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Information and Notices

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[1] Text with EEA relevance

(Continued overleaf)

EN

[1] Text with EEA relevance

I

(Information)

COUNCIL

Information regarding the entry into force of the Interim Agreement on trade and trade-related matters between the European Community and the former Yugoslav Republic of Macedonia and publication of the Final Act of the Agreement, including the Declarations annexed to it

(2001/C 149/01)

Following the notification on 27 April 2001 by both sides regarding the completion of their respective internal procedures, the Interim Agreement on trade and trade-related matters between the European Community and the former Yugoslav Republic of Macedonia [1] will, in accordance with Article 50 of the Agreement, enter into force on 1 June 2001.

The Final Act concerning the Interim Agreement and the declarations annexed to it made on Articles 14, 16, 21, 27, 35 and 43, as well as a declaration regarding the transport area, are published hereafter for information purposes.

[1] OJ L 124, 4.5.2001, p. 1.

FINAL ACT

The plenipotentiaries of:

the EUROPEAN COMMUNITY,

hereinafter referred to as 'the Community',

of the one part, and

the plenipotentiaries of the FORMER YUGOSLAV REPUBLIC OF MACEDONIA,

of the other part,

meeting in Luxembourg on 9 April in the year 2001 for the signature of the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the former Yugoslav Republic of Macedonia of the other part, hereinafter referred to as 'the Interim Agreement', have adopted the following texts:

the Interim Agreement, its Annexes I to VI, namely:

Annex I	Imports into the former Yugoslav Republic of Macedonia of less sensitive industrial goods originating in the Community
Annex II	Imports into the former Yugoslav Republic of Macedonia of sensitive industrial goods originating in the Community
Annex III	EC Definition of 'baby beef' products
Annex IV(a)	Imports into the former Yugoslav Republic of Macedonia of agricultural goods originating in the Community (zero-duty tariff)

Annex IV(b) Imports into the former Yugoslav Republic of Macedonia of agricultural goods originating in the Community (zero-duty tariff within tariff quotas)

Annex IV(c) Imports into the former Yugoslav Republic of Macedonia of agricultural goods originating in the Community (concessions within tariff quotas)

Annex V(a) Imports into the Community of fish and fisheries products originating in the former Yugoslav Republic of Macedonia

Annex V(b) Imports into the Community of fish and fisheries products originating in the Community

Annex VI Intellectual industrial and commercial property rights,

and the following Protocols:

Protocol 1 on textile and clothing products

Protocol 2 on steel products

Protocol 3 on trade between former Yugoslav Republic of Macedonia and the Community in processed agricultural products

Protocol 4 concerning the definition of the concept of 'originating products' and methods of administrative cooperation

Protocol 5 on mutual administrative assistance in customs matters.

The plenipotentiaries of the Community and the plenipotentiaries of former Yugoslav Republic of Macedonia have adopted the texts of the joint declarations listed below and annexed to this Final Act:

Joint Declaration concerning Article 21 of the Agreement

Joint Declaration concerning Article 27 of the Agreement

Joint Declaration on the Transport Agreement

Joint Delcaration concerning Article 35 of the Agreement

Joint Declaration concerning Article 43 of the Agreement.

The plenipotentiaries of the former Yugoslav Republic of Macedonia have taken note of the Declaration listed below and annexed to this Final Act:

Declaration by Community concerning Articles 14 and 16.

Joint Declaration on Article 21 (SAA 34)

The European Communities and the former Yugoslav Republic of Macedonia, aware of the impact that the sudden elimination of the 1 % fee applied for customs clearance purposes to imported goods could have on the budget of the latter, agree, as an exceptional measure, that the fee would be maintained until 1 January 2002 or until the entry into force of the Stabilisation and Association Agreement, whichever occurs first.

Should this fee, in the meantime, be reduced or eliminated vis-à-vis a third country, the former Yugoslav Republic of Macedonia undertakes to immediately apply the same treatment to goods of EC origin.

The content of this joint declaration is without prejudice to the position of the European Communities in the negotiations on the accession of the former Yugoslav Republic of Macedonia to the World Trade Organisation.

Joint Declaration concerning Article 27 (SAA 40)

Declaration of intent by the contracting parties on the trade arrangements between the States that emerged from the former Socialist Federal Republic of Yugoslavia:

1. The European Community and former Yugoslav Republic of Macedonia consider it essential for economic and trade cooperation between the States that emerged from the former Socialist Federal Republic of Yugoslavia to be re-established as quickly as possible, as soon as political and economic circumstances permit.
2. The Community is prepared to grant cumulation of origin to the States that emerged from the former Socialist Federal Republic of Yugoslavia which have restored normal economic and trade cooperation as soon as the administrative cooperation needed for cumulation to work properly has been established.
3. With this in mind, the former Yugoslav Republic of Macedonia declares its readiness to enter into negotiations as soon as possible in order to establish cooperation with other States that emerged from the former Socialist Federal Republic of Yugoslavia.

Joint Declaration on the Transport Agreement (SAA 57)

The Parties agree to seek the earliest possible implementation of Article 12.3(b) of the Transport Agreement between the European Community and the former Yugoslav Republic of Macedonia, on a system of ecopoints through the conclusion of the relevant agreement, in the form of an exchange of letters, as soon as possible and at the latest by the conclusion of the Interim Agreement.

Joint Declaration concerning Article 35 (SAA 71)

The Parties agree that for the purpose of this Agreement, intellectual, industrial and commercial property includes in particular copyright, including the copyright in computer programs, and neighbouring rights, the rights relating to databases, patents, industrial designs, trademarks and service marks, topographies of integrated circuits, geographical indications, including appellation of origins, as well as protection against unfair competition as referred to in Article 10(a) of the Paris Convention for the Protection of Industrial Property and protection of undisclosed information on know-how.

Joint Declaration concerning Article 43 (SAA 118)

(a) For the purposes of the interpretation and practical application of the Agreement, the Parties agree that the cases of special urgency referred to in Article 43 of the Agreement mean cases of material breach of the Agreement by one of the two parties. A material breach of the Agreement consists of:

— repudiation of the Agreement not sanctioned by the general rules of international law,

— violation of the essential elements of the Agreement set out in Article 1.

(b) The Parties agree that the 'appropriate measures' referred to in Article 43 are measures taken in accordance with international law. If a Party takes a measure in a case of special urgency pursuant to Article 43, the other Party may avail itself of the dispute settlement procedure.

Declaration by the Community concerning Articles 14 and 16 (SAA 27 and 29)

Considering that exceptional trade measures are granted by the European Community to countries participating or linked to the EU stabilisation and association process including the former Yugoslav Republic of Macedonia on the basis of Council Regulation (EC) No 2007/2000 as amended by Council Regulation (EC) No 2563/2000 of 20 November 2000, the European Community declares:

— that, pursuant to Article 16(2) of this Agreement, those of the unilateral autonomous trade measures which are more favourable shall apply in addition to the contractual trade concessions offered by the Community in this Agreement as long as Regulation (EC) No 2007/2000 as amended applies,

— that, in particular, for the products covered by Chapters 7 and 8 of the Combined Nomenclature, for which the Common Customs Tariff provides for the application of *ad-valorem* customs duties and a specific customs duty, the elimination shall apply also to the specific customs duty in derogation from the relevant provision of Article 14(1).

COMMISSION

Euro exchange rates [1]

18 May 2001

(2001/C 149/02)

1 euro	=	7,4609	Danish krone
	=	9,012	Swedish krona
	=	0,6137	Pound sterling
	=	0,8777	United States dollar
	=	1,3486	Canadian dollar
	=	108,35	Japanese yen
	=	1,5341	Swiss franc
	=	7,9605	Norwegian krone
	=	88,35	Icelandic króna [2]
	=	1,6687	Australian dollar
	=	2,0594	New Zealand dollar
	=	6,9661	South African rand [2]

[1] *Source:* reference exchange rate published by the ECB.

[2] *Source:* Commission.

