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C(2008) 3099 final

In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...].

**PUBLIC VERSION**

**WORKING LANGUAGE**

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**Subject: State Aid N° N 299/2007 – Poland**  
**Aid to Sharp Manufacturing Poland Sp. z o.o. – LIP**

Sir,

**1. PROCEDURE**

- (1) By electronic notification dated 29 May 2007, registered at the Commission on the same day (SANI 494), the Polish authorities, pursuant to Article 88(3) of the EC Treaty, notified under the Guidelines on national regional aid (“RAG”)<sup>1</sup> their intention to grant regional aid for a large investment project in favour of Sharp Manufacturing Poland Sp. z o.o.
- (2) By letters of 31 July 2007 (D/53194), 21 January 2008 (D/50286) and 20 May 2008 (D/52000), the Commission requested supplementary information.
- (3) By letters of 28 August 2007 (A/37009), 7 November 2007 (A/39181), 20 February 2008 (A/3424), 4 March 2008 (A/4493), 14 March 2008 (A/5204) and 31 March 2008 (A/6099), the Polish authorities asked the Commission to extend the deadline for providing additional information, which the Commission accepted.

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<sup>1</sup> OJ C 54, 4.3.2006, p. 13.

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Minister Spraw Zagranicznych  
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- (4) The Polish authorities submitted the requested additional information by letters registered at the Commission on 20 November 2007 (A/39540), 9 April 2008 (A/6745) and 27 May 2008 (A/9979).
- (5) On 7 February 2008 a meeting was held between the Commission services and the Polish authorities where also representatives of the beneficiary of the aid were present.

## **2. DESCRIPTION OF THE MEASURE**

### **2.1. Objective**

- (6) The Polish authorities intend to promote regional development by providing regional investment aid to Sharp Manufacturing Poland Sp. z o.o. (hereinafter: Sharp Poland) for the setting up of a LCD TV module and LCD TV production plant in Łysomice (Toruń province, Kujawsko-Pomorski Voivodship) in the Pomorski Special Economic Zone, an assisted area pursuant to Article 87(3)(a) of the EC Treaty with a regional aid ceiling of 50% gross grant equivalent (GGE) under the regional aid map of Poland 1.1.2007 – 31.12.2013<sup>2</sup>.

### **2.2. The beneficiary**

- (7) The beneficiary of the aid is Sharp Poland, a limited liability company, which was entered in the Polish National Court Register on 24 April 2006. The Polish authorities indicate that the beneficiary of the aid is a large enterprise, *i.e.* not an SME within the meaning of Commission Regulation (EC) No. 70/2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises<sup>3</sup>.
- (8) Sharp Poland is a 100% subsidiary of Sharp Corporation, a joint-stock company, which was established in 1912 with its headquarters in Osaka, Japan.
- (9) As of 31 March 2007, Sharp Corporation has 83 319 shareholders<sup>4</sup>. The share distribution is the following: Japanese financial institutions (46.74%), foreign shareholders (30.13%), Japanese individual shareholders (15.75%), other Japanese corporations (3.82%), Treasury stock (1.80%) and Japanese securities companies (1.76%)<sup>5</sup>.
- (10) Sharp Corporation is a leading worldwide producer of electronic components and computer hardware and peripherals. Its worldwide business activity includes Audio-Visual and Communication Equipment, Home Appliances, Information Equipment and Electronic Components<sup>6</sup>. Its flagship components business

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<sup>2</sup> Commission decision of 13.9.2006 in State aid case No. N 531/2006 – Poland – Regional aid map 2007 – 2013, OJ C 256, 24.10.2006, p. 7.

<sup>3</sup> OJ L 10, 13.1.2001, p. 33.

<sup>4</sup> Annual Report 2007.

<sup>5</sup> *Ibidem*.

<sup>6</sup> In addition to these activities, Sharp also *inter alia* conducts credit sales of household appliances,

includes liquid crystal displays (hereinafter: LCDs, for different types of uses ranging from airplane cockpits to PCs and pinball machines). At present Sharp does not produce flat-screen displays on the basis of technology other than LCD (for example, plasma display technology).

- (11) Sharp Corporation is a large corporation active worldwide with 58 companies and two representative offices in 25 countries/regions<sup>7</sup>. In the financial year 2007, Sharp's net sales amounted to Yen 3 127 771 million. As of 1 April 2008 the entire Sharp Group employed 60 500 employees<sup>8</sup>.
- (12) The Polish authorities inform that at present there are no existing joint ventures, marketing or similar agreements between Sharp and undertakings not belonging to the Sharp Group concerning the production/sales/distribution of flat-screen displays.

### **2.3. The investment project**

#### *2.3.1. Products*

- (13) The planned project concerns the establishment of a new plant for the assembly of LCD TV modules and LCD TV sets of sizes equal to and above 26 inches (26").
- (14) LCD modules are essential and expensive components of LCD displays and may be used in different electronic products and devices (for example, PC monitors, cellular phones, etc.).
- (15) Sharp Poland in Łysomice will be producing modules of sizes between 26"-52" for the purpose of their assembly in LCD TV sets. The LCD modules produced in the plant will be sold to a number of LCD TV manufacturers including those belonging to Sharp Group. Expected sales of the LCD modules produced in the aided facility are as follows: [...] \* – [...]%, [...] – [...]%, Sharp Poland (integration in TV sets at the same site) – [...] %<sup>10</sup>.

#### *2.3.2. Production process*

- (16) The first step in the module production process, which has started in Europe recently with the establishment of some Asian LCD sector companies in Eastern Europe<sup>11</sup>, is the production of a panel. Panels consist of two glass substrates between which liquid crystals are inserted.
- (17) For the purpose of the investment at hand, panels are produced by Sharp factories in Japan and will be shipped to Poland directly, where further processing into an

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leasing, real-estate rental and insurance business.

<sup>7</sup> Cf. [http://sharp-world.com/corporate/info/ci/g\\_organization/index.html](http://sharp-world.com/corporate/info/ci/g_organization/index.html)

<sup>8</sup> Cf. <http://sharp-world.com/corporate/info/ci/index.html>

\* Covered by the obligation of professional secrecy.

<sup>9</sup> [...] will in turn sell modules to various third parties [...], as well as to a related company, [...].

<sup>10</sup> In the future [...]’s share is expected to increase.

