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## Information and Notices

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## I

*(Information)*

## COUNCIL

## COUNCIL CONCLUSIONS

of 30 April 1998

on the integration of health protection requirements in Community policies

(98/C 169/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community;

REAFFIRMING its resolutions of 20 December 1995 and 12 November 1996 on the integration of health protection requirements into Community policies<sup>(1)</sup> and noting that as requested in these resolutions, the Commission is drawing up appropriate methods and criteria as a basis for the integration of health requirements into other Community policies, and for evaluating the effects of Community policies on human health;

WELCOMES the Commission's third annual report of 27 January 1998 on the integration of health protection requirements in Community policies (1996);

WELCOMES also the new format consisting of a concise report and a separate working document giving a detailed overview of Community activities with a health impact;

NOTES that this report concentrates on major developments in 1996, including those in food and agricultural policy (in particular those developments connected with a possible link between bovine

spongiform encephalopathy (BSE) and a new variant of Creutzfeldt-Jakob disease (nvCJD), in the field of research, in environmental protection, in social policy development, and in other policy areas of particular relevance to health;

NOTES the wide range of health-related activities in these major areas of Community policy that are described in the accompanying Commission services working document;

NOTES the factors which the Commission identifies as being key to making progress in this field, and welcomes the Commission's intention to consider instruments to give effect to such progress and to return to these issues in its fourth report;

INVITES the Commission to produce its fourth report quickly and to aim to present subsequent reports within one year after the end of the period they cover;

INVITES the Commission to include sections on public health impact in its annual reports on the implementation of the previous year's overall work programme and, as requested by the Council in its abovementioned resolutions, to indicate in its annual forward work programme all proposals which may have an impact on health protection.

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<sup>(1)</sup> OJ C 350, 30.12.1995, p. 2 and OJ C 374, 11.12.1996, p. 3.

**COUNCIL CONCLUSIONS****of 30 April 1998****on transmissible spongiform encephalopathies (TSEs)**

(98/C 169/02)

THE COUNCIL OF THE EUROPEAN UNION,

REFERRING to the Council conclusions of 18 June 1996 and of 12 November 1996 on transmissible spongiform encephalopathies (TSE) <sup>(1)</sup>;

RECALLING the Council conclusions of 7 October 1996 on research on bovine spongiform encephalopathy (BSE) and related human diseases;

NOTES the initiatives taken by the European Parliament in relation to BSE and Creutzfeldt-Jakob disease (CJD) and in particular its resolution <sup>(2)</sup> adopted on 19 February 1997;

NOTES the current epidemiological data relating to CJD, supplied by the Member States, and also the developments which have taken place, since its conclusions of 12 November 1996, in relation to the monitoring and surveillance of CJD in the Member States and at the Community level;

NOTES the action which has been taken in relation to:

- protection of workers exposed to the agents responsible for BSE and related animal TSEs,
- the review of guidelines adopted by the Committee for Proprietary Medicinal Products aimed at minimising the risk of transmission, via medicinal products, of the agents responsible for TSEs,

- the provision of funds from the Community budget for TSE research under the fourth framework programme established by Decision No 1110/94/EC of the European Parliament and of the Council <sup>(3)</sup>;

WELCOMES the intention of the Commission to submit, as soon as possible after the next International Office of Epizootics (OIE) session in May 1998, a scientifically based proposal in the field of specified risk materials;

ATTACHES particular importance to such a proposal with regard to specific problems, such as the exclusion of specified risk materials from the food chain and a specific risk assessment with regard to medicinal products and medical devices;

REAFFIRMS the importance of extending to all Member States the epidemiological surveillance of CJD using the same methods as have been applied in the project funded through the Community's Biomed programme, and of Member States continuing to exchange experience and expertise in the diagnosis of cases;

WELCOMES the cooperation between the Commission and the World Health Organisation on matters related to TSEs;

AGREES to keep the issue under consideration.

<sup>(1)</sup> OJ C 194, 5.7.1996, p. 1 and OJ C 374, 11.12.1996, p. 2.

<sup>(2)</sup> OJ C 85, 17.3.1997, p. 61.

<sup>(3)</sup> OJ L 126, 18.5.1994, p. 1.

# COMMISSION

Ecu <sup>(1)</sup>

3 June 1998

(98/C 169/03)

Currency amount for one unit:

Belgian and Luxembourg franc	40,5998	Finnish markka	5,98093
Danish krone	7,49595	Swedish krona	8,61157
German mark	1,96812	Pound sterling	0,678656
Greek drachma	335,174	United States dollar	1,10974
Spanish peseta	167,171	Canadian dollar	1,61056
French franc	6,59972	Japanese yen	152,955
Irish pound	0,780132	Swiss franc	1,63797
Italian lira	1939,32	Norwegian krone	8,29252
Dutch guilder	2,21826	Icelandic krona	78,8580
Austrian schilling	13,8484	Australian dollar	1,80886
Portuguese escudo	201,551	New Zealand dollar	2,10897
		South African rand	5,67687

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 fax answering service (No 296 10 97/296 60 11) providing daily data concerning calculation of the conversion rates applicable for the purposes of the common agricultural policy.

<sup>(1)</sup> Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ L 379, 30.12.1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ L 189, 4.7.1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ L 349, 23.12.1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ L 349, 23.12.1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ L 345, 20.12.1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ L 345, 20.12.1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ L 311, 30.10.1981, p. 1).

GP = Guide price.

