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I

(Information)

COMMISSION

Euro exchange rates ⁽¹⁾

24 June 2005

(2005/C 154/01)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,2082	SIT	Slovenian tolar	239,43
JPY	Japanese yen	131,92	SKK	Slovak koruna	38,320
DKK	Danish krone	7,4480	TRY	Turkish lira	1,6375
GBP	Pound sterling	0,66300	AUD	Australian dollar	1,5647
SEK	Swedish krona	9,4015	CAD	Canadian dollar	1,4840
CHF	Swiss franc	1,5412	HKD	Hong Kong dollar	9,3887
ISK	Iceland króna	79,67	NZD	New Zealand dollar	1,7056
NOK	Norwegian krone	7,9725	SGD	Singapore dollar	2,0215
BGN	Bulgarian lev	1,9559	KRW	South Korean won	1 223,91
CYP	Cyprus pound	0,5735	ZAR	South African rand	8,1148
CZK	Czech koruna	29,938	CNY	Chinese yuan renminbi	9,9997
EEK	Estonian kroon	15,6466	HRK	Croatian kuna	7,3230
HUF	Hungarian forint	247,17	IDR	Indonesian rupiah	11 659,13
LTL	Lithuanian litas	3,4528	MYR	Malaysian ringgit	4,592
LVL	Latvian lats	0,6961	PHP	Philippine peso	67,242
MTL	Maltese lira	0,4293	RUB	Russian rouble	34,5980
PLN	Polish zloty	4,0285	THB	Thai baht	49,595
ROL	Romanian leu	36 133			

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

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises

(2005/C 154/02)

(Text with EEA relevance)

Aid No: XS 44/03

Member State: United Kingdom

Region: Wales — Article 87(3)(a) areas

Title of aid scheme or name of company receiving an individual aid: Low Carbon Partnership

Legal basis: Welsh Development Agency Act 1975

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: Total expenditure of GBP 3 499 200 over the 3 year duration of the scheme. The scheme will operate under the SME and *de minimis* block exemptions. The use of the SME block exemption will depend on the requirements of the SMEs being assisted. The funding given above refers to the total funding under both block exemptions.

The estimated annual aid expenditure is approximately GBP 1 166 400 but actual expenditure will depend on demand.

Maximum aid intensity: Capital Investment — Maximum of 50 % of total eligible investment costs in Article 87(3)(a) areas.

Date of implementation: 7 March 2003

Duration of scheme or individual aid award: 3 years

Objective of aid: One principle aim of the scheme is to reduce greenhouse gas emissions through support of low carbon technologies. This will be achieved in 2 stages:

1. identification of energy efficiency savings that can be made in SMEs (funded through *de minimis*); and
2. the installation of low carbon equipment for SMEs (funded with *de minimis* or SME block exemption aid where applicable).

The only assistance to be provided under Commission Regulation (EC) No 70/2001 is investment aid relating to the installation of low carbon equipment; all other assistance will be given as *de minimis* aid.

It is anticipated that assistance under the scheme will be given to up to 200 businesses in relation to costs associated with the installation of low carbon equipment and around a further 800 SMEs will have undergone an initial and/or full energy audit.

Economic Sector(s) concerned: All Sectors save for those not permitted under the SME block exemption Commission Regulation (EC) No 70/2001 and/or the *de minimis* block exemption Commission Regulation (EC) No 69/2001.

Name and address of the granting authority:

Welsh Development Agency
QED Centre
Main Avenue
Treforest Centre
Pontypridd
Wales
CF37 5YR

Contact: Dr Alastair Davies

Other information: This scheme is funded by the European Regional Development Fund

As a result of the use of energy efficient equipment installed through the scheme it is estimated that carbon dioxide Emission over a 10 year period from the date of implementation of the scheme will be reduced by approximately 286 000 tons.

Aid No: XS 52/03

Member State: Germany

Region: Brandenburg an der Havel

Title of aid scheme or name of company receiving an individual award: Interest subsidy

Legal basis: *Haushaltsplan der Stadt Brandenburg an der Havel, Gemeindeordnung für das Land Brandenburg, Verordnung (EG) Nr. 70/2001 der Kommission*

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: For the 2003 budget year EUR 35 000 is available.

A similar budget is planned for subsequent years.

The maximum interest subsidy for any one firm is EUR 7 500.

Maximum aid intensity: EUR 7 500 or 35 % gge plus 15 %

Date of implementation: Following the entry into force of the guideline by decision of the municipal council of 29 May 2002 and its publication in the official gazette of the city of Brandenburg an der Havel on 10 June 2002, the municipal council decided on 27 November 2002 to extend the guideline. What is involved is an extension of the existing scheme. It is asserted that no disbursement has yet been made.

Duration of scheme or individual aid award: Subject to the available budget resources, until Regulation (EC) No 70/2001 expires on 31 December 2006.

Objective: To support investment by small enterprises aimed at strengthening their business activity and at creating or safeguarding jobs.

Economic sector(s) concerned: All manufacturing and other services.

Name and address of the granting authority:

Stadtverwaltung Brandenburg an der Havel
Amt für Wirtschaftsförderung Friedrich-Franz-Straße 19
D-14770 Brandenburg an der Havel
Tel.: 00493381 38-20-01
Email: wirtschaftsfoederung@stadt-brandenburg.de
Contact:
Ms Brandt

Aid No: XS 80/02

Member State: Germany

Region: Bavaria

Recipient: Technologie- und Wissenstransfer AG, Schachenmeierstraße 35, 80636 München.

Legal basis: *Zuwendungsbescheid vom 20.8.2002 i. V. m. Art. 44, 23 Bayerische Haushaltsordnung*

Total amount of aid granted to the recipient: EUR 123 000

Maximum aid intensity: 14,7 % (of investment costs).

Date of implementation: 20.8.2002

Payment of individual aid: Until 31.12.2004

Objective: Investment aid for an SME for knowledge and technology transfer.

Economic sector(s) concerned: Services

Name and address of the granting authority:

Bayerisches Staatsministerium für Wirtschaft, Verkehr und Technologie, Prinzregentenstraße 28, D-80538 Munich

Aid No: XS 80/03

Member State: Germany

Region: Lower Saxony (town of Oldenburg)

Title of aid scheme or name of company receiving an individual award: Town of Oldenburg Rules (Richtlinie) to promote productive investment by individual SMEs.

