72, 10.3.1994, p. 3).

italiane in merito all'aiuto menzionato in oggetto, ha deciso di avviare il procedimento di cui all'articolo 88, paragrafo 2, del trattato CE.

I. PROCEDIMENTO

Con lettera del 19 febbraio 1999, le autorità italiane hanno notificato alla Commissione, conformemente all'articolo 6, paragrafo 1 della decisione 2496/96/CECA della Commissione (in prosieguo Codice degli aiuti alla siderurgia), la loro intenzione di concedere un aiuto in materia ambientale all'impresa siderurgica — soggetta al trattato CECA — Ferriere Nord SpA, in virtù della legge regionale del 3 giugno 1978, n. 47, capo VI, modificata dalla legge regionale n. 2 del 2 gennaio 1992. La notifica riguardava un aiuto agli investimenti destinati ad un impianto di colata continua e ad una nuova linea di laminazione per la produzione di rete elettrosaldada.

Con lettera del 3 giugno 1999, la Commissione ha informato il governo italiano della propria decisione di avviare il procedimento di cui all'articolo 6, paragrafo 5, del Codice degli aiuti alla siderurgia riguardo all'aiuto in oggetto, invitandolo a presentare le proprie osservazioni. La decisione è stata pubblicata nella *Gazzetta ufficiale delle Comunità europee* C 288 del 9 ottobre 1999, pagina 39.

Le autorità italiane hanno affermato, nella lettera del 3 agosto 1999, che la nuova linea di laminazione produce reti elettrosaldade, un prodotto che non rientra nel campo di applicazione del trattato CECA e che l'investimento relativo a detta nuova linea di laminazione mira non solo a ridurre l'inquinamento acustico, ma anche e soprattutto a ridurre la quantità di rifiuti di lavorazione costituiti dalle polveri di ossido di ferro.

Le autorità italiane sostengono che la riduzione del livello di esposizione del personale al rumore è conforme ad uno degli obiettivi perseguiti dalla politica comunitaria in materia ambientale, ai sensi dell'articolo 174 del trattato CE, ossia la protezione della salute umana. Esse ricordano che, stando alla tabella 12 del programma comunitario di politica e di azione a favore dell'ambiente e di uno sviluppo sostenibile⁽⁴⁾, «nessuno deve essere esposto ad un livello di rumore che possa rappresentare un pericolo per la salute e la qualità della vita» e sostengono inoltre che l'esistenza di una direttiva del Consiglio in materia di protezione dei lavoratori contro i rischi derivanti dell'esposizione al rumore durante il lavoro⁽⁵⁾ non significa che le misure prese in favore dei lavoratori non siano misure di carattere ambientale.

⁽⁴⁾ Risoluzione del Consiglio e dei rappresentanti dei governi degli Stati membri, riuniti in sede di Consiglio, del 1° febbraio 1993, riguardante un programma comunitario di politica ed azione a favore dell'ambiente e di uno sviluppo sostenibile — Programma politico e d'azione della Comunità europea a favore dell'ambiente e di uno sviluppo sostenibile (GU C 138 del 17.5.1993, pag. 1).

⁽⁵⁾ Direttiva 86/188/CEE del Consiglio del 12 maggio 1986 (GU L 137 del 24.5.1986, pag. 28).

Per quanto riguarda la compatibilità dell'aiuto con le norme comunitarie, le autorità italiane affermano che esso è conforme al punto 3.2.1 della disciplina comunitaria degli aiuti di Stato per la tutela dell'ambiente, poiché il nuovo impianto non è inteso a creare o sostituire la capacità produttiva degli impianti esistenti, ma esclusivamente a rendere possibile un processo innovativo di produzione che riduca notevolmente l'inquinamento acustico ed elimini i rifiuti rappresentati dalle polveri di ossido; d'altro canto, la Regione Friuli-Venezia Giulia ha già provveduto a detrarre parte delle spese (relative alle voci «opere strutturali» ed «impianti generici») dall'importo ammesso all'aiuto.

Infine, con lettere datate 17 novembre 1999 e 26 aprile 2000, le autorità italiane hanno sostenuto che ai sensi del programma istituito dalla legge regionale n. 47/78, approvato dalla Commissione, sono considerati ammissibili gli aiuti volti al miglioramento qualitativo dell'ambiente di lavoro.

Con lettera del 5 novembre 1999, l'impresa Ferriere Nord SpA ha affermato che l'investimento relativo ad una nuova linea di laminazione non deve essere considerato alla luce delle norme CECA, poiché la rete elettrosaldata è un prodotto che non rientra nell'ambito del trattato CECA, bensì del trattato CE. Le altre argomentazioni formulate dall'impresa Ferriere Nord SpA erano sostanzialmente analoghe a quelle avanzate dalle autorità italiane.

Con lettera del 4 novembre 1999, la European Independent Steelworks Association (EISA) ha dichiarato che l'impresa aveva già sostenuto ingenti investimenti per la produzione di rete elettrosaldata di elevata duttilità (un prodotto non CECA), che la domanda di tale prodotto è in aumento, che non esiste sovraccapacità nel settore e che tale prodotto è fondamentale per l'industria edilizia, in particolare nelle zone ad elevata sismicità. Anche l'EISA ritiene che gli investimenti produrranno significativi effetti positivi in termini di protezione dell'ambiente.

II. DESCRIZIONE DETTAGLIATA DELL'AIUTO

L'aiuto che forma oggetto della presente decisione riguarda una sovvenzione del 15 % relativa all'investimento per 11 miliardi di ITL (5,68 milioni di EUR) in una nuova linea di laminazione per la produzione di reti elettrosaldate che, rispetto agli impianti tradizionali, elimina il processo di trafilatura a freddo.

III. VALUTAZIONE DELL'AIUTO

L'impresa Ferriere Nord SpA fabbrica prodotti elencati nell'allegato I al trattato CECA ed è quindi soggetta all'articolo 80 del trattato. Per tale motivo, ed anche perché le autorità italiane hanno presentato una notifica in base all'articolo 6, paragrafo 1, del Codice degli aiuti alla siderurgia, la Commissione ha intrapreso l'esame dell'aiuto in oggetto esclusivamente alla luce delle norme CECA. Di conseguenza, giacché nutrivamo dubbi circa la compatibilità dell'aiuto con il mercato comune ai sensi del trattato CECA, nel giugno 1999 la Commissione ha avviato un procedimento formale per l'esame del caso soltanto alla luce del Codice degli aiuti alla siderurgia. Solo nell'agosto 1999, le autorità italiane hanno fatto presente alla Commissione che

l'investimento relativo alla linea di laminazione riguardava un prodotto non CECA, sostenendo che esso era compatibile con le norme del trattato CE.

La rete metallica elettrosaldata è un prodotto prefabbricato di rinforzo, composto di cavi di rinforzo di acciaio trafilati a freddo, lisci o nervati, saldati insieme perpendicolarmente in modo da formare una rete⁽⁶⁾. La rete elettrosaldata è un prodotto che non rientra nell'ambito di applicazione dell'allegato I del trattato CECA.

Come riconosciuto dalla Commissione nella decisione adottata nel caso Gröditzter⁽⁷⁾, «Di norma gli aiuti destinati alle imprese CECA devono essere valutati in base al trattato CECA. In talune circostanze può tuttavia essere applicabile il trattato CE, sempre che gli aiuti siano destinati ad attività non CECA e che le attività sovvenzionate siano nettamente separate dalle attività CECA».

Nel caso presente, la Commissione osserva che l'impresa Ferriere Nord SpA costituisce un'entità unica che non mantiene contabilità separata per le diverse attività. In tali circostanze, per poter escludere l'applicabilità delle norme del trattato CECA all'aiuto agli investimenti, la Commissione deve accertare che l'aiuto non vada a beneficio delle attività CECA dell'impresa Ferriere Nord SpA, poiché ciò recherebbe pregiudizio alla politica in materia di aiuti alla siderurgia applicata con il Codice degli aiuti alla siderurgia⁽⁸⁾. Le autorità italiane non hanno fornito elementi di prova in tal senso. Qualora fosse dimostrato che non sussiste alcun rischio che l'aiuto possa favorire le attività CECA dell'impresa beneficiaria, la Commissione potrebbe valutare l'aiuto in questione alla luce delle disposizioni del trattato CE.

Valutazione alla luce della normativa CE

A norma della disciplina comunitaria degli aiuti di Stato per la tutela dell'ambiente, gli aiuti che apparentemente sono destinati a misure di protezione ambientale ma che, in realtà, sono destinati agli investimenti in generale sono esclusi dalla disciplina⁽⁹⁾. Lo stesso vale per gli aiuti destinati al miglioramento delle condizioni lavorative. Le autorità italiane non hanno fornito alcuna prova del fatto che il principale obiettivo della nuova linea di laminazione consista nella protezione dell'ambiente o nel miglioramento delle condizioni di lavoro. Al contrario, la nuova linea di laminazione sembrerebbe principalmente intesa a sostituire o aumentare la capacità produttiva dell'impresa Ferriere Nord per la produzione di rete elettrosaldata e a ridurre il numero delle operazioni necessarie per ottenere il prodotto finito, rispetto agli impianti attualmente esistenti. Si tratta di una linea completamente nuova il cui primo obiettivo consiste nella produzione di rete elettrosaldata in condizioni più competitive. In tali circostanze, gli effetti sulle condizioni di lavoro o sull'ambiente appaiono, allo stadio attuale, mere conseguenze marginali dell'investimento.

⁽⁶⁾ Cfr. decisione della Commissione, del 2 agosto 1989, relativa ad un procedimento a norma dell'articolo 85 del trattato CEE (IV/31.553 — Rete metallica elettrosaldata) (GU L 260 del 6.9.1989, pag. 1, par. 1).

⁽⁷⁾ Decisione della Commissione, dell'8 luglio 1999, relativa agli aiuti di Stato concessi dalla Germania alla Gröditzter Stahlwerke GmbH ed alla sua controllata Walzwerk Burg GmbH (GU L 292, pag. 27, par. 33).

⁽⁸⁾ GU C 320 del 13.12.1988, pag. 3.

⁽⁹⁾ Cfr. punto 3.2.1 della Disciplina comunitaria degli aiuti di Stato per la tutela dell'ambiente (GU C 72, del 10.3.1994, pag. 3).

CONCLUSIONI

Tenuto conto di quanto precede, la Commissione invita l'Italia a presentare, nell'ambito del procedimento di cui all'articolo 88, paragrafo 2, del trattato CE, le proprie osservazioni e a fornire tutte le informazioni utili ai fini della valutazione dell'aiuto, entro un mese dalla data di ricezione della presente. La Commissione invita inoltre le autorità italiane a trasmettere senza

indugio copia della presente lettera al beneficiario potenziale dell'aiuto.

La Commissione desidera richiamare all'attenzione dell'Italia che l'articolo 88, paragrafo 3 del trattato CE ha effetto sospensivo e che, in forza dell'articolo 14 del regolamento (CE) n. 659/1999 del Consiglio, essa può imporre allo Stato membro interessato di recuperare ogni aiuto illegale dal beneficiario.'

STATE AID

Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 47/2000 (ex N 125/98) — Italy — Ilva Lamiere e Tubi Srl

(2000/C 315/05)

(Text with EEA relevance)

By means of the letter dated 17 August 2000 reproduced in the authentic language on the pages following this summary, the Commission notified Italy of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty concerning the abovementioned aid.

Interested parties may submit their comments on the aid in respect of which the Commission is initiating the procedure within one month of the date of publication of this summary and the following letter, to:

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

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

SUMMARY

By letter dated 20 November 1997 the Italian authorities notified the Commission under Article 93(3) of the EC Treaty (now Article 88(3) aid for investment to be carried out by Ilva Lamiere e Tubi Srl (ex N 125/98) on its tube-making facilities to be granted under Law 488/92 for aid in depressed areas. By letter dated 26 March 1999, the Commission informed the Italian Government of its decision to initiate proceedings under Article 6(5) of the Steel Aid Code in case ex N 125/98 among others and invited it to submit its comments ⁽¹⁾.

By letter dated 14 January 2000 the Italian authorities insisted that aid ex N 125/98 should be examined according to the

Framework for certain steel sectors not covered by the ECSC ⁽²⁾ Treaty refers to non-ECSC activities and not, as the Commission does, to non ECSC undertakings. They also contend that in case C 13/97 — Grotitzer Stahlwerke GmbH the Commission accepted that certain aid to an ECSC undertaking may be assessed under the relevant provisions of the EC Treaty provided that the aided activities are covered by the EC Treaty and are completely separate from the activities falling within the scope of the ECSC Treaty.

For the Italian authorities these two conditions are fulfilled in the present case: tube-making is clearly outside the scope of the ECSC Treaty and, taking into account the controls established by the Law 488/92, there is no possibility that the subsidies granted are diverted to different activities than those fixed in the decree that approves the granting of the aid.

⁽¹⁾ OJ C 332, 20.11.1999, p 9.

⁽²⁾ OJ C 320, 13.12.1988, p. 3.

Description of the aid

ILT is based in Taranto and belongs to the Riva group, which is one of the main steel producers in the EU. On the same site it manufactures both ECSC steel products, primarily hot rolled plate or sheet, and EC steel products, primarily tubes. ILT has four hot rolling installations for tube-making and six coating installations. The aid consists of a subsidy of ITL 7 077 million (EUR 3,65 million) towards investment of ITL 14 105 million (EUR 7,28 million) to be carried out by ILT in the modernisation of its tube-making facilities for welded tubes. This aid represents, according to the notification, 40 % NGE of the investment. Part of the aid, amounting to ITL 4 263 million (EUR 2,2 million), is qualified by Italy as having environmental purposes.

Assessment of the aid

ILT manufactures products listed in Annex I to the ECSC Treaty, and is consequently an 'undertaking' within the meaning of Article 80 of that Treaty. Since the notified aid was aid to an ECSC undertaking, the Commission initiated proceedings in March 1999 against that aid under the ECSC Treaty only. Nevertheless, when the Commission examined the State aid granted by Germany to Gröditzer Stahlwerke GmbH and its subsidiary Burg GmbH, the Commission maintained that 'in some circumstances however, the EC Treaty may apply to aid to non-ECSC activities carried on by an ECSC undertaking, provided they are clearly separate from the same undertaking's ECSC activities' ⁽³⁾.

In the present case, the Commission notes that ILT is a single company which does not keep separate accounts for its various activities. In these circumstances, in order to exclude the applicability of the ECSC rules to the aided investment, the Commission must ensure that the aid does not benefit ILT's ECSC activities since otherwise the steel aid policy as implemented by the SAC would be at risk ⁽⁴⁾.

The Commission considers that the mechanism established by Law 488/92 only can ensure that the corresponding amount of money has been spent on the aided investments (a task that in any case the national authorities must carry out), but does not address the issue of the global improvement of ILT's financial situation as a consequence of the aid. In the event that ILT receives the aid, it will be able to devote its own resources in the first place to its ECSC activities and, on the other hand, by reinforcing its competitiveness in the tube making sector, it will increase or, at least, maintain its supplies of upstream products (plates — ECSC product). The Commission therefore considers that, at this stage, it cannot conclude that the ECSC rules do not apply.