**Prior notification of a concentration**  
**(Case No IV/M.1150 — Schweizer Rück/NCM)**

(98/C 169/05)

(Text with EEA relevance)

1. On 20 May 1998, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the undertaking Schweizerische Rückversicherungsgesellschaft (Swiss Re) acquires, within the meaning of Article 3(1)(b) of the Regulation, sole control of the undertaking NCM Holding NV (NCM), by way of purchase of a majority of shares.

2. The business activities of the undertakings concerned are:

— Swiss Re: reinsurance business activities worldwide,

— NCM: direct insurance and reinsurance in the *delcredere* insurance business.

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference IV/M.1150 — Schweizer Rück/NCM, to:

European Commission,  
Directorate-General for Competition (DG IV),  
Directorate B — Merger Task Force,  
Avenue de Cortenberg/Kortenberglaan 150,  
B-1040 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; Corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; Corrigendum: OJ L 40, 13.2.1998, p. 17.

**Prior notification of a concentration**  
**(Case No IV/M.1137 — Exxon/Shell)**

(98/C 169/06)

(Text with EEA relevance)

1. On 25 May 1998, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the undertakings Exxon Chemical Company (Exxon) and the Shell Oil Company (Shell) acquire, within the meaning of Article 3(1)(b) of the Regulation, joint control of a newly created company constituting a joint venture (JV), which will operate in the lubricant and fuel additives business.

2. The business activities of the undertakings concerned are:

- Exxon: oil and gas exploration, chemicals, coal and power generation,
- Shell: oil and natural gas, petrochemistry,
- JV: lubricant and fuel additives.

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference IV/M.1137 — Exxon/Shell, to:

European Commission,  
Directorate-General for Competition (DG IV),  
Directorate B — Merger Task Force,  
Avenue de Cortenberg/Kortenberglaan 150,  
B-1040 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; Corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; Corrigendum: OJ L 40, 13.2.1998, p. 17.



**Prior notification of a concentration**  
**(Case No IV/M.1201 — DuPont/Merck)**

(98/C 169/07)

(Text with EEA relevance)

1. On 25 May 1998, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>, as last amended by Regulation (EC) No 1310/97 <sup>(2)</sup>, by which the undertaking E.I. du Pont de Nemours & Co. (DuPont), a US company, acquires, within the meaning of Article 3(1)(b) of the Regulation, sole control of the whole of the DuPont Merck Pharmaceutical Company, a 50 % joint venture with Merck & Co. (Merck), active in the pharmaceutical and radiopharmaceutical sector, by the purchase of Merck interest.

2. The business activities of the undertakings concerned are:

- DuPont: chemical and energy products,
- Merck: pharmaceutical products.

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

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

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent by fax (No (32-2) 296 43 01 or 296 72 44) or by post, under reference IV/M.1201 DuPont/Merck, to:

European Commission,  
Directorate-General for Competition (DG IV),  
Directorate B — Merger Task Force,  
Avenue de Cortenberg/Kortenberglaan 150,  
B-1040 Brussels.

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<sup>(1)</sup> OJ L 395, 30.12.1989, p. 1; Corrigendum: OJ L 257, 21.9.1990, p. 13.

<sup>(2)</sup> OJ L 180, 9.7.1997, p. 1; Corrigendum: OJ L 40, 13.2.1998, p. 17.

## STATE AID

C 6/97

Germany

(98/C 169/08)

(Text with EEA relevance)

*(Articles 92 to 94 of the Treaty establishing the European Community)***Commission notice pursuant to Article 93(2) of the EC Treaty concerning aid granted by the German Government to Dieselmotorenwerk Rostock GmbH, Mecklenburg-Western Pomerania**

By letter reproduced below, the Commission informed the German Government of the decision to extend the Article 93(2) procedure:

'On 25 April 1996 the German authorities notified the Commission of rescue aid totalling DEM 20 million for Dieselmotorenwerk Vulkan GmbH, Rostock. In the absence of further information from the German authorities and because of doubts as to the compatibility of the aid with the common market, the Commission decided, on 22 January 1997, to initiate the procedure provided for in Article 93(2) of the EC Treaty. In so doing, the Commission gave the German Government formal notice to provide it with all the information needed for examining the aid within one month of being notified of the decision.

The letter by which the German authorities were given notice was sent on 11 February 1997. By letters dated 18 April, 29 May and 4 August 1997, the Commission asked the German authorities to provide further details and a restructuring plan.

The German authorities replied by letters dated 30 April, 14 July and 10 and 12 September 1997. Additional aid was also notified and a restructuring plan was submitted. On 15 October 1997 a number of final pieces of information were furnished at a meeting between representatives of the Commission (DG IV), the Federal Ministry of Economic Affairs and the *Land* of Mecklenburg-Western Pomerania.

**1. BACKGROUND**

Dieselmotorenwerk Vulkan GmbH (DMV) is the result of a merger between two companies belonging to the Bremer Vulkan Verbund (BVV) group in Bremen-Vegesack and Rostock (see decision to initiate proceedings in OJ C 119 of 17 April 1997). The company recently changed its name to Dieselmotorenwerk Rostock GmbH (DMR). DMR currently operates

four production plants and service centres in the old and new Federal *Länder* and has two wholly owned subsidiaries and one 45 %-owned subsidiary in Mecklenburg-Western Pomerania.

In May 1997 DMR had 600 employees. DMR manufactures mainly two-stroke marine diesel engines under licence. It is also involved to a lesser extent in steel construction work, spare-part manufacture, the provision of related services and foundry work. The subsidiaries produce mainly propellers and rudders.