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

Cases where the Commission raises no objections

(2001/C 149/03)

(Text with EEA relevance)

Date of adoption of the decision: 13.6.2000

Member State: Austria

Aid No: N 474/99

Title: Guidelines for economic development in Niederösterreich in the context of the Objective 2 programme 2000-2006/point B, directives for the support of markets' development

Objective:

— Promotion of SMEs

— All sectors of the economy, except sensitive sectors

Legal basis: Allgemeine Förderungsbestimmungen des niederösterreichischen Wirtschaftsförderungs- und Strukturverbesserungsfonds 2000—2006

Budget: ATS 24 million (EUR 1,74 million) per year

Duration: Until 31 December 2006

Other information: Annual report required

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

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

Date of adoption of the decision: 20.6.2000

Member State: Germany (*Land* of Saxony-Anhalt)

Aid No: N 740/99

Title: Extension and modification of the Saxony-Anhalt Directive on aid to promote SME attendance at fairs and exhibitions

Objective: Aid for SMEs

Legal basis: Richtlinie über die Gewährung von Zuwendungen an KMU zur Beteiligung an Messen und Ausstellungen

Budget: DEM 2,6 million (EUR 1,3 million) in 2000

Aid intensity or amount: Maximum EUR 8 000 per fair or exhibition

Duration: 2000-2003

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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 28.6.2000

Member State: Ireland

Aid No: N 237/2000

Title:

Extension of schemes of aid to film and TV production:

— Irish Film Board development and production loans

— Section 481 tax-based film investment incentive

Objective: To promote film and TV production. (Production of feature films, television drama, animation and creative documentary)

Legal basis:

— 'Irish Film Board Act, 1980'

— 'Section 481 of the Taxes Consolidation Act, 1997, as amended'

Budget:

— Free-interest and repayable development loans: an average annual budget of IEP 1,72 million

— Free-interest and repayable production loans: an average annual budget of IEP 7,78 million

— Tax relief: an average annual tax revenue loss of IEP 47,5 million

Aid intensity or amount:

— Production loans: average intensity of approximately 15 % of the production budget

— Section 481 scheme: average intensity of approximately 16 %

— Cumulation of State aid will not exceed 50 %

Duration:

— Development and production loans: 2000 through 2006

— Section 481 scheme: fiscal years 2000/2001 through 2004/2005

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

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

Date of adoption of the decision: 29.11.2000

Member State: Spain (Valencia)

Aid No: N 717/99, N 738/99 and N 739/99

Title: Regional aid scheme to promote investment, diversification and innovation

Objective: Regional development

Legal basis:

— Proyecto de Orden de la Conselleria de Industria y Comercio sobre concesión de ayudas en materia de industria y energía

— Proyecto de Orden de la Conselleria de Industria y Comercio por la que se regulan las ayudas en materia de modernización del comercio interior

— Proyecto de Decreto sobre concesión de ayudas en materia de turismo

Budget: ESP 5,100 million per year (EUR 30,651 million per year)

Aid intensity or amount:

— Aid for tangible and intangible investment: 40 % gge in the NUTS III region of Alicante, 35 % gge in the NUTS III region of Castile and 37 % gge in the NUTS III region of Valencia; a bonus of 15 percentage points gross in the case of SMEs

— Outside consultancy aid and aid for other activities to promote SMEs: 50 % gge

Duration: 2000-2006

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

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

Date of adoption of the decision: 21.12.2000

Member State: Austria (Niederösterreich)

Aid No: N 475/99

Title: Guidelines for economic development in Niederösterreich in the context of the Objective 2 programme 2000-2006/point C, directives for the promotion of cooperation

Objective:

— Promotion of SMEs

— All sectors of the economy, except sensitive sectors

Legal basis: Niederösterreichischer Wirtschaftsförderungs- und Strukturverbesserungsfonds 2000—2006, Schwerpunkt C: Kooperation

Aid intensity or amount: ATS 7 million (EUR 0,51 million) for seven days

Duration: Until 31 December 2006

Other information: Annual report required

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

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

Date of adoption of the decision: 15.1.2001

Member State: Portugal (entire country excluding the Azores and Madeira)

Aid No: N 719/2000

Title: Aid scheme for small business initiatives (SIPIE)

Objective: Regional development and promotion of SMEs

Legal basis: Portaria do Conselho de Ministros

Budget: EUR 252,7 million

Aid intensity or amount: Variable

Duration: Until end of 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 17.1.2001

Member State: Italy

Aid No: N 284/A/2000

Title: Aid to employment granted by the Region of Sicily: fresh financing for the scheme in Article 9 of Regional Act No 27/91

Objective: To maintain employment

Legal basis: Legge regionale 17 marzo 2000, n. 8

Budget: LIT 1 000 billion (approximately EUR 516 million)

Aid intensity or amount: 50 % of wage or salary in first year, 40 % in second, and 25 % in third

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

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

Date of adoption of the decision: 17.1.2001

Member State: Germany (Mecklenburg-Vorpommern)

Aid No: N 405/A/2000

Title: Labour market programme of the *Land* of Mecklenburg-Vorpommern

Objective: Employment creation and regional development

Legal basis: Richtlinien für die Förderung von Existenzgründerinnen und Existenzgründern

Budget: DEM 11,616 million (EUR 5,94 million)

Aid intensity or amount: DEM 1 000 (EUR 511) per month

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 17.1.2001

Member State: Germany (Mecklenburg-Vorpommern)

Aid No: N 405/B/2000

Title: Labour market programme of the *Land* of Mecklenburg-Vorpommern

Objective: Employment creation

Legal basis: Richtlinien zur Förderung von Beschäftigungsverhältnissen für Sozialhilfeempfängerinnen und Sozialhilfeempfänger

Budget: DEM 4,996 million (EUR 2,55 million)

Aid intensity or amount: DEM 7 000 (EUR 3 579) for twelve months

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 17.1.2001

Member State: Germany (Mecklenburg-Vorpommern)

Aid No: N 405/C/2000

Title: Labour market programme of the *Land* of Mecklenburg-Vorpommern

Objective: Employment creation

Legal basis: Richtlinien zur Förderung der Qualifizierung und Eingliederung von Jugendlichen in den Arbeitsmarkt

Budget: DEM 57,25 million (EUR 29,27 million)

Aid intensity or amount: 90 % of general training measures, 80 % of gross wage costs over one year

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 17.1.2001

Member State: Germany (Berlin)

Aid No: N 420/2000

Title: Aid to employment in favour of workers without qualification pursuant to Section 18(4) BSHG

Objective: Employment creation

Legal basis:

— Senatsbeschluss vom 21.7.1998 „Integration durch Arbeit und Bekämpfung der Jugendarbeitslosigkeit", Ausführungsvorschriften

— § 18 Absatz 4 Bundessozialhilfegesetz (BSHG) in der Fassung der Bekanntmachung vom 23.3.1994 (BGBl. I S. 646), zuletzt geändert durch Gesetz vom 25. Juni 1999 (BGBl. I S. 1442)

Budget: DEM 187,6 million (EUR 95,9 million)

Aid intensity or amount: 80 % of gross wage costs

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 17.1.2001

Member State: Spain

Aid No: N 664/2000 and N 666/2000

Title: Shipbuilding — development aid to Algeria

Objective: Shipbuilding

Legal basis: Reglamento (CE) nº 1540/98, de 29 de junio de 1998, sobre ayudas a la construcción naval

Aid intensity or amount: 25,3 %

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

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

Date of adoption of the decision: 17.1.2001

Member State: Germany (Saxony-Anhalt)

Aid No: N 707/2000

Title: Innovation Fund of the Innovations- und Beteiligungsgesellschaft mbH Sachsen-Anhalt

Objective: Regional development

Legal basis:

— Beteiligungsgrundsätze der IBG; Beteiligungsgesellschaft Sachsen-Anhalt mbH

— Gesellschaftsvertrag der IBG Beteiligungsgesellschaft Sachsen-Anhalt mbH

Budget: EUR 7,5 million per year for four years

Aid intensity or amount: Direct holding of EUR 1 million in small firms

Duration: Until 31 December 2003

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

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

Date of adoption of the decision: 17.1.2001

Member State: Italy (Sardinia)

Aid No: N 816/99

Title: Aid scheme for improving service networks in industrial districts in Sardinia

Objective: Regional development

Legal basis: Articolo 4 della L.R. 24.12.1998 n. 37 e Direttive di attuazione

Budget: ITL 20 billion (approximately EUR 10,3 million)

Aid intensity or amount: 40 % gge for expenditure on advisory services, 35 % nge + 15 % gge for SME expenditure on tangible investments

Duration: Until 31 December 2001

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

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

Date of adoption of the decision: 21.1.2000

Member State: Germany (Brandenburg)

Aid No: N 626/99

Title: Measures encouraging the protection against the effects of air pollution due to energy production in Brandenburg

Objective: Protection of the environment

Legal basis: Richtlinie über die Gewährung von Finanzhilfen des Ministeriums für Umwelt, Naturschutz und Raumordnung des Landes Brandenburg für Vorhaben des Immissionsschutzes und zur Begrenzung energiebedingter Umweltbelastungen

Budget: Approximately EUR 4 million per year

Aid intensity or amount:

Direct grants (cumulated aid intensity ceilings):

— 50 % gross for SMEs

— 35 % gross for large enterprises

— 50 % gross for municipalities and municipal institutions

Duration: 2000-2001 (from date of approval)

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

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

Date of adoption of the decision: 29.1.2001

Member State: Spain (Extremadura)

Aid No: N 791/2000

Title: Regional investment aid scheme

Objective: Regional development

Legal basis: Decreto nº . . ./2001, por el que se establece un régimen de incentivos extremeños a la inversión para el tejido empresarial de esta comunidad

Budget: ESP 13 302,98 million (EUR 79,95 million)

Aid intensity or amount: 50 % gge (plus 15 percentage points gross for SMEs)