Legal basis: § 108 der Niedersächsischen Landreisordnung (NLO) in der Fassung vom 22.8.1996 (Niedersächsisches Gesetz- und Verordnungsblatt S. 365) i.V. mit § 65 der Niedersächsischen Gemeindeordnung (NGO) in der Fassung vom 22.8.1996 (Niedersächsisches Gesetz- und Verordnungsblatt S. 382)

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 100 000

Maximum aid intensity: Part of the town of Oldenburg lies within the national regional aid map approved by the Commission.

The aid amounts

— in the case of small enterprises, to up to 15 %

— and in the case of medium-sized enterprises, to up to 7,5 %

of eligible investment expenditure.

The rules on the cumulation of aid are complied with.

Date of implementation: From 1.6.2003

Duration of scheme or individual aid award: From 1.6.2003 until 31.12.2006

Objective: The aid is intended to promote the competitiveness and adaptability of small and medium-sized enterprises in the Objective 2 area of the town of Oldenburg, to encourage the creation of new jobs and help safeguard existing ones, thus bringing about structural improvements.

Rescue and restructuring aid for firms in difficulty (within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty: OJ C 288, 9.10.1999) is not covered by the measure.

Aid may be granted for the following types of investment project:

- setting-up of an establishment
- expansion or extension of an establishment in Oldenburg, if the number of long-term jobs is increased by 15 % as compared with the situation before the start of the investment;
- rationalisation, diversification or modernisation of an establishment if this serves to ensure the continued existence of the business and the maintenance of most of the jobs;
- acquisition of an establishment threatened with closure or which has already closed, provided that this is done on market terms.

The aid takes the form of investment grants.

All depreciable fixed assets relating to physical and intangible assets are eligible.

Economic sector(s) concerned: Eligibility extends to companies in the industrial, commercial, craft, construction, transport and accommodation sectors and other service companies. Food and agricultural undertakings and the leisure and entertainment sector are excluded. Aid may not be granted to firms in sensitive sectors.

Name and address of the granting authority:

Stadt Oldenburg
Markt 1
D-26122 Oldenburg

Other information:

Mr Jörg Triebe
Tel.: 0441-235-2625
email:triebe.j@stadt-oldenburg.de

2005 — GBP 240 000

2006 — GBP 156 000

2007 — GBP 12 000

All as direct grant payments to SMEs

Maximum aid intensity: 50 % of identified eligible expenditure, up to a total maximum ceiling of GBP 20 000; usual operational ceiling of GBP 5 000. The county borough is in an Objective 1 area. The intensity is, therefore, 35 % plus 15 percentage points for assisted areas under Article 87(3)(a).

Date of implementation: 11 August 2003

Duration of scheme: Until 31 March 2007. All grants are expected to be made by 31 December 2006, with the residual period being taken up by payment and monitoring activity.

Objective of aid: Investment aid to encourage growth and development, with the focus on small enterprises. The aim is to improve the competitiveness and job-creating capacity of SMEs within the county borough by aiding investment in equipment and premises designed to promote growth. The aid is also aimed at improving environmental efficiency and increasing the use of ICT.

Economic sectors concerned: All sectors excepting those excluded under Regulation (EC) No 70/2001

Name and address of Granting Authority:

FAO Sheila Potter, Head of Regeneration Services

Conwy County Borough Council, Bodlondeb, Bangor Rd,
CONWY, LL32 8DU, Wales

Other information: This scheme is part funded by the European Regional Development Fund, through the West Wales & the Valleys Objective 1 programme.

Aid No: XS 98/03

Member State: United Kingdom

Region: County Borough of Conwy, Wales

Title of aid scheme: Conwy Business Development Grant

Legal Basis: Local Government Act 2000

Annual Expenditure:

2003 — GBP 72 000

2004 — GBP 216 000

Aid No: XS 113/02

Member State: Italy

Region: Lombardy

Title of aid scheme:

Priority 1: 'Improving the competitiveness of the economic system in Lombardy'

Measure 1.10: 'Support for internationalisation of firms'

Submeasure A: 'Aid for partnership at international level'

Legal basis: *Docup obiettivo 2 2000-2006 Lombardia*

Approvato con decisione C(2878) del 10.12.2001

Annual expenditure planned under the scheme:

2001 Objective 2	EUR 296 111,5	Phasing out EUR 3 639,5
2002 Objective 2	EUR 347 638,00	Phasing out EUR 40 109,00
2003 Objective 2	EUR 353 917,00	Phasing out EUR 33 134,00
2004 Objective 2	EUR 331 497,00	Phasing out EUR 22 670,00
2005 Objective 2	EUR 336 874,50	Phasing out EUR 15 307,00
2006 Objective 2	EUR 342 258,00	

Maximum aid intensity:

Small firms: 15 %

Medium-sized firms: 7,5 %

Plus 10 % in areas qualifying for exemption under Article 87(3) (c) of the EC Treaty.

Total assistance must not exceed 30 % of costs.

Date of implementation: 28 August 2002

Duration of scheme: Until 31 December 2006

Objective of aid: The aid is intended to help firms to operate in international markets by developing their ability to establish agreements for cooperation on production, marketing and technology.

The aid scheme does not apply to export-related activities, i.e. aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity, and aid contingent upon the use of domestic over imported goods.

The measures envisaged under the scheme are defined in accordance with Articles 2 and 5 of Regulation (EC) No 70/2001.

Economic sector(s) concerned: All sectors

Name and address of granting authority:

Regione Lombardia
Struttura interventi per la promozione estera
DG Industria PMI Cooperazione e turismo
Via Taramelli 20 — Milano

Aid No: XS 143/03

Member State: Italy

Region: Veneto

Title of aid scheme: Objective 2 single programming document (SPD) 2000-2006, Measure 4.4 'Aid to businesses for environmental protection'

Legal basis:

DGR n. 3025 del 9.11.2001 concernente il complemento di programmazione

DGR n. 368 del 14.2.2003 di approvazione del bando pubblico per la concessione degli aiuti

DGR n. 1860 del 13.6.2003 di approvazione graduatoria delle ditte ammesse a finanziamento

Annual expenditure planned under the scheme: The budget for the 2003 financial year provides for appropriations of EUR 2 057 782 under Objective 2 and EUR 927 370 as transitional support.

