

English edition

Information and Notices

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(¹) Text with EEA relevance

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I

(Information)

COMMISSION

Ecu ⁽¹⁾

9 April 1997

(97/C 112/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,4347	Finnish markka	5,85802
Danish krone	7,46526	Swedish krona	8,75082
German mark	1,95994	Pound sterling	0,702743
Greek drachma	308,489	United States dollar	1,14069
Spanish peseta	165,469	Canadian dollar	1,57963
French franc	6,59457	Japanese yen	144,377
Irish pound	0,737262	Swiss franc	1,68206
Italian lira	1932,81	Norwegian krone	7,94093
Dutch guilder	2,20427	Icelandic krona	81,4796
Austrian schilling	13,7955	Australian dollar	1,45869
Portuguese escudo	196,553	New Zealand dollar	1,64531
		South African rand	5,05840

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.

⁽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).

Average prices and representative prices for table wines at the various marketing centres

(97/C 112/02)

(Established on 8 April 1997 for the application of Article 30 (1) of Regulation (EEC) No 822/87)

Type of wine and the various marketing centres	ECU per % vol/hl	% of GP °	Type of wine and the various marketing centres	ECU per % vol/hl	% of GP °
<i>R I Guide price*</i>	3,828		<i>A I Guide price*</i>	3,828	
Heraklion	No quotation		Athens	No quotation	
Patras	No quotation		Heraklion	No quotation	
Requena	No quotation		Patras	No quotation	
Reus	No quotation		Alcázar de San Juan	No quotation	
Villafranca del Bierzo	No quotation (1)		Almendralejo	No quotation	
Bastia	3,507	92 %	Medina del Campo	No quotation (1)	
Béziers	4,174	109 %	Ribadavia	No quotation	
Montpellier	3,964	104 %	Villafranca del Penedés	No quotation	
Narbonne	4,190	109 %	Villar del Arzobispo	No quotation (1)	
Nîmes	4,009	105 %	Villarrobledo	No quotation (1)	
Perpignan	No quotation		Bordeaux	No quotation	
Asti	No quotation		Nantes	No quotation	
Florence	No quotation		Bari	No quotation	
Lecce	No quotation		Cagliari	No quotation	
Pescara	No quotation (1)		Chieti	No quotation	
Reggio Emilia	4,939	129 %	Ravenna (Lugo, Faenze)	2,584	68 %
Treviso	3,800	99 %	Trapani (Alcamo)	No quotation	
Verona (for local wines)	No quotation		Treviso	3,420	89 %
Representative price	4,087	107 %	Representative price	2,873	75 %
<i>R II Guide price*</i>	3,828			ECU/hl	
Heraklion	No quotation		<i>A II Guide price*</i>	82,810	
Patras	No quotation		Rheinfalz (Oberhaardt)	69,892	84 %
Calatayud	No quotation		Rheinhessen (Hügelland)	71,539	86 %
Falset	4,029	105 %	The wine-growing region of the Luxembourg Moselle	No quotation	
Jumilla	No quotation (1)		Representative price	70,950	86 %
Navalcarnero	No quotation (1)		<i>A III Guide price*</i>	94,570	
Requena	No quotation		Mosel-Rheingau	No quotation	
Toro	No quotation		The wine-growing region of the Luxembourg Moselle	No quotation	
Villena	No quotation (1)		Representative price	No quotation	
Bastia	No quotation				
Brignoles	No quotation				
Bari	No quotation				
Barletta	No quotation				
Cagliari	No quotation				
Lecce	No quotation				
Taranto	No quotation				
Representative price	4,029	105 %			
	ECU/hl				
<i>R III Guide price*</i>	62,150				
Rheinfalz-Rheinhessen (Hügelland)	No quotation				

(1) Quotation not taken into account in accordance with Article 10 of Regulation (EEC) No 2682/77.

* Applicable from 1. 2. 1995.

° GP = Guide price.

STATE AID

C 41/96 (ex NN 182/95)

The Netherlands

(97/C 112/03)

(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 to other Member States and interested parties concerning aid which the Netherlands has granted for the construction of a hydrogen peroxide plant at Delfzijl**

By the letter reproduced below, the Commission informed the Dutch Government of its decision to initiate proceedings pursuant to Article 93 (2).

Following a complaint, the Commission's attention has been drawn to the construction of a hydrogen peroxide plant at Delfzijl. The complainant is concerned that your authorities are subsidizing the plant's construction despite the structural surplus production capacity there has been in the European market for a number of years.

By letters dated 21 February, 24 April and 24 August 1995, the Commission sent your authorities a number of requests for information. Your authorities' replies arrived on 20 March, 24 July and 15 September 1995 respectively.

Members of the Commission's staff and representatives of the competent authorities met in Brussels on 19 September 1995 to discuss the aid. In the light of the information furnished at the meeting, on 21 November 1995 the aid was entered in the register of non-notified aid cases under number NN 182/95.

