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Commission

2003/C 8/09

Operation of scheduled air services — Invitation to tender published by Italy pursuant to Article 4(1)(d) of Council Regulation (EEC) No 2408/92, for the operation of the following scheduled air services: Pantelleria-Trapani and vice versa, Lampedusa-Trapani and vice versa, Trapani-Rome-Milan and vice versa, Trapani-Bari-Venice and vice versa, Trapani-Catania and vice versa ⁽¹⁾

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I

(Information)

COMMISSION

Euro exchange rates ⁽¹⁾

13 January 2003

(2003/C 8/01)

1 euro =

Currency		Exchange rate	Currency		Exchange rate
USD	US dollar	1,0549	LVL	Latvian lats	0,619
JPY	Japanese yen	125,74	MTL	Maltese lira	0,4193
DKK	Danish krone	7,4295	PLN	Polish zloty	4,0242
GBP	Pound sterling	0,6568	ROL	Romanian leu	35542
SEK	Swedish krona	9,1722	SIT	Slovenian tolar	230,6135
CHF	Swiss franc	1,4613	SKK	Slovak koruna	41,495
ISK	Iceland króna	84,08	TRL	Turkish lira	1754000
NOK	Norwegian krone	7,2895	AUD	Australian dollar	1,8109
BGN	Bulgarian lev	1,9559	CAD	Canadian dollar	1,6248
CYP	Cyprus pound	0,57604	HKD	Hong Kong dollar	8,2272
CZK	Czech koruna	31,855	NZD	New Zealand dollar	1,9606
EEK	Estonian kroon	15,6466	SGD	Singapore dollar	1,8333
HUF	Hungarian forint	234,94	KRW	South Korean won	1240,56
LTL	Lithuanian litas	3,4532	ZAR	South African rand	9,022

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

Notice of the impending expiry of certain countervailing measures

(2003/C 8/02)

1. The Commission gives notice that, unless a review is initiated in accordance with the following procedure, the countervailing measures mentioned below will expire on the date mentioned in the table below, as provided in Article 18(4) of Council Regulation (EC) No 2026/97 of 6 October 1997 ⁽¹⁾ on protection against subsidised imports from countries not members of the European Community.

2. Procedure

Community producers may lodge a written request for a review. This request must contain sufficient evidence that the removal of the measures would be likely to result in a continuation or recurrence of subsidisation and injury.

Should the Commission decide to review the measures concerned, importers, exporters, representatives of the exporting country and Community producers will then be provided with the opportunity to amplify, rebut or comment on the matters set out in the review request.

3. Time limit

Community producers may submit a written request for a review on the above basis, to reach the European Commission, Directorate-General for Trade (Division B-1), J-79 5/16, B-1049 Brussels ⁽²⁾ at any time from the date of the publication of the present notice but no later than three months before the date mentioned in the table below.

4. This notice is published in accordance with Article 18(4) of Regulation (EC) No 2026/97 of 6 October 1997.

Product	Country(ies) of origin or exportation	Measures	Reference	Date of expiry
Antibiotics (broad spectrum)	India	Countervailing duty	Regulation (EC) No 2164/98 (OJ L 273, 9.10.1998)	10.10.2003

⁽¹⁾ OJ L 288, 21.10.1997, p. 1, as last amended by Council Regulation (EC) No 1973/2002 (OJ L 305, 7.11.2002, p. 4).

⁽²⁾ Telex: COMEU B 21877; Telefax (32-2) 295 65 05.

STATE AID — FRANCE

(Articles 87 to 89 of the Treaty establishing the European Community)

Commission notice pursuant to Article 88(2) of the EC Treaty to other Member States and interested parties**State aid C 24/02 (ex N 635/2001) — PSA/Ford Douvrin**

(2003/C 8/03)

(Text with EEA relevance)

By the letter reproduced below, dated 6 November 2002, the Commission informed France that it had decided to terminate the proceedings initiated under Article 88(2) of the EC Treaty.

'By letter dated 1 October 2001, the French authorities notified the Commission of the abovementioned aid. The Commission requested further information on 5 November and the French authorities replied by letter dated 29 January 2002.