<sup>11</sup> See Commission decision of 19 July 2006 in case N 245/2006 – Aid to LG. Philips LCD Poland Sp. Z o.o. (MSF 2002), OJ C 278, 21.11.2007, p. 1 (the public version of the decision is available at: [http://ec.europa.eu/comm/competition/state\\_aid/register/ii/doc/N-245-2006-WLWL-en-19.07.2006.pdf](http://ec.europa.eu/comm/competition/state_aid/register/ii/doc/N-245-2006-WLWL-en-19.07.2006.pdf)).

LCD TV module is to take place in the plant in Łysomice. Until recently, the entire industry producing LCD panels has been located in South East Asia (Japan, Korea, China and Taiwan)<sup>12</sup>.

- (18) The size of a panel depends on the size of the TV set that would be produced. Accordingly, the size of panels which are shipped to Poland is based on the size of the LCD TV modules and LCD TV sets which will be produced in Łysomice.
- (19) An LCD module combines a display panel with a backlight, frame and associated electronics and enables the control of a signal sent by the electronic devices. The processing of a panel into a module normally consists of fitting of electronic components and chassis onto the LCD panel.
- (20) Following their assembly, modules are further integrated into the downstream product (for example, TV sets) by adding to the LCD module additional circuit boards, power supply and a case. The production process of an LCD TV set consists of the following steps: obon<sup>13</sup> process (like software uploading and inspection), assembling obon into LCD module, aging (placing a product under the light for a period of time), electric inspection, white balance regulation (adjusting radiation of red, blue and green lights), casing application, safety inspection (earthing and isolation control), final electric and visual controls and packaging of the TV.

### 2.3.3. *Other projects in the immediate proximity of the investment*

- (21) The investment of Sharp Poland is part of a group of investments – the so called Crystal Park project – carried out by Sharp Poland and eight other companies<sup>14</sup> all of which will be located in the immediate proximity of Sharp Poland's plant in the Pomorski Special Economic Zone. Sharp Poland also cooperates with a logistic company located outside the Special Economic Zone – Nissin Logistics Poland Sp. z o.o., which renders the warehouse packing services on Sharp Poland's premises.
- (22) These companies will be involved in the LCD business, logistics and warehousing services. Most of these companies will be supplying to Sharp Poland directly. The Polish authorities inform that there are neither regulations limiting the companies in the Crystal Park to cooperation with a particular investor nor any restrictions limiting the companies to a particular business activity. Each company has negotiated and entered into an agreement with the Polish authorities individually.
- (23) Most of the companies in the Crystal Park are still in the process of establishing their business and production. Whereas at the beginning of their activities Sharp

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<sup>12</sup> See, however, Commission decision of 16 April 2008 in case NN 17/2008 (ex N 301/2007) – LIP – Italy – Aid to Digital Display Devices (not yet published) concerning *inter alia* panel production in Europe (the public version of the decision is available at: [http://ec.europa.eu/comm/competition/state\\_aid/register/ii/doc/NN17-2008-IT-WLWL-en-16.04.2008.pdf](http://ec.europa.eu/comm/competition/state_aid/register/ii/doc/NN17-2008-IT-WLWL-en-16.04.2008.pdf)).

<sup>13</sup> Obon is a chassis on which power supply, tuner and other electronic devices are attached to.

<sup>14</sup> Orion Electronic (Poland) Sp.zo.o., Sumika Electronic Materials Poland Sp.zo.o., Kimoto Poland Sp.zo.o., Poland Tokai Okaya Manufacturing Sp.zo.o., Sohbi Craft Poland Sp.zo.o., Tensho Poland Corporation Sp.zo.o., U-TEC Poland Sp.zo.o., NYK Logistics (Polska) Sp.zo.o.

Poland will be the major customer for most of the companies, they have the strategies of decreasing the interdependence over time, especially that their production technologies and know how allow for the sale of their products to other customers<sup>15</sup>.

- (24) The Polish authorities underline that the projects are not linked and constitute separate investments. In this regard the Polish authorities argue that the projects are economically divisible, that they lack a single technical function and physical links, that they do not pursue a common aim and that there are no any exclusive purchase-supply arrangements concluded between the companies. The companies cooperate with Sharp Poland on the basis of general trade agreements and, in the case of failure to meet quality standards, such contracts may be terminated in favour of other suppliers. Neither of the parties offers exclusivity rights. Suppliers are free to work with other recipients and Sharp may cooperate with other suppliers outside the Crystal Park.
- (25) Finally, as confirmed by the Polish authorities, regional aid has been granted or is planned to be granted to all of the other eight undertakings in the Crystal Park<sup>16</sup> on the basis of aid schemes PL 39/2004<sup>17</sup>, N 526/2005<sup>18</sup>, which were implemented on the basis of Commission Guidelines on national regional aid of 1998<sup>19</sup>, and XR 98/2007<sup>20</sup>, which was implemented pursuant to the block exemption regulation for regional aid<sup>21</sup>.

#### 2.3.4. *Project implementation*

- (26) The investment project started in autumn 2006. Table I provides further details on the timing of the project:

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<sup>15</sup> Some of the companies have already announced their intention to sell their products to companies outside the Crystal Park, such as [...] or [...].

<sup>16</sup> The aid for Orion Electric was granted under the scheme PL 39/2004 and N 526/2005 – Commission decision of 25.5.2007 in case No. N 901/2006 – Orion Electric (Poland) Sp. z o.o., OJ C 41, 15.2.2008, p. 1. The aid for Poland Tokai Okaya Manufacturing was also granted under the scheme PL 39/2004. The Polish authorities inform that for other companies the aid has been/is planned to be granted under the block exempted regional aid scheme XR 98/2007. The Polish authorities also inform that no other form of aid is planned for the companies in the Crystal Park and the aid to be awarded to these companies does not exceed the maximum allowable amount of aid that an investment with eligible expenditure EUR 100 million can receive under the rules of the Commission guidelines on national Regional aid (*i.e.* aid does not have to and will not be individually notified to the Commission in line with section 4.3 of the RAG).

<sup>17</sup> Case No. PL 39/2004 was submitted under the interim procedure (the interim procedure for existing aid as provided for in Annex IV, Chapter 3, paragraph (1)(c) (under Article 22) of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary Malta, Poland, Slovenia and Slovakia to the European Union) and accepted by the Commission as an existing aid by the letter of 9.3.2005, C(2005) 735.

<sup>18</sup> Commission decision of 11.5.2006 in case No. N 526/2005 – Framework scheme for regional aid for the Polish communes, OJ C 29, 9.2.2007, p. 5.

<sup>19</sup> OJ C 74, 10.3.1998, p. 9, as modified by OJ C 258, 9.9.2000, p. 5.