Your authorities sent further information to the Commission by letters dated 9 January and 18 April 1996. The complainant supplied additional data on the situation in the hydrogen peroxide market on 19 March 1996.

On 5 November 1993 FMC Industrial Chemicals (Netherlands) BV (hereinafter called "FMC"), a subsidiary of the American company FMC Corp., submitted to your authorities a request for a contribution towards the cost of constructing a hydrogen peroxide production plant at Delfzijl.

The original project involved an investment in buildings and capital equipment of Fl [...] million, which would

have made it possible to build a factory employing about 100 people and having a production capacity of 25 000 tonnes a year. Production was scheduled to start at the end of 1995 and was targeted at northern Europe.

FMC's project was considered to be of particular interest to the economic development of the province of Groningen, and in particular the town of Delfzijl, in view of the state of the local economy and the fact that it was the first time since 1986 that a large firm had settled in the area. In the Dutch authorities' opinion, moreover, the economic fallout from the FMC plant would be considerable because (a) the supplying of the plant with raw materials would contribute towards the expansion of chemical companies already in Delfzijl and (b) the benefits of the plant would not be confined to the chemical sector.

Your authorities accordingly acceded to the firm's request and on 15 March 1994 they awarded a grant of 25 % of eligible costs, subject to a ceiling of Fl [...] million.

The aid was to be paid under the scheme entitled "Besluit subsidies regionale Investeringsprojecten" (IPR), which was approved by the Commission on 27 December 1990 (State aid N 514/90 — Netherlands).

During the negotiations concerning the possible setting up of the plant, FMC indicated that it proposed to construct a larger plant than had originally been envisaged.

The extension of the project would increase the plant's capacity to 35 000 tonnes a year. FMC put the additional investment at Fl [...] million. This increase in production capacity was to take place straight after FMC's initial

investment at Delfzijl and would therefore form an integral part of the investment project.

At the time, however, FMC's plans were not yet sufficiently crystallized for a final decision to be taken on the increase. The promise of a grant given to FMC on 15 March 1994 accordingly included a clause to the effect that, in the event of the larger project being carried out, the additional investment might be taken into account up to a maximum of some Fl [...] million as the basis for calculating the grant, the maximum grant then being Fl 28,75 million.

However, in view of the uncertainty surrounding the additional investment, the promise of a grant was limited to start with to the initial project costing Fl [...] million. Subsequently, FMC announced that it had finally opted for the more costly project.

Apart from the direct grant, the Dutch authorities assisted the project in two other ways: (a) by providing a soft loan, and (b) by selling to FMC land on which to build the plant.

(a) *The loan*

This was granted by NOM (NV Noordelijke Ontwikkelings Maatschappij), a public body which participates in high-risk projects of importance to the region's economic development.

According to your authorities, FMC could have secured finance at an interest rate of 4,78 % from a non-Dutch bank and 6 to 7 % from a Dutch bank. For it to be able to participate in the project, NOM therefore had to offer competitive terms, although its articles of association forbid it to grant bank loans.

NOM finally decided to grant a subordinated loan of Fl 12,5 million at a rate of [...]%. There is to be a [...] -year repayment holiday and the loan must be repaid within [...] years. Again according to your authorities, NOM also took commercial considerations into account since the funds transferred to FMC came from its deposit account, [...].

(b) *The sale of the land*

The piece of land acquired by FMC in Delfzijl is about 10,5 hectares in area. It was bought for Fl [...] per square metre. This very low price is due to the fact that, in view of the lack of entrepreneurs wishing to establish themselves on an industrial site in Delfzijl, the land would have steadily declined in value as time went by.

In 1988 it was decided, at the time of the financial restructuring of the Delfzijl port authority, to use the site in question as a dumping ground for slurry. In view of this use, the local authority zero-rated it for purposes of the tax on immovable property (onroerend zaakbelasting — OZB) and charged no tax. Given that no potential buyer had come forward for a long time, the site administrator finally judged that it was better to sell the land at the price proposed by FMC (in November 1993) than to hang on to it and maintain it.

As regards the use of the land for industrial purposes, the Crown Lands Service (Dienst Domeinen) of the Ministry of Finance subsequently considered (in April 1994) that, if the land was sold to FMC, the land repurchase provisions of the administrative agreement on the financial restructuring of the Delfzijl port authority (hereinafter called "the agreement") should be applied.

The authorities had the land valued on the basis of those provisions. The Stichting Adviesbureau Onroerende Zaken, which carried out the valuation, fixed the price at Fl [...] per square metre.

Hydrogen peroxide is highly unstable. For safety reasons, it is sold in diluted form (the concentration varying between 30 and 50 %). As a result, it is often unprofitable to transport it over long distances.

The production process involves advanced technologies, and there are no more than a dozen firms in the world capable of producing hydrogen peroxide.

The product is used mainly as a chlorine substitute (being more environmentally friendly) for bleaching paper. It is also widely used in the manufacture of detergents.

The description of the market as given by the complainant and by your authorities is contradictory.