Maximum aid intensity: 15 % of eligible expenditure for small businesses and 7,5 % of eligible expenditure for medium-sized businesses

Date of implementation: Date of publication of the notice in the Veneto Official Gazette No 28 of 14 March 2003.

Duration of scheme: The entire planning period specified in SPD 2000-2006 and ending on 31 December 2006

Objective of aid: To support businesses introducing reproducible and/or innovative techniques that will serve as preventative measures to reduce environmental impact, in particular by:

- improving on environmental protection limits set by current regulations;
- using waste as a resource;
- obtaining environmental certification;
- reclaiming and regenerating polluted areas, in line with the 'polluter pays' principle.

Economic sector(s) concerned: All sectors

Name and address of granting authority:

Direzione regionale per la Tutela dell'ambiente

Calle Priuli — Cannaregio n. 99 — 30121 Venezia

STATE AID — THE NETHERLANDS**State aid No C 14/2005 (ex N 149/2004)****Subsidy for a malt house (Bavaria/Holland Malt BV)****Invitation to submit comments pursuant to Article 88(2) of the EC Treaty**

(2005/C 154/03)

By means of the letter dated 3 May 2005 reproduced in the authentic language on the pages following this summary, the Commission notified the Netherlands 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 Agriculture
Directorate H2
Office: Loi 130 5/128
B-1049 Brussels
Fax (32-2) 296 76 72

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

SUMMARY

Intervention in the Netherlands malt sector consists of a subsidy for an investment project of Holland Malt BV (a collaboration between Bavaria NV and Agrifirm, a cooperation of cereal farmers). The subsidy relates to the establishment of a production plant for malt in Eemshaven, municipality of Eemshaven. With the investment in one plant the whole chain of storage and processing of malting barley and the production of and trade in malt will be integrated.

The Netherlands intend to grant the subsidy to Holland Malt BV under a regional investment scheme 'Regionale investeringsprojecten 2000'. This regional investment scheme was approved by the European Commission in 2000 ⁽¹⁾, as well as an amendment to the scheme on 18 February 2002 ⁽²⁾, which made the IPR scheme applicable to the sectors for processing and marketing of agricultural products, as mentioned in Annex I of the Treaty.

Because it concerns a subsidy for an investment project to an undertaking in the sector for processing and sales of agricultural products as mentioned in annex I of the Treaty, and the eligible costs of the project are over EUR 25 million, a separate notification is required according to point 4.2.6 of the *Community Guidelines for State Aid in the Agriculture Sector* ⁽³⁾.

At this stage, the Commission doubts whether the planned assistance is compatible with the common market for the following reasons:

⁽¹⁾ *Regionale investeringsprojecten 2000 (IPR 2000-2006)*, N 549/99. Approved on 17.8.2000 by letter SG (2000) D/106266.

⁽²⁾ *Wijziging Regionale investeringsprojecten 2000, N831/2001*. Approved on 18.2.2002 by letter C(2002)233.

⁽³⁾ OJ C 28, 1.2.2000.

— On the basis of the information available to the Commission, it can not be excluded that the malt market shows overcapacity;

— Holland Malt claims to provide 'Premium malt' of high quality for the production of 'Premium beer' and that the market for this kind of malt and beer is still growing. However it is not clear whether 'Premium malt' and 'Premium beer' are not simply marketing concepts, and do not correspond to a specific separate product market for which overcapacity could be excluded.

TEXT OF LETTER

'Met dit schrijven stelt de Commissie Nederland ervan in kennis dat zij, na onderzoek van de door uw autoriteiten met betrekking tot de bovengenoemde steunmaatregel verstrekte inlichtingen, heeft besloten de procedure van artikel 88, lid 2, van het EG-Verdrag in te leiden.

I. PROCEDURE

1. Bij schrijven van 31 maart 2004, geregistreerd als ontvangen op 6 april 2004, heeft de Permanente Vertegenwoordiging van Nederland bij de Europese Unie de Commissie overeenkomstig artikel 88, lid 3, van het EG-Verdrag in kennis gesteld van het voornemen steun te verlenen aan Holland Malt BV.

2. Bij brieven van 1 juni 2004, 17 augustus 2004 en 16 februari 2005 heeft de Commissie de Nederlandse autoriteiten om nadere informatie verzocht. Bij brieven van 5 juli 2004, 17 december 2004 en 15 maart 2005, geregistreerd als ontvangen op respectievelijk 7 juli 2004, 3 januari 2005 en 23 maart 2005, hebben de Nederlandse autoriteiten de vragen van de Commissie beantwoord.

II. BESCHRIJVING

3. Nederland is voornemens aan Holland Malt BV een subsidie te verlenen op grond van de regionale investeringsregeling "Regionale Investeringsprojecten 2000" (hierna "IPR-regeling" genoemd). Deze regionale investeringsregeling is door de Europese Commissie goedgekeurd in 2000⁽¹⁾. Tevens is op 18 februari 2002⁽²⁾ een wijziging van de IPR-regeling goedgekeurd waardoor deze regeling van toepassing is geworden voor de sectoren die in bijlage I bij het Verdrag genoemde landbouwproducten verwerken en afzetten.
4. In het onderhavige geval gaat het om een subsidie voor een investeringsproject van Holland Malt BV. Holland Malt BV is een samenwerkingsverband van Bavaria NV en Agrifirm, een coöperatie van graanboeren. Omdat het gaat om een subsidie voor een investeringsproject van een onderneming die in bijlage I bij het Verdrag genoemde landbouwproducten verwerkt en afzet, en de subsidiabele kosten van het project meer dan 25 miljoen EUR bedragen, is op grond van punt 4.2.6 van de *Communautaire richtsnoeren voor staatssteun in de landbouwsector*⁽³⁾ (hierna de "Richtsnoeren" genoemd) een afzonderlijke melding vereist. Het Nederlandse ministerie van Economische Zaken is voornemens een bijdrage van bruto 13,5 % (netto 10 %) in de subsidiabele investeringen ten bedrage van 55 miljoen EUR te verlenen, met een maximumsubsidie van 7 425 000 EUR.
5. Het betreft een subsidie voor de bouw van een mouterij in de Eemshaven, gemeente Eemshoek. Er wordt geïnvesteerd in één complex waar de gehele keten van de opslag en verwerking van brouwergerst tot en met de productie en verhandeling van mout zal worden geïntegreerd.
6. Holland Malt BV heeft haar investeringsbeslissing genomen nadat de Nederlandse regering de subsidie bij brief van 23 december 2003 had toegezegd (de toezegging is gedaan ervan uitgaande dat de steun door de Europese Commissie zou worden goedgekeurd). De bouwwerkzaamheden van Holland Malt BV in de Eemshaven zijn in februari 2004 begonnen. Eind 2004 was de bouw van de gerstopslagvoorzieningen voltooid. De bouw van de mouterij zelf is aan de gang. De fabriek zal vóór de zomer van 2005 in bedrijf zijn.