On 27 March 2002 the Commission decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid.

The decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽¹⁾ and interested third parties were invited to present their observations. The Commission did not receive any observations following publication.

By letter dated 24 September 2002, France withdrew the aid notification.

The Commission notes that, in accordance with Article 8 of Council Regulation (EC) No 659/1999 ⁽²⁾, the Member State concerned may withdraw its notification in due time before the Commission has taken a decision on the aid. In cases

where it has initiated the formal investigation procedure, it is required to close that procedure.

Accordingly, the Commission has decided to close the formal investigation procedure opened under Article 88(2) of the EC Treaty in respect of the aid, noting that France has withdrawn its notification.

Any aid planned by the French authorities for the PSA/Ford project at Douvrin before 31 December 2002 will have to be notified in advance to the Commission. After 1 January 2003, the new multisectoral framework on regional aid for large investment projects, approved by the Commission on 13 February 2002, will be applicable. According to that framework, the maximum aid intensity for regional investment aid in the motor vehicle industry (as defined in Annex C to the framework) granted under an authorised aid scheme for projects involving eligible expenditure of more than EUR 50 million or receiving aid of more than EUR 5 million expressed in terms of gross grant equivalent will be equivalent to 30 % of the corresponding regional aid ceiling. These rules will remain in force until the date on which the list of sectors provided for in point 31 of the framework becomes applicable. In order to guarantee transparency and to permit effective monitoring, the Member States will be called upon to provide summary information using the form laid down in Annex A to the framework.'

⁽¹⁾ OJ C 102, 27.4.2002, p. 28.

⁽²⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 83, 27.3.1999, p. 1).

UNIFORM APPLICATION OF THE COMBINED NOMENCLATURE (CN)**(Classification of goods)**

(2003/C 8/04)

Explanatory Notes adopted in accordance with the procedure defined in Article 10(1) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽¹⁾, as last amended by Commission Regulation (EC) No 1832/2002 ⁽²⁾.

The Explanatory Notes to the Combined Nomenclature of the European Communities ⁽³⁾ are amended as follows:

Page 40

0604 99 10 Not further prepared than dried

(1) Add the following text as the new first paragraph:

‘This subheading does not cover dried branches which have been twisted or formed into spirals regardless of whether they were twisted or formed into spirals before being dried (subheading 0604 99 90).’

(2) Renumber present first paragraph as paragraph 2.

0604 99 90 Other

Insert the following text after the present text:

‘This subheading also includes dried branches which have been twisted or formed into spirals.’

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 290, 28.10.2002, p. 1.

⁽³⁾ OJ C 256, 23.10.2002, p. 1.

Prior notification of a concentration
(Case COMP/M.3043 — Emerson/Dana/JV)

Candidate case for simplified procedure

(2003/C 8/05)

(Text with EEA relevance)

1. On 3 January 2003 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾, as last amended by Regulation (EC) No 1310/97 ⁽²⁾, by which the undertakings Emerson Electric Co. (Emerson, USA) and Dana Corporation (Dana, USA) acquire, within the meaning of Article 3(1)(b) of the Regulation, joint control of Dana Emerson Actuator Systems LLC (Dana Emerson, USA) by way of purchase of shares in a newly created company constituting a joint venture.

2. The business activities of the undertakings concerned are:

- Emerson: design, manufacture and sale of electrical, electromechanical and electronic products and systems,
- Dana: manufacture of components and systems for vehicle and industrial manufacturers,
- Dana Emerson: sale of components for automotive steering systems.

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.3043 — Emerson/Dana/JV, to:

European Commission,
Directorate-General for Competition,
Directorate B — Merger Task Force,
J-70,
B-1049 Brussels.

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

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

⁽³⁾ OJ C 217, 29.7.2000, p. 32.

Prior notification of a concentration
(Case COMP/M.2982 — Lazard/IntesaBci/JV)

(2003/C 8/06)

(Text with EEA relevance)

1. On 20 December 2002 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾, as last amended by Regulation (EC) No 1310/97 ⁽²⁾, by which the undertaking Lazard LLC (USA) and IntesaBci (Italy) acquires, within the meaning of Article 3(1)(b) of the Regulation, joint control of an existing company by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— Lazard is an investment banking company,

— IntesaBci is an Italian banking group involved in banking and assurance as well as financial brokerage, asset management, leasing and factoring.

