COMMISSION DECISION

of 10 October 2001

on the State aid implemented by Germany for Zeitzer Maschinen, Anlagen, Geräte ZEMAG GmbH

(notified under document number C(2001) 2957)

(Only the German text is authentic)

(Text with EEA relevance)

(2002/186/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) In reference to a press article in the Frankfurter Allgemeine Zeitung of 30 September 1997 on the second privatisation of Zeitzer Maschinen, Anlagen, Geräte ZEMAG GmbH (hereinafter referred to as 'ZEMAG'), the Commission requested information from Germany. By letter dated 24 March 1998, Germany notified the Commission of restructuring aid for the second restructuring of ZEMAG in accordance with Article 88(3) of the EC Treaty. By letter dated 5 May 1998, the Commission informed Germany that the case had been registered as non-notified aid since some of it had already been committed and partly disbursed before the Commission could take a position on it. By letters dated 8 June 1998, 2 March 1999, 18 June 1999, 6 December 1999, 23 May 2000 and 18 October 2000, the Commission requested additional information from Germany, which replied by letters dated 20 July 1998, 8 September 1998, 24 March 1999, 26 August 1999, 20 January 2000, 9 February 2000, 10 October 2000 and 22 November 2000.

(2) Talks took place on 30 March 1999 in Berlin and on 21 January 2000 in Zeitz with representatives of Germany and the investor.

(3) By letter dated 1 February 2001, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid. At the same time, it informed Germany of its decision to issue an information injunction under Article 10(3) of Council Regulation (EC) No 659/1999 [2]. The Commission decisions to initiate the procedure and to issue the information injunction were published in the *Official Journal of the European Communities* [3]. The Commission invited interested parties to submit their comments on the aid.

(4) On 5 June 2001 the bankruptcy administrator for ZEMAG issued his opinion on the initiation of the procedure.

(5) Germany responded to the injunction and to the initiation of the procedure on 16 January 2001, 11 May 2001 and 16 July 2001.

[1] OJ C 133, 5.5.2001, p. 3.
[2] OJ L 83, 27.3.1999, p. 1.
[3] See footnote 1.

II. **DESCRIPTION**

II.1. **Background until the second restructuring**

(6) ZEMAG is situated in Zeitz, Saxony-Anhalt (Germany). It developed and manufactured machinery and plant for the briquetting and processing of gypsum and lignite and for power station feeders and the granulation of dung. Saxony-Anhalt is an area eligible for regional aid under Article 87(3)(a) of the EC Treaty.

(7) ZEMAG belonged to a group of eight eastern German companies which were first privatised in 1994 as EFBE Verwaltungs GmbH & Co. Management KG, now LINTRA Beteiligungsholding GmbH (hereinafter referred to as 'LINTRA'). At the end of 1996 the restructuring plan undertaken by LINTRA was deemed to have failed. In January 1997 the Bundesanstalt für vereinigungsbedingte Sonderaufgaben (the successor to the Treuhand privatisation agency and hereinafter referred to as 'BvS') decided to restructure ZEMAG with a view to preparing it for resale.

II.2. **The second restructuring**

(8) In 1997 ZEMAG had some 140 employees and a turnover of DEM 28 million. Since the employment threshold and the financial ceilings are not exceeded, ZEMAG is regarded as an SME within the meaning of the Commission Recommendation of 3 April 1996 concerning the definition of small and medium-sized enterprises [4].

(9) According to Germany, the investor for the second restructuring was chosen in an open and unconditional bidding procedure. On the basis of the negotiations carried out with the interested parties, Mr Lobeck and Mr Jacobi, two private businessmen, turned out to have submitted the best bid.

(10) On 27 October 1997 all the shares in ZEMAG were transferred from LINTRA to Mr Lobeck and Mr Jacobi for DEM 1.