Duration: 2000-2006

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

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

Date of adoption of the decision: 29.1.2001

Member State: Portugal

Aid No: N 806/2000

Title: Measure 1.3 of the operational programme for the information society

Objective: Technological research and development

Legal basis: Decreto-lei

Budget: EUR 87,236 million

Aid intensity or amount: Varies according to type of project, firm and region

Duration: Until end of 2006

Other information: N 457/2000 and N 478/2000

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

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

Date of adoption of the decision: 31.1.2001

Member State: Netherlands

Aid No: N 230/2000, N 232/2000 and N 244/2000

Title:

Development aid for:

— Syria — building of two tugs

— Bangladesh — building of a tug

— Sri Lanka — building of a dredger

Objective: Shipbuilding

Legal basis: Algemene regeling voor export naar ontwikkelingslanden

Aid intensity or amount: 25 %

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

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

Date of adoption of the decision: 5.2.2001

Member State: Italy (Sicily)

Aid No: N 284/B/2000

Title: Refinancing, through Regional Budgetary Law No 8/2000, of the tourism aid scheme under Article 16 of Regional Law No 27/1996

Objective: Aid for small and medium-sized tourism firms in the Sicilian region

Legal basis: Legge regionale 27/1996 articolo 16

Budget: ITL 22 billion (approximately EUR 11 million)

Aid intensity or amount: Regions qualifying for exemption under Article 87(3)(a) of the Treaty; maximum — Sicily: 35 % net grant equivalent

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 5.2.2001

Member State: Germany (Brandenburg)

Aid No: N 523/2000 (ex NN 63/2000)

Title: Scheme of the *Land* of Brandenburg for long-term employment of single parents

Objective: Employment

Legal basis: Richtlinie des Ministeriums für Arbeit vom 31.3.1996 zur Förderung der Arbeitsaufnahme von Alleinerziehenden in unbefristete Arbeitsverhältnisse

Budget: DEM 0,38 million (EUR 0,19 million) per year

Aid intensity or amount: DEM 10 000 (approximately EUR 5 000) per worker/per year

Duration: Until 31 December 2006

Other information: Prorogation and modification of State aid N 190/95

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

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

Date of adoption of the decision: 5.2.2001

Member State: Germany (Mecklenburg-Vorpommern)

Aid No: N 634/2000

Title: Regional employment programmes

Objective: Employment

Legal basis:

— Richtlinien zur Förderung von regionalen Programmen zur Einstellungsförderung vom 16.2.2000

— Arbeitsförderungsreformgesetz, Lohnkostenzuschuss Ost nach § 415 Absatz 3 SGB III

Budget: DEM 36,46 million (EUR 18,564 million) per year

Aid intensity or amount:

(a) Maximum DEM 1 500 (EUR 767) per month/worker or 80 % of gross wage costs

(b) Maximum DEM 1 250 (EUR 639) per month/worker or 70 % of the gross wage costs

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 7.3.2001

Member State: Germany (Brandenburg)

Aid No: N 476/2000

Title: Extension of *Land* of Brandenburg programme to promote efficient energy use and renewable energy sources

Objective: Environment/renewable energy

Legal basis: Richtlinie zum Programm „Rationelle Energieanwendung und Nutzung erneuerbarer Energiequellen“ des Wirtschaftsministeriums des Landes Brandenburg; §§ 23, 44 Landeshaushaltsordnung (LHO) in der Fassung der Bekanntmachung vom 21.4.1999 (GVBI, I. S. 106)

Budget: 2000: DEM 7,1 million (approximately EUR 3,55 million); 2001-2003: DEM 5,1 million (approximately EUR 2,55 million) per year

Aid intensity or amount: 40 %; in some cases 50 %

Duration: Until 31 December 2003

Other information: Last approved under N 449/99

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

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

Date of adoption of the decision: 13.3.2001

Member State: Italy

Aid No: N 646/A/2000

Title: Measures to promote investment in less-favoured regions

Objective: Regional development

Legal basis: Disegno di legge recante disposizioni per la formazione del bilancio annuale e pluriennale dello Stato — legge finanziaria per l'anno 2001

Budget: ITL 9 000 billion (approximately EUR 4,6 billion) per year

Aid intensity or amount:

Regions eligible for Article 87(3)(a) derogation (maximum):

— Calabria: 50 % nge

— Basilicata: 35 % nge

— Campania: 35 % nge

— Apulia: 35 % nge

— Sardinia: 35 % nge

— Sicily: 35 % nge

All the intensity ceilings for the above aid are raised by 15 percentage points gross for SMEs

Regions eligible for Article 87(3)(c) derogation:

— 8 % nge

— 20 % nge for Abruzzi and Molise

The intensity ceilings for the above aid are raised by 10 percentage points gross for small firms and by six percentage points gross for medium-sized firms, with the exception of Abruzzi and Molise, where an increase of 10 percentage points gross is also proposed for medium-sized firms

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 15.3.2001

Member State: Germany (Brandenburg)

Aid No: N 212/2000

Title: Training aid concerning safety and health at work — *Land* Brandenburg

Objective: Training

Legal basis:

— Richtlinie des Ministeriums für Arbeit, Soziales, Gesundheit und Frauen über die Gewährung von Zuwendungen für die Erarbeitung und Umsetzung innovativer und modellhafter Lösungen zur sicherheitsgerechten Gestaltung von Arbeitsplätzen und Technologie

— Teil B: Förderung der Qualifizierung der Beschäftigten zur Verbesserung der Sicherheit und des Gesundheitsschutzes bei der Arbeit

Budget: DEM 2,8 million (EUR 1,43 million)

Aid intensity or amount: Maximum 50 % of eligible costs and maximum DEM 200 000 (EUR 102 258)

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 21.3.2001

Member State: Germany (assisted regions in Saarland)

Aid No: N 635/2000

Title: Aid for tourism in assisted regions in Saarland

Objective: Regional development; aid for productive investment

Legal basis: Landesprogramm „Verbesserung der regionalen Beschäftigungslage und Wirtschaftsstruktur", Teil Fremdenverkehr

Budget: In total, approximately DEM 17,9 million (EUR 9 million) for 2000-2003

Aid intensity or amount: Maximum aid intensity of 28 % gross for SMEs and 18 % gross for other firms

Duration: 2000-2003

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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 28.3.2001

Member State: Italy

Aid No: NN 13/2000 (ex N 783/99 and N 713/99)

Title: Automatic aid measures for less-favoured regions

Objective: Development of business fabric in less-favoured regions

Legal basis: Articolo 1 della legge n. 341/9; articolo 8, paragrafi 1 e 2, della legge n. 266/97; delibera del CIPE del 18 dicembre 1997; Circolari n. 900355 del 16 ottobre 1998 e 900027 del 20 gennaio 1999; bozza di delibera per l'estensione del regime in oggetto ai settori della produzione e distribuzione d'energia e delle costruzioni; bozza di circolare del ministro dell'Industria, del commercio e dell'artigianato recante modifiche all'articolo 1 della legge n. 341/95 e all'articolo 8, commi 1 e 2, della legge n. 266/97

Budget: ITL 1 000 billion (approximately EUR 515 million)

Aid intensity or amount:

Regions eligible for Article 87(3)(a) derogation (maximum):

— Calabria: 50 % nge

— Basilicata: 35 % nge

— Campania: 35 % nge

— Apulia: 35 % nge

— Sardinia: 35 % nge

— Sicily: 35 % nge

All the intensity ceilings for the above aid are raised by 15 percentage points gross for SMEs

Regions eligible for Article 87(3)(c) derogation:

— 8 % nge for Abruzzi and Molise, for which the aid intensity is 20 % nge

The intensity ceilings for the above aid are raised by 10 percentage points gross for small firms and by six percentage points gross for medium-sized firms, with the exception of Abruzzi and Molise, where an increase of 10 percentage points gross is also proposed for medium-sized firms

Areas not eligible for regional aid during the period 2000-2006:

— Maximum 7,5 % gross for medium-sized firms and 15 % gross for small firms

Duration: Until 31 December 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 11.4.2001

Member State: Portugal (all regions, with the exception of the Azores and Madeira)

Aid No: N 136/01

Title: Aid scheme for commercial town-planning projects

Objective: Development and promotion of SMEs in urban centres — Distributive trades and local services

Legal basis: Portaria do Conselho de Ministros

Budget: EUR 49,88 million

Aid intensity or amount: Variable

Duration: Until end of 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 18.4.2001

Member State: Spain (Balearic Islands)

Aid No: N 764/2000

Title: Aid for small-scale coastal fishing

Objective: To regulate the basis and conditions and the procedure for granting structural assistance under various measures in the fishery sector

Legal basis: Orden del Conseller de Agricultura y Pesca por la que se establece un régimen de ayudas con finalidad estructural en el sector de la pesca para la pesca costera artesanal

Budget: Approximately EUR 842 000

Aid intensity or amount: Scales and rates of assistance in Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector

Duration: 2000-2006

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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 10.4.2001

Member State: The Netherlands

Aid No: N 80/01

Title: Amendment of the Regulation on the reduction of sea fishing capacity

Objective: To reduce fishing effort by granting aid for the definitive cessation of sea fishing in EU waters

Legal basis: Wijziging van de Regelung capaciteitsvermindering zeevisserij

Budget: NLG 15,9 million (EUR 7 215 105,44)

Aid intensity or amount: Part-financing under the FIFG

Duration: 2000-2006 (all aid applications must be submitted between 1 January and 1 March 2001)

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

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

STATE AID

Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 8/2001 (ex NN 110/2000) — Aid to Pertusola Sud SpA

(2001/C 149/04)

By means of the letter dated 13 February 2001, 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 within one month of the date of publication of this summary and the following letter, to:

European Commission
Directorate-General for Competition
State aid Greffe
Rue Joseph II/Jozef II-straat 70
B-1000 Brussels
Fax (32-2) 296 12 42.

