

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

for the continuation and consolidation of the EC Investment Partners (ECIP)
financial instrument for the countries of Latin America, Asia,
the Mediterranean region and South Africa

Proposal for a COUNCIL REGULATION (EC)

on the implementation of the EC Investment Partners financial instrument
for the countries of Latin America, Asia, the Mediterranean region
and South Africa

(presented by the Commission)

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
FOR THE
CONTINUATION AND CONSOLIDATION OF THE
EC INVESTMENT PARTNERS (ECIP) FINANCIAL INSTRUMENT FOR THE
COUNTRIES OF LATIN AMERICA, ASIA, THE MEDITERRANEAN REGION
AND SOUTH AFRICA

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I. INTRODUCTION - SUMMARY

The rationale for ECIP as a development tool strengthening links between the Union and Asia, Latin America and Mediterranean countries is strengthened because foreign direct investment flows to developing countries have grown considerably in importance as a source of finance, as well as technology and management skills for developing countries. Eight years ago the lion's part (56.4%) of the total net resource flows to developing countries was official development assistance. Today private flows are the most important, accounting for 55% of the total net resource flows. After bond lending, foreign direct investment is the most important private flow. In absolute terms foreign direct investment flows to developing countries reached more than \$35 billion in 1993, compared to only \$6.5 billion in 1985.

Good policies in developing countries and world-wide trade and capital market liberalization are bringing an increasing number of developing countries into the main stream of the world economy.

Firms from industrial countries, through foreign direct investment, and private and institutional investors through portfolio investment, are directing an important part of their resources to developing countries. The main reasons for this are to penetrate fast growing and expanding markets (NAFTA, ASEAN, MERCOSUR), participation in privatization deals and having access to the booming stock markets of the emerging economies in Asia and Latin America.

Developing countries compete vigorously for these financial flows through creating an enabling business environment: sound macro economic policies, open and competitive markets and fair legal and tax systems are key in this regard. The benefits of this comes in the form of access to international capital and joint ventures with foreign partners in particular, which has proved to be a powerful vehicle for access to up-to-date technologies, improved skills and know-how as well as more effective access to international markets.

The European Community's industry is participating in this process. This movement is gathering steam as new domains, such as infrastructure, are opened up for participation by foreign private interests. At the Asian Development Bank's annual conference held in Nice in April of this year, it was estimated that investment needs in infrastructure projects in Asia alone are as much as \$1 000 billion during the next five years; a major part of this will be implemented through privatization schemes involving foreign companies in joint venture deals.

The Asian, Latin American and Mediterranean countries are all keen to benefit from investment promotion schemes such as ECIP and the recently set up ALINVEST and MEDINVEST schemes.

ECIP has been particularly effective and responsive to the needs of developing ALAMED countries in the promotion of joint ventures between local companies and European partners. Since its inception in 1988 a total of 909 projects have been approved.

Asia	Latin America	Mediterranean	All regions incl multi-regional
357	300	236	909

The most successful countries are Mexico (86), India (65), China (59), Indonesia (50) and Morocco (38). Note that China became eligible only in February 1992, and now accounts for the highest demand for ECIP resources. Please see Annex II for a table showing ECIP amounts approved by facility 1988-93.

ECIP's success can be in no small part attributed to the very concept of the scheme, which ensures that it operates in a decentralized fashion complementary to Member States' promotion schemes. Crucial in this is the network of almost 100 financial institutions, which includes the largest and most dynamic banks from our Member States and third countries.

The ECIP instrument belongs to EC development policy but at the same time it is consistent with and supports the Community's industrial strategy since it acts as a catalyst for European direct investment flows to developing countries, thereby strengthening the links between Europe and other dynamic continents.

The legal basis for the ECIP instrument is presently Council Regulation (EEC) No 319/92 of 3 February 1992 which expires on 31 December 1994. The Commission now proposes a new Council Regulation in annex to this Communication in order to continue and consolidate the implementation of the ECIP instrument after 1994. This proposal maintains the essential characteristics of the existing instrument:

- promotion of joint venture investments of mutual interest;
- decentralized and flexible management through a network of financial institutions and investment promotion agencies; and
- the coherence of the instrument which, through four financing facilities, covers all the stages in the creation of a joint venture from (1) project identification, to (2) feasibility study and pilot project, to (3) capital financing to (4) management assistance and training.

The proposal includes some minor improvements in the conditions relating to the finance made available under each of the facilities and also includes specific provisions for reinforcement of the Commission's management and control of the funds, ongoing monitoring and evaluation of the actions financed, and coordination with other EC instruments for economic cooperation and promotion of investments. These proposals take account of the Opinion of the Court of Auditors on the implementation of the instrument delivered to the Council in December 1993, and of the Independent Appraisal forwarded to the Council and Parliament in April 1994.

In addition to the eligible countries of Asia, Latin America, and the Mediterranean region, it is proposed, in accordance with the Conclusion of the General Affairs Council of 19 April 1994, to extend the instrument to South Africa also as an eligible country. Additional financing for South Africa would need to be provided.

II. HISTORY AND DESCRIPTION 1988-1994

The ECIP instrument began in September 1988 as a pilot experiment with limited budgetary means (ECU 30 million for three years). Initially, the Commission did not propose a specific legal basis for this instrument. Instead ECIP was defined on the basis of Article 205 of the Treaty of Rome, and of the cooperation agreements with the developing countries of Asia, Latin America and the Mediterranean. The European Parliament provided the necessary credits from within its margin of manoeuvre (Non-Obligatory Spending). In December 1990, the Commission proposed to the Council a further phase of reinforcement for the ECIP instrument, by means of a specific regulation, and on 3 February 1992 the Council adopted the ECIP Regulation (EEC) No 319/92 containing, in essence:

- confirmation of the characteristics which had ensured the scheme's success since 1988;
- an increase in the financing limit per project from ECU 500 000 to ECU 1 000 000;
- a more precise definition of objectives and the procedures in order to reinforce efficiency and ensure transparency; and
- regular monitoring and evaluation of the management and impact.

The programme depends on a network of financial institutions (FI) in the EC Member States and in the ALAMED countries to promote and administer the four financing facilities. At present there are 95 FI in the ECIP network which have been chosen after Commission Decision preceded by consultation of the Council. In addition, for Facility 1, organizations representing groups of companies (such as investment promotion bodies, federations of industry and chambers of commerce) are also eligible to present and administer projects for financing under ECIP.

The Commission has signed framework contract agreements with the financial institutions (FI) in the ALAMED countries and in the European Community. ECIP relies on the services of these FI to assess project proposals and to present them to the Commission for appraisal and approval, to arrange legal documentation with the companies and to handle the ongoing administration of the transactions. This allows the companies to apply for ECIP finance through an FI of their choice, possibly near to their centre of operations. For the specific actions under Facility 1, organizations representing a group of companies can work with the Commission directly.

The Commission, in appraising and deciding the actions to be financed, verifies the soundness of the investment, quality of the promoters, mutual interest for the EC, the contribution to the development of the ALAMED country concerned, and the compatibility of the action with the various aspects of Community policies. In principle, all sectors of the economy are covered - industry, services, agriculture, mining or others. However, certain sectors such as arms production and gambling houses, are excluded ex ante. ECIP is a source of finance only, which means that the Commission does not itself offer direct technical assistance and that it never interferes with the management of the project. Private operators maintain complete control.

ECIP aims at small and medium-sized companies but operations from larger companies are also eligible in order not to neglect the indirect positive impact on SMEs (especially by way of technology transfer, sub-contracting, and supply relationships) due to the creation of joint ventures between large enterprises. Large multinationals may not benefit from the scheme.

The nature of the finance available under ECIP includes grant money for identification projects (Facility 1), interest-free advances for preparation of projects (Facility 2) and for human resources development (Facility 4), and equity or equity-loans for investment (Facility 3).