According to the complainant, there can be no doubt about the existence of overcapacity in western Europe in 1994, the year when the aid was granted. He states that this overcapacity should gradually be absorbed as from the year 2000, as follows:

(in 1 000 tonnes)

	1994	1995	1998	2000
Capacity (1)	820	900	940	960
Demand	600	670	740	820

(1) Source: complainant, data from the specialist press.

According to your authorities, on the other hand, the situation is altogether different: the hydrogen peroxide market is not yet saturated and is steadily growing. Between 1986 and 1995, demand for hydrogen peroxide grew in volume terms by about 8 % a year.

In the years ahead, this growth in demand should continue, as can be seen from the graphs and capacity figures of the leading west European producers to which your authorities had access:

(in 1 000 tonnes)

	1994	1995	1996	1997	1998
Demand (1)	647	725	784	851	924
Capacity	846	885	920	1 040	1 040
90 % of capacity	761	797	828	936	936

(1) Source: Cefic, estimates for 1995 and subsequent years.

(in 1 000 tonnes)

	1994	1995	1996	2000
Demand (1)	644	685	728	927
Capacity	725	820	905	970
90 % of capacity	652	738	815	873

(1) Source: Chemsystem, 1996. Study commissioned by the Dutch Government.

In view of the fact that, for technical reasons, it is not possible to operate continually at more than 90 % of capacity, it is that figure that must be taken as a basis for comparing output with demand. According to the data furnished by your Government, supply and demand will be in equilibrium before 2000. On the other hand, even allowing for this margin of 10 %, it follows from the data supplied by the complainant that in 2000 there will still be overcapacity to the tune of about 5 %.

The growing demand for hydrogen peroxide would therefore seem to have induced FMC to decide in the end to proceed immediately with the extension of its production capacity at Delfzijl.

FMC is not alone in this as a number of other European hydrogen peroxide producers are currently investing in expanding their own production capacity, or are considering doing so if one is to believe the industry information passed on by the Dutch authorities. This is, according to your authorities, proof that there is no excess production capacity since the major firms present in these markets would not undertake large-scale investment in a saturated market.

According to other data in the Commission's possession, in 1994, the last year for which figures are available, the total production capacity of eight Member States out of 12 was 560 000 tonnes compared with an actual output of 363 500 tonnes, or a rate of working of 65 %, a figure which is far below those in the two studies furnished by the Dutch authorities. For comparison, apparent consumption in the same eight Member States came to 439 000 tonnes (1).

The start up of FMC's Delfzijl plant increases Dutch production capacity by 20 000 tonnes a year to 55 000 tonnes. Moreover, between 30 and 40 % of European hydrogen peroxide production (according to data from various sources) formed the subject-matter of intra-Community trade in 1994. Of this total, the Dutch share varies between 10 and 15 %.

According to the judgment of the Court of Justice of the European Communities in *Italgrani* (2), in the case of new aid granted under a scheme already approved by the Commission, the latter must check only whether the scheme's conditions are met. If they are met, the aid's compatibility with the common market need not be assessed. If, on the other hand, the Commission finds that the terms and conditions of the scheme are not fulfilled, it must then carry out a more detailed examination of the aid's compatibility.

After a preliminary examination of the aid in question, the Commission considers, for the reasons set out below, that the conditions of the scheme entitled "Besluit subsidies regionale Investeringsprojecten" (State aid N 514/90 — Netherlands) approved by the Commission on 27 December 1990 have not been met in the present case. A more detailed scrutiny is therefore called for.

The Commission deplores your Government's failure to notify the measures sufficiently in advance for it to be able to reach a decision pursuant to Article 93 (3) of the EC Treaty. By implementing the measures before the Commission has had time to state its position on them, your authorities have rendered them unlawful.

According to your authorities, there is a misunderstanding over the maximum intensity of the aid provided for under the "Besluit subsidies regionale Investeringsprojecten".

Under the scheme in question, in so-called normal cases aid may be granted up to an intensity of 20 % of eligible costs, subject to a ceiling of Fl 18 million.

(1) Source: Sofres Council 1995.

(2) Case C 47/91 *Italy v. Commission* [1992] ECR I, p. 4145.

In more important cases, known as "major cases", in which the ceiling set by the scheme of Fl 18 million of eligible costs is exceeded, the competent Minister may exceed the amount of aid authorized (20 % of Fl 18 million). Your authorities considered that the Minister could award a larger grant both in terms of the amount of aid and in terms of its intensity. It follows that the competent authorities felt that the award of a grant of 20 % net to FMC constituted an application in keeping with the abovementioned scheme. In fact, the grant actually awarded was equivalent to 25 % gross (18,2 % net).

The Commission does not agree with this interpretation as the scheme does not say that the intensity may be exceeded in so-called major cases. What is more, the decision in State aid N 514/90 — Netherlands established that the maximum intensity is one of 20 % gross. Your Government has never challenged that decision.