**1.1. Initiation of proceedings**

The April 1996 notification concerned DEM 20 million of rescue aid in the form of a loan to be granted before 31 December 1996 by the BvS (Federal Institute for Special Tasks associated with Unification). On 22 January 1997 the Commission decided, owing to the lack of information and its doubts about the aid's compatibility with the common market, to initiate the Article 93(2) procedure. In so doing, the Commission gave the German Government formal notice to furnish it within one month of receipt of the letter with all the information needed to assess the aid as part of the procedure <sup>(1)</sup>.

The Commission's doubts related in particular to the terms and conditions on which the loan was granted (these must be in line with normal commercial interest rates), the restriction of the aid to the amount needed to keep the firm in business, the restriction of the term of the loan to the time needed to devise the necessary restructuring plan (generally no more than six months) and the justification of the aid on the grounds of serious social difficulties, with no undue adverse effects on the industrial situation in other Member States.

<sup>(1)</sup> OJ C 119, 17.4.1997, p. 8.

### 1.2. The aid

The aid to which proceeding C 6/97 relates is a DEM 20 million loan from the BvS to be granted by 31 December 1996 at an interest rate 3 percentage points above the discount rate. The following measures, which are covered by the extension of the procedure, come on top of the above amount:

- a DEM 10 million loan to be granted by the *Land* before 31 December 1996 at an interest rate three percentage points above the discount rate,
- a DEM 19,5 million loan (*Land*: DEM 6,5 million; BvS: DEM 13 million),
- a DEM 25 million interest-free loan from the two shareholders with no maturity date.

The total amount of the loans which are being or have been converted into outright grants thus comes to DEM 74,5 million.

When it was privatised in 1994, DMR was granted a loan by the BvS on normal market terms. This loan is also being converted into an outright grant and hence into State aid within the meaning of Article 92(1) of the Treaty. No provision of new resources is involved here;

- a guarantee package worth a total of DEM 60 million to enable DMR to guarantee suppliers and customers payment and performance in respect of its production activities, the size of the package being determined on the basis of existing contracts,
- sureties worth a total of DEM 20 million to cover current bank loans for liquidity purposes.

### 1.3. The restructuring plan

The company was being restructured at the time of BVV's collapse, and the restructuring plan had to be modified in the light of the new situation. The drawing-up of the new plan was considerably delayed by the privatisation negotiations, which finally collapsed. DMR's principal activity, accounting for some 80 % of turnover, is the manufacture of marine diesel engines.

The new plan is based on the assumption that prices will remain stable in the marine engines sector and that production measured in terms of number of engines made will remain constant. This stable trend among the principal activities will be accompanied by a reduction in production costs to be achieved by, for example, concen-

trating marine engine manufacture on one plant in Warnemünde and ceasing production in Bremen, reducing marine engine production times and increasing employee flexibility through retraining. Cost savings and an increase in turnover are likewise to be achieved by introducing a purchase-price reduction programme, improving the gross trading profit in the spare parts business, introducing better internal communications (by fax and e-mail), and selling surplus land and buildings. Expenditure on materials will be cut from DEM 187,3 million in 1996 ([...] of trading profit) to DEM 114,2 million in 1999 ([...] of trading profit). Employment costs are to be reduced through massive redundancies and by negotiating the hardship clause. Such costs should fall from DEM 62,1 million in 1996 ([...] of operating expenses) to DEM 32 million in 1998 ([...] of operating expenses).

The plan is based on a "base case", the underlying assumption of which is stable prices, and on risk scenarios to cover events such as a collapse in prices, a slump in demand, etc. The details of these risk scenarios were not communicated to the Commission.

The marine diesel engines are built under licence. The plan provides for the renegotiation of the licence agreements, on which engine sales and hence the success of the restructuring largely depend. It also provides for a very limited realignment of DMR's production on the basis of a limited increase in the proportion of sales accounted for by foundry work (while maintaining diesel engine manufacture as the principal activity with some 75 % of sales in 2000) and by service and repair activities. According to the information in the Commission's possession, the foundry activities do not involve products which fall within the scope of the ECSC Treaty.

In addition to the abovementioned aid measures, the financing plan provides for the waiving by BVV's receiver of its claims against DMR to the tune of DEM 54,8 million. DMR emerged as a net beneficiary of the cash concentration system. The spillover effect of the misused funds is being examined as part of proceeding C 7/96 (?).

## 2. ASSESSMENT

The Commission regrets that, contrary to their obligation under Article 93(3) of the EC Treaty and Article 61(3) of the EEA Agreement, the German

(?) See also decision to initiate proceeding C 6/97, point 3.

authorities granted the aid before notifying it and without awaiting the Commission's decision on the case. Because of the additional amounts, which are to be regarded as unlawfully granted aid, and the belated, largely incomplete submission of information by the German authorities, the Commission must extend proceeding C 6/97 to include all additional aid payments.

The German authorities notified these measures as rescue and restructuring aid. This is an atypical case in which a company being restructured is affected by the insolvency of the group which took it over and which was to have financed a large part of its restructuring. The initial rescue aid measures covered by the present proceeding C 6/97 were intended to safeguard the company's restructuring in order that the company might be able to adapt the restructuring plan to take account of its new situation outside the BVV group.

As regards the application of the exceptions provided for in Article 92(3)(c) of the EC Treaty, the aid must be examined in the light of the guidelines on State aid for rescuing and restructuring firms in difficulty<sup>(1)</sup>. The measures originally granted and covered by proceeding C 6/97 are rescue aid in the form of a DEM 20 million loan. Other aid measures have since been added. These aid measures and the restructuring plan (outlined in points 1.2 and 1.3) must therefore be assessed in the light of the guidelines (point 3.2).