The four ECIP Facilities offer financial assistance to facilitate all the various stages of joint venture creation as follows:

FACILITY 1: Identification of projects and partners

Under this facility ECIP has cofinanced projects by means of a grant of up to 50% of the cost of the project (subject to a maximum grant of ECU 100 000), the remaining 50% to be raised by the initiator(s) of the project.

Eligibility

This facility is only available to: organizations which represent a group of companies, such as chambers of commerce, federations of industry, other professional agencies and financial institutions from the ECIP network. Facility 1 is not available for individual firms wishing to undertake study work on a specific investment project.

The purpose of this facility is to:

- identify specific sectors in one or a limited number of eligible countries that have investment potential;
- identify EC firms which have technology and financial resources for involvement in Joint Ventures;
- identify local firms which would be suitable candidates for partnership in Joint Ventures with European investors;

- inform companies on both sides of the opportunities and organize business meetings between potential partners.

Under Facility 1 two main types of projects are financed:

- Studies to provide a given sector of the EC with basic information on investment opportunities in one country or in a selected number of target countries.
- Seminar or "workshop" projects to bring together a number of potential partners both from the EC and from the target country.

FACILITY 2: Preparations for the creation of a specific joint venture

Under this Facility ECIP has cofinanced projects through an interest-free advance to be converted later either into a grant, a loan or equity depending on the outcome of the project. The advance covers up to 50% of the cost of the project subject to a maximum EC advance of ECU 250 000.

The type of activities eligible for Facility 2 are the following:

- final identification and selection of a partner;
- feasibility studies;
- market studies;
- drawing up of a business plan;
- setting up of a pilot production unit;
- manufacture of prototypes.

The aim of Facility 2 is to permit the company to gather all the elements which will make the project bankable and which will allow it to go ahead to invest in an EC/ALAMED joint venture. If the project does not lead to further investment within a period of two years after its completion, the advance can be converted into a grant. The beneficiary must specifically apply for this and he must explain the reasons for the failure. If the project is successful and it leads to an investment, it should carry its own costs, including study costs, and therefore the advance must be reimbursed or capitalized. This facility is open to local or European firms, acting either individually or jointly, wishing to look into a joint investment project in an eligible country. Interested companies must apply via one of the Financial Institutions in the ECIP network who filter and appraise the proposal before presenting it to the Commission for decision.

FACILITY 3: Financing of capital requirements

The purpose of this facility is to provide capital for new Joint Ventures, for expanding existing ones, or for new investment by local companies working under a licensing agreement with EC firms. This facility is, as regards the EC partners, reserved as a priority to small and medium-sized companies. The ECIP financing can be up to 20% of the capital of the Joint Venture project subject to a maximum ECIP investment per project of ECU 1 million.

ECIP has cofinanced projects by providing finance to the FI which in turn provides the funding to the company on behalf of the EC. The EC relies on the FI to act as an intermediary and it also requires the FI to cofinance the company with the same amount as the EC and on similar terms and conditions. By imposing this "matching obligation", ECIP ensures that the FI is involved with the project on a permanent basis.

ECIP finances the company during its start-up phase and tries to sell its share or to ask for reimbursement of the loan after a period of about 5 years, or sooner if the Joint Venture partners so wish. ECIP does not interfere with the management of the company.

Joint Ventures in the ALAMED countries between partners from the EC and a local operator are eligible for Facility 3. The facility is also available for direct investments by local companies which operate under a licensing agreement with an EC company.

FACILITY 4: Training or management assistance to Joint Ventures

Under Facility 4 ECIP has cofinanced projects by way of an interest-free loan to the Financial Institution which on-lends the money on a back-to-back basis on the same conditions to the Joint Venture or to the company operating under a licensing agreement. The ECIP loan can be up to 50% of the cost of the project (subject to a maximum ECIP contribution of ECU 250 000). The Commission requires the intermediary FI to cofinance the project, with the same amount as ECIP.

The maximum total ECIP financing under all the facilities for an individual project is ECU 1 000 000.

III. ASSESSMENT

ECIP has shown rapid and continued growth in the numbers and ECU volume of financing requests and approvals from 1988 to the present. The number of project requests has steadily grown from 57 in 1988/89 to 408 in 1993. The number of projects approved in 1988/89 was 39 and this figure rose to 271 in 1993. The value of ECIP financings approved in 1988/89 was ECU 3.43 million and rose rapidly to ECU 29.16 million in 1993. ECU 39 million in total are available for commitment credits for ECIP during 1994, and ECU 42 million are requested for 1995.

As provided for at Article 9.2 of the present ECIP Regulation (319/92) the Commission commissioned in 1993 an independent appraisal by consultants whose report was forwarded to the Council and Parliament in April 1994 and which concluded, in summary, that ECIP :

- is successful and in growing demand from economic operators and from the Financial Institutions which implement the scheme;
- has met its principal objective of promoting mutually beneficial EC/local Joint Venture investments in the ALAMED developing countries; and
- that the complete characteristic of the instrument offering four financing facilities managed together covering all stages of the creation of joint ventures is essential.

(Annex III to this document provides a summary of the conclusions and recommendations of this independent appraisal.)

The evaluators made proposals for specific minor improvements to the financing conditions of the facilities: and they also made some specific recommendations as regards the operations of the scheme as regards the need to decentralize administrative routine procedures even more to the Financial Institutions in order to facilitate the implementation further and to allow the Commission's staff to reinforce and accentuate their attention to policy and evaluation issues.

Furthermore, in December 1993, as provided for in Article 9.3 of the ECIP Regulation, the Court of Auditors also presented an opinion on ECIP to the Council on which the Commission commented and replied in March 1994. The Court concluded that: "ECIP meets a real need which the market ignores, or of which it takes only "inadequate account" ... and that "To the extent that the Community legislator and the Commission wish, within the framework of development aid policy, to persevere with promoting investment in the private sector by means of the ECIP instrument, steps should be taken to set up a suitable structure". Annex IV to this document gives a summary of the conclusions and recommendations included in the Opinion given by the Court of Auditors.

The present proposal for a revised and improved Council Regulation for ECIP addresses the Court of Auditors' comments, takes account of the evaluators' recommendations by proposing minor improvements in the financing facilities, and in particular it includes specific provisions to handle the burgeoning project management task for the Commission which is resulting from the success of ECIP.

IV. PROPOSAL

The Commission proposes to the Council to renew and improve the ECIP Regulation according to the text provided in Annex I to this Communication. This text provides for minimal changes in each of the financing facilities combined with particular attention to decentralization and reinforcement of the Commission's management and monitoring capacity (see also section V below), and to increased coordination with other EC programmes and instruments of economic cooperation (see also section VI below).

IV.a. Objective

It is proposed to retain ECIP's principal objective which is to promote investments of a mutual interest. The complete nature of the instrument, offering four facilities covering all the stages in the creation of a Joint Venture, should be maintained. The flexible and decentralized management system should be retained and reinforced (see V below). Coordination with other EC programmes for investment promotion and economic cooperation can be improved (see VI below). And following the suggestions of the consultant's Independent Evaluation and of the Court of Auditors, small changes in the financing conditions and eligibility for the facilities are proposed.

IV.b. Improvements in the four financing facilities

Facility 1. It is proposed to enlarge the scope of this facility to cover privatization infrastructure projects also (e.g. in the energy, transport, environment and utilities sectors) being developed by ALAMED governments according to the Build Operate Transfer (BOT) or Build Operate Own (BOO) formula. In allowing ALAMED governments and public agencies direct access to Facility One funding they could finance, with an EC consultant who would often be an EC economic operator in the sector, the evaluation, preparation and tender documents for a joint-venture privatization BOT-BOO project. Later in the implementation of the project, EC operators would remain eligible under existing ECIP criteria to request Facility 2, 3 or 4 finance to help implement the project.

