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Information and Notices

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I

(Information)

COUNCIL

COUNCIL DECISION

of 4 March 1994

on the replacement of certain members and alternate members of the European Social Fund Committee

(94/C 368/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽¹⁾, and in particular Article 28, third paragraph, thereof,

Having regard to the proposal from the Commission,

Whereas the Council, acting on a proposal from the Commission, in a Decision of 20 May 1992 ⁽²⁾ appointed the members and alternate members of the European Social Fund Committee for the period ending on 27 July 1995;

Whereas seven members' seats and five alternate members' seats, filled by government representatives, have fallen vacant;

Whereas two members' seats and one alternate member's seats, filled by workers' representatives, have fallen vacant;

Whereas three members' seats and two alternate members' seats, filled by employers' representatives, have fallen vacant;

Whereas members and alternate members of the European Social Fund Committee should be appointed to fill the vacant seats,

HAS DECIDED AS FOLLOWS:

Article 1

The following are hereby appointed members and alternate members of the European Social Fund Committee for the remainder of the current term of office, which runs until 27 July 1995:

⁽¹⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽²⁾ OJ No C 200, 7. 8. 1992, p. 1.

I. Government representatives

(a) <i>Members</i>		<i>In place of</i>
Greece:	Mr I. PITSOLI	Mr N. KARALIS
	Ms A. DALPORTA	Ms C. BRAVOU
Spain:	Mr J. M. FRAILE AZPEITIA	Mr J. R. GARCÍA MORENO
France:	Ms H. BRUNEL	Ms P. BECK
Ireland:	Ms V. GAFFEY	Mr J. CORCORAN
Italy:	Mr M. POLVERARI	Mr N. FIORE
Portugal:	Mr A. ARAÚJO	Mr R. CARLOS
(b) <i>Alternate members</i>		<i>In place of</i>
France:	Mr E. AUBRY	Mr M. BOISNEL
Ireland:	Mr A. TYRRELL	Mr P. LEONARD
Italy:	Mr O. ROSSI	Mr G. CORTESE
Portugal:	Mr R. CARLOS	Mr J. A. R. CRAVINHO BRANCO GASPAR
United Kingdom:	Mr C. CAPELLA	Mr D. CRAWLEY

II. Workers' representatives

(a) <i>Members</i>		<i>In place of</i>
Italy:	Mr A. REGGINI	Mr G. LEVORATO
Netherlands:	Mr A. SIETARAM	Ms G. VERBURG
(b) <i>Alternate member</i>		<i>In place of</i>
Italy:	Mr R. PETTENELLO	Ms T. GIUDICI

III. Employers' representatives

(a) <i>Members</i>		<i>In place of</i>
Belgium:	Ms S. KOHNENMERGEN	Mr P. RYSMAN
Greece:	Ms D. VELISSARIOU	Mr E. PALEOLOGOU
Netherlands:	Mr P. P. M. VAN OSTAYEN	Mr J. H. J. CRIJNS
(b) <i>Alternate members</i>		<i>In place of</i>
Greece:	Mr L. PAPAIOANNOU	Ms D. VELISSARIOU
Netherlands:	Mr L. S. RIETEMA	Mr B. J. van der TOOM

Article 2

This Decision shall be published on the *Official Journal of the European Communities*.

Done at Brussels, 4 March 1994.

For the Council

The President

C. SIMITIS

RESOLUTION OF THE COUNCIL AND OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL**of 6 December 1994****on equal participation by women in an employment-intensive economic growth strategy within the European Union**

(94/C 368/02)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL,

Having regard to the Treaty establishing the European Community,

Whereas the Council directives on equal treatment for men and women have made an essential contribution to improving the position of women;

Whereas Directives 75/117/EEC ⁽¹⁾, 76/207/EEC ⁽²⁾, 79/7/EEC ⁽³⁾ and 86/613/EEC ⁽⁴⁾ adopted with a view to harmonizing the living and working conditions of men and women and promoting equal treatment of men and women are of considerable importance in this context;

Whereas the Community action programmes on equal opportunities for women and men covering the periods 1982 to 1985, 1986 to 1990 and 1991 to 1995, together with the undertakings entered into in this context and in several related areas, constitute positive contributions to promoting equality of opportunity;

Whereas implementation of the principle of equal pay for equal work or work of the same value provided for in Article 119 of the Treaty as well as of the resulting principle of equality, in accordance with Community provision, is an essential feature of the construction and operation of the common market;

Whereas the harmonization of the living and working conditions of men and women is essential in the interests of equitable economic and social development; whereas, at its meetings in Madrid and Strasbourg, the European Council stressed the need to pay as much attention to economic and social aspects;

Whereas earlier efforts made in particular in the areas of awareness, education and training and the aid available under the European Social Fund have created conditions favourable to the pursuit of more ambitious future objectives;

Whereas, pursuant to Article 2 of the Treaty, one of the tasks of the Community is to promote a high level of employment;

Whereas provision should be made, while respecting the responsibilities of Member States and bearing in mind the characteristics of the labour market structure in each Member State, including the different types of work, for a sufficient supply of full-time and/or part-time work for both men and women;

Whereas an effective policy of equal opportunities presupposes an integrated, overall strategy allowing for better organization of working hours and greater flexibility, and for an easier return to working life; whereas a strategy of this type must cover qualification opportunities targeted at women and the promotion of self-employment,

I

1. RECALL that the legal instruments of the Community constitute the necessary basis for the development of Community action, and emphasize the role of the Commission as the guardian of the Treaties;
2. STRESS that:
 - (a) equal opportunities depend on men and women being able to support themselves by taking up paid employment;
 - (b) Europe needs a high level of skills;
 - (c) current demographic trends already suggest that the growing number of highly educated women provides a hitherto insufficiently exploited source of skills and innovative capacity which will have to be developed and used more intensively;
 - (d) the female unemployment rate in most Member States far exceeds the rate for men, particularly where long-term unemployment is concerned;
 - (e) while the level of female employment has risen in recent years at Union level, women are still

⁽¹⁾ OJ No L 45, 19. 2. 1975, p. 19.

⁽²⁾ OJ No L 39, 14. 2. 1976, p. 40.

⁽³⁾ OJ No L 6, 10. 1. 1979, p. 24.

⁽⁴⁾ OJ No L 359, 19. 12. 1986, p. 56.

over-represented in the less skilled and lower paid jobs which offer less security and are concentrated in a small number of employment sectors;

- (f) women are under-represented in management posts and in new areas of employment requiring a high level of technical skills;
- (g) women wishing to join the labour market face specific structural and practical difficulties;

3. CONFIRM that if the internal market is to continue to develop dynamically and notably if new jobs are to be created, positive measures in particular will have to be taken to promote equal opportunities between men and women;

4. PUT FORWARD against this background a number of important objectives without wishing to foreclose discussion within the Union:

- (a) facilitating access by women to the labour market and their progress up the career ladder, in particular by improving opportunities to gain qualifications;
- (b) overcoming the sex-based segregation of the labour market;
- (c) promoting the employment of women in decision-making posts in economic, social and political circles and institutions, with the aim of achieving equal employment;
- (d) removing the discrepancy between men's and women's pay;
- (e) promoting full-time and part-time work on a voluntary basis;
- (f) improving the organization and flexibility of working hours;
- (g) promoting self-employment, and, in particular the creation and recovery of businesses;

Improving the flexibility of working hours

5. NOTE, while acknowledging the important role and responsibilities of the two sides of industry in this area, that improving the organization and flexibility of working hours within the framework of an active employment policy:

- (a) is both a necessity as regards commercial management and the national economy and a

social requirement which will offer both men and women an opportunity to reconcile their work responsibilities with their family obligations and personal interests;

- (b) must be underpinned by adequate structures, such as child-care services;

- (c) can have positive implications for employment;

6. ARE CONCERNED that the labour market is segregated on the basis of sex, particularly in the area of part-time work;

7. BELIEVE, to this end, that it is necessary to:

- (a) introduce flexibility of working hours into working arrangements in both the public and the private sectors;
- (b) make flexible working arrangements possible in a growing number of areas of employment, qualified jobs, as far as possible, included;
- (c) use the increased flexibility of working hours in such a way as to have a positive effect on employment;
- (d) organize part-time work on a voluntary basis for men and women in order to break down the sex-based segregation of the labour market;
- (e) instruct personnel managers in the organization of working time and in questions involving work preoccupations, with a view to encouraging equal opportunities;

Europe needs a high level of skills

8. NOTE that:

- (a) new technologies presuppose a high level of skills on the part of workers; it is precisely these technologies which require a basic level of training which can be built on, and continuing training;
- (b) the number of training posts available remains largely based on sex and, together with the sex-based obstacles which inhibit access to work and to career advancement, continues to prevent any extension of the range of jobs open to women;

9. STRESS that if women are to be ready to meet future challenges and to develop their potential in a wide range of jobs at all levels, it is essential that:

- (a) greater numbers of women be given training in non-traditional jobs, particularly technical ones, and have an improved chance of finding work;
- (b) women be prepared for positions of responsibility and for new sectors of employment, in particular in the technical sphere, by means of specific measures which will provide young women with role models;
- (c) the traditionally female jobs be modernized and upgraded and the possibilities for promotion improved;
- (d) the training and vocational training possibilities offered be better tailored to the needs of women within an adequate structural framework (e.g. childcare) and continuing career and professional development planning encouraged;
- (e) women be offered specific further training which will open up new career prospects to them, particularly in rural areas particularly affected by structural change;
- (f) women benefit adequately from national and Community assistance measures, taking into account the proportion of women in all target groups (e.g. young people without training, the unemployed, the long-term unemployed);
- (g) national and transnational strategies designed to combine activities to improve vocational training and the job opportunities for women receive effective support at various levels with a view to putting into practice new prospects and innovations, particularly within undertakings;

Facilitating the continued entry and re-entry of women into the labour market

10. STRESS that it is therefore advisable to

- (a) maintain the flow of women into the labour market, and
- (b) facilitate their return to work after a career break for family reasons by offering opportunities for guidance and retraining;

Encouraging self-employment

11. NOTE that:

- (a) in a number of Member States a considerable proportion of businesses are started up by

women, and that the creation and recovery of businesses by women can have a positive effect on employment;

- (b) for many women, setting up a business means escaping from unemployment while at the same time creating jobs for others;

12. ARE CONVINCED that, consequently:

- (a) business creation or recovery programmes should take particular account of the specific needs of women and offer them relevant opportunities for guidance;
- (b) the conditions laid down in business creation or recovery programmes should be examined to see whether they would be equally relevant to action in the services sector;
- (c) chambers of commerce, banks, administrative bodies and local authorities:

— should cooperate to pinpoint needs and the possibilities on offer for guidance and retraining so that women who wish to create or recover a business are able to do so, particularly in the framework of new job-creation measures in regions where development has lagged behind,

— should take account of the fact that many women set up businesses gradually (for instance, beginning as a side-line);

II

1. INVITE THE MEMBER STATES to:

- (a) develop policies for reconciling the obligations of family and work, including measures to encourage and facilitate greater involvement by men in domestic life;
- (b) recognize that, apart from the general aim of a high level of employment, measures aimed at promoting the flexibility of working hours, encouraging voluntary part-time work and improving the skills level and their support for the creation or recovery of businesses, as outlined by the Commission in its White Paper on growth, competitiveness and employment, must for the sake of equal treatment, be of benefit to women as well as men;
- (c) make use of the discussions held on the implementation of the said White Paper to increase the integration of policies to help women

into the economic, financial, social and labour-market policies of the Union and its Member States while at the same time developing new actions thanks to specific programmes aimed at women and giving effective support to interdisciplinary strategies;

- (d) support the Commission in its preparation of the fourth programme of Community medium-term action for equal opportunities for women and men from 1996 to 2000;

- (e) take full account of the responsibilities and powers of both sides of industry in this area;

2. INVITE THE TWO SIDES OF INDUSTRY to:

- (a) hold collective bargaining on the subject of equal opportunities and equal treatment by endeavouring in particular to ensure that, in undertakings and in the various occupational sectors, the introduction and organization of flexible working hours and voluntary part-time work and the return to work are facilitated;
- (b) ensure that women are adequately represented on in-service training courses in undertakings;
- (c) continue and step up the social dialogue on how work and family responsibilities are to be reconciled as well as on the problem of protecting the dignity of men and women at the work place;

- (d) press during collective bargaining for equal pay and the abolition of discrimination based on sex — where it exists — in pay or job-classification scales;

- (e) take all necessary steps to increase the representation of women on decision-making bodies;

3. INVITE THE COMMISSION:

- (a) in preparation for the fourth action programme on equal opportunities for women and men (1996 to 2000):

- to take a fresh, closer look at the objective of equality between men and women with an eye to an employment-intensive economic growth strategy,

- to develop initiatives designed to improve flexibility, promote part-time work and the acquisition of new skills or qualifications and encourage the creation or recovery of businesses;

- (b) when drawing up and implementing the policies and action programmes in the employment field, to ensure that the goals of equality of opportunity and equal treatment continue to take priority, and pursue with greater intensity the action already initiated.

COUNCIL RESOLUTION

of 6 December 1994

on certain aspects for a European Union social policy: a contribution to economic and social convergence in the Union

(94/C 368/03)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Agreement on social policy, annexed to Protocol 14 on social policy, annexed to the Treaty establishing the European Community,

Whereas one of the objectives of the Union, in the context of the internal market and strengthening cohesion, is to promote and secure economic and social

progress for its peoples, in such a way as to ensure that advances in economic integration are accompanied by progress in other fields;

Whereas the Union is thereby committed to social flanking measures to accompany the internal market and to developing the social dimension of the Community;

Whereas, in recognition thereof, all the Member States accepted at the Maastricht Intergovernmental

Conference a 'policy in the social sphere comprising a European Social Fund' (Article 3 (i) of the EC Treaty); whereas that decision is the logical continuation of earlier decisions of the European Council in Hanover (June 1988) and Rhodes (December 1988);

Whereas the Madrid European Council was emphatic that 'the same importance should be given to social aspects as was given to economic aspects and that they should consequently be developed in a balanced fashion'.

Whereas the Brussels European Council on 29 October 1993 established that 'the Union Treaty offers new foundations for social policy, subject to the provisions of the Protocol annexed to the Treaty' and expressed its determination swiftly 'to implement — in all their forms — the possibilities afforded by the Treaty for a more mutually supportive Community';

Whereas the social and labour law systems, organized and developed differently as they are in the various Member States, constitute an essential basis for individuals in planning their lives; whereas at their meetings in Madrid and Luxembourg the Heads of State and Government were anxious to stress that particular attention should be paid to existing systems, traditions and practice in the Member States; whereas, specifically in Europe, the national identity of the Member States is particularly defined by their individual paths to solidarity within society and social balance; whereas Article F (1) of the Union Treaty expressly commits the European Union to respect for national identities;

Whereas European social policy must accordingly pay particular attention to the principle of subsidiarity enshrined as a principle of law in the Maastricht Treaty (second paragraph of Article B of the Treaty on European Union, Article 3b of the EC Treaty); whereas the principle also signifies a policy of closeness to the citizen, in terms of moderation and balanced action, *inter alia* as regards the allocation of responsibilities to the Union and the Member States;

Whereas, with its guidelines for implementation of the subsidiarity principle, the Edinburgh European Council in December 1992 confirmed this fundamental principle of Community legislation and spelled out the dévotion of responsibilities between the European Union and the Member States;

Whereas the Brussels European Council on 10 and 11 December 1993 presented an action plan for implementing the Commission's White Paper on growth, competitiveness and employment; whereas, in implementation of that action plan, the Employment and Social Affairs Council has prepared its own contribution to combating unemployment and will submit it, as requested by the Corfu European Council of 24 and 25 June 1994, to the European Council in Essen;

Whereas the social dimension is increasingly recognized outside the European Union as well; whereas this is also shown by the fact that a world summit on social development is to be held by the United Nations in Copenhagen in March 1995; whereas the European Union is participating actively in this process and is making a committed contribution to its success;

Whereas, in implementing the Commission's action programme resulting from the 1989 Community Charter of the Fundamental Social Rights of Workers, the Council has made far greater progress than hitherto publicly recognized; whereas this is particularly true as regards the technical protection of labour and legislation on dangerous substances; whereas recently, in particular with the directives on the protection of pregnant women, the protection of young people at work and the organization of working time, safety and health at work have been further consolidated by means of minimum standards; whereas, in the sphere of labour legislation, the directive on the form of proof of an employment relationship and the amending directive on collective redundancies have been important decisions; whereas the Community has also provided quite significant social policy impetus in other fields of action; whereas in this connection mention should be made of the programmes on vocational training, on promoting equal opportunities between men and women, on the integration of people with disabilities and on combating poverty, as well as recommendations such as that on the convergence of social protection objectives and policies;

Whereas these measures have predominantly been adopted in broad agreement; whereas in future too the Council should strive first and foremost for a social policy based on consensus among all 12 Member States and at the same time ensure that the two sides of industry and other representative social groups within Europe are especially involved; whereas, furthermore, the new Social Protocol instrument offers additional opportunities, to which the European Council of 29 October 1993 expressly referred; whereas these were used for the first time when the directive on the establishment of a European Works Council was adopted,

I

1. NOTES that by means of the Commission's Green Paper on European social policy a detailed discussion has been set in motion in the European Parliament and the Council, between both sides of industry and among the public on the choice of new areas of social policy and a timetable for the future orientation of European social policy;
2. RECALLS the Commission's presentation of its White Paper on European social policy, which summarizes the discussion taking place throughout the European

Union and in which the Commission develops its ideas on the future of European social policy in 10 detailed chapters on social policy;