<sup>20</sup> Program pomocy regionalnej udzielanej przedsiębiorcom prowadzącym działalność gospodarczą w specjalnych strefach ekonomicznych na podstawie zezwolenia wydanego po 1 stycznia 2007 r., OJ C 220, 20.9.2007, p. 7.

<sup>21</sup> Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid, OJ L 302, 1.11.2006, p. 29.

**Table I: timing of the investment project**

	Date of start of investment	Start of production	End of project	Full production capacity ([7-12] million LCD module units and [3-7] million LCD TV units per year)
LCD TV module	Autumn 2006	2007	2010	2010
LCD TV set	Summer 2007	2007	2011	2011

#### 2.4. Eligible expenditures

(27) The eligible investment costs are calculated on the basis of the costs relating to the setting-up of the new establishment. The eligible expenditure amounts to PLN 645 505 001 (EUR 169.4 million)<sup>22</sup> in nominal value, which is PLN 622 463 176 (EUR 163.4 million) in discounted value<sup>23</sup>. Table II below provides the breakdown of eligible expenditure for the implementation of the investment project in nominal terms.

**Table II: breakdown of the eligible project costs relating to initial investment (PLN, nominal values)**

Land	[...]
Buildings	[...]
Installations and equipment	[...]
Immaterial assets	[...]
Other costs	[...]
<b>Total eligible costs</b>	<b>645 505 001</b>

(28) The category "other costs" includes technical infrastructure, which is connected with the new investment project, and technical equipment for office work, which is necessary for the implementation of the investment project.

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<sup>22</sup> In this decision the exchange rate of 3.8105 PLN/EUR, which was applicable at the time of the notification, is used to convert the sums into EUR.

<sup>23</sup> In this decision discounted values are calculated on the basis of a reference rate of 5.94%, which was applicable at the time of the notification.

- (29) The Polish authorities confirmed that immaterial assets will only be used in the establishment receiving the aid, they will be regarded as amortizable assets, will be purchased from third parties under market conditions and will remain in the establishment receiving the aid for five years.

## **2.5. Financing of the investment**

- (30) The Polish authorities confirm that the aid beneficiary's financial contribution, which is free of any public support, will be more than 25% of the total eligible expenditure of EUR 169.4 million. This condition is stipulated in the § 3(2)(c) of the Agreement of 6 December 2006 between the Ministry of Economy and Sharp Poland on the payment of public aid in the form of an earmarked subsidy.

## **2.6. Legal basis and aid granting authorities**

- (31) The Polish authorities intend to grant aid to the investment project both under existing aid schemes and as an *ad hoc* aid. The Memorandum of Understanding concerning Sharp's investment, which stipulates the main terms and conditions of the beneficiary's investment and of the proposed aid package, was signed on 5 September 2006.
- (32) According to the Memorandum of Understanding, the aid granting authorities are the Minister of Economy, Pomorska Specjalna Strefa Ekonomiczna Sp.z o.o., Kujawsko-Pomorski Voivodship and Łysomice Municipality.

### *2.6.1. Legal basis for existing aid schemes*

- (33) The indicated legal basis for the aid under existing aid schemes<sup>24</sup> is the following:
- Act of 20 October 1994 on Special Economic Zones (Journal of Laws 1994, No. 123, item 600, as amended) in connection with the Corporate Income Tax Act of 15 February 1992 (Journal of Laws 2000, no. 54, item 654, as amended);
  - Łysomice Municipality Council Resolution no. XLVII/215/06 of 8 September 2006 on Łysomice Municipality awarding regional aid for the support of new investments and/or creation of new jobs related therewith (Official Kujawsko-Pomorskie Voivodship Journal of 2006, no. 122, item 1809) and the Council

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<sup>24</sup> PL 39/2004, Commission's letter of 9.3.2005, C(2005) 735; Commission decision of 11.5.2006 in case No. N 526/2005 – Framework scheme for regional aid for Polish communes (OJ C 29, 9.2.2007, p. 5); XR 98/2007 – the scheme "Program pomocy regionalnej udzielanej przedsiębiorcom prowadzącym działalność gospodarczą w specjalnych strefach ekonomicznych na podstawie zezwolenia wydanego po 1 stycznia 2007 r." (OJ C 220, 20.9.2007, p. 7), which is implemented pursuant to the block exemption regulation on regional aid No 1628/2006 (OJ C 220, 20.9.2007, p. 7). Also the following schemes constitute legal basis of the aid: XE 15/04 – Intervention centres (OJ C 278, 11.11.2005, p. 20) and XE 8/06 – Job creation for the unemployed and allocation of funds to enable unemployed persons to start a business (OJ C 236, 30.9.2006, p. 38), which are implemented pursuant to Commission Regulation No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 of the EC Treaty to State aid for employment (OJ L 337, 13.12.2002, p. 3).

of Ministers' Regulation of 4 August 2006 on municipalities awarding regional aid for the support of new investments and/or creation of new jobs related therewith;

- Act on Promotion of Employment and Labour Market Instruments of 20 April 2004 (Journal of Laws of 2004, no. 99, item 1001, as amended) and the following executive acts: the Minister of Labour and Social Policy Resolution of 21 November 2005 on detailed conditions and procedures for refunding the costs of creation and equipping new jobs for the designated unemployed from the Labour Fund, granting funds for the unemployed to start business activity and forms of securing the pay back of the funds (Journal of Laws 2005, no. 236, item 2002), and the Minister of Labour and Social Policy Resolution of 13 July 2004 on detailed manner and procedures for organizing intervention and public works and one-off refund of social security premiums paid (Journal of Laws 2004, no. 261, item 1683).
- (34) The Polish authorities indicate that the decisions to exempt Sharp Poland from the corporate income tax and property tax were issued on 11 August 2006 and 8 September 2006 respectively based on the aid schemes PL 39/2004<sup>25</sup> and N 526/2005<sup>26</sup>, both of which were implemented pursuant to the Guidelines on national regional aid of 1998 that ceased to apply on 31 December 2006. Since both forms of aid were granted in 2006 on the basis of the schemes being in effect in 2006, and since there is no legal basis in the Polish law, entitling the Polish authorities to change the measures binding in 2006 and the decisions issued in 2006, the above-mentioned schemes still constitute the legal basis of aid in a form of corporate and property tax exemptions. However, the Polish authorities have confirmed that any form of aid granted to Sharp Poland will be utilized pursuant to the Commission guidelines on national regional aid 2007-2013. In this regard, the Memorandum of Understanding will be amended to take into account all the provision of the Guidelines on national regional aid 2007-2013.

