

Official Journal

of the European Communities

ISSN 0378-6986

C 30

Volume 45

2 February 2002

English edition

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I

(Information)

COMMISSION

Interest rate applied by the European Central Bank to its main refinancing operations ⁽¹⁾:**3,31 % on 1 February 2002****Euro exchange rates ⁽²⁾****1 February 2002***(2002/C 30/01)*

1 euro	=	7,4282	Danish krone
	=	9,188	Swedish krona
	=	0,61	Pound sterling
	=	0,8632	United States dollar
	=	1,3709	Canadian dollar
	=	115,66	Japanese yen
	=	1,4781	Swiss franc
	=	7,8405	Norwegian krone
	=	88,65	Icelandic króna ⁽³⁾
	=	1,6933	Australian dollar
	=	2,068	New Zealand dollar
	=	9,9311	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.

Commission communication concerning Article 4(3) of Directive 98/27/EC of the European Parliament and of the Council on injunctions for the protection of consumers' interests, concerning the entities qualified to bring an action under Article 2 of this Directive

(2002/C 30/02)

(Text with EEA relevance)

The authorities of the Member States concerned have recognised the entities mentioned below as being qualified to bring actions for an injunction under Article 2 of Directive 98/27/EC.

DENMARK

1. Forbrugerombudsmanden

(Consumer Ombudsman)

Amagerfælledvej 56

DK-2300 København S

Tel. (45) 32 66 90 00

Fax (45) 32 66 91 00

E-mail: fs@fs.dk

Website: www.fs.dk

(English: www.consumer.dk/index-uk.htm)

Purpose of the Consumer Ombudsman

The Consumer Ombudsman ensures, with reference to the Marketing Act, that the law is observed, more specifically from the point of view of consumers.

The Consumer Ombudsman is competent to *bring actions under the following Directives*:

— Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising.

— Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises.

— Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as most recently amended by Directive 98/7/EC.

— Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities, as amended by Directive 97/36/EC.

— Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours.

— Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

— Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis.

— Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts.

— Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees.

— Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce').

2. Lægemiddelstyrelsen

(Danish Medicines Agency)

Frederikssundsvej 378

DK-2730 Brønshøj

Tel. (45) 44 88 91 11

Fax (45) 44 91 73 73

E-mail: dkma@dkma.dk

Website: www.dkma.dk

Purpose of the Danish Medicines Agency

The task of the Danish Medicines Agency is to approve the placing on the market of medicines that are effective and safe, to help ensure that social security expenditure on medicines is in reasonable proportion to the therapeutic benefits, and to monitor the area of medicinal products and medicinal equipment.

The Danish Medicines Agency is competent to *bring actions* in the event of contraventions of Council Directive 92/28/EEC of 31 March 1992 on the advertising of medicinal products for human use.

GERMANY

1.	Aktion Bildungsinformation e.V. (ABI)	Alte Poststraße 5 D-70173 Stuttgart	Protects consumers' interests by offering information and advice; authorised to bring collective actions in the interest of consumers
2.	Verbraucherzentrale Bundesverband e.V.	Markgrafenstraße 66 D-10969 Berlin	Association incorporating three former organisations: Stiftung Verbraucherinstitut, Arbeitsgemeinschaft der Verbraucherverbände e.V. and Verbraucherschutzverein e.V. (VSV) Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
3.	Berliner Mieterverein e.V.	Wilhelmstraße 74 D-10117 Berlin	Protects tenants' interests in Berlin by offering information and advice; authorised to bring collective actions in the interest of tenants
4.	Bund der Energieverbraucher e.V.	Grabenstraße 7 D-53619 Rheinbreitbach	Protects energy consumers' interests; authorised to bring collective actions in the interest of energy consumers
5.	Bund der Versicherten e.V.	Rönkrei 28 D-22399 Hamburg	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
6.	Bundesverband der Verbraucherzentralen und Verbraucherverbände — Verbraucherzentrale Bundesverband e.V. (VZBV)	Markgrafenstraße 66 D-10969 Berlin	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
7.	Bundesverband privater Kapitalanleger e.V.	Am Goldgraben 6 D-37073 Göttingen	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
8.	Datenschutzbund Hamburg e.V.	Am Diebsteich 1 D-22761 Hamburg	Protects consumers' interests by providing information and advice, especially in the field of data protection; authorised to bring collective actions in the interest of consumers
9.	Deutsche Gesellschaft für Sonnenenergie e.V.	Augustenstraße 79 D-80333 München	Protects consumers' interests by providing information and advice, especially in the fields of renewable energy forms and rational use of energy, focusing particularly on solar energy; authorised to bring collective actions in the interest of consumers

10.	Deutscher Mieterbund — Kieler Mieterverein e.V.	Eggerstedtstraße 1 D-24103 Kiel	Protects consumers' interests in Kiel in the field of tenancy law by providing information and advice; authorised to bring collective actions in the interest of consumers
11.	Deutscher Mieterbund — Landesverband Mecklenburg- Vorpommern e.V.	Dr.-Külz-Straße 18 D-19053 Schwerin	Protects consumers' interests in Mecklenburg-Western Pomerania in the field of tenancy law by providing information and advice; authorised to bring collective actions in the interest of consumers
12.	Deutscher Mieterbund — Landesverband der Mietervereine in Nordrhein-Westfalen e.V.	Luisenstraße 12 D-44137 Dortmund	Protects consumers' interests in the field of tenancy law by providing information and advice; authorised to bring collective actions in the interest of consumers
13.	Deutscher Mieterbund — Landesverband Schleswig-Holstein e.V.	Eggerstedtstraße 1 D-24103 Kiel	Protects consumers' interests in Schleswig-Holstein in the field of tenancy law by providing information and advice; authorised to bring collective actions in the interest of consumers
14.	Deutscher Mieterbund Mieterbund Rhein-Ruhr e.V.	Rathausstraße 18—20 D-47166 Duisburg	Protects tenants' interests in Duisburg by providing information and advice; authorised to bring collective actions in the interest of tenants
15.	Deutscher Mieterbund — Mieterverein Groß-Velbert und Umgebung e.V.	Friedrich-Ebert-Straße 62—64 D-42549 Velbert	Protects tenants' interests in the Velbert region by providing information and advice; authorised to bring collective actions in the interest of tenants
16.	Deutscher Mieterbund — Mieterverein Hamm und Umgebung e.V.	Südring 1 D-59065 Hamm	Protects tenants' interests in the Hamm region by providing information and advice; authorised to bring collective actions in the interest of tenants
17.	Deutscher Mieterbund — Mieterverein Iserlohn e.V.	Vinckestraße 4 D-58636 Iserlohn	Protects tenants' interests in Iserlohn by providing information and advice; authorised to bring collective actions in the interest of tenants
18.	Deutscher Mieterbund — Mieterverein Kassel und Umgebung e.V.	Königsplatz 59/ Eingang Poststraße 1 D-34117 Kassel	Protects tenants' interests in the Kassel region by providing information and advice; authorised to bring collective actions in the interest of tenants
19.	Deutscher Mieterbund — Mieterverein Schwerin und Umgebung e.V.	Dr.-Külz-Straße 18 D-19053 Schwerin	Protects tenants' interests in the Schwerin region by providing information and advice; authorised to bring collective actions in the interest of tenants

20.	Deutscher Mieterbund — Mieterverein Siegerland und Umgebung e.V.	Koblenzer Straße 5 D-57072 Siegen	Protects tenants' interests in the Siegerland region by providing information and advice; authorised to bring collective actions in the interest of tenants
21.	DMB — Mieterverein Stuttgart und Umgebung e.V.	Moserstraße 5 D-70182 Stuttgart	Protects tenants' interests in the Stuttgart region by providing information and advice; authorised to bring collective actions in the interest of tenants
22.	DMB — Mieterschutzverein Frankfurt am Main e.V.	Eckenheimer Landstraße 339 D-60320 Frankfurt am Main	Protects the interests of tenants in Frankfurt am Main by providing information and advice; authorised to bring collective actions in the interest of tenants
23.	Deutscher Mieterbund — Mieterschutzverein Wiesbaden und Umgebung e.V.	Adelheidstraße 70 D-65185 Wiesbaden	Protects tenants' interests in the Wiesbaden region by providing information and advice; authorised to bring collective actions in the interest of tenants
24.	Deutsche Schutzvereinigung Auslandsimmobilien e.V.	Zähringer Straße 373 D-79108 Freiburg	Protects the interests of private house, flat and land owners with property abroad and other persons with interests in foreign property by providing information and advice; authorised to bring collective actions in the interest of the above persons
25.	Mieter helfen Mietern, Münchner Mieterverein e.V.	Weißburger Straße 25 D-81667 München	Protects the interests of tenants in Munich by providing information and advice; authorised to bring collective actions in the interest of tenants
26.	Mieter und Pächter e.V.	Prinzenstraße 7 D-44135 Dortmund	Protects the interests of tenants and lessees in Dortmund by providing information and advice; authorised to bring collective actions in the interest of tenants
27.	Mieterverein Bochum, Hattingen und Umgegend e.V.	Brückstraße 58 D-44787 Bochum	Protects tenants' interests in Bochum, Hattingen and the region by providing information and advice; authorised to bring collective actions in the interest of tenants
28.	Mieterverein für Lüdenscheid und Umgegend e.V.	Lösenbacher Straße 3 D-58507 Lüdenscheid	Protects tenants' interests in the Lüdenscheid region by providing information and advice; authorised to bring collective actions in the interest of tenants
29.	Mieterverein Gelsenkirchen e.V. im Deutschen Mieterbund	Gabelsberger Straße 9 D-45879 Gelsenkirchen	Protects the interests of tenants and lessees by providing information and advice; authorised to bring collective actions in the interest of tenants

30.	Mieterverein Köln e.V.	Mühlenbach 49 D-50676 Köln	Protects the interests of tenants in Cologne by providing information and advice; authorised to bring collective actions in the interest of tenants
31.	Mieterverein München e.V.	Sonnenstraße 10 D-80331 München	Protects the interests of tenants in Munich by providing information and advice; authorised to bring collective actions in the interest of tenants
32.	Schutzverband für Verbraucher und Dienstleistungsnehmer e.V. — Endverbraucher, Kapitalanleger, Versicherte	Spessartring 37 D-63110 Rodgau	Protects the interests of consumers and service users by providing information and advice; authorised to bring collective actions in the interest of consumers and service users
33.	Verbraucherzentrale Baden-Württemberg e.V.	Paulinenstraße 47 D-70178 Stuttgart	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
34.	Verbraucherschutzverein e.V. (VSV)	Lützowstraße 33—36 D-10785 Berlin	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
35.	Verbraucherzentrale Berlin e.V.	Bayreuther Straße 40 D-10787 Berlin	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
36.	Verbraucher-Zentrale Brandenburg e.V.	Templiner Straße 21 D-14473 Potsdam	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
37.	Verbraucher-Zentrale des Landes Bremen e.V.	Altenweg 4 D-28195 Bremen	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
38.	Verbraucher-Zentrale Hamburg e.V.	Kirchenallee 22 D-20099 Hamburg	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
39.	Verbraucher-Zentrale Hessen e.V.	Große Friedberger Straße 13—17 D-60313 Frankfurt/Main	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
40.	Verbraucherzentrale Mecklenburg-Vorpommern e.V.	Strandstraße 98 D-18055 Rostock	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers

41.	Verbraucher-Zentrale Niedersachsen e.V.	Herrenstraße 14 D-30159 Hannover	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
42.	Verbraucher-Zentrale Nordrhein-Westfalen Landesarbeitsgemeinschaft der Verbraucherverbände e.V.	Mintropstraße 27 D-40215 Düsseldorf	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
43.	Verbraucherzentrale Rheinland-Pfalz e.V.	Ludwigstraße 6 D-55116 Mainz	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
44.	Verbraucherzentrale des Saarlandes Landesarbeitsgemeinschaft der Verbraucherverbände e.V.	Hohenzollernstraße 11 D-66117 Saarbrücken	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
45.	Verbraucher-Zentrale Sachsen e.V.	Bernhardstraße 7 D-04315 Leipzig	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
46.	Verbraucherzentrale Sachsen-Anhalt e.V.	Steinbockgasse 1 D-06108 Halle	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers
47.	Verbraucherzentrale Thüringen e.V.	Eugen-Richter-Straße 45 D-99085 Erfurt	Protects consumers' interests by providing information and advice; authorised to bring collective actions in the interest of consumers

ITALY

1. **ACU — Associazione Consumatori Utenti — Onlus**

Via Bazzini 4, I-20131 Milano (MI)
Tel. (39) 02 70 63 06 68
Fax (39) 02 70 63 67 77

2. **Adiconsum**

Via G. M. Lancisi 25, I-00161 Roma (RM)
Tel. (39) 06 641 70 21
Fax (39) 06 44 17 02 30

3. **ADOC — Associazione Difesa Orientamento Consumatori**

Via Lucullo 6, I-00187 Roma (RM)
Tel. (39) 06 482 58 49
Fax (39) 06 481 90 28

4. **Centro Tutela Consumatori Utenti Onlus — Verbraucherzentrale Südtirol**

Via Dodiciville 11, I-39100 Bolzano (BZ)
Tel. (39) 047 197 55 97
Fax (39) 047 197 99 14

5. **Cittadinanzattiva**

Via Flaminia 53, I-00196 Roma (RM)
Tel. (39) 06 36 71 81
Fax (39) 06 36 71 83 33

6. **Codacons — Coordinamento delle associazioni per la tutela dell'ambiente e per la difesa dei diritti degli utenti e consumatori**

Viale Mazzini 73, I-00195 Roma (RM)
Tel. (39) 06 372 58 09
Fax (39) 06 370 17 09

7. **Comitato Consumatori Altroconsumo**
Via Valassina 22, I-20159 Milano (MI)
Tel. (39) 02 66 89 01
Fax (39) 02 66 89 02 88
8. **Confconsumatori**
Via Aurelio Saffi 16, I-43100 Parma (PR)
Tel. (39) 052 123 01 34
Fax (39) 052 128 52 17
9. **Federconsumatori — Federazione Nazionale di Consumatori e Utenti**
Via Gioberti 54, I-00185 Roma (RM)
Tel. (39) 06 49 27 04 34
Fax (39) 06 49 27 04 52
10. **Legambiente Consumatori**
Via Orchidee 4/A, I-20147 Milano (MI)
Tel. (39) 02 48 30 36 59
Fax (39) 02 48 30 26 11
11. **Movimento Consumatori**
Via Carlo Maria Maggi 14, I-20154 Milano (MI)
Tel. (39) 02 33 60 30 60
Fax (39) 02 34 93 74 00
12. **Movimento Difesa del Cittadino**
Via Adis Abeba 1, I-00199 Roma (RM)
Tel. (39) 06 86 39 92 08
Fax (39) 06 86 38 84 06
13. **Unione Nazionale Consumatori**
Via Duilio 13, I-00192 Roma (RM)
Tel. (39) 06 326 95 31
Fax (39) 06 323 46 16

AUSTRIA

1. Wirtschaftskammer Österreich

Represents and promotes the common interests of its members and of industry and trade and individual members (§ 1 of the *Wirtschaftskammergesetz* = Chamber of Commerce Act). Protection of the collective interests of consumers pursuant to § 28(1), § 28(a)(1) and § 29(1) of the KSchG and § 1, § 2(1) and § 14(1) of the UWG.

Wirtschaftskammer Österreich
Wiedner Hauptstraße 63
A-1045 Wien
Tel. (43-1) 501 05 42 96
Fax (43-1) 50 20 62 43
E-mail: huberta.maitz-strassnig@wko.at

2. Bundesarbeitskammer

Represents and promotes the social, economic, occupational and cultural interests of workers; contributes to improving the economic and social situation of workers and their families, implements measures in matters pertaining to education, culture, environmental protection, consumer protection, the organisation of leisure time, the protection and promotion of health and living conditions, the

promotion of full employment; involved in the establishing of prices and competition rules; provides advice and legal protection in matters pertaining to labour law and social law, including representation. Protects the collective interests of consumers pursuant to § 28(1), § 28(a)(1) and § 29(1) of the KSchG and § 1, § 2(1) and § 14(1) of the UWG.

Bundesarbeitskammer
Prinz-Eugen-Straße 20-22
A-1040 Wien
Tel. (43-1) 501 65 25 50
Fax (43-1) 501 65 25 32
E-mail: helmut.gahleitner@akwien.or.at

3. Präsidentenkonferenz der Landwirtschaftskammern Österreichs

Promotes the national economic role of agriculture and forestry and represents their common interests. Protects the collective interests of consumers pursuant to § 28(1), § 28(a)(1) and § 29(1) of the KSchG and § 1, § 2(1) and § 14(1) of the UWG.

Präsidentenkonferenz der Landwirtschaftskammern Österreichs
Löwenstraße 12
A-1010 Wien
Tel. (43-1) 534 41 85 00
Fax (43-1) 534 41 85 09
E-mail: pkrecht@pklwk.at

4. Österreichischer Gewerkschaftsbund

Represents the social, economic and cultural interests of all gainfully employed people other than the self-employed (manual workers, white-collar workers, public servants, including apprentices or persons in a similar situation), the unemployed, even if they have not yet had the opportunity to be gainfully employed (other than in self-employment), pupils and students who intend to go into gainful employment (other than self-employment) and other occupational groups (such as freelancers or people working in private practice), provided that they can be compared, in terms of their activity, to people who are gainfully employed other than in self-employment. Protects the collective interests of consumers pursuant to § 28(1), § 28(a)(1) and § 29(1) of the KSchG and § 1, § 2(1) and § 14(1) of the UWG.

Österreichischer Gewerkschaftsbund
Hohenstaufengasse 10-12
A-1010 Wien
Tel. (43-1) 53 44 44 05
Fax (43-1) 53 44 45 52
E-mail: thomas.maurer-muehlleitner@oegb.or.at

5. Verein für Konsumenteninformation

Advises, informs and protects consumers with regard to misleading and unfair advertising and sales methods, and in legal matters pertaining to the purchase of goods and services. Protects the collective interests of consumers pursuant to § 28(1), § 28(a)(1) and § 29(1) of the KSchG and § 1, § 2(1) and § 14(1) of the UWG.

Verein für Konsumenteninformation
 Mariahilferstraße 81
 A-1010 Wien
 Tel. (43-1) 58 87 73 33
 Fax (43-1) 588 77 75
 E-mail: pkolba@vki.or.at

6. Österreichischer Landarbeiterkammertag

Promotes cooperation between chambers of agricultural workers, provides advice and deals with common matters that fall within the sphere of responsibility of the chambers of agricultural workers (employees' sections). Protection of the collective interests of consumers pursuant to § 28(1), § 28(a)(1) and § 29(1) of the KSchG and § 1, § 2(1) and § 14(1) of the UWG.

Österreichischer Landarbeiterkammertag
 Marco d'Aviano-Gasse 1
 A-1015 Wien
 Tel. (43-1) 512 23 31
 Fax (43-1) 512 23 31 70
 E-mail: oelakt@netway.at

7. Österreichischer Seniorenrat (Bundesaltenrat Österreichs)

Ensures that all economic, social and cultural facilities are accessible to the older generation in keeping with its needs, contributes to solving problems of social, old-age and health policy, and supports the provision of advice, information and care to the elderly. Protects the collective interests of consumers pursuant to § 28(1), § 28(a)(1) and § 29(1) of the KSchG and § 1, § 2(1) and § 14(1) of the UWG.

Österreichischer Seniorenrat
 (Bundesaltenrat Österreichs)
 Sperrgasse 8-10/III
 A-1150 Wien
 Tel. (43-1) 892 34 65
 Fax (43-1) 892 34 65 24
 E-mail: kontakt@seniorenrat.at

8. Schutzverband gegen den unlauteren Wettbewerb

Combats unfair competition, especially trade libel in economic life, protects the collective interests of consumers pursuant to § 28(1), § 28(a)(1) and § 29(1) of the KSchG and § 1, § 2(1) and § 14(1) of the UWG.

Schutzverband gegen den unlauteren Wettbewerb
 Schwarzenbergplatz 14
 A-1040 Wien
 Tel. (43-1) 514 50 32 92
 Fax (43-1) 505 78 93
 E-mail: office@schutzverband.at

SUOMI/FINLAND

1. Kuluttaja-asiamies

(the Consumer Ombudsman) is responsible for:

— general supervision of consumer protection in connection with marketing and conditions of contract,

— supervision of radio and television advertising to check compliance with the regulations governing ethical principles in advertising and teleshopping and the protection of minors, and to pinpoint cases where television and radio broadcasts include marketing which is unfair or misleading to the consumer.

2. Kuluttajat — Konsumenterna ry

(registered consumer organisation) monitors the effectiveness and progress of consumer protection)

3. Suomen Kuluttajaliitto

(Finnish Consumers' Association) monitors consumers' interests through independent civil action in the community and in relation to the market.

4. Kuluttajavirasto

(National Consumer Administration of Finland) supervises the provision of security in connection with package travel.

5. Rahoitustarkastus

(Financial Inspection Authority) supervises consumer credit marketing and conditions of contract, with the consumer ombudsman.

6. Lääkelaitos

(National Agency for Medicines) supervises medicine advertising.

7. Sosiaali- ja terveydenhuollon tuotevalvontakeskus

(National Product Control Agency for Welfare and Health) supervises tobacco and alcohol advertising.

8. Telehallintokeskus

(Telecommunications Administration Centre) supervises television and radio advertising, excluding:

— regulations governing ethical principles in advertising and teleshopping and the protection of minors

— alcohol and tobacco advertising.

SWEDEN

Information on national measures taken to fulfil Sweden's obligations in the European Union:

In accordance with Articles 4(2) and 5(2) of Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests, we hereby provide the following information:

Article 4(2): The *Konsumentverket* (National Consumer Agency) is the central managing authority for consumer questions, and is charged with looking after consumers' interests.

The National Consumer Agency and the Consumer Ombudsman are authorised to bring actions under Article 2.