3. IS CONVINCED that the Commission's White Paper on European social policy represents an important contribution to the further development of social policy in the Union;
4. WELCOMES the fact that during 1995 the Commission will submit a detailed new work programme in which it will put forward its proposals for the future organization of social policy until the end of the decade;
5. EXPECTS that in so doing the Commission will also continue the constructive dialogue with the Council and in developing the work programme will take account of the discussion held in the Council on the White Paper on European social policy and the opinions expressed by the Member States;
6. POINTS OUT that, in its conclusions of 21 December 1992 on the effective implementation and enforcement of Community legislation on social affairs ⁽¹⁾ and its contribution of 22 September 1994 to combating unemployment, the Council has already adopted a position on areas of social policy which are also covered in the White Paper on European social policy;
7. Against this background, and without wishing to conclude the discussion in the Union and consideration of the White Paper on European social policy, hereby LISTS some central objectives towards which European social policy could be directed;

Improving the competitiveness of the Union and increasing the opportunities for job-creating growth

8. REAFFIRMS its conviction that:

- a market economy based on free and fair competition is the foundation for a dynamic development of the internal market and the creation of new and secure employment,
- the internal market must also become increasingly open to the outside world because expanding world trade in free markets represents, especially for workers, a major opportunity to safeguard existing jobs and create additional jobs,
- economic and social efficiency are inextricably linked and both the economy and the labour force gain from cooperation between the two

sides of industry in so far as it is in keeping with national traditions and customs,

- good industrial relations, socio-political stability and predictability in the Member States and the European Union as a whole are significant factors in the long term for the location of undertakings,
- with its White Paper on growth, competitiveness and employment, the Commission has given significant impetus to the strengthening of competitiveness and the improvement of the employment situation in the Union,
- in its action plan the European Council has provided the Member States and the Union with specific goals for the implementation of the White Paper on growth, competitiveness and employment;

9. IS THEREFORE OF THE OPINION that:

- further development of the social dimension of the European Union and the strengthening of the role of the two sides of industry should be an essential pre-condition for combining market freedom with social balance,
- it is now essential for the emerging upturn in the economy to be transformed into a strong, sustainable process of growth; at the same time the efficiency of the labour market must be improved by means of specific measures so that this renewed growth creates as many jobs as possible,
- in addition, the Union's international competitiveness must be strengthened. While ruling out any form of protectionism, a fundamental consensus should be aimed at worldwide as part of a dialogue, principally with our major competitors on the world market, especially in Asia and the Pacific, so that, in the framework of fair competition as regards the location of undertakings, any economic success is used for the purpose of suitable social progress. The relevant discussions should be conducted constructively in the relevant fora, such as the ILO, GATT or subsequently the WTO, for the future organization of international trade and above all for combating forced and child labour and securing freedom of association and free collective bargaining;

Protecting the rights of employees by means of minimum social standards

10. NOTES that, in recent years, the Union has endeavoured to set binding and legally enforceable minimum standards in many social areas throughout the Community in order to develop European social

⁽¹⁾ OJ No C 49, 19. 2. 1993, p. 6.

policy. Minimum standards constitute an appropriate instrument for achieving economic and social convergence gradually while respecting the economic capabilities of the individual Member States. They also meet the expectations of workers in the European Union and calm fears about social dismantling and social dumping in the Union;

11. IS CONVINCED that, in view of the complexity and at the same time necessity of minimum social standards, progress along this road should be cautious; takes the view that this does not require a comprehensive legislative programme, but rather agreement on specific fields of action in order to build up the core of minimum social standards gradually in a pragmatic and flexible manner;
12. WISHES that the new legal base of the Agreement of the Eleven on social policy should as far as possible be employed only when the other avenues and possibilities for an agreement covering 12 Member States have been fully explored;
13. TAKES THE VIEW that, in order to develop further the core of minimum standards, the two sides of industry should make their own active contributions to the finding of practical solutions;
14. EMPHASIZES that, when proposals for minimum standards are being drawn up by the Commission and when such standards are being laid down by the Council, the impact on employment and on small and medium-sized enterprises should in particular be assessed;
15. RECALLS that several Member States have already submitted specific suggestions for minimum standards in the form of contributions to the Green Paper on European social policy; while others have also cited areas in this connection in which the Union should not intervene; EXPECTS the Commission to give all suggestions careful consideration in the context of the planned new work programme;

Respecting the principles of subsidiarity and proportionality

16. POINTS OUT

that the legislation of the European Community, and the supervision thereof, as well as all other Community measures such as, for instance, programmes and recommendations, must comply with the principles of subsidiarity and proportionality, which commit all the institutions of the European Union to respect the multiplicity of economic and social traditions in the different Member States;

17. Therefore DEMANDS that, for Union social legislation in particular, Community legislative acts:

- take account of the situation in all Member States when each individual measure is adopted and neither overstretch any one Member State nor force it to dismantle social rights,
- avoid going into undue detail but concentrate on basic, binding principles and leave the development and transposition to the Member States individually and, where this is in accordance with national traditions, to the two sides of industry,
- be flexible enough and confine themselves to provisions which can be incorporated into the various national systems,
- include clauses which allow the two sides of industry room for manoeuvre on collective agreements,
- contain review clauses so that they can be corrected in the light of practical experience;

Convergence rather than unification of systems

18. RESPECTS the national systems of labour and social law which have evolved over generations; in the light of the principles of subsidiarity and proportionality, considers unification of national systems in general by means of rigorous approximation of laws an unsuitable direction to follow as it would also reduce the chances of the disadvantaged regions in the competition for location;
19. ADVOCATES instead gradual convergence of systems — with due regard for the economic strength of the Member States — by means of an alignment of national goals;

Strengthening social dialogue

20. WELCOMES the strengthening of the role of the two sides of industry within the social dialogue as a forward-looking result of the Maastricht Treaty and a concrete contribution to the attainment of the subsidiarity principle in social policy;
21. EMPHASIZES that all representative European organizations on the employer and employee sides, with particular reference to small and medium-sized enterprises as well, should be consulted within the social dialogue. Furthermore, the two sides of industry should, in so far as they are empowered to conclude binding agreements, be encouraged to conclude agreements on an independent basis;

22. SUBMITS that the essential features of participation by the two sides of industry pursuant to the Social Protocol can in many respects be applied in the context of the procedure laid down in Article 118b of the EC Treaty;

23. NOTES that, as a means of further defining and following up its communication on implementation of the Agreement on social policy, the Commission intends to submit a working paper on the development of social dialogue;

Mesbing of economic and social measures

24. CALLS for the Commission's White Paper on growth, competitiveness and employment and the planned Commission work programme on European social policy to lead to a harmonized and balanced development of economic and social aspects, in compliance with the principle of subsidiarity, and refers in that connection to Title XIV of the EC Treaty on economic and social cohesion;

II

1. STATES that it intends to propose to the European Parliament, with due regard for the powers of all the institutions concerned as laid down in the Treaty:

- joint development of the social dimension of the European Union on the basis of these principles,
- active cooperation in the development of all aspects of European social policy,
- intensified exchanges of ideas;

2. CALLS UPON THE MEMBER STATES to ensure that the Community's legal provisions in the social sphere are fully applied and effectively implemented;

3. ASKS THE TWO SIDES OF INDUSTRY:

- to step up their dialogue and make full use of the new possibilities afforded them by the Treaty on European Union,
- to use the consultation procedure to provide the European Union with improved bases for the creation of a European social policy which is pragmatic and close to the citizen,

- to make use of the possibilities for concluding agreements, since they are as a rule closer to social reality and to social problems;

4. REQUESTS THE COMMISSION:

- with reference to its conclusions of 21 December 1992 on the effective implementation and enforcement of Community legislation in the area of social affairs, to ensure that Community legal provisions in the social sphere are fully enforced,
- to take particular account, when drawing up its proposals, of the effects on employment and small and medium-sized undertakings,
- to analyze more carefully the relationship between social security, employment and competitiveness, thus providing the Member States with an improved basis of information for their initiatives,
- actively to support the exchange of information between Member States regarding measures designed to curtail costs, improve labour incentives and encourage competition,
- to take appropriate measures to foster social dialogue and, in that connection primarily to encourage and contribute to the formation of groups and associations at European Union level which participate in social dialogue or similar forms of economic cooperation or are involved in consultations in accordance with practice in the Member State concerned and, as far as possible, are represented in all Member States,
- account being taken of the existing stimuli from the Member States and bearing in mind the discussion in the Council on the White Paper on European social policy, to explore possible areas for future measures which will at the same time take account of the need for ease of application and the need for adoption by consensus,
- to take account of the principles and considerations laid down in this resolution when drawing up concrete proposals for future Community social legislation,
- to include, by means of an ongoing process, specific matters relating to women and men and to equal opportunities for them, in the definition and implementation of all Community policies and, to this end, to strive towards developing methods for the ongoing integration of equal opportunities for women and men in economic and social policies.

COMMISSION

Ecu ⁽¹⁾

22 December 1994

(94/C 368/04)

Currency amount for one unit:

Belgian and Luxembourg franc	39,2229	United States dollar	1,20900
Danish krone	7,49034	Canadian dollar	1,68836
German mark	1,90901	Japanese yen	121,383
Greek drachma	295,225	Swiss franc	1,60978
Spanish peseta	161,558	Norwegian krone	8,32757
French franc	6,59448	Swedish krona	9,06325
Irish pound	0,791954	Finnish markka	5,81044
Italian lira	1987,81	Austrian schilling	13,4332
Dutch guilder	2,13666	Icelandic krona	83,5538
Portuguese escudo	196,329	Australian dollar	1,55899
Pound sterling	0,780401	New Zealand dollar	1,88699
		South African rand	4,30675

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day. Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic telex answering service (No 21791) and an automatic fax answering service (No 296 10 97) providing daily data concerning calculation of the conversion rates applicable for the purposes of the common agricultural policy.