#### RESTORATION OF VIABILITY

The *sine qua non* of any restructuring plan is that it must restore the long-term viability of the company within a reasonable timescale and on the basis of realistic assumptions as to its future operating conditions, and it must enable all costs to be covered.

The restructuring plan submitted by the German authorities contains measures to improve earnings by reducing production costs and through certain productivity-increasing investments. According to the information submitted, no further aid should be necessary. The plan, which is based on a "base case" and on risk scenarios, is clearly founded on realistic assumptions. The Commission does not, however, have any detailed information about the risk scenarios.

According to the plan, the company is in a position to cover its costs. However, this requires the conversion of the loans into outright grants. Furthermore, it is not yet established whether the interest so far due has been paid prior to the conversion of the loans. As a result of the conversion of the loans into grants and the possible failure to pay the interest so far due, the financial costs to the company fall to a level below normal market costs.

It should also be noted that it is not yet possible at the present stage to give a final assessment of the feasibility of the plan. For this purpose, the Commission needs to have more details on the performance variables included in the risk scenarios. It must also be clarified whether the realisation of the plan is really possible only on the basis of unusually low financing costs.

#### AVOIDANCE OF UNDUE DISTORTIONS OF COMPETITION

Adverse effects on competitors must be offset as far as possible. Where there is excess capacity in a sector, the guidelines provide that production capacity must be reduced in proportion to the amount of aid received.

The information provided on DMR's market position is incomplete. According to the figures available, DMR achieves some 80 % of its turnover through the production of two-stroke marine diesel engines. Such engines are mainly used in container ships, and this particular shipbuilding sector is currently in a state of crisis. In the longer term, however, demand is expected to increase.

Sales conditions and potential depend on the licensors. The market is dominated by the three licensors NSD, MAN B&W and Mitsubishi, which through their licensing agreements obviously determine production and sales conditions in the individual regions. In addition, the licensors can sell engines direct, bypassing regional agreements. On the basis of the current state of information, it is not possible to say to what extent intra-Community trade is affected by the aid in this instance, since this depends on the renegotiation of the licensing agreements (this also applies to the restoration of viability, which is similarly dependent on the results of the renegotiation of the licensing agreements).

DMR's activities in steel construction work, spare-part manufacture and foundry work are not of comparable importance to the production of two-stroke marine diesel engines. However, an exception must be made in

<sup>(1)</sup> OJ C 368, 23.12.1994, p. 12.

the case of the foundry sector, which is in a state of crisis and therefore requires particular attention. The information so far provided on activities in these sectors is not yet detailed enough, nor have the German authorities provided evidence that the distortions of competition will be kept to a minimum.

#### LIMITING THE AID TO THE STRICT MINIMUM NEEDED

The aid must be limited to the strict minimum needed to enable restructuring to be undertaken. It must avoid providing the company with surplus cash which could be used for an aggressive pricing policy.

During the rescue period, the company has received relatively high amounts of aid for rescue and restructuring. This has been in the form of loans totalling DEM 74,5 million which were converted into outright grants, a guarantee package totalling DEM 60 million and sureties worth a total of DEM 20 million. An existing loan of DEM 25 million is also being converted into an outright grant, and this increases the extent of the aid without any additional cash resources being provided. According to the information available, the aid should be sufficient to allow the restructuring plan to be implemented; however, in view of the unusually low financing costs, doubts remain whether the amounts of aid represent the strict minimum required.

The German authorities cannot rule out the possibility that the financing plan might have to be modified on privatisation. It is not at present possible to assess whether the aid is in proportion to the costs and advantages of restructuring and whether the State funding is cost-effective, since the company still has to be privatised and no private investor has so far become involved in the restructuring. However, the total aid amount of DEM 99,5 million in outright grants, DEM 60 million in credits extended by way of guarantee and DEM 20 million in sureties may be contrasted with the DEM 275,2 million in consolidated turnover achieved by the company in 1996.

On the basis of the information available to the Commission, the restructuring plan seems to be viable and based on realistic assumptions. However, as regards the compatibility of the aid with the common market, doubts remain due to the lack of financing costs for the loans from the BvS and the *Land* to DMR and because it is not clear whether these costs were paid before the loans were converted into outright grants. The implementation of the restructuring plan depends

essentially on the results achieved when the licensing agreements are negotiated. Consequently, it cannot at the present stage be determined whether the company's long-term viability will be restored through the plan and to what extent the aid might have adverse effects on competitors. Furthermore, the lack of any participation by a private investor raises doubts as to the proportionality of the amount of aid and the cost-effectiveness of the State funding.

For the reasons set out above, the Commission has decided to extend proceeding C 6/97 to include the aid since paid to Dieselmotorenwerk Rostock GmbH, previously Dieselmotorenwerk Vulkan GmbH.

As part of the proceedings, the Commission hereby calls on the German authorities to present their comments and any information that is relevant to the questions raised within one month of receipt of this letter.

The Commission draws attention to the suspensory effect of Article 93(3) of the EC Treaty and to the communication published in the *Official Journal of the European Communities* C 318 of 24 November 1983, page 3, and to the communication published in the *Official Journal of the European Communities* C 156 of 27 June 1997, page 5, in which it was stipulated that any aid granted unlawfully may have to be recovered from the recipient.

The German authorities are requested to inform the recipient firm without delay of the extension of proceeding C 6/97 to include the unnotified aid granted since April 1996 and of the fact that any aid improperly received may have to be repaid.