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.2982 — Lazard/IntesaBci/JV, to:

European Commission,
Directorate-General for Competition,
Directorate B — Merger Task Force,
J-70,
B-1049 Brussels.

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

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

Prior notification of a concentration**(Case COMP/M.3051 — Future Capital/CDPQ/SAM Holding/Zipperling/Ormecon)****Candidate case for simplified procedure**

(2003/C 8/07)

(Text with EEA relevance)

1. On 3 January 2003 the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾, as last amended by Regulation (EC) No 1310/97 ⁽²⁾, by which the undertakings Future Capital AG (Future Capital, Germany), jointly owned by Aventis SA (Aventis, France) and the German Bundesland Hessen, Caisse de dépôt et placement du Québec (CDPQ, Canada), SAM Holding AG (SAM, Switzerland) and Zipperling-Kessler GmbH & Co. KG (Zipperling, Germany) acquires, within the meaning of Article 3(1)(b) of the Regulation, joint control of Ormecon Chemie GmbH & Co. KG (Ormecon, Germany), currently solely controlled by Zipperling, by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- Future Capital: management of venture capital funds,
- CDPQ: pension fund management for the province of Québec,
- SAM: investment fund management,
- Zipperling: holding company currently enjoying sole control of Ormecon,
- Ormecon: research, development and production in the field of organic metals, particularly coating for printed circuit boards and corrosion protection.

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference COMP/M.3051 — Future Capital/CDPQ/SAM Holding/Zipperling/Ormecon, to:

European Commission,
Directorate-General for Competition,
Directorate B — Merger Task Force,
J-70,
B-1049 Brussels.

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

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

⁽³⁾ OJ C 217, 29.7.2000, p. 32.

Non-opposition to a notified concentration**(Case COMP/M.3034 — CVC Group/El Arbol)**

(2003/C 8/08)

(Text with EEA relevance)

On 19 December 2002, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CEN' version of the CELEX database, under document No 302M3034. CELEX is the computerised documentation system of European Community law.

For more information concerning subscriptions please contact:

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III

(Notices)

COMMISSION

Operation of scheduled air services

Invitation to tender published by Italy pursuant to Article 4(1)(d) of Council Regulation (EEC) No 2408/92, for the operation of the following scheduled air services: Pantelleria-Trapani and vice versa, Lampedusa-Trapani and vice versa, Trapani-Rome-Milan and vice versa, Trapani-Bari-Venice and vice versa, Trapani-Catania and vice versa

(2003/C 8/09)

(Text with EEA relevance)

1. **Introduction:** Pursuant to Article 4(1)(a) of Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes, in accordance with the decisions of the Services Conference chaired by the Region of Sicily, the Italian Ministry of Infrastructure and Transport has decided to impose a public service obligation on the following scheduled air services:

— Pantelleria-Trapani and vice versa;

— Lampedusa-Trapani and vice versa;

— Trapani-Rome-Milan and vice versa;

— Trapani-Bari-Venice and vice versa;

— Trapani-Catania and vice versa.

The terms of this public service obligation were published in the *Official Journal of the European Communities* No C 119 of 22 May 2002.

Insofar as within 30 days of its publication no air carrier has commenced or is about to commence scheduled air services on the aforementioned routes, in accordance with the public service obligations imposed and without requesting financial compensation, Italy has decided, in accordance with the procedure referred to in Article 4(1)(d) of the aforementioned Regulation, to limit access to those routes to a single carrier and to award, under a tender procedure, the right to supply the air services concerned as from the first day of the month following the approval of the award of the contract.

2. **Subject of the invitation to tender:** The operation of scheduled air services in accordance with the public service obligation imposed on the aforementioned routes and published in the *Official Journal of the European Communities* No C 119 of 22 May 2002.

3. **Participation and tender procedure:** Participation is open to all air carriers who hold a valid operating licence issued by a Member State in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers.