#### 2.6.2. *Legal basis for ad hoc aid*

- (35) The indicated legal basis for the *ad hoc* aid (*i.e.* the part of the aid package not awarded on the basis of an existing aid scheme) is the following:
- Council of Ministers' Resolution of 14 November 2006 "Financial support for Sharp Manufacturing Poland Sp. z o.o. investment in Łysomice under the name: LCD module manufacturing plant, in the years 2006-2010", not published;
  - Act of 30 June 2005 on Public Finances (Journal of Laws of 2005, no. 249, item 2104, as amended);
  - Agreement of 6 December 2006 between the Ministry of Economy and Sharp Poland on the payment of public aid in the form of an earmarked subsidy;
  - Resolution of Pomorskie Voivodship Sejmik no. XLIV/653/06 of 13 March 2006 amending Resolution no. 615/2001 of 25 April 2001 as amended, on the rules and procedures for cancellation, postponement and division into instalments the receivables of the Kujawsko-Pomorskie Voivodship Regional

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<sup>25</sup> PL 39/2004, Commission's letter of 9.3.2005, C(2005) 735.

<sup>26</sup> Commission decision of 11.5.2006 in case No. N 526/2005 – Framework scheme for regional aid for Polish communes (OJ C 29, 9.2.2007, p. 5).

Fund for Protection of Agricultural Land), in connection with the Act on Financial Support for Investments of 20 March 2002 (Journal of Laws 2002, no. 41, item 363, as amended).

## 2.7. The aid measure

### 2.7.1. Form and amount of the aid

- (36) The different forms of aid provided through the existing aid schemes and as *ad hoc* aid measures result in a total aid amount of PLN 183 933 990 (EUR 48.3 million) in discounted value. On the basis of the eligible costs indicated above, this corresponds to an aid intensity of 29.55% in Gross Grant Equivalent (GGE).
- (37) The *ad hoc* aid is granted in the form of the following aid instruments and amounts:
- The aid in the form of an investment grant equals PLN 21 613 332 (EUR 5.7 million) in nominal value.
  - The aid in the form of a financial support for job creation equals PLN 50 735 806 (EUR 13.3 million) in nominal value.
  - The aid in the form of an exemption from the payment of the de-agriculturization fee, which is due when agricultural land is re-dedicated for other purposes, equals PLN 4 600 200 (EUR 1.2 million) in nominal value.
  - The aid in the form of an exemption from the betterment fee<sup>27</sup> equals PLN 4 820 000 (EUR 1.3 million) in nominal value. However, the Polish authorities indicate that at present there is no legal basis to impose such a fee. They confirmed that in case the relevant Resolution regarding the betterment fee is adopted by the Łysomice Council, and the betterment fee is imposed on Sharp Poland, the aid in the form of the exemption from the betterment fee will be cumulated with the total aid received by Sharp Poland, and, consequently, the corporate income tax exemption limit will be reduced accordingly.
- (38) In addition to *ad hoc* aid, the Polish authorities intend to grant further regional aid under several existing aid schemes. The aid under existing schemes is granted in the form of the following aid instruments and amounts:
- The aid in the form of a real estate tax exemption equals PLN 10 561 250 (EUR 2.8 million) in nominal value.
  - Aid for labour market instruments (financial support for the employment of 600 unemployed persons) equals PLN 1 800 000 (EUR 0.5 million) in nominal value.
  - Finally, aid in the form of an exemption from the corporate income tax will be granted on a residual basis so that the combined amount of the corporate income tax exemption and the other forms of aid in discounted value does not exceed the applicable adjusted regional aid ceiling. The forecasted nominal

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<sup>27</sup> According to the Polish law, a betterment fee may be imposed if the value of land increases in terms of division or scaling of land; or if the value of land increases in connection with the building of elements of infrastructure with the participation of the State Treasury or the local authorities. Fees are calculated as a percentage of the growth in land's value.

amounts and the timing of the other subsidies result in a total discounted value of PLN 89 040 525 (EUR 23.4 million) for the aid instruments other than the corporate income tax exemption. This means that the corporate income tax exemption is capped at PLN 94 893 465 (EUR 24.9 million) in discounted value.

- (39) The Polish authorities have confirmed that the amount of the overall notified aid package in discounted value (PLN 183 933 990 (EUR 48.3 million)) and the aid intensity (29.55% GGE) shall not be exceeded.

#### *2.7.2. Cumulation*

- (40) According to the Agreement of 6 December 2006 between the Ministry of Economy and Sharp Poland on the payment of public aid in the form of an earmarked subsidy, regional aid granted under this Agreement may be cumulated with other aid for job creation or for new investment as long as the maximum allowable regional aid intensity is not exceeded.

### **2.8. Maintenance of the investment**

- (41) The Polish authorities confirmed that the investment project is required to be maintained in the region concerned for a minimum period of five years from the day of its completion.

### **2.9. Incentive effect**

- (42) The Polish authorities confirm that before works on the project started, the beneficiary had applied for the aid and the Polish authorities issued a letter of intent, conditional on the Commission's approval of the measure, to award aid. In this regard the Polish authorities indicate that on 5 September 2006, prior to any works on the project, the Memorandum of Understanding, which stipulates the main terms and conditions of the beneficiary's investment and of the proposed aid package, was signed between the beneficiary and the aid granting authorities.

### **2.10. Contribution to regional development**

- (43) Kujawsko-Pomorski is a region with significant socio-economic handicaps where in 2000-2002 GDP per capita was 41.80% of EU-25 average<sup>28</sup> and the unemployment rate in 2006 was 16.2%, equivalent to 116.5% of the Polish average and 197.6% of the EU-27 average.
- (44) The investment takes place during the period 2006-2011 and is expected to create at least 3 000 new jobs at Sharp Poland's site. According to the Polish authorities, the technologies to be applied in the plant are generally the most advanced of their type worldwide. Moreover, by acting as the anchor investor for the creation

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<sup>28</sup> Gross Domestic Product expressed in Purchasing Power Standards per capita for the years 2000-2002 (EU-25 = 100), figures provided by the Eurostat. See also Commission decision of 13.9.2006 in State aid case No. N 531/2006 – Poland – Regional aid map 2007-2013, OJ C 256, 24.10.2006, p. 7.

of the Crystal Park, Sharp Poland's investment is expected to attract further investments to the region from component suppliers/subcontractors which will apply state of the art technologies in their plants, and will therefore support the creation of new jobs and economic development of the Kujawsko-Pomorski region.