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

1. By letter dated 18 September 2000, Italy transmitted to the Commission a draft contract (hereinafter referred to as 'the contract') for the sale of Pertusola Sud SpA to Zincocalabra SpA. This was made with reference to Article 3(1)(a) of Commission Decision of 16 April 1997 [1] (hereinafter referred to as the '1997 decision'), the contract containing a suspensory clause whereby its validity depends on the Commission considering that it fulfils the conditions set in its 1997 decision. The contract also provides for the financing by Enirisorse SpA of the cleaning-up of past environmental damages (ITL 180 billion) in the Pertusola Sud site and for new investment aid to be notified to the Commission under the multisectoral framework [2]. This has not yet been done.

2. The contract was agreed between the parties, in August 2000, for the sale of Pertusola Sud SpA by Enirisorse SpA to Zincocalabra SpA. Pertusola Sud is in liquidation and has a capital of ITL 22 billion, constituted by 2 200 000 shares of a nominal value of ITL 10 000 each, owned at 100 % by Enirisorse. These shares will be sold in their totality to Zincocalabra SpA. The price will be set at a later stage and depends on the value of the assets of the company at that time.

3. Enirisorse SpA is a State holding, owned 100 % by another Italian State holding ENI. Enirisorse SpA, which is currently under liquidation, in its turn, owned several industrial companies, one of which is Pertusola Sud SpA, a zinc producer established in Crotone, Calabria.

4. Zincocalabra SpA is a new company owned by a private group of companies led by Cogefin SpA, an Italian group whose companies operate mostly in the zinc sector. Zincocalabra SpA intends to extend the zinc production of Pertusola to 185 000 tonnes per year and to carry out an investment programme, with a total cost of ITL 500 billion, for which it considers contributing with ITL 250 billion. The remaining 50 % is expected to come from public funding as regional aid, to be notified under the multisectoral framework. Another provision of the contract includes the payment by Enirisorse SpA of the costs to repair past environmental damage up to ITL 180 million, to which Enirisorse has already agreed.

Assessment of the measure/aid

5. The aid that the Commission approved in its 1997 decision to Enirisorse SpA, a part of which was directly attributed to Pertusola Sud, was assessed on the basis of the Community guidelines on State aid for rescuing and restructuring firms in difficulty in force at that time [3]. According to the restructuring plan submitted, which the decision required to be fully implemented, the privatisation of Pertusola Sud should have taken place by the end of 1997, failing what it would be closed and scrapped. In any case, the company would not produce zinc any more. The closed capacity (110 000 tonnes per year) was considered by the Commission as a way to counterbalance the negative effects on competition that the aid would have.

[1] Commission Decision of 16 April 1997, on the aid granted by Italy to Enirisorse SpA (OJ L 80, 18.3.1998, p. 32).

[2] Multisectoral framework on regional aid for large investment projects (OJ C 107, 7.4.1998, p. 7).

[3] OJ C 368, 23.12.1994, p. 12.

6. The Italian authorities justify the current proposal to sell the company to a zinc producer by stating that at present the zinc sector does not suffer from overcapacity nor did it at the time of the decision. They consider that the privatisation or closure of Pertusola Sud was required because the company was the main party responsible for the losses incurred by Enirisorse, which led to the necessary restructuring and restructuring aid. For that reason they believe that a restriction concerning the sector should not remain in place. There was, however, a commitment by the Italian authorities that if the privatisation of Pertusola under way would not succeed, the company would then be closed and scrapped. The 1997 decision has not been changed by the Commission nor challenged by the Italian authorities in the European Court of Justice. Italy must therefore comply with it in full.

7. Whilst trying to justify, on the one hand, that there is no standing obligation to privatise the company outside the zinc sector, on the other hand, the Italian authorities take the position that they complied with the 1997 decision and that they closed down the company. This would be because the company stopped production in October 1999 and some of its equipment has been dismantled in the meantime. However, this was not the alternative condition to privatisation in the 1997 decision. Although the company stopped production in February 1999, it was not closed down and has even kept the same equity capital and an important number of its employees. And at present, more than one and a half years after the deadline to privatise or close down the company, the Italian authorities propose to sell it to a zinc producer. The proposed sale is not in the form of an asset deal but of a normal share deal. The change of ownership does not entail a discharge of the company's responsibilities. The obligations imposed upon the company by the 1997 and 1998 decisions remain normally with the company.

8. The Italian authorities also report that Pertusola Sud has been under liquidation since 31 March 1998 and that since then Enirisorse has made no new capital injection in favour of Pertusola Sud but it has met the financial needs of Pertusola, in order to allow its liquidation as a solvent company. The payment by Enirisorse of Pertusola Sud's financial obligations seems in contradiction to the 1998 decision, which considered that the aid that had been used to cover losses of Pertusola Sud was illegal and incompatible and ordered its recovery.

9. As regards the proposed payment (ITL 180 billion) by Enirisorse to repair past environmental damages by Pertusola Sud, the Italian authorities report that these refer to costs of repairing past environmental damage which are obligatory according to the new Italian environmental law of 5 February 1997. Such damage would be a result of the metallurgic activity that was carried out on the site for 70 years. The Italian authorities report that it belongs to Enirisorse, as the current owner of Pertusola Sud, to bear the costs of such cleaning. According to the Italian authorities the financing by Enirisorse of these environmental costs is not covered by the Community guidelines on State aid for environmental protection [4] (hereinafter referred to as the 'guidelines').

10. The guidelines are based on 'the polluter pays' principle. Only when the polluter can no longer be identified or called to account can the costs to repair past damage to the environment not fall under Article 87(1) of the EC Treaty. According to the guidelines, such cases will then be examined on their own merits. On the basis of the information provided, Pertusola Sud is the entity responsible for the pollution of its industrial site and therefore for the costs of cleaning it up. If a State holding company decides to cover the costs that belong to one of its subsidiaries, it does not mean that the State is acting as a private investor and not as a provider of State resources. On the contrary, given the 1997 and 1998 decisions concerning Pertusola Sud, the Commission, in its preliminary assessment of this measure, has serious doubts that the payments made by Enirisorse to cover costs belonging to Pertusola Sud might be assimilated to normal private investor behaviour. It is difficult to see which new circumstances would have changed the assessment of these cost payments.

Conclusion

11. In the light of the foregoing considerations, the Commission, at this stage of the procedure, cannot accept that the notified 'contract' fulfils Article 3(1)(a) of the 1997 decision. It therefore decided, in accordance with Article 6 of Council Regulation (EC) No 659/1999 of 22 March 1999, to initiate the procedure laid down in Article 88(2) of the EC Treaty, on the following grounds:

— possible misuse of aid approved under the 1997 decision for Pertusola Sud,

— possible qualification as State aid of payments by Enirisorse of financial obligations belonging to Pertusola Sud in order to keep the company solvent while in liquidation and its possible incompatibility with the common market,

— possible qualification as State aid of payments by Enirisorse of environmental costs belonging to Pertusola Sud and its possible incompatibility with the common market.

[4] OJ C 72, 10.3.1994, p. 3.

TEXT OF THE LETTER

'La Commissione si pregia informare l'Italia che dopo aver esaminato le informazioni fornite dalle autorità italiane sull'aiuto in oggetto, ha deciso di avviare il procedimento ai sensi dell'articolo 88, paragrafo 2, del trattato CE.

I. **Procedimento**

1. Con lettera datata 18 settembre 2000, l'Italia ha trasmesso alla Commissione un progetto di contratto (in appresso denominato «il contratto») per la vendita di Pertusola Sud SpA a Zincocalabra SpA, gruppo privato di società facente capo a Cogefin SpA. Tale trasmissione è avvenuta conformemente all'articolo 3, paragrafo 1, lettera a) della decisione della Commissione del 16 aprile 1997 ([5]) (in appresso denominata «la decisione del 1997»), considerato che il contratto contiene una clausola sospensiva che subordina la validità del medesimo all'accertamento da parte della Commissione del rispetto delle condizioni stabilite nella decisione del 1997. Il contratto prevede inoltre il finanziamento (180 miliardi di ITL) da parte di Enirisorse SpA dei lavori di bonifica di danni ambientali pregressi presso il sito industriale di Pertusola Sud nonché nuovi investimenti soggetti a notifica alla Commissione ai sensi della disciplina multisettoriale ([6]), notifica che non è ancora stata effettuata.