II.3. **The restructuring plan**

(11) The restructuring plan submitted envisaged a restructuring period stretching from the end of 1997 to 2000. It addressed three key areas which were identified as the reasons for the failure of the first privatisation:

— Lack of commercial management: ZEMAG had a large number of highly experienced engineers but lacked experienced managers for the commercial functions of finance, control and sales,

— Overstaffing: prior to the current restructuring, ZEMAG employed some 120 people more than it needed, and this led to monthly losses of some DEM 1 to 1,5 million. The workforce was, therefore, reduced to about 140 in 1997,

— Marketing and production: given the marked decline in lignite mining, new markets had to be found for ZEMAG's products. In addition, the manufacture of structurally loss-making products, such as cranes, had to be abandoned.

(12) According to the restructuring plan, turnover would increase from DEM 28 million in 1997 to DEM 66 million in 2000. A positive operating result was envisaged from 1998 onwards.

[4] OJ L 107, 30.4.1996, p. 4; see in particular Annex, Article 1(1) and (6).

(13) According to Germany, the total cost of the second restructuring of ZEMAG was DEM 43,66 million:

(DEM)

Purpose	Amount
Workforce reduction	9 000 000
Loss cover	8 107 000
Investments	1 858 000
Bank guarantees	12 000 000
Increase in working capital	12 700 000

(14) Germany gave the following figures for the public financing of the cost of the second restructuring:

Financial measure (DEM)	Form	Origin	When granted	Purpose
Ad hoc aid paid out in full				
6 500 000	Grant	BvS	1997	Workforce reduction prior to sale
4 000 000	Grant	BvS	1997	Loss cover until 10/97
4 000 000	Grant	BvS	1997	Loss cover after 10/97
107 000	Loan	BvS/LINTRA	1997	Loss cover/compensation
9 600 000	Guarantees for credit line totalling DEM 12 million	BvS/*Land* Saxony-Anhalt	1997	80 % bank guarantee for credit line [1]
2 500 000	Grant	*Land*	1997	Work force reduction prior to sale
Aid schemes previously approved by the Commission				
1 858 000	*Land* investment grant [2]	*Land*	1995	Investments
28 565 000	Total			

[1] In 1997 HypoVereinsbank received two deficiency guarantees (80 %) totalling DEM 4,96 million and DEM 4,64 million from the BvS with a view to arranging a credit line for ZEMAG totalling some DEM 12 million. If the Commission decision had been positive, the *Land* of Saxony-Anhalt would have taken over this guarantee. The remaining 20 % of the credit line was covered by the house bank's own risk ('Eigenobligo') amounting to DEM 1,68 million and an investor guarantee for DEM 720 000.
[2] 24th general plan of the Federal Government/*Länder* joint programme for promoting investment (Aid N 531/95).

(15) Germany indicated that in the industrial sector in which ZEMAG operated large amounts of working capital in the form of guarantees ('Avalrahmen') and cash for business transactions ('Kontokorrent') are typically needed. The guarantees are used to pre-finance contractual work and to cover warranty obligations.

(16) Germany gave the following figures for the private financing of the cost of ZEMAG's second restructuring:

Private contribution (DEM)	Form	Origin	Date
1 000 000	Shareholder loan	Investor	1997
8 700 000	Workforce contribution (income forgone)	Workforce	1997 to 2000
720 000 1 680 000	Guarantees for credit line totalling DEM 12 million	Guarantees from a private bank/investor	1997
500 000	Credit line from private bank (1)	Private bank/investor	1997
2 500 000	Additional credit line from private bank	Private bank	Subject to approval
15 100 000	Total		

(1) 100 % guarantee by the investor.

(17) Germany provided further information showing that the workforce wished to help the firm by further reducing staff costs (5). However, no further information was forthcoming to indicate that the employee participation model would actually be implemented.

II.4. **Market analysis**

(18) ZEMAG developed and produced machinery and plant for the briquetting and processing of gypsum and lignite and for power station feeders and the granulation of dung. This machinery is produced as part of industrial plants or as separate machinery. The products belong to the group of general-purpose machinery, including machinery for power stations (NACE Codes 29.1 and 29.2) (6).