However, if the Italian authorities were to provide sufficient evidence showing that there is no risk that the aid benefits ILT's ECSC activities, the Commission could assess this aid under the EC rules.

⁽³⁾ Commission Decision of 8 July 1999 on State aid granted by Germany to Gröditzer Stahlwerke GmbH and its subsidiary Burg GmbH (OJ L 292, 13.11.1999, p. 27, point 33).

⁽⁴⁾ OJ C 320, 13.12.1988, p. 3.

As to the eventual assessment under the EC rules, the Commission notes that the notified investments are going to be carried out in the installations for the production of steel tubes. These products are covered by the EC framework for certain steel sectors not covered by the ECSC Treaty ⁽⁵⁾.

The Commission, in assessing individual cases notified to it under this framework, takes into account the market situation of the sub-sector of the undertaking, in particular whether or not it suffers from structural overcapacity. After having identified the situation of the market where the company is active, the Commission assesses the eventual effect of the aided investment on that situation and on competition.

In this respect, the Italian authorities maintain that none of the investments has an influence on the essential part of ILT's production process for tubes, i.e. the forming press for large longitudinally welded tubes and the bending machine for the small diameter tubes (ERW). Nevertheless, the Italian authorities have not provided any details about ILT's existing capacities nor a detailed description of the investments. In these circumstances, the Commission has doubts as to the effects of the investments on ILT's production capacities.

Consequently, the Commission feels bound to initiate proceedings pursuant also to Article 88(2) as regards the State aid concerned.

TEXT OF THE LETTER

'Con la presente la Commissione si prega informare l'Italia che, dopo avere esaminato le informazioni fornite dalle autorità italiane in merito all'aiuto menzionato in oggetto, ha deciso di avviare il procedimento di cui all'articolo 88, paragrafo 2, del trattato CE.

I. PROCEDIMENTO

Con le lettere del 20 novembre 1997, 3 marzo 1998 e 12 giugno 1998, le autorità italiane hanno notificato alla Commissione, conformemente all'articolo 6, paragrafo 1, del Codice degli aiuti alla siderurgia, che intendevano concedere aiuti alla tutela dell'ambiente in favore delle seguenti società siderurgiche: Ilva Lamiera e Tubi Srl (in appresso ILT) (ex N 126/98) e Siderumbra SpA (ex N 341/98). Hanno anche notificato, ai sensi dell'articolo 93, paragrafo 3, del trattato CE (ora articolo 88, paragrafo 3, del trattato CE), un aiuto in favore di investimenti che l'ILT dovrebbe realizzare (ex N 125/98) sui suoi impianti per la produzione di tubi, da erogarsi ai sensi della legge n. 488/92 relativa all'aiuto nelle zone depresse. Le autorità italiane hanno fornito successivamente le ulteriori informazioni richieste dalla Commissione per disporre degli elementi necessari per stabilire che tutti i progetti notificati rispondano ai requisiti per gli aiuti di Stato all'industria siderurgica previsti dal Codice degli aiuti alla siderurgia.

⁽⁵⁾ OJ C 320, 13.12.1988, p. 3.

Con lettera del 26 marzo 1999, la Commissione ha informato il governo italiano della sua decisione di avviare il procedimento ai sensi dell'articolo 6, paragrafo 5, del Codice degli aiuti alla siderurgia per i casi ex N 125/98, ex N 126/98 (ILT) e ex N 341/98 (Siderumbra SpA) e ha invitato l'Italia a presentare le sue osservazioni.

Con lettera del 14 gennaio 2000 le autorità italiane hanno ritirato le notificazioni relative agli aiuti ex N 126/98 (ILT) e N 341/98 (Siderumbra SpA) e hanno insistito affinché l'aiuto ex N 125/98 fosse esaminato conformemente all'inquadramento relativo agli aiuti di Stato ad alcuni settori siderurgici fuori CECA ⁽⁶⁾.

Con lettera del 16 dicembre 1999, le autorità britanniche hanno inviato osservazioni a sostegno della valutazione della Commissione che ha considerato l'ITL un'«impresa» ai sensi dell'articolo 80 del trattato CECA, il che comporta che le misure d'aiuto ex N 125/98, notificate ai sensi dell'articolo 93, paragrafo 3, del trattato CE (ora articolo 88, paragrafo 3, del trattato CE), sono da valutarsi ai sensi del trattato CECA.

Le autorità italiane contestano la valutazione effettuata dalla Commissione per quanto riguarda le norme applicabili. Nella lettera dell'11 gennaio 2000 sostengono che l'inquadramento relativo agli aiuti di Stato ad alcuni settori siderurgici fuori CECA si riferisce alle attività fuori CECA e non, come sostiene la Commissione, alle imprese non contemplate dal trattato CECA. Sostengono, inoltre, che nel caso C 13/97 — Gröditzer Stahlwerke GmbH la Commissione ha ammesso che alcuni aiuti a un'impresa CECA possano essere valutati in base alle disposizioni del trattato CE a condizione che le attività sovvenzionate rientrino nell'ambito del trattato CE e siano completamente separate da quelle soggette al trattato CECA.

Per le autorità italiane tale duplice condizione nel caso in questione è soddisfatta: la produzione di tubi non è compresa nelle attività soggette al trattato CECA e, in considerazione dei controlli previsti dalla legge n. 488/92, non c'è possibilità di distrazione dei fondi agevolati che li faccia affluire ad attività diverse da quelle previste dal decreto di concessione dell'incentivo.

II. DESCRIZIONE DELL'AIUTO N 125/98 (INVESTIMENTI NEGLI IMPIANTI DI PRODUZIONE DI TUBI)

L'impresa ILT è ubicata a Taranto e appartiene al gruppo Riva, che è uno dei principali produttori di acciaio dell'UE. Essa produce nello stesso stabilimento sia prodotti siderurgici CECA, soprattutto lastre e lamiere laminate a caldo, che prodotti siderurgici CE, soprattutto tubi. ILT ha quattro impianti di laminazione a caldo per la produzione di tubi (due impianti per tubi di grandi dimensioni a saldatura longitudinale -UL/1 e TUL/2-, un impianto per tubi di piccolo diametro a saldatura elettrica — ERW- e un impianto per tubi di grandi dimensioni a saldatura elicoidale — TUE) e sei impianti di rivestimento. L'aiuto consiste in una sovvenzione di 7 077 milioni di ITL (3,65 milioni di EUR) in favore di investimenti di 14 105 milioni di ITL (7,28 milioni di EUR) che devono essere effettuati da ILT nella modernizzazione dei suoi impianti di produzione per tubi

saldati. L'aiuto rappresenta, conformemente alla notificazione, il 40 % ESN dell'investimento. Una parte dell'aiuto, che ammonta a 4 263 milioni di ITL (2,2 milioni di EUR), è qualificata dall'Italia come avente fini ambientali ⁽⁷⁾.

Gli investimenti sono i seguenti:

- investimenti al TUL/1: lavaggio e asciugatura tubi; teste saldanti;
- investimenti al TUL/2: tubazioni inox oleodinamiche; costruzione di 11 finestre di captazione; rinnovo del sistema informativo; studio potenziamento pressa «O»; taglio piastrine;
- investimenti all'ERW: evoluzione sistema informativo; alimentazione 10 KW; spostamento bordatrice coils; cut-off;
- investimenti al TUE: adeguamento lavori;
- investimenti agli impianti di rivestimento: miglioramento del sistema di abbattimento polveri; sistemi antincendio zona verniciatura all'impianto di rivestimento 3; automazione zona sabbiatura esterna all'impianto di rivestimento 3; impianto di rigenerazione del polietilene; adeguamento dell'impianto di rivestimento 2 per l'investimento FBE;
- non attribuiti: eliminazione delle vibrazioni nelle attività di molatura; sostituzione della movimentazione oleodinamica con movimentazione elettromeccanica; automazione bilico e automazione end-facer; automazione movimentazione e smistamento tubi; ispezione preliminare interna con telecamera; mezzi di movimentazione tubi; taglio testa-coda coils; cut-off sostituzione sistema taglio.

III. VALUTAZIONE DELL'AIUTO

ILT produce prodotti elencati nell'allegato I al trattato CECA ed è quindi un'«impresa» ai sensi dell'articolo 80 di tale trattato. Dal momento che l'aiuto notificato era un aiuto ad un'impresa CECA, la Commissione ha avviato nel marzo 1999 un procedimento nei confronti dell'aiuto solo ai sensi del trattato CECA. Tuttavia, nell'esaminare l'aiuto di Stato concesso dalla Germania a Gröditzer Stahlwerke GmbH e alla sua controllata Burg GmbH, la Commissione ha affermato che «tuttavia, in talune circostanze, il trattato CE può applicarsi ad aiuti in favore di attività fuori CECA realizzate da un'impresa CECA, a condizione che esse siano chiaramente separate dalle attività CECA della stessa impresa» ⁽⁸⁾.

⁽⁷⁾ Miglioramento del sistema per l'abbattimento delle polveri; eliminazione delle vibrazioni nell'attività di affilatura, sistemi antincendio nell'area di verniciatura dell'impianto di rivestimento n. 3; tubature idrauliche inossidabili al tubificio n. 2; sostituzione della movimentazione oleodinamica con movimentazione elettromeccanica, costruzione di 11 finestre di captazione al tubificio n. 2.

⁽⁸⁾ Decisione della Commissione dell'8 luglio 1999 concernente l'aiuto di Stato concesso dalla Germania a Gröditzer Stahlwerke GmbH e alla sua controllata Burg GmbH (GU L 292 del 13.11.1999, pag. 27, paragrafo 33).

⁽⁶⁾ GU C 320 del 13.12.1988, pag. 3.

Nel presente caso, la Commissione rileva che ILT è un'unica impresa che non tiene una contabilità separata per le sue diverse attività. In tali circostanze, al fine di escludere l'applicabilità delle norme CECA agli investimenti sovvenzionati, la Commissione deve assicurarsi che l'aiuto non vada a beneficio delle attività CECA dell'ILT, altrimenti la politica degli aiuti alla siderurgia in applicazione del Codice degli aiuti alla siderurgia sarebbe compromessa⁽⁹⁾.

Su questo punto le autorità italiane sostengono che le modalità di erogazione e di controllo previste dalla legge n. 488/92, su cui è basato l'aiuto, sono estremamente rigorose e non consentono possibilità di distrazione dei fondi agevolati ad attività diverse da quelle previste dal decreto di concessione dell'incentivo. Nel caso dell'ILT, l'impegno assunto in caso di concessione dell'aiuto, prevede che l'impresa accanti mezzi propri in un apposito fondo (fondo del patrimonio netto) per tutta la durata del programma. Detto impegno si concretizza in una delibera dell'assemblea dei soci contenente un espresso riferimento al programma di investimenti agevolato e l'impegno al mantenimento del fondo finché non verrà completato il programma di investimenti. Gli enti tecnici di verifica del ministero dell'Industria accerteranno il pieno adempimento di tali obblighi.

La Commissione ritiene che tale meccanismo possa garantire soltanto che la somma corrispondente sia spesa per gli investimenti sovvenzionati (un compito che deve essere svolto in ogni caso dalle autorità nazionali), ma non affronta il problema del miglioramento complessivo della situazione finanziaria dell'ILT in conseguenza dell'aiuto. Nel caso in cui riceva l'aiuto, l'ILT potrà destinare le proprie risorse prima di tutto alle sue attività CECA; d'altra parte, il potenziamento della propria competitività nel settore della produzione di tubi le permetterà di aumentare o, almeno, a mantenere le sue forniture di prodotti a monte (lamiera — prodotto CECA). Pertanto la Commissione ritiene, in questa fase, di non poter concludere che le normative CECA non sia applicabile.

Tuttavia, qualora le autorità italiane dovessero fornire prove sufficienti del fatto che non c'è pericolo che l'aiuto vada a beneficio delle attività CECA dell'ILT, la Commissione potrebbe valutare tale aiuto in base alle norme CE.

In merito all'eventuale valutazione in base alle norme CE, la Commissione osserva che gli investimenti notificati saranno

effettuati negli impianti per la produzione dei tubi d'acciaio, prodotti che rientrano nell'inquadramento CE per alcuni settori siderurgici fuori CECA⁽¹⁰⁾.

La Commissione, nella valutazione di singoli casi ad essa notificati sulla base di tale inquadramento, tiene conto della situazione di mercato del sottosectore dell'impresa, in particolare valutando se vi sia o meno una sovraccapacità strutturale. Dopo aver individuato la situazione del mercato in cui è attiva l'impresa, la Commissione valuta l'eventuale effetto degli investimenti sovvenzionati su tale situazione e sulla concorrenza.

Come la Commissione ha dichiarato nella comunicazione relativo all'avvio del procedimento nel caso C 13/98 «Tubos Europa SA»⁽¹¹⁾, «nel settore dei tubi d'acciaio continua a persistere un eccesso di capacità produttiva dalla metà degli anni 80. Nel 1997 il tasso di utilizzazione della capacità nell'UE era soltanto del 49 % nel sottosectore dei tubi d'acciaio saldati di grandi dimensioni e del 58 % nei tubi di piccole dimensioni», i due prodotti di ILT.

A questo proposito le autorità italiane sostengono che nessuno degli investimenti incide sul nucleo essenziale del ciclo produttivo di ILT, rappresentato dalla pressa formativa nel caso dei tubi a grande diametro con saldatura longitudinale e dalla calandra nel caso dei tubi di piccolo diametro (ERW). Tuttavia, le autorità italiane non hanno fornito alcun dettaglio sulle attuali capacità dell'ILT né una descrizione dettagliata degli investimenti. In tali circostanze, la Commissione nutre perplessità sugli effetti degli investimenti sulle capacità produttive di ILT.

Tenuto conto di quanto precede, la Commissione invita l'Italia a presentare, nell'ambito del procedimento di cui all'articolo 88, paragrafo 2, del trattato CE, le proprie osservazioni e a fornire ogni informazione utile ai fini della valutazione dell'aiuto/della misura, entro un mese dalla data di ricezione della presente. La Commissione invita inoltre le autorità italiane a trasmettere senza indugio copia della presente lettera al beneficiario potenziale dell'aiuto.

La Commissione desidera richiamare all'attenzione dell'Italia che l'articolo 88, paragrafo 3, del trattato CE ha effetto sospensivo e che, in forza dell'articolo 14 del regolamento (CE) n. 659/1999 del Consiglio, essa può imporre allo Stato membro interessato di recuperare ogni aiuto illegale dal beneficiario.'

⁽⁹⁾ GU C 320 del 13.12.1998, pag. 3.

⁽¹⁰⁾ GU C 320 del 13.12.1988, pag. 3.

⁽¹¹⁾ GU C 156 del 21.5.1998, pag. 11.