Facility 2. In order further to improve the quality of the actions financed, particularly as regards the identification of a joint venture counterpart it is proposed that, within the existing overall financing limit for Facility 2 (ECU 250 000) by interest-free advance, a grant element of ECU 10 000 be included to allow financing of 50% of the costs of a pre-feasibility mission by the final beneficiary as a preliminary to financing the full feasibility study or pilot project. As before under the existing ECIP Regulation if the results of a study do not lead to a joint venture the ECIP funding under Facility 2 can be converted into a grant at the Commission's discretion, in which case the study document becomes the property of the Commission and can be made available to other potential investors (see Section VI below).

Facility 3. As requested by many economic operators, and by the financial institutions, supported by the recommendations of the Independent Evaluation and of the Court of Auditors, it is proposed to allow indirect medium and long-term subordinated loans to be eligible for ECIP Facility 3 financing and not to limit such funding to equity. The Commission has not taken up the suggestion of the Independent Consultant to set up Investment Funds for Facility 3, since Facility 3 should remain a subsidiary facility which supplements the scheme and should not become a main focus of it.

Facility 4. In order to improve the use of this facility, which has been relatively modest up to now, it is proposed to change the financing conditions to a grant, on condition that only the costs of training, technical assistance or management expertise provided by external sources will be eligible for ECIP funding. This latter provision will ensure the "additionality" of the actions financed and while the financial institutions will still be intermediating the finance they will not be required to cofinance the actions.

IV.c. Geographical coverage

In addition to the eligible countries of Asia, Latin America, and the Mediterranean region, it is proposed, in accordance with the Conclusions of the General Affairs Council of 19 April 1994, to extend the instrument also to South Africa as an eligible country. Additional financing for South Africa would need to be provided.

It is to be noted that in other non-ALAMED regions other EC financing instruments exist (Phare: JOPP, TACIS, Lomé: CDI) and reinforced coordination with these instruments is proposed below (see VI).

V. MANAGEMENT, MONITORING AND ANTI-FRAUD PROVISIONS

The Commission does not propose to set up an independent agency to manage ECIP, as was suggested by the Court of Auditors, since it wants to retain the present option for subsidiarity and decentralization which could be weakened by the creation of an "EC Finance Corporation". Still, the Commission does make specific provision in the proposed Regulation (Article 9) to reinforce the management and monitoring while retaining the essentially decentralized administration system using financial institutions and investment promotion agencies.

Three specific additional measures are proposed under the new Regulation:

- (1) External technical assistance (TA) may be used, after normal Commission tendering procedures, so that this TA can carry out the many basic, routine, information and dossier-processing tasks which are inherent in an instrument involving so many countries, financial institutions, and final beneficiaries. The Commission will retain responsibility for the final appraisal and decision on all actions financed, the general promotion of the instrument, and the quality control and evaluation of impact. As regards Article 9 of the Regulation it is proposed to provide up to 5% of the ECIP budget to finance this, on condition that the actions financed are directly linked to the special nature of the ECIP instrument and are of benefit to the ALAMED countries and South Africa.
- (2) As is accepted practice for other actions financed by the development cooperation chapters of the Budget, a contract shall be placed (after OJ publication and C.C.A.M. adjudication) with an international firm of accountants to execute a complete year-end financial audit of the books of a sample of the ECIP financial institutions, and the Facility 1 beneficiaries of ECIP in order to verify the ECIP balance sheet and revenue/expenditure account as at 31 December each year. The accountants will reconcile the ECIP financial statements with the Commission Revenue and Expenditure account and ensure the correct inclusion of the ECIP balance sheet into the Commission balance sheet. This exercise will be repeated annually from 1995 for the year-end closure of ECIP accounts.
- (3) Specific provision will be made in the framework agreements and the specific financing agreements for anti-fraud measures, in particular a mechanism for the recovery of advances which are not fully justified after the annual audit.

The Commission proposes to retain the existing reporting provisions and to make them concomitant with the new period of validity of ECIP as follows:

- (a) to send to the European Parliament and to the Council, by 30 April each year at the latest, a progress report showing the projects selected, the appropriations granted and the repayments to the general budget of the European Communities and including annual statistics for the previous year; and to
- (b) forward the results of an independent appraisal of the instrument to the European Parliament and the Council every five years.

The Commission remarks that under Article 188c of the Treaty establishing the European Community the Court of Auditors has powers to audit and deliver an opinion on the implementation of the instrument.

VI. COORDINATION WITH OTHER EC PROGRAMMES

In addition to the internal coordination within the Commission's services as regards the respective actions to be financed under ECIP and other EC economic cooperation programmes (such as AL-INVEST, MED-INVEST and the Asia/EC Business Info Centres) the Commission will set up specific arrangements to diffuse and exploit the information, partner lists, and studies financed under Facilities 1 and 2 of ECIP through the networks, outlets and information systems in the AL-INVEST focal points, the MED-INVEST offices, the Asia/EC Business Info Centres and the networks and systems managed by DG XXIII and III within the EC such as BCNET, BRE which will allow SMEs further to improve their effective access to the benefits of ECIP.

The Commission will continue to enhance coordination between ECIP and the European Investment Bank with particular regard to the Mediterranean region.

VII. PROPOSED DECISION

The Commission proposes that the Council should continue and consolidate the ECIP instrument by adopting a new regulation - the text of which is proposed in annex - to take effect from 1 January 1995.

Annexes:

- I. Proposed text for a new Council Regulation for ECIP
- II. Table of ECU amounts approved by Facility under ECIP 1988-93
- III. Summary of the conclusions and recommendations of the Independent Appraisal of ECIP
- IV. Summary of the conclusions and recommendations of the Court of Auditors' opinion on the implementation of ECIP
- V. "Fiche Financière"

Proposal for a
COUNCIL REGULATION (EC)

on the implementation of the EC Investment Partners financial instrument
for the countries of Latin America, Asia, the Mediterranean region
and South Africa

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130w thereof;

Having regard to the proposal from the Commission⁽¹⁾,

In cooperation with the European Parliament,

Whereas the Community is implementing financial, technical and economic cooperation with the developing countries of Latin America, Asia and the Mediterranean region, and with South Africa;

Whereas in order to strengthen such cooperation, it is necessary, inter alia, to encourage mutually beneficial investment, particularly by small and medium-sized enterprises (SMEs);

Whereas the Council has reached a consensus on the importance of the role of the private sector in the development process;

Whereas joint ventures and investment by Community undertakings in developing countries can bring certain benefits for these countries, including the transfer of capital, know-how, employment, the transfer of training and expertise, increased export possibilities and the meeting of local needs;

Whereas a three-year pilot scheme was launched in 1988 to promote, via an EC Investment Partners (ECIP) financial instrument, the creation of joint ventures between the Community and countries of Latin America, Asia and the Mediterranean region and was continued and extended for a further three year trial period from 1 January 1992 by Council Regulation (EEC) No 319/92⁽²⁾;

Whereas the Court of Auditors delivered an opinion in December 1993 pursuant to Article 9(3) of Regulation (EEC) No 319/92 on the implementation of the ECIP financial

⁽¹⁾ OJ No C

⁽²⁾ OJ No L 35, 12.2.1992, p. 1.

Whereas the European Parliament and the Council have considered the results of the independent appraisal forwarded to them in March 1994 in conformity with Article 9(2) of Regulation (EEC) No 319/92 which concluded that ECIP has met its principal objective of promoting mutually beneficial investment by Community and local operators in EC/local joint ventures in the countries of Asia, Latin America and the Mediterranean, and that the ECIP instrument should be further continued and reinforced;

Whereas the Council adopted on 25 February 1992 Regulation (EEC) No 443/92⁽³⁾ on financial and technical assistance to, and economic cooperation with, the developing countries in Asia and Latin America and on 29 June 1992 Regulation (EEC) No 1763/92⁽⁴⁾ concerning financial cooperation in respect of all Mediterranean non-member countries;

Whereas the continuation and extension of the instrument is therefore necessary in order that full use may be made of the possibilities of mutually beneficial action in the countries of Latin America, Asia and the Mediterranean region;

Whereas the Council on 19 April 1994 concluded that to encourage EU investments in small and medium-sized companies in South Africa, advantages equivalent to the ECIP (EC Investment Partners) or its follow-up instrument could be granted to South Africa, and that specific financing of this instrument would be provided to that end.

