CORRIGENDA

Corrigendum to Decision 95/145/EC, ECSC of the Council and the Commission of 10 April 1995 concerning the conclusion of the Agreement between the European Communities and the Government of the United States of America regarding the application of their competition laws

(Official Journal of the European Communities No L 95 of 27 April 1995)

The exchange of interpretive letters with the Government of the United States of America should be replaced by the following text:

Exchange of interpretative letters with the Government of the United States of America

Dear [name],

As you are aware, on 9 August 1994, the Court of Justice of the European Communities held that the European Commission was not competent to conclude the 'Agreement between the Commission of the European Communities and the Government of the United States of America regarding the application of their competition rules'.

In order to remedy this situation and to assure the continuation of the application of the Agreement, the Council has decided on [date] to conclude the Agreement. However, as the Agreement will now be concluded by the Council on behalf of the European Community and by the Commission on behalf of the European Coal and Steel Community, certain corrections to the text of the Agreement are necessary. These are set out in detail in the Annex to this letter, which forms an integral part of this letter.

As these corrections do not affect the substance of the Agreement, we consider that they can be made through an exchange of letters. We should therefore be grateful if you would confirm your acceptance of the corrections contained in this letter.

Moreover, in order to ensure a clear understanding of the European Communities' interpretation of the Agreement, we set out below two interpretative statements:

1. In the light of Article IX of the Agreement, Article VIII (1) should be understood to mean that the information covered by the provisions of Article 20 of Council Regulation 17/62 or by equivalent provisions in other regulations in the field of competition may not under any circumstances be communicated by the Commission to the US antitrust authorities, save with the express agreement of the source concerned.

   Similarly, the information referred to in Articles II (6) and III of the Agreement may not include information covered by Article 20 of Regulation 17/62 nor by equivalent provisions in other regulations in the field of competition, save with the express agreement of the source concerned.

2. In the light of Article VIII (2) of the Agreement, all information provided in confidence by either of the Parties in accordance with the Agreement will be considered as confidential by the receiving Party which should oppose any request for disclosure to a third party unless such disclosure is:

   (a) authorized by the Party supplying the information, or

   (b) required under the law of the receiving Party.

This is understood to mean that:

— each Party assures the confidentiality of all information provided in confidence by the other Party in accordance with the receiving Party's applicable rules, including those rules intended to assure the confidentiality of information gathered during a Party's own enforcement activities,

— each Party shall use all the legal means at its disposal to oppose the disclosure of this information. The European Communities recall the principles which govern the relationship between the Commission and the Member States in the application of the competition rules as enshrined, for example, in Council Regulation 17/62. The Commission after notice to the US competition authorities, will inform the Member State or Member States whose interests are affected of the

notifications sent to it by the US antitrust authorities. The Commission, after consultation with the US competition authorities, will also inform such Member State or Member States of any cooperation and coordination of enforcement activities. However, as regards such activities, either competition authority will respect the other's request not to disclose the information which it provides when necessary to ensure confidentiality, subject to any contrary requirement of the applicable law.

We should be grateful if you would also confirm that these interpretative statements do not present any difficulties for the US Government.

Yours sincerely,

ANNEX

CHANGES TO THE TEXT OF THE AGREEMENT NECESSITATED BY THE CONCLUSION OF THE AGREEMENT BY THE COMMISSION ON BEHALF OF THE EUROPEAN COAL AND STEEL COMMUNITY AND BY THE COUNCIL ON BEHALF OF THE EUROPEAN COMMUNITY [1]

Title

Agreement between *the European Communities* and the Government of the United States of America regarding the application of their competition laws

Parties

The European Community and the European Coal and Steel Community on the one hand (hereinafter referred to as 'the European Communities')

Recital No 2

Noting that *the European Communities* and the Government of the United States of America share the view that the sound and effective enforcement of competition law is a matter of importance to the efficient operation of their respective markets and to trade between them;

Execution

For the European Community

For the European Coal and Steel Community

For the Government of the United States of America.

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[1] All changes have been underlined (italic in this Official Journal).