STATE AID

Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning measure C 33/2000 (ex NN 143/99) — Restructuring aid in favour of the group Fesa-Enfersa (Spain)

(2000/C 315/06)

(Text with EEA relevance)

By means of the letter dated 16 June 2000, reproduced in the authentic language on the pages following this summary, the Commission notified Spain of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty concerning the abovementioned measure.

Interested parties may submit their comments on the measure in respect of which the Commission is initiating the procedure within one month of the date of publication of this summary and the following letter, to:

European Commission
Directorate-General for Competition
Directorate State Aid II
Rue de la Loi/Wetstraat 200
B-1049 Brussels
Fax (32-2) 296 98 16.

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.

SUMMARY

Procedure and background

In the context of the assessment of case NN 62/99 (Spain) ⁽¹⁾, the Commission became aware of the existence of possible State aid granted to Fesa-Enfersa (nowadays Fertiberia), a fertiliser conglomerate in which Ercros had a majority stake until a Spanish industrial group purchased the fertiliser group in April 1995 ⁽²⁾.

By letter dated 12 May 1999, the Commission requested information on the alleged aid granted to Ercros and to the Fesa-Enfersa group. By letter dated 26 May 1999, the Spanish authorities asked for a 45-day time extension in order to compile a full file which went back to 1992.

After a reminder sent on 7 September 1999, the Spanish authorities submitted the requested information by letters dated 12 November 1999, 11 January 2000, 14 January 2000, 3 February 2000 and 7 March 2000.

The aid measures

In 1992, Fesa-Enfersa filed for insolvency in the context of extremely adverse market conditions in the European fertiliser

sector. Its liquidity position was extremely adverse. The company was declared insolvent on 4 December 1992 by Court No 64, with liabilities amounting to ESP 117 000 million and losses above ESP 20 000 million. A first restructuring plan was submitted in December 1992 in the context of the insolvency procedure. It contemplated a profound reduction of capacity and workforce. The plan was subsequently developed and finalised in the period 1993 to 1994, and was implemented over the period 1992 to 1997.

The restructuring plan aimed at getting the company back to profitability at the end of the 1992 to 1997 period. It consisted of the following measures:

Cost of the restructuring

	<i>(in ESP billion)</i>
Rehabilitation and new investments	9,9
Composition and indemnities for redundancies	4,073
Pension rights	9,927
Reconstruction of the operating capital	20,058
Total	43,958

The restructuring plan involved 1 487 redundancies, which represents 41 % of the existing working force at the time, and an average reduction of 49,3 % of the existing capacity.

⁽¹⁾ See letter Commission letter SG(99) D/6482 of 9 August 1999 and see the notice published in OJ C 62, 4.3.2000, p. 18.

⁽²⁾ See in particular its point 2.2 *in fine* of the Decision of 21 July 1999 (footnote 1).

The evolution of the group over the restructuring period (1993-1997) was as follows:

<i>(ESP million)</i>		
Year	Turnover	Results
1993	36 514	(24 654)
1994	53 502	(7 431)
1995	63 366	(615)
1996	71 880	4 325
1997	73 978	1 727
1998	70 293	(127)

According to Spain, the loss showed by Fertiberia in 1998 responds to a change in the conditions which is mainly due to the Agenda 2000 consequences as regards the Common Agriculture Policy coupled with the acute south-east Asia crisis, a net traditional fertiliser importer. Spain further states that these events could not be anticipated at the time most of the restructuring plans were drafted in the early 1990s. A new vague of restructuring processes have therefore been undertaken by the major European manufacturers.

The State interventions in the context of Fesa-Enfersa's restructuring

These were as follows:

- (1) Three short-term loans granted by State-owned Instituto de Crédito Oficial ('ICO') to Fertiberia SL, as follows:

Date	Amount (ESP million)	Interest
25 October 1993	6 400	16,25 %
14 June 1994	4 175	11,50 %
29 July 1994	2 538	11,50 %

These loans were to cover operating capital needs during the inception period of the group restructuring. In December 1994, they were converted into subordinated loans with no interest, with their repayment being linked to a percentage of the company's cash flow⁽³⁾. In the event of the insolvency of the debtor company, these subordinated loans were to be repaid after all other creditors had been satisfied but before shareholders receive any payments. In January 1996, the conditions were amended so that the repayment was no longer linked to the cash flow but to profits⁽⁴⁾. As from December 1997, the repayment was required to be made in fixed annual

⁽³⁾ This percentage was 25 % of the annual cash flow which exceeded ESP 3 billion with a maximum limit of 5 % of the annual cash flow.

⁽⁴⁾ 15,55 % of profits before taxes.

instalments over a period which runs up to year 2030, and is thus no longer linked to profits.

- (2) Two further subordinated loans for an amount of ESP 10,5 billion with no interest, granted to Fertiberia SL by ICO in November and December 1994 to cover the provision of cash-flow. As from December 1997, the repayment was required to be made in fixed annual instalments which are not linked to cash flow any longer.
- (3) A participating loan granted in 1995 by ICO to Inmobiliaria Espacio for an amount of ESP 1,5 billion. As from 1997, the repayment was required to be made on the basis of annual fixed instalments.

Finally, in the context of the composition procedure, the creditors waived a percentage of their credits. Over a total amount of ESP 71 billion, the private creditors, including Fesa-Enfersa's mother company, banks and suppliers, waived an amount of ESP 47 billion, that is 66 % of their credits. The public creditors (Treasury, Social Security and State-owned ICO) waived ESP 32,4 billion over a total amount of ESP 46,3 billion, that is 69 % of their credits. The Treasury's credits did not benefit from the so-called 'abstention right' (*derecho de abstención*)⁽⁵⁾. The Social Security did not use its 'abstention right'.

Assessment of the aid

Considering the situation of Fesa-Enfersa at the time, the aid element of a loan at zero interest and without a re-payment period, which in the event of the insolvency is to be repaid after all other creditors have been satisfied but before shareholders receive any payments, is equivalent to the amount of the loan. In the present case, the total aid amount involved is therefore ESP 26,613 billion. The amendments of the re-payment conditions decided in 1996 and 1997 do not change this assessment, since the setting out of a timetable for such re-payment (up to year 2030) could only imply a marginal reduction of the total aid amount.

As regards the subordinated loan for an amount of ESP 1,5 billion granted to Inmobiliaria Espacio, the conditions were similar to the ones laid down in the abovementioned subordinated loans. Considering the situation of Fesa-Enfersa at the time, the aid element of a loan at zero interest and without a repayment period, which in the event of the insolvency is to be repaid after all other creditors have been satisfied but before shareholders receive any payments, is equivalent to the amount of the loan (ESP 1,5 billion).

⁽⁵⁾ Under Spanish bankruptcy law, the 'abstention right' is the right for the State — with regard to some credits — not to be bound by the composition agreement reached amongst the creditors.

Finally, by participating in the composition agreement (*convenio de acreedores*), the State institutions (Treasury, Social Security, and ICO) secured 30 % of the total amount of the outstanding amounts. The private creditors secured 33 % of their credits. This is shown in the following table:

<i>(in ESP million)</i>		
Creditors	Amount of liability	Waived amount
Private creditors	71 039	47 161
Treasury and Social Security	26 671	18 631
ICO	19 702	13 794

Therefore, the Commission doubts as to whether the institutional creditors, by having accepted a higher waiver than the private creditors, have acted as a private creditor operating in a market economy would have acted in similar circumstances.

Moreover, in the present case, a judge ruled that the Treasury's credits could not benefit from the so-called 'abstention right' (*derecho de abstención*). However, Spain has not submitted concluding evidence that the State exhausted all legal means under Spanish law (including the appeal against the judge's decision) in order to obtain the recognition of such 'abstention right'.

In conclusion, the Commission considers that a State aid element exists in the waiver of ESP 18 631 million made by the Treasury and the Social Security as well as in the part of ICO's waiver which is above the waiver accepted by the private creditors (that is 4 % of the amount of ESP 19 702 million).

Compatibility of the aid

The Commission assesses the restructuring aid under the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽⁶⁾. After its preliminary assessment, the Commission considers that none of the other Community guidelines, such as for research and development, for the environment, for small and medium enterprises, and for employment and training, could apply.

There is no doubt that Fesa-Enfersa suffered a very important restructuring⁽⁷⁾.

The assessment of the above measures in the light of the conditions laid down in the Community guidelines on State aid for rescuing and restructuring firms in difficulty shows that:

(a) Eligibility of the firm

The Commission considers sufficiently proven that the Fesa-Enfersa group qualified as a company in difficulties pursuant to the restructuring guidelines.

⁽⁶⁾ Adopted on 8 July 1999, published in OJ C 288, 9.10.1999.

⁽⁷⁾ This question is treated extensively in point II.3.

(b) Restoration of viability

The Commission has, for all individual aid measures, to satisfy itself about the restructuring plan after assessing its potential to restore the company's long-term viability.

That Commission notes that Spain has not submitted the projected profit and loss accounts for the restructuring periods with estimated returns on capital and a sensitivity study based on several scenarios. Spain only provided in their notification *ex post* and loss accounts for the same period.

The Commission notes that Fesa-Enfersa was put back into profits in 1997, in line with the prospects laid down in the restructuring plan. However, Fesa-Enfersa is incurring increasing losses since 1998. The Commission notes that in the absence of detailed financial planning documents, and in the absence of a scenario analysis, and in the absence of a risk analysis, it cannot establish the appropriateness of the plan designed in December 1992, subsequently developed and finalised in the period 1993 to 1994, and implemented over the period 1993 to 1997.

(c) Avoidance of undue distortions of competition

The exemption of Article 87(3)(c) of the EC Treaty is conditional on the aid not distorting competition to an extent contrary to the common market. The restructuring guidelines specify that measures must be taken to mitigate as far as possible any adverse effects of the aid on competitors. The usual form of this condition is a limitation or reduction of the company's presence on the relevant product market. The limitation or reduction should be in proportion to the distortive effects of the aid and, in particular, to the relative importance of the firm on its market or markets.

As concerns the mitigation measures, the restructuring plan involved 1 487 redundancies, which represented 41 % of the existing working force at the time, and an average reduction of 49,3 % of the existing capacity. The Commission notes that during the implementation of the restructuring plan, the company effectively reduced capacities by closing the plants Zaragoza, Valladolid, Sevilla, Escombreras and El Hondón, all of them located in assisted areas.

(d) Aid in proportion to the restructuring costs and benefits

The amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken and must be related to the benefits anticipated from the Community's point of view. Therefore, aid beneficiaries will normally be expected to make a significant contribution to the restructuring plan from their own resources, or from external commercial financing. However, Spain has not submitted conclusive evidence that the aid beneficiary has contributed significantly to the restructuring plan from its own resources.

Conclusion

On this latter point, the main conclusion can be summarised as follows: Given the unclear restoration of viability and the open questions concerning the type of significant contribution from his own resources made by the aid beneficiary to the restructuring plan, the aid above measures do not fulfil the minimum elements required by the relevant Community guidelines for restructuring aid.

TEXT OF THE LETTER

'Por la presente, 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 incoar el procedimiento previsto en el apartado 2 del artículo 88 del Tratado CE.

I. PROCEDIMIENTO

El 21 de julio de 1999, la Comisión adoptó una decisión en el asunto NN 62/99 (España) con respecto a la ayuda de reestructuración concedida a la empresa española de productos químicos y fertilizantes Ercros SA, que suspendió pagos en julio de 1992 ⁽⁸⁾.

Al examinar este asunto, la Comisión vino en conocimiento de una posible ayuda estatal a Fesa-Enfersa (actualmente Fertiberia), grupo del sector de los fertilizantes en el que Ercros tuvo una participación mayoritaria hasta que lo compró [...] ^(*) (grupo industrial español) en abril de 1995 ⁽⁹⁾.

Mediante carta de 12 de mayo de 1999, la Comisión solicitó información sobre la ayuda supuestamente concedida a Ercros y al grupo Fesa-Enfersa. Por carta de 26 de mayo de 1999, las autoridades españolas pidieron 45 días más de plazo para preparar un expediente completo que se remontaba a 1992.

Tras un recordatorio remitido el 7 de septiembre de 1999, las autoridades españolas presentaron la información por carta de 12 de noviembre de 1999. El asunto se registró como asunto no notificado el 15 de noviembre de 1999.

Las autoridades españolas presentaron más información por cartas de 11 de enero de 2000, 14 de enero de 2000, 3 de febrero de 2000 y 7 de marzo de 2000.

^(*) A solicitud de las autoridades españolas, esta información no se publica y queda reemplazada por un asterisco a lo largo del presente texto.

⁽⁸⁾ Véase la carta de la Comisión SG(99) D/6482 de 9 de agosto de 1999 y la Comunicación publicada en el DO C 62 de 4.3.2000, p. 18.

⁽⁹⁾ Véase especialmente el final del punto 2.2 de la Decisión de 21 de julio de 1999 (nota 1).

II. DESCRIPCIÓN DETALLADA DE LA AYUDA

II.1. El grupo Fersa-Enfersa

En 1989, Explosivos Río Tinto SA y Sociedad Anónima Cros se fusionaron en la empresa Ercros SA. Antes de proceder a la fusión, estas empresas transfirieron sus activos en el sector de los fertilizantes a una sociedad nueva denominada Fesa Fertilizantes Españoles SA («Fesa») cuyo único accionista era Ercros.

Ese mismo año Ercros adquirió la sociedad de propiedad estatal Empresa Nacional de Fertilizantes SA («Enfersa»). Posteriormente, Fesa se convirtió en el único accionista de Enfersa. El conglomerado resultante se conocía con el nombre de grupo Fesa-Enfersa.

En 1992, Fesa-Enfersa solicitó la suspensión de pagos en una coyuntura extremadamente adversa para el sector europeo de los fertilizantes. La situación de la tesorería se había hecho insostenible. El juzgado n° 64 de Madrid declaró, mediante auto de 4 de diciembre de 1992, la insolvencia provisional del grupo, que tenía un pasivo de 117 000 millones de pesetas españolas y pérdidas superiores a los 20 000 millones de pesetas españolas.

En diciembre de 1992, en el contexto del procedimiento de suspensión de pagos, se presentó un primer plan de reestructuración que contemplaba una fuerte reducción de capacidad y de plantilla.

Este plan se desarrolló posteriormente y se finalizó entre 1993 y 1994.

El 14 de junio de 1993 fue concluido un convenio entre los acreedores del grupo. En 1993, en el contexto del plan de reestructuración, Fesa-Enfersa creó una filial llamada Fertiberia SL con sus activos viables. Fertiberia SL no asumió ninguna de las deudas de Fesa-Enfersa, que siguió siendo titular de las mismas.

En 1995, [...] ^(*) se hizo, a través de su filial Inmobiliaria Espacio SA, con el control del grupo Fesa-Enfersa al adquirir el 53,60 % de su capital por un importe de 0,72 millones de pesetas españolas. La operación incluía la filial de Fesa-Enfersa Fertiberia S.L. [...] ^(*) también tenía una opción para adquirir un 20 % más del capital de Fesa-Enfersa, que finalmente ejerció en 1997 pagando por 261,27 millones de pesetas españolas.