According to the information available, FMC is the only case in which the authorized aid intensities have been exceeded.

As far as the assistance provided by the Dutch authorities is concerned, the grant and the soft loan do not seem to pose any problems as regards their nature: they are aid measures. Your authorities claim that the former measure is an individual award under an aid scheme approved by the Commission, and that the latter measure is a soft loan granted by a public body.

The aid element in the loan gives an intensity of 1,5 % gross in view of the characteristics of the loan and the reference rate used to calculate regional aid in 1994, namely 6,27 %. This reference rate lies within the range of rates which, according to your authorities, FMC would have been able to obtain from a Dutch bank, namely between 6 and 7 %.

As far as the selling price of land is concerned, the Commission considers as a rule that the value of a site put up for sale by the public authorities may be determined most accurately by an open, unconditional call for tenders. During such a procedure potential purchasers are able to make their bids, the highest of which is accepted. This procedure also shows how great an effort the vendor has made to procure the best terms available (¹).

(¹) See in this connection the Commission decision of 13 October 1993, OJ No C 21 of 25 January 1994 (*Fresenius*).

Where the authorities do not have recourse to this method, the Commission considers that the market value of a site should be determined by an outside agency using generally accepted methods based *inter alia* on recent sales of comparable sites.

In the present case, your authorities consider that the administrator struck a good deal. The market value of the land was virtually nil inasmuch as in recent years (since 1986) no industrial site has been sold in the Delfzijl area. Owing to the lack of buyers, the costs associated with real-estate investments have become so high that the administrator, taking cost effectiveness considerations as a basis, decided to part with the land for a modest sum.

According to the information in the Commission's possession, the 1988 administrative agreement on the financial restructuring of the Delfzijl port authority states that that authority owns in Delfzijl about 100 hectares of land which may be used exclusively for dumping slurry. If the authority uses part of the land for purposes other than dumping slurry, the buy-back provisions (Article V.2.2.g of the agreement) are applicable and other sites which may be used as dumping grounds must then be sought.

According to the abovementioned buy-back provisions, the port authority may buy back from the State plots of land which it has sold to the latter at a price equivalent to the market value. This must be calculated on the basis of the opinion delivered in July 1987 by SAOZ (Stichting Adviesbureau Onroerende Zaken, which is apparently an independent body in Rotterdam), which estimated the overall value of these plots in mid-1987 at Fl 100 000 to 150 000 per hectare, not including any existing or planned infrastructure. Moreover, if the port authority wishes to repurchase a plot, the State must seek, for information purposes, a valuation thereof.

The Crown Lands Service of the Ministry of Finance had this valuation carried out in March 1994 by SAOZ which, in view of the plot's location (beside a railway line and away from the water's edge) and the fact that it was to be sold for next to nothing to FMC, estimated the market value at Fl [...] per square metre. The Minister agreed to this valuation, which took account of the fact that "the land is now filled and may be used as an industrial site", the development work having been carried out by the administrator.

It can be deduced from the above that the port authority bought the land off the Dutch State for Fl [...] per square metre and resold it to FMC for Fl [...] per

square metre. This being so, the Commission may consider the price of Fl [...] per square metre as being the market value of the land in question. It is, however, not altogether clear whether the obligation provided for by the agreement, and hence the cost to the port authority of finding an alternative site for the dumping of slurry, was included in the price estimate.

At all events, the sale of the 10,5 hectare plot seems to involve aid of at least Fl [...] per square metre, i.e. Fl 945 000.

Your authorities advance the argument that, for want of buyers, the plot's value has steadily depreciated over the years. The Commission has, admittedly, already accepted this type of argument in the past (State aid C 36/92, OJ No C 21 of 25 January 1994, page 4, "Fresenius").

On that occasion the Commission considered that, although the price paid was 10 % lower than the market value as estimated by the valuers, the local authority in question had for a number of years put the land up for sale both directly and through intermediaries without finding a buyer. The Commission then concluded that these efforts to sell the land were akin to an open bid procedure and that consequently the price paid corresponded to the market value.

In the present case, although it is said that no buyer has come forward, there is nothing to indicate that the land was put up for sale for a long period. What is more, the depreciation of the land seems to be due, not to the lack of buyers, but to the use to which the site has been put in recent years. Before the site was used as a slurry tip, its value had been estimated in 1987 by the same valuers at Fl 10 to 15 per square metre. The current estimate for an industrial use corresponds to what it was in the past. The Commission might perhaps be able to accept that the land depreciated in value from Fl 15 per square metre in 1987 to Fl 10 in 1994.

At the very least, therefore, the Dutch authorities should show that they have actively tried to sell the plot of land in question over a reasonable period of time.

Substantively, the assessment of the case depends on two main factors: the situation in the hydrogen peroxide market, and the possibility for the Commission to exceed the aid limits laid down by the abovementioned regional scheme without rendering it nugatory.

As regards the market situation, two propositions have been submitted to the Commission, one affirming that the overcapacity in the industry should quickly be absorbed, and the other that the situation should last for

some time in view of trends in demand and forecasts of newly installed production capacity.