Article 5(2): The rules governing prior consultation are contained in § 4 of the Act (2000:1175) on access to justice for certain foreign consumer authorities and consumer organisations (see Annex).

UNITED KINGDOM

1. Director General of Fair Trading (OFT)

The purpose of the Office of Fair Trading is to make the markets work well for consumers. Its objectives are: (a) to help maximise consumer welfare in the long term, protecting vulnerable consumers' interests by: empowering consumers through information and redress; protecting them by preventing abuse; and promoting competitive and responsive supply; (b) to make sure that competition works well in markets for goods and services so as to make those markets more efficient and benefit consumers.

2. The Information Commissioner

The Information Commissioner has a number of specific duties under the Data Protection and Freedom of Information Acts, including promoting the following of good practice and observance of the requirements of both acts including, in the case of data protection, observance of the data protection principles by data controllers; the encouragement of the production of codes of practice by others; and the dissemination of information to the public about the Acts.

3. The Civil Aviation Authority

The Civil Aviation Authority has a number of specific functions under the Civil Aviation Act 1982 including furthering the reasonable interest of users of air transport services and protection against the consequences of air transport organiser failure through the licensing of provision of flight accommodation.

4. The Gas and Electricity Markets Authority

The Gas and Electricity Markets Authority is responsible for regulating the gas and electricity markets in Great Britain and protecting the interests of gas and electricity customers.

5. The Director-General of Electricity Supply for Northern Ireland

The Director-General of Electricity Supply for Northern Ireland is responsible for regulating the gas and electricity markets in Northern Ireland and protecting the interests of gas and electricity customers.

6. The Director-General of Telecommunications

The Director-General for Telecommunications is the regulator for the UK telecommunications industry whose responsibilities include promoting the interests of consumers, purchasers and other users of telecommunication services provided and telecommunications apparatus supplied.

7. The Director-General of Water Services

The Director-General of Water Services is the economic regulator of the privatised water industry in England and Wales. His responsibilities include protecting the interests of the consumers with regard to pricing and standards of service and adjudicating certain disputes between appointed companies and their customers.

8. The Rail Regulator

The Rail Regulator is responsible for the regulation of the railways in Great Britain. The Regulator's responsibilities include protecting the interests of users of railway services.

9. Every weights and measures authority in Great Britain

Weights and measures authorities are part of local government in Great Britain. They enforce the law and regulations governing the sale and supply of goods and services and provide advice services for consumers and business.

10. The Department of Enterprise, Trade and Investment in Northern Ireland

The Department of Enterprise, Trade and Investment in Northern Ireland enforces the law and regulations governing the sale and supply of goods and services in Northern Ireland, and provide advice for consumers and business.

ANNEX

Act (2000:1175) on access to justice for certain foreign consumer authorities and consumer organisations promulgated on 7 December 2000

Pursuant to the decision of the Swedish Parliament ⁽¹⁾ the following provisions are laid down ⁽²⁾.

Scope

§ 1 This Act applies to infringements of provisions implementing the Directives listed in an Annex to Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests.

However, the Act applies only to those infringements of provisions aimed at protecting consumers' interests that affect consumers in countries of the EEA (European Economic Area) other than Sweden.

Bringing of actions before Swedish courts by qualified entities

§ 2 An authority or organisation in an EEA country other than Sweden may bring an action in a Swedish court on the grounds of an infringement as referred to in § 1 if it is a qualified entity included in a special list drawn up by the European Union and published in the *Official Journal of the European Communities*.

§ 3 The action must be for measures to be taken against someone for failure to comply with a provision as provided for in § 1. The measures sought must be:

1. a prohibition or injunction pursuant to §§ 14-16, § 17(1) and §§ 8-20 of the Swedish Marketing Act (1995:450), or a prohibition pursuant to §§ 3 and 6 of the Swedish Consumer Contracts Act (1994:1512);
2. an injunction to pay the Swedish State a special fee as provided for in Chapter 10, §§ 5 and 6, of the Radio and Television Act (1996:844); or
3. imposition of a fine prescribed in those cases referred to in 1. Act (2001:401).

§ 4 An action may be brought only if:

1. the applicant has tried, through consultation, to make the other party cease the alleged infringement; and
2. the alleged infringement has still not ceased two weeks after the other party has received the request for consultation.

Competent court

§ 5 The action shall be brought before:

1. the Market Court (*Marknadsdomstolen*) in cases seeking a prohibition or injunction as provided for in the Marketing Act (1995:450), and in cases seeking a prohibition pursuant to the Swedish Consumer Contracts Act (1994:1512);
2. the Stockholm County Administrative Court (*Länsrätten*) in cases seeking special fees as provided for in the Radio and Television Act (1996:844);
3. the competent district court (*tingsrätten*) in accordance with Chapter 10 of the Code of Judicial Procedure (*Rättegångsbalken*), or the Stockholm city court, in cases seeking imposition of a fine. Act (2001:401).

⁽¹⁾ Prop 2000/01:34, bet. 2000/01:LU3, rskr 2000/01:84.

⁽²⁾ See Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests (OJ L 166, 11.6.1998, p. 51, Celex 31998L0027).

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

Cases where the Commission raises no objections

(2002/C 30/03)

(Text with EEA relevance)

Date of adoption of the decision: 28.11.2001

Member State: Portugal (Azores)

Aid No: N 197/01

Title: Change to aid scheme for promoting regional products

Objective: Improvement in conditions of market access for SMEs

Legal basis: Portaria do Governo Regional

Budget: EUR 250 000 per year

Aid intensity or amount: 50 % gross

Duration: Authorisation until 31 December 2006

Other information: N 820/99

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: 27.11.2001

Member State: Spain

Aid No: N 476/01

Title: Aid scheme to promote redevelopment of mining regions

Objective: Regional development

Legal basis: Orden del Ministerio de Economía

Budget: EUR 300,5 million

Aid intensity or amount: Variable

Duration: Until end of 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: 25.10.2001

Member State: Greece

Aid No: N 372/01

Title: Scheme employment 2000-2006

Objective: Regional aid to employment

Legal basis: «Απασχόληση και επαγγελματική εκπαίδευση» OP 2000-2006

Budget: EUR 205 429 000

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: 3.12.2001

Member State: Germany (*Land* Berlin)

Aid No: N 618/01

Title: Employment of innovation assistants in SME

Objective: Promotion of employment

Legal basis: Richtlinien über die Gewährung von Zuschüssen zur Beschäftigung von Innovationsassistenten/-innen in KMU der Berliner Wirtschaft

Budget: EUR 6,9 million

Aid intensity or amount:

- 45 % of the annual gross wage costs of maximum EUR 41 000 in existing firms
- 65 % of the annual gross wage costs of maximum EUR 41 000 in favour of recently established 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: 28.11.2001

Member State: France

Aid No: N 672/2000

Title: Tax aid scheme for overseas investment

Objective: Regional development (French overseas departments)

Legal basis: Articles 199 undecies A et B, 217 undecies du Code Général des Impôts

Budget: EUR 400 million per year

Duration: Up to 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: 27.11.2001

Member State: France

Aid No: N 77/A/01

Title: Guadeloupe 2000-2006: Employment grant

Objective: To promote investment-related job creation

Legal basis: DOCUP 2000-2006 Guadeloupe

Budget: EUR 3 201 430

Aid intensity or amount:

Aid intensity and cumulation ceilings: 75 % net. Provision is made for automatic adjustment to any changes in the regional aid map

The French authorities undertake to comply with the intensity ceilings for investment aid provided for in the Community guidelines for State aid in the agricultural sector (OJ C 28, 1.2.2000)

In the case of fisheries and aquaculture, the French authorities undertake, as regards the base and rate of the subsidy, to comply with the conditions set out in Regulation (EC) No 2792/1999 ⁽¹⁾

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

⁽¹⁾ Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (OJ L 337, 30.12.1999, p. 10).

Date of adoption of the decision: 20.12.2001

Member State: Denmark

Aid No: NN 146/01 and NN 161/01

Title: Aviation insurance guarantee

Objective: Continued provision of third-party liability insurance cover to air carriers and service providers in the aviation sector for certain war and terrorist related risks following the events in the USA on 11 September 2001

Legal basis: Aktstykke nr. 285 af 24. september 2001

Aid intensity or amount: Aid provided in the form of guarantees

Duration: 30 days + 30 days

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: 13.11.2001

Member State: Italy (Sardinia)

Aid No: NN 77/A/01

Title: Urgent measures to promote employment

Objective: Regional development

Legal basis: Legge regionale n. 28/1984; legge regionale n. 7/1993

Budget: ITL 1 600 billion (EUR 826 million)

Aid intensity or amount: Investment aid: intensities specified on the Italian regional aid maps (1984-1999). Operating aid (1994-1999): not more than 75 % and 50 % respectively of the running costs actually incurred by the firm in its first and second year in business

Duration: 1984-1999

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

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

Cases where the Commission raises no objections

(2002/C 30/04)

(Text with EEA relevance)

Date of adoption of the decision: 28.11.2001

Member State: The Netherlands

Aid No: N 168/A/01

Title: Modifications — energy tax 2001

Objective: To support environmental policy on climate change

Legal basis: Wet belastingen op milieugrondslag

Budget: NLG 1 317 million (EUR 598,6 million)

Aid intensity or amount: Various

Duration: Five years

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: 28.11.2001

Member State: Belgium

Aid No: N 415/A/01

Title: Draft decree of the Walloon Government promoting green electricity — Aspect concerning the green certificate scheme

Objective: Promotion of renewable energy

Legal basis: Décret du 12 avril 2001 relatif à l'organisation du marché régional de l'électricité

Duration: Ten 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 20.6.2001

Member State: Spain (Galicia)

Aid No: N 498/2000

Title: Regional aid scheme to promote investment, research, rescue and restructuring of firms, training, employment not related to investment, and SMEs

Objective: Regional development, R & D, rescue and restructuring, training, employment and SMEs

Legal basis: Proyecto de Decreto sobre incentivos para el desarrollo económico y fomento de la actividad empresarial en la Comunidad Autónoma de Galicia

Budget: ESP 444,939 million (EUR 2,674 million)

Aid intensity or amount: 40 % gge, except in the following cases:

Industrial research aid and development aid:

— feasibility studies for industrial research projects (75 % gge) and for pre-competitive development projects (50 % gge)

— industrial research projects (60 % gge) and pre-competitive development projects (35 % gge)

— subject to a ceiling of 75 % gge in the case of industrial research projects and 50 % gge in the case of pre-competitive development projects, these intensities may be raised by 10 percentage points in the case of SMEs and 15 percentage points in the case of projects whose objectives are in line with the Community framework programme (25 percentage points in the case of cross-frontier cooperation). In the case of cross-frontier cooperation outside the framework programme, they may be raised by 10 percentage points

Soft aid and aid for employment not linked to investment (solely for SMEs): 50 % gge

Training aid: 45 % in the case of SMEs and 35 % for other firms

Duration: 2001-2006

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: 28.11.2001

Member State: United Kingdom (England, Scotland and Wales)

Aid No: N 504/2000

Title: Renewables obligation and capital grants for renewables technologies

Objective: Environment

Legal basis:

(a) for the renewables obligation: Clauses 61-64 of the Utilities Bill

(b) for the capital grants: Section 5 of the Science and Technology Act (1965)

Budget: GBP 100 million

Aid intensity or amount:

(a) Measure partially not constituting aid, partially operating aid

(b) 40 %

Duration: Ten 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/secretariat_general/sgb/state_aids

Date of adoption of the decision: 13.11.2001

Member State: Italy (Sardinia)

Aid No: N 569/01

Title: Measures to assist young entrepreneurs (operating aid)

Objective: Regional development

Legal basis: Disegno di legge regionale n. 201/2001 recante provvedimenti per l'imprenditoria giovanile

Budget: ITL 200 billion (EUR 103 million)

Aid intensity or amount:

— in 2001 and 2002: not more than 50 % and 45 % respectively of costs actually incurred by the firm in its first and second year in business

— in 2003 and 2004: not more than 40 % and 35 % respectively of costs actually incurred by the firm in its first and second year in business

— in 2005 and 2006: not more than 30 % and 25 % respectively of costs actually incurred by the firm in its first and second year in business

Duration: Up to 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: 13.11.2001

Member State: Italy

Aid No: N 674/01

Title: Scheme to promote the regularisation of businesses in the informal economy

Objective: Regularisation of the informal economy

Legal basis: Schema di disegno di legge recante: «Primi interventi per il rilancio dell'economia (A.C. n. 1456) — Disposizioni per l'emersione dell'economia sommersa»

Aid intensity or amount: Measure not constituting aid within the meaning of Article 87(1) of the EC Treaty

Duration: Three years following the regularisation declaration

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: 7.11.2001

Member State: Italy

Aid No: N 720/2000

Title: Liguria — Aid in favour of alternative energy sources and energy saving

Objective: To develop the production and use of alternative energy sources and energy saving measures by investment projects

Legal basis: Legge regionale 27.3.2000 n. 29 recante modifiche alla legge regionale 21.6.1999 n. 18 (adeguamento delle discipline e conferimento delle funzioni agli Enti locali in materia di ambiente, difesa del suolo ed energia) e successive modifiche e integrazioni

Budget: ITL 9 billion (approximately EUR 4,65 million)

Aid intensity or amount: Maximum 30 % gge of the investment costs; a 10 % bonus is granted to SMEs

Duration: Six years (2001-30 June 2007)

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

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

Date of adoption of the decision: 30.11.2001

Member State: Spain (Cantabria)

Aid No: N 752/2000

Title: Aid for small-scale coastal fishing

Objective: To implement structural measures in the small-scale coastal fisheries sector under the Community support framework as applied to Catabria

Legal basis: Orden de la Consejería de Ganadería, Agricultura y Pesca por la que se establecen las bases que regulan la concesión de ayudas a la pesca costera artesanal

Budget: EUR 661 113

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: 2.10.2001

Member State: Spain (Extremadura)

Aid No: N 836/2000

Title: Regional employment aid scheme to promote the mutual/non-profit sector

Objective: Regional development and employment

Legal basis: Decreto por el que se regula el programa de subvenciones a la formación, asociación y asistencia técnica en el ámbito de la economía social

Budget: ESP 100 million (EUR 0,6 million) per year

Aid intensity or amount: Aid to promote investment-related employment: 50 % gge, plus a bonus of 15 percentage points for SMEs

Aid to promote non-investment-related employment and employment in firms engaged in activities listed in Annex I to the EC Treaty: 95 % gge applied to gross wages during the first year and 90 % gge applied to gross wages during the second year, subject to a ceiling of ESP 3 million (EUR 18 030) per year

Duration: 2000-2006

Other information: The scheme was applied in line with the *de-minimis* rules after 1 January 2000 and until the Commission's 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: 28.11.2001

Member State: The Netherlands

Aid No: NN 30/B/2000 and N 678/01

Title: Zero rate for green electricity

Objective: Reducing CO₂ and other environmental goals

Legal basis: Wet belastingen op milieugrondslag, Regulerende energiebelasting

Duration: Up to 2003

Other information: The zero rate for green electricity was approved 1998 (N 752/97)

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 — ITALY

Aid C 80/2001 (ex NN 26/01) — Exemption from excise duty on mineral oils used as fuel for alumina production in Sardinia**Invitation to submit comments pursuant to Article 88(2) of the EC Treaty**

(2002/C 30/05)

(Text with EEA relevance)

By means of the letter dated 30 October 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 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
State Aid Registry
B-1049 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**Facts**

Article 6 of Council Directive 92/82/EEC⁽¹⁾, establishes a minimum rate of excise duty on heavy oil of ECU 13 per 1 000 kg. The excise duty applied by Italy to industrial heavy oil is EUR 46,48 per 1 000 kg (accrued by VAT of 10 %) which is well above the minimum rate.

However, based on the authorisation granted by Council Decisions 93/697/EC (Article 1)⁽²⁾, 96/273/EC (Article 1)⁽³⁾, 97/425/EC (Article 3)⁽⁴⁾, 1999/880/EC (Article 3)⁽⁵⁾ and 2001/224/EC⁽⁶⁾, Italy exempts from the excise duty the mineral oils used as fuel for alumina production in Sardinia.

Alumina is a white powder principally used in smelters to produce aluminium.

Within the EU, alumina is produced in Italy, France, Ireland, Germany, Greece, Spain and the United Kingdom. Energy is one very important cost item in alumina production (about

20 % of total costs). Except in Germany where gas is used as fuel, the plants in all the other countries use mineral oils.

There is only one producer of alumina in Italy, Eurallumina SpA, which is located in Sardinia. Eurallumina is a cooperative joint venture between Comalco Limited (56,2 %) and Glencore (43,8 %). The plant produces alumina for the account of the joint venture participants who take the product in proportion to their shares in the consortium. Eurallumina has 460 employees and a turnover of ITL 262 billion (EUR 135 million). The plant started operation in 1973 and currently has a capacity of 1 million tonnes per year. Part of the alumina produced is used in the nearby Alcoa primary aluminium smelter for which Eurallumina is the sole supplier.

In 1998, Italian exports of alumina to the rest of the EU amounted to 125 000 tonnes (13,5 % of production) and to 76 000 tonnes (7,8 % of production) in 1999.

The Italian authorities have maintained that this exemption is indispensable in order to have a competitive cost in the production of alumina. They underlined also the fact that Sardinia was a very disadvantaged region, that it did not have access to natural gas and that the eventual consequences of the closure of the alumina production in terms of employment for the region were very grave. They also submitted that the exemption dates back to 1990 and that the Council Directive on which the exemption is based took already into account the State aid aspects.

⁽¹⁾ OJ L 316, 31.10.1992, p. 19.

⁽²⁾ OJ L 321, 23.12.1993, p. 29.

⁽³⁾ OJ L 102, 25.4.1996, p. 40.

⁽⁴⁾ OJ L 182, 10.7.1997, p. 22.

⁽⁵⁾ OJ L 331, 23.12.1999, p. 73.

⁽⁶⁾ OJ L 84, 23.3.2001, p. 23.

Assessment

The exemption from excise duty in point constitutes State aid within the meaning of Article 87(1) of the EC Treaty since it confers an advantage to its beneficiary which is financed through State resources and which only applies to certain undertakings or regions. It distorts competition and, since alumina is exported from Italy to the rest of the EU, intra-community trade is affected.

As for its compatibility with the common market, the Commission has doubts that the exemption fulfils the conditions established in the guidelines on national regional aid (7) for operating aid (points 4(15) and 4(17)), since the aid is neither limited in time nor progressively reduced.

Similarly, the Commission considers that the conditions established in point 3(4) of the Community guidelines on State aid for environmental protection in force between March 1994 and February 2001 (8) (they should only compensate for extra production costs and be temporary and in principle degressive) as well as those in point 53 of the current guidelines (9) (limited duration of five years progressively reduced (point 45) or non-degressive but limited to 50 % of the extra costs (point 46)) do not appear to be met.

In the light of the foregoing, the Commission has decided to initiate the procedure laid down in Article 88(2) of the EC Treaty against it.

TEXT OF THE LETTER

La Commissione si prega informare il governo italiano che, dopo avere esaminato le informazioni fornite sulle misure citate in oggetto, ha deciso di avviare il procedimento di cui all'articolo 88, paragrafo 2, del trattato CE.

1. ANTECEDENTI

1. L'articolo 6 della direttiva 92/82/CEE del Consiglio (10) fissa l'aliquota minima dell'accisa sull'olio pesante combustibile a 13 ECU per 1 000 kg. L'accisa applicata dall'Italia sugli oli pesanti industriali è di 46,48 EUR per 1 000 kg (importo maggiorato del 10 % IVA), ossia notevolmente al di sopra dell'aliquota minima.
2. Tuttavia, in base all'autorizzazione prevista dalle decisioni del Consiglio 93/697/CE (articolo 1) (11), 96/273/CE (arti-

colo 1) (12), 97/425/CE (articolo 3) (13), 1999/880/CE (articolo 3) (14) e 2001/224/CE (articolo 1) (15), l'Italia esenta dall'accisa gli oli minerali utilizzati come combustibile per la produzione di allumina in Sardegna.

3. L'allumina è una polvere bianca utilizzata principalmente in fonderia per la produzione di alluminio ed è ricavata dal minerale bauxite mediante un processo di raffinazione, la cui ultima fase consiste nella calcinazione. Più del 90 % dell'allumina calcinata è destinato alla fonderia per produrre metallo di alluminio. Il resto è sottoposto ad ulteriore lavorazione e utilizzato in chimica. In numerose decisioni di concentrazioni (16), la Commissione ha osservato che esistono due mercati di prodotto distinti: l'allumina per fonderia e l'allumina per usi chimici. Mentre il mercato geografico dell'allumina per fonderia è mondiale, quello dell'allumina per usi chimici non va oltre l'Europa.
4. Nell'ambito dell'Unione europea, l'allumina è prodotta in Italia, Francia, Irlanda, Germania, Grecia, Spagna e Regno Unito. L'energia è uno degli elementi di costo più importanti nella produzione di allumina (circa 20 % dei costi totali). Ad eccezione della Germania, dove è utilizzato il gas come combustibile, in tutti gli altri paesi gli stabilimenti utilizzano oli minerali.
5. In Italia vi è un solo produttore di allumina, più precisamente la Eurallumina SpA, ubicata in Sardegna. Eurallumina è una joint venture tra Comalco Limited (17) (56,2 %) e Glencore (18) (43,8 %). Lo stabilimento produce allumina per conto delle società che costituiscono la joint venture, le quali si approvvigionano del prodotto proporzionalmente alla loro partecipazione nel consorzio. Eurallumina, che ha un organico di 460 unità, ha realizzato un fatturato di 262 miliardi di ITL (135 milioni di EUR). Lo stabilimento ha iniziato ad operare nel 1973 e attualmente ha una capacità di 1 milione di tonnellate all'anno. Parte dell'allumina prodotta viene utilizzata nella vicina fonderia di alluminio primario di Alcoa, di cui Eurallumina è l'unico fornitore.
6. Il consumo di olio pesante da parte di Eurallumina è stato di 255 812 000 kg nel 1998 e di 262 114 000 kg nel 1999.
7. Le esportazioni italiane di allumina verso il resto dell'Unione europea sono state di 125 000 tonnellate (13,5 % della produzione) nel 1998 e di 76 000 tonnellate (7,8 % della produzione) nel 1999.