Whereas the broadest possible participation by undertakings in all Member States should be encouraged;

Whereas all the Member States should be encouraged to participate in the promotion of their investments in the countries of Latin America, Asia, the Mediterranean region and South Africa through financial institutions specializing in development,

HAS ADOPTED THIS REGULATION:

Article 1

1. As part of its economic cooperation with the countries of Latin America, Asia, the Mediterranean region, and South Africa, the Community shall operate special cooperation schemes aimed at promoting mutually beneficial investment by Community operators, particularly in the form of joint ventures with local operators in the countries eligible.
2. Account being taken of their respective possibilities and needs, SMEs will receive priority in application of the scheme, while large multinational undertakings will be ineligible.

⁽³⁾ OJ No L 52, 27.2.1992, p. 1.

⁽⁴⁾ OJ No L 181, 1.7.1992, p. 5.

Article 2

The EC Investment Partners (ECIP) financial instrument, hereinafter referred to as the 'instrument', shall offer four kinds of financing facility covering:

1. grants for the identification of projects and partners, not exceeding 50% of the cost of the operation up to a ceiling of ECU 100 000; however, where the operation relates to the preparation of a privatization, or a Build Operate and Transfer (BOT) or a Build Operate and Own (BOO) scheme in infrastructure, utilities or environmental services where an eligible country government or public agency is the beneficiary this facility may be increased to 100% of the cost of the operation up to a ceiling of ECU 200 000 (Facility No 1);
2. interest-free advances for feasibility studies and other action by operators intending to set up joint ventures or to invest, not exceeding 50% of the cost up to a ceiling of ECU 250 000, within which pre-feasibility costs of ECU 10 000 maximum may be financed by grant (Facility No 2);
3. capital requirements of a joint venture or a local company with licensing agreements, in order to meet investment risks peculiar to developing countries, through participation in the provision of equity or subordinated loans not exceeding 20% of the joint venture's equity and subordinated loan capital up to a ceiling of ECU 1 million (Facility No 3);
4. grants, not exceeding 50% of the cost up to a ceiling of ECU 250 000, for training, technical assistance or management expertise of an existing joint venture, or joint venture about to be set up, or of a local company with licensing agreements (Facility No 4).

The aggregate amount made available under Facilities Nos 2, 3 and 4 may not exceed ECU 1 million per project.

Article 3

1. The financial institutions shall be selected by the Commission, further to the opinion of the Committee defined in Article 8, from among development banks, commercial banks, merchant banks and investment promotion bodies.
2. Financial institutions which have submitted proposals in accordance with the criteria defined in Article 6 will receive fees in accordance with arrangements to be determined by the Commission.

Article 4

1. With regard to Facility No 1 set out in Article 2, financing applications may be submitted either directly to the Commission by the institution, association or body carrying out the identification of partners and projects, or through a financial institution.

2. In the case of Facilities Nos 2, 3 and 4 set out in Article 2, applications may be submitted by the undertakings concerned solely through the financial institutions defined in Article 3. Community funds for the participating undertakings shall be applied for and provided exclusively through the financial institution.
3. With regard to Facility No 2 set out in Article 2, the financial institutions and undertakings shall be required to share the project risk; where the action is successful, however, the Community contribution may be increased to 100% of the cost for SMEs.
4. In the case of Facility No 3 set out in Article 2, the financial institutions shall provide financing at least equal to that provided by the Community.
5. In the case of Facility No 4 set out in Article 2, only the costs of training, technical assistance and management expertise provided by external sources shall be eligible for finance under this facility.
6. Framework agreements signed by the Commission with the financial institutions shall explicitly stipulate that the Court of Auditors has the power, in accordance with Article 188c of the Treaty, to audit the operations of these institutions with respect to financial projects funded by the general budget of the European Communities.

Article 5

1. Contributions awarded under the instrument shall, depending upon the circumstances and pursuant to Article 2, be either grants or interest-free advances, or participations in the provision of equity or subordinated loans.

Participation in the equity or subordinated loans shall in principle be acquired by the financial institutions on their own behalf. However, in exceptional cases,

- where the Financial Institution cannot intervene in its own name for regulatory or legal reasons or because of its statutes; or
- where the Community's direct financial participation is necessary to reinforce in a decisive manner the capacity of the promoters to raise other financial resources which could not normally be mobilized due to the particular political situation or to specific legal obstacles in the host country of the joint venture;

the Commission may instruct a financial institution to hold a direct participation on the Community's behalf.

Only projects with a particular development or environmental impact or significance for technology transfer shall qualify for such direct participation.

The commercial, industrial, investment and financial decisions of the joint undertakings set up under the instrument shall be taken exclusively by those undertakings.

2. For Facility No 2 set out in Article 2, interest-free advances shall be reimbursed according to the arrangements to be determined by the Commission, on the understanding that the final repayment periods are to be as short as possible and shall in no instance exceed five years. Such advances shall not be refundable where the actions have produced negative results.
3. For Facility No 3 set out in Article 2, participations by virtue of this instrument shall be disposed of at the earliest opportunity once the project becomes viable, having regard to the Community's rules of sound financial management.
4. Subordinated loan repayment, the realization of participations and interest and dividend payments will generate renewable funds which will be held on deposit by the financial institutions on behalf of the Community and will be managed in accordance with the requirements of the instrument and pursuant to the principles of sound management, security and yield appropriate to the investment. These funds will be allocated for the operations of the instrument or will bear interest at market rates and will be used in such a way as to curtail use of funds from the general budget of the European Union for operations under the instrument. All assets held by the financial institutions are to be paid back to the Community if the institution ceases to be associated with the instrument or if the instrument ceases to operate.

Article 6

1. Projects shall be selected by the financial institution or, in the case of Facility No 1 set out in Article 2, by the Commission and the financial institution in the light of the appropriations adopted by the budget authority and on the basis of the following criteria:
 - (a) the anticipated soundness of the investment and the quality of the promoters;
 - (b) the contribution to development, in particular in terms of:
 - impact on the local economy;
 - creation of added value;
 - creation of local jobs;
 - promotion of local entrepreneurs;
 - transfer of technology and know-how and development of the techniques used;
 - acquisition of training and expertise by managers and local staff;
 - implications for women;

- creation of local jobs in circumstances which do not involve exploiting employees;
 - impact on the balance of trade and balance of payments;
 - impact on the environment;
 - manufacture and supply to the local market of products hitherto difficult to obtain or substandard;
 - use of local raw materials and resources.
2. The final financing decision shall be taken by the Commission, which shall verify compliance with the criteria set out in paragraph 1 and compatibility with the various aspects of Community policies and the mutual benefit to the Community and the developing country concerned.

Article 7

Countries eligible shall be the developing countries of Latin America, Asia and the Mediterranean region which have previously benefited from Community development cooperation measures or which have concluded regional or bilateral cooperation or association agreements with the Community, and South Africa.

Article 8

1. The Commission shall implement the instrument in accordance with this Regulation.
2. In carrying out this task, the Commission shall be assisted, as appropriate, by the Committee set up under Article 15 of Regulation (EEC) No 443/92 or by the Committee referred to in Article 7(1) of Regulation (EEC) No 1763/92, and these Committees shall deal, for the purposes of ECIP, with matters related to South Africa, until such time as a specific committee dealing with financial and economic cooperation with South Africa is designated.
3. The following shall be adopted under the procedure laid down in paragraph 4:
 - the choice of financial institutions in the light of their experience and aptitude for making a preliminary selection of the projects in accordance with the criteria set out in Article 6;
 - revision of the amounts and/or financing conditions under each facility and the aggregate amount available under Facilities 2, 3 and 4 as laid down in Article 2.