(¹) Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

COMMUNITY GUIDELINES ON STATE AID FOR RESCUING AND RESTRUCTURING FIRMS IN DIFFICULTY

(94/C 368/05)

(Text with EEA relevance)

1. INTRODUCTION

- 1.1. The need for comprehensive and firm control of State aid in the European Community has been widely acknowledged in recent years. The distortive effect of aid is magnified as other government-induced distortions are eliminated and markets become more open and integrated. Hence, in the Single Market it is more important than ever to maintain tight control of State aid.

In the medium term the Single Market is expected to yield significant benefits in terms of increased economic growth, although currently growth is stalled by the recession. A major part of the increase in economic growth that should ultimately result from the Single Market will be due to the extensive structural change that it will induce in the Member States. While structural change is easier in an expanding economy, even in a recession it is undesirable that Member States should frustrate or unduly retard the process of structural adjustment through subsidies to firms which in the new market situation ought to disappear or restructure. Such aid would shift the burden of structural change on to other, more efficient firms and encourage a subsidy race. As well as preventing the full benefits of the Single Market for the Community as a whole, subsidies can place severe strain on national budgets and so impede economic convergence.

- 1.2. On the other hand, there are circumstances in which State aid for rescuing firms in difficulty and helping them to restructure may be justified. It may be warranted, for instance, by social or regional policy considerations, by the desirability of maintaining a competitive market structure when the disappearance of firms could lead to a monopoly or tight oligopoly situation, and by the special needs and wider economic benefits of the small and medium-sized enterprise (SME) sector.
- 1.3. The last time the Commission set out its policy on aid for rescuing and restructuring firms in difficulty was in 1979 in the Eighth Report on

Competition Policy⁽¹⁾. This policy has been endorsed many times by the Court of Justice⁽²⁾.

However, for the reasons given in paragraph 1.1 the advent of the Single Market requires the policy to be reviewed and updated. Furthermore, it must be adapted to take account of the objective of economic and social cohesion⁽³⁾ and clarified in the light of developments in the policies towards government capital injections⁽⁴⁾, financial transfers to public enterprises⁽⁵⁾, and aid for SMEs⁽⁶⁾.

2. DEFINITIONS AND SCOPE OF THE GUIDELINES

2.1. Definition of rescue and restructuring aid

It is right to treat aid for rescues of companies and for restructuring together, because in both cases the government is faced with a firm in difficulties unable to recover through its own resources or by raising the funds it needs from shareholders or borrowing, and because the rescue and the restructuring are often two parts, albeit clearly distinguishable parts, of a single operation. The financial weakness of firms that are rescued by their governments or receive help for restructuring

⁽¹⁾ Paragraphs 227, 228 and 177.

⁽²⁾ See, in particular, judgments of the Court of Justice of 14 February 1990, Case C-301/87, *France v. Commission* [1990] ECR I, p. 307 (Boussac); of 21 March 1990, Case C-142/87, *Belgium v. Commission* [1990] ECR I, p. 959 (Tubemeuse); of 21 March 1991, Case C-303/88, *Italy v. Commission* [1991] ECR I, p. 1433 (ENI-Lanerossi); of 21 March 1991, Case C-305/89, *Italy v. Commission* [1991] ECR I, p. 1603 (Alfa Romeo). See also judgments of the Court of Justice of 14 November 1984, Case 323/82, *Intermills v. Commission* [1984] ECR 3809; of 13 March 1985, Cases 296 and 318/82, *Netherlands and Leeuwarder Papierwarenfabriek v. Commission* [1985] ECR, p. 809; of 10 July 1986, Case 234/84, *Belgium v. Commission* [1986] ECR, p. 2263 (Meura).

⁽³⁾ Article 130a of the EC Treaty. Article 130b of the EC Treaty inserted by the Treaty on European Union states that other policies must contribute to this objective: 'The formulation and implementation of the Community's policies and actions and the implementation of the internal market shall take into account the objectives set out in Article 130a and shall contribute to their achievement.'

⁽⁴⁾ Bull. EC 9-1984, paragraph 3.5.1.

⁽⁵⁾ OJ No C 307, 13. 11. 1993, p. 3.

⁽⁶⁾ OJ No C 213, 19. 8. 1992, p. 2.

is generally due to poor past performance and dim future prospects. The typical symptoms are deteriorating profitability or increasing size of losses, diminishing turnover, growing inventories, excess capacity, declining cash flow, increasing debt, rising interest charges and low net asset value. In acute cases the company may already have become insolvent or gone into liquidation.

It is not possible to establish a universal and precise set of financial parameters to identify when aid to a company amounts to a rescue or is for restructuring. Nevertheless, the two situations show basic differences.

A rescue temporarily maintains the position of a firm that is facing a substantial deterioration in its financial position reflected in an acute liquidity crisis or technical insolvency, while an analysis of the circumstances giving rise to the company's difficulties can be performed and an appropriate plan to remedy the situation devised. In other words, rescue aid provides a brief respite, generally for not more than six months, from a firm's financial problems while a long-term solution can be worked out.

Restructuring, on the other hand, is part of a feasible, coherent and far-reaching plan to restore a firm's long-term viability. Restructuring usually involves one or more of the following elements: the reorganization and rationalization of the firm's activities on to a more efficient basis typically involving the withdrawal from activities that are no longer viable or are already loss-making, the restructuring of those existing activities that can be made competitive again and, possibly, the development of or diversification to new viable activities. Financial restructuring (capital injections, debt reduction) usually has to accompany the physical restructuring. Restructuring plans take account of, *inter alia*, the circumstances giving rise to the firm's difficulties, market supply and demand for the relevant products as well as their expected development and the specific strengths and weaknesses of the firm. They allow an orderly transition of the firm to a new structure that gives it viable long-term prospects and will enable it to operate on the

strength of its own resources without requiring further State assistance.

2.2. Sectoral scope

The Commission follows the general approach to rescue and restructuring aid that is set out in the guidelines in all sectors. However, in sectors currently subject to special Community rules on State aid the guidelines will apply only to the extent that they are consistent with the special rules. At present there are special aid rules in agriculture, fisheries, steel, shipbuilding, textiles and clothing, synthetic fibres, the motor industry, transport and the coal industry. In the agricultural sector, special Commission rules for rescue and restructuring aid may continue to be applied to individual beneficiaries at the discretion of the Member State concerned as an alternative to these guidelines.

2.3. Applicability of Article 92 (1) of the EC Treaty

For the reasons stated in paragraph 1.1, State aid for rescuing or restructuring firms in difficulty will, by its very nature, tend to distort competition and affect trade between Member States. Therefore, as a rule, it falls within Article 92 (1) of the EC Treaty and requires exemption.

The only general exception is aid that is too small in amount to have a significant effect on inter-State trade. This '*de minimis*' figure has been set at ECU 50 000 for each of two broad categories of expenditure (investment and other expenditure) from all sources and under any scheme over three years^(*). The '*de minimis*' facility is not available in sectors subject to special Community rules on State aid^(*).

(*) See SME aid guidelines, footnote (*), paragraph 3.2, and guidance note on the use of the *de minimis* facility, letter of 23 March 1993, reference IV (93) D/06878.

(*) See paragraph 2.2.

Aid for restructuring can take many forms, including capital injections, debt write-offs, loans, interest subsidies, relief from taxes or social security contributions, and loan guarantees. For rescues, however, it should be limited to loans at market interest rates or loan guarantees (see paragraph 3.1). The source of the aid can be any level of government, central, regional or local, and any 'public undertaking', as defined in Article 2 of the 1980 directive on the transparency of financial relations between Member States and public undertakings⁽⁹⁾. Thus, for example, rescue or restructuring aid may come from State holding companies or public investment corporations⁽¹⁰⁾.

The method used by the Commission to determine when government injections of new capital into companies that are already State-owned or become wholly or partly State-owned as a result of the operation involve aid was set out in a 1984 communication⁽¹¹⁾ and has been refined and extended to aid in other forms in the public enterprises communication of 1993⁽¹²⁾. The criterion is based on the 'private investor' principle. This provides that in circumstances where a rational private investor operating in a market economy would have made the finance available the provision or guarantee of funding to a company does not involve aid.

Where funding is provided or guaranteed by the State to an enterprise that is in financial difficulties, however, there is a presumption that the financial transfers involve State aid. Therefore, such financial transactions must be communicated to the Commission in advance, in accordance with Article 93 (3)⁽¹³⁾. The presumption of aid is compelling where the industry, as a whole, is in difficulties or suffering from structural over-capacity.

The assessment of rescue or restructuring aid is not affected by changes in the ownership of the business aided. Thus, it will not be possible to

evade control by transferring the business to another legal entity or owner.