III. BEOORDELING

7. Volgens artikel 87, lid 1, van het Verdrag zijn steunmaatregelen van de staten of in welke vorm ook met staatsmid-

delen bekostigd, die de mededinging door begunstiging van bepaalde ondernemingen of bepaalde producties vervalsen of dreigen te vervalsen, onverenigbaar met de gemeenschappelijke markt. In dit stadium lijkt het bij de onderhavige maatregel te gaan om steun in de zin van artikel 87, lid 1, van het Verdrag, aangezien aan één specifieke producent overheidsmiddelen beschikbaar worden gesteld ter dekking van normaliter door die begunstigde zelf te financieren uitgaven voor investeringen in de verwerking en afzet van landbouwproducten. Voor dergelijke steun geldt het bepaalde in punt 4.2 van de *Richtsnoeren*.

8. Een gemeenschappelijke markt voor mout is op grond van de toenmalige verordening van de Raad houdende een GMO voor granen⁽⁴⁾ ingesteld bij de verordening van de Commissie betreffende de restitutie bij uitvoer van mout⁽⁵⁾. Binnen de EU is in 2003 in totaal 1 062 686 ton mout verhandeld. In dat jaar heeft Nederland 59 109 ton mout verzonden naar andere lidstaten. De maximale productiecapaciteit van de mouterij in de Eemshaven zal 120 000 ton bedragen. Deze uitbreiding van de capaciteit gaat gepaard met een inkrimping van de capaciteit in Lieshout en Wageningen (productielocaties van Bavaria NV). De inkrimping in Lieshout en Wageningen samen bedraagt 65 000 ton. De netto-uitbreiding van de capaciteit van Bavaria NV/Holland Malt BV komt dus op 55 000 ton. In dit stadium mag uit deze uitbreiding worden opge- maakt dat sprake zou kunnen zijn van een effect op de handel tussen de lidstaten.

De omstandigheid dat het steunbedrag betrekkelijk gering is of de begunstigde onderneming vrij klein, sluit niet a priori de mogelijkheid uit dat het handelsverkeer tussen lidstaten ongunstig wordt beïnvloed⁽⁶⁾. In het onderhavige geval is het steunbedrag niet gering (7 425 000 EUR) en zijn de begunstigde ondernemingen evenmin klein (Bavaria NV is de grootste moutproducent van Nederland en Holland Malt BV neemt de 17e plaats in op de wereldranglijst). Ook deze feiten lijken er in dit stadium op te duiden dat de handel ongunstig zou kunnen worden beïnvloed.

9. De Internationale Graanraad verwacht dat de Europese Unie in 2004/2005 3,2 miljoen ton mout zal uitvoeren. Dit is 200 000 ton minder dan in het voorgaande verkoopseizoen. Ook bij de uitvoercertificaten voor mout zal naar verwachting sprake zijn van een daling: in 2004/2005 zou het gaan om 1,46 miljoen ton vergeleken met 1,76 miljoen ton in 2003/2004 (gebaseerd op de op 14 december 2004 beschikbare informatie). Deze cijfers lijken erop te duiden dat de markt voor mout aan het inkrimpen is. De onderhavige maatregel komt één enkele onderneming ten goede in een sterk concurrerende markt. Daarom ziet het er in dit stadium naar uit dat deze maatregel de mededinging zou kunnen vervalsen.

⁽¹⁾ Regionale Investeringsprojecten 2000 (IPR 2000-2006), N 549/99. Goedgekeurd op 17.8.2000 bij brief SG (2000) D/106266.

⁽²⁾ Wijziging Regionale Investeringsprojecten 2000, N 831/2001. Goedgekeurd op 18.2.2002 bij brief C(2002)233.

⁽³⁾ PB C 28 van 1.2.2000.

⁽⁴⁾ Artikel 16, lid 6, van Verordening (EEG) nr. 2727/75 van 29.10.1975 (PB L 281 van 1.11.1975, blz.1), zoals toen laatstelijk gewijzigd bij Verordening (EEG) nr. 1254/78 (PB L 156 van 14.6.1978, blz. 1).

⁽⁵⁾ Verordening (EEG) nr. 1680/78 van 17.7.1978 (PB L 193 van 18.7.1978, blz. 10), gewijzigd bij Verordening (EEG) nr. 2029/86 van 30.6.1986 (PB L 173 van 1.7.1986, blz. 44).

⁽⁶⁾ Punt 81 van het arrest in zaak C-280/00 van 24.7.2003 (Altmark-arrest).