En 1997, tras ser reestructurada, Fesa-Enfersa se fusionó con Fertiberia SL y se convirtió en Fertiberia SA («Fertiberia»). Hoy día, [...] ^(*) posee el 99,35 % del capital de Fertiberia.

El grupo Fesa-Enfersa (en la actualidad «Fertiberia») es el principal fabricante de fertilizantes de España y uno de los diez operadores del mercado europeo. Su capacidad instalada representa el 8,6 % del total de la capacidad instalada en Europa Occidental.

En 1997, Fertiberia tenía 1 900 empleados y un volumen de ventas de 73 978 millones de pesetas españolas, con unos beneficios de 127 millones de pesetas españolas. En 1998, su volumen de ventas se elevó a 70 293 millones de pesetas españolas y registró pérdidas por un valor de 127 millones de pesetas españolas. Según la información proporcionada por las autoridades españolas, Fertiberia arrojó unas pérdidas de 4 200 millones de pesetas españolas en los tres primeros semestres de 1999. Fertiberia no es una pequeña o mediana empresa (PYME) a efectos de las Directrices comunitarias sobre ayudas estatales para las pequeñas y medianas empresas ⁽¹⁰⁾.

Fertiberia tiene fábricas en Lérida, Sagunto, Cartagena, Puertollano, Tablada, Huelva, Palos, Avilés y Luchana Barakaldo. A excepción de la de Lérida, todas las demás fábricas están situadas en zonas asistidas.

II.2. Evolución del sector de los fertilizantes y reestructuración del sector en Europa ⁽¹¹⁾

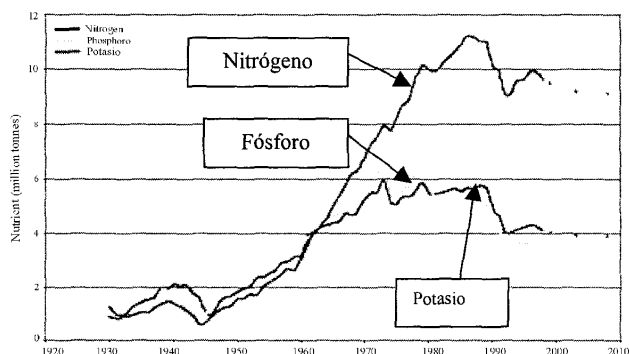
Consumo de fertilizantes

En Europa el consumo de fertilizantes creció ininterrumpidamente a fuerte ritmo desde los años cincuenta hasta mediados de los ochenta merced a una producción agrícola intensiva en continuo crecimiento. La crisis energética apenas nubló brevemente el panorama. Sin embargo, a principios de los noventa se produjo una fuerte caída de la demanda como consecuencia de la reforma de la política agrícola común (PAC) en 1992 y la introducción de un régimen de importación más generoso.

El gráfico siguiente muestra cómo, después de la fuerte caída de la demanda de principios de los noventa, el mercado de fertilizantes se recuperó durante el período en que se acometió la reestructuración del sector:

Consumo de fertilizantes en la Unión Europea

(en millones de toneladas)



Fuente: EFMA

La crisis de principios de los noventa

Entre 1985 y 1995, a raíz de la reestructuración de la industria de fertilizantes de la Unión Europea se pasó de aproximada-

⁽¹⁰⁾ Véase el DO C 213 de 19.8.1992, p. 2.

⁽¹¹⁾ Esta sección está basada en los estudios elaborados por la Asociación Europea de Fabricantes de Fertilizantes (EFMA). Véanse, en particular, los siguientes estudios: *Forecast of Food, Farming and Fertilizer Use in the European Union 1999 to 2009* y *The Fertilizer Industry of The European Union*, que pueden consultarse en el sitio web de la EFMA www.efma.org/publications/

mente 30 grandes productores de fertilizantes a tan sólo a 10 y de 100 000 a 40 000 puestos de trabajo. La capacidad también se redujo considerablemente. Con esta profunda reestructuración, la industria de fertilizantes de la Unión Europea redujo sus capacidades de producción de fertilizantes nitrogenados en un 25 % y de fertilizantes fosforados en un 33 %. Se cerraron de manera definitiva 66 fábricas y se perdió la mitad de los empleos. En este contexto, los precios más bajos y los menores volúmenes se tradujeron en fuertes pérdidas para todo el sector.

Se estima que la reestructuración tuvo un coste total aproximado 1 500 a 2 000 millones de euros. Las plantas que no fueron cerradas fueron modernizadas y se racionalizaron las unidades de logística y venta para hacerlas más competitivas y para adaptarlas al cambiante binomio oferta-demanda.

Recuperación a mediados de los noventa

La reducción de capacidad de producción de fertilizantes y la recuperación parcial de la demanda en la Unión Europea permitieron llegar a una situación de mayor equilibrio entre la oferta y la demanda tras la reestructuración, con lo cual fue posible elevar la tasa de utilización de la capacidad y reducir los costes unitarios. Tras registrar fuertes pérdidas en 1992 y 1993 y llegar a una situación de equilibrio en 1994, finalmente el sector obtuvo resultados positivos en 1995 (un rendimiento bruto del 10 % antes de impuestos).

Nuevo descenso del consumo

Sin embargo, las previsiones de la industria de fertilizantes apuntan hacia una caída del consumo de fertilizantes nitrogenados en la Unión Europea de los quince del orden de los 9,17 millones de toneladas de aquí a 2005/06. Esto representa una disminución del 5,2 % con relación al nivel de consumo de 1995/96. El principal factor causante de esta contracción de la demanda es la nueva reforma de la PAC. Las propuestas de la Agenda 2000 incluyen los siguientes puntos clave:

- retirada de tierras obligatoria de un 10 % de aquí al 2006,
- reducción del precio de intervención de los cereales en un 15 %,
- aplazamiento de la reforma del sector lácteo hasta el 2006,
- política de desarrollo rural descentralizada.

Nueva ola de reestructuraciones en la industria de fertilizantes

En la temporada actual las entregas totales de fertilizantes a los mercados más importantes de Europa Occidental han aumentado en aproximadamente un 3 % con relación a la temporada 1998/99. Este aumento se ha producido en un período caracterizado por unos precios muy bajos (un 20 % inferiores por término medio a los de la temporada anterior). Como consecuencia de estos niveles de precios más bajos, la mayor parte de los principales productores europeos de fertilizantes han decidido poner en práctica medidas de reestructuración. Por el momento, parece que van a dejarán de producirse aproximadamente 2 millones de toneladas de nitrato al término de la temporada actual, que finaliza en el verano del 2000. Se espera que los recortes en la capacidad se traduzcan en un mayor equilibrio del mercado.

En este contexto, dos empresas líderes del sector, Norsk Hydro y Kemira (34,1 % y 11,1 % de la capacidad instalada en Europa, respectivamente) han hecho públicos sus planes para reestructurar su negocio de fertilizantes ⁽¹²⁾.

Norsk Hydro

El 7 de marzo de 2000 Norsk Hydro presentó sus planes para limitar sus actividades europeas en el sector de los fertilizantes y cerrar 1 millón de toneladas de capacidad de producción de fertilizantes a base de nitrato. Esta cifra representa alrededor del 20 % de la capacidad total de nitrato de Hydro y es un elemento importante en los esfuerzos por restablecer la rentabilidad del negocio de fertilizantes de la empresa. Estos recortes, que se producirán en la primera mitad del próximo año, afectarán a entre 500 y 600 trabajadores. En 1999 el negocio de fertilizantes de Norsk Hydro registró unas pérdidas de explotación de 318 millones de euros. En 1998 las pérdidas de explotación ocasionadas por estas actividades se elevaron a 72 millones de euros.

Kemira Agro

En 1999, los ingresos de explotación de Kemira Agro se contrajeron considerablemente y la empresa registró unas pérdidas de 39 millones de euros. Los precios de los fertilizantes cayeron aún más, entre un 5 y un 15 %, particularmente los de los fertilizantes nitrogenados en Europa Occidental hasta alcanzar mínimos históricos. Kemira Agro ha anunciado su decisión de centrarse en los fertilizantes especializados y retirarse parcial o totalmente del negocio de fertilizantes nitrogenados. Como consecuencia, se ha puesto fin a la producción de fertilizantes NPK en Pernis, los Países Bajos.

Fertiberia

Según la información proporcionada por las autoridades españolas, Fertiberia arrojó unas pérdidas de explotación de aproximadamente 25 millones de euros en los tres primeros semestres de 1999. Fertiberia ha emprendido medidas de reestructuración que incluyen el cese de la producción de nitrato en Cartagena (260 000 t), el cierre de una planta de urea en Huelva (75 000 t) y el cierre de tres plantas de ácido sulfúrico también en Huelva. De resultas, se han perdido 160 puestos de trabajo. El coste de la reestructuración asciende a 78 millones de euros y, según la información proporcionada por las autoridades españolas, ha sido financiada exclusivamente por la propia empresa sin ayuda del Estado.

II.3. Plan de reestructuración de Fesa-Enfersa y medidas de ayuda concedidas en este contexto (período 1992-1997)

Como se ha indicado en el punto II.1, en diciembre de 1992, en el contexto del procedimiento de suspensión de pagos, se presentó un primer plan de reestructuración que contemplaba una fuerte reducción de capacidad y de plantilla. Este plan se desarrolló posteriormente, se finalizó entre 1993-1994 y fue aplicado durante el período 1992-1997.

El plan de reestructuración tenía por objeto que la empresa volviese a ser rentable al término del período 1992-1997 y contemplaba las siguientes medidas:

Coste de la reestructuración:

<i>(en miles de millones de pesetas españolas)</i>	
Rehabilitación y nuevas inversiones	9,9
Convenio de acreedores e indemnizaciones a los trabajadores	4,073
Derechos de pensión	9,927
Reconstitución del capital circulante	20,058
Total	43,958

El plan de reestructuración preveía 1 487 despidos (el 41 % de la plantilla) y una reducción media del 49,3 % de la capacidad existente.

El inversor privado ([. . .] *) que adquirió Fesa-Enfersa en 1995 aceptó pagar 262 millones de pesetas españolas por el grupo Fesa-Enfersa. Según las autoridades españolas, también se comprometió a invertir 9 900 millones de pesetas españolas en la empresa en el período 1995-1999. Las autoridades españolas también han indicado que ([. . .] *) aceptó no exigir dividendos por un importe de 6 000 millones de pesetas españolas en el período 1995-1998. Sin embargo, España no ha presentado pruebas concluyentes de que el beneficiario de la ayuda haya contribuido significativamente al plan de reestructuración con sus propios recursos.

La evolución del grupo durante el período de reestructuración (1993-1997) fue la siguiente:

<i>(en millones de pesetas españolas)</i>		
Año	Volumen de negocios	Resultados
1993	36 514	(24 654)
1994	53 502	(7 431)
1995	63 366	(615)
1996	71 880	4 325
1997	73 978	1 727
1998	70 293	(127)

Según las autoridades españolas, las pérdidas registradas por Fertiberia en 1998 obedecen a un cambio en las condiciones reinantes derivado principalmente de las repercusiones de la Agenda 2000 sobre la política agraria común, sin contar con la grave crisis del sudeste asiático, tradicional importador neto de fertilizantes. Las autoridades españolas alegan que era imposible prever estos acontecimientos en el momento en que se elaboró la mayoría de los planes de reestructuración, a principios de los noventa. Esta situación ha desencadenado una nueva ola de reestructuraciones entre los principales fabricantes europeos. La propia Fertiberia está aplicando un plan de reestructuración que implica el cierre de más fábricas y nuevos recortes de plantilla. Las autoridades españolas han confirmado que no tienen la intención de conceder más ayuda estatal y que la empresa llevará a cabo la actual reestructuración utilizando exclusivamente sus propios recursos.

⁽¹²⁾ Véanse los sitios Internet de estas empresas: www.hydro.com y www.kemira.com

II.4. Intervenciones del Estado en el contexto de la reestructuración de Fesa-Enfersa (período 1992-1997)

Fueron las siguientes:

- 1) Tres préstamos a corto plazo concedidos por el Instituto de Crédito Oficial (ICO), de propiedad estatal, a Fertiberia SL del modo siguiente:

Fecha	Importe (en millones de pesetas españolas)	Interés
25 de octubre de 1993	6 400	16,25 %
14 de junio de 1994	4 175	11,50 %
29 de julio de 1994	2 538	11,50 %

Estos préstamos están destinados a cubrir las necesidades de capital circulante durante la fase inicial de la reestructuración del grupo. En diciembre de 1994, fueron convertidos en préstamos subordinados sin intereses, reembolsables en función de determinado porcentaje del capital circulante de la empresa⁽¹³⁾. En caso de insolvencia de la empresa, se amortizarían después de haber sido reembolsados todos los demás acreedores pero antes de que los accionistas recibiesen pago alguno. En enero de 1996, se modificaron las condiciones de los préstamos para que su amortización pasase de depender del capital circulante a realizarse en función de los beneficios⁽¹⁴⁾. A partir de diciembre de 1997, se exigió que los préstamos se amortizaran en plazos anuales fijos hasta el año 2030, sin dependencia alguna del nivel de los beneficios;

- 2) dos préstamos subordinados más por un importe de 10 500 millones de pesetas españolas sin intereses concedidos a Fertiberia SL por el ICO en noviembre y diciembre de 1994 para cubrir las necesidades de circulante. A partir de diciembre de 1997, se exigió que los préstamos se amortizaran en plazos anuales fijos sin dependencia alguna del capital circulante;
- 3) un préstamo participativo concedido en 1995 por el ICO a Inmobiliaria Espacio SA por un importe de 1 500 millones de pesetas españolas. A partir de 1997, se exigió que el préstamo se amortizase en plazos anuales fijos.

Finalmente, en virtud del convenio de acreedores, éstos renunciaron a una parte de sus créditos. De un total de 71 039 millones de pesetas españolas, los acreedores privados, incluidos la empresa matriz de Fesa-Enfersa, los bancos y los proveedores, aceptaron quitas de 47 161 millones de pesetas españolas, lo que representa el 66 % de sus créditos. Los acreedores públicos (el Tesoro, la Seguridad Social y el ICO, de propiedad estatal) aceptaron quitas de 32 425 millones de pesetas españolas sobre un total de un total de 46 373 millones, esto es, el 69 % de sus créditos. Los créditos del Tesoro no se beneficiaron del llamado «derecho de abstención»⁽¹⁵⁾. La Seguridad Social tampoco ejerció su derecho de abstención.

⁽¹³⁾ Este porcentaje era del 25 % de la porción del capital circulante anual que excediese de 3 000 millones de pesetas españolas, con un límite máximo del 5 % del capital circulante anual total.

⁽¹⁴⁾ 15,55 % de los beneficios antes de impuestos.

⁽¹⁵⁾ Conforme a la normativa española de quiebra, el «derecho de abstención» es el privilegio que tiene el Estado por lo que se refiere a algunos créditos de no atenerse al convenio de acreedores.