2.4. Basis of exemption

Article 92 (2) and (3) of the EC Treaty provide for the possibility of exemption of aid falling within Article 92 (1). The only basis for exempting aid for rescuing or restructuring firms in difficulty — apart from cases of national disasters and exceptional occurrences which are exempted by Article 92 (2) (b) and are not covered here, and, to the extent that Article 92 (2) (c) is still applicable, aid in Germany that might be covered by this provision — is Article 92 (3) (c). Under this provision the Commission has the power to authorize 'aid to facilitate the development of certain economic activities . . . where such aid does not adversely affect trading conditions to an extent contrary to the common interest'.

The Commission considers that aid for rescues and restructuring may contribute to the development of economic activities without adversely affecting trade against the Community interest if the conditions set out in Section 3 are met, and will therefore authorize such aid under those conditions. Where the firms to be rescued or restructured are located in assisted areas, the Commission will take regional considerations under subparagraphs (a) and (c) of Article 92 (3) into account as described in paragraph 3.2.3.

2.5. Existing aid schemes

These guidelines are without prejudice to aid schemes for rescuing or restructuring firms in difficulty that have already been authorized when the guidelines are published. However, the Commission will review such existing schemes pursuant to Article 93 (1) of the EC Treaty by 31 December 1995.

The guidelines are also without prejudice to the application of aid schemes authorized for other purposes than rescues or restructuring, such as regional development or the development of SMEs, provided that aid for rescues or restructuring granted under such schemes fulfils the conditions the Commission has approved for the schemes.

⁽⁹⁾ OJ No L 195, 29. 7. 1980, as amended by OJ No L 254, 12. 10. 1993, p. 16.

⁽¹⁰⁾ See judgment of the Court of Justice, of 22 March 1977, Case 78/76, *Steinike und Weinlig v. Germany*, [1977] ECR, p. 595; *Crédit Lyonnais/Usinor-Sacilor*, Commission Press Release IP(91) 1045.

⁽¹¹⁾ See footnote (4).

⁽¹²⁾ See footnote (4).

⁽¹³⁾ See paragraph 27 of the public enterprises paper, footnote (5).

3. GENERAL CONDITIONS FOR THE AUTHORIZATION OF RESCUE AND RESTRUCTURING AID

3.1. Rescue aid

In order to be approved by the Commission rescue aid, as defined above, must continue to satisfy the conditions laid down by the Commission in 1979 ⁽¹⁴⁾. That is, rescue aid must:

- consist of liquidity help in the form of loan guarantees or loans bearing normal commercial interest rates,
- be restricted to the amount needed to keep a firm in business (for example, covering wage and salary costs and routine supplies),
- be paid only for the time needed (generally not exceeding six months) ⁽¹⁵⁾ to devise the necessary and feasible recovery plan,
- be warranted on the grounds of serious social difficulties and have no undue adverse effects on the industrial situation in other Member States.

A further condition is that, in principle, the rescue should be a one-off operation. A series of rescues that effectively merely maintain the *status quo*, postpone the inevitable and in the meantime transfer the attendant industrial and social problems to other, more efficient producers and other Member States is clearly unacceptable. Rescue aid should therefore normally be a one-off holding operation mounted over a limited period during which the company's future can be assessed.

Rescue aid need not be granted in a single payment. Indeed, it may be desirable to spread payment of the aid over several or more instalments subject to separate assessment in order to take account of external conditions which may

be rapidly fluctuating or in order to stimulate the ailing company into taking the necessary corrective action.

In applying the above conditions to SMEs the Commission will take account of the special features of businesses in this size category.

The approval of rescue aid is without any presumption regarding the subsequent approval of aid under a restructuring plan, which will fall to be assessed on its own merits.

3.2. Restructuring aid

3.2.1. Basic approach

Aid for restructuring raises particular competition concerns as it can shift an unfair share of the burden of structural adjustment and the attendant social and industrial problems on to other producers who are managing without aid and to other Member States. The general principle should therefore be to allow restructuring aid only in circumstances in which it can be demonstrated that the approval of restructuring aid is in the Community interest. This will only be possible when strict criteria are fulfilled and full account is taken of the possible distortive effects of the aid.

3.2.2. General conditions

Subject to the special provisions for assisted areas and SMEs set out below, for the Commission to approve aid a restructuring plan will need to satisfy all the following general conditions:

(i) Restoration of viability

The *sine qua non* of all restructuring plans is that they must restore the long-term viability and health of the firm within a reasonable time scale and on the basis of realistic assumptions as to its future operating conditions. Consequently, restructuring aid must be linked to a viable restructuring/recovery programme submitted in all relevant detail to the Commission. The plan must restore the firm to competitiveness within a reasonable period. The improvement in viability must mainly result from internal

⁽¹⁴⁾ Eighth Report on Competition Policy, paragraph 228.

⁽¹⁵⁾ If the Commission is still investigating the restructuring plan when the period for which rescue aid has been authorized runs out, it will consider favourably an extension of the rescue aid until the investigation is completed (see 23rd Competition Report, point 527).

measures contained in the restructuring plan and may only be based on external factors such as price and demand increases over which the company has no great influence, if the market assumptions made are generally acknowledged. Successful restructuring should involve the abandonment of structurally loss-making activities.

To fulfil the viability criterion, the restructuring plan must be considered capable of putting the company into a position of covering all its costs including depreciation and financial charges and generating a minimum return on capital such that, after completing its restructuring, the firm will not require further injections of State aid and will be able to compete in the market place on its own merits. Like rescue aid, aid for restructuring should therefore normally only need to be granted once.

(ii) Avoidance of undue distortions of competition through the aid

A further condition of aid for restructuring is that measures are taken to offset as far as possible adverse effects on competitors. Otherwise aid would be 'contrary to the common interest' and ineligible for exemption pursuant to Article 92 (3) (c).

Where on an objective assessment of the demand and supply situation there is a structural excess of production capacity in a relevant market in the European Community served by the recipient, the restructuring plan must make a contribution, proportionate to the amount of aid received, to the restructuring of the industry serving the relevant market in the European Community by irreversibly reducing or closing capacity. A reduction or closure is irreversible when the relevant assets are scrapped, rendered permanently incapable of producing at the previous rate, or permanently converted to another use. The sale of capacity to competitors is not sufficient in this case, except if the plant is sold for use in a part of the world from which the continued operation of the facilities is unlikely to have significant effects on the competitive situation in the Community.

A relaxation of the principle of requiring a proportionate capacity reduction may be allowed if such a reduction is likely to cause a manifest deterioration in the structure of the market, for example by creating a monopoly or a tight oligopoly situation.

Where, on the other hand, there is no structural excess of production capacity in a relevant market in the Community served by the recipient, the Commission will normally not require a reduction of capacity in return for the aid. However, it must be satisfied that the aid will be used only for the purpose of restoring the firm's viability and that it will not enable the recipient during the implementation of the restructuring plan to expand production capacity, except in so far as is essential for restoring viability without thereby unduly distorting competition. To ensure that the aid does not distort competition to an extent contrary to the common interest, the Commission may impose any conditions and obligations as may be necessary.

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

The amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken and must be related to the benefits anticipated from the Community's point of view. Therefore, aid beneficiaries will normally be expected to make a significant contribution to the restructuring plan from their own resources or from external commercial financing. To limit the distortive effect, the form in which the aid is granted must be such as to avoid providing the company with surplus cash which could be used for aggressive, market-distorting activities not linked to the restructuring process. Nor should any of the aid go to finance new investment not required for the restructuring. Aid for financial restructuring should not unduly reduce the firm's financial charges.

If aid is used to write off debt resulting from past losses, any tax credits attaching to the losses must be extinguished, not retained to

offset against future profits or sold or transferred to third parties, as in that case the firm would be receiving the aid twice.

(iv) Full implementation of restructuring plan and observance of conditions

The company must fully implement the restructuring plan that was submitted to and accepted by the Commission and must discharge any other obligations laid down by the Commission decision. Otherwise, unless the original decision is amended following a new notification from the Member State, the Commission will take steps to require the recovery of the aid.

(v) Monitoring and annual report

The implementation, progress and success of the restructuring plan will be monitored by requiring the submission of detailed annual reports to the Commission. The annual report will have to contain all relevant information to enable the Commission to monitor the implementation of the agreed restructuring programme, the receipt of aid by the company and its financial position and the observance of any conditions or obligations laid down in the Commission decision approving the aid. Where there is a particular need for timely confirmation of certain key information, such as closures, capacity reductions, etc., the Commission may request more frequent reports.

3.2.3. *Conditions for restructuring aid in assisted areas*

Economic and social cohesion being a priority objective of the Community pursuant to Article 130a of the EC Treaty and other policies being required to contribute to this objective pursuant to Article 130b ⁽¹⁶⁾, the Commission must take the needs of regional development into account when assessing restructuring aid in assisted areas. The fact that an ailing firm is located in an assisted area does not, however, justify a wholly permissive approach to aid for restructuring. In the medium to long term it does not help a region to prop up artificially companies which for structural or other reasons are ultimately doomed to failure.