- (45) The project will also have a positive effect by facilitating structural change in the region concerned. It will allow the absorption of workforce in a rapidly expanding market providing new opportunities for the creation of jobs requiring more skilled workers.

## **2.11. General commitments**

- (46) The Polish authorities have committed to submit to the Commission:
- within two months of granting the aid, a copy of the final signed aid contracts between the granting authorities and the beneficiary;
  - on a five-yearly basis, starting from the approval of the aid by the Commission, an intermediary report (including information on the aid amounts being paid, on the execution of the aid contract and on any other investment projects started at the same establishment/plant);
  - within six months after payment of the last tranche of the aid, based on the notified payment schedule, a detailed final report.

## **3. ASSESSMENT OF THE AID MEASURE AND COMPATIBILITY**

### **3.1. Existence of State aid in the meaning of Article 87(1) of the EC Treaty**

- (47) The financial support under the measure will be provided by the Polish authorities in the form of several aid instruments (direct grants, tax exemptions and exemptions from different fees). The support can thus be considered as given by the Member State and through State resources within the meaning of Article 87(1) of the EC Treaty.
- (48) As the aid is granted to a single company, Sharp Manufacturing Poland Sp. z o.o., the measure is selective.
- (49) The financial support given to Sharp Poland will relieve the company from costs which it normally would have had to bear itself under normal market conditions and therefore the undertaking benefits from an economic advantage over its competitors.
- (50) The financial support from the Polish authorities will be given for an investment resulting in the production of LCD TV modules and LCD TV sets. Since these products are subject to extensive trade between Member States, the support given is likely to affect trade between Member States.
- (51) The favouring of Sharp Poland and its production by the Polish authorities means that competition is distorted or threatened to be distorted.

- (52) Consequently, the Commission considers that the notified measure constitutes State aid to Sharp Poland within the meaning of Article 87(1) of the EC Treaty.

### **3.2. Legality of the aid measure**

#### Lawfulness of the aid and stand-still clause

- (53) By notifying the planned aid measure before putting it into effect and by introducing a condition that the award of the notified aid is subject to the Commission approval, the Polish authorities respected their obligation under Article 88(3) of the EC Treaty.

#### Individual notification requirement

- (54) In view of the proposed aid amount, the discounted value of which exceeds the amount of EUR 37.5 million<sup>29</sup>, by notifying the measure, the Polish authorities also respected the individual notification requirement as laid down in paragraph 64 of the RAG.

### **3.3. Compatibility of the aid**

- (55) The Commission assessed the compatibility of the aid measure in accordance with the provisions of the RAG. First, the Commission verified whether the Crystal Park in Łysomice has to be considered as a single investment project within the meaning of the RAG. Second, the Commission verified whether the standard compatibility criteria of the RAG were met, and third, the conformity of the aid with the provisions of the RAG on aid for large investment projects was assessed.

### **3.4. Assessment of the Crystal Park in the Pomorski Special Economic Zone**

- (56) Despite the immediate geographical proximity of the individual investments in the Pomorski Special Economic Zone, the Polish authorities have provided evidence that the investments in the Crystal Park are not to be considered a single investment project within the meaning of paragraph 60 of the RAG.
- (57) According to paragraph 60 and footnote 55 of the RAG, an investment project shall not be artificially divided into sub-projects in order to escape the provisions of the RAG. In this regard a large investment project will be considered to be a single investment project when the initial investment is undertaken in a period of three years by one or more companies and consists of fixed assets combined in an economically indivisible way. In this respect, to assess whether an initial investment is economically indivisible, the Commission will take into account the

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<sup>29</sup> The amount of EUR 37.5 million triggers an individual notification requirement for large investment projects in a region with allowable regional aid ceiling of 50% GGE, as it is the maximum allowable amount of aid that an investment with eligible expenditure EUR 100 million can receive under the scale and the rules laid down in section 4.3 of the RAG. Further, pursuant to the RAG, *ad hoc* individual aid must always be notified to the Commission unless it is covered by Article 1(1) of the regional block exemption regulation No 1628/2006.

technical, functional and strategic links and the immediate geographical proximity.

#### *3.4.1. No artificial sub-division in order to circumvent RAG rules*

- (58) The individual projects are not “artificially” separated to escape the provisions of the RAG<sup>30</sup> since similar clusters in the LCD business exist in Asia (for example, technological parks in Wuxi (China) and in Sakai (Japan) where Sharp is also participating) where no comparable State aid rules exist. On the contrary, the aim of such clusters is to minimize logistic costs and increase economic efficiency.

#### *3.4.2. Economic divisibility*

- (59) There is no indication that Sharp Poland’s investment would be impossible without the eight other investments in immediate geographical and temporal proximity. There is also no indication that the investments made by the eight other companies in immediate geographical and temporal proximity would be impossible without Sharp Poland's investment.
- (60) The divisibility of the investments is also confirmed by business realities in Asia where some suppliers have decided to locate in close proximity to Sharp for efficiency reasons while others sell their products to Sharp despite being situated away from Sharp's plant.
- (61) Further, the geographical proximity of the investments in the Crystal Park was influenced by the Polish authorities' offer to locate in Łysomice (the Pomorski Special Economic Zone) because of the availability of the land with infrastructural advantages in this region.
- (62) Moreover, as the Commission already noted in its decision in case N 245/2006 – Aid to LG. Philips LCD Poland Sp. z o.o., the main reason for companies to set up as a cluster is to achieve economic efficiencies. The cluster structure leads to productivity advantages in the form of better and cheaper specialised inputs. Adopting a cluster form allows reducing inventory requirements, lowering transaction costs (reduced transportation costs) and establishment of trust relationships between firms in the cluster. It also leads to innovation advantages where the proximity between customers (downstream companies) and suppliers (upstream companies) allows to improve the product through the transfer of tacit knowledge, creation of a critical mass and providing access to a larger share of qualified personnel. The practice of organising technological parks is very common all around the world: some famous examples are Hsinchu Science-Based Industrial Park (HSIP) in Taiwan, Silicon Valley in the United States or Dalian Software Park in China.

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<sup>30</sup> According to the Commission's decision in case No. N 245/2006 – Aid to LG. Philips LCD Poland Sp. Z o.o., examples of such circumvention could be, for example, where the fixed investments made by one or more undertakings, in a period of three years are artificially split into two projects which share the same production facility or eligible expenditures; where projects envisage successive investments into new modules; or where long term contracts exist between the suppliers and the main manufacturer lasting for approximately the same duration as the life of the product.