10. De Commissie is in dit stadium dan ook van mening dat het bij de onderhavige maatregel gaat om staatssteun in de zin van artikel 87, lid 1, van het EG-Verdrag.
11. De leden 2 en 3 van dat artikel 87 voorzien echter in afwijkende bepalingen op grond waarvan sommige maatregelen als verenigbaar met de gemeenschappelijke markt kunnen worden beschouwd.
12. Gezien de kenmerken van de onderhavige maatregel, lijkt het er in dit stadium op dat artikel 87, lid 3, onder c), van het EG-Verdrag de enige afwijkende bepaling is die van toepassing zou kunnen zijn. Volgens die bepaling kunnen steunmaatregelen om de ontwikkeling van bepaalde vormen van economische bedrijvigheid of van bepaalde regionale economieën te vergemakkelijken als verenigbaar met de gemeenschappelijke markt worden beschouwd, mits de voorwaarden waaronder het handelsverkeer plaatsvindt daardoor niet zodanig worden veranderd dat het gemeenschappelijk belang wordt geschaad.
13. Aangezien het gaat om steun voor een investering in de verwerking en afzet van landbouwproducten, moet de Commissie nagaan of aan alle in punt 4.2 van de *Richtlijn* gestelde eisen is voldaan. In dit stadium betwijfelt de Commissie of artikel 87, lid 3, onder c), van het EG-Verdrag van toepassing is, zulks om de volgende redenen:

Markt voor mout

14. Volgens punt 4.2.5 van de *Richtlijn* mag geen steun voor investeringen in de verwerking en afzet van landbouwproducten worden verleend tenzij voldoende bewijs kan worden geleverd dat voor de betrokken producten normale afzetmogelijkheden op de markt kunnen worden gevonden. In dit stadium kan op basis van de informatie waarover de Commissie beschikt, niet worden uitgesloten dat op de markt voor mout sprake is van overcapaciteit. Rusland en de Oost-Europese landen bouwen hun eigen mouterijen en zullen misschien binnenkort in hun eigen behoeften kunnen voorzien. Er zijn meer en meer vrijhandelsvereenkomsten die voorzien in een algemene mogelijkheid om dit product vrij van rechten te verhandelen. De ontwikkeling van de vraag in China is nog niet bekend. Zie de vorenstaande punten 8 en 9 voor cijfers over de markt voor mout. De Commissie heeft ook opmerkingen ontvangen volgens welke de betrokken sector in de EU te kampen heeft met overcapaciteit, een dalende vraag op de interne en de exportmarkten en een toenemende concurrentie van Australië en Canada.
- Holland Malt BV beweert dat zij hoogwaardige premiummout voor de productie van premiumbieren levert en dat de markt voor dit type van mout en bier nog steeds groeit. In dit stadium is echter niet duidelijk of "premiummout" en "premiumbieren" niet gewoon marketingconcepten zijn en dus niet een specifiek marktsegment vormen waarvoor zou kunnen worden uitgesloten dat sprake is van overcapaciteit.

IV. CONCLUSIE

15. Gelet op de bovenstaande overwegingen verzoekt de Commissie Nederland in het kader van de procedure van artikel 88, lid 2, van het EG-Verdrag binnen een maand vanaf de datum van ontvangst van dit schrijven zijn opmerkingen te maken en alle dienstige inlichtingen te verstrekken voor de beoordeling van de steunmaatregel. Zij verzoekt uw autoriteiten onverwijld een afschrift van deze brief aan de potentiële begunstigde van de steunmaatregel te doen toekomen.
16. De Commissie wijst Nederland op de schorsende werking van artikel 88, lid 3, van het EG-Verdrag. Zij verwijst naar artikel 14 van Verordening (EG) nr. 659/1999, volgens hetwelk elke onrechtmatige steun van de begunstigde kan worden teruggevorderd.
17. Voorts deelt de Commissie Nederland mee dat zij de belanghebbenden door de bekendmaking van dit schrijven en van een samenvatting ervan in het *Publicatieblad van de Europese Unie* zal informeren. Alle belanghebbenden zal worden verzocht hun opmerkingen te maken binnen een maand vanaf de datum van die bekendmaking.

Prior notification of a concentration**(Case COMP/M. 3858 — Lehman Brothers/SCG/Starwood/Le Meridien)**

(2005/C 154/04)

(Text with EEA relevance)

1. On 15 June 2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings Lehman Brothers Inc. ('Lehman Brothers', US), Starwood Capital Group Global, L.L.C. ('SCG', US) and Starwood Hotels & Resorts Worldwide Inc. ('Starwood', US) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control over 23 hotels owned and leased by Le Meridien ('Le Meridien target hotels') by way of purchase of shares and management contracts.

2. The business activities of the undertakings concerned are:

- for Lehman Brothers: investment company active in, *inter alia*, private investment management, investment banking, investment in real estate and asset management,
- for SCG: real estate investment,
- for Starwood: worldwide hotel and leisure operation,
- for Le Meridien target hotels: 23 Le Meridien owned and leased hotels located mainly in the EU.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved.

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M. 3858 — Lehman Brothers/SCG/Starwood/Le Meridien, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Brussels

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration**(Case COMP/M.3692 — Reuters/Telerate)**

(2005/C 154/05)

(Text with EEA relevance)

On 23 May 2005, 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(2) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition web site (<http://europa.eu.int/comm/competition/mergers/cases/>). This web site provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website under document number 32005M3692. EUR-Lex is the on-line access to European law. (<http://europa.eu.int/eur-lex/lex>)

Non-opposition to a notified concentration**(Case COMP/M.3814 — RR Donnelley/Astron)**

(2005/C 154/06)

(Text with EEA relevance)

On 15 June 2005, 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 (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition web site (<http://europa.eu.int/comm/competition/mergers/cases/>). This web site provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website under document number 32005M3814. EUR-Lex is the on-line access to European law. (<http://europa.eu.int/eur-lex/lex>)
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Non-opposition to a notified concentration
(Case COMP/M.3797 — CGE/AMGA/SMAT/SAP)

(2005/C 154/07)

(Text with EEA relevance)

On 15 June 2005, 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 (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition web site (<http://europa.eu.int/comm/competition/mergers/cases/>). This web site provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website under document number 32005M3797. EUR-Lex is the on-line access to European law. (<http://europa.eu.int/eur-lex/lex>)
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Notice of initiation of an anti-dumping proceeding concerning imports of chamois leather originating in the People's Republic of China

(2005/C 154/08)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 384/96⁽¹⁾ on protection against dumped imports from countries not members of the European Community ('the basic Regulation'), alleging that imports of chamois leather, originating in the People's Republic of China ('the country concerned'), are being dumped and are thereby causing material injury to the Community industry.

1. Complaint

The complaint was lodged on 13 May 2005 by the British Leather Confederation ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 % of the total Community production of chamois leather.