Furthermore, given the limited Community and national resources available to promote regional development it is in the regions' own best interest to apply these scarce resources to develop as soon as possible alternative activities that are viable and durable. Finally, distortions of competition must be minimized even in the case of aid to firms in assisted areas.

Thus, the criteria listed in paragraph 3.2.2 are equally applicable to assisted areas, even when the needs of regional development are considered. In particular, the result of the restructuring operation must be an economically viable business that will contribute to the real development of the region without requiring continual aid. Recurrent injections of aid will thus not be viewed any more leniently than in non-assisted areas. Likewise, restructuring plans must be followed through and monitored. To avoid undue distortions of competition the aid must also be in proportion to restructuring costs and benefits. Somewhat more flexibility can be shown in assisted areas, however, with regard to the requirement for a reduction in capacity in the case of markets in structural over-capacity. If regional development needs justify it, the Commission will require a smaller capacity reduction for this purpose in assisted areas than in non-assisted areas and will differentiate between areas eligible for regional aid pursuant to Article 92 (3) (a) of the Treaty and those eligible pursuant to Article 92 (3) (c) to take account of the greater severity of the regional problems in the former areas.

Any aid for new investment not required for the restructuring must be within the limits for regional aid authorized by the Commission.

3.2.4. *Aid for restructuring small and medium-sized enterprises*

Provided certain acceptable intensities of aid are not exceeded, aid to firms in the small to medium-sized category tends to affect trading conditions less than that to large firms and any harm to competition is more likely to be offset by economic benefits. ⁽¹⁷⁾. This also applies to aid to

⁽¹⁶⁾ See footnote (3).

⁽¹⁷⁾ Community guidelines for State aid to SMEs (OJ No C 213, 19. 8. 1992, p. 2).

help restructuring. Consequently, the Commission is justified in taking a less restrictive attitude towards such aid when it is granted to SMEs.

In the Community guidelines on State aid for small and medium-sized enterprises (SMEs)⁽¹⁸⁾, the Commission has established a uniform definition of SME for State aid control purposes.

'SME' is defined as an enterprise which:

- has no more than 250 employees, and
- either
 - an annual turnover not exceeding ECU 20 million, or
 - a balance sheet total not exceeding ECU 10 million, and
- is not more than 25 % owned by one or more companies not falling within this definition, except public investment corporations, venture capital companies or, provided no control is exercised, institutional investors.

In relation to SMEs, the Commission will not require aid for restructuring to meet the same strict conditions as aid for restructuring large firms, particularly as regards capacity reductions and reporting obligations.

3.2.5. *Aid to cover the social costs of restructuring*

Restructuring plans normally entail reductions in or abandonment of the affected activities. A scaling back of the firm's activities is often necessary for the purposes of rationalization and efficiency, quite apart from any capacity reductions that may be required as a condition for granting aid if the industry is suffering from structural overcapacity. Whatever the reason for them, such measures will generally lead to reductions in the company's workforce.

Member States' labour legislation may comprise general social security schemes under which the redundancy benefits and early retirement pensions

are paid direct to redundant employees. Such schemes are not to be regarded as State aid falling within Article 92 (1) in so far as the State deals direct with employees and the company is not involved.

Besides direct redundancy benefit and early retirement provision for employees, general social support schemes are widespread under which the government covers the cost of benefits that the company provides to redundant workers and which go beyond its statutory or contractual obligations. Where such schemes are available generally without sectoral limitations to any worker meeting predefined and automatic eligibility conditions, they are not considered to involve aid pursuant to Article 92 (1) for firms undertaking restructuring. On the other hand, if the schemes are used to support restructuring in particular industries, they may well involve aid because of the selective way in which they are used.

The obligations a company itself has under employment legislation or collective agreements with trade unions to provide redundancy benefits and/or early retirement pensions are part of the normal costs of a business which a firm has to meet from its own resources. This being so, any contribution by the State to these costs must be counted as aid. This is true regardless of whether the payments are made direct to the firm or are administered through a government agency to the employees.

The Commission has a positive approach to such aid, for it brings economic benefits above and beyond the interests of the firm concerned, facilitating structural change and reducing hardship, and often only evens out differences in the obligations placed on companies by national legislation.

As well as to meet the cost of redundancy payments and early retirement, aid is commonly provided in connection with a particular restructuring case for training, counselling and practical help with finding alternative employment, assistance with relocation, and professional training and assistance for employees wishing to start new businesses. The Commission consistently takes a favourable view of such aid.

Aid for social measures exclusively for the benefit of employees who are displaced by restructuring is disregarded for the purposes of determining the size of the capacity reduction under paragraph 3.2.2 (ii).

⁽¹⁸⁾ *Ibid*, paragraph 2.2.

4. NOTIFICATION REQUIREMENTS AND DURATION AND REVIEW OF THE GUIDELINES

4.1. Schemes for rescuing or restructuring SMEs

For SMEs within the definition given above in paragraph 3.2.4 the Commission will be prepared to authorize schemes of assistance for rescue or restructuring purposes. It will do so within the usual period of two months from the receipt of complete information, unless the scheme qualifies for the accelerated clearance procedure, in which case the Commission is allowed 20 working days⁽¹⁹⁾. Such schemes must clearly identify the firms eligible, the circumstances under which rescue or restructuring aid may be granted and the maximum amount of aid available. A condition of approval will be that an annual report is provided on the scheme's operation containing the information specified in the Commission's instructions on standardized reports⁽²⁰⁾. The reports must also include an individual list of all beneficiary firms giving: company name, sectoral code — in accordance with the NACE⁽²¹⁾ 2-digit sectoral classification codes — number of employees, annual turnover, amount of aid granted in year, confirmation of whether rescue or restructuring aid was received in the previous two years and, if so, the total amount previously granted.

Awards of aid for rescuing or restructuring SMEs outside an approved scheme will require to be notified individually to the Commission, as in the case of such aid for large firms.

Aid awards or aid schemes for rescuing or restructuring firms which meet the conditions of the *de minimis* facility (see paragraph 2.3) need not be notified.

4.2. Aid for rescuing or restructuring large enterprises

For aid to rescue or help restructuring large firms, i.e. those not falling within the definition of SME, individual notification of all awards is required.

As time is usually not on the side of the firms concerned, particularly in rescue cases, the Commission will make every effort to make its decision quickly. The time limit for deciding on notifications of individual aid awards outside of authorized schemes is two months from the receipt of full information.

Member States themselves can do much to avoid unnecessary delays by:

- notifying their intentions to grant aid early. Even if, because of internal administrative procedures, the Member State is unable to notify immediately all details of a proposed rescue or restructuring aid, it will be advantageous to let the Commission know of the matters that have already been decided, in order to familiarize the Commission with the case and to reduce or avoid possible requests for further information subsequent to a later incomplete notification,
- sending complete notifications. In particular, notifications should distinguish clearly between aid which falls under the heading of rescue aid and that to be categorized as restructuring aid and should directly and distinctly address all the general approval conditions indicated above for the approval of rescue or restructuring aid under the guidelines. Failure to do so will mean that the notification is incomplete and delay clearance. In notifications Member States should also inform the Commission of all other aid granted to the firm that is not directly related to the operation so that the Commission is aware of the full circumstances surrounding the case.

4.3. Unnotified aid

The notification and prior authorization of aid before it is granted are strict requirements. Member States are reminded of the risk of granting aid illegally, as the Commission has the power to order the recovery of such aid⁽²²⁾.

⁽¹⁹⁾ OJ No C 213, 19. 8. 1992, p. 10.

⁽²⁰⁾ See letter to the Member States of 22 February 1994.

⁽²¹⁾ General Nomenclature of Economic Activities in the European Community, published by the Statistical Office of the European Communities.

⁽²²⁾ Commission communication on aid granted illegally (OJ No C 318, 24. 11. 1983). The Commission would also refer to the ruling of the Court of Justice in Case 301/87 (Boussac), see footnote (?) and the conclusions it has drawn from this ruling for the handling of such cases as set out in its letter to Member States of 4 March 1991.

4.4. Duration and review of the guidelines

The Commission will follow these guidelines in its assessment of aid for rescuing or restructuring

firms in difficulty for three years from the date of their publication. Before the end of that period it will review the operation of the guidelines.

Commission of the European Communities notice concerning the updating of the 1986 communication on agreements of minor importance

(94/C 368/06)

The Commission has decided to update its 1986 notice on agreements of minor importance which do not fall under Article 85 (1) of the Treaty establishing the European Economic Community ⁽¹⁾. It proposes to raise to ECU 300 million the turnover threshold below which undertakings may benefit from the advantages of the application of that notice.

Consequently, the figure of ECU 200 million mentioned at point 7, second indent, of that notice is replaced by the figure of ECU 300 million.

⁽¹⁾ OJ No C 231, 12. 9. 1986, p. 2.

Non-opposition to a notified concentration

(Case No IV/M.529 — GEC/VSEL)

(94/C 368/07)

(Text with EEA relevance)

On 7 December 1994, 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 ⁽¹⁾. Third parties showing a sufficient interest can obtain a copy of the decision by making a written request to:

Commission of the European Communities,
Directorate-General for Competition (DG IV),
Merger Task Force,
150, Avenue de Cortenberg,
B-1049 Brussels,
Fax number: (32 2) 296 43 01.