4. With regard to the matters mentioned in paragraph 3, the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions, which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of one month from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

5. Furthermore, the Committee may examine, at the Commission's initiative or at the request of one of its members, any question connected with the implementation of this Regulation, in particular:

- information on the projects funded over the previous year;
- the terms of reference of the independent appraisal provided for in Article 9;
- any other information which the Commission wants to submit to it.

6. In order to ensure consistency of cooperation and to improve complementarity between operations, the Commission and the European Investment Bank shall exchange any relevant information on financing that they envisage granting.

Article 9

1. The Commission shall send to the European Parliament and to the Council, by 30 April each year at the latest, a progress report showing the projects selected, the appropriations granted and the repayments to the general budget of the European Communities and including annual statistics for the previous year.
2. The Commission shall forward the results of an independent appraisal of the instrument to the European Parliament and the Council every five years.

3. Without prejudice to the responsibilities of the Commission and the Court of Auditors as laid down in the Financial Regulation applicable to the General Budget of the European Communities the Commission shall obtain each year an independent financial audit of the financial institutions and of the Facility 1 beneficiary organizations. The Commission shall make specific provision in the framework and specific financing agreements for anti-fraud measures, in particular a mechanism for the recovery of advances which are not fully justified after such audit.
4. Use of external technical assistance may be made, as appropriate, on condition that the technical assistance financed is directly linked to the special nature of the ECIP instrument and is of direct benefit to the ALAMED countries and South Africa. The costs of such technical assistance shall be limited to 5% of the budgetary credits available, not including the fees paid to the financial institutions which shall be imputed to the credits allocated to each individual action financed.

Article 10

This Regulation shall enter into force on 1 January 1995.

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

Done at Brussels,

For the Council
The President

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SUMMARY OF THE CONCLUSIONS AND RECOMMENDATIONS OF THE INDEPENDENT APPRAISAL OF ECIP

INTRODUCTION

Article 9.2 of the Council Regulation (319/92) for ECIP required the Commission to, quote: "forward the results of an independent appraisal of the instrument to the European Parliament and the Council by 31 March 1994 at the latest." unquote.

A contract to do this was placed with the SEMA Group (Belgium) after publication of an international invitation to tender in the Official Journal of the European Communities (J.O. No C230 of 26.08.93). After 98 formal expressions of interest in the contract had been received from consultants from all 12 EC member states, 21 formal bids were received by the due date and evaluated by the Commission's services and, after formal consideration by the Comité Consultative des Achats et Marchés (CCAM), the contract was placed with SEMA. The procedures applied conform with Council Directive No 92/50/EEC of 18th June 1993 relating to the coordination of procedures for the award of public service contracts.

The Commission sent the report to the Council and the Parliament in May 1994 as required by the ECIP Council Regulation, and reminded the Council and the Parliament that the Appraisal is the independent opinion of the consultants, and that the Commission does not necessarily endorse or agree with its conclusions and recommendations.

SUMMARY EXTRACTS FROM THE CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

ECIP is very successful with a rapid and permanent growth.

ECIP has met its objectives of promoting mutually beneficial investments.

ECIP has a complete characteristic aimed at covering all the stages of the creation of joint ventures including financing the provision of equity.

ECIP has a term impact or an indirect impact because the best way to support the joint ventures is to finance the project for which there is practically no other source of financing.

ECIP also has a direct impact through Facility 3.

ECIP contributes to the development of the economies of eligible countries.

The leverage effect is considerable and permits to better evaluate the development impact of ECIP.

ECIP contributes to the improvement of the image of the European Union in the countries of eligible zones (ALAMED).

ECIP obtains a global degree of satisfaction going from good to very good from the different categories of participants.

ECIP is ending its period of youth and adjustment.

The pilot phase gave ECIP its present form.

The period 1992-1993 permitted to detect its residual weakness.

1994 has to be the year of last minute adjustments of the operational modes of ECIP and the adjustment of efficient solutions for the problems encountered within the frame of the Facility 3.

The creation of joint ventures is a slow process which could extend itself easily over a three year period:

- 12 to 18 months between the request of Facility 2 and the end of the study;
- ECIP foresees two years to judge on the success of the Facility 2 resulting in the creation of the joint venture;
- 1994-1995 should result in the creation of many joint ventures.

RECOMMENDATIONS

The existence of ECIP is necessary because the instrument satisfies a need poorly covered or not covered at all by the other financial instruments available in the international market.

The general objective of the promotions for mutual interest investments of Community operators must remain the essential being of ECIP, specially in the form of joint ventures with local operators in the eligible countries concerned.

ECIP is a complete instrument covering all the stages in the creation of a joint venture, from the project identification, the feasibility study and the equity financing to the training; the coherence of the instrument must be maintained by keeping together the four facilities which make its originality.

ECIP should extend its area of action.

ECIP should review its agreements with EIB and co-ordinate its action with those of other Commission financial instruments and programmes.

ECIP is integrated in the multiple actions of the Commission in favour of SMEs, specially the programmes of the DG XXIII (BRE, BC-NET, Europartner-ship, Euro Info Centre) and other actions at the DG I (Medinvest and AInvest); ECIP should maintain the priority of the scheme's application to the SMEs.

ECIP should not neglect, however, the indirect impact on the SMEs from the creation of joint ventures between enterprises of a large size, specially by way of sub-contracting and supplies.

ECIP should maintain its flexibility and adapt itself to the size of the proposed investments (judged compatible with the risk level associated with them), to the financial viability of the project estimated by the FI, and to the contribution, in short and middle term, to the local economy development, rather than, to the size of the partners; the participation of large enterprises should not constitute a reason to reject a project.

Facility 1 - Projects and partners identification

To bring closer together the management of ECIP and MED and AL-Invest should allow the extension of Facility 1 to the search of European intermediary organisations likely to give aid to similar organisations from eligible countries to accomplish studies, seminars or "technical shops" financed by means of accepted projects within the frame of Facility 1.

Facility 2 - Investment feasibility studies

Should extend its area of action in three directions:

- the realisation, by the enterprises from eligible countries, of prefeasibility applications including an attractive and realistic presentation of their joint venture project and of their enterprise; this application would reinforce their credibility with the European enterprises in the search of a potential partner to carry out a feasibility study;
- the final search for a partner when the feasibility study has given positive results, but the enterprise which has initiated the project finds itself without a partner to create the joint venture, as a consequence of a sudden defaulting of one of the partners (bankruptcy, renouncement, incompatibility revealed during the study, ...);
- the financing of certain research and development projects that may as the pilot projects, lead, at middle term, to the creation of a joint venture with a real technological transfer by the productive use of the results obtained;

The co-financing of Facility 2 should ideally be based on a mixed mechanism including:

- the total reimbursement in case of failure or non diffusion of the study's results;
- the gradual transformation in subsidy according to the partial results obtained and of the actions undertaken;
- the transformation in subsidy in the case of prefeasibility studies or of search of partners when a feasibility study has given positive results, as well as in case of creation of a joint venture.

As it is difficult to implement this mixed mechanism, the simple transformation in subsidy, except in the case of the study's confidential results, seems imperative. An intermediary solution would consist to grant an additional income to the FI which would be linked to the reception at the final report of each action together with a commentary by the FI of the results obtained and the possible future actions;

Facility 3 - Financing the capital requirements of joint ventures:

The system could take the form of an Investment Fund which could be at a first stage, regional (Latin America, Asia, Mediterranean Region) and later on national if the legislation authorise it. This Investment Funds - regional or national - would be largely open to international organisations (FI, Commercial banks, investment banks, institutional investors, insurances, retirement funds, ...). ECIP would be the reference shareholder with minority participation of about 15%. No other shareholder will have a higher percentage.