At this stage, there is only one thing on which the three sources cited by your Government and by the complainant agree: in 1994, when the competent authorities promised the aid, there was overcapacity in the hydrogen peroxide market both in western Europe and within the Community. Moreover, at that time it was also foreseeable that the situation would last until 2000 or thereabouts, that is to say a further six years from the time when the promise to grant the aid was made and five years from the time when FMC started production at Delfzijl.

In a situation where there is insufficient demand to fully absorb output, the granting of aid to undertakings belonging to a sector that is characterized by intense competition between a small number of large firms is likely to lead to distortions of competition which competitors not in receipt of aid may find difficult to bear. The impact of the improvement in the competitive position of the firm receiving aid is likely to be all the greater if the number of firms present in the market is small since the size of the new facilities is necessarily significant (in the present case, the Delfzijl plant accounts for 4 % of installed capacity in the Community in 1996).

Moreover, even if in the long run the market situation were to improve and an equilibrium were to be established between supply and demand, a firm which had received aid would be better placed in the interim than one which had not received any. The other firms which are currently constructing hydrogen peroxide production plants in expectation of an upturn in demand do not, as far as is known, receive any aid.

Hence, in the light of the information available and in view of the scale of intra-Community trade in the relevant product, the aid to FMC distorts or threatens to distort trade.

As regards the maximum admissible intensity of the aid, the Commission's position is as set out in its decision in State aid case N 514/90 — Netherlands: in major cases which are of particular importance from a regional development standpoint, the responsible authority may raise the ceiling of eligible costs above Fl 18 million but may not increase the aid intensity, which remains limited to 20 % gross of eligible costs.

Where part of the aid has been granted within the limits, and in accordance with the conditions, laid down by the

regional scheme invoked by the Dutch authorities, the Commission raises no objection to the aid granted up to the amount authorized by the scheme. This decision is concerned only with aid in excess of the abovementioned ceiling.

The question arises whether the Commission may go beyond the aid limits provided for by the abovementioned scheme without rendering it nugatory. The answer can scarcely be in the affirmative. The granting of the aid is motivated by the difficulties and handicaps suffered by the Delfzijl area and by the favourable impact the assisted project would have on the area. These regional considerations are already reflected, however, in the existence of a regional aid scheme and in an aid intensity which is based on objective criteria (unemployment rate, GDP per capita, etc.).

None the less, it will have to be considered in greater depth whether and, if so, to what extent considerations linked to the environmental aspects of the operation may justify an exceeding of the aid intensity.

To conclude, the aid received by FMC which the Commission is required to study may be summed up as follows:

- grant: Fl 28,75 million
- loan: Fl 0,187 million
- land: Fl 0,945 million,

which gives a total of Fl 29,88 million. Compared with the whole investment (corrected for the value of the land as valued by the valuers), one obtains an aid intensity of 25,76 % gross, which exceeds the maximum ceiling authorized by the IPR scheme by 5,76 % (Fl 6,68 million).

In the light of the above, it must be considered that the aid which the Dutch authorities have granted to FMC for the setting-up of a hydrogen peroxide plant at Delfzijl is, for the part exceeding the maximum intensity authorized by the scheme entitled "Besluit subsidies regionale Investeringsprojecten", which was approved by the Commission on 27 December 1990 (State aid N 514/90 — Netherlands), aid within the meaning of Article 92 (1) of the EC Treaty and Article 61 (1) of the EEA Agreement and that it does not seem, in the light of the information available, to qualify for exemption pursuant to Article 92 (3) of the EC Treaty and Article 61 (3) of the EEA Agreement.

Consequently, the Commission informs your Government that it has decided to initiate the procedure provided for in Article 93 (2) of the Treaty in respect of the aid granted to FMC for the construction of a hydrogen peroxide plant at Delfzijl.

As part of the procedure, the Commission hereby gives your Government the opportunity to present, within one month of receipt of this letter, its comments and any information it considers necessary to assess the aid in question. In view of the fact that this letter will be published in the *Official Journal of the European Communities*, if the Dutch authorities consider that any of the information it contains is confidential they should let the Commission know within 15 working days from the date of this letter.

The Commission would remind you of the suspensory effect of Article 93 (3) of the Treaty and would draw your attention to the communication published in *Official Journal of the European Communities* No C 318 of 24 November 1983, page 3, and to the letters sent to all Member States on 4 March 1991 and 22 February and 30 May 1995, in which it was stipulated that any aid granted unlawfully may have to be recovered.

The Commission also requests your Government to inform the recipient firm without delay of the initiation of the procedure and the fact that it may have to repay any aid improperly received.

Any negative decision concerning the aid at issue implies in principle repayment of the aid by the recipient firm in accordance with the procedures and provisions of Dutch law, with interest running from the day on which the aid was paid, at a rate equal to the reference rate used to calculate regional aid.⁷

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

European Commission,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels.