Unlawfully received aid must be repaid in accordance with the provisions of German law, with interest, based on the reference rate used for assessing regional aid schemes, starting to run on the date on which the aid was granted.'

The Commission hereby gives the other Member States and interested parties notice to submit their comments on the case within one month of the date of publication of this notice to:

European Commission,  
Directorate-General for Competition (DG IV),  
Rue de la Loi/Wetstraat 200,  
B-1049 Brussels.

*The comments will be communicated to the German Government.*

## Authorisation for State aid pursuant to Articles 92 and 93 of the EC Treaty

## Cases where the Commission raises no objections

(98/C 169/09)

(Text with EEA relevance)

**Date of adoption:** 24.9.1997**Member State:** Spain (Navarra)**Aid No:** N 425/97**Title:** Measures to promote investment and employment in SMEs**Objective:** Development of SMEs and regional development**Legal basis:** Proyecto de decreto**Budget:** Approximately ECU 30,3 million the first year, annual increase of approximately ECU 0,3 million**Aid intensity:** 7,5 % medium-sized firms and 15 % small firms; in assisted areas: 15 % net + 10 % gross**Duration:** Indefinite**Title:** Measures in favour of R & D within the energy sector**Objective:** To improve energy research and development**Legal basis:** 'Förordning om statligt stöd till energiforskning'**Budget:** SKR 2 800 million (ECU 322 million) for seven years**Aid intensity:** Fundamental research maximum 100 % gross and industrial research maximum 50 % gross**Duration:** Unlimited**Date of adoption:** 10.3.1998**Member State:** Germany (Bremen)**Aid No:** N 515/97**Title:** Guidelines on promotion of investment to set up a closed substance cycle waste management**Objective:** To promote investment in waste installations, processes and products in order to improve environmental protection and resources management in the area of waste management and disposal**Legal basis:** Haushaltsordnung der Freien Hansestadt Bremen in Verbindung mit Senatsbeschluß zur neuen Projektstruktur des Investitionssonderprogramms (ISP) vom 31.5.1996**Budget:** DEM 15 million per annum (ECU 7,6 million) until 2001**Aid intensity:** In non-assisted areas: maximum 30 % gross, plus 10 % for SMEs; in assisted areas not exceeding the regional aid ceilings**Duration:** Until 2004**Conditions:** Annual report**Date of adoption:** 11.3.1998**Member State:** Sweden**Aid No:** N 711/97**Title:** Energy Technology Fund**Objective:** To develop and demonstrate new energy technology**Legal basis:** Förordning om statligt stöd till ur energiteknikfonden**Budget:** SKR 870 million (ECU 100,2 million) for seven years**Aid intensity:**

— Fundamental research and industrial research maximum 50 % gross,

— Precompetitive development activities 25 % gross,

— Bonus of 10 % for SMEs

**Duration:** Unlimited**Date of adoption:** 11.3.1998**Member State:** Sweden**Aid No:** N 710/97**Date of adoption:** 11.3.1998**Member State:** Sweden**Aid No:** N 712/97**Title:** Measures in favour of energy technology

**Objective:** To improve the development of technology based on renewable energies and the energy efficiency in industrial processes

**Legal basis:** Förordning om energiteknikbidrag

**Budget:** SKR 1 610 million (ECU 185 million) for seven years

**Aid intensity:**

- Industrial research maximum 50 % gross
- Precompetitive development activity 25 % gross
- Bonus of 10 % gross to SMEs

**Duration:** Unlimited

**Date of adoption:** 27.4.1998

**Member State:** The Netherlands (Flevoland)

**Aid No:** N 119/98

**Title:** Modification of the employment aid scheme Flevoland 1997

**Objective:** Regional development

**Legal basis:** Arbeidsplaatsenpremieregeling Flevoland 1997

**Budget:** ECU 24,6 million

**Aid intensity:**

- Lelystad: ECU 10 100 per job
- Rest of Flevoland: ECU 6 725 per job
- Absolute ceiling:
  - 35 % gross for SMEs
  - 25 % gross for large firms

**Duration:** 1997 to 1999

**Communication from the Netherlands pursuant to Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons**

(98/C 169/10)

(Text with EEA relevance)

*Invitation for the submission of applications for an exploration licence for hydrocarbons in block A 15*

The Minister of Economic Affairs of the Kingdom of the Netherlands serves notice that an application for an exploration licence for hydrocarbons has been received for block A 15 as indicated on the map appended as Annex I to the Regulation on hydrocarbon licences for the continental shelf 1996 (Netherlands Government Gazette 93).

With reference to Article 3(2)(b) of Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons and Article 16a of the Continental Shelf Mining Act, the Minister of Economic Affairs invites interested parties to submit an application for an exploration licence for hydrocarbons in block A 15.

Applications may be submitted within 13 weeks of the publication of this invitation in the *Official Journal of the European Communities* to the Minister of Economic Affairs, for the attention of the Director Oil and Gas, marked 'personal', Bezuidenhoutseweg 6, 2594 AV, The Hague, Netherlands. Applications submitted after this deadline shall not be taken into consideration.

A decision concerning the applications will be taken not later than nine months after the expiry of this deadline.

Further information may be obtained via telephone No (+31 70) 379 66 85.