2. Con lettera del 26 settembre 2000, la Commissione ha chiesto alle autorità italiane informazioni supplementari, che le sono pervenute con lettera datata 1º dicembre 2000.

II. **Antefatti**

3. Enirisorse SpA è una holding pubblica, controllata al 100 % da un'altra holding pubblica italiana, ENI. Enirisorse SpA, attualmente in liquidazione, possedeva varie società industriali, tra cui Pertusola Sud SpA, che produce zinco ed è situata a Crotone (Calabria).

4. Nell'aprile 1997 la Commissione ha approvato un aiuto (1 819 miliardi di ITL) concesso dall'Italia in favore di Enirisorse SpA per la ristrutturazione di alcune delle sue società, inclusa Pertusola Sud SpA. L'aiuto destinato a Pertusola Sud SpA ammontava a 280 miliardi di ITL e copriva il periodo 1992-1996. Nella decisione del 1997 la Commissione ha imposto all'Italia di rispettare gli impegni indicati nel piano di ristrutturazione, ossia di privatizzare le rimanenti società e gli stabilimenti di produzione di Enirisorse SpA, tra cui Pertusola Sud.

5. Secondo la decisione del 1997, Pertusola Sud SpA doveva essere chiusa e smantellata nel 1997 oppure essere ceduta ad un acquirente che avesse espresso interesse all'acquisto. In ogni caso non doveva più produrre zinco. La Commissione aveva inoltre considerato che la riduzione del 45 % della capacità di produzione di zinco di Enirisorse SpA, che era rappresentata dalla chiusura di Pertusola Sud, fosse una contropartita sufficiente dell'aiuto concesso alla società. Essa aveva quindi ritenuto che l'aiuto non avrebbe inciso sulla concorrenza in misura contraria all'interesse comune.

6. Nel novembre 1998, la Commissione ha adottato un'altra decisione concernente Enirisorse SpA e Pertusola Sud ([7]) (in appresso denominato «la decisione del 1998») nella quale ha dichiarato incompatibile con il mercato comune un nuovo conferimento di capitale di 133 miliardi di ITL in favore di Enirisorse SpA — di cui 34 miliardi destinati a ripianare le perdite di Pertusola Sud — e ne ha ordinato il recupero maggiorato degli interessi. Con lettera del 7 aprile 1999, le autorità italiane hanno informato la Commissione che la decisione era stata pienamente attuata.

III. **Descrizione della misura**

7. Il contratto relativo alla vendita di Pertusola Sud SpA da parte di Enirisorse SpA a Zincocalabra SpA è stato stipulato tra le parti nell'agosto 2000. Pertusola Sud è in liquidazione ed ha un capitale sociale di 22 miliardi di ITL, costituito da 2 200 000 azioni del valore nominale di 10 000 ITL ciascuna, detenute al 100 % da Enirisorse. Tali azioni saranno cedute nella loro totalità a Zincocalabra SpA. Il prezzo sarà stabilito ad una data successiva in funzione del valore che avranno all'epoca gli attivi della società.

8. Zincocalabra SpA è una nuova società di proprietà di un gruppo privato di società facente capo al gruppo italiano Cogefin SpA, le cui società operano prevalentemente nel settore dello zinco. Zincocalabra SpA intende accrescere la produzione di zinco di Pertusola portandola a 185 000 tonnellate all'anno e realizzare un programma di investimenti, del costo totale di 500 miliardi di ITL, cui conta contribuire con 250 miliardi di ITL. Il rimanente 50 % dovrebbe provenire da un finanziamento pubblico concesso a titolo di aiuto regionale e soggetto a notifica alla Commissione in base alla Disciplina multisettoriale. Tra le varie clausole, il contratto prevede il pagamento da parte di Enirisorse SpA dei costi di bonifica di pregressi danni ambientali a concorrenza di 180 milioni di ITL, pagamento cui Enirisorse ha già acconsentito.

IV. **Valutazione della misura/aiuto**

9. L'aiuto approvato dalla Commissione nella decisione del 1997 in favore di Enirisorse SpA, in parte direttamente destinato a Pertusola Sud, era stato valutato sulla base degli orientamenti comunitari sugli aiuti di Stato per il salvataggio e la ristrutturazione di imprese in difficoltà in vigore all'epoca ([8]). Secondo il piano di ristrutturazione presentato, del quale la decisione esigeva l'attuazione integrale, la privatizzazione di Pertusola Sud SpA avrebbe dovuto aver luogo entro la fine 1997; in caso contrario l'impresa sarebbe stata chiusa e smantellata. In ogni caso la società non poteva più produrre zinco. La capacità chiusa (110 000 tonnellate all'anno) era considerata dalla Commissione come un'equa contropartita degli eventuali effetti negativi dell'aiuto sulla concorrenza.

([5]) Decisione della Commissione del 16 aprile 1997, sull'aiuto concesso dall'Italia in favore di Enirisorse SpA (GU L 80 del 18.3.1998, pag. 32).

([6]) Disciplina multisettoriale sugli aiuti regionali per i grandi progetti d'investimento (GU C 107 del 7.4.1998, pag. 7).

([7]) Decisione della Commissione del 25 novembre 1998 sull'aiuto di Stato concesso dall'Italia a Enirisorse SpA (GU L 120 del 20.5.2000, pag. 1).

([8]) GU C 368 del 23.12.1994, pag. 12.

10. La proposta attuale riguarda la vendita di Pertusola Sud SpA a Zincocalabra, la quale non solo intende continuare a produrre zinco, ma anche aumentare la capacità di produzione iniziale per portarla a 185 000 tonnellate all'anno. Nel sostenere che questa proposta di vendita sarebbe conforme con la decisione del 1997, le autorità italiane affermano che l'obbligo di privatizzare l'impresa al di fuori del settore dello zinco valeva unicamente per l'offerta esistente all'epoca. Allorché venne presentato il piano di ristrutturazione, erano infatti in corso negoziati con l'unico potenziale acquirente interessato, che intendeva passare dalla produzione di zinco a quella di nichel. Giacché l'offerta non si è concretizzata per ragioni non attribuite ad Enirisorse o alle autorità italiane, queste ultime ritengono che la restrizione di privatizzare la società al di fuori del settore dello zinco non sia più valida.

11. A sostegno di tale posizione, le autorità italiane dichiarano che attualmente il settore dello zinco non soffre di sovraccapacità né ne soffriva all'epoca della decisione. A loro avviso la privatizzazione o la chiusura di Pertusola Sud SpA era stata richiesta unicamente perché la società era la causa principale delle perdite registrate da Enirisorse, perdite che avevano portato alla indispensabile ristrutturazione e quindi all'aiuto alla ristrutturazione. Per tale motivo esse ritengono che la restrizione concernente il settore non dovrebbe più sussistere.

12. Tuttavia, secondo il piano di ristrutturazione, sul quale si basava la decisione, la società doveva essere privatizzata al di fuori del settore dello zinco oppure essere chiusa e smantellata. Come indicato nella decisione, «essa però non produrrà più zinco». Tale obbligo non può essere interpretato in relazione alle intenzioni nutrite all'epoca dal potenziale acquirente. L'impegno assunto prevedeva che in caso di insuccesso della privatizzazione di Pertusola allora in corso, la società sarebbe stata chiusa e smantellata. La decisione del 1997 non è stata modificata dalla Commissione né è stata impugnata dalle autorità italiane dinanzi la Corte di giustizia europea. Pertanto l'Italia deve conformarvisi integralmente.

13. Pur tentando di giustificare che non vi era alcun obbligo permanente di privatizzare la società al di fuori del settore dello zinco, le autorità italiane sostengono di aver rispettato la decisione del 1997 e di avere chiuso la società giacché quest'ultima ha cessato la produzione nell'ottobre 1999 e parte dell'impianto è stato nel frattempo smantellato. Tuttavia, tale non era la condizione alternativa alla privatizzazione stabilita nella decisione del 1997. Infatti, benché abbia cessato la produzione nel febbraio 1999, la società non è stata chiusa, e anzi ha perfino conservato lo stesso capitale azionario ed ha un organico considerevole. Attualmente, a distanza di vari anni dalla scadenza fissata per la privatizzazione o la chiusura della società, le autorità italiane propongono di venderla ad un produttore di zinco. La vendita proposta non è prevista come vendita di cespiti, bensì come normale cessione di azioni. Tutte le azioni rappresentanti il capitale di Pertusola Sud SpA devono essere cedute a Zincocalabra SpA, la quale si è perfino impegnata a rilevare l'organico attuale di Pertusola Sud. Quando la vendita di una società avviene sotto forma di vendita di azioni, gli obblighi che incombono alla società persistono, a prescindere dall'identità dei nuovi azionisti. Il cambiamento dell'assetto proprietario non comporta l'estinzione delle responsabilità della società. Gli obblighi imposti alla società dalle decisioni del 1997 e del 1998, di norma, continuano ad incombere alla società.