2. Product

The product allegedly being dumped is chamois leather and combination chamois leather, whether or not cut to shape, including chamois and combination chamois crust leather, originating in the People's Republic of China ('the product concerned'), normally declared within CN codes 4114 10 10 and 4114 10 90. These CN codes are only given for information.

3. Allegation of dumping

In view of the provisions of Article 2(7) of the basic Regulation, the complainant established normal value for the People's Republic of China on the basis of the price in a market economy country, which is mentioned in point 5.1(d). The allegation of dumping is based on a comparison of normal value, thus calculated, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margin calculated is significant.

4. Allegation of injury

The complainant has provided evidence that imports of the product concerned from the People's Republic of China have increased overall in absolute terms and in terms of market share.

It is alleged that the volumes and the prices of the imported product concerned have, among other consequences, had a

negative impact on the market share held and the quantities sold by the Community industry, resulting in substantial adverse effects on the overall performance, the financial situation and the employment situation of the Community industry.

5. Procedure

Having determined, after consulting the Advisory Committee, that the complaint has been lodged by or on behalf of the Community industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

5.1. Procedure for the determination of dumping and injury

The investigation will determine whether the product concerned originating in the People's Republic of China is being dumped and whether this dumping has caused injury.

(a) Sampling

In view of the apparent large number of parties involved in this proceeding, the Commission may decide to apply sampling in accordance with Article 17 of the basic Regulation.

(i) Sampling for exporters/producers in the People's Republic of China

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all exporters/producers, or representatives acting on their behalf, are hereby requested to make themselves known by contacting the Commission and providing the following information on their company or companies within the time limit set in point 6(b)(i) and in the format indicated in point 7:

— name, address, e-mail address, telephone, and fax, and/or telex numbers and contact person,

— the turnover in local currency and the volume in square feet of the product concerned sold for export to the Community during the period 1 April 2004 to 31 March 2005,

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Council Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

- the turnover in local currency and the sales volume in square feet for the product concerned on the domestic market during the period 1 April 2004 to 31 March 2005,
- whether the company intends to claim an individual margin ⁽¹⁾ (individual margins can only be claimed by producers),
- the precise activities of the company with regard to the production of the product concerned,
- the names and the precise activities of all related companies ⁽²⁾ involved in the production and/or selling (export and/or domestic) of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample,
- an indication of whether the company or companies agree to their inclusion in the sample, which implies replying to a questionnaire and accepting an on-the-spot investigation of their response.

In order to obtain the information it deems necessary for the selection of the sample of exporters/producers, the Commission will, in addition, contact the authorities of the exporting country and any known associations of exporters/producers.

(ii) Sampling for importers

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission and to provide the following information on their company or companies within the time limit set in point 6(b)(i) and in the formats indicated in point 7:

- name, address, e-mail address, telephone, and fax, and/or telex numbers and contact person,

⁽¹⁾ Individual margins may be claimed pursuant to Article 17(3) of the basic Regulation for companies not included in the sample, Article 9(5) of the basic Regulation concerning individual treatment in cases involving non market economy countries/economies in transition, and Article 2(7)(b) of the basic Regulation for companies claiming market economy status. Note that claims for individual treatment necessitate an application pursuant to Article 9(5) of the basic Regulation and that claims regarding market economy status necessitate an application pursuant to Article 2(7)(b) of the basic Regulation.

⁽²⁾ For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

- the total turnover in euro of the company during the period 1 April 2004 to 31 March 2005,
- the total number of employees,
- the precise activities of the company with regard to the product concerned,
- the volume in square feet and value in euro of imports into and resales made in the Community market during the period 1 April 2004 to 31 March 2005, of the imported product concerned originating in the People's Republic of China,
- the names and the precise activities of all related companies involved in the production and/or selling of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample,
- an indication of whether the company or companies agree to their inclusion in the sample, which implies replying to a questionnaire and accepting an on-the-spot investigation of their response.

In order to obtain the information it deems necessary for the selection of the sample of importers, the Commission will, in addition, contact any known associations of importers.

(iii) Final selection of the samples

All interested parties wishing to submit any relevant information regarding the selection of the sample must do so within the time limit set in point 6(b)(ii).

The Commission intends to make the final selection of the samples after having consulted the parties concerned that have expressed their willingness to be included in the sample.

Companies included in the samples must reply to a questionnaire within the time limit set in point 6(b)(iii) and must cooperate within the framework of the investigation.

If sufficient cooperation is not forthcoming, the Commission may base its findings, in accordance with Articles 17(4) and 18 of the basic Regulation, on the facts available. A finding based on facts available may be less advantageous to the party concerned, as explained in point 8 of this notice.

(b) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community industry and to any association of producers in the Community, to the sampled exporters/producers in the People's Republic of China, to any association of exporters/producers, to the sampled importers, to any association of importers named in the complaint and to the authorities of the exporting country concerned.

Exporters/producers in the People's Republic of China claiming an individual margin, with a view to the application of Articles 17(3) and 9(6) of the basic Regulation, must submit a completed questionnaire within the time limit set in point 6(a)(ii). They therefore have to request a questionnaire within the time limit set in point 6(a)(i). However, such parties should be aware that if sampling is applied to exporters/producers, the Commission may nonetheless decide not to calculate an individual margin for them if the number of exporters/producers is so large that individual examination would be unduly burdensome and would prevent the timely completion of the investigation.

(c) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence has to reach the Commission within the time limit set in point 6(a)(ii).

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(a)(iii).

(d) Selection of the market economy country

In accordance with Article 2(7)(a) of the basic Regulation, it is envisaged to choose the United States of America as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China. Interested parties are hereby invited to comment on the appropriateness of this choice within the specific time limit set in point 6(c).

(e) Market economy status

For those exporters/producers in the People's Republic of China who claim and provide sufficient evidence that they operate under market economy conditions, i.e. that they meet the criteria laid down in Article 2(7)(c) of the basic Regulation, normal value will be determined in accordance with Article 2(7)(b) of the basic Regulation. Exporters/producers intending to submit duly substantiated claims must do so within the specific time limit set in point 6(d). The Commission will send claim forms to all exporters/

producers in the People's Republic of China who have either been included in the sample or named in the complaint and to any association of exporters/producers named in the complaint, as well as to the authorities of the People's Republic of China.