- (63) Furthermore, investment decisions have been taken independently and subsequent agreements entered into between each individual investor and the Polish authorities are not mutually dependent on each other.

#### 3.4.3. *No one single technical function*

- (64) The components manufactured by the investors in the cluster are not linked technically. They constitute separate and stand alone products in their own right that can be (and often are) produced separately from a wide variety of raw materials. Moreover, all manufactured products can be (and eventually will be) sold and marketed separately to different companies.
- (65) In this context, it is also recalled that in its earlier decisions (for example, N 245/2006 – Aid to LG. Philips LCD Poland Sp. z o.o. and N 905/2006 – Aid to Toshiba Television Central Europe Sp. z o.o.<sup>31</sup>), the Commission stated that the different components of flat screen LCD TV sets (for example, modules and their components or LCD TVs themselves) constitute separate and stand alone products in their own right that can be produced separately from a wide variety of raw materials.

#### 3.4.4. *Lack of functional link*

- (66) There are no regulations limiting the companies in the Crystal Park to cooperation with a particular investor, and any restrictions limiting the companies to a particular business activity. The projects are not linked by any preferential supply or exclusivity agreements.
- (67) Most of the companies in the Crystal Park are still in the process of establishing their business and production. Whereas at the beginning of their activities Sharp Poland is the major customer, the companies have the strategies of decreasing the interdependence over time, especially that their production technologies and know how allow for sale of products to other customers. Sharp Poland aims to eventually have several sources of supply just like other investors in the cluster aim to supply customers other than Sharp Poland.
- (68) Some of the companies have already announced their intention to sell their products to companies outside the Crystal Park, such as [...] or [...].
- (69) In addition, some of the companies in the cluster will also manufacture products to be sold solely outside the Crystal Park (for example, Sohbi plans to make products for the [...] industry, which are completely different from the current products for Sharp Poland).

#### 3.4.5. *Lack of physical link*

- (70) There is no physical link between the projects. Various goods and components will be produced in separate processes in each project. In particular, with the

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<sup>31</sup> Commission decision of 18 July 2007 in case No. N 905/2006 – Poland – Regional *ad hoc* aid to Toshiba Television Central Europe Sp. z o.o., OJ C 262, 1.11.2007, p.

exception of some standard LCD industry solutions, there is no “back and forth” process by which a product would be semi-finished by one company, provided to another for further processing and returned to the first company for completion.

- (71) Shipping occurs over public roads and not through private means such as internal conveyor belts. Each of the companies will operate their own warehouses for raw materials and products or use warehouse companies on regular market terms. Each of the companies will independently manage and decide on its production processes and capacity usage.

#### 3.4.6. *No common aim*

- (72) Furthermore, the investments do not have a clearly identified common aim. The business objective of the companies in the Crystal Park is the sale of their own products that may eventually be used in a variety of end applications.
- (73) The products manufactured by each individual investor are to be viewed as unique products that are sold and marketed separately on the market. The aim of each of the investors in the Crystal Park is not to produce the same end product.
- (74) Consequently, the investment projects in the Crystal Park constitute separate investment projects. Thus the present decision solely concerns the aid in favour of Sharp Poland's investment.

### 3.5. **Compatibility with the general provisions of the RAG**

- (75) As a general rule, the Commission does not favour the award of *ad hoc* regional aid and seeks specific justification for the link of the aid with regional development<sup>32</sup>. In the present case the Commission considers that, in view of the information given in section 2.10 above, the project will substantially contribute to the economic development of an EU disadvantaged region.
- (76) Kujawsko-Pomorski region is entirely eligible for regional aid under Article 87(3)(a) of the EC Treaty with a maximum allowable regional aid intensity of 50% GGE for the period 2007-2013<sup>33</sup>.
- (77) The notified aid is aid for initial investment, as defined in paragraph 34 of the RAG, as the aid supports an investment in material and immaterial assets in relation to the setting-up of a new establishment.
- (78) The eligible costs involve the costs of land, buildings and plant/machinery, in line with paragraph 50 of the RAG.
- (79) In line with paragraph 55 of the RAG, the eligible costs of investment in immaterial assets do not exceed 50 per cent of the total eligible investment expenditure for the project. Furthermore, in line with paragraph 56 of the RAG,

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<sup>32</sup> Paragraph 10 of the RAG.

<sup>33</sup> Commission decision of 13.9.2006 in State aid case No. N 531/2006 – Poland – Regional aid map 2007-2013, OJ C 256, 24.10.2006, p. 7.

the immaterial assets will only be used in the establishment receiving the aid, they will be regarded as amortizable assets, will be purchased from third parties under market conditions and will remain in the establishment receiving the aid for five years.

- (80) The beneficiary's own contribution free of any aid to the eligible costs is above the required 25% threshold (cf. paragraph 39 of the RAG).
- (81) Before works on the project started, the beneficiary applied for the aid and the Polish authorities issued a letter of intent, conditional on the Commission's approval of the measure, to award aid (cf. paragraph 38 of the RAG).
- (82) The investment will be maintained for at least five years after its completion (cf. paragraph 40 of the RAG).
- (83) The rules on cumulation of aid are respected (cf. section 4.4 of the RAG).
- (84) The Commission therefore considers that the aid complies with the standard compatibility criteria laid down in the RAG.

### **3.6. Compatibility with the provisions for aid to large investment projects**

#### *3.6.1. Aid intensity (paragraph 67 of the RAG)*

- (85) With eligible expenditure of EUR 163.4 million in discounted value and an applicable standard regional aid ceiling of 50% GGE, the adjusted maximum aid intensity permitted in accordance with paragraph 67 of the RAG is 29.55% GGE.
- (86) The total aid amount of PLN 183 933 990 (EUR 48.3 million) in discounted value, which results in an aid intensity of 29.55% GGE respects this ceiling. Therefore, the proposed aid intensity is in line with the scaling down mechanism set in paragraph 67 of the RAG.

#### *3.6.2. Compatibility with the rules under paragraphs 68(a) and (b) of the RAG*

- (87) Since the proposed total aid amount of EUR 48.3 million in discounted value exceeds the applicable notification threshold of EUR 37.5 million, the compliance of the proposed aid with paragraphs 68(a) and (b) of the RAG has to be assessed.
- (88) Aid to large investment projects falling under paragraph 68 of the RAG and where
  - the beneficiary accounts for more than 25% of the sales of the product(s) concerned on the market(s) concerned before or on completion of the investment, or
  - the production capacity created by the project is more than 5% of the size of the market measured using apparent consumption data of the product(s) concerned, unless the average annual growth rate of its apparent consumption over the past five years is above the average annual growth rate of the European Economic Area's ("EEA") GDP,

can be approved only after a detailed verification, following the opening of the procedure provided for in Article 88(2) of the Treaty, that the aid is necessary to

provide an incentive effect for the investment and that the benefits of the aid measure outweigh the resulting distortion of competition and effect on trade between Member States.