(12) GU L 102 del 25.4.1996, pag. 40.

(13) GU L 182 del 10.7.1997, pag. 22.

(14) GU L 331 del 23.12.1999, pag. 73.

(15) GU L 84 del 23.3.2001, pag. 23.

(16) Cfr. ad esempio caso COMP/M.1693 Alcoa/Reynolds.

(17) Comalco è una affiliata al 100 % di Rio Tinto, il quale a sua volta è un gruppo minerario internazionale che nel 2000 ha realizzato un fatturato di circa 10 miliardi di USD.

(18) Glencore è un gruppo di risorse diversificato con attività a livello mondiale nei settori della estrazione, fonderia, raffinazione, lavorazione e commercializzazione di minerali e metalli, prodotti energetici e prodotti agricoli. Nel 2000 il suo fatturato è stato di 48 miliardi di USD.

(7) OJ C 74, 10.3.1998, p. 9.

(8) OJ C 72, 10.3.1994, p. 3.

(9) OJ C 37, 3.2.2001, p. 3.

(10) GU L 316 del 31.10.1992, pag. 19.

(11) GU L 321 del 23.12.1993, pag. 29.

8. Con lettere del 10 giugno 1998, 17 luglio 2000 e 27 settembre 2000 la Commissione aveva già chiesto all'Italia di fornirle informazioni utili per poter valutare la compatibilità con gli articoli 87 e 88 del trattato CE della succitata esenzione dall'accisa sugli oli minerali.
9. Nelle risposte fornite il 20 luglio 1998 e il 7 dicembre 2000, le autorità italiane hanno ribadito che l'esenzione era indispensabile per assicurare un costo competitivo nella produzione di allumina. Esse hanno inoltre sottolineato il fatto che la Sardegna è una regione fortemente svantaggiata, priva di accesso a gas naturale, e che le eventuali conseguenze della chiusura dell'impianto di allumina in termini di occupazione per la regione sarebbero state estremamente gravi. Esse hanno anche ribadito che l'esenzione risale al 1990⁽¹⁹⁾ e che la direttiva del Consiglio, su cui si basa, aveva già tenuto conto degli aspetti di aiuto di Stato.
- ## 2. VALUTAZIONE
10. Ai sensi dell'articolo 6, paragrafo 1, del regolamento (CE) n. 659/1999 del Consiglio, la decisione di avvio del procedimento d'indagine formale esprime sinteticamente i punti di fatto e di diritto pertinenti, contiene una valutazione preliminare della Commissione relativa al carattere di aiuto della misura prevista ed esprime i dubbi attinenti alla sua compatibilità con il mercato comune.
11. Per quanto riguarda la natura di aiuto di Stato della misura in causa ai sensi dell'articolo 87, paragrafo 1, del trattato CE, valgono le considerazioni che seguono.
12. È chiaro che l'esenzione dall'accisa conferisce un vantaggio all'impresa beneficiaria che è posta in situazione finanziaria più favorevole delle altre imprese che utilizzano oli minerali in altre industrie o regioni.
13. È inoltre evidente che l'esenzione è finanziata attraverso risorse di Stato, giacché lo Stato rinuncia ad un certo gettito che altrimenti avrebbe percepito.
14. L'esenzione si applica unicamente a determinate imprese (quelle che producono allumina) ubicate in una regione specifica (Sardegna). Pertanto essa favorisce talune imprese o talune produzioni ai sensi dell'articolo 87, paragrafo 1, del trattato. Inoltre, vi è una sola società produttrice di allumina in Sardegna, più precisamente la Eurallumina SpA.
15. Come si è già detto, l'allumina viene esportata dall'Italia verso il resto dell'Unione europea, il che produce effetti sugli scambi intracomunitari.
16. Infatti, l'esenzione dall'accisa sugli oli minerali utilizzati come combustibile per la produzione di allumina di Eurallumina riduce il costo di un elemento di produzione importante recando un vantaggio all'impresa beneficiaria rispetto ad altri produttori UE di allumina nell'ambito UE e quindi può provocare distorsioni di concorrenza. La tesi, sostenuta dalle autorità italiane secondo cui il mercato di allumina è un mercato mondiale ed Eurallumina detiene una quota limitata di mercato, non può confutare la distorsione di concorrenza. Inoltre, la presunta dimensione limitata di Eurallumina non tiene conto del fatto che l'allumina prodotta in Sardegna viene suddivisa tra le società madri (il gruppo Rio Tinto e il gruppo Glencore), le quali a loro volta gestiscono altri impianti di allumina in altre parti del mondo.
17. Quanto alla compatibilità della misura in questione con il mercato comune, nella fattispecie non si applicano né le deroghe di cui all'articolo 87, paragrafo 2, del trattato, né quelle contenute nel regolamento sulle esenzioni⁽²⁰⁾.
18. Quanto all'eventuale applicabilità di altre esenzioni di cui all'articolo 87, paragrafo 3, del trattato, valgono le considerazioni che seguono.
19. Dato che riduce le spese correnti di Eurallumina, l'aiuto in questione costituisce un aiuto al funzionamento che, di norma, è vietato.
20. Ai sensi del punto 4.15 degli Orientamenti in materia di aiuti di Stato a finalità regionale⁽²¹⁾, in via eccezionale però possono essere concessi aiuti di questo tipo nelle regioni che beneficiano della deroga di cui all'articolo 87, paragrafo 3, lettera a), purché essi siano giustificati in funzione del loro contributo allo sviluppo regionale e della loro natura e purché il loro livello sia proporzionale agli svantaggi che intendono compensare. Spetta allo Stato membro dimostrare l'esistenza degli svantaggi e quantificarne l'importanza (punto 4.15). Inoltre, gli aiuti al funzionamento devono essere limitati nel tempo e decrescenti (punto 4.17).
21. Nella fattispecie non sembra che tali condizioni siano soddisfatte. Benché la Sardegna sia ammissibile in virtù della deroga di cui all'articolo 87, paragrafo 3, lettera a), le autorità italiane non hanno dimostrato l'esistenza di particolari svantaggi né ne hanno quantificato l'importanza al fine di giustificare la concessione dell'aiuto al funzionamento. Inoltre, l'esenzione non sembra essere né limitata nel tempo né di ordine decrescente. La Commissione ritiene che un periodo di 16 anni [dal 1990⁽²²⁾ fino alla fine del 2006 se questa è la volontà delle autorità italiane dato che occorre l'unanimità per ridurre tale termine] è un periodo troppo lungo per poter essere considerato «limitato». D'altro canto non vi è alcuna riduzione progressiva del vantaggio.
22. Gli aiuti al funzionamento sono esaminati anche dalla disciplina comunitaria degli aiuti di Stato per la tutela dell'ambiente sotto forma di sgravi fiscali da imposte ambientali⁽²³⁾.

⁽¹⁹⁾ Legge 12 novembre 1990 n. 331.

⁽²⁰⁾ Regolamento (CE) n. 70/2001 della Commissione, del 12 gennaio 2001; regolamento (CE) n. 68/2001 della Commissione, del 12 gennaio 2001.

⁽²¹⁾ GU C 74 del 10.3.1998, pag. 9.

⁽²²⁾ Cfr. punto 9.

⁽²³⁾ GU C 37 del 3.2.2001, pag. 3.

23. Inizialmente, le accise sugli oli minerali non erano destinate ad essere uno strumento di politica ambientale. Tuttavia, nella comunicazione sulle tasse ed imposte ambientali nel mercato unico ⁽²⁴⁾, la Commissione ha riconosciuto che «per essere considerato "ambientale" un tributo dovrebbe avere una base imponibile che abbia manifesti effetti negativi sull'ambiente». Siccome gli oli minerali hanno un manifesto effetto negativo sull'ambiente, le accise sugli oli minerali possono essere considerate tasse ambientali ai fini dell'applicazione della disciplina per la tutela dell'ambiente.
24. In ogni caso, in questa fase del procedimento, non risulta che siano soddisfatte le condizioni contenute nella disciplina comunitaria degli aiuti di Stato per la tutela dell'ambiente. Secondo il punto 3.4 della disciplina comunitaria degli aiuti di Stato per la tutela dell'ambiente in vigore tra marzo 1994 e febbraio 2001 ⁽²⁵⁾, aiuti al funzionamento sotto forma di esenzione dal pagamento di tasse ambientali devono compensare solamente costi di produzione aggiuntivi, e devono essere temporanei ed in principio digressivi. Analogamente, il punto 53 della disciplina attualmente in vigore stabilisce che «se le riduzioni riguardano un'imposta armonizzata a livello comunitario e l'imposta nazionale è inferiore o pari al minimo comunitario, la Commissione considera che non si giustificano esenzioni per periodi prolungati». In tal caso, le esenzioni concesse sono soggette ad una durata limitata di cinque anni (punti 45 e 46). Nella fattispecie la Commissione rileva che il periodo di cinque anni è di gran lunga superato e che l'aiuto non è stato né progressivamente ridotto né limitato a costi aggiuntivi.
25. Quanto alla tesi sostenuta dalle autorità italiane, secondo cui la direttiva del Consiglio su cui si basa l'esenzione già aveva tenuto conto degli aspetti di aiuto di Stato, la Commissione osserva che le precitate decisioni del Consiglio (cfr. punto 2) non possono pregiudicare l'esito di eventuali procedimenti intentati a norma degli articoli 87 e 88 del trattato allo stesso titolo che le decisioni adottate dalla

Commissione a norma dell'articolo 88 non le consentono di derogare alle disposizioni di diritto comunitario diverse da quelle relative all'applicazione dell'articolo 87.1 del trattato. Questa tesi non può quindi essere accettata. In ogni caso, la Commissione terrà in dovuto conto il fatto che la decisione adottata dal Consiglio il 12 marzo 2001, sulla base di una proposta della Commissione, ha esteso la deroga in oggetto. In questo rispetto, la Commissione rileva che questa decisione del Consiglio non pregiudica l'applicazione delle regole relative agli aiuti di Stato ⁽²⁶⁾.

3. CONCLUSIONE

26. Tenuto conto di quanto precede, la Commissione dubita che l'aiuto in questione soddisfi le condizioni necessarie per dichiararlo compatibile con il mercato comune e ha quindi deciso di avviare nei suoi confronti il procedimento di cui all'articolo 88, paragrafo 2, del trattato CE.
27. La Commissione invita pertanto l'Italia a presentarle le proprie osservazioni e a fornirle ogni informazione utile ai fini della valutazione 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.
28. La Commissione ricorda al governo italiano che informerà gli interessati attraverso la pubblicazione della presente lettera di una sintesi della stessa 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 inviando le copie della presente. Tutti gli interessati anzidetti saranno invitati a presentare osservazioni entro un mese dalla data di detta pubblicazione.'