# EUROPEAN MONETARY INSTITUTE

## OPINION OF THE COUNCIL OF THE EUROPEAN MONETARY INSTITUTE

under Article 109l(1) of the Treaty establishing the European Community and Article 50 of the Statute of the European System of Central Banks and of the European Central Bank, on a recommendation from the Council of the European Union for the appointment of the President, the Vice-President and the other members of the Executive Board of the European Central Bank (ECB)

(98/C 169/11)

1. The Council of the European Monetary Institute (EMI) was requested in a letter from the President of the Council dated 2 May 1998 to deliver its opinion on a recommendation of the same date by the Council of the European Union to the Governments of the participating Member States, at the level of the Heads of State or Government, to appoint:
  - (a) Willem Frederik Duisenberg as the President of the ECB, for a term of office of eight years;
  - (b) Christian Noyer as the Vice-President of the ECB, for a term of office of four years;
  - (c) as the other members of the Executive Board of the ECB:
    - (i) Otmar Issing for a term of eight years;
    - (ii) Tommaso Padoa-Schioppa for a term of seven years;
    - (iii) Eugenio Domingo Solans for a term of six years;
    - (iv) Sirkka Hämäläinen for a term of five years.
2. The Council of the EMI notes that the proposed candidates are persons of recognised standing and professional experience in monetary or banking matters.
3. The Council of the EMI has no objection to the recommendation relating to the appointment to the Executive Board of the ECB of all proposed candidates.
4. The Vice-President of the EMI has been charged with forwarding the opinion to the Governments of the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic and the Republic of Finland.
5. This opinion shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt-on-Main on 5 May 1998.

*For the Council of the EMI*  
*The Vice-President*  
L. A. ROJO



## III

(Notices)

## COMMISSION

## ODYSSEUS PROGRAMME: 1998

(98/C 169/12)

(Text with EEA relevance)

## 1. Broad outlines of the programme

The Council adopted the Odysseus programme of training, exchanges and cooperation in the field of asylum, immigration and crossing external borders on 19 March 1998 (OJ L 99, 31.3.1998). The programme applies to the 15 Member States of the European Union and allows for the possibility of associating non-member countries, in particular the applicant countries, provided this would be in accordance with the programme's objectives.

The financial reference amount for the implementation of the programme for the period 1998 to 2002 is ECU 12 million.

The programme has three main objectives:

1. First, to secure the long-term practical cooperation of the authorities responsible for implementing the asylum, immigration and external border control policies. The long-term approach is a prerequisite for the programme's effectiveness, given that any changes to new legislation, procedures and techniques will take time, generally longer than an annual programme.

2. Second, to design a programme incorporating the various elements of a wide-ranging cooperation policy by means of instruments relating to training and exchanges of officials. To be fully effective they must meet three conditions:

- the various qualification levels must be defined: this means making sure the measures implemented under the Odysseus programme at Union level are complementary to other measures, in particular basic training for officials, which mainly comes within the competence of the Member States;
- cooperation must be accompanied by the development of tools based on studies and research and the dissemination of information which increases effectiveness,

— assessment must be incorporated, i.e. each measure must include a complete definition of the objectives and the means to achieve them. The objectives must be consistent with the needs expressed and the content of the programme. In other words, new measures can be launched only if they fully incorporate the assessment of previous similar measures.

3. Steps must be taken to open up the programme to non-member countries in general and the applicant countries in particular, priority being given to cooperation projects to familiarise them with the accumulated body of Union law relating to asylum, immigration and the crossing of external borders.

The programme sets out to meet these objectives by supporting measures initiated by public institutions or private bodies aimed at developing cooperation in the fields of asylum, immigration and the crossing of external borders. This is why the structure is based on an annual programme adopted by the Management Committee. It ensures that the selection process is as open as possible and that the projects selected meet the strictest criteria with the help of experts who will assist the Commission in formulating proposals for consistent programmes.

In the interests of sound management, the Commission has stressed the need for economies of scale in programme management. The Sherlock programme can be incorporated into the Odysseus programme without any change in substance. Incorporation will make it possible to coordinate the objectives of the campaign against forged documents in the more general context of external border controls and the prevention of illegal immigration. Management will be simplified as a result of establishing a single Management Committee.

The Commission will make sure the programme is consistent with existing programmes under Title VI of

the TEU and the PHARE programme, in particular the aspect dealing specifically with justice and home affairs.

To achieve this objective, the Odysseus programme will consist of operations in the following areas:

- **training** for civil servants, training for instructors and advanced courses for specialists. Depending on the subject studied, basic training will remain primarily within the competence of the Member States; since this is the first year of the programme's implementation, it would not appear necessary to specify the type of training by giving priority to instructors or to specialists. The areas are sufficiently broad and distinct for it to be feasible to define the most appropriate type of training case by case. With regard to forged identity documents, training will have to take account of the lessons learned from the Sherlock programme. In other areas, training could be more usefully focused on basic concepts. In this context the Commission intends to give priority to the dissemination of information. With regard to questions of common interest, this will involve processing the information obtained in the Member States and disseminating it as widely as possible to the personnel concerned; it will also involve further training and specialisation for experienced officials in order to study in greater depth specific aspects identified as requiring special effort. Regular training courses will have to be held so that they will have a knock-on effect and become a source of reference information by the end of the period;
- **exchanges** of officials between Member States, a complementary dimension of training. The periods of exchange can be sufficiently extended to allow for practical familiarisation on the spot with the methods, procedures and techniques used. This could take the form of unilateral or reciprocal visits to the national authorities responsible for asylum, immigration and external frontier control, to gain an on-the-spot insight of the problems encountered in other Member States. With the agreement of the respective national authorities, long-term visits will make it possible for officials to participate more actively in operations. Similarly, there will be opportunities for officials of several Member States to visit another Member State.
- **studies and research**, the third component of the annual programme, aims in particular at the design and dissemination of teaching materials (educational tools, software, etc.). Research could be more closely focused on the development of tools and the preparation of actual cases. In this context, projects which aim at document dissemination or access (via databases) could also be taken into account, making it

possible to improve cooperation between national authorities. Existing institutional, legislative and regulatory fields, or those coming into being, could be the central topic of research, in particular in preparation for the entry into force of the Treaty of Amsterdam.