Por consiguiente, la Comisión considera en el estado actual del procedimiento que las medidas arriba contempladas contienen un elemento de ayuda estatal en el sentido del apartado 1 del artículo 87 del Tratado.

III. EVALUACIÓN DE LA AYUDA

El grupo Fesa-Enfersa era y continua siendo uno de los principales operadores a escala europea. Las medidas consideradas mejoraron la posición financiera del grupo Fesa-Enfersa y, por consiguiente, probablemente tuvieron un impacto en la posición económica de sus competidores de otros Estados miembros y afectaron, pues, al comercio entre Estados miembros. Por lo tanto, estas medidas pueden falsear o amenazan falsear la competencia y afectan al comercio entre Estados miembros.

III.1. Los tres préstamos a corto plazo más dos préstamos subordinados adicionales

El ICO es una sociedad estatal, de las previstas en la letra b) del apartado 1 del artículo 6 del texto de la Ley general presupuestaria (aprobado por el Real Decreto legislativo 1091/1988 de 23 de septiembre). Sus fines y operaciones se rigen por la Sexta Disposición Adicional al Real Decreto-ley 12/1995 de 28 de diciembre⁽¹⁶⁾. Sus recursos financieros son por tanto recursos públicos a los efectos del apartado 1 del artículo 87 del Tratado CE.

Como el ICO es un banco de propiedad estatal, cualquier transferencia de recursos del ICO a una empresa constituye una transferencia de «fondos estatales» a efectos del apartado 1 del artículo 87 del Tratado CE.

Con estos préstamos se pretendía compensar necesidades en capital y dar liquidez al grupo Fesa-Enfersa. Los tres «préstamos puente» a corto plazo se concedieron a Fesa-Enfersa a través de Fertiberia SL, una sociedad instrumental creada con el fin de aplicar el plan de reestructuración del grupo.

Los tres «préstamos puente» se concedieron en condiciones de mercado y fueron cubiertos con una garantía adecuada (hipoteca). Esta intervención estatal podría, pues, considerarse como una «ayuda de salvamento» en el sentido de las Directrices comunitarias sobre ayudas estatales de salvamento y de reestructuración de empresas en crisis⁽¹⁷⁾, aunque la Comisión en este estado del procedimiento no ha apreciado un elemento de

⁽¹⁶⁾ Boletín Oficial del Estado nº 312 de 30.12.1995.

⁽¹⁷⁾ Según el punto 101 de las Directrices comunitarias sobre ayudas de Estado de salvamento y de reestructuración de empresas en crisis (DO C 288 de 9.10.1999, p. 2), la Comisión examinará con arreglo a las Directrices vigentes en el momento de la concesión de la ayuda la compatibilidad con el mercado común de toda ayuda destinada al salvamento y la reestructuración que se conceda sin la autorización de la Comisión si la ayuda, o una parte de ella, se concedió antes de la publicación de las Directrices en el *Diario Oficial de las Comunidades Europeas*. Como todas las medidas de ayuda contempladas en el presente procedimiento fueron concedidas con anterioridad a dicha publicación, la directrices aplicables son las Directrices comunitarias sobre ayudas de Estado de salvamento y de reestructuración de empresas en crisis, publicadas en el DO C 368 de 23.12.1994, p. 12. Dado que algunas de las medidas en cuestión fueron adoptadas con anterioridad a la publicación de las mencionadas Directrices, resulta también de aplicación a aquéllas la política sobre ayudas de salvamento y de reestructuración expuesta por la Comisión en el Octavo Informe sobre política de competencia de 1979 (apartados 177 y 227 a 228).

ayuda estatal en dicha intervención. Sin embargo, la Comisión observa que los tres «préstamos puente» fueron convertidos posteriormente en préstamos subordinados. Dicha conversión, así como las condiciones en las que ésta intervino (préstamo subordinado sin interés y sin plazo de amortización) puede considerarse como una «ayuda de reestructuración». La conversión estaba directamente ligada a la ejecución del plan de reestructuración. Por consiguiente, la Comisión concentrará su evaluación preliminar en las condiciones que ha de cumplir la ayuda de reestructuración.

Los préstamos subordinados pueden definirse como préstamos que, en caso de insolvencia de la sociedad deudora, son amortizados una vez que todos los acreedores han sido reembolsados, pero antes de que los accionistas reciban pago alguno. Estos préstamos de las autoridades públicas son frecuentes. Respecto a la naturaleza de los préstamos subordinados, se ha planteado si deben incluirse en el pasivo del balance. El Comité de contacto sobre las Directivas contables consideró que los préstamos subordinados debían incluirse en la partida «acreedores» y no en «capital y reservas»⁽¹⁸⁾. Esta opinión fue confirmada en la Comunicación interpretativa sobre determinados artículos de la Cuarta y la Séptima Directivas contables⁽¹⁹⁾.

En 1994, en el contexto de la reestructuración de Fesa-Enfersa, los tres préstamos puente se convirtieron en préstamos subordinados sin intereses y sin un período de reembolso. Al mismo tiempo, dos préstamos subordinados más por un importe de 10 500 millones de pesetas españolas fueron concedidos a Fertiberia SL para cubrir las necesidades de circulante de la empresa y para hacer frente a algunas deudas pendientes de Fesa-Enfersa.

Estas conversiones así como la concesión (también en 1994) de dos préstamos subordinados más en las mismas condiciones encierran un elemento de ayuda estatal.

Dada la situación de Fesa-Enfersa en el momento en que se concedieron los préstamos, el elemento de ayuda de un préstamo sin intereses, sin plazo de amortización y que en caso de insolvencia de la sociedad deudora es amortizado una vez que todos los acreedores han sido reembolsados pero antes de que los accionistas reciban pago alguno, equivale al importe del préstamo. En el presente caso, la ayuda asciende, pues, en total a 26 613 millones de pesetas españolas. Las modificaciones de las condiciones de amortización introducidas en 1996 y 1997 no varían esta conclusión, puesto que la fijación de un calendario de amortización (hasta el año 2030) solamente podía suponer una reducción marginal del importe total de ayuda.

III.2. Préstamo participativo concedido a Inmobiliaria Espacio para aumentar el capital de Fertiberia SL

En 1995, se concedió un préstamo participativo de 1 500 millones de pesetas españolas a Inmobiliaria Espacio. El objeto de

⁽¹⁸⁾ Véase *La armonización de las normas contables en la Comunidad Europea. Problemas derivados de la aplicación de la Cuarta Directiva sobre las cuentas anuales de las sociedades de capital*, Luxemburgo, 1990, p. 14. Véase asimismo la definición de los pasivos subordinados recogida en el artículo 21 de la Directiva 86/635/CEE del Consejo, de 8 de diciembre de 1986, relativa a las cuentas anuales y a las cuentas consolidadas de los bancos y otras entidades financieras (DO L 372 de 31.12.1986).

⁽¹⁹⁾ Véase el documento XV/7009/97 ES, punto 2.3.3, p. 5.

este préstamo era permitir que [...] (*) el nuevo inversor aumentase el capital de Fertiberia SL en el contexto de la reestructuración del grupo Fesa-Enfersa, lo que condujo al fortalecimiento de la posición financiera del mismo. Las condiciones eran similares a las expuestas en el caso de los préstamos subordinados previamente mencionados. Dada la situación de Fesa-Enfersa en el momento en que se concedieron los préstamos, el elemento de ayuda de un préstamo sin intereses, sin plazo de amortización y que en caso de insolvencia de la sociedad deudora es amortizado una vez que todos los acreedores han sido reembolsados pero antes de que los accionistas reciban pago alguno, equivale al importe del préstamo. Por consiguiente, el elemento de ayuda estatal se estima en 1 500 millones de pesetas españolas.

III.3. Actuación del Estado en el contexto del convenio de acreedores de Fesa-Enfersa

Al participar en el convenio de acreedores, las instituciones del Estado (Tesoro, Seguridad Social e ICO) salvaron el 30 % de sus créditos. Por su parte, los acreedores privados recuperaron el 33 % de sus créditos. El siguiente cuadro muestra las cifras exactas:

(en millones de pesetas españolas)

Acreedores	Importe de los créditos	Importe de la quita
Acreedores privados	71 039	47 161
Tesoro y Seguridad Social	26 671	18 631
ICO	19 702	13 794

Es por ello que la Comisión alberga dudas sobre si los acreedores públicos, al aceptar quitas superiores a los acreedores privados actuaron como un acreedor privado operando en una economía de mercado lo habría hecho en circunstancias similares.

Además, en el presente caso, un juez dictaminó que los créditos del Tesoro no podían beneficiarse del llamado «derecho de abstención». Sin embargo, España no ha presentado pruebas concluyentes de que el Estado agotase todas las vías legales que ofrece la legislación española (incluido el recurrir la decisión judicial) para ejercer el derecho de abstención.

A este respecto, es de señalar que en el asunto Ercros el Tesoro y la Seguridad Social ejercieron su derecho de abstención en el contexto de la suspensión de pagos. Por consiguiente, no estaban vinculados por el convenio suscrito por los acreedores de Ercros. A diferencia de lo ocurrido con los créditos sujetos al convenio, los créditos del Estado no sufrieron modificaciones. De haber aceptado el compromiso, sus créditos se hubieran reducido en un 98,6 % según la información remitida por las autoridades españolas. En su Decisión de 21 de julio de 1999⁽²⁰⁾, la Comisión concluyó, en consecuencia, que el Estado había actuado como lo habría hecho un acreedor privado en circunstancias similares, de manera que no había ningún elemento de ayuda.

Sin embargo, ni el Tesoro ni la Seguridad Social ejercieron su derecho de abstención en el presente caso.

⁽²⁰⁾ Véase la nota 1.

De ahí que la Comisión no tenga la seguridad de que la actuación de la Hacienda pública y de la Seguridad Social en el contexto de la suspensión de pagos del grupo Fesa-Enfersa no encierra un elemento de ayuda estatal. Las autoridades españolas explicaron que no ejercieron el derecho de abstención porque, en ausencia de activos no hipotecados, resultaba más ventajoso para el Estado participar en el convenio de acreedores. Sin embargo, España no ha presentado pruebas concretas de ello o de que de ese modo el Estado recuperase un porcentaje más elevado de los créditos. Además, la Comisión considera que España no ha justificado suficientemente por qué el Estado no actuó como lo había hecho en el caso de Ercros. En conclusión, la Comisión considera que las quitas consentidas por el Tesoro y la Seguridad Social por un importe de 18 631 millones de pesetas españolas, así como el porcentaje de la quita que el ICO consintió por encima del porcentaje de la quita consentida por los acreedores privados (esto es, el 4 % del importe de 19 702 millones de pesetas españolas) encierra un elemento de ayuda estatal.

III.4. Evaluación de la compatibilidad de la ayuda

Como las medidas de ayuda no se concedieron al amparo de un régimen de ayuda autorizado, la Comisión tiene que evaluar directamente su compatibilidad con el mercado común a la luz de las disposiciones del artículo 87 del Tratado CE. El apartado 1 del artículo 87 dispone que, salvo que el Tratado CE disponga otra cosa, serán incompatibles con el mercado común, en la medida en que afecten a los intercambios comerciales entre Estados miembros, las ayudas otorgadas por los Estados o mediante fondos estatales, bajo cualquier forma, que falseen o amenacen falsear la competencia, favoreciendo a determinadas empresas o producciones.

El artículo 87 del Tratado CE prevé ciertas excepciones al principio de incompatibilidad de las ayudas estatales con el mercado común. Las excepciones del apartado 2 del artículo 87 del Tratado CE podrían servir de fundamento para considerar la ayuda compatible con el mercado común. Sin embargo, las medidas de ayuda en cuestión ni a) son ayudas de carácter social concedidas a los consumidores individuales, ni b) están destinadas a reparar los perjuicios causados por desastres naturales o por otros acontecimientos de carácter excepcional, ni c) son ayudas concedidas con objeto de favorecer la economía de determinadas regiones de España. Es por ello que dichas excepciones no son aplicables en el presente caso.

Por lo que se refiere a las excepciones previstas en las letras b) y d) del apartado 3 del artículo 87, está claro que la ayuda no se propone fomentar la realización de un proyecto importante de interés común europeo, ni poner remedio a una grave perturbación en la economía española, ni promover la cultura o la conservación del patrimonio. El Gobierno español tampoco ha intentado justificar la ayuda sobre dichas bases.

Las letras a) y c) del apartado 3 del artículo 87 también contemplan excepciones para las ayudas regionales. Sin embargo, las medidas de ayuda consideradas no están destinadas a favorecer el desarrollo económico de regiones en las que el nivel de vida sea anormalmente bajo o en las que exista una grave situación de subempleo ni a facilitar el desarrollo de determinadas regiones económicas, como exigen las susodichas disposiciones del Tratado.

Así pues, sólo queda la excepción que prevé la letra c) del apartado 3 del artículo 87 del Tratado CE para las ayudas destinadas a facilitar el desarrollo de determinadas actividades económicas. La evaluación de la Comisión de las ayudas destinadas a facilitar el desarrollo de determinadas actividades económicas que no alteren las condiciones de los intercambios en forma contraria al interés común se rige por unas directrices comunitarias específicas.

Tras una evaluación preliminar, la Comisión considera que ninguna otra directriz salvo las Directrices comunitarias sobre ayudas estatales de salvamento y de reestructuración de empresas en crisis⁽²¹⁾ son de aplicación en el marco del presente caso. Non cabe duda de que Fesa-Enfersa fue objeto de una profunda reestructuración⁽²²⁾.

Las Directrices de reestructuración establecen ciertas condiciones para que la Comisión pueda autorizar una ayuda.

La evaluación de las medidas anteriormente mencionadas a la luz de las condiciones establecidas en las Directrices comunitarias sobre ayudas estatales de salvamento y de reestructuración de empresas en crisis pone de manifiesto que:

a) Empresas que pueden recibir las ayudas

La Comisión considera suficientemente demostrado que el grupo Fesa-Enfersa es una empresa en crisis a efectos de las Directrices de reestructuración. Tal y como se indica en el punto II.1, en 1992 Fesa-Enfersa solicitó la suspensión de pagos en una coyuntura extremadamente adversa para el sector europeo de los fertilizantes. La situación de la tesorería se había hecho insostenible. El juzgado nº 64 de Madrid declaró, mediante auto del 4 de diciembre de 1992, la insolvencia provisional del grupo, que tenía un pasivo de 117 000 millones de pesetas españolas y pérdidas superiores a los 20 000 millones de pesetas españolas.

b) Restablecimiento de la viabilidad

Para todas las medidas individuales de ayuda, la Comisión tiene que convencerse de que el correspondiente plan de reestructuración permite restaurar la viabilidad a largo plazo de la empresa.

La Comisión observa que España no ha presentado la previsión de las cuentas de resultados para los períodos de reestructuración con estimación de la rentabilidad de los fondos propios y análisis de sensibilidad a partir de varias hipótesis. España solamente proporcionó en su notificación cuentas de resultados *ex post* para dicho período.