⁽²⁴⁾ COM(97) 9 def. del 26.3.1997.

⁽²⁵⁾ GU C 72 del 10.3.1994, pag. 3.

⁽²⁶⁾ Il quinto considerando della decisione 2001/224/CE del Consiglio recita: «la presente decisione non pregiudica l'esito di eventuali procedimenti in materia di distorsione e di funzionamento del mercato unico, che potrebbero essere in particolare intentati a norma degli articoli 87 e 88 del trattato. Essa non dispensa gli Stati membri, a norma dell'articolo 88 del trattato, dall'obbligo di comunicare alla Commissione gli aiuti di Stato che possono essere istituiti.»

STATE AID — FRANCE

Aid C 79/2001 (ex NN 23/01) — Exemption from excise duty on mineral oils used as fuel for alumina production in the Gardanne region**Invitation to submit comments pursuant to Article 88(2) of the EC Treaty**

(2002/C 30/06)

(Text with EEA relevance)

By means of the letter dated 30 October 2001, reproduced in the authentic language on the pages following this summary, the Commission notified France 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
State Aid Registry
B-1049 Brussels
Fax (32-2) 296 12 42.

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

SUMMARY**Facts**

Article 6 of Council Directive 92/82/EEC⁽¹⁾, establishes a minimum rate of excise duty on heavy oil of ECU 13 per 1 000 kg. The excise duty (Taxe intérieure pour les produits pétroliers ou TIPP) applied by France to heavy oil with sulphur content of less than 2 % is EUR 16,78 per 1 000 kg (accrued by VAT of 19,6 %) which is above the minimum rate.

However, based on the authorisation granted by Article 1 of Council Decision 2001/224/EC⁽²⁾, France exempts from the excise duty the mineral oils used as fuel for alumina production in the Gardanne region. According to the fifth recital of the said Council Decision 2001/224/EC, 'this decision shall be without prejudice to the outcome of any procedures relating to distortions of the operation of the single market that may be undertaken, in particular under Articles 87 and 88 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 88 of the Treaty'.

Alumina is a white powder principally used in smelters to produce aluminium.

Within the EU, alumina is produced in France, Ireland, Italy, Germany, Greece, Spain and the United Kingdom. Energy is one very important cost item in alumina production (about

20 % of total costs). Except in Germany where gas is used as fuel, the plants in all the other countries use mineral oils.

There is only one producer of alumina in France, Aluminium Pechiney, which is located in the Gardanne region. Part of the alumina produced in Gardanne is used within the Pechiney group for the production of aluminium.

In 1998, French exports of alumina to the rest of the EU amounted to 117 900 tonnes (23 % of production) and to 96 400 tonnes (17 % of production) in 1999.

The French authorities have maintained that the exemption in point allowed the Gardanne works to remain competitive at world level since energy costs are higher in Europe as compared to other parts of the world and that, in any case, there are no distortions of competition since the market for alumina is worldwide and French production of alumina is a small part of world production. For the French authorities, the eventual consequences of the closure of the alumina production are disproportionate in relation to the legal and financial interests at stake since all the production line for aluminium in France (not only the alumina) would be affected. They also submitted that, for environmental reasons, the exemption only applies to the consumption of heavy fuel with a content of less than 2 % sulphur. Finally, they submitted that if gas was used in the Gardanne region for the production of alumina, no excise duty would be paid since gas is not submitted to excise duties. Therefore, the exemption would do nothing but restore the competitive balance between these two energies in the production of alumina.

⁽¹⁾ OJ L 316, 31.10.1992, p. 19.

⁽²⁾ OJ L 84, 23.3.2001, p. 23.

Assessment

The exemption from excise duty in point constitutes State aid within the meaning of Article 87(1) of the EC Treaty since it confers an advantage to its beneficiary which is financed through State resources and which only applies to certain undertakings or regions. It distorts competition and, since alumina is exported from France to the rest of the EU, intra-community trade is affected.

As for its compatibility with the common market, the Commission has doubts that the conditions established in point 3(4) of the Community guidelines on State aid for environmental protection in force between March 1994 and February 2001⁽³⁾ (they should only compensate for extra production costs and be temporary and in principle degressive) as well as those in point 53 of the current guidelines⁽⁴⁾ (limited duration of five years progressively reduced (point 45) or non-degressive but limited to 50 % of the extra costs (point 46)) are met.

In the light of the foregoing, the Commission has decided to initiate the procedure laid down in Article 88(2) of the EC Treaty against it.

TEXT OF THE LETTER

La Commission a l'honneur d'informer la France que, après avoir examiné les renseignements fournis par vos autorités sur la mesure mentionnée ci-dessus, elle a décidé d'ouvrir la procédure prévue à l'article 88, paragraphe 2, du traité CE.

1. FAITS

1. L'article 6 de la directive 92/82/CEE du Conseil⁽⁵⁾ fixe un taux d'accise minimal de 13 écus par 1 000 kilogrammes pour le *fuel* lourd. Les droits d'accise («taxe intérieure de consommation sur les produits pétroliers», ou TIPP) appliqués par la France sont de 23,22 euros par 1 000 kg pour le *fuel* lourd d'une teneur en soufre supérieure à 2 %, et de 16,78 euros par 1 000 kg (majorés d'un taux de TVA de 19,6 %) pour le *fuel* lourd d'une teneur en soufre inférieure à 2 %, soit davantage que le taux minimal.
2. Toutefois, conformément à l'autorisation énoncée aux décisions 97/425/CE (article 3)⁽⁶⁾, 1999/880/CE (article 3)⁽⁷⁾ et 2001/224/CE (article 1) du Conseil⁽⁸⁾, la France exonère de droits d'accise les huiles minérales d'une teneur en soufre inférieure à 2 % utilisées comme combustible pour la production d'alumine dans la région de Gardanne.
3. L'alumine est une poudre blanche principalement utilisée dans les fours de fusion pour produire de l'aluminium. Elle

est extraite de la bauxite par un procédé de raffinage dont la dernière étape est la calcination. L'alumine calcinée est utilisée à plus de 90 % pour la fusion de l'aluminium. Le reste subit de nouvelles transformations et est utilisé dans des applications chimiques. Dans plusieurs décisions ayant trait à des concentrations⁽⁹⁾, la Commission a constaté qu'il existait deux marchés de produits distincts, à savoir celui de l'alumine métallurgique et celui de l'alumine chimique. Alors que le marché géographique de la première est de dimension mondiale, celui de la seconde ne dépasse pas les frontières de l'Europe.

4. Dans l'Union européenne, l'Italie, la France, l'Irlande, l'Allemagne, la Grèce, l'Espagne et le Royaume-Uni produisent de l'alumine. L'énergie constitue un élément très important du coût de production de celle-ci (soit près de 20 % des coûts totaux). À l'exception de l'Allemagne, qui utilise le gaz comme combustible, les usines de tous les autres pays ont recours aux huiles minérales.
5. La France ne compte qu'un seul producteur d'alumine: Aluminium Pechiney, qui est installé dans la région de Gardanne. Cette entreprise occupe [...] (*) personnes et appartient au groupe Pechiney, gros opérateur mondial sur le marché de l'aluminium, dont les ventes nettes ont atteint 10,7 milliards d'euros en 2000. Une partie de l'alumine produite à Gardanne est utilisée au sein du groupe Pechiney pour la production d'aluminium.
6. En 1998 et 1999, Aluminium Pechiney a consommé respectivement [...] kg et [...] kg de *fuel* lourd.
7. En 1998, la France a exporté vers les autres pays de l'Union européenne 117 900 tonnes d'alumine (soit 23 % de la production), contre 96 400 tonnes (17 % de la production) en 1999.
8. Par lettres du 2 juin 1998, du 17 juillet 2000 et du 27 septembre 2000, la Commission avait déjà demandé à la France de lui communiquer toutes les informations susceptibles de lui permettre d'apprécier la compatibilité de l'exonération des droits d'accise susmentionnée avec les articles 87 et 88 du traité CE.
9. Dans leur réponse du 7 août 1998, les autorités françaises ont soutenu que cette exonération ne pouvait pas être appréciée à la lumière des articles 87 et 88 du traité CE, compte tenu du fait qu'elle avait été autorisée à l'unanimité par le Conseil, et que, par analogie avec l'arrêt rendu par la Cour dans l'affaire C-297/94, le principe *lex specialis generalibus derogat* devait s'appliquer, empêchant l'application des règles relatives aux aides d'État à des domaines soumis à harmonisation.

⁽³⁾ OJ C 72, 10.3.1994, p. 3.

⁽⁴⁾ OJ C 37, 3.2.2001, p. 3.

⁽⁵⁾ JO L 316 du 31.10.1992, p. 19.

⁽⁶⁾ JO L 182 du 10.7.1997, p. 22.

⁽⁷⁾ JO L 331 du 23.12.1999, p. 73.

⁽⁸⁾ JO L 84 du 23.3.2001, p. 23.

⁽⁹⁾ Par exemple l'affaire COMP/M.1693 — Alcoa/Reynolds.

(*) Données confidentielles.