Investment Supervision Counsel. Besides a role of control of the investments made, this Counsel under the presidency of ECIP, would have a role of lobbying at the Commission to favour the ECIP instrument.

Facility 4 - Development of Human Resources

The application area of Facility 4 should involve two types of complementary actions:

- the creation of a restructuration fund allowing to aid the rehabilitation of the personnel affected by the creation of a joint venture and provoking profound changes within the local enterprise, reinforcing the role of ECIP in the economic development of the countries concerned.
- the financing of the technical assistance furnished by the European intermediary organisations to their correspondents in the eligible zones (see Facility 1 above).

And an adapted training is often the best guarantee for success of a new joint venture; the direct participation of ECIP should therefore be transformed in subsidy for training and support made by the personnel of the European partner ensuring the know-how transfer to the new company; to recourse to external consultants should be limited to the strict minimum when the European enterprise cannot ensure it because of limited human resources.

Participation of "Countries almost Members":

The enlargement of the area of action of ECIP to the member countries of the European Union put at equal level the enterprises of all countries that may benefit from the financing of ECIP; the "countries almost members" will be the first to benefit because their enterprise could easily implant themselves in our countries;

Equally, the opening of ECIP to financing the three party joint ventures in Eastern Europe and the Republics of the ex-USSR constitute an additional encouragement to those countries that have applied for membership in the European Union and take the necessary measures to prepare their membership to the Customs Union, in the one hand and the European Union, in the other hand.

Decisional and Decentralisation Process:

The Commission could authorise certain FI to finance without reference to the Commission within the frame of Facilities 1, 2 and 4, projects responding to the following conditions:

- concerning projects to create joint ventures in one of the zones, presently covered by ECIP;
- do not belong to sectors of activities having political implications at the level of the Commission (agro-industry, textile, fishing, information technology, ...);
- do not go beyond a ceiling of 75.000 ECU for the Facility 1 and 125.000 ECU for the Facilities 2 and 4;
- to meet, as any project submitted to the approval of the Steering Committee, the conditions of viability and of contribution to the development of eligible countries.

For the projects of Facility 3, the decision process could be automatically delegated to the Investment Funds created in each geographical zone; same thing for the Facility 4 projects which derived from investments made by the funds and that may be financed from their resources (participation liquidation, transfer of credit line balances not used).

Management resources and technical assistance

While the Commission's management to date, with very limited resources, has been effective, due to the success and growth of the instrument the implementation in the future of an efficient system of information and follow-up of projects implies a total and permanent availability of management and a large flexibility of human resources according to the work load. So it is necessary to implement an external technical assistance support service for ECIP so that the Commission can solve its present management crisis. This would be responsible for the operational management of the instrument while the Commission keeps all the decision power related to the regulation policy and functioning of the instrument as well as the control of the projects submitted to them.

(Complete copies of the Independent Appraisal have already been sent to DGs I, II, III, XVIII, XIX, XX, XXIII and the S.J.)

SUMMARY OF THE CONCLUSIONS AND RECOMMENDATIONS
OF THE COURT OF AUDITORS' OPINION
ON THE IMPLEMENTATION OF ECIP

Introduction

At the Council's request the existing ECIP Regulation (319/92) includes at Article 9 para 3 the following provision quote : "The Council shall ask the Court of Auditors to deliver an opinion on the implementation of the instrument by 31 December 1993." unquote. Accordingly the Court audited ECIP during 1993 and presented their opinion (N° 12/93) to the Council in December 1993. This annex summarises below the principal conclusions and recommendations of the Court as regards ECIP, and the Commission's management thereof. The Commission provided the Council in March 1994 with its comments and replies to the Court which in particular showed how the existing ECIP Regulation (319/92) and the Commission's implementation thereof are in conformity with the Financial Regulation applicable to the General Budget of the EC.

Court's conclusion

Quote :

Court of Auditor's conclusion on ECIP

"The ECIP instrument meets a real need which the market ignores, or of which it takes only inadequate account. This is especially true with regard to finance provided under Facilities N° 1, 2 and 4. This instrument, which is in addition to the others already set up by the Community, reflects developing countries eagerness to obtain technology transfers through the setting-up of joint ventures.

The Commission has nevertheless come up against the difficulty, which it has been unable to resolve, of managing a banking instrument while, at the same time, complying with budgetary law and the rules of public accounting. The implementation of the instrument has suffered from this difficulty.

During the first few years, the Commission concentrated its energies on setting up a network which was large and diverse in composition in order to implement the instrument. The enquiry showed that the Commission does not have sufficient resources to manage such a large network effectively. In this respect, the situation is all the more unsatisfactory as the Commission has not been able to provide itself with the tools for collecting and processing the information which is necessary for effective decentralised management and for checking the way Community funds are used.

The results obtained in terms of the setting-up of joint ventures with the aid of Facility n°3 finance are modest, much more modest than is suggested by the Annual Report published by the Commission in 1992. The figures given in this Report do not refer to the number of contracts actually signed, let alone operations carried out, but only to the decisions taken by the Steering Committee. As for companies which it was possible to set up with the aid of funding provided under Facilities N° 1 or 2, but not Facility N° 3, the Commission did not have at its disposal, any more than did the FIs which were visited, sufficient information to check whether such companies actually existed and, if so, how many of them there were.

To the extent that the Community legislator and the Commission wish, within the framework of development aid policy, to persevere with promoting investment in the private sector by means of the ECIP instrument, steps should be taken to set up a suitable structure. For this sort of operation, this could be a legally-recognised specialist body subject to commercial law, but also to the supervisory authority of the Commission and to the auditing powers of the Court of Auditors, in accordance with Article 87 of the Financial Regulation." unquote \

Court of Auditor's specific remarks as regards adoption of the ECIP regulation (EEC) 319/92

Quote : "Article 209 of the EEC Treaty stipulates that : "The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall :

- (a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Communities' own resources shall be made available to the Commission ...".

The opinion of Court of Auditors which is provided for in this Article is an important obligation, in the absence of which the lawfulness of such a Regulation is questionable.

Council Regulation (EEC) N° 319/92 contains various provisions relating to the implementation of the general budget of the EC which confer upon it the nature of a Financial Regulation. For this reason, in order for the adoption of this Regulation to be valid, it should, in accordance with Article 209 of the EEC Treaty, have been submitted to the Court of Auditors for a prior opinion. Such an opinion was all the more essential since, as has been shown in paragraphs 29 to 40, the provisions in question depart perceptibly from the rules of financial orthodoxy which are reiterated in the Financial Regulation of 21 December 1977." Unquote

(Complete copies of the Court of Auditor's Opinion and the Commission's Replies have already been sent to DGs I, II, III, XVIII, XIX, XX, XXIII and the S.J.)

FINANCIAL STATEMENT

1. **Title of operation:** Measures to encourage Community investment in the developing countries of Latin America, Asia and the Mediterranean region and in the Republic of South Africa.

EC Investment Partners financial instrument
(+ ancillary and support costs)

2. **Budget heading involved:** B7-5000

3. **Legal basis:**

Council Regulation (EEC) applicable from 1 January 1992 to 31 December 1994, on the EC-International Investment Partners financial instrument for countries of Asia, Latin America and the Mediterranean region. Regulation 319/92 of 3 February 1992 (OJ No L 35, 12.2.1992).

The Commission proposal to the Council is for continuation of the ECIP Regulation beyond 31.12.1994 with minimal changes and the addition of South Africa.

4. **Description of operation:**

4.1 General objective

To encourage economic cooperation between the Community and third countries by assisting direct investment by Community firms, particularly SME, by the creation of joint ventures with firms in Asia, Latin America, the Mediterranean region and South Africa. To encourage by this means the transfer of know-how, production, technology transfers, employment and recovery of the balance of payments.