⁽¹⁾ OJ No L 395, 30. 12. 1989. Corrigendum: OJ No L 257, 21. 9. 1990, p. 13.

III

(Notices)

COMMISSION

EUROPEAN ECONOMIC INTEREST GROUPING

Notices published pursuant to Council Regulation (EEC) No 2137/85 of 25 July 1985 ⁽¹⁾ —
Formation

(94/C 368/08)

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| 1. Name of grouping: PMF - Gruppo europeo di interesse economico | 1. Name of grouping: Plattform für bauliche Gestaltung EWIV |
| 2. Date of registration of grouping: 20. 10. 1994 | 2. Date of registration of grouping: 18. 11. 1994 |
| 3. Place of registration of grouping:
(a) Member State: I
(b) Place: Via Vittorio Veneto 183, I-Roma | 3. Place of registration of grouping:
(a) Member State: D
(b) Place: 95032 Hof |
| 4. Registration number of grouping: 101027 | 4. Registration number of grouping: HRA 3194 |
| 5. Publication(s):
(a) Full title of publication: Gazzetta ufficiale della Repubblica Italiana (G.U. parte II, n. 280, pag. 29, 30)
(b) Name and address of publisher: Istituto Poligrafico e Zecca dello Stato, piazza G. Verdi 10, I-00100 Roma
(c) Date of publication: 30. 11. 1994 | 5. Publication(s):
(a) Full title of publication: 1) Bundesanzeiger
2) Frankenpost Verlag Gesellschaft mit beschränkter Haftung
(b) Name and address of publisher: 1) Bundesanzeiger Verlagsges. mbH, Postfach 10 80 06, D-5000 Köln 1
2) Frankenpost Verlag Gesellschaft mit beschränkter Haftung, Postfach 1320, D-95012 Hof
(c) Date of publication: 1) 9. 12. 1994
2) 26. 11. 1994 |

⁽¹⁾ OJ No L 199, 31. 7. 1985, p. 1.

Phare — computer equipment**Notice of invitation to tender issued by the Commission of the European Communities on behalf of the Government of Hungary in the framework of the Phare programme**

(94/C 368/09)

Project title:

Supply of computer hardware and software to the Ministry of Industry and Trade of Hungary - No HU 910304

1. Participation and origin

Participation is open on equal terms to all natural and legal persons of the Member States of the European Community, or of Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic and Slovenia.

Supplies offered must originate in the above countries.

2. Subject

The tender includes the supply of the following items:

Unix server with software configuration

PC workstations with software configuration

Interconnection software for PCs

Laser printers of different volumes

Colour inject printer

Uninterrupted powers supply.

The tenderers' ability to fulfil the technical requirements for equipment will be of primary importance, as well as performance-price ratio. It is therefore essential to provide documents proving their industrial and financial capability and their technological competence and reliability.

References shall be provided of equipment supply of similar test equipment called for under this announcement.

3. Invitation to tender dossier

The complete tender dossier may be obtained free of charge from:

- a) Ministry of Industry and Trade, Phare PIU, for the attention of Dr Júlia Vágó, H-1024 Budapest, Margit krt. 85, tel. (36-1) 155 65 64/155 71 64, facsimile (36-1) 175 45 93.

Ministry of Industry and Trade, Phare PIU, for the attention of Mr György Földvári, H-1051 Budapest, Vigadó u.6, tel. (36-1) 118 54 27, facsimile (36-1) 118 02 57.

- b) Commission of the European Communities, DG I, External Economic Relations, for the attention of Mrs M. May (AN 88-4/47), rue de la Loi 200, B-1049 Brussels, facsimile (32-2) 295 75 02.

4. Tender

The closing date for receipt of tenders is 60 days after the date on which the announcement is published in the Official Journal. If this should fall on a Saturday or Sunday, then the Monday following shall be taken as the closing date.

The closing time on the closing day will be 12.00 noon, local time. Tenders should arrive no later than the closing date and time at:

Ministry of Industry and Trade, Phare PIU, for the attention of Mr György Földvári, H-1051 Budapest u.6.

Tenders will be opened in public session on the closing date at 13.00, local time, at the same address.

Phare — branch lines**Notice of invitation to tender issued by the Commission of the European Communities on behalf of the Government of Poland financed in the framework of the Phare programme**

(94/C 368/10)

Project title

Transport Infrastructure Programme PL 9309.

1. Participation of origin

Participation is open on equal terms to all natural legal persons of the Member States of the European Community, or of Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic and Slovenia.

Supplies offered must originate in the above countries.

2. Subject

Supply of:

- lot a) simple turnouts UIC 60-300-1:9,
right and left for speed $v = 160$ km/h - 328 pcs,
lot b) simple turnouts UIC 60-300-1:9,
right and left for speed $v < 160$ km/h - 136 pcs

3. Invitation for tender dossier

The complete tender dossier may be obtained free of charge from:

- a) The Commission of the European Communities, Directorate-General for External Relations, DG1 - Unit L3, for the attention of M. Delalieux, rue d'Arlon 88 (4/33), B-1049 Brussels, facsimile (32-2) 295 16 19, tel. (32-2) 295 74 29.
- b) Offices in the Community:
- D-53113 Bonn, Zitellmannstraße 22 [Tel. (49-228) 53 00 90; Telefax (49-228) 530 09 50],
- NL-2594 AG Den Haag, E.V.D., afdeling PPA, Bezuidenhoutseweg 151 [tel. (31-70) 379 88 11; telefax (31-70) 379 78 78],
- L-2920 Luxembourg, bâtiment Jean Monnet, rue Alcide de Gasperi [tél. (352) 430 11; télécopieur (352) 43 01 44 33],
- F-75007 Paris Cedex 16, 288, boulevard Saint-Germain [tél. (33-1) 40 63 38 38; télécopieur (33-1) 45 56 94 17],
- I-00187 Roma, via Poli 29 [tel. (39-6) 69 99 91; telefax (39-6) 679 16 58],
- DK-1787 København V, Dansk Industri, Projekt- og Licitationskontoret, afd. EMI [tlf. (45-33) 77 33 77; telefax (45-33) 77 33 00],

UK-London SW1P 3AT, Jean Monnet House, 8 Storey's Gate [tel. (44-71) 973 19 92; facsimile (44-71) 973 19 00],

IRL-Dublin 2, 39 Molesworth Street [tel. (353-1) 71 22 44; facsimile (353-1) 71 26 57],

GR-10674 Athens, Vassilissis Sofias 2 [τηλ. (30-1) 724 39 82, τηλεφάξ (30-1) 724 46 20],

E-28001 Madrid, calle de Serrano, 41, 5a planta [tel. (34-1) 435 17 00, 435 15 28; telefax (34-1) 576 03 87, 577 29 23],

P-1200 Lisboa, Centro Europeu Jean Monnet, Largo Jean Monnet 1-10º [tel. (351-1) 54 11 44; telefax (351-1) 55 43 97].

c) Delegations in Phare recipient states**Albania**

Rruga Donika Kastrioti, Villa, 42, AL-Tirana, Head of the Delegation: Mr Germano, tel. (355-42) 284 79, Mr Bulte, Mr Pietro Gangemi, Administrative Attaché, Mr Bala, Press and Information, tel. (355-42) 283 20, facsimile (355-42) 427 52, satellite tel. (871) 112 17 60, facsimile (871) 112 17 61.

Bulgaria

36 Dragan Tsankov Blvd, 'Interpred' World Trade Center, Block 'A', 3rd Floor, 1056 Sofia, Postal Address: P.O. Box 668, BG-1000 Sofia, tel (359-2) 73 98 41-5, facsimile (359-2) 73 83 95, Mr Tom O'Sullivan, Head of the Delegation, Mr F. Sosa Morales, Administrative Attaché, Mr Caldaroni, Technical Adviser, Mr Serguei Makarinov, Press and Information, Mr Bart Kuitert, Economic Adviser, Mr Todor Dimitrov.

Czech Republic and Slovakia

Pod Hradbami 17, 160 000 Prague 6, tel. (42-2) 32 20 51-55, facsimile (42-2) 32 86 17, Mr Leopoldo Giunti, Head of the Delegation, Dr G. Sabathil, Ms Helene Lloyd, Press and Information, Mrs Susan Besford, Administration Attaché, Phare Unit: tel. (42-2) 32 20 51-55, facsimile (42-2) 311 72 69, Mr Gerald Hegarty, Coord. and Head of Phare Unit, Mr Giorgio Ficarella, Phare/Economic Affairs/G24 Coord., Mr Frantisek Hauser: Fin. and Inf. Manager, Mr Jiri Hodik, Mr Jaroslav Koubal, Mr Rollo, Project Managers.

Slovakia

Phare Coordination Office - Sládkovicova, 3 - 81106 Bratislava, tel. (42-7) 36 35 98-620/63 16 50, facsimile (42-7) 36 36 80, Mr Gerald Hegarty, Head of the Phare Unit, Ms Mária Hrachovcová, Administration Attaché, Mr Dusan Dobrovodsky, Mr Peter Muska, Ms S. Salamonová, Project Managers.