The comments will be communicated to the Dutch Government.

Commission notice updating the list of parties under examination pursuant to Commission Regulation (EC) No 88/97 of 20 January 1997 on the authorization of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension imposed by Council Regulation 71/97 of the anti-dumping duty imposed by Regulation (EEC) No 2474/93

(97/C 112/04)

Annex I of Regulation (EC) No 88/97 ⁽¹⁾ comprises a list of parties whose requests for authorization for exemption from the extended anti-dumping duty imposed by Council Regulation (EC) No 71/97 ⁽²⁾ are under examination.

Interested parties are hereby informed of the receipt of further requests for exemptions pursuant to Article 3 of Regulation 88/97. Provided such requests reached the Commission before the date of entry into force of the Commission Regulation, they are considered to have been made on that date. The date of effect of these requests is shown in the following updated list of parties under examination.

⁽¹⁾ OJ No L 17, 21. 1. 1997, p. 17.

⁽²⁾ OJ No L 16, 18. 1. 1997, p. 55.

Parties under examination

Name	City	Country	Suspension pursuant to Regulation (EEC) No 88/97	Date of effect	Taric additional codes
Dangre Cycles	F-59583 Marly	France	Article 11	19. 1. 1997	8962
Derby Cyclewerke GmbH	D-49661 Cloppenburg	Germany	Article 11	19. 1. 1997	8962
Engelbert Meyer GmbH	D-49692 Sevelten	Germany	Article 11	19. 1. 1997	8962
Fa. Alfred Fischer	D-76229 Karlsruhe	Germany	Article 11	19. 1. 1997	8962
Falter Fahrzeug-Werke GmbH & Co KG	D-33609 Bielefeld	Germany	Article 11	19. 1. 1997	8962
Kynast AG	D-49610 Quakenbrück	Germany	Article 11	19. 1. 1997	8962
Monark Crescent	S-432 82 Varberg	Sweden	Article 11	19. 1. 1997	8962
Muddy Fox	UK-UB6 7RH Middlesex	United Kingdom	Article 11	19. 1. 1997	8962
Quantum Cycles	F-59770 Marly	France	Article 11	19. 1. 1997	8962
Pantherwerke	D-37537 Bad Wildungen	Germany	Article 11	19. 1. 1997	8962
PRO-FIT Sportartikel	D-74076 Heilbronn	Germany	Article 11	19. 1. 1997	8962
Prophete GmbH	D-33378 Rheda-Wiedenbrück	Germany	Article 11	19. 1. 1997	8962
Tekno Cycles	F-93102 Montreuil Cedex	France	Article 11	19. 1. 1997	8962
TNT Cycles	E-17180 Vilablareix (Girona)	Spain	Article 11	19. 1. 1997	8962

Name	City	Country	Suspension pursuant to Regulation (EEC) No 88/97	Date of effect	Taric additional codes
Winora — TME Bike Company	D-97526 Sennfeld	Germany	Article 11	19. 1. 1997	8962
Biria	D-68535 Edingen	Germany	Article 5	22. 1. 1997	8971
Brennabor	D-32105 Bad Salzuflen	Germany	Article 5	22. 1. 1997	8971
Eurocycles	F-46460 Montreuil-Juigné	France	Article 5	22. 1. 1997	8971
Kastle Bikes	I-31040 Trevignano (TV)	Italy	Article 5	22. 1. 1997	8971
Nikos Maniatopoulos SA	GR-265 00 Ag. Vassilios-Patras	Greece	Article 5	22. 1. 1997	8971
Saracen	UK-CV34 6TS Warwick	United Kingdom	Article 5	22. 1. 1997	8971
Sprick Fahrräder GmbH	D-59302 Oelde Stromberg	Germany	Article 5	22. 1. 1997	8971
Vaterland Werk	D-58805 Neuenrade	Germany	Article 5	23. 1. 1997	8972
Professional Cycle Manufacturing	UK-B64 5AL Cradley Heath	United Kingdom	Article 5	24. 1. 1997	8973
Velo Schauff	D-53424 Remagen	Germany	Article 5	24. 1. 1997	8973
Esmaltina	P-3782 Sangalhos Codex	Portugal	Article 5	27. 1. 1997	8974
Intercycles	F-85000 La Roche-sur-Yon	France	Article 5	27. 1. 1997	8974
Cinzia srl	I-40060 Osteria Grande — Bologna	Italy	Article 5	28. 1. 1997	8975
Enik GmbH	D-57473 Wenden	Germany	Article 5	28. 1. 1997	8975
Lapierre SA	F-21005 Dijon Cedex	France	Article 5	28. 1. 1997	8975
F.lli Masciaghi	I-20060 Basiano (MI)	Italy	Article 5	29. 1. 1997	8976
MBM	I-47023 Cesena (FO)	Italy	Article 5	29. 1. 1997	8976
Rizzato & C. (Cesare Rizzato)	I-35131 Padova	Italy	Article 5	29. 1. 1997	8976
Esperia SpA	I-35028 Piove di Sacco	Italy	Article 5	30. 1. 1997	8964
KTM Fahrrad GmbH	A-5230 Mattighofen	Austria	Article 5	30. 1. 1997	8964
Montana srl	I-12060 Magliano Alpi	Italy	Article 5	30. 1. 1997	8964
Peripoli SpA	I-36075 Montecchio Maggiore (VI)	Italy	Article 5	30. 1. 1997	8964
Manufacture viennoise de cycles	F-38780 Estrablin	France	Article 5	31. 1. 1997	8977
Cycles Messina	F-57280 Semecourt	France	Article 5	31. 1. 1997	8977
Orbea S. Coop Ltda	E-48269 Mallabia	Spain	Article 5	31. 1. 1997	8977
Girardengo srl	I-15065 Frugarolo (AL)	Italy	Article 5	3. 2. 1997	8978
Ciclo Meccanica srl	I-20050 Sulbiate (MI)	Italy	Article 5	5. 2. 1997	8979
WSB Hi-Tech Bicycle Europe BV	NL-9206 AG Drachten	The Netherlands	Article 5	5. 2. 1997	8979
Lombardo	I-91012 Buseto Palizzolo (TP)	Italy	Article 5	6. 2. 1997	8980