(19) According to information provided by Germany, the main geographic markets for ZEMAG were Germany, Eastern Europe, Turkey, India, China, South Africa and Brazil. Prior to 1997, Germany was virtually the only market for ZEMAG. After the restructuring, ZEMAG should achieve the following market shares with its products:

Products	Geographic market	Target market share
Coal briquetting machinery and plant	Germany	7,5 %
	Balkans/Turkey	7,5 %
	India	18 %
Machinery and plant for other bulk material handling such as pressers, crushing machinery, screens, dryers and bunker dischargers	Germany	10 %
	Balkans/Turkey	8 %
	Central Asia	20 %
	India	10 %
Machinery and plant for solid waste recycling/environmental machinery	Germany	17 %
Other machinery and plant for the same sector	Germany	10 %

(5) According to Germany, the workforce agreed to work for another three years without any increase in salary (saving of DEM 600 000) and without any Christmas or holiday bonus (saving of DEM 1,5 million). As quid pro quo, they would become shareholders in the firm.

(6) Panorama of EU Industry 1999.

(20) Germany stated that there was no overcapacity on ZEMAG's product markets.

(21) The trends in ZEMAG's capacity and business development are as follows:

Year	1994	1995	1996	1997	1998	1999	2000
Operating result (DEM)	– 15 million	– 9 million	– 10 million	– 15 million	– 4 million	– 3 million	—
Employees	347	306	294	250/130	140	145	161
Manufacturing	86	82	75	65	63	n.a.	75
Maximum production [h]	210 000	165 000	130 000	130 000 (1 shift)	130 000 (1 shift)	130 000 (1 shift)	173 000 (2 shifts)
Actual [h]		130 044	119 482	99 983	100 547	110 650	—

(22) In 1994 ZEMAG's capacity totalled 210 000 production hours per year. This was reduced by the end of December 1996 to 130 000 production hours per year. The number of employees was cut from 347 in 1994 to 140 in 1997. In 2000 it was to be increased to 161. Given this increase and the introduction of a two-shift system, total maximum production hours would rise to 173 000 production hours per year.

II.6. **Introduction of the procedure**

(23) By decision of 21 December 2000, notified to Germany on 1 February 2001, the Commission initiated the procedure under Article 88(2) of the EC Treaty. At the same time, it informed Germany of its decision to issue an information injunction under Article 10(3) of Regulation (EC) No 659/1999 in respect of a measure allegedly granted under schemes previously approved by the Commission.

(24) In its decision to initiate the formal investigation procedure, the Commission expressed doubts:

(a) whether the restructuring plan could put the firm in a position to cover all its costs including depreciation and financial charges and whether, to that extent, the viability criterion was met;

(b) whether a relaxation of the principle of requiring a proportionate reduction in capacity could be allowed;

(c) whether the increase in production hours was essential to restoring the firm's viability;

(d) whether the aid beneficiary would make a substantial contribution to the restructuring costs from its own resources.

(25) The Commission also noted that the DEM 8,7 million reduction in wage costs was to be regarded not as a contribution by the aid beneficiary but as a contribution by the workforce to the restructuring costs. An additional payment of DEM 2,1 million by the workforce was not regarded as a contribution to the restructuring costs since it appeared that not all the details of this measure had yet been decided.

(26) The Commission also noted that a private bank was intending to increase ZEMAG's credit line to DEM 3 million and the guarantee line by DEM 3 million (to DEM 15 million in total). Since Germany gave no further indications of the exact terms of these measures and whether they would actually be granted in the end, the Commission was unable to ascertain whether they were granted unconditionally on market terms. For this reason, they were not included in the analysis of the aid proportionality.

(27) In addition, the Commission stated that aid measures for ZEMAG's first restructuring, which had been considered incompatible with the common market in the LINTRA decision, were to be included in the assessment of the private-investor contribution to the restructuring costs [7].

III. **COMMENTS FROM GERMANY AND INTERESTED PARTIES**

(28) On 16 January 2001 Germany informed the Commission that ZEMAG had filed for bankruptcy on 27 December 2000.

(29) On 5 June 2001 the bankruptcy administrator for ZEMAG submitted comments on the initiation of the procedure. He indicated that the measures in question should also be assessed in the light of Article 87(2)(c) and (3)(a) of the EC Treaty. He also took the view that the restructuring plan could have restored ZEMAG to viability. He further explained that, on account of the unresolved State aid situation, the financial resources of the firm had to be used to secure two loans from a private bank. As these resources could not, therefore, be used for financing restructuring measures, restoration of ZEMAG's viability was delayed.