10. Dans leurs réponses du 4 septembre 2000 et du 8 décembre 2000, elles ont fait valoir que l'exonération en cause permettait à l'usine de Gardanne de demeurer compétitive à l'échelon mondial, compte tenu des coûts énergétiques plus élevés en Europe que dans d'autres régions du monde, et que, en tout état de cause, il n'y avait pas de distorsions de concurrence, puisque le marché de l'alumine est un marché de dimension mondiale et que la production française d'alumine représente une faible partie de la production mondiale. Selon les autorités françaises, l'arrêt de la production d'alumine aurait des conséquences disproportionnées par rapport aux intérêts juridiques et financiers en jeu, étant donné que toute la ligne de production d'aluminium (et non pas uniquement d'alumine) française serait affectée. Elles ont également fait remarquer que, pour des raisons environnementales, l'exonération ne s'applique qu'à l'utilisation de *fuel* lourd d'une teneur en soufre inférieure à 2 %. Enfin, elles ont indiqué que, si l'on utilisait du gaz dans la région de Gardanne en vue de la production d'alumine, aucun droit d'accise ne serait acquitté, le gaz n'étant pas soumis à accise. L'exonération n'aurait donc d'autre effet que de rétablir l'équilibre concurrentiel entre ces deux sources d'énergie pour ce qui est de la production d'alumine.
- ## 2. APPRÉCIATION
11. Conformément à l'article 6, paragraphe 1, du règlement (CE) n° 659/1999 du Conseil du 22 mars 1999, les décisions d'ouvrir une procédure doivent récapituler les éléments pertinents de fait et de droit, inclure une évaluation préliminaire, par la Commission, de la mesure proposée visant à déterminer si elle présente le caractère d'une aide, et exposer les raisons qui incitent à douter de sa compatibilité avec le marché commun.
12. En ce qui concerne la question de savoir si la mesure en cause constitue une aide d'État au sens de l'article 87, paragraphe 1, du traité CE, il y a lieu de prendre en considération les éléments suivants.
13. Il est clair que l'exonération des droits d'accise en question confère un avantage à son bénéficiaire, qui se trouve dans une situation financière plus avantageuse que les autres entreprises d'autres secteurs industriels ou d'autres régions qui utilisent des huiles minérales.
14. Il est évident également que l'exonération est financée au moyen de ressources d'État, étant donné que l'État renonce à un certain montant qu'il aurait, autrement, perçu.
15. L'exonération ne s'applique qu'à certaines entreprises (les producteurs d'alumine) installées dans une région spécifique (la région de Gardanne). Elle favorise par conséquent certaines entreprises ou certaines productions au sens de l'article 87, paragraphe 1. De plus, il n'existe qu'un seul producteur d'alumine dans la région de Gardanne: Aluminium Pechiney.
16. Ainsi qu'il a été indiqué ci-dessus [point (7)], la France exporte de l'alumine vers le reste de l'Union européenne. Les échanges intracommunautaires sont donc affectés.
17. L'exonération des droits d'accise sur le *fuel* lourd utilisé par Aluminium Pechiney en vue de la production d'alumine permet de réduire le coût d'un important facteur de production, ce qui confère à l'entreprise concernée un avantage sur les autres producteurs d'alumine de l'Union européenne qui utilisent du *fuel* lourd; elle est donc de nature à fausser la concurrence. L'argument avancé par les autorités françaises selon lequel le marché de l'alumine est un marché de dimension mondiale [point (10)] ne peut oblitérer la constatation d'une distorsion de concurrence. De même, en ce qui concerne l'argument selon lequel l'exonération en cause n'a d'autre effet que de rétablir l'équilibre concurrentiel par rapport au gaz [point (10)], la Commission note que les usines d'alumine installées en Grèce, en Espagne et au Royaume-Uni utilisent du *fuel* lourd qui est soumis à accise. L'exonération de droits d'accise crée par conséquent une distorsion de concurrence.
18. S'agissant de la compatibilité avec le marché commun, ni les exceptions de l'article 87, paragraphe 2, ni celles prévues par les règlements d'exemption⁽¹⁰⁾ ne sont applicables en l'espèce.
19. En ce qui concerne l'applicabilité éventuelle des autres exceptions énoncées à l'article 87, paragraphe 3, il y a lieu de prendre en considération les éléments suivants.
20. Étant donné que l'aide permet à Aluminium Pechiney de réduire ses dépenses courantes, elle constitue une aide au fonctionnement qui est, en principe, interdite. Néanmoins, conformément au point 4.15 des lignes directrices concernant les aides d'État à finalité régionale⁽¹¹⁾, des aides au fonctionnement peuvent exceptionnellement être octroyées, sous certaines conditions, dans des régions bénéficiant de la dérogation de l'article 87, paragraphe 3, point a). Étant donné, en l'espèce, que la région de Gardanne n'est pas admissible au bénéfice de la dérogation de l'article 87, paragraphe 3, point a), cette exception ne s'applique pas.
21. Les aides au fonctionnement accordées sous la forme d'une réduction des taxes environnementales sont également examinées dans l'encadrement communautaire des aides d'État pour la protection de l'environnement⁽¹²⁾.
22. Initialement, les droits d'accise sur les huiles minérales n'étaient pas conçus comme un instrument de politique environnementale. Toutefois, la Commission a reconnu dans sa communication sur les impôts, les taxes et les redevances environnementaux dans le marché unique⁽¹³⁾ qu'«un prélèvement est environnemental lorsque sa base taxable a manifestement des effets négatifs sur l'environnement». Comme les huiles minérales ont manifestement des effets négatifs sur l'environnement, les droits d'accise sur les huiles minérales peuvent être considérés comme des taxes environnementales aux fins de l'application de l'encadrement communautaire des aides d'État pour la protection de l'environnement.

⁽¹⁰⁾ Règlement (CE) n° 70/2001 de la Commission du 12 janvier 2001; règlement (CE) n° 68/2001 de la Commission du 12 janvier 2001.

⁽¹¹⁾ JO C 74 du 10.3.1998, p. 9.

⁽¹²⁾ JO C 37 du 3.2.2001, p. 3.

⁽¹³⁾ COM(97) 9 final du 26.3.1997.

23. En tout état de cause, à ce stade de la procédure, les conditions énoncées dans les encadrements communautaires des aides d'État pour la protection de l'environnement ne semblent pas satisfaites. Conformément au point 3.4 de l'encadrement communautaire des aides d'État pour la protection de l'environnement en vigueur entre mars 1994 et février 2001 ⁽¹⁴⁾, les aides au fonctionnement sous forme de réduction des taxes écologiques doivent être limitées à la stricte compensation des surcoûts de production et elles doivent être temporaires et en principe dégressives. De même, conformément au point 53 de l'encadrement actuel, «lorsque les réductions portent sur une taxe qui fait l'objet d'une harmonisation communautaire et si la taxe nationale est inférieure ou égale au minimum communautaire, la Commission est d'avis que des exonérations de longue durée ne sont pas justifiées». Toute exonération doit donc être limitée à cinq ans: elle doit diminuer progressivement (point 45) ou, si elle n'est pas dégressive, elle ne peut excéder 50 % des surcoûts (point 46). La Commission constate en l'espèce que l'exonération a été appliquée à 100 % depuis juillet 1997 et que, partant, elle n'a été ni réduite progressivement, ni limitée à des surcoûts.
24. En ce qui concerne l'argument avancé par les autorités françaises selon lequel le principe *lex specialis generalibus derogat* devrait s'appliquer [point (9)], la Commission fait observer que les décisions du Conseil mentionnées ci-dessus [point 2]) ne peuvent pas préjuger de l'issue d'éventuelles procédures intentées en vertu des articles 87 et 88 du traité ⁽¹⁵⁾ de même que les décisions adoptées par la Commission sur la base de l'article 88 ne lui permettent pas de déroger à des dispositions de droit communautaire autres que celles relatives à l'application de l'article 87.1 du traité. Cet argument ne saurait donc être accepté en l'espèce. Bien entendu, la Commission entend tenir compte du fait que la décision du Conseil du 12 mars 2001, basée sur une proposition de la Commission, a prolongé la dérogation en question. La Commission fait cependant observer que cette décision ne préjuge pas de l'application des règles relatives aux aides d'État.
25. En ce qui concerne l'argument selon lequel l'exonération est accordée pour des raisons environnementales liées à la

teneur en soufre du *fuel* lourd utilisé pour la production d'alumine [point (10)], la Commission fait également observer que l'article 1^{er} de la décision 2001/224/CE du Conseil autorise déjà la France à appliquer une réduction du taux d'accise sur le *fuel* lourd afin d'encourager l'utilisation de combustibles plus respectueux de l'environnement, pour autant que cette réduction soit spécifiquement liée à la teneur en soufre et que le taux d'accise corresponde au taux d'accise minimal sur le *fuel* lourd prévu par la législation communautaire. La Commission, en l'espèce, ne considère pas comme justifié le fait de traiter différemment, pour des raisons environnementales, le *fuel* lourd d'une teneur en soufre inférieure à 2 % utilisé pour la production d'alumine et le *fuel* lourd d'une teneur en soufre inférieure à 2 % utilisé par d'autres industries.

3. CONCLUSION

26. À la lumière des considérations qui précèdent, la Commission doute que l'aide en cause remplisse les critères requis pour pouvoir être déclarée compatible avec le marché commun. Elle a en conséquence décidé d'ouvrir la procédure prévue à l'article 88, paragraphe 2, du traité CE.
27. La Commission invite par conséquent les autorités françaises à lui présenter ses observations et à lui fournir toute information utile à l'appréciation de l'aide dans un délai d'un mois à compter de la date de réception de la présente lettre. Elle les invite également à transmettre sans délai une copie de la présente au bénéficiaire potentiel de l'aide.
28. La Commission avise les autorités françaises qu'elle informera les tiers intéressés en publiant la présente lettre et un résumé de celle-ci au *Journal officiel des Communautés européennes*. Elle informera également les tiers intéressés des pays de l'AELE signataires de l'accord EEE en publiant une communication dans le supplément EEE du *Journal officiel des Communautés européennes*, ainsi que l'Autorité de surveillance AELE, à laquelle elle adressera une copie de la présente. Tous ces intéressés seront invités à présenter leurs observations dans un délai d'un mois à compter de la date de ces publications.'

⁽¹⁴⁾ JO C 72 du 10.3.1994, p. 3.

⁽¹⁵⁾ Le cinquième considérant de la décision 2001/224/CE du Conseil dit: «la présente décision ne préjuge pas de l'issue d'éventuelles procédures relatives aux distorsions de fonctionnement du marché unique qui pourraient être intentées notamment en vertu des articles 87 et 88 du traité. Elle ne dispense pas les États membres, conformément à l'article 88 du traité, de l'obligation de notifier à la Commission les aides d'État susceptibles d'être instituées.»

STATE AID — IRELAND

Aid C 78/2001 (ex NN 22/01) — Exemption from excise duty on mineral oils used as fuel for alumina production in the Shannon region**Invitation to submit comments pursuant to Article 88(2) of the EC Treaty**

(2002/C 30/07)

(Text with EEA relevance)

By means of the letter dated 30 October 2001, reproduced in the authentic language on the pages following this summary, the Commission notified Ireland 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
State Aid Registry
B-1049 Brussels
Fax (32-2) 296 12 42.

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

SUMMARY**Facts**

Article 6 of Council Directive 92/82/EEC⁽¹⁾, establishes a minimum rate of excise duty on heavy oil of ECU 13 per 1 000 kg. The excise duty applied by Ireland to industrial heavy oil is EUR 13,46 per 1 000 kg (accrued by VAT of 12,5 %) which is slightly above the minimum rate.

However, based on the authorisation granted by Article 1 of Council Decisions 92/510/EEC⁽²⁾, 97/425/EC⁽³⁾, 1999/880/EC⁽⁴⁾ and 2001/224/EC⁽⁵⁾, Ireland exempts from the excise duty the mineral oils used as fuel for alumina production in the Shannon region. According to the fifth recital of the said Council Decision 2001/224/EC, 'this decision shall be without prejudice to the outcome of any procedures relating to distortions of the operation of the single market that may be undertaken, in particular under Articles 87 and 88 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 88 of the Treaty'.

Alumina is a white powder principally used in smelters to produce aluminium.

Within the EU, alumina is produced in Ireland, France, Italy, Germany, Greece, Spain and the United Kingdom. Energy is one very important cost item in alumina production (about 20 % of total costs). Except in Germany where gas is used as fuel, the plants in all the other countries use mineral oils.

There is only one producer of alumina in Ireland, Aughinish Alumina Ltd, which is located in the Shannon region and which belongs to the Glencore group⁽⁶⁾. It has 430 employees and produces around 1,5 million tonnes of alumina which is exported mainly to the rest of the European Union.

In 1998, Irish exports of alumina to the rest of the EU amounted to 713 000 tonnes (51 % of production) and to 778 000 tonnes (54 % of production) in 1999.

The Irish Government requested the derogation to the minimum rate for excise duty in 1992 on the grounds that the plant was located in a relatively underdeveloped area and that, since it used heavy oil as an energy source, it could not compete with other countries' industries having lower tax rates on fuel and possibly also using lower or non-taxed natural gas or other energy sources.