Name	City	Country	Suspension pursuant to Regulation (EEC) No 88/97	Date of effect	Taric additional codes
Yakari srl	I-25028 Verolanuova	Italy	Article 5	6. 2. 1997	8980
Olmo	I-17015 Celle Ligure (SV)	Italy	Article 5	7. 2. 1997	8981
Sprint SpA	I-75045 Castegnato (BS)	Italy	Article 5	7. 2. 1997	8981
Tecno bike	I-61033 Fermignano (PS)	Italy	Article 5	7. 2. 1997	8981
Vicini Mario	I-47023 Cesena (FO)	Italy	Article 5	7. 2. 1997	8981
Van den Berghe NV	B-9100 Sint-Niklaas	Belgium	Article 5	11. 2. 1997	8982
Cicli Casadei	I-44020 S. Giuseppe di Comacchio (FE)	Italy	Article 5	12. 2. 1997	8983
Mara srl	I-21052 Busto Arsizio (VA)	Italy	Article 5	12. 2. 1997	8983
Alpina srl	I-47039 Savignano sul Rubicone (FO)	Italy	Article 5	13. 2. 1997	8984
Molinari Zeno	I-41039 S. Possidonio (MO)	Italy	Article 5	13. 2. 1997	8984
Motor Veneta srl	I-37047 San Bonifacio (VR)	Italy	Article 5	13. 2. 1997	8984
Superba srl	I-35030 Sarreola di Rubano (PD)	Italy	Article 5	13. 2. 1997	8984
Société européenne de commerce SÀRL	F-59554 Raillencourt-Saint-Olle	France	Article 5	14. 2. 1997	8985
Sparta	NL-7300 AA Apeldoorn	The Netherlands	Article 5	16. 2. 1997	8010
Cicli Bimm srl	I-50045 Montemurlo (PO)	Italy	Article 5	18. 2. 1997	8988
Vern Special srl	I-20020 Lainate (MI)	Italy	Article 5	18. 2. 1997	8988
Baronia GmbH	D-32369 Rahden	Germany	Article 5	19. 2. 1997	8987
Jan Janssen Fietsen	NL-4631 SR Hoogerheide	The Netherlands	Article 5	19. 2. 1997	8987
MGI (nv Marcel Geurts Industry)	B-3630 Maasmechelen	Belgium	Article 5	19. 2. 1997	8987
FIV E Bianchi SpA	I-24047 Treviso (BG)	Italy	Article 5	20. 2. 1997	8004
Reparto Corse Bianchi srl	I-24047 Treviso (BG)	Italy	Article 5	20. 2. 1997	8004
SFG Sachsen-Anhalt Fahrradbau GmbH	D-06526 Sangerhausen	Germany	Article 5	21. 2. 1997	8009
FARAM srl	I-02010 S. Rufina di Cittaducale (RI)	Italy	Article 5	24. 2. 1997	8003
Cicli Regina di Romagna snc	I-47023 Cesena (FO)	Italy	Article 5	25. 2. 1997	8005
Denver srl	I-12020 Cervasca (CN)	Italy	Article 5	28. 2. 1997	8000
Eusebi	I-61032 Fano (PS)	Italy	Article 5	3. 3. 1997	8002
Cicli Taylor	I-41058 Vignola (MO)	Italy	Article 5	3. 3. 1997	8002
Ciclotecnica Ghiaroni Efrem	I-41058 Vignola (MO)	Italy	Article 5	4. 3. 1997	8989
Savoye	F-01470 Serrières-de-Briord	France	Article 5	5. 3. 1997	8006