Projects are selected by a Management Committee consisting of a representative of each Member State and chaired by a representative of the Commission. To be considered projects must be of interest to the Union and must involve at least two Member States. The applicant countries can be associated with such projects, in accordance with Article 10 of the Joint Action, if this is in line with the objectives of the programme. In addition, the programme does not exclude the participation of non-member countries, provided their presence is in the interests of the Union.

## 2. Structure of the annual programme, fields of action for 1998 and total appropriation

The Odysseus programme has broad objectives concerning asylum, immigration and the crossing of external borders. These are specific fields and call for different types of partnership. Certain sectors, such as the Sherlock programme, require strict confidentiality, while others are open to the academic world, to non-governmental organisations, or even to companies from the business world. This is why the Odysseus programme is addressed to a broad public, ranging from the authorities responsible for the above fields to bodies, associations or companies which operate in relation to them.

The structure of the Odysseus programme reflects this diversity, by assigning priority to the three main areas (asylum, immigration, external borders), where the traditional forms of cooperation, training, exchanges and studies, will apply, preference being given to the problems facing Member States in these fields. Priority has been given to two areas in this annual programme: one for pressing matters, the other for the applicant countries, in the framework of the partnership worked out by the Commission. The annual programme will be implemented in successive stages, and priority will be given to areas of common interest to the Union and the Member States and particularly to topical subjects, especially those currently being discussed in the Council, while other more specific aspects can be dealt with later.

In all the programmes managed by the Commission, increasing emphasis must be placed on the assessment of operations carried out under the programme.

### Asylum

- The entry into force of the Dublin Convention is a top priority, for its implementation and the conditions of its application require the member States to provide training,
- in its initial phase, the annual programme seeks to place an emphasis on best practices as regards procedures for examining asylum applications.

Beyond that, increased cooperation in other areas of asylum would be beneficial. On-the-spot comparisons during exchanges will enable officials to become more familiar with systems other than those they themselves employ, and on some occasions enable them to transpose solutions from their own administration.

- Such cooperation is particularly useful in the applicant countries, as a number of them have only recent experience in this field. It enables them to acquire the basics of the process of managing asylum applications. Thus, projects will be able to relate to initiatives associated with the Dublin Convention,
- since in another context the Commission manages the budget headings relating to the financing of specific projects for displaced persons, asylum-seekers and refugees (Joint Actions 97/477/JHA and 97/478/JHA of 22 July 1997, OJ L 205, 31.7.1997), an effort will be made to ensure that the operations are complementary to measures in another context.

### Immigration

The two complementary aspects of the policy outlined in the Commission memorandum (February 1994) concerning immigration and asylum must be taken into account.

- This is why operations must concern both the admission of third-country nationals and the prevention of illegal immigration. On the first point the programme seeks to stress the subjects closely related to the draft convention concerning the admission of third-country nationals to Member States of the European Union,
- with regard to the second point, projects could concern readmission agreements and the practical methods of readmitting illegal third-country nationals. Projects submitted within this framework should relate by way of priority to the work in progress within the European Union, or should come

within the framework of the accession partnership with the applicant countries,

- the programme also seeks to emphasise best practices as regards immigration control.

The Commission and the Management Committee will take steps to avoid overlapping with other Community programmes involving similar operations.

### Crossing of external borders

- An essential part of the 'external borders' aspect will be the campaign against the use of forged documents, in connection with the results of the Sherlock programme. Projects committed or accepted under the Sherlock programme for this budgetary period will be carried out under the Odysseus programme for 1998, in accordance with Article 19 of the Joint Action,
- problems relating to different types of borders (sea, land and air) will be taken into account using an approach targeting each category.

Projects could highlight special border control issues in conjunction with a precise geographical approach, targeting frontier regions with special features (Baltic States, Balkans, European Mediterranean countries).

In the light of these considerations, observation of the situation in the various related areas and the work of specialised groups, the following fields of action are proposed for the 1998 programme, within the framework of an overall estimated budget of ECU 3 million. Traditional methods of cooperation will be combined with the more specific objectives, not forgetting the share set aside for assessment.

### Field of action (a)

**Training** is at the very heart of the priorities of the Joint Action. Since it is the first year of the Joint Action's implementation, projects must give priority to basic knowledge concerning asylum and immigration. The situation is different for forged documents; as the Sherlock programme has been implemented in previous years, basic training was given priority in the initial years and more specialised fields may now be covered.

- The annual programme seeks to stress the considerations relating to the measures implemented at Union level. Thus, projects will tend to improve national officials' knowledge of Community instruments, procedures, methods and techniques,

- secondly, projects will have to concentrate on matters which could be the subject of closer cooperation, both between the Member States and with the applicant countries.

#### Field of action (b)

**Topical subjects:** This involves responding to specific needs and problems facing the Member States (new regulations, new practices, new technologies, etc.) The annual programme seeks to place at the disposal of Member States an instrument facilitating a prompt response to matters of immediate concern. This chapter could in particular address the measures taken under the action plan to combat the influx of migrants from Iraq and the neighbouring region.