This invitation to tender is subject to the provisions of Article 4(1)(d), (e), (f), (h) and (i) of Council Regulation (EEC) No 2408/92.

4. **Tender dossier - concession agreement:** The conditions for taking part in the call for tender and the award criteria are set out in the tender dossier which constitutes an integral part of this tender procedure.

The concession of the services will be governed by an agreement based on a model which may be obtained, together with the tender dossier and any other relevant information, from the following address:

ENAC - Area Trasporto Aereo, piazzale degli Archivi 41, I-00144 Rome, tel.: 065 48 43 22/327.

5. **Financial compensation:** Tenders must explicitly state the amount of compensation required for operating the services for two years from the scheduled starting date, accounted on an annual basis. The exact amount of compensation finally granted shall be determined annually ex post on the basis of the proven costs and revenue actually generated by individual services, within the limits of the amount given in the tender, as specified in the tender dossier.

The annual instalments will be made in the form of instalments and a balance. The balance will be paid only after approval of the carrier's accounts for the individual routes and verification that the services have been operated in accordance with the conditions laid down in Article 7 below.

6. **Fares:** Tenders must indicate the proposed fare structure in accordance with the public service obligation published in the *Official Journal of the European Communities* No C 119 of 22 May 2002.

7. **Duration of the contract:** The contract shall run for two years, with the option to extend for a further twelve months, from the date on which the scheduled air service on the routes in question will commence operation in accordance with the public service obligation imposed.

The operation of the contracted service and the carrier's cost accounting shall be the subject of an annual examination in cooperation with the carrier. No changes shall be made to the service provided without an additional agreement.

8. **Termination of contract and notice:** The parties must give six months' formal notice before terminating the contract. If the carrier fails to respect the public service obligation, it shall be deemed to have terminated the contract without notice if it does not resume services in accordance with the public service obligation within one month of being served formal notice.

Failure by the carrier to observe the period of notice referred to in the first paragraph shall be subject to a penalty calculated on the basis of the number of days of default and the deficit recorded on the route over the year in question. In no case shall the penalty be greater than the amount of financial compensation referred to in Article 5.

9. **Failure to fulfil the contract:** The carrier is responsible for seeing that the obligations incurred under the contract are strictly carried out. In the event the carrier fails to fulfil its contractual obligations wholly or in part for reasons other than force majeure or abnormal or unforeseeable events beyond the carrier's control, which it could not reasonably avoid, the contract may be terminated after giving formal notice to the carrier within ten days of learning of the event.

After receiving formal notice, the carrier is allowed up to seven days to justify its position.

This shall be without prejudice to the right to reduce the amount of financial compensation as provided for in the fourth paragraph below and any action for damages.

The number of flights cancelled for reasons directly attributable to the carrier must not in any scheduling season

exceed 1 % of the number of flights scheduled on a given route.

If the service is interrupted in any way, the amount of financial compensation shall be revised in proportion to the number of flights not carried out, without prejudice to any subsequent claim for compensation for damages.

If the contract is terminated, ENAC may require the carrier to continue the service, on an interim basis under the same conditions or select a new operator.

In the event that the carrier is prevented from operating services on the routes in question on account of:

- dangerous weather conditions,
- closure of one of the airports,
- issues of public safety,
- industrial action,
- security problems, or
- force majeure,

the amount of financial compensation shall be reduced in proportion to the number of flights not carried out.

10. **Presentation of tenders:** Tenders, which in order to be valid must be drawn up in accordance with the provisions of the tender dossier, must reach the following address no later than 60 days after the date of publication of this invitation to tender in the *Official Journal of the European Communities* in a closed and sealed envelope by registered letter with acknowledgement of receipt, or delivered by hand with receipt:

- ENAC, Direzione Generale, Viale del Castro Pretorio, 118, I-00185 Rome.

The date of receipt shall be deemed to be the date of the postmark for registered letters and the date of receipt for hand deliveries.

11. **Validity of the invitation to tender:** In accordance with Article 4(1)(d) of Council Regulation (EEC) No 2408/92, the validity of this invitation to tender is subject to the condition that no Community carrier agrees, in accordance with the final indent of paragraph 1, to operate services on the routes concerned consistent with the public service obligation.