

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

(94/C 368/05)

(Text with EEA relevance)

### 1. INTRODUCTION

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

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

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

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

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

### 2. DEFINITIONS AND SCOPE OF THE GUIDELINES

#### 2.1. Definition of rescue and restructuring aid

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

<sup>(1)</sup> Paragraphs 227, 228 and 177.

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

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

<sup>(4)</sup> Bull. EC 9-1984, paragraph 3.5.1.

<sup>(5)</sup> OJ No C 307, 13. 11. 1993, p. 3.

<sup>(6)</sup> OJ No C 213, 19. 8. 1992, p. 2.

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

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

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

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

strength of its own resources without requiring further State assistance.

## 2.2. Sectoral scope

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

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

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

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

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

(\*) See paragraph 2.2.

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

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

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

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

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

#### 2.4. Basis of exemption

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

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

#### 2.5. Existing aid schemes

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

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

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

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

<sup>(11)</sup> See footnote (4).

<sup>(12)</sup> See footnote (4).

<sup>(13)</sup> See paragraph 27 of the public enterprises paper, footnote (5).

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

#### 3.1. Rescue aid

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

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

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

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

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

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

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

#### 3.2. Restructuring aid

##### 3.2.1. Basic approach

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

##### 3.2.2. General conditions

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

##### (i) Restoration of viability

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

<sup>(14)</sup> Eighth Report on Competition Policy, paragraph 228.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) Monitoring and annual report

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

### 3.2.3. *Conditions for restructuring aid in assisted areas*

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

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

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

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

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

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

<sup>(16)</sup> See footnote (3).

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

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

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

'SME' is defined as an enterprise which:

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

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

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

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

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

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

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

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

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

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

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

<sup>(18)</sup> *Ibid*, paragraph 2.2.

#### 4. NOTIFICATION REQUIREMENTS AND DURATION AND REVIEW OF THE GUIDELINES

##### 4.1. Schemes for rescuing or restructuring SMEs

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

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

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

##### 4.2. Aid for rescuing or restructuring large enterprises

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

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

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

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

##### 4.3. Unnotified aid

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

<sup>(19)</sup> OJ No C 213, 19. 8. 1992, p. 10.

<sup>(20)</sup> See letter to the Member States of 22 February 1994.

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

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



**4.4. Duration and review of the guidelines**

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

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

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

(94/C 368/06)

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

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

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<sup>(1)</sup> OJ No C 231, 12. 9. 1986, p. 2.

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**Non-opposition to a notified concentration**

**(Case No IV/M.529 — GEC/VSEL)**

(94/C 368/07)

**(Text with EEA relevance)**

On 7 December 1994, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6 (1) (b) of Council Regulation (EEC) No 4064/89 <sup>(1)</sup>. Third parties showing a sufficient interest can obtain a copy of the decision by making a written request to:

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

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