La Comisión observa que Fesa-Enfersa volvió a obtener beneficios en 1997, conforme a lo previsto en el plan de reestructuración. Sin embargo, Fesa-Enfersa viene arrojando pérdidas cada vez más cuantiosas desde 1998. La Comisión observa que, en ausencia de una documentación detallada sobre la planificación financiera y a falta de un análisis de las diversas hipótesis y un análisis del riesgo, no es posible determinar la validez del plan que se diseñó en diciembre de 1992, se desarrolló posteriormente, se finalizó entre 1993-1994 y fue aplicado durante el período 1993-1997.

⁽²¹⁾ Véase la nota 10.

⁽²²⁾ Esta cuestión se trata ampliamente en el punto I.2.

c) Prevención de falseamientos indebidos de la competencia

La exención de la letra c) del apartado 3 del artículo 87 del Tratado CE está condicionada a que la ayuda no falsee la competencia en forma contraria al mercado común. Las Directrices de reestructuración especifican que se han de adoptar medidas que mitiguen en lo posible las consecuencias negativas que la ayuda puede acarrear para los competidores. Esta condición suele traducirse en una limitación o reducción de la presencia que la empresa puede asumir en el mercado de productos de referencia. Esta limitación o reducción ha de ser proporcional al falseamiento causado por la ayuda y especialmente al peso relativo de la empresa en su mercado o mercados.

A este respecto, cabe señalar que el plan de reestructuración preveía 1 487 despidos (el 41 % de la plantilla) y una reducción media de la capacidad existente del 49,3 %. En efecto, con la aplicación del plan de reestructuración la empresa redujo su capacidad de producción cerrando las fábricas de Zaragoza, Valladolid, Sevilla, Escombreras y El Hondón, todas ellas situadas en zonas asistidas.

d) Proporcionalidad de la ayuda con los costes y beneficios de la reestructuración

El importe y la intensidad de la ayuda deben limitarse a lo estrictamente necesario para permitir la reestructuración y han de guardar proporción con las ventajas que se espere obtener desde el punto de vista comunitario. Por este motivo, normalmente se espera que los beneficiarios de las ayudas contribuyan significativamente al plan de reestructuración con sus propios medios o con financiación comercial externa. Sin embargo, España no ha presentado pruebas concluyentes de que el beneficiario de la ayuda haya contribuido significativamente al plan de reestructuración con sus propios recursos.

La Comisión observa que las autoridades españolas no cumplieron la obligación que les impone el apartado 2 del artículo 88 Tratado CE al no notificar la concesión de las medidas de ayuda a Fesa-Enfersa.

IV. **CONCLUSIÓN**

En el presente estado del procedimiento, la Comisión considera que:

- las medidas arriba mencionadas contienen elementos de ayuda estatal,
- dichas medidas han sido concedidas en violación de la obligación de notificación establecida en el apartado 3 del artículo 88 del Tratado CE,
- existen dudas sobre la compatibilidad de dichas medidas con el mercado común.

Sobre el último punto, cabe resumir del siguiente modo las principales conclusiones: Dada la incertidumbre en cuanto al restablecimiento de la viabilidad de la empresa y a la vista de los interrogantes que se plantean acerca del tipo de contribución significativa al plan de reestructuración efectuada por el beneficiario de ayuda con sus propios recursos, la medidas de ayuda en cuestión no cumplen los requisitos mínimos fijados por las Directrices comunitarias sobre ayudas de reestructuración.

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 medida en un plazo de un mes a partir de la fecha de recepción de la presente. Insta a sus autoridades para que transmitan inmediatamente una copia de la presente carta al beneficiario potencial de la ayuda.

La Comisión desea recordar a España el efecto suspensivo del apartado 3 del artículo 88 del Tratado CE y llama su atención sobre el artículo 14 del Reglamento (CE) n° 659/1999 del Consejo, que prevé que toda ayuda concedida ilegalmente podrá recuperarse de su beneficiario.

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

Cases where the Commission raises no objections

(2000/C 315/07)

(Text with EEA relevance)

Date of adoption of the decision: 30.5.2000

Member State: Finland

Aid No: N 746/A/99

Title: Aid to Business Act 2000-2006 — investment

Objective: Regional development

Legal basis: Laki yritystoiminnan tukemisesta

Aid intensity or amount:

In gge

Investment aid	Small firms	SMEs	Large firms
Area I		40 %	40 %
Area II		34 %	25 %
Area III		25 %	20 %
Outside assisted area	15 %		

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: 30.5.2000

Member State: Finland

Aid No: N 746/B/99

Title: Aid to Business Act 2000-2006 — research and development

Objective: R & D

Legal basis: Laki yritystoiminnan tukemisesta

Aid intensity or amount:

In gge

— R&D

35 % or 40 % in assisted area, subject to a ceiling of EUR170 000

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: 30.5.2000

Member State: Finland

Aid No: N 746/C/99

Title: Aid to Business Act 2000-2006 — SME management

Objective: SMEs and regional development

Legal basis: Laki yritystoiminnan tukemisesta

Aid intensity or amount:

In gge

— SME management

50 % subject to a ceiling of EUR 170 000

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: 30.5.2000

Member State: Finland

Aid No: N 746/D/99

Title: Aid to Business Act 2000-2006 — SME operating conditions

Objective: SMEs and regional development

Legal basis: Laki yritystoiminnan tukemisesta

Aid intensity or amount:

In gge

— SME operating conditions

50 % subject to a ceiling of EUR 170 000

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: 13.6.2000

Member State: Spain (Rioja)

Aid No: N 66/2000

Title: Aid to promote efficient use of energy and renewable energy sources

Objective: Promotion of the environment via support for the efficient use of energy and renewable energy sources; creation or extension of energy infrastructures of regional interest; R&D in the energy field

Legal basis: Bases reguladoras de la concesión de ayudas destinadas a promover actuaciones de uso racional de la energía y de utilización de fuentes de energía renovables

Budget: ESP 500 million (EUR 3,01 million) per year

Aid intensity or amount:

- 30 % for measures to promote the efficient use of energy and renewable energy sources, with a bonus of 10 percentage points for SMEs;
- 7,5 % and 15 % for support for energy infrastructures;
- 100 % for fundamental research;
- 50 % for industrial research;
- 25 % for pre-competitive development activities, with a bonus of 10 percentage points for SMEs

Duration: Indefinite

Other information: Annual report

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: 12.7.2000

Member State: United Kingdom

Aid No: N 705/99

Title: United Kingdom High Technology Fund

Objective: Venture capital for early stage high-technology enterprises

Legal basis: Industrial Development Act 1982, p. 8

Budget: GBP 20 000 000 (approximately EUR 31 million)

Duration: 12 to 15 years, depending on the actual life of the Fund

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: 12.7.2000

Member State: Germany (Sachsen-Anhalt)

Aid No: N 16/2000

Title: Aid in favour of FilmoTec GmbH, Sachsen-Anhalt

Objective: Restructuring

Legal basis:

- ad hoc
- Investitionszulagegesetz 1999
- 27. Rahmenplan der Gemeinschaftsaufgabe zur Verbesserung der Wirtschaftsstruktur
- Innovationsförderprogramm des Landes Sachsen-Anhalt (N 715/92)

Budget: DEM 1,9 million (EUR 0,971 million)

Duration: 2000 to 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: 1.8.2000

Member State: Italy (Lombardy)

Aid No: N 93/2000

Title: Aid for tourism

Objective: Development of tourist structures and infrastructures

Legal basis: LR 36/88 «Incentivi per l'ammodernamento, potenziamento e qualificazione delle strutture e infrastrutture turistiche in Lombardia»

Budget: ITL 45 billion (EUR 22,5 million) per year

Aid intensity or amount:

- 15 % gge for micro and small firms
- 7,5 % gge for medium-sized firms

Duration: 2000 to 2002

Other information: Annual report

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: 14.9.2000

Member State: The Netherlands

Aid No: N 208/2000

Title: Subsidy Scheme for Public Inland Terminals (SOIT)

Objective: Facilitate the construction of inland terminals in order to shift more freight traffic from road to inland waterway and rail transport

Legal basis: Besluit van de minister van Verkeer en Waterstaat

Budget: EUR 8,45 million (2000 to 2003)

Aid intensity or amount: 50 % of terminal construction costs, up to 25 % of total terminal set-up costs, limited to a maximum of EUR 2,269 million per project

Other information: Terminals in seaports are excluded from the scheme. Subsidised terminals must reach viability within five years. In their start-up phase, terminals must not take away traffic from competing terminals

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 315/08)

Date of adoption of the decision: 20.9.2000**Member State:** Italy (Veneto)**Aid No:** N 15/2000**Title:** Aid in favour of tobacco producers**Objective:** Compensation of the losses of income suffered as a result of the destruction of crops caused by the potato virus Y**Legal basis:** Delibera 9 novembre 1999, n. 3896**Budget:** Indefinite**Duration:** One-off measure

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**Objective:** Provision of advice, information, individual coaching and education programs to help farmers to make an informed decision on whether or not to continue farming in the light of the plans to tackle the manure problem in the Netherlands**Legal basis:** Kaderwet LNV-subsidies**Budget:** NLG 62,3 million**Aid intensity or amount:** Maximum EUR 4 000 per beneficiary**Duration:** Three years (2000-2002)

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:** 2.10.2000**Member State:** Spain (Murcia)**Aid No:** N 169/2000**Title:** Aid for organising and attending stockbreeding fairs**Objective:** To promote the organisation of stockbreeding fairs for select breeds and attendance at them**Legal basis:** Proyecto de Orden por la que se aprueban las bases reguladoras y la convocatoria de la concesión de ayudas para la organización y asistencia a certámenes de animales de razas selectas**Budget:** ESP 5 million for the year 2000 EUR (30 050)**Aid intensity or amount:** Up to 50 % of expenditure**Duration:** Unspecified

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:** 2.10.2000**Member State:** Spain (Castile-Leon)**Aid No:** N 454/2000**Title:** Aid to assist livestock holdings**Objective:** To promote the rearing of pure-bred breeding animals by recording such animals in the corresponding herdbook once their yields and proof of their genetic value have been verified**Legal basis:** Convenio de colaboración entre la Consejería de Agricultura y Ganadería de la Junta de Castilla León y las Asociaciones de Criadores de Ganado por el que se regulan las condiciones de concesión de subvención directa otorgada por la Junta de Castilla León a las mencionadas Asociaciones**Budget:** ESP 80 million (EUR 480 809,68)**Aid intensity or amount:** Varies according to the type of aid**Duration:** Unspecified

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:** 2.10.2000**Member State:** The Netherlands**Aid No:** N 267/2000**Title:** Socio-economic plan**Date of adoption of the decision:** 20.9.2000**Member State:** United Kingdom**Aid No:** N 513/2000

Title: Transitional agrimonetary aid — amendment to N 241/99 (agro-environmental and afforestation measures)

Objective: Compensate the losses of producer income caused by the reduction in the exchange rates applicable to certain common agricultural policy direct aids

Legal basis: Ministerial decision, Council Regulation (EC) No 2800/98 and Commission Regulations (EC) Nos 2808/98, 2813/98 and 755/99

Budget:

— 1999: EUR 359 995

— 2000: EUR 119 998

— 2001: EUR 59 999

Aid intensity or amount: Variable according to the measures

Duration: Three years

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

Commission Communication in the framework of the implementation of Council Directive 89/686/EEC of 21 December 1989 in relation to personal protective equipment ⁽¹⁾, as amended by the Directives 93/68/EEC ⁽²⁾, 93/95/EEC ⁽³⁾ and 96/58/EC ⁽⁴⁾

(2000/C 315/09)

(Text with EEA relevance)

(Publication of titles and references of European harmonised standards under the Directive)

ESO ⁽¹⁾	Reference	Title of the harmonised standards	First publication (OJ) ⁽²⁾
CEN	EN 132:1998	Respiratory protective devices — definitions of terms and pictograms	4.6.1999
CEN	EN 133:1990	Respiratory protective devices — classification	19.2.1992
CEN	EN 134:1998	Respiratory protective devices — nomenclature of components	13.6.1998
CEN	EN 135:1998	Respiratory protective devices — list of equivalent terms	4.6.1999
CEN	EN 136:1998	Respiratory protective devices — full face masks: requirements, testing, marking	13.6.1998
CEN	EN 137:1993	Respiratory protective devices — self-contained open-circuit compressed-air breathing apparatus — requirements, testing, marking	23.12.1993
CEN	EN 138:1994	Respiratory protective devices — fresh air hose breathing apparatus for use with full face mask, half mask or mouthpiece assembly — requirements, testing, marking	16.12.1994
CEN	EN 139:1994	Respiratory protective devices — compressed-air line-breathing apparatus for use with full face mask, half mask or mouthpiece assembly — requirements, testing, marking	30.8.1995
CEN	EN 139/A1:1999	Respiratory protective devices — compressed-air line-breathing apparatus for use with a full face mask, half mask or a mouthpiece assembly — requirements, testing, marking	5.11.1999

⁽¹⁾ OJ L 399, 30.12.1989, p. 18.

⁽²⁾ OJ L 220, 30.8.1993, p. 1.

⁽³⁾ OJ L 276, 9.11.1993, p. 11.

⁽⁴⁾ OJ L 236, 18.9.1996, p. 44.