- (89) To carry out the relevant tests under paragraphs 68(a) and (b) of the RAG, the Commission has first to establish the relevant product and geographic markets.

*a. Products concerned*

- (90) According to paragraph 69 of the RAG, the "product concerned" is normally the product covered by the investment project. Where an investment project involves the production of several different products, each of the products needs to be considered. When the project concerns an intermediate product and a significant part of the output is not sold on the market, the product concerned may be the downstream product.
- (91) The investment project directly concerns two types of products, namely the production of LCD TV modules of display size between 26" and 52" and the production of LCD TV sets of screen size equal to and above 26"<sup>34</sup>. The Polish authorities indicate that if Sharp Poland decided to produce LCD TV modules and LCD TV sets with other dimensions (for example, LCD TV modules of screen size of 20" or 65"), it would have to modify its machines or purchase new ones.
- (92) At present Sharp Poland is not planning to produce LCD modules for other products than LCD TV sets. The company exclusively produces modules equal to and above 26", whereas, for example, laptops, mobile phones and car navigation systems are manufactured using smaller format LCD modules.
- (93) At present Sharp as a group does not produce flat screen displays based on technology other than LCD, for example, plasma technology.
- (94) Therefore, for the purpose of this decision, the Commission considers that two products are concerned by the investment projects in question: LCD TV modules and LCD TV sets equal to and above 26".

*b. Relevant product market*

- (95) According to paragraph 69 of the RAG, the relevant product market includes the product concerned and its substitutes considered to be such either by the consumer (by reason of the product's characteristics, prices and intended use) or by the producer (through flexibility of the production installations).
- (96) The investment project under scrutiny concerns the production of LCD TV modules and LCD TV sets equal to and above 26". Therefore, to define the relevant product market it is necessary to examine what other products could be considered as substitutes to the products envisaged by the investment project within the meaning of paragraph 69 of the RAG.

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<sup>34</sup> The Polish authorities indicate that about 60% of LCD TV modules produced in the aided facility will be used internally within Sharp for the production of the downstream product, *i.e.* an LCD TV set.

- (97) In the analysis presented below the Commission has also taken into account the findings of the previous Commission decisions concerning the sector.
- (98) First, LCD TV modules are used in TV displays, which in turn are divided into two categories: cathode ray tube ("CRT") and flat panel displays ("FPD"). The Commission in its previous State aid decisions (N 245/2006 – Aid to LG Philips LCD Poland Sp. z o.o. and NN 17/2008 (ex N301/2007) – Aid to Digital Display Devices) has found that flat panel technology is a clearly distinct market from that of CRT and concluded that for the purposes of market analysis, the CRT and flat panel technologies belong to different segments. This is so in the light of prices, customer preferences and supply-side substitutability (*i.e.* equipment, production lines and technology differ significantly). Moreover CRT is an obsolete technology which is rapidly being replaced by flat panel technology. The Commission maintains this view in the assessment of the present case.
- (99) Second, although there are several technologies which belong to the wider category of flat panel technologies (for example, digital light processing technology, organic light emitting diode technology and other), LCD and plasma display panel (PDP) technologies are the two most common technologies. However, as at present Sharp as a group does not produce flat screen displays based on technology other than the LCD technology, the Commission considers that in the present case the market analysis should be restricted to the LCD technology. This would constitute a narrow definition of the FPD market and would represent the worst case scenario for the purpose of assessing market share and capacity increase in the present case.
- (100) Third, concerning the issue of the size of the LCD modules and LCD TV sets, it is recalled that Sharp Poland in its plant in Łysomice will manufacture LCD TV modules and LCD TV sets of screen size equal to and above 26". In this context and in the light of earlier decisions, the Commission observes that although the LCD modules are used in a series of electronic devices, the size of equal to and above 22" normally constitutes a cut-off point, as of which TV displays are produced, whereas smaller modules are in general used for other purposes. However, as in the present case the Polish authorities provided the database of iSuppli (an independent market consultant specialised in the sector), which contains a size breakdown of equal to and above 21", the Commission considers that the size of equal to and above 21" is also acceptable as a cut-off point in the present case.
- (101) However, it should be observed that the division is not strict, as the market is developing and larger information technology displays (for instance, in the case of notebooks or computer monitors) are being introduced on the market, while smaller LCD TV sets are also produced. Therefore, the Polish authorities support the view that a broad definition including all sizes of modules/displays is also justified. The different display sizes form a continuum and consumers are choosing between all segments, therefore no distinction should be drawn in particular between the medium-size and large-size segments.
- (102) In light of these considerations, and following the approach taken in the Commission's decision in case N 245/2006, the relevant product market of LCD TV modules and LCD TV sets is defined according to two distinctive criteria, the

underlying technology (*i.e.* LCD technology) and the dimension (*i.e.* display size). Accordingly, four possible relevant product markets have been identified:

- (a) LCD TV modules of all sizes (broad market definition);
- (b) LCD TV modules equal to and above 21 inches (narrow market definition);
- (c) LCD TV sets of all sizes (broad market definition);
- (d) LCD TV sets equal to and above 21 inches (narrow market definition).

*c. Relevant geographic market*

- (103) The Commission's decision in the case N 245/2006 – Aid to LG Philips LCD Poland Sp. z o.o. provide indications that both manufacturing and sales of LCD modules take place at the global level: there are no significant impediments to trade in TV display units in terms of technical requirements and there are also no significant price differences between the regions.
- (104) In the early days of the LCD TV market, the production of the LCD panels, modules and the finished TVs were all completed in the Far East and the finished LCD TV was then exported around the world. As the market for LCD TVs grew rapidly companies looked for ways to reduce shipping costs and tried to cater more for regional differences in customer tastes. The result was that many companies decided to import LCD TV modules into the different regions around the world and assemble the LCD TVs locally<sup>35</sup>, which also helped to avoid paying high import tariffs on finished LCD TVs. The next stage in the development of the LCD market will be for major companies (such as Sharp) to ship only the LCD panel to their regional facilities. The LCD TV module assembly and final assembly of the LCD TV will all be handled at a regional level.
- (105) In view of the evolving nature of the market and taking into account the past Commission's decisions, the analysis of the LCD module and LCD TV markets in the present case will be performed at the level of both plausible geographic markets (*i.e.* the worldwide market and EEA-market).