Name	City	Country	Suspension pursuant to Regulation (EEC) No 88/97	Date of effect	Taric additional codes
Scout snc	I-20020 Grancia di Lainate (MI)	Italy	Article 5	6. 3. 1997	8008
Aurelia Dino SpA	I-12011 Borgo San Dalmazzo (CN)	Italy	Article 5	10. 3. 1997	8986
Cicli Douglas snc	I-35028 Piove di Sacco (PD)	Italy	Article 5	13. 3. 1997	8001
Valdenaire	F-88204 Remiremont Cedex	France	Article 5	13. 3. 1997	8001
Schiano srl	I-80020 Frattaminore (NA)	Italy	Article 5	14. 3. 1997	8007

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation (EC) apportioning the quantities of grain provided for under the Food Aid Convention 1995

(97/C 112/05)

COM(97) 18 final — 97/0026(CNS)

(Submitted by the Commission on 4 March 1997)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security⁽¹⁾, and in particular Article 21 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the Food Aid Convention 1995 has applied provisionally in the Community since 1 July 1995; whereas Regulation (EC) No 1292/96 did not enter into force until 8 July;

Whereas Article 21 of Regulation (EC) No 1292/96 requires the Commission to coordinate Community and Member States' operations for the purposes of the Regulation; whereas it has presented a proposed breakdown of national aid to this end and this is published in the Annex; whereas this should be decided on by the Representatives of the Member States meeting within the Council and adopted together with the Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The 1 755 000 tonnes of grain constituting the minimum annual contribution to be made by the Community and its Member States pursuant to the Food Aid Convention 1995 shall be apportioned as follows for the lifetime of the current version of that Convention:

- (a) Community operations: 983 800 tonnes;
- (b) national operations: 771 200 tonnes.

Article 2

The breakdown of quantities for national operations provided for in Article 21 (2) of Regulation (EC) No 1292/96 and published in the Annex to this Regulation must be decided on by the Representatives of the Member States meeting within the Council and adopted at the same time as this Regulation.

*Article 3*This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁽¹⁾ OJ No L 166, 5. 7. 1996, p. 1.

ANNEX

**PROPOSED BREAKDOWN OF AMOUNTS ALLOCATED UNDER NATIONAL FOOD-AID
OPERATIONS UNDER THE FOOD AID CONVENTION**

	<i>(tonnes)</i>
Austria	8 400
Belgium	41 500
Denmark	15 600
Finland	—
France	200 000
Germany	193 500
Greece	10 000
Ireland	4 000
Italy	87 000
Luxembourg	1 400
Netherlands	50 200
Portugal	—
Spain	8 900
Sweden	40 000
United Kingdom	110 700

CORRIGENDA

Study on the legislation of the Member States relating to radio services and their effects on the free movement of radio services within the European Union

(Official Journal of the European Communities No C 268, 14. 9. 1996, p. 10)

(97/C 112/06)

1. **European Commission, Directorate-General XV, Internal Market and Financial Services, Unit E/5, Commercial communication and unfair competition, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.**

Tel. (32-2) 296 01 10. Facsimile (32-2) 295 77 12.

This notice has been cancelled.

Corrigendum to the guide to the compilation of a technical file on applications to designate fertilizers 'EEC fertilizer' pursuant to Directive 76/116/EEC

(Official Journal of the European Communities No C 138 of 20 May 1994)

(97/C 112/07)

On page 6, point 4 should read as follows:

4. PROCEDURE FOR LODGING OF THE FILE

Any person (manufacturer or his representative) wishing to have a fertilizer designated as an "EEC fertilizer" should submit in an official language and/or in English the above technical file to the authorities of a Member State. The authorities should accept the technical file only when the provisions of this guide have been completely fulfilled.

The Member State concerned will then act as rapporteur for the technical file to the Working Party on Fertilizers of the Commission of the European Communities.

The rapporteur Member State shall transmit the technical file to the competent authorities of the other Member States and the Commission. These authorities should communicate any remarks to the rapporteur Member State.

Member States authorities who continue to have objections despite the dialogue with the rapporteur Member State, shall communicate these in writing to the Commission with a copy to the rapporteur Member State.

The Commission shall discontinue this discussion in view of the examination of the technical file by the Fertilizer Working Party within 90 days from receiving the technical file. The Commission shall then inform all concerned about the state of the technical file and, notably, about the points of disagreement outstanding. At the same time the rapporteur Member State will circulate to other Member States and to the Commission an updated version of the technical file taking account of all those points on which agreement has already been reached.

In the light of the conclusions of the Working Party on Fertilizers, the Commission may draft a proposal to adapt Annex I to Directive 76/116/EEC which will be submitted to the Committee referred to in Article 10 for an opinion, in accordance with the procedure laid down in Article 11 of the above Directive.'

Corrigendum to the notice of open competition CC/A/6/96*(Official Journal of the European Communities No C 84 A of 15 March 1997)*

(97/C 112/08)

On page 8, in Section X, point 2:

for: '... request for the age limit to be lowered ...',

read: '... request for the age limit to be raised ...'.