5.2. Procedure for assessment of Community interest

In accordance with Article 21 of the basic Regulation and in the event that the allegations of dumping and injury caused thereby are substantiated, a decision will be reached as to whether the adoption of anti-dumping measures would not be against the Community interest. For this reason, the Community industry, importers, their representative associations, representative users and representative consumer organisations, provided that they prove that there is an objective link between their activity and the product concerned, may, within the general time limits set in point 6(a)(ii), make themselves known and provide the Commission with information. The parties which have acted in conformity with the precedent sentence may request a hearing setting the particular reasons why they should be heard within the time limit set in point 6(a)(iii). It should be noted that any information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

6. Time limits**(a) General time limits**

- (i) For parties to request a questionnaire or other claim forms

All interested parties should request a questionnaire or other claim forms as soon as possible, but not later than 10 days after the publication in the *Official Journal of the European Union*.

- (ii) For parties to make themselves known, to submit questionnaire replies and any other information

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

Companies selected in a sample must submit questionnaire replies within the time limits specified in point 6(b)(iii).

(iii) Hearings

All interested parties may also apply to be heard by the Commission within the same 40 day time limit.

(b) *Specific time limit in respect of sampling*

(i) The information specified in point 5.1(a)(i) and 5.1(a)(ii) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included in the sample on its final selection within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(ii) All other information relevant for the selection of the sample as referred to in 5.1(a)(iii) must reach the Commission within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(iii) The questionnaire replies from sampled parties must reach the Commission within 37 days from the date of the notification of their inclusion in the sample.

(c) *Specific time limit for the selection of the market economy country*

Parties to the investigation may wish to comment on the appropriateness of the United States of America which, as mentioned in point 5.1(d), is envisaged as a market economy country for the purpose of establishing normal value in respect of the People's Republic of China. These comments must reach the Commission within 10 days of the date of publication of this notice in the *Official Journal of the European Union*.

(d) *Specific time limit for submission of claims for market economy status and/or for individual treatment*

Duly substantiated claims for market economy status (as mentioned in point 5.1(e)) and/or for individual treatment pursuant to Article 9(5) of the basic Regulation, must reach the Commission within 21 days of the date of publication of this notice in the *Official Journal of the European Union*.

7. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax, and/or telex numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited' ⁽¹⁾ and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'For inspection by interested parties'.

Commission address for correspondence:

European Commission
Directorate General for Trade
Directorate B
Office: J-79, 5/16
B-1049 Brussels
Fax (32-2) 295 65 05.

8. Non-cooperation

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available. If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

9. Schedule of the investigation

The investigation will be concluded, according to Article 6(9) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*. According to Article 7(1) of the basic Regulation, provisional measures may be imposed no later than 9 months from the publication of this notice in the *Official Journal of the European Union*.

⁽¹⁾ This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

III

(Notices)

COMMISSION

F-La Rochelle: operation of scheduled air services**Invitation to tender issued by France pursuant to Article 4(1)(d) of Council Regulation (EEC) No 2408/92 for the operation of scheduled air services between La Rochelle and Lyon via Poitiers**

(2005/C 154/09)

1. **Introduction:** Pursuant to Article 4(1)(a) of Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes, France has decided to impose a public service obligation on scheduled air services between La Rochelle (Ile de Ré) and Lyon (Saint-Exupéry) via Poitiers (Biard). The standards required by this public service obligation were published in *Official Journal of the European Union* No C 153 of 24.6.2005.
2. **Subject of the invitation to tender:** Operation from 1 November 2005 of scheduled air services between La Rochelle (Ile de Ré) and Lyon (Saint Exupéry), via Poitiers (Biard), in accordance with the public service obligation imposed on this route, as published in *Official Journal of the European Union* No C 153 of 24.6.2005.
3. **Participation in the invitation to tender:** Participation is open to all Community air carriers which 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.
4. **Tender procedure:** This invitation to tender is subject to the provisions of Article 4(1)(d), (e), (f), (g), (h) and (i) of Regulation (EEC) No 2408/92.
5. **Tender dossier:** The full tender dossier, including the specific rules for this invitation to tender and the public service delegation agreement and its technical annex (text of the public service obligation published in the *Official Journal of the European Union*) is obtainable free of charge from:

Aéroport de La Rochelle, Île de Ré, Rue du Jura, F-17000 La Rochelle. Tel. (33-5) 46 42 30 26, fax (33-5) 46 00 04 84.
6. **Financial compensation:** The tenders submitted are to specify the amount required by way of compensation for operating the service for 3 years from the scheduled start date (with an annual breakdown). The exact amount of compensation finally granted will be determined annually ex post on the basis of the costs and revenue actually generated by the service, without exceeding the amount specified stated in the tender. This ceiling may be revised only in the event of unforeseen changes in the operating conditions.

The annual payments 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 route in question and verification that the service has been operated in accordance with the conditions laid down in section 8 below.

In the event of termination of the contract before its normal expiry date, section 8 will be applied as soon as possible to allow payment to the carrier of the balance due, the ceiling referred to in the first paragraph of this section being reduced, where appropriate, in proportion to the actual duration of the service.

7. **Duration of the contract:** The duration of the contract (public service delegation agreement) is 3 years from the scheduled date for the commencement of the air services as stipulated in section 2 of this invitation to tender.
8. **Verification of the operation of the service and of the carrier's accounts:** The operation of the service and the carrier's accounts for the route in question will be examined at least once a year in cooperation with the carrier.
9. **Cancellation and notice:** The contract may be cancelled by either contracting party before its normal expiry date by giving 6 months' notice. In the event of serious breaches of the public service obligation by the carrier, the latter will be deemed to have terminated the contract without notice if it fails to resume the service in accordance with the public service obligation within 1 month of the serving of formal notice.
10. **Reductions in financial compensation:** Failure by the carrier to observe the period of notice stipulated in section 9 will lead either to the imposition of an administrative fine, pursuant to Article R.330-20 of the Civil Aviation Code, or to a reduction in financial compensation calculated on the basis of the number of months of default and the real operating loss of the service during the year in question, not exceeding the financial compensation ceiling provided for in section 6.