ESO (1)	Reference	Title of the harmonised standards	First publication (OJ) (2)
CEN	EN 140:1998	Respiratory protective devices — half masks and quarter masks — requirements, testing, marking	6.11.1998
CEN	EN 141:1990	Respiratory protective devices — gas filters and combinets filters — requirements, testing, marking	19.2.1992
CEN	EN 142:1989	Respiratory protective devices — mouthpieces assemblies — requirements, testing, marking	19.2.1992
CEN	EN 143:1990	Respiratory protective devices — particle filters — requirements, testing, marking	19.9.1992
CEN	EN 144-1:1991	Respiratory protective devices — gas cylinder valves — thread connection for insert connector	19.9.1992
CEN	EN 144-2:1998	Respiratory protective devices — gas cylinder valves — Part 2: outlet connections	4.6.1999
CEN	EN 145:1997	Respiratory protective devices — self-contained closed-circuit breathing apparatus compressed oxygen or compressed oxygen-nitrogen type — requirements, testing, marking	19.2.1998
CEN	EN 146:1991	Respiratory protective devices; powered particle filtering devices incorporating helmets or hoods — requirements, testing, marking	19.9.1992
CEN	EN 147:1991	Respiratory protective devices; power-assisted particle filtering devices incorporating full face masks, half masks or quarter masks — requirements, testing, marking	19.9.1992
CEN	EN 148-1:1999	Respiratory protective devices — threads for facepieces — Part 1: standard thread connection	4.6.1999
CEN	EN 148-2:1999	Respiratory protective devices — threads for facepieces — Part 2: centre thread connection	4.6.1999
CEN	EN 148-3:1999	Respiratory protective devices — threads for facepieces — Part 3: thread connection M 45 × 3	4.6.1999
CEN	EN 149:1991	Respiratory protective devices — filtering half masks to protect against particles — requirements, testing, marking	19.9.1992
CEN	EN 165:1995	Personal eye protection — vocabulary	15.5.1996
CEN	EN 166:1995	Personal eye protection — specifications	3.12.1996
CEN	EN 167:1995	Personal eye protection — optical test methods	10.10.1996
CEN	EN 168:1995	Personal eye protection — non-optical test methods	10.10.1996
CEN	EN 169:1992	Personal eye protection — filters for welding and related techniques — transmittance requirements and recommended utilisation	23.12.1993
CEN	EN 170:1992	Personal eye protection — ultraviolet filters — transmittance requirements and recommended use	23.12.1993
CEN	EN 171:1992	Personal eye protection — infrared filters — transmittance requirements and recommended use	23.12.1993
CEN	EN 172:1994	Personal eye protection — sunglare filters for industrial use	15.5.1996

ESO (1)	Reference	Title of the harmonised standards	First publication (OJ) (2)
CEN	EN 172/A1:2000	Personal eye protection — sunglare filters for industrial use	4.7.2000
CEN	EN 174:1996	Personal eye protection — ski goggles for downhill skiing	13.6.1998
CEN	EN 175:1997	Personal protection — equipment for eye and face protection during welding and allied processes	19.2.1998
CEN	EN 207:1998	Personal eye protection — filters and eye protectors against laser radiation (laser-eyes protectors)	21.11.1998
CEN	EN 208:1998	Personal eye protection — eye protectors for adjustment work on lasers and laser systems (laser adjustment eye protectors)	21.11.1998
CEN	EN 250:2000	Respiratory equipment — open-circuit self-contained compressed-air diving apparatus — requirements, testing, marking	8.6.2000
CEN	EN 269:1994	Respiratory protective devices — powered fresh air hose breathing apparatus incorporating a hood — requirements, testing, marking	16.12.1994
CEN	EN 270:1994	Respiratory protective devices — compressed-air line-breathing apparatus incorporating a hood — requirements, testing, marking	30.8.1995
CEN	EN 270/A1:2000	Respiratory protective devices — compressed-air line-breathing apparatus incorporating a hood — requirements, testing, marking	8.6.2000
CEN	EN 271:1995	Respiratory protective devices — compressed air line or powered fresh air hose breathing apparatus incorporating a hood for use in abrasive blasting operations — requirements, testing, marking	12.1.1996
CEN	EN 271/A1:2000	Respiratory protective devices — compressed-air line or powered fresh air hose breathing apparatus incorporating a hood for use in abrasive blasting operations — requirements, testing, marking	8.6.2000
CEN	EN 340:1993	Protective clothing — general requirements	16.12.1994
CEN	EN 341:1992	Personal protective equipment against falls from a height — descender devices	23.12.1993
CEN	EN 341/A1:1996	Personal protective equipment against falls from a height — descender devices	6.11.1998
CEN	EN 344:1992	Requirements and test methods for safety, protective and occupational footwear for professional use	23.12.1993
CEN	EN 344/A1:1997	Requirements and test methods for safety, protective and occupational footwear for professional use	19.2.1998
CEN	EN 344-2:1996	Safety, protective and occupational footwear for professional use — Part 2: additional requirements and test methods	3.12.1996
CEN	EN 345:1992	Specification for safety footwear for professional use	23.12.1993
CEN	EN 345/A1:1997	Specification for safety footwear for professional use	19.2.1998
CEN	EN 345-2:1996	Safety footwear for professional use — Part 2: additional specifications	3.12.1996

ESO ⁽¹⁾	Reference	Title of the harmonised standards	First publication (OJ) ⁽²⁾
CEN	EN 346:1992	Specification for protective footwear for professional use	23.12.1993
CEN	EN 346/A1:1997	Specification for protective footwear for professional use	19.2.1998
CEN	EN 346-2:1996	Protective footwear for professional use — Part 2: additional specifications	3.12.1996
CEN	EN 347:1992	Specification for occupational footwear for professional use	23.12.1993
CEN	EN 347/A1:1997	Specification for occupational footwear for professional use	19.2.1998
CEN	EN 347-2:1996	Occupational footwear for professional use — Part 2: additional specifications	14.6.1997
CEN	EN 348:1992	Protective clothing — test method: determination of behaviour of materials on impact of small splashes of molten metal	23.12.1993
CEN	EN 352-1:1993	Hearing protectors — safety requirements and testing — Part 1: earmuffs	23.12.1993
CEN	EN 352-2:1993	Hearing protectors — safety requirements and testing — Part 2: earplugs	23.12.1993
CEN	EN 352-3:1996	Hearing protectors — safety requirements and testing — Part 3: earmuffs attached to an industrial safety helmet	14.6.1997
CEN	EN 353-1:1992	Personal protective equipment against falls from a height — guided-type fall arresters — Part 1: guided-type fall arresters on a rigid anchorage line	23.12.1993
CEN	EN 353-2:1992	Personal protective equipment against falls from a height — guided-type fall arresters — Part 2: guided-type fall arresters on a flexible anchorage line	23.12.1993
CEN	EN 354:1992	Personal protective equipment against falls from a height — lanyards	23.12.1993
CEN	EN 355:1992	Personal protective equipment against falls from a height — energy absorbers	23.12.1993
CEN	EN 358:1992	Personal equipment for work positioning and prevention of falls from a height — work positioning systems	23.12.1993
CEN	EN 360:1992	Personal equipment against falls from a height — retractable type fall arresters	23.12.1993
CEN	EN 361:1992	Personal equipment against falls from a height — full body harnesses	23.12.1993
CEN	EN 362:1992	Personal equipment against falls from a height — connectors	23.12.1993
CEN	EN 363:1992	Personal equipment against falls from a height — fall arrest systems	23.12.1993
CEN	EN 364:1992	Personal equipment against falls from a height — test methods	23.12.1993
CEN	EN 365:1992	Personal equipment against falls from a height — general requirements for instructions for use and for marking	23.12.1993
CEN	EN 366:1993	Protective clothing — protection against heat and fire — method of test: evaluation of materials and material assemblies when exposed to a source of radiant heat	16.12.1994

ESO (1)	Reference	Title of the harmonised standards	First publication (OJ) (2)
CEN	EN 367:1992	Protective clothing — protection against heat and fire — method of determining heat transmission on exposure to flame	23.12.1993
CEN	EN 368:1992	Protective clothing — protection against liquid chemicals — test method: resistance of materials to penetration by liquids	23.12.1993
CEN	EN 369:1993	Protective clothing — protection against liquid chemicals — test method: resistance of materials to permeation by liquids	23.12.1993
CEN	EN 371:1992	Respiratory protective devices — AX gas filters and combined filters against low-boiling point organic compounds — requirements, testing, marking	23.12.1993
CEN	EN 372:1992	Respiratory protective devices — SX gas filters and combined filters against specific named compounds — requirements, testing, marking	23.12.1993
CEN	EN 373:1993	Protective clothing — assessment of resistance of materials to molten metal splash	23.12.1993
CEN	EN 374-1:1994	Protective gloves against chemicals and micro-organisms — Part 1: terminology and performance requirements	16.12.1994
CEN	EN 374-2:1994	Protective gloves against chemicals and micro-organisms — Part 2: determination of resistance to penetration	16.12.1994
CEN	EN 374-3:1994	Protective gloves against chemicals and micro-organisms — Part 3: determination of resistance to permeation by chemicals	16.12.1994
CEN	EN 379:1994	Specification for welding filters with switchable luminous transmittance and welding filters with dual luminous transmittance	16.12.1994
CEN	EN 379/A1:1998	Specification for welding filters with switchable luminous transmittance and welding filters with dual luminous transmittance	6.11.1998
CEN	EN 381-1:1993	Protective clothing for users of hand-held chainsaws — Part 1: test rig for testing resistance to cutting by a chainsaw	23.12.1993
CEN	EN 381-2:1995	Protective clothing for users of hand-held chainsaws — Part 2: test methods for leg protectors	12.1.1996
CEN	EN 381-3:1996	Protective clothing for users of hand-held chainsaws — Part 3: test methods for footwear	10.10.1996
CEN	EN 381-4:1999	Protective clothing for users of hand-held chainsaws — Part 4: test methods for chainsaw protective gloves	16.3.2000
CEN	EN 381-5:1995	Protective clothing for users of hand-held chainsaws — Part 5: requirements for leg protectors	12.1.1996
CEN	EN 381-7:1999	Protective clothing for users of hand-held chainsaws — Part 7: requirements for chainsaw protective gloves	16.3.2000
CEN	EN 381-8:1997	Protective clothing for users of hand-held chain saws — Part 8: test methods for chainsaw protective gaiters	18.10.1997
CEN	EN 381-9:1997	Protective clothing for users of hand-held chainsaws — Part 9: requirements for chainsaw protective gaiters	18.10.1997

ESO (1)	Reference	Title of the harmonised standards	First publication (OJ) (2)
CEN	EN 388:1994	Protective gloves against mechanical risks	16.12.1994
CEN	EN 393:1993	Lif jackets and personal buoyancy aids — buoyancy aids — 50 N	16.12.1994
CEN	EN 393/A1:1998	Lif jackets and personal buoyancy aids — buoyancy aids — 50 N	6.11.1998
CEN	EN 394:1993	Lif jackets and personal buoyancy aids — additional items	16.12.1994
CEN	EN 395:1993	Lif jackets and personal buoyancy aids — lif jackets — 100 N	16.12.1994
CEN	EN 395/A1:1998	Lif jackets and personal buoyancy aids — lif jackets — 100 N	11.6.1998
CEN	EN 396:1993	Lif jackets and personal buoyancy aids — lif jackets — 150 N	16.12.1994
CEN	EN 396/A1:1998	Lif jackets and personal buoyancy aids — lif jackets — 150 N	6.11.1998
CEN	EN 397:1995	Industrial safety helmets	12.1.1996
CEN	EN 399:1993	Lif jackets and personal buoyancy aids — lif jackets — 275 N	16.12.1994
CEN	EN 399/A1:1998	Lif jackets and personal buoyancy aids — lif jackets — 275 N	6.11.1998
CEN	EN 400:1993	Respiratory protective devices for self-rescue — self-contained closed-circuit breathing apparatus — compressed oxygen escape apparatus — requirements, testing, marking	23.12.1993
CEN	EN 401:1993	Respiratory protective devices for self-rescue — self-contained closed-circuit breathing apparatus — chemical oxygen (KO ₂) — escape apparatus — requirements, testing, marking	23.12.1993
CEN	EN 402:1993	Respiratory protective devices for escape — self-contained open-circuit compressed-air breathing apparatus with full face mask or mouthpiece assembly — requirements, testing, marking	16.12.1994
CEN	EN 403:1993	Respiratory protective devices for self-rescue — filtering devices with hood for self-rescue from fire — requirements, testing, marking	23.12.1993
CEN	EN 404:1993	Respiratory protective devices for self-rescue — filter self-rescuer — requirements, testing, marking	16.12.1994
CEN	EN 405:1992	Respiratory protective devices — valved filtering half masks to protect against gases or gases and particles — requirements, testing, marking	23.12.1993
CEN	EN 407:1994	Protective gloves against thermal risks (heat and/or fire)	16.12.1994
CEN	EN 412:1993	Protective aprons for use with hand-knives	23.12.1993
CEN	EN 420:1994	General requirements for gloves	16.12.1994
CEN	EN 421:1994	Protective gloves against ionising radiation and radioactive contamination	16.12.1994

ESO (1)	Reference	Title of the harmonised standards	First publication (OJ) (2)
CEN	EN 443:1997	Helmets for fire-fighters	19.2.1998
CEN	EN 458:1993	Hearing protectors — recommendations for selection, use, care and maintenance — guidance document	16.12.1994
CEN	EN 463:1994	Protective clothing for use against liquid chemicals — test method: determination of resistance to penetration by a jet of liquid (jet test)	16.12.1994
CEN	EN 464:1994	Protective clothing for use against liquid and gaseous chemicals including aerosols and solid particles — test method: determination of leak-tightness of gas-tight suits (internal pressure test)	16.12.1994
CEN	EN 465:1995	Protective clothing — protection against liquid chemicals — performance requirements for chemical protective clothing with spray-tight connections between different parts of the clothing (type 4 equipment)	12.1.1996
CEN	EN 465/A1:1998	Protective clothing — protection against liquid chemicals — performance requirements for chemical protective clothing with spray-tight connections between different parts of the clothing (type 4 equipment)	4.6.1999
CEN	EN 466:1995	Protective clothing — protection against liquid chemicals — performance requirements for chemical protective clothing with liquid-tight connections between different parts of the clothing (type 3 equipment)	12.1.1996
CEN	EN 466/A1:1998	Protective clothing — protection against liquid chemicals — performance requirements for chemical protective clothing with liquid-tight connections between different parts of the clothing (type 3 equipment)	4.6.1999
CEN	EN 467:1995	Protective clothing — protection against liquid chemicals — performance requirements for garments providing protection to parts of the body	14.6.1997
CEN	EN 467/A1:1998	Protective clothing — protection against liquid chemicals — performance requirements for garments providing protection to parts of the body	4.6.1999
CEN	EN 468:1994	Protective clothing for use against liquid chemicals — test method: determination of resistance to penetration by spray (spray test)	16.12.1994
CEN	EN 469:1995	Protective clothing for fire-fighters — requirements and test methods for protective clothing for fire-fighting	15.5.1996
CEN	EN 470-1:1995	Protective clothing for use in welding and allied processes — Part 1: general requirements	12.1.1996
CEN	EN 470-1/A1:1998	Protective clothing for use in welding and allied processes — Part 1: general requirements	13.6.1998
CEN	EN 471:1994	High-visibility warning clothing	16.12.1994
CEN	EN 510:1993	Specification for protective clothing for use where there is a risk of entanglement with moving parts	16.12.1994
CEN	EN 511:1994	Protective gloves against cold	16.3.2000
CEN	EN 530:1994	Abrasion resistance of protective clothing material — test methods	30.8.1995

ESO (1)	Reference	Title of the harmonised standards	First publication (OJ) (2)
CEN	EN 531:1995	Protective clothing for industrial workers exposed to heat (excluding fire fighters' and welders' clothing)	6.11.1998
CEN	EN 531/A1:1998	Protective clothing for workers exposed to heat	4.6.1999
CEN	EN 532:1994	Protective clothing — protection against heat and flame — test method for limited flame spread	12.1.1996
CEN	EN 533:1997	Protective clothing — protection against heat and flame — limited flame spread materials and material assemblies	14.6.1997
CEN	EN 568:1997	Mountaineering equipment — ice anchors — safety requirements and test methods	14.6.1997
CEN	EN 659:1996	Protective gloves for fire-fighters	10.10.1996
CEN	EN 702:1994	Protective clothing — protection against heat and flame — test method: determination of the contact heat transmission through protective clothing or its materials	12.1.1996
CEN	EN 795:1996	Protection against falls from a height — anchor devices — requirements and testing	12.2.2000

Warning: This publication does not concern the equipment described in classes A (structural anchors), C (anchor devices employing horizontal flexible lines) and D (anchor devices employing horizontal rigid anchor rails) referred to in paragraphs 3.13.1, 3.13.3, 3.13.4, 4.3.1, 4.3.3, 4.3.4, 5.2.1, 5.2.2, 5.2.4, 5.2.5, 5.3.2 (in respect of class A1), 5.3.3, 5.3.4, 5.3.5, 6 (in respect of classes A, C and D), Annex A (paragraphs A.2, A.3, A.5 and A.6), Annex B, and Annex ZA (in respect of classes A, C and D), in respect of which there shall be no presumption of conformity with the provisions of Directive 89/686/EEC.