(30) On 16 July 2001 Germany submitted the information necessary to determine whether the aid was granted under a previously authorised scheme and whether it satisfies the conditions laid down in this Decision. At the same time, it submitted its comments on the initiation of the formal investigation procedure. It holds to the view that, at the time the aid was granted, the restructuring plan could have restored the company to long-term viability.

IV. **ASSESSMENT OF THE AID**

IV.1. **Compatibility of the aid with the EC Treaty**

(31) According to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market. Pursuant to the case law of the European Court of Justice, the criterion of the aid being affected is met if the recipient firm carries out an economic activity involving trade between Member States.

(32) The Commission notes that the aid was granted through State resources to a firm that was favoured by reducing costs it would normally have had to bear if it wanted to carry out the notified restructuring project. Moreover, the aid recipient ZEMAG developed and manufactured machinery that is the subject of trade between Member States. Accordingly, the aid in question falls within the scope of Article 87(1) of the EC Treaty.

(33) Exemptions or derogations from the basic prohibition on aid under Article 87(1) may be granted under Article 87(2) and (3).

(34) Article 87(2)(c) empowers the Commission to approve State aid granted to the economy of certain areas of Germany affected by the division of Germany in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

(35) Germany and the interested parties have not provided any information proving that this aid is specifically designed to compensate for advantages caused by the division of Germany. On the contrary, it appears from the information submitted by Germany that the aid was granted in order to restructure a firm in difficulty. The division of Germany did not cause the firm's difficulties. Pursuant to the case-law of the European Court of Justice, the application of Article 87(2)(c) of the EC Treaty to this case would not be justified [8].

[7] On 28 March 2001 the Commission took a partly negative decision on aid for LINTRA and its subsidiaries. Germany was required to recover from them an amount of DEM 34,978 million. The amount of misused aid granted to ZEMAG totals DEM 6,37 million.

[8] See *inter alia* Joined Cases T-132/96 and T-143/96 *Freistaat Sachsen* v *Commission* [1999] ECR II-3663.

(36) This case falls within the scope of Article 87(3) of the EC Treaty, which empowers the Commission to approve State aid in certain specified circumstances. Under Article 87(3)(a), the Commission is authorised to grant State aid designed to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. The *Land* of Saxony-Anhalt is caught by this provision. In this case, however, the main purpose of the aid was to promote the development of a certain economic sector rather than to promote the economic development of a region. Accordingly, the aid should be assessed under Article 87(3)(c) and not under Article 87(3)(a).

(37) In the guidelines on rescue and restructuring aid [9] (hereinafter referred to as the 'guidelines'), the Commission spelt out in detail the criteria for assessing aid designed to restructure a firm.

(38) According to paragraph 2.1 of the guidelines, typical symptoms of a firm in difficulty are deteriorating profitability or increasing size of losses, diminishing turnover, declining cash flow and low net asset value. The Commission notes that ZEMAG has made losses since being privatised in 1994. The losses amounted to DEM 15 million in 1997. The firm is, therefore, regarded as a firm in difficulty.

IV.2. **Aid allegedly granted under an approved scheme**

(39) In its decision to initiate the investigation procedure, the Commission noted that, of the total public contribution to the restructuring costs, DEM 1,85 million was allegedly granted on the basis of an approved scheme. As Germany did not provide sufficient details to enable the Commission to determine whether the measure complied with the thresholds and conditions laid down in the scheme, it issued an information injunction pursuant to Article 10(3) of Regulation (EC) No 659/1999.

(40) From the information submitted by Germany in response to the information injunction it appears that on 27 September 1995 Germany provided ZEMAG with an investment grant of DEM 4,345 million. This aid was granted on the basis of an aid scheme previously approved by the Commission [10]. On account of a lower level of investment by ZEMAG, the grant was reduced on 26 July 2000 to DEM 2,07 million. Since ZEMAG filed for bankruptcy in December 2000, only DEM 1,85 million was paid out to it.