In the event of minor breaches of the public service obligation, the maximum financial compensation provided for in section 6 will be reduced, without prejudice to the application of Article R.330-20 of the Civil Aviation Code. Such reductions will take account, where appropriate, of the number of flights cancelled for reasons attributable to the carrier, the number of flights made with a capacity lower than that required, the number of flights which failed to comply with the public service obligation as regards stopovers, the number of days on which the public service obligation was not complied with as regards the time at destination, and the use of computerised reservation services.

11. **Presentation of tenders:** Tenders must be sent by registered letter with acknowledgement of receipt, date as post-marked, or delivered by hand (in which case a receipt must be obtained), at the latest 6 weeks from the date of publication of this invitation to tender in the *Official Journal of the European Union*, before 17.00 (local time) to the following address:

Aéroport de La Rochelle, Île de Ré, Rue du Jura, F-17000 La Rochelle.

12. **Validity of the invitation to tender:** In accordance with Article 4(1)(d) of Regulation (EEC) No 2408/92, the validity of this invitation to tender is subject to the condition that no Community carrier presents, by 1 October 2005, a programme for operating the route in question from 1 November 2005 in accordance with the public service obligation imposed without receiving any financial compensation.

F-Saint-Etienne: operation of scheduled air services**Invitation to tender issued by France pursuant to Article 4(1)(d) of Council Regulation (EEC) No 2408/92 for the operation of scheduled air services between Saint-Étienne (Bouthéon) and Paris (Orly)**

(2005/C 154/10)

1. **Introduction:** Pursuant to Article 4(1)(a) of Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes, France has decided to impose public service obligations in respect of scheduled air services operated between Saint-Etienne (Bouthéon) and Paris (Orly). The standards required by these public service obligations were published in the *Official Journal of the European Communities* C 194 of 14 August 2002.

If, on 17 October 2005, no air carrier has commenced or is about to commence operating scheduled air services between Saint Etienne (Bouthéon) and Paris (Orly) in accordance with the public service obligation imposed and without requesting compensation, France has decided, in accordance with the procedure laid down in Article 4(1)(d) of the abovementioned regulation, to limit access to each of these routes to a single air carrier and to offer the right to operate such services from 17 November 2005.

2. **Subject of the invitation to tender:** Operation from 17 November 2005 of scheduled air services between Saint Etienne (Bouthéon) and Paris (Orly) in accordance with the public service obligation imposed on this route, as published in *Official Journal of the European Communities* C 194 of 14 August 2002.

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

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

5. **Tender dossier:** The full tender dossier, including the specific rules for this invitation and the public service delegation agreement and its technical annex (text of public service obligations published in the *Official Journal of the European Communities*) is obtainable free of charge from:

Chambre de Commerce et d'Industrie de Saint-Etienne Bouthéon/Montbrison, Direction administrative et financière, 57, Cours Fauriel, F-42024 Saint-Etienne Cedex 2; tel. (33-4) 77 43 04 42, fax (33-4) 77 43 04 14.

6. **Financial compensation:** Tenders must explicitly state the amount of compensation required for the operation of the route for 3 years from the planned date of commencement of operation (with an annual breakdown). The exact amount of compensation finally granted will be determined annually *ex-post* on the basis of the costs and revenue actually generated by the service, within the limits of the amount stated in the tender. This maximum limit may be revised only in the event of unforeseen changes in operating conditions.

The annual payments shall be made in the form of advance payments and an adjustment balance. The payment of the adjustment balance shall be effected only after approval of the carrier's accounts for the relevant route and verification of the execution of the service in accordance with the conditions provided for in point 8 below.

If the contract is terminated before the completion of its term, the provisions of point 8 shall be implemented as soon as possible so as to enable the payment to the carrier of the balance of the financial compensation due to it, with the maximum limit indicated in the first paragraph being reduced, where appropriate, pro rata with the actual duration of the operation.

7. **Duration of the contract:** The duration of the contract (public service delegation agreement) is 3 years from the planned date for starting operation of the air services mentioned in point 2 of this invitation to tender.

8. **Verification of execution of the service and audit of the carrier's accounts:** The operation of the contracted services and the carrier's cost accounting for the relevant route will be the subject of an annual examination in cooperation with the carrier.

9. **Termination and notice:** The contract may be terminated by either of the signatory parties before the normal end of the validity of the contract provided that a 6-month period of notice is observed. If the carrier fails to comply with a public service obligation, it shall be deemed to have terminated the contract without notice if it has not resumed the service in accordance with the public service obligations within a period of one month after having been served with a notice of default.

10. **Penalties:** Failure by the carrier to observe the period of notice referred to in point 9 will be subject either to the payment of an administrative fine in accordance with Article R. 330-20 of the Civil Aviation Code or to a penalty calculated on the basis of the number of months of default and the actual deficit of the route during the year in question up to the level of the maximum financial compensation provided for in point 6.

In the event of a serious failure to meet the public service obligations, termination of the contract may be declared on the grounds that the carrier has not served any notice.

In the event of failures limited to public service obligations, reductions shall be applied to the maximum financial compensation provided for in point 6, without prejudice to the application of the provisions of Article R. 330-20 of the Civil Aviation Code. These reductions shall, where appropriate, take account of the number of flights cancelled for reasons for which the carrier can be blamed, the number of flights operated without complying with the public service obligations in terms of stops, the number of days on which the public service obligations have not been complied with in terms of time spent at

destination, or the use of computerised reservation services.

11. **Presentation of tenders:** Tenders must be sent by post, by registered letter with acknowledgement of receipt, date as on the postmark, or delivered by hand to the address below with proof of receipt, at the latest 6 weeks after the date of publication of this invitation to tender in the *Official Journal of the European Union* before 17.00 local time, to the following address:

Chambre de Commerce et d'Industrie de Saint-Étienne/
Montbrison, 57, Cours Fauriel, F-42024 Saint-Étienne
Cedex 2; tel. (33-4) 77 43 04 42, fax (33-4) 77 43 04 14.

12. **Validity of the invitation to tender:** In accordance with Article 4(1)(d) of Regulation (EEC) No 2408/92, the validity of this invitation to tender is subject to the condition that no Community carrier presents, by 17 October 2005, a programme for operating the route in question from 17 November 2005 in accordance with the public service obligation imposed, without receiving any financial compensation.