CEN	EN 812:1997	Industrial bump caps	19.2.1998
CEN	EN 813:1997	Personal protective equipment for prevention of falls from a height — sit harnesses	14.6.1997
CEN	EN 863:1995	Protective clothing — mechanical properties — test method: puncture resistance	15.5.1996
CEN	EN 892:1996	Mountaineering equipment — dynamic mountaineering ropes — safety requirements and test methods	14.6.1997
CEN	EN 958:1996	Mountaineering equipment — energy absorbing systems for use in <i>klettersteig</i> (via ferrata) climbing — safety requirements and test methods	14.6.1997
CEN	EN 960:1994	Headforms for use in the testing of protective helmets	15.5.1996
CEN	EN 960/A1:1998	Headforms for use in the testing of protective helmets	6.11.1998
CEN	EN 966:1996	Helmets for airborne sports	10.10.1996
CEN	EN 966/A1:2000	Helmets for airborne sports	4.7.2000
CEN	EN 967:1996	Head protectors for ice-hockey players	14.6.1997
CEN	EN 1061:1996	Respiratory protective devices for escape — self-contained closed-circuit breathing apparatus — chemical oxygen (NaClO ₃) escape apparatus — requirements, testing, marking	14.6.1997
CEN	EN 1073-1:1998	Protective clothing against radioactive contamination — Part 1: requirements and test methods for ventilated protective clothing against particulate radioactive contamination	6.11.1998

ESO (1)	Reference	Title of the harmonised standards	First publication (OJ) (2)
CEN	EN 1077:1996	Helmets for alpine skiers	10.10.1996
CEN	EN 1078:1997	Helmets for pedal cyclists and for users of skateboards and roller skates	14.6.1997
CEN	EN 1080:1997	Impact protection helmets for young children	14.6.1997
CEN	EN 1082-1:1996	Protective clothing — gloves and arm guards protection against cuts and stabs by hand-knives — Part 1: chain mail gloves and arm guards	14.6.1997
CEN	EN 1095:1998	Deck safety harness and safety line for use on recreational craft — safety requirements and test methods	6.11.1998
CEN	EN 1146:1997	Respiratory protective devices for self-rescue — self-contained open-circuit compressed-air breathing apparatus incorporating a hood (compressed-air escape apparatus with hood) — requirements, testing, marking	14.6.1997
CEN	EN 1146/A1:1998	Respiratory protective devices — self-contained open-circuit compressed-air breathing apparatus incorporating a hood (compressed-air escape apparatus with hood) — requirements, testing, marking	4.6.1999
CEN	EN 1146/A2:1999	Respiratory protective devices — self-contained open-circuit compressed-air breathing apparatus incorporating a hood (compressed-air escape apparatus with hood) — requirements, testing, marking	16.3.2000
CEN	EN 1149-1:1995	Protective clothing — electrostatic properties — Part 1: surface resistivity (test methods and requirements)	10.10.1996
CEN	EN 1149-2:1997	Protective clothing — electrostatic properties — Part 2: test method for measurement of the electrical resistance through a material (vertical resistance)	19.2.1998
CEN	EN 1150:1999	Protective clothing — visibility clothing for non-professional use — test methods and requirements	4.6.1999
CEN	EN 1384:1996	Helmets for equestrian activities	14.6.1997
CEN	EN 1385:1997	Helmets for canoeing and white water sports	13.6.1998
CEN	EN 1486:1996	Protective clothing for fire-fighters — test methods and requirements for reflective clothing for specialised fire-fighting	3.12.1996
CEN	EN 1621-1:1997	Motorcyclists protective clothing against mechanical impact — Part 1: requirements and test methods for impact protectors	13.6.1998
CEN	EN 1731:1997	Mesh-type eye and face protectors for industrial and non-industrial use against mechanical hazards and/or heat	14.6.1997
CEN	EN 1731/A1:1997	Mesh-type eye and face protectors for industrial and non-industrial use against mechanical hazards and/or heat	13.6.1998
CEN	EN 1809:1997	Diving accessories — buoyancy compensators — functional and safety requirements, test methods	13.6.1998
CEN	EN 1835:1999	Respiratory protective devices — light duty construction compressed-air line breathing apparatus incorporating a helmet or a hood — requirements, testing, marking	8.6.2000

ESO (1)	Reference	Title of the harmonised standards	First publication (O) (2)
CEN	EN 1836:1996	Personal eye protection — sunglasses and sunglare filters for general use	14.6.1997
CEN	EN 1868:1997	Personal protective equipment against falls from a height — list of equivalent terms	18.10.1997
CEN	EN 1891:1998	Personal protective equipment for the prevention of falls from a height — low stretch kernmantel ropes	6.11.1998
CEN	EN 1938:1998	Personal eye protection — goggles for motorcycle and moped users	4.6.1999
CEN	EN ISO 4869-2:1995	Acoustics — hearing protectors — Part 2: estimation of effective A-weighted sound pressure levels when hearing protectors are worn (ISO 4869-2:1994)	15.5.1996
CEN	EN ISO 10819:1996	Mechanical vibration and shock — hand-arm vibration — method for the measurement and evaluation of the vibration transmissibility of gloves at the palm of the hand (ISO 10819:1996)	3.12.1996
CEN	EN 12083:1998	Respiratory protective devices — filters with breathing hoses, (non-mask mounted filters) — particle filters, gas filters and combined filters — requirements, testing, marking	4.7.2000
CEN	EN 12270:1998	Mountaineering equipment — chocks — safety requirements and test methods	16.3.2000
CEN	EN 12275:1998	Mountaineering equipment — connectors — safety requirements and test methods	16.3.2000
CEN	EN 12277:1998	Mountaineering equipment — harnesses — safety requirements and test methods	6.11.1998
CEN	EN 12278:1998	Mountaineering equipment — pulleys — safety requirements and test methods	6.11.1998
CEN	EN 12419:1999	Respiratory protective devices — light duty construction compressed-air line breathing apparatus incorporating a full face mask, half mask or quarter mask — requirements, testing, marking	5.11.1999
CEN	EN 12568:1998	Foot and leg protectors — requirements and test methods for toecaps and metal penetration resistant inserts	6.11.1998
CEN	EN 12628:1999	Diving accessories — combined buoyancy and rescue devices — functional and safety requirements, test methods	4.7.2000
CEN	EN 12941:1998	Respiratory protective devices — powered filtering devices incorporating a helmet or a hood — requirements, testing, marking	4.6.1999
CEN	EN 12942:1998	Respiratory protective devices — power-assisted filtering devices incorporating full face masks, half masks or quarter masks or quarter masks — requirements, testing, marking	4.6.1999
CEN	EN ISO 13997:1999	Protective clothing — mechanical properties — determination of resistance to cutting by sharp objects (ISO 13997:1999)	4.7.2000
CEN	EN ISO 14460:1999	Protective clothing for automobile racing drivers — protection against heat and flame — performance requirements and test methods (ISO 14460:1999)	16.3.2000

ESO ⁽¹⁾	Reference	Title of the harmonised standards	First publication (OJ) ⁽²⁾
CEN	EN 24869-1:1992	Acoustics — hearing protectors — Part 1: subjective method for the measurement of sound attenuation (ISO 4869-1:1990)	16.12.1994
CEN	EN 24869-3:1993	Acoustics — hearing protectors — Part 3: simplified method for the measurement of insertion loss of earmuff type protectors for quality inspection purposes (ISO/TR 4869-3:1989)	16.12.1994
Cenelec	EN 50237:1997	Gloves and mitts with mechanical protection for electrical purposes	4.6.1999
Cenelec	EN 50286:1999	Electrical insulating protective clothing for low-voltage installations	16.3.2000
Cenelec	EN 50321:1999	Electrically insulating footwear for working on low-voltage installations	16.3.2000
Cenelec	EN 60743:1996	Terminology for tools and equipment to be used in live working (IEC 60743:1983 + A1:1995)	4.6.1999
Cenelec	EN 60895:1996	Conductive clothing for live working at a nominal voltage up to 800 kV ac (IEC 60895:1987 — modified)	4.6.1999
Cenelec	EN 60903:1992	Specification for gloves and mitts of insulating material for live working (IEC 60903:1988 — modified)	4.6.1999
Cenelec	EN 60903/A11:1997	Specification for gloves and mitts of insulating material for live working	4.6.1999
Cenelec	EN 60984:1992	Sleeves of insulating material for live working (IEC 60984:1990 — modified)	4.6.1999
Cenelec	EN 60984/A11:1997	Sleeves of insulating material for live working	4.6.1999

⁽¹⁾ ESO: (European standardisation organisation):

- CEN: rue de Stassart/Stassartstraat 36, B-1050 Brussels; tel. (32-2) 550 08 11, fax (32-2) 550 08 19 (www.cenorm.be);
- Cenelec: rue de Stassart/Stassartstraat 35, B-1050 Brussels; tel. (32-2) 519 68 71, fax (32-2) 519 69 19 (www.cenelec.be);
- ETSI: BP 152, F-06561 Valbonne Cedex, tel. (33-4) 92 94 42 12, fax (33-4) 93 65 47 16 (www.etsi.org).

⁽²⁾ Date from which the use of this standard guarantees a presumption of conformity to the essential requirements it covers.

NOTE:

- any information concerning the availability of the standards can be obtained either from the European standardisation organisations or from the national standardisation bodies of which the list ⁽¹⁾ is annexed to the Directive 98/34/EC ⁽²⁾ of the European Parliament and Council amended by Directive 98/48/EC ⁽³⁾;
- publication of the references in the *Official Journal of the European Communities* does not imply that the standards are available in all the Community languages;
- this list replaces all the previous lists published in the *Official Journal of the European Communities*;
- the Commission ensures the updating of this list.

⁽¹⁾ OJ L 32, 10.2.1996, p. 32.

⁽²⁾ OJ L 204, 21.7.1998, p. 37.

⁽³⁾ OJ L 217, 5.8.1998, p. 18.

NOTICE OF AN APPLICATION FOR AUTHORISATION TO PROSPECT FOR HYDROCARBONS

REGION OF SICILY

COUNCIL FOR INDUSTRY

REGIONAL MINING CORPS

REGIONAL OFFICE FOR HYDROCARBONS AND GEOTHERMICS

(2000/C 315/10)

Sarics SpA of 169 via Ugo La Malfa in Palermo, tax code No 00155020820, applied on 18 January 2000 — pursuant to Sicilian Regional Law No 30 of 20 March 1950 (repealed and substituted by Sicilian Regional Law No 14 of 3 July 2000 published in the Official Gazette of the Region of Sicily No 32 of 7 July 2000) — for permission to prospect for liquid and gaseous hydrocarbons in the area conventionally known as 'Passo di Piazza' extending over 734,13 km² in the municipalities of Gela, Butera, Mazzarino and Niscemi in the province of Caltanissetta; S. Cono, S. Michele di Ganzaria, Caltagirone and Mazzorzone in the province of Catania; Piazza Armerina in the province of Enna; Acate and Vittoria in the province of Ragusa.

The perimeter of the area concerned by this application is drawn as a continuous straight line between points A, B, C, D, E, F, G, H, I, L, M, N, defined as follows:

- A — Eastern corner of the house in the district 'La Casa' at elevation 430 (to the south-east of the Rasalgonè district).
- B — North-east corner of the house in the 'C. Angelico' district at elevation 450 (to the west of the Egoli plain).
- C — Eastern corner of the house at elevation 332 between the 'Conventazzo' and 'C. Intorrella' districts.
- D — Point at elevation 276 corresponding to the vertex of the north-east corner of Passo di Piazza of the built-up area known as 'C. Rizza' and coinciding with point B of the application for the 'Piano Lupo' concession.
- E — Point corresponding to km 7 of the road from Acate to Caltagirone and coinciding with point C of the 'Piano Lupo' application.
- F — North-east corner of the southern building in the 'Case Giudice' built-up district at elevation 168, coinciding with point D of the 'Piano Lupo' application.

- G — Eastern corner of the house in the 'G. Mustille' district at elevation 92; west of the Brancato district (north-west of the River Ippari).
- H — Point situated on the slope derived from extending a line plotted from point G and passing through the east corner of the cemetery to the south of Scoglitti.
- I — Point situated on the slope derived from extending a line plotted from the north-east corner of the house in 'C. Zubia Nuova' district (point L) and km 255 of main road No 115 in south-west Sicula.
- L — North-east corner of the house in the 'C. Zubia Nuova' district at elevation 101 to the south-east of the station of Butera.
- M — Point situated at km 14 of the street of the east of Mazzarino which, passing through the Floresta district, connects with main road No 117 to central Sicula.
- N — Western corner of the house in the 'C. Tocco' district at elevation 513 (to the west of the Ciavarini district).

From point H to point I, the low tide coastline constitutes the border of the application area.

The application documents have been deposited at the Regional Office for Hydrocarbons and Geothermics of the Regional Mining Corps, at via Camilliani No 87, I-90145 Palermo, and are available to those who wish to inspect them.

This notice shall be published in the Official Gazette of the Region of Sicily, the *Official Journal of the European Communities* and, for 15 consecutive days, on the municipal noticeboards of the abovementioned municipalities.

Objections may be filed with reference to this notice on municipal noticeboards through the mayors of the municipalities referred to above or, even at a later date, may be forwarded to the abovementioned Regional Mining Corps.

Palermo, 4 September 2000.

III

(Notices)

COMMISSION

Notice of closure of the call for proposals for accompanying measures (indirect actions for research and technological development (RTD)) in the context of the specific programme of research, technological development and demonstration entitled 'Promotion of innovation and encouragement of participation of small and medium-sized enterprises (SMEs) (1998 to 2002)'

(2000/C 315/11)

A great number of high quality proposals has been received for the past four evaluation dates under the call for proposals for actions concerning 'Economic and Technological Information', reference 1999/C 112/05 ⁽¹⁾. The budget allocated for this call will be exhausted following the last evaluation session (July 2000). Therefore, no funds will be left for financing additional proposals.

The call for proposals for actions concerning 'Economic and Technological Information', reference 1999/C 112/05, is closed as of this date in accordance with a Commission Decision of 3 November 2000 ⁽²⁾ amending the work programme adopted on 18 March 1999 ⁽³⁾.

⁽¹⁾ OJ C 112, 24.3.1999, p. 35.

⁽²⁾ Commission Decision C(2000) 3171, not published.

⁽³⁾ Commission Decision C(1999) 684, not published.