(41) The Commission notes that the measure complies with the thresholds and conditions laid down in the scheme. Accordingly, the measure is regarded as existing aid within the meaning of Article 1(b)(ii) of Regulation (EC) No 659/1999. The Commission need not, therefore, assess its compatibility in its decision. However, the aid of DEM 1,858 million must be taken into account in assessing the proportionality of the aid pursuant to paragraph 3.2.2(iii) of the guidelines.

IV.2.1. *Restoration of viability*

(42) The granting of restructuring aid requires a detailed restructuring plan capable of restoring the long-term viability and health of the firm within a reasonable time span and on the basis of realistic assumptions as to its future operating conditions. To fulfil the viability criterion, the restructuring plan must put the firm into a position of covering all its costs including depreciation and financial charges.

(43) In initiating the formal investigation procedure, the Commission expressed its reservations whether the restructuring plan could be considered capable of putting the firm into a position of covering all its costs. It thus raised doubts as to whether the submitted restructuring plan fulfilled the viability criterion laid down in the guidelines.

[9] Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 368, 23.12.1994): the guidelines were revised in 1999 (OJ C 288, 9.10.1999, p. 2). The new version of the guidelines is not applicable here since all the aid was granted before the revised guidelines were published (see Section 7 of the 1999 version).

[10] 24th general plan of the Federal Government/*Länder* joint programme for improving regional economic structures (Aid N 531/95).

(44) In its response to the initiation of the investigation procedure, Germany and the bankruptcy administrator for ZEMAG pointed out that, at the time the aid was granted, the restructuring plan could have restored ZEMAG to long-term viability.

(45) The Commission notes that ZEMAG was operating in a market segment where it is necessary to provide various contract-related guarantees. These guarantees have to be provided for up to five years after the contract has been fulfilled. Moreover, firms operating in this market segment need to be able to pre-finance contracts and cover unsettled claims in case the client does not pay on time.

(46) The Commission also notes that, in the past, ZEMAG covered its need for guarantees and pre-financing to a large extent by way of public measures. According to the restructuring plan submitted, the need for guarantees was to be covered in the future by a guarantee line from the *Land* of Saxony-Anhalt ([11]).

(47) The Commission would also point out that the investors in ZEMAG were two private businessmen who had only limited resources to provide finance to the firm.

(48) Furthermore, the Commission notes that the restructuring plan submitted envisaged an additional financial contribution to the restructuring costs (see recitals 25 and 26) by the workforce and a private bank. On the basis of the information provided, it appears that this financial contribution would never be provided. This indicates that market investors were, on the basis of the restructuring plan, not prepared to provide the firm with the necessary financial resources.

(49) Taking these facts into account, the Commission is of the opinion that the restructuring plan has not adequately tackled the problem of putting the firm into a position of covering by itself all its costs including depreciation and financial charges. This view is borne out by the firm's economic development during the restructuring period. Accordingly, the Commission takes the view that the restructuring plan does not satisfy the viability criterion laid down in the guidelines. It should also be noted that the recovery claim on LINTRA was an additional burden on the firm.

(50) The Commission notes that the firm filed for bankruptcy on 27 December 2000. It is thus clear that long-term viability of ZEMAG will not be achieved.

IV.2.2. *Avoidance of undue distortions of competition*

(51) The restructuring must contain measures that offset as far as possible adverse effects on competitors; otherwise the aid will be contrary to the common interest and not eligible for exemption under Article 87(3)(c) of the EC Treaty.

(52) This means that, if the firm operates on a market within the Community where an objective assessment of supply and demand shows that there is a structural excess of production capacity, the restructuring plan must make a significant contribution, proportionate to the amount of aid received, to the restructuring of the industry serving the relevant market by irreversibly reducing or closing capacity.

(53) The markets on which ZEMAG operated are highly specialised product markets. According to Germany, there was no overcapacity on those markets.

(54) According to the restructuring plan submitted, ZEMAG was to reduce its production capacity from 130 000 hours per year to 173 000 hours per year between 1997 and 2000. A firm in receipt of restructuring aid should increase its capacity only if its survival would otherwise be threatened. Such an exemption must be explicitly invoked and justified. In the present case, no such explanation of the need for an increase in capacity was given.