4.2 Period covered and arrangements for renewal or extension

Indeterminate

5. **Classification of expenditure or revenue**

5.1 *Compulsory/Non-compulsory expenditure*

5.2 *Differentiated/Non-differentiated appropriations*

6. **Type of expenditure or revenue**

- *100% subsidy*
- *Subsidy for joint financing with other sources in the public and/or private sector*
- *Interest subsidy*
- *Other:*
 - *Interest-free advances*
 - *Equity participation*
 - *Loans*
- *Should the operation prove an economic success, is there provision for all or*

part of the Community contribution to be reimbursed? Reimbursements are to be held on deposit by the financial institutions acting as ECIP fund managers for the Commission (see Article 5(4) of Council Regulation (EEC) No 319/92 of 3 February 1992).

- *Will the proposed operation cause any change in the level of revenue? If so, what sort of change and what type of revenue is involved?*
 - *Revenue collected -*
- *Re-use*

7. Fraud prevention measures; Results of measures taken

Normal Commission controls, plus control by the participating financial institutions under their own responsibility and external evaluation. A firm of accountants will also carry out an independent audit, each year, on behalf of the Commission. Special provisions have been included in all framework contracts and financing agreements for any unjustified advances to be reimbursed automatically after the annual audit. In view of each operation's relatively low cost compared to the extent of the liability of the financial institutions, audit is likely to be thorough.

8. Elements of cost-effectiveness analysis

8.1 Specific and quantified objectives; target population

See point 4.1

8.2 Grounds for the operation

This operation aims to:

- foster the development of the partner countries through the creation of productive jobs, the transfer of risk capital, and the transfer of technological and management know-how (the investments that facilitate the above should also take account of the market viability of the product);
- stimulate the role of the private sector in the development of the partner countries so as to enhance their economic efficiency;
- spur private and public economic operators in the Community into helping those countries to develop, especially against the backdrop of the budgetary constraints facing the Community and Member States.

The operation will tend to provide leverage for a small Community budget to mobilize a larger flow of private sector capital. It will also make Member States' efforts in this area more effective and they will benefit from the effects of synergy, with several projects and programmes combined into one single project. Since the projects will be initiated by economic operators and screened by the participating financial institutions, the operation will allow a great many projects to be covered at little administrative cost to the Commission.

Note also that the instrument will result in repayments to the Community budget,

Note also that the instrument will result in repayments to the Community budget, thereby adding to its cost-effectiveness.

8.3 Monitoring and evaluation of the operation

8.3.1 There are two types of indicator: (a) of development and (b) financial

(a) The contribution to development will be assessed on the basis of the following criteria:

- impact on the local economy;
- creation of added value;
- creation of local jobs;
- promotion of local entrepreneurs;
- transfer of technology and know-how and development of the techniques used;
- acquisition of training and expertise by managers and local staff;
- implications for women;
- creation of local jobs in circumstances which do not involve exploiting employees;
- impact on the balance of trade and balance of payments;
- impact on the environment;
- manufacture and supply to the local market of products hitherto difficult to obtain or substandard;
- use of local raw materials and resources.

(see Article 6 of Council Regulation No 319/92 of 3.2.1992).

(b) The conditions for cofinancing by the private operators and financial institutions and the consequent obligation to share the risk, will ensure the financial viability of each project. The percentage of financially successful projects will provide an indicator of the success of operations.

8.3.2 Details and frequency of planned evaluations

In addition to appraising and evaluating each operation, the Commission is to provide the following formal evaluations, assisted by the financial institutions, in 1994:

By 30 April of each year at the latest, the Commission will send a progress report to Parliament and to the Council showing the projects selected, the appropriations granted and the repayments to the general budget of the European Communities, including annual statistics for the previous year.

The Commission will forward the results of an independent appraisal of the instrument to the European Parliament and to the Council every five years.

An independent firm of accountants will carry out an annual financial audit.

8.3.3 Assessment of the results obtained

See 8.3.2 above.

- 8.4.1 The operation is incorporated in the DG's financial programming for the relevant years.
- 8.4.2 The instrument is a key factor in economic cooperation policy with the countries of Asia, Latin America, the Mediterranean and South Africa.
- 8.4.3 The principal uncertainties with a possible bearing on the specific results of the operation are:
- the macroeconomic situation and the investment climate in the EC and in the countries concerned;
 - the private operators' and financial institutions' demand and requirements in relation to the investment vary according to factors outside the Commission's control.

9. Financial impact

- 9.1 Method of calculating total cost of operation for 1995 budget (link between unit costs and total cost)

The proposed increase puts into effect a political will to increase aid in this sector in accordance with the policy proposed in document COM(90)575 of 7.3.1991 and confirmed by Council Regulation No 319/92.

The instrument is based on a network of financial institutions in the Community and third countries. In addition to their duty to propose projects to the Commission, these institutions have to cofinance projects (or help raise the cofinancing). The network of financial institutions currently (July 1995) consists of more than 95 members and others are due to be recruited to help complete the network. Taking into account the ceiling fixed per operation (ECU 1 million), theoretically an annual appropriation of ECU 50 million could easily be used up depending on requirements in the regions concerned. In fact there has been a marked acceleration in the rate of submission of applications (the rate of progression in the number of projects per year = + 100% per year 1989-1993).

The breakdown of commitments by region is expected to be in the following approximate proportions: Asia (37.5%), Latin America (37.5%) and Mediterranean (25%).

9.2 Itemized breakdown of cost

ECU million

Breakdown	Budget 94	PDB 95	Var. in %
Asia	14 625	15 750	108%
Latin America	14 625	15 750	108%
Mediterranean	9 750	10 500	108%
TOTAL	39 000	42 000	108%

ECU million

For South Africa, the additional appropriations will be obtained by redeployment (transfer from B7-5070)			
Breakdown	Budget 94	PDB 95	Var. in %
South Africa	1 000 (by transfer)	Amount to be fixed	-

9.3 Operating expenditure for studies, expert meetings, etc., included in Part B
(see Annex III(a) to the Commission communication of 22.04.1992, attached
in Annex VIII)

ECU million

Breakdown	Budget 94	PDB 95	Var. in %
- Studies	300 000	300 000	100%
- Expert meetings			
- Conferences and congresses	200 000	400 000	200%
- Information and publications	350 000	400 000	114%
- Technical assistance		1 000 000	
TOTAL	850 000	2 100 000	247%

9.4 Schedule for multiannual operations whose basic instrument contains an "amount deemed necessary"

- amount deemed necessary: ECU million
- period: 1995 and subsequent years

ECU million

Accumulated position end 1993 (1)	Budget 1994	Prelim draft budget 1995	INDICATIVE PLAN				
			1996	1997	1998	1999 and subs. yrs	TOTAL
43 823**	39 000	42 000*	60 000*	70 000*	80 000*	100 000*	

N.B.

*

ECU million

For South Africa, the additional appropriations will be obtained by redeployment (transfer from B7-5070)			
Breakdown	Budget 94	PDB 95	Var. in %
South Africa	1 000 (by transfer)	Amount to be fixed	-

** including ECU 5 000 000 of appropriations carried over from 1992

FICHE FINANCIERE

1. POSTE : B7-5070
2. INTITULE DE L'ACTION : Programme d'actions concernant l'Afrique du Sud

en millions d'écus

crédits autorisés 1994		crédits demandés 1995		variation en %	
engagements	paiements	engagements	paiements	engagements	paiements
110	94	100	82	- 9,1	- 12,8

3. BASE LEGALE : Néant (Conclusions of the General Affairs Council of 19th April 1994)
4. DESCRIPTION DE L'ACTION

4.1. Objectifs spécifiques de l'action :

Cette action est destinée principalement à l'aide des populations d'Afrique du Sud, victimes du système de l'Apartheid. Travaillant dans le cadre établi en Septembre 85 lors de la session du Conseil des Ministres des Affaires Etrangères, au sujet de la Coopération Politique Européenne, la Communauté Européenne a mis en place, l'année suivante, le Programme Spécial d'Assistance aux victimes de l'Apartheid. Une assistance financière devait être envoyée sur place via des organisations non violentes présentes en Afrique du Sud, notamment les égalisés. Ainsi quatre chaînes d'assistance furent sélectionnées :

- le Conseil des Eglises sud-africaines (SACC)
- la Conférence des Evêques Catholiques sud-africains (SACBC)
- le Kagiso Trust
- les Syndicats

La Commission ayant condamné l'Apartheid, il s'était avéré impossible d'établir des liens directs avec ces organisations, c'est pourquoi l'assistance financière leur fut fournie via des organisations non-gouvernementales européennes.