Estonia

Acting Delegation for Estonia, c/o Delegation in Sweden, PO Box 7323, Hamngatan 6, S-11147 Stockholm, tel. (46-8) 611 11 72, facsimile 611 44 35, Acting Head of Delegation, Mr J. Cavanillas y Junquera, Head of delegation.

Hungary

Bérc Utca 23, HU-1016 Budapest, tel. (36-1) 166 44 87/166 45 87/166 72 00, facsimile 166 42 21, telex 061225984, Mr H. Beck, Head of Delegation, Mr G. Raad, counsellor, Mr Jung-Olsen, Counsellor, Mr S. Presa, Press and Information, Mr E. Kimman, Administrative Attaché, Mr von Freital, Mme Meert, secretaries.

Latvia

Acting Delegation for Latvia, c/o Delegation in Sweden, PO Box 7323, Hamngatan 6, S-11147 Stockholm, tel. (46-8) 611 11 72, facsimile 611 44 35, Acting Head of Delegation, Mr J. Cavanillas y Junquera, Head of Delegation.

Lithuania

Acting Delegation for Lithuania, c/o Delegation in Sweden, PO Box 7323, Hamngatan 6, S-11147 Stockholm, tel. (46-8) 611 11 72, facsimile 611 44 35, Acting Head of Delegation, Mr J. Cavanillas y Junquera, Head of Delegation.

Poland

Aleje Ujazdowskie 14, Warsaw, tel. (48-2) 625 07 70/621 64 01/02, satellite tel. (48-39) 12 07 21, facsimile

(48-2) 625 04 30, satellite facsimile (48-39) 12 07 31, telex 813802 comeu pl, Mr K. Schmidt, Acting Head of Delegation, tel. (48-2) 617 44 01, Mr Birkenmaier, Legal Adviser, Mr Jan Willem Blankeert, Economic Adviser, Administrative Attaché (vacancy), Agricultural Adviser, Mrs Hanna Jezioranska, Press and Information.

Romania

14, Intrarea Armasului, 70182 Bucharest 1, tel. (40-1) 211 18 04/05, facsimile (40-1) 211 18 09, Info Phare: (40-1) 211 18 02 - 211 18 12, facsimile (40-1) 211 18 09, Mrs Karen Fogg, Head of Delegation, Mr Willy Orlandi, Administrative Attaché, Mrs Cristina Albutiu, Press and Information, Mrs Nadine Janssens, Mrs Fussman, secretaries.

Slovenia

Trg Republike 3/XI - 61000 Ljubljana, tel. (386-61) 125 13 03, facsimile (386-61) 125 20 85, Mr Borgoltz P.A., Head of Delegation, Mr José Louis Sanchez Allegre, Administrative Attaché, Mr Mitja Rihtarsic, Press and Information, Mrs Katharina Skirde, Secretary.

4. Tenders

Should arrive, at the latest, on 28. 2. 1995 (12.00), local time, at the:

Polish State Railways - CBZIS 'Ferpol', Ul. Grojecka, 17, PL-00973 Warszawa.

They will be opened in public session on 28. 2. 1995 (12.30), local time, at the above address.

First call for proposals for the Community programme on the conservation, characterization, collection and utilization of genetic resources in agriculture

(94/C 368/11)

Following the adoption of the Council Regulation on the conservation, characterization, collection and utilization of genetic resources in agriculture ⁽¹⁾, the Commission of the European Communities invites proposals for action programme projects in the field of genetic resources in agriculture.

In compliance with Article 7 of that regulation, a work programme has been prepared, setting out the detailed aims and types of project to be undertaken and the financial arrangements to be made.

Those eligible to participate ⁽²⁾ in the programme are invited to submit proposals on genetic resources in agriculture in accordance with point I.6 of the work programme. The proposals must reach the Commission of the European Communities before 31. 3. 1995.

Any natural or legal person who is a national of a Member State and established in the Community may submit proposals to the Commission. At least 2 independent participants located in 2 separate Member States must contribute to each project. Proposals from partners who are nationals of non-member countries and the relevant Community financial contribution for such proposals must be examined on a case-by-case basis.

⁽¹⁾ Regulation (EC) No 1467/94, OJ No L 159, of 28. 6. 1994, p. 1.

⁽²⁾ See points III.1 and III.2 of the work programme.

The themes chosen will be addressed, in general, in shared-cost projects ⁽¹⁾ and concerted actions ⁽¹⁾, in accordance with the rules on implementation laid down in Annex I to the Council Regulation:

- the Community contribution to shared-cost projects will not normally exceed 50 % of the total cost, the balance being provided by the partners.
- in the case of concerted actions, the Community may contribute up to 100 % of the costs relating to coordination.

The aim of the programme is to coordinate and promote the work carried out in the Community on characterizing, collecting and using genetic resources in agriculture, while at the same time contributing to the achievement of the aims of the Common Agricultural Policy and, with due regard to the principle of subsidiarity, to aid or supplement the efforts made by the Member States where these efforts prove less than successful.

All types of genetic resources, whether agricultural, horticultural or forestry, are eligible pursuant to Article 1(2) of Regulation (EC) No 1467/94.

Each proposal must have a specific focus, contemplating on a single group of plants or animals (genus, species or race, as appropriate). Priority will be given to those species that are already, or are reasonably expected to become, economically significant in Community agriculture, horticulture or forestry. Preference will be given to utilizing the genetic resources for:

- diversifying agricultural production;
- improving product quality;
- improving environmental protection.

Each proposal must follow the 6 steps ⁽²⁾ below:

- 1) establish the workplan;
- 2) characterize the collections;
- 3) evaluation and utilization;

- 4) sort the collections;
- 5) rationalize the collections;
- 6) acquire (collect) genetic resources.

Collection may be undertaken:

- i) where there are gaps in collections which demonstrably limit their usefulness;
- or
- ii) where uncollected material exists that can be reasonably assumed to be unique and which, if not collected, would be lost.

Proposals must be submitted on the forms available from the Commission of the European Communities. All the information requested must be provided. Furthermore, the action proposed must be justified by reference to the aims of the Common Agricultural Policy, and a declaration of compliance with the rules relating to security, a declaration on the environmental impact of the action proposed, a detailed workplan describing the annual objectives and the intermediary stages enabling the action to be assessed must all be attached.

Research actions are not eligible under this programme. The programme will take account of work already done in the same field by recognized international organizations. The programme must not duplicate such work.

An information pack is available on request from the Commission.

The pack contains:

- this call for proposals;
- application forms;
- the work programme, containing more detailed information on the procedures for submitting proposals;
- the standard contract to be concluded with those participating in the projects chosen.

All correspondence regarding this call for proposals should be addressed to:

Call for proposals in the field of genetic resources in agriculture, DG VI, Directorate F.II, Loi 120 6/238, rue de la Loi 200, B-1049 Brussels, facsimile (32-2) 296 30 29, e-mail: R.hardwicke @ mhsg.cec.rtt.be.

⁽¹⁾ See Regulation (EC) No 1467/94, Annex I, Title II.

⁽²⁾ Regulation (CE) No 1467/94, Annex I, Title III 2 (b).

Call for expressions of interest in carrying out surveys of international road transport prices in the following countries, France, Italy, the Netherlands, Belgium, Luxembourg, Greece and Spain

(VII/A-2 — 8/94)

(94/C 368/12)

1. **Name and address of the awarding authority:** European Commission, Directorate-General for Transport, Unit VII/A-2, for the attention of Mr R. Deiss, BU33 4/16, rue de la Loi 200, B-1049 Brussels.
Tel. (32-2) 296 82 37. Facsimile (32-2) 296 83 52.
2. **Award procedure:** restricted call for tenders.
3. **Contract description:** the Commission wishes to commission quarterly economic price surveys on international road transport prices in the European countries specified above. The objective of these surveys is to build price indices that represent the price development in international road transport. The surveys will be carried out among road transport companies that operate in the international market. An appropriate panel of companies will have to be set up. Data will be collected on a quarterly basis and will cover 1995.
4. **Selection criteria:** the selection of tenderers will be carried out on the basis of the following criteria; ability, knowledge and experience in the area concerned; ability to carry out the task concerned; access to operators.
5. **Performance deadline:** 31. 12. 1995.
6. **Requests for documents:** those interested are invited to submit an application to the address in 1 (by facsimile or letter) and evidence of their competence in the area. The detailed specifications will be sent to all those candidates who meet the criteria as specified in 4.
7. **Deadline for requests for documents:** 6. 1. 1995.
8. (a) **Deadline for receipt of tenders:** 20. 2. 1995.
(b) **Address to which they are to be sent:** instructions for the submission of tenders are given in the tendering documents, which will be sent to candidates who meet the criteria. The attention of tenderers is particularly drawn to the need to respect those instructions scrupulously.
9. **Period for which tenders are binding:** 6 months after the date in 8 (a).
10. **Date of dispatch of this notice:** 28. 11. 1994.
11. **Date of receipt of notice:** 1. 12. 1994.

This notice published in the Supplement to the *Official Journal of the European Communities* No S 237 of 9. 12. 1994, p. 15, 86966-94, is cancelled.