(55) For these reasons, the Commission cannot conclude that the restructuring plan submitted contains sufficient measures to counter possible negative effects on competitors.

([11]) To this end, the two guarantees granted in 1997 by the BvS should be converted into a guarantee of the *Land* of Saxony-Anhalt. This guarantee should be granted on the basis of an aid scheme previously approved by the Commission.

IV.2.3. *Aid in proportion to restructuring costs and benefits*

(56) 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 recipients must make a significant contribution to the restructuring costs from their own resources or from external commercial financing.

(57) In initiating the formal investigation procedure, the Commission noted that the workforce contributed DEM 8,7 million to the restructuring costs. An additional contribution by the workforce of DEM 2,1 million was not taken into account since the details of the participation by the workforce were not definitively decided. Moreover, since the measure was to be granted outside the restructuring period, it was questionable whether the Commission could regard it as a restructuring measure at all.

(58) The Commission also noted that a private bank intended to increase ZEMAG's credit line to DEM 3 million and the guarantee line to DEM 15 million. As Germany did not provide any further information on the exact terms of these measures and on whether they would be granted in the end, the Commission could not include them in the proportionality analysis either as a restructuring measure or as a contribution by external commercial financing to the restructuring costs.

(59) For the above reasons, the Commission took the view in its decision that the total costs of the second restructuring of ZEMAG would amount to DEM 41,058 million. The contribution by the aid recipient would be DEM 3,9 million i.e. less than 10 % of the total costs, without taking into account the additional burden of the recovery claim on LINTRA. This cannot be regarded as 'significant' within the meaning of the guidelines.

(60) The Commission notes that, on the basis of the information submitted in response to the initiation of the investigation procedure, neither the additional contribution to the restructuring costs by the workforce nor the additional bank finance would actually be granted.

(61) Moreover, in initiating the formal investigation procedure, the Commission stated that the aid granted to ZEMAG until 1997 via LINTRA had to be assessed as part of Case C-41/99 (LINTRA Beteiligungsholding GmbH). In the present case, this amount of aid was to be taken into account in examining whether the investor would make a significant contribution to the restructuring costs.

(62) On 28 March 2001 the Commission took a partly negative decision on aid to LINTRA and its subsidiaries. Germany was required to recover DEM 34,978 million from LINTRA and its subsidiaries. The amount of aid granted to ZEMAG that was incompatible with the common market totals DEM 6,37 million.

(63) The Commission notes that Germany has not supplied any information on how this amount is to be taken into account in analysing whether the aid is limited to the strict minimum and whether the aid recipient is making a significant contribution to the restructuring plan from its own resources.

(64) Lastly, it should be borne in mind that the aid recipient is apparently contributing DEM 3,9 million to the restructuring costs of DEM 41,058 million. The public measures for the second restructuring, including the DEM 1,85 million granted under previously approved schemes, amount to some DEM 28,45 million. This amount does not include the aid measures amounting to DEM 6,37 million that are regarded as being incompatible with the common market and are to be recovered as a result of the LINTRA decision. It cannot, therefore, be concluded that the aid is in proportion to the restructuring costs and benefits. In addition the fact that the restructuring plan is not suitable for returning ZEMAG to long-term viability bears out the Commission's assessment.

(65) In view of the foregoing, the Commission cannot conclude that this criterion laid down in the guidelines has been met.

V. **CONCLUSION**

(66) The Commission finds that Germany has granted the aid in question in breach of Article 88(3) of the EC Treaty.

(67) The amount of DEM 26,6 million in aid that is incompatible with the common market is to be recovered from ZEMAG,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Germany has implemented for Zeitzer Maschinen, Anlagen, Geräte ZEMAG GmbH, amounting to DEM 26,6 million, is incompatible with the common market.

Article 2

1. Germany shall take all necessary measures to recover from the beneficiary the aid referred to in Article 1 and unlawfully made available to the beneficiary.

2. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of the decision. The aid to be recovered shall include interest from the date on which it was at the disposal of the beneficiary until the date of its recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant equivalent of regional aid.

Article 3

Germany shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 10 October 2001.

For the Commission

Mario MONTI

Member of the Commission