Etant donné le changement de situation politique en Afrique du Sud et le fait que la Commission ait ouvert en Février 1991 un bureau de coordination du Programme à Pretoria, un accord fut établi avec les 4 organisations ci-dessus selon lequel elles ne bénéficieraient plus d'un accès exclusif aux fonds disponibles à travers le Programme Spécial. Ainsi, la Commission cherche à élargir l'éventail des institutions avec lesquelles elle coopère en vue de dynamiser l'orientation "développement" de son Programme Spécial.

La sélection des projets proposés en vue d'un financement par le Programme Spécial se fait individuellement par la Commission. Une approbation du bureau de coordination à Pretoria, une consultation appropriée des ambassades des Etats membres en Afrique du Sud ainsi que des experts des Etats membres à Bruxelles précèdent la décision. Le financement communautaire à travers ce programme ne retient aucun projet soutenant les activités d'organisations politiques. Seuls les projets de nature pacifique et non violente peuvent être sélectionnés. Parmi ceux-ci, citons les projets de formation et d'éducation, d'aides diverses dans le domaine sanitaire, d'assistance juridique, visant à permettre aux populations noires d'Afrique du Sud de dépasser leurs difficultés et de prendre part au développement de la société. Depuis le début du Programme en 1986, un total de 536 projets a été approuvé jusque fin 1992, ce qui représente un engagement total de 246,1 millions d'écus.

- Durée : elle dépendra des développements politiques dans le pays.

- Population visée par l'action : les gens défavorisés souffrant du régime de l'apartheid.

5. CLASSIFICATION DE LA DEPENSE/RECETTE

5.1 DNO

5.2. CD

6. TYPE DE LA DEPENSE/RECETTE

Les interventions engagées au titre de cette ligne budgétaire sont pour la plupart financées à environ 80% par la Communauté.

Cette aide pourvoit notamment des actions dans le domaine de l'éducation et de la formation, dans le domaine du développement rural, de la santé et dans le domaine social et humanitaire.

Sont également couverts les frais de l'assistance technique nécessaires à l'exécution de ces mesures ainsi que le coût de l'instruction et du suivi des dossiers.

7. INCIDENCE FINANCIERE SUR LES CREDITS D'INTERVENTION :

7.1. Mode de calcul :

Les candidatures des projets reçues par le Bureau de coordination à Pretoria en Janvier 1993 étaient au nombre de 70. On estime qu'entre 50 et 60 projets parviennent au bureau chaque mois. Le budget de 90 millions d'écus sera engagé totalement pour la fin de l'année 1993.

La situation récente en Afrique du Sud a fait évoluer le Programme Spécial vers une approche plus orientée sur le développement. Un financement plus important est donc requis pour des projets de développement rural, de santé, d'éducation et de formation, ainsi que pour des projets concernant l'environnement et le rôle des femmes dans le développement.

Le Programme de Bourses pour 1993, décidé en 1992, et d'environ 70 millions de Rand (19,5 millions d'écus). Suite aux augmentations des inscriptions universitaires en 1993 (se situant entre 15 et 30%), un montant d'environ 90 millions de Rands (24,6 millions d'écus) devra être prévu pour le programme boursier en 1994. L'éducation de base pour les adultes nécessitera également un financement plus important.

- Importance politique :

Souscrivant aux déclarations exprimées par le Conseil européen en décembre 1989 à Strasbourg, par les Ministres des Affaires Etrangères en février 1990 à Dublin, et rappelées par le Conseil Européen en décembre 1990 à Rome, la Commission estime que ce programme devrait être soutenu.

Lors de sa réunion les 14 et 15 décembre 1990, le Conseil européen a déclaré son intention "d'intensifier le programme des mesures positives et de l'adapter aux nécessités de la nouvelle situation,..."

Les Ministres des Affaires étrangères réunis dans le cadre de la coopération politique européenne le 20 février 1990 à Dublin, ont apporté leur soutien à cette déclaration.

Les négociations actuellement en cours entre les différents acteurs politiques en vue de la création de structures de transition, suivies par des élections démocratiques, donnent une nouvelle impulsion à continuer ce programme. Il convient maintenant de soutenir au maximum les forces pacifiques anti-apartheid. Un effort accru s'avère à présent nécessaire puisque l'évolution pacifique repose sur des bases fragiles. La présente proposition de la Commission pour 1994 répond à ces impératifs politiques et techniques.

8. DISPOSITIONS ANTI-FRAUDE PREVUES DANS LA PROPOSITION D'ACTION:

Contrôle de la Commission et acceptation du contrôle de la Cour des comptes par les bénéficiaires.

9. ELEMENTS D'ANALYSE COUT-EFFICACITE

9.1. Objectifs et cohérence avec la programmation financière :

- Objectifs spécifiques :

Dans le cadre de l'adaptation de Programme Spécial à l'évolution de la situation en Afrique du Sud et tenant compte des déclarations politiques de la part de la Communauté, la Commission poursuivra la mise en oeuvre du programme

- en orientant l'aide sur des programmes axés sur le développement plutôt que, comme par le passé, sur des projets à dimension politique;
- en réalisant des micro projets par auto-assistance;
- en accordant une importance accrue aux projets éducatifs, etc.;

Certaines estimations font état d'un besoin de 15 à 20 milliards d'écus pour élever la qualité des logements, de la santé et de l'éducation au niveau moyen dont jouit la population blanche de l'Afrique du Sud.

- Objectif général :

Aides spécifiques dans le domaine du développement.

9.2 Justification de l'action par rapport à une alternative qui permettrait d'atteindre les mêmes objectifs :

Le rôle que la Communauté exerce dans le cadre de la Convention de Lomé en Afrique ne lui permet pas de rester silencieuse à l'égard des problèmes de l'Afrique du Sud. La Communauté est donc pratiquement obligée d'intervenir. Son intervention pourrait être, soit la continuation des actions réalisées à ce jour dans le cadre du Programme Spécial, soit une autre formule permettant un soutien à la population défavorisée en Afrique du Sud.

Il est évident qu'on devrait attendre préalablement l'adoption d'une nouvelle constitution et finalement l'instauration d'un gouvernement post-apartheid issu des élections "free and fair".

Aussi longtemps que ces conditions n'ont pas été remplies, il n'y a pas d'autres alternatives permettant une modification du financement actuel. La Commission ne peut pas rester inactive devant les besoins de plus en plus grands.

Concernant les effets dérivés, l'action communautaire contribue à l'établissement des relations publiques fondées sur la confiance et la reconnaissance.

Quant à la question de la subsidiarité, les constatations faites sur place font ressortir que les efforts des États membres des autres pays sont insuffisants pour répondre aux besoins. C'est pour ces raisons d'ailleurs que le programme en question est réalisé en étroite collaboration avec les gouvernements des États membres.

9.3 Suivi et évaluation de l'action

Ne peuvent être considérés comme indicateurs de performance que des résultats obtenus à long terme :

- Affaiblissement des souffrances humaines
- formation et éducation aboutissant à un réel exercice de responsabilités dans la vie économique par la population noire.

Quant aux modalités et à la périodicité de l'évaluation, celles-ci sont réalisées par des contrôles réguliers et notamment des sondages portant sur environ 10% des projets.

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