14. L'aiuto approvato nella decisione del 1997 in favore di Pertusola Sud era subordinato all'adempimento di una o l'altra di due condizioni: chiusura oppure privatizzazione al di fuori del settore dello zinco. In base all'analisi di cui sopra, la Commissione nutre seri dubbi che l'aiuto approvato nel 1997 sia stato debitamente utilizzato e ritiene, al contrario, che potrebbe essere stato attuato in maniera abusiva ai sensi dell'articolo 16 del regolamento (CE) n. 659/1999 del Consiglio del 22 marzo 1999 ([9]) (in appresso denominato «il regolamento procedurale») e dell'articolo 88, paragrafo 2 del trattato della CE.

15. Le autorità italiane informano inoltre che Pertusola Sud è in liquidazione dal 31 marzo 1998 e che, da allora, Enirisorse, pur continuando a coprire i fabbisogni finanziari di Pertusola Sud al fine di permetterne la liquidazione in quanto società solvibile, non ha più effettuato nuovi conferimenti di capitale in suo favore. Secondo la Commissione, il pagamento da parte di Enirisorse degli obblighi finanziari di Pertusola Sud può essere in contraddizione con la decisione del 1998, la quale stabiliva che gli aiuti che fossero stati utilizzati per coprire le perdite di Pertusola Sud erano illegali e incompatibili e ne ordinava il recupero. Nel giustificare la sua decisione negativa la Commissione ha affermato che l'aiuto non poteva essere utilizzato per ristrutturare imprese «di cui la chiusura è imminente e comunque non potrà essere successiva al 31 dicembre 1998». La decisione di permettere la liquidazione di Pertusola Sud in quanto società solvibile sembra in contraddizione con l'obbligo di procedere alla chiusura della medesima, come ribadito nella decisione del 1998. In ogni caso, i pagamenti suddetti avrebbero dovuto essere notificati alla Commissione, cosa che le autorità italiane non hanno fatto. Pertanto, nella sua valutazione preliminare la Commissione ritiene che quei pagamenti possano costituire aiuti di Stato, che sarebbero illegali e che potrebbero essere considerati incompatibili con il mercato comune.

16. Quanto al pagamento di 180 miliardi di ITL da parte di Enirisorse per risanare pregressi danni ambientali causati da Pertusola Sud, le autorità italiane informano che si tratta dei costi dei lavori di bonifica di danni ambientali pregressi, lavori che erano obbligatori in base alla nuova legge ambientale italiana del 5 febbraio 1997. I danni in questione sarebbero imputabili all'attività metallurgica svolta presso lo stabilimento nell'arco di settant'anni. La perizia ordinata dal potenziale nuovo acquirente ed inviata alla Commissione dalle autorità italiane conclude infatti che lo stabilimento di Pertusola Sud non soddisfa le nuove norme in materia di inquinamento del suolo e delle acque di falda. In alcune aree i livelli d'inquinamento sono tali da dover definire estremamente pericolose le condizioni esistenti. Le autorità italiane aggiungono inoltre che spetta ad Enirisorse, in quanto attuale proprietario di Pertusola Sud, sostenere i costi di detti lavori di bonifica e precisano che il finanziamento da parte di Enirisorse di questi costi ambientali non rientra nell'ambito della disciplina comunitaria sugli aiuti di Stato per la tutela dell'ambiente ([10]) (in appresso denominata «la disciplina»).

([9]) GU L 83 del 27.3.1999, pag. 1.

([10]) GU C 72 del 10.3.1994, pag. 3.

17. La disciplina si basa sul principio «chi inquina paga». Solo qualora i responsabili dell'inquinamento non possano essere identificati o chiamati a renderne conto, i costi di risanamento di danni pregressi all'ambiente possono non rientrare nel disposto dell'articolo 87, paragrafo 1, del trattato. Se una holding pubblica decide di coprire i costi che spettano a una delle sue affiliate, ciò non significa che lo Stato agisce a titolo di investitore privato e non quale erogatore di risorse pubbliche. Al contrario, considerate le decisioni del 1997 e del 1998 concernenti Pertusola Sud, la Commissione nutre seri dubbi sulla possibilità di assimilare i pagamenti effettuati da Enirisorse per coprire i costi a carico di Pertusola Sud al comportamento di un normale investitore privato. È difficile individuare quali nuove circostanze avrebbero potuto mutare la valutazione di detti pagamenti. In base alle informazioni in suo possesso, la Commissione, nella sua valutazione preliminare, ritiene che siffatti pagamenti possano costituire aiuti di Stato e dubita della loro compatibilità con le discipline comunitarie e con il mercato comune.

18. Quanto all'eventuale aiuto all'investimento di cui il nuovo acquirente intende beneficiare, la Commissione può solo prendere atto dell'intenzione delle autorità italiane di notificarlo in base alla disciplina multisettoriale e presume che tale notifica non sarà effettuata in attesa della decisione finale sulle questioni in esame.

V. **Conclusione**

19. In base alle suddette considerazioni, la Commissione, in questa fase del procedimento, dubita che il «contratto» notificato rispetti l'articolo 3, paragrafo 1, lettera a) della decisione del 1997. Pertanto, ai sensi dell'articolo 6 del regolamento procedurale, essa ha deciso di avviare il procedimento previsto dall'articolo 88, paragrafo 2, del trattato CE per i seguenti motivi:

— l'aiuto approvato in base alla decisione 1997 in favore di Pertusola Sud potrebbe essere stato attuato in modo abusivo,

— i pagamenti effettuati da Enirisorse di obblighi finanziari incombenti a Pertusola Sud al fine di mantenere solvibile la società sebbene in liquidazione, potrebbero essere definiti aiuti di Stato e, se del caso, essere incompatibili con il mercato comune,

— i pagamenti effettuati da Enirisorse di costi ambientali a carico di Pertusola Sud potrebbero essere definiti aiuti di Stato e, se del caso, incompatibili con il mercato comune.

20. La Commissione invita quindi l'Italia a farle pervenire le sue osservazioni e a fornirle tutte le informazioni ritenute utili ai fini della valutazione delle misure in questione entro un mese dalla data di ricezione della presente. Ciò dovrebbe contenere, tra l'altro, informazioni sugli strumenti finanziari messi a disposizione della società per consentirle di rimanere solvibili sebbene in liquidazione nonché su tutti i conti di Pertusola Sud indicanti i flussi di capitali, incluso l'esborso dell'aiuto oggetto della decisione del 1998. La Commissione invita inoltre le autorità italiane a trasmettere senza indugio copia della presente al beneficiario dell'aiuto.

21. La Commissione desidera richiamare all'attenzione dell'Italia che l'articolo 88, paragrafo 3, del trattato della 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. La Commissione comunica all'Italia che informerà gli interessati attraverso la pubblicazione della presente lettera e di una sintesi della medesima nella *Gazzetta ufficiale delle Comunità europee*. Informerà inoltre gli interessati nei paesi EFTA, firmatari dell'accordo SEE, attraverso la pubblicazione di un avviso nel supplemento SEE della Gazzetta ufficiale e informerà infine l'Autorità di vigilanza EFTA inviandole copia della presente. Tutti gli interessati saranno invitati a presentare le loro osservazioni entro un mese dalla data di detta pubblicazione.'

NOTICE OF THE COMMISSION

relating to the revision of the 1997 notice on agreements of minor importance which do not fall under Article 81(1) of the EC Treaty

(2001/C 149/05)

(Text with EEA relevance)

The Commission invites all interested parties to submit their written observations on the following draft of a revised notice on agreements of minor importance. Observations should be sent in the two months following the date of the present publication to the following address:

European Commission
Directorate General for Competition
Unit A-2
J 70 — 5/203
Rue de la Loi/Wetstraat 200
B-1049 Brussels

Internet address: Lucas.Peeperkorn@cec.eu.int.

Draft Notice on agreements of minor importance which do not appreciably restrict competition under Article 81(1) of the Treaty establishing the European Community (*de minimis*) [1]

I

1. Article 81(1) prohibits agreements which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market. The Court of Justice of the European Communities has clarified that this provision is not applicable where the impact of the agreement on intra-community trade or on competition is not appreciable.

2. In the present notice the Commission quantifies, with the help of market share thresholds, what is not an appreciable restriction of competition under Article 81 of the EC Treaty. This negative definition of appreciability does not imply that agreements between undertakings which exceed the thresholds set out in this notice appreciably restrict competition. Such agreements may still have only a negligible effect on competition within the common market and may therefore not be caught by Article 81(1) [2].

3. Agreements may also not be caught by Article 81(1) because they are not capable of appreciably affecting trade between Member States. This notice does not deal with this issue. It does not quantify what does or does not constitute an appreciable effect on trade.

4. In cases covered by this notice, and subject to point 11, the Commission will not institute proceedings either upon application or on its own initiative. Where undertakings assume in good faith that an agreement is covered by this notice, the Commission will not impose fines. Although not binding on them, this notice also intends to give guidance to the courts and authorities of the Member States in their application of Article 81.