⁽¹⁾ OJ L 316, 31.10.1992, p. 19.

⁽²⁾ OJ L 316, 31.10.1992, p. 16.

⁽³⁾ OJ L 182, 10.7.1997, p. 22.

⁽⁴⁾ OJ L 331, 23.12.1999, p. 73.

⁽⁵⁾ OJ L 84, 23.3.2001, p. 23.

⁽⁶⁾ Glencore is a diversified resources group with worldwide activities in the mining, smelting, refining, processing and trading of minerals and metals, energy products and agricultural products. Its turnover in 2000 was USD 48 billion.

Assessment

The exemption from excise duty in point constitutes State aid within the meaning of Article 87(1) of the EC Treaty since it confers an advantage to its beneficiary which is financed through State resources and which only applies to certain undertakings or regions. It distorts competition and, since alumina is exported from Ireland to the rest of the EU, intra-community trade is affected.

As for its compatibility with the common market, the Commission has doubts that the exemption fulfils the conditions established in the guidelines on national regional aid⁽⁷⁾ for operating aid (points 4(15) and 4(17)), since the Irish authorities have not demonstrated the existence of particular handicaps nor gauged their importance in order to justify the granting of operating aid and the aid is neither limited in time nor progressively reduced.

Similarly, the Commission considers that the conditions established in point 3(4) of the Community guidelines on State aid for environmental protection in force between March 1994 and February 2001⁽⁸⁾ (they should only compensate for extra production costs and be temporary and in principle degressive) as well as those in point 53 of the current guidelines⁽⁹⁾ (limited duration of five years progressively reduced (point 45) or non-degressive but limited to 50 % of the extra costs (point 46)) do not appear to be met.

In the light of the foregoing, the Commission has decided to initiate the procedure laid down in Article 88(2) of the EC Treaty against it.

TEXT OF THE LETTER

'The Commission wishes to inform Ireland that, having examined the information supplied by your authorities on the measure referred to above, it has decided to initiate the procedure laid down in Article 88(2) of the EC Treaty.

1. FACTS

(1) Article 6 of Council Directive 92/82/EEC⁽¹⁰⁾ establishes a minimum rate of excise duty on heavy oil of ECU 13 per 1 000 kg. The excise duty applied by Ireland to industrial heavy oil is EUR 13,46 per 1 000 kg (accrued by VAT of 12,5 %) which is slightly above the minimum rate.

(2) However, based on the authorisation granted by Article 1 of Council Decisions 92/510/EEC⁽¹¹⁾, 97/425/EC⁽¹²⁾, 1999/880/EC⁽¹³⁾ and 2001/224/EC⁽¹⁴⁾, Ireland exempts

from the excise duty the mineral oils used as fuel for alumina production in the Shannon region. According to the fifth recital of the said Council Decision 2001/224/EC, 'this decision shall be without prejudice to the outcome of any procedures relating to distortions of the operation of the single market that may be undertaken, in particular under Articles 87 and 88 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 88 of the Treaty'.

(3) Alumina is a white powder principally used in smelters to produce aluminium. It is produced out of bauxite ore by a refining process, the last step of which consists of calcination. More than 90 % of the calcined alumina will be used in the smelting of aluminium metal. The remainder is further processed and used in chemical applications. In several merger decisions⁽¹⁵⁾, the Commission has found that there are two separate product markets: smelter grade alumina (SGA) and chemical grade alumina (CGA). While the geographical market for SGA is worldwide, that for CGA is not wider than Europe.

(4) Within the EU, alumina is produced in Italy, France, Ireland, Germany, Greece, Spain and the United Kingdom. Energy is one very important cost item in alumina production (about 20 % of total costs). Except in Germany where gas is used as fuel, the plants in all the other countries use mineral oils.

(5) There is only one producer of alumina in Ireland, Aughinish Alumina Ltd, which is located in the Shannon region and which belongs to the Glencore group⁽¹⁶⁾. It has 430 employees and produces around 1,5 million tonnes of alumina which is exported mainly to the rest of the European Union.

(6) Aughinish Alumina Ltd's consumption of heavy fuel oil amounted to 328 000 000 kg in 1998 and 336 000 000 kg in 1999.

(7) In 1998, Irish exports of alumina to the rest of the EU amounted to 713 000 tonnes (51 % of production) and to 778 000 tonnes (54 % of production) in 1999.

(8) The Irish Government requested the derogation to the minimum rate for excise duty in 1992 on the grounds that the plant was located in a relatively underdeveloped area and that, since it used heavy oil as an energy source, it could not compete with other countries' industries having lower tax rates on fuel and possibly also using lower or non-taxed natural gas or other energy sources.

⁽⁷⁾ OJ C 74, 10.3.1998, p. 9.

⁽⁸⁾ OJ C 72, 10.3.1994, p. 3.

⁽⁹⁾ OJ C 37, 3.2.2001, p. 3.

⁽¹⁰⁾ OJ L 316, 31.10.1992, p. 19.

⁽¹¹⁾ OJ L 316, 31.10.1992, p. 16.

⁽¹²⁾ OJ L 182, 10.7.1997, p. 22.

⁽¹³⁾ OJ L 331, 23.12.1999, p. 73.

⁽¹⁴⁾ OJ L 84, 23.3.2001, p. 23.

⁽¹⁵⁾ See, for instance, Case COMP/M.1693 — Alcoa/Reynolds.

⁽¹⁶⁾ Glencore is a diversified resources group with worldwide activities in the mining, smelting, refining, processing and trading of minerals and metals, energy products and agricultural products. Its turnover in 2000 was USD 48 billion.

2. ASSESSMENT

- (9) In accordance with Article 6(1) of Council Regulation (EC) No 659/1999 of 22 March 1999, the decision to initiate proceedings shall summarise the relevant issues of fact and law, shall include a preliminary assessment from the Commission as to the aid character of the proposed measure, and shall set out the doubts as to its compatibility with the common market.
- (10) As for the nature of State aid of the measure within the meaning of Article 87(1) of the EC Treaty, the following considerations apply:
- (11) It is clear that the exemption from excise duty in point confers an advantage to its beneficiary which is placed in a more favourable financial position than the other undertakings that use mineral oils in other industries or regions.
- (12) It is also evident that the exemption is financed through State resources, since the State foregoes a certain amount of money that otherwise it would collect.
- (13) The exemption only applies to certain companies (those producing alumina) located in one specific region (the Shannon region). It favours therefore certain undertakings or the production of certain goods within the meaning of Article 87(1). Moreover, there is only one company producing alumina in the Shannon region, Aughinish Alumina Ltd.
- (14) As seen above, alumina is exported from Ireland to the rest of the EU. Intra-community trade is therefore affected.
- (15) The exemption of excise duties for the heavy oil used in Aughinish Alumina Ltd's production of alumina reduces the cost of an important input, giving it an advantage over other EU producers of alumina in the EU, and is therefore liable to distort competition.
- (16) As for its compatibility with the common market, neither the exceptions of Article 87(2) nor those contained in the exemption regulations⁽¹⁷⁾ apply in the present case.
- (17) As for the possible applicability of other exceptions under Article 87(3), the following considerations apply:
- (18) Since the aid reduces Aughinish Alumina Ltd's current expenses, it constitutes operating aid which is normally prohibited.
- (19) Nevertheless, according to point 4(15) of the guidelines on national regional aid⁽¹⁸⁾, operating aid may exceptionally be granted in regions eligible under the derogation in Article 87(3)(a) provided that it is justified in terms of its contribution to regional development, and that its nature and its level is proportional to the handicaps it seeks to alleviate. In any case, it is for the Member State to demonstrate the existence of any handicaps and gauge their importance (point 4(15)) and operating aid must be both limited in time and progressively reduced (point 4(17)).
- (20) These conditions do not appear to be met in the present case. Although the Shannon region has lost its 87(3)(a) status as a result of the review of the regional map in 1999 and could, exceptionally, benefit from operating aid until the end of 2001, the Irish authorities have not demonstrated the existence of particular handicaps nor gauged their importance in order to justify the granting of operating aid. Moreover, it appears that the exemption in point is neither limited in time nor progressively reduced. The Commission considers that a period of 23 years (from 1983 until the end of 2006 if Ireland so wishes since unanimity is required to shorten that deadline) is too long a period to be considered 'limited'. On the other hand, there is no progressive reduction of the advantage.
- (21) Operating aid is also contemplated in the Community guidelines on State aid for environmental protection when it adopts the form of tax relief from environmental taxes⁽¹⁹⁾.
- (22) Originally, excise duties on mineral oils were not designed as an instrument of environmental policy. However, the Commission has acknowledged in its Communication on environmental taxes and charges in the single market⁽²⁰⁾, that 'one likely feature for a levy to be considered as environmental would be that the taxable base of the levy has a clear negative effect on the environment'. As mineral oils have a clear negative effect on the environment, excise duties on mineral oils could be considered as environmental taxes for the purposes of the application of the environmental guidelines.
- (23) In any case, at this stage of the procedure, the conditions established in the Community guidelines for environmental protection do not appear to be met. According to point 3(4) of the Community guidelines on State aid for environmental protection in force between March 1994 and February 2001⁽²¹⁾, operating aid in the form of relief from environmental taxes should only compensate for extra production costs and be temporary and in principle degressive. Similarly, according to point 53 of the current guidelines, 'when the reductions concern a tax that has been harmonised at Community level and when the domestic tax is lower or equal to the Community minimum, the Commission takes the view that long-term exemptions are not justified'. In this case, any exemptions granted are subject to a limited duration of five years where the aid is degressive (point 45) or non-degressive but limited to 50 % of the extra costs (point 46). In the present case, the Commission notes that the period of five years is exceeded and that the aid has not been neither progressively reduced nor limited to extra costs.

⁽¹⁷⁾ Commission Regulation (EC) No 70/2001 of 12 January 2001; Commission Regulation (EC) No 68/2001 of 12 January 2001.

⁽¹⁸⁾ OJ C 74, 10.3.1998, p. 9.

⁽¹⁹⁾ OJ C 37, 3.2.2001, p. 3.

⁽²⁰⁾ COM(97) 9 final of 26 March 1997.

⁽²¹⁾ OJ C 72, 10.3.1994, p. 3.

(24) The Commission will take duly into account the fact that the decision adopted by the Council on 12 March 2001, on the basis of a Commission proposal, has extended the derogation in point. In this regard, the Commission states that this Council decision is without prejudice of the application of the State aid rules.

3. CONCLUSION

(25) In the light of the foregoing considerations, the Commission, has doubts that the aid in question fulfils the criteria for declaring its compatibility with the common market. It has therefore decided to initiate the procedure laid down in Article 88(2) of the EC Treaty against it.

(26) The Commission accordingly requests Ireland to submit its comments and to provide all such information as may

help to assess the measure, within one month of the date of receipt of this letter. It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.

(27) The Commission warns Ireland that it will inform interested parties by publishing this letter and a meaningful summary of it in the *Official Journal of the European Communities*. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the *Official Journal of the European Communities* and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication'.