#### Field of action (c)

#### Exchanges of officials

This field mainly concerns traditional exchanges of officials, over a sufficient period of time, to familiarise them with the practices implemented in other administrations in the various areas of the programme. Such exchanges could be of interest to staff responsible for implementing procedures at local or national level, depending on the administrative organisation of each Member State, and to officials responsible for devising them. Exchanges could also include officials responsible for on-the-spot controls or who are in direct contact with non-Community nationals (asylum-seekers, foreigners in an illegal situation pending repatriation, etc.)

#### Field of action (d)

#### Cooperation with non-member countries

- In the context of the accession partnership, applicant states must gradually integrate the Union's *acquis*, in the broadest sense, into the areas outlined in the programme. This requirement entails a knowledge of legal instruments, procedures, methods and techniques. Implementation of the programme in the first year will focus on the acquisition of basic knowledge.

This objective could be adopted for the various types of action (mainly training and exchanges of officials). Steps will be taken to make sure they are complementary to other programmes under Title VI, as well as with the other Community aid programmes, in particular the horizontal PHARE programme, one aspect of which

specifically concerns justice and home affairs in general and external border controls in particular.

- The lion's share allocated to the applicant countries by no means excludes the association of non-Community countries. For example, the association of non-Community countries which are not applicants could be based on a geographical approach, provided the projects are in the interests of the Union.

At this stage of implementation of the Odysseus programme, priority must be given to the conditions for applying the Dublin convention, and the aspects relating to external border controls.

Special attention will be paid to projects involving training, exchanges and studies associating non-member countries, and in particular the applicant countries.

#### Field of action (e)

#### Studies and research

The annual programme aims to prioritise issues in the field of justice and home affairs. Particular emphasis will be placed on the subjects referred to in the Council Resolution of 18 December 1997 laying down the priorities for cooperation in the field of justice and home affairs for the period from 12 January 1998 to the date of entry into force of the Amsterdam Treaty, which serve as guidelines for work in hand in the Council working parties (OJ C 11, 15.1.1998).

Priority will be given to projects which could have practical implications for future legislative instruments, in particular the issues which are important in the context of the Commission's legislative priorities. For example, topics relating to temporary protection, implementation of the Dublin Convention or the draft convention on the admission of third-country nationals to the European Union could usefully be the subject of study and research in 1998. The programme aims to encourage a forward-looking and dynamic approach rather than one which is statistical, descriptive or historical.

The Commission also wishes to emphasise the dissemination of information, by the most suitable techniques, in order to reach as large an audience as possible among the officials concerned. This could be done through various teaching tools, ensuring the development of training or the dissemination of basic knowledge for officials.

## Field of action (f)

### Evaluation

Evaluation is a Commission priority in the context of the programmes it manages. The 1998 programme is the first budgetary period of the Odysseus programme; the assessment can therefore mainly cover the individual projects implemented during this period to make sure they match the definition of the programme. At a later date, the assessment will be able to focus on the programme itself.

An estimated ECU 12 million is provided for the Odysseus programme for the five years of implementation. In 1998 an estimated ECU 3 million could be allocated, made up of the reserve of ECU 2 million, plus the ECU 1 million allocated for the 1998 Sherlock programme. Since the Odysseus Joint Action was adopted before the deadline for lodging applications with the Sherlock Committee, no allocation has been made and therefore the amount remains untouched.

The estimated amounts to carry out the priority projects are:

Field of action	Estimated total
(a) Training	1 000 000
(b) Topical issues	1 000 000
(c) Exchanges of officials	600 000
(d) Studies and research	325 000
(e) Evaluation	75 000
Total	3 000 000

### 3. Potential candidates and submission of projects

The potential candidates are the administrations of Member States responsible for asylum, immigration, the crossing of external borders or other services, in particular for training officials in these fields, and higher education and research institutions, non-governmental organisations, associations and foundations. However, other bodies should not be excluded, in particular those operating in areas related to the objectives of the programme. Applications from individuals will not be eligible.

With regard to the procedure for the submission of projects, the memorandum on the financing of Title VI, which was revised in February 1998 and is available in all languages, provides the necessary information; a model application and precise instructions for preparing the financial statement and a model budget are attached to it. You are strongly advised to refer to this document when preparing projects.

The selection of projects for financing under the 1998 budget will take place in two stages. The first deadline for applications to reach the secretariat of the Management Committee is 5 June 1998. The applications will be examined and the selection made in July. A second deadline is fixed for 30 September 1998 to examine projects submitted after the first deadline.

The application, duly signed by the person responsible for the project, must be accompanied by a brief note (two to three pages maximum) summarising the project. A financial statement containing as precise and as detailed a cost estimate as possible for the project must be included. Item 9 of the form (Description of the project) must contain a succinct and precise description of the purpose of the project.

Recipients of subsidies under this programme undertake to include an explicit reference in any publication or external broadcast to Community financing obtained under the Odysseus programme.

Project sponsors must present a final report on the implementation of the project within three months of its conclusion. Final payment of the subsidy will be made only on production of the final report and supporting documents.

Regardless of the percentage of Community financing granted, total expenditure shown on the financial statement must be accounted for.

Requests for further information and forms should be addressed to:

Mr Wencelas de Lobkowicz, Chairman, Odysseus Programme Management Committee  
 Mr Arnaud Cohet, Secretary to the Committee  
 European Commission, Secretariat-General, Task Force for Justice and Home Affairs, Unit 1  
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 B-1049 Brussels.  
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