5. This notice also applies to decisions by associations of undertakings and to concerted practices.

6. This notice is without prejudice to any interpretation of Article 81 which may be given by the Court of Justice or the Court of First Instance of the European Communities.

7. This notice is without prejudice to the application of national competition laws.

II

8. The Commission holds the view that agreements between undertakings which affect trade between Member States do not appreciably restrict competition within the meaning of Article 81(1):

   (a) if the aggregate market share held by all the parties to the agreement does not exceed 10 % on any of the relevant markets affected by the agreement, where the agreement is made between undertakings which are actual or potential competitors on any of the affected relevant markets (agreements between competitors) [3]; or

[1] This notice replaces the notice on agreements of minor importance published in OJ C 372, 9.12.1997.

[2] See for instance the judgment of the Court of Justice in Joined Cases C-215/96 and C-216/96 *Bagnasco (Carlos)* v *Banca Popolare di Novara* and *Casa di Risparmio di Genova e Imperia* (1999) ECR I-135, points 34-35.

[3] On what are actual or potential competitors, see the Commission Notice 'Guidelines on the applicability of Article 81 of the EC Treaty to horizontal cooperation agreements', OJ C 3, 6.1.2001, p. 2, paragraph 9.

(b) if the market share held by each of the parties to the agreement does not exceed 15 % on any of the relevant markets affected by the agreement, where the agreement is made between undertakings which are not actual or potential competitors on any of the affected relevant markets (agreements between non-competitors).

In cases where it is difficult to classify the agreement as either an agreement between competitors or an agreement between non-competitors the 10 % threshold is applicable.

9. Where in an affected relevant market competition is restricted by the cumulative effect of parallel networks of agreements for the sale of goods or services established by several suppliers or distributors and which have similar effects on the market, the market share threshold under point 8 is reduced to 5 %, both for agreements between competitors and for agreements between non-competitors. The agreements of a supplier or distributor with a market share not exceeding 5 % are in general not considered to contribute significantly to a cumulative foreclosure effect resulting from agreements of several suppliers or distributors ([1]).

10. The Commission also holds the view that the said agreements are not restrictive of competition if the market shares given at point 8 and 9 are exceeded by no more than one percentage point during two successive calendar years.

11. In order to calculate the market share, it is necessary to determine the relevant market. This consists of the relevant product market and the relevant geographic market. When defining the relevant market, reference should be had to the notice on the definition of the relevant market for the purposes of Community competition law ([2]).

12. Provided that the condition of effect on trade between Member States is fulfilled, agreements containing any of the following hardcore restrictions do not benefit from the thresholds set out in points 8, 9 and 10 and are unlikely to qualify for individual exemption:

(1) horizontal agreements (i.e. agreements between undertakings operating at the same level of the production or distribution chain) which, directly or indirectly, in isolation or in combination with other factors under the control of the parties, have as their object:

(a) the fixing of prices when selling the products to third parties;

(b) the limitation of output or sales;

(c) the allocation of markets or customers;

(2) vertical agreements (i.e. agreements between undertakings operating, for the purposes of the agreement, at a different level of the production or distribution chain) which, directly or indirectly, in isolation or in combination with other factors under the control of the parties, have as their object:

(a) the restriction of the buyer's ability to determine its sale price, without prejudice to the possibility of the supplier imposing a maximum sale price or recommending a sale price, provided that they do not amount to a fixed or minimum sale price as a result of pressure from, or incentives offered by, any of the parties;

(b) the restriction of the territory into which, or of the customers to whom, the buyer may sell the contract goods or services, except the following restrictions which are not hardcore:

— the restriction of active sales into the exclusive territory or to an exclusive customer group reserved to the supplier or allocated by the supplier to another buyer, where such a restriction does not limit sales by the customers of the buyer,

— the restriction of sales to end users by a buyer operating at the wholesale level of trade,

— the restriction of sales to unauthorised distributors by the members of a selective distribution system, and

— the restriction of the buyer's ability to sell components, supplied for the purposes of incorporation, to customers who would use them to manufacture the same type of goods as those produced by the supplier;

(c) the restriction of active or passive sales to end-users by members of a selective distribution system operating at the retail level of trade, without prejudice to the possibility of prohibiting a member of the system from operating out of an unauthorised place of establishment;

(d) the restriction of cross-supplies between distributors within a selective distribution system, including between distributors operating at different levels of trade;

([1]) See also the Commission Notice 'Guidelines on vertical restraints', OJ C 291, 13.10.2000, in particular paragraphs 73, 142 and 189. While in the guidelines on vertical restraints in relation to certain restrictions reference is made not only to the total but also to the tied market share, in this notice the market share thresholds all refer to total market shares.

([2]) OJ C 372, 9.12.1997, p. 5.

(e) the restriction agreed between a supplier of components and a buyer who incorporates those components, which limits the supplier's ability to sell the components as spare parts to end-users or to repairers or other service providers not entrusted by the buyer with the repair or servicing of its goods.

(3) vertical agreements entered into between actual or potential competitors if they contain any of the hardcore restrictions listed in paragraph (1) or (2) above.

The above hardcore restrictions may however escape the prohibition laid down in Article 81(1) in particular in cases where the agreement does not affect trade between Member States. Case-law has established, especially with regard to territorial protection in vertical agreements, that there is no violation of Article 81(1) in cases where the agreement has only an insignificant effect on the relevant markets due to the weak positions which the parties concerned have on the markets in question [1]. Agreements between small and medium-sized undertakings, as defined in the annex to Commission Recommendation 96/280/EC [2], are rarely capable of affecting trade between Member States.

13. (1) For the purposes of this notice, the terms 'undertaking', 'party to the agreement', 'distributor', 'supplier' and 'buyer' shall include their respective connected undertakings.

(2) 'Connected undertakings' are:

(a) undertakings in which a party to the agreement, directly or indirectly:

— has the power to exercise more than half the voting rights, or

— has the power to appoint more than half the members of the supervisory board, board of management or bodies legally representing the undertaking, or

— has the right to manage the undertaking's affairs;

(b) undertakings which directly or indirectly have, over a party to the agreement, the rights or powers listed in (a);

(c) undertakings in which an undertaking referred to in (b) has, directly or indirectly, the rights or powers listed in (a);

(d) undertakings in which a party to the agreement together with one or more of the undertakings referred to in (a), (b) or (c), or in which two or more of the latter undertakings, jointly have the rights or powers listed in (a);

(e) undertakings in which the rights or the powers listed in (a) are jointly held by:

— parties to the agreement or their respective connected undertakings referred to in (a) to (d), or

— one or more of the parties to the agreement or one or more of their connected undertakings referred to in (a) to (d) and one or more third parties.

(3) For the purposes of paragraph 2(e), the market share held by these jointly held undertakings shall be apportioned equally to each undertaking having the rights or the powers listed in paragraph 2(a).

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[1] See the following judgments of the Court of Justice: Case 5/69 *Völck* v *Vervaecke* (1969) ECR 295; Case 1/71 *Cadillon* v *Höss* (1971) ECR 351; Case 19/77 *Miller International Schallplatten* v *Commission* (1978) ECR 131; Case C-70/93 *BMW AG* v *ALD Auto-Leasing D GmbH* (1995) ECR I-3439; Case C-306/96 *Javico International and Javico AG* v *Yves Saint Laurent Parfums SA* (1998) ECR I-1983.

[2] OJ L 107, 30.4.1996, p. 4.

Commission communication on the Commission findings concerning reciprocal treatment with the Cayman Islands within the meaning of Article 5(1)(d) and (3) and Article 29(5) of Council Regulation (EC) No 40/94 on the Community trade mark

(2001/C 149/06)

Under rule 101(1) of Commission Regulation (EC) No 2868/95 [1]), the President of the Office for Harmonisation of the Internal Market (OHMI) has asked the Commission to establish whether the Cayman Islands accord to nationals of all Member States of the Community reciprocal treatment within the meaning of Article 5(1)(d) and (3) and Article 29(5) of the Community trade mark Regulation [2]), as modified by Council Regulation (EC) No 3288/94 [3]).

The Commission has examined the corresponding trade mark laws and has exchanged correspondence with the authorities of the United Kingdom.

— Under Article 5(1)(d) of the Community trade mark Regulation, nationals of any State which is not party to the Paris Convention or to the Agreement establishing the World Trade Organisation; and which, according to published findings, accords to nationals of all the Member States the same protection for trade marks as it accords to its own nationals and, if nationals of the Member States are required to prove registration in the country of origin, recognises the registration of Community trade mark as such proof, may be proprietors of Community trade marks.

According to the Cayman Islands legislation, Articles 6 and 9 of the Cayman Islands Patents and Trade Marks Law (1995 Revision), the owner of a trade mark registered in the United Kingdom may apply to have such right extended to the Islands. The effect of such extension is to afford in the Islands to the owner of such right the protection and rights afforded to an owner of a trade mark by virtue of the Merchandise Marks Law, 1976 and all the equivalent rights and remedies available to such owner in the United Kingdom.