*d. Market shares*

- (106) To examine whether the project is compatible with paragraph 68(a) of the RAG, the Commission has to analyse the market share of the aid beneficiary at group level before and after the investment. As regards LCD modules, the investment started in 2006 and is planned to be finished by 2010. The part of the investment concerning LCD TV sets started in 2007 and is planned to be completed in 2011. Accordingly, the Commission has examined the market shares of Sharp group in 2005 and 2011 as regards LCD modules and in 2006 and 2012 as regards LCD TV sets.

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<sup>35</sup> In Europe the majority of these facilities are in Eastern Europe, while in the America such facilities are located in countries such as Mexico and Brazil.

- (107) In support of market share calculations, the Polish authorities have submitted data from the independent market research consultant, iSuppli.
- (108) The size of the LCD TV module market at European level has been determined on the basis of the ratio European/worldwide sale of LCD TV sets multiplied by the worldwide sale of LCD modules.
- (109) This approach, which relies on Europe's share in LCD TV set sales when determining the size of the upstream module market, may overestimate the size of the EEA module market in case the European demand for LCD TV sets is largely met by imports (for example, from Asia). It appears that at least in the first half of this decade it was indeed the Asian import of flat screen TV sets which was predominant in Europe, which created demand for modules at the place of production of the TV sets, *i.e.* primarily in Asia.
- (110) However, as mentioned above, there is also strong indication of a change in business models and the European demand for LCD TVs is increasingly met by European production. Thus, over the longer run and as the above described process unfolds, it is indeed the demand for flat screen TV sets in Europe that determines the size of the upstream EEA module market. It is therefore acceptable to calculate the size of the EEA-wide module market on the basis of this methodology.
- (111) The market shares of Sharp at group level in the relevant markets in the year before and after the investment are provided in the tables below.

**Table III: Market shares of Sharp at group level**

**LCD modules, all sizes**

**Worldwide**

1000 units	2005	2011	Million €	2005	2011
LCD module sales	26.921	180.143	LCD module sales	8.963	38.845
Sharp sales	[...]	[...]	Sharp sales	[...]	[...]
Market share	[10-20]%	[10-20]%	Market share	[10-20]%	[10-20]%

**EEA**

1000 units	2005	2011	Million €	2005	2011
LCD module sales	8.535	60.070	LCD module sales	3.037	13.633
Sharp sales	[...]	[...]	Sharp sales	[...]	[...]
Market share	[0-10]%	[10-20]%	Market share	[0-10]%	[10-20]%

**LCD modules >= 21"**

**Worldwide**

1000 units	2005	2011	Million €	2005	2011
LCD module sales	17.032	178.658	LCD module sales	7.436	38.720
Sharp sales	[...]	[...]	Sharp sales	[...]	[...]
Market share	[10-20]%	[10-20]%	Market share	[10-20]%	[10-20]%

**EEA**

<i>1000 units</i>	<i>2005</i>	<i>2011</i>	<i>Million €</i>	<i>2005</i>	<i>2011</i>
LCD module sales	5.448	60.287	LCD module sales	2.538	13.647
Sharp sales	[...]	[...]	Sharp sales	[...]	[...]
Market share	[10-20]%	[10-20]%	Market share	[10-20]%	[10-20]%

#### **LCD TV sets, all sizes**

##### ***Worldwide***

<i>1000 units</i>	<i>2006</i>	<i>2012</i>	<i>Million €</i>	<i>2006</i>	<i>2012</i>
LCD TV set sales	41.438	193.888	LCD TV set sales	38.111	87.187
Sharp sales	[...]	[...]	Sharp sales	[...]	[...]
Market share	[10-20]%	[10-20]%	Market share	[10-20]%	[10-20]%

##### ***EEA***

<i>1000 units</i>	<i>2006</i>	<i>2012</i>	<i>Million €</i>	<i>2006</i>	<i>2012</i>
LCD TV set sales	14.496	69.873	LCD TV set sales	12.890	34.655
Sharp sales	[...]	[...]	Sharp sales	[...]	[...]
Market share	[0-10]%	[0-10]%	Market share	[0-10]%	[0-10]%

#### **LCD TV sets >= 21"**

##### ***Worldwide***

<i>1000 units</i>	<i>2006</i>	<i>2012</i>	<i>Million €</i>	<i>2006</i>	<i>2012</i>
LCD TV set sales	32.678	191.481	LCD TV set sales	35.324	86.762
Sharp sales	[...]	[...]	Sharp sales	[...]	[...]
Market share	[10-20]%	[10-20]%	Market share	[10-20]%	[10-20]%

##### ***EEA***

<i>1000 units</i>	<i>2006</i>	<i>2012</i>	<i>Million €</i>	<i>2006</i>	<i>2012</i>
LCD TV set sales	11.503	69.622	LCD TV set sales	11.983	34.620
Sharp sales	[...]	[...]	Sharp sales	[...]	[...]
Market share	[0-10]%	[0-10]%	Market share	[0-10]%	[0-10]%

- (112) On the basis of the data provided above, the Commission concludes that in the relevant markets Sharp's market shares at group level remain significantly below 25% both in volume and value terms in the year before and after the investment. Therefore, the aid for the investment project in question is compatible with paragraph 68(a) of the RAG.

#### *e. Production capacity*

- (113) The Commission also has to examine whether the investment project complies with paragraph 68(b) of the RAG. It needs to verify whether the capacity created by the project is less than 5% of the size of the market measured using apparent consumption data of the product concerned, unless the average annual growth rate of its apparent consumption over the last five years is above the average annual growth rate of the EEA's GDP.
- (114) As regards LCD modules, the calculation of the compound annual growth rate over the last five years is based on the segment of LCD modules larger than 25",

for which the Polish authorities provided independent data (originating from Display Search, an independent market consultant specialised in the sector). This segment constitutes a good proxy and reflects the exceptionally fast development of the market as a whole.

- (115) Regarding LCD TV sets, the Polish authorities provided iSuppli data, which allow calculation of the growth rate of the relevant segments.
- (116) The following table indicates, on the basis of the data submitted by the Polish authorities, the compound annual growth rates (CAGR) of the relevant markets in Europe in volume and value terms.

**Table IV – CAGR in the EEA over