Likewise, according to the revision of the Cayman Islands legislation as amended by the Patents and Trade Marks (Amendment) (Community Trade Marks) Law of 1998, Community trade mark owners may also apply to the Cayman Islands Registrar to have their trade mark extended to the Cayman Islands in the same conditions.

Section 6 of the Cayman Islands Patents and Trade Marks Regulations (1998 Revision), which according to the United Kingdom authorities is of application to Community trade marks, imposes an obligation on an applicant for the extension to the Cayman Islands of a trade mark to prove the existence of his previous right by a certified extract of registration. This provision also applies to Community trade marks. Thus, in accordance with Article 5(3) of the Community trade mark Regulation, nationals of the Cayman Islands must therefore prove that the trade mark for which an application for a Community trade mark has been submitted is registered in the Cayman Islands.

Thus, the Office for Harmonisation must accept, pursuant to Article 5(1)(d) and (3) of the Community trade mark Regulation, trade mark applications from nationals of the Cayman Islands, provided that the trade mark for which an application for a Community trade mark has been submitted is registered in the Cayman Islands.

— Article 29 (5) of the Community trade mark Regulation provides that a person who has duly filed an application for a trade mark in a State which is not a party to the Paris Convention or to the Agreement establishing the World Trade Organisation, may only claim the priority date of that filing for the purpose of the filing of that mark as a Community trade mark, in so far as the State concerned accepts Community trade mark applications as a first filing for the purpose of the claiming of priority in relation to the filing of the same mark at its own Trade Mark Office.

However, under the Cayman Islands trade mark system, the owner of a Community trade mark may only apply for the extension of such trade mark to the territory of the Cayman Islands but cannot file an application for a Cayman Island trade mark on the basis of a previous application for a Community trade mark. Therefore, the right of priority, as established in Article 29(5) of the Community trade mark Regulation does not apply.

([1]) OJ L 303, 15.12.1995, p. 31. Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark.

([2]) OJ L 11, 14.1.1994, p. 1. Council Regulation (EC) No 40/94 on the Community trade mark.

([3]) OJ L 349, 31.12.1994, p. 83.

CONCLUSIONS

This examination has shown that reciprocal treatment within the meaning of Article 5(1)(d) and 5(3) of the Community trade mark Regulation can be accorded to the Cayman Islands.

This examination has also shown that reciprocal treatment within the meaning of Article 29(5) of the Community trade mark Regulation cannot be accorded to the Cayman Islands.

These findings are effective as of 14 April 1998.

LIST OF APPROVED FIRMS

First subparagraph of Article 92(3) of Commission Regulation (EC) No 1623/2000

(public sale of wine alcohol for use as bioethanol in the fuel sector within the European Community)

(2001/C 149/07)

(This list replaces the list published in *Official Journal of the European Communities* C 83 of 14 March 2001, page 15)

1. ECOCARBURANTES ESPAÑOLES SA

   — administrative address: Poligono Industrial Cabezo Cortado, Avenida del Este S/N, E-30100 Espinardo (Murcia),

   — address of plant: Valle de Escombreras, E-30350 Cartagena (Murcia)

2. SEKAB (SVENSK ETANOLKEMI AB)

   — administrative and plant address: Hörneborgsvägen 11, S-891 26 Örnsköldsvik,

   — address of other plant: c/o IMA srl (Industria Meridionale Alcolici), via Isolella 1, I-91100 Trapani.

Non-opposition to a notified concentration

(Case COMP/M.1930 — Ahlstrom/Andritz)

(2001/C 149/08)

(Text with EEA relevance)

On 30 May 2000 the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),

— in electronic form in the 'CEN' version of the CELEX database, under document No 300M1930. CELEX is the computerised documentation system of European Community law.

For more information concerning subscriptions please contact:

EUR-OP,
Information, Marketing and Public Relations,
2, rue Mercier,
L-2985 Luxembourg.
Tel. (352) 29 29 427 18, fax (352) 29 29 427 09.

Non-opposition to a notified concentration

(Case COMP/M.2312 — Abbott/BASF)

(2001/C 149/09)

(Text with EEA relevance)

On 28 February 2001 the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),

— in electronic form in the 'CEN' version of the CELEX database, under document No 301M2312. CELEX is the computerised documentation system of European Community law.

For more information concerning subscriptions please contact:

EUR-OP,
Information, Marketing and Public Relations,
2, rue Mercier,
L-2985 Luxembourg.
Tel. (352) 29 29 427 18, fax (352) 29 29 427 09.

Renotification of a previously notified concentration

(Case COMP/M.2300 — YLE/TDF/Digita/JV)

(2001/C 149/10)

(Text with EEA relevance)

1. On 19 March 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 [1], as last amended by Regulation (EC) No 1310/97 [2], by which the French undertaking Télédifusion de France SA (TDF) acquires, within the meaning of Article 3(1)(b) of the Regulation, joint control of the Finnish undertaking Digita Oy (Digita), by way of purchase of shares. Digita is currently solely controlled by the Finnish company Yleisradio Oy (YLE).

2. This notification was declared incomplete on 9 April 2001. The undertakings concerned have now provided the further information required. The notification became complete within the meaning of Article 10(1) of Regulation (EEC) No 4064/89 on 8 May 2001. Accordingly, the notification became effective on 10 May 2001.

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2300 — YLE/TDF/Digita/JV, to:

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

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[1] OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

[2] OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

Prior notification of a concentration

(Case COMP/M.2400 — Dexia/Artesia)

(2001/C 149/11)

(Text with EEA relevance)

1. On 10 May 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 [1], as last amended by Regulation (EC) No 1310/97 [2], by which the undertaking Dexia SA/NV (Dexia, Belgium) acquires, within the meaning of Article 3(1)(b) of the Regulation, control of the whole of the undertaking Artesia Banking Corporation SA/NV (Artesia, Belgium), controlled by Artesia's financial holding company Arcofin SC/CV, by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— Dexia: banking and financial services,

— Artesia: banking and financial services, insurance services.

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2400 — Dexia/Artesia, to:

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

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[1] OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

[2] OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

Prior notification of a concentration

(Case COMP/M.2413 — BHP/Billiton)

(2001/C 149/12)

(Text with EEA relevance)

1. On 10 May 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 [1], as last amended by Regulation (EC) No 1310/97 [2], by which the undertaking Broken Hill Proprietary Company Ltd (BHP), Australia, entres into a full merger within the meaning of Article 3(1)(b) of the Regulation with Billiton plc, United Kingdom, by way of creation of a single economic unit through a dual listing companies strucutre.

2. The business activities of the undertakings concerned are:

— BHP: mining company active *inter alia* in the exploration, production and processing of a number of metals and minerals (including copper and coal), hydrocarbon exploration and production, and steel production,

— Billition: mining company active *inter alia* in the exploration and production of a variety of metals and minerals (including copper and coal).

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2413 — BHP/Billiton, to:

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

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[1] OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

[2] OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

Prior notification of a concentration

(Case COMP/M.2460 — IBM/Informix)

(2001/C 149/13)

(Text with EEA relevance)

1. On 14 May 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 [1], as last amended by Regulation (EC) No 1310/97 [2], by which the undertaking International Business Machines Corporation (IBM, USA) acquires, within the meaning of Article 3(1)(b) of the Regulation, control of the whole of Informix Software Inc. (Informix, USA), an undertaking belonging to the Informix Corporation Group, by purchase of assets.

2. The business activities of the undertakings concerned are:

— IBM: development, production and marketing of information technology (IT) systems, equipment, computer software including database management systems, and related services,

— Informix: development, manufacture and supply of distributed database management systems (in particular, database management systems running on the Unix and Windows NT operating systems).

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2460 — IBM/Informix, to:

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

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[1] OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

[2] OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

Prior notification of a concentration

(Case COMP/M.2430 — Schroder Ventures/Grammer)

Candidate case for simplified procedure

(2001/C 149/14)

(Text with EEA relevance)

1. On 10 May 2001 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ([1]), as last amended by Regulation (EC) No 1310/97 ([2]), by which the undertaking Goliath Einhundertsiebzehnte Beteiligungs- und Verwaltungsgesellschaft mbH (Goliath 117), Germany, controlled by Schroder Ventures Limited (SVL), Guernsey, acquires, within the meaning of Article 3(1)(b) of the Regulation, control of the whole of Grammer AG (Grammer), Germany, by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— Goliath 117: holding comany,

— SVL: management, advisory and consultancy services,

— Grammer: driver seats, passenger seats and automotive equipment.

3. On preliminary examination, the Commission finds that the notified concentration could fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Regulation (EEC) No 4064/89 ([3]), it should be noted that this case is a candidate for treatment under the procedure set out in the notice.

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2430 — Schroder Ventures/Grammer, to:

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

([1]) OJ L 395, 30.12.1989, p. 1; corrigendum: OJ L 257, 21.9.1990, p. 13.

([2]) OJ L 180, 9.7.1997, p. 1; corrigendum: OJ L 40, 13.2.1998, p. 17.

([3]) OJ C 217, 29.7.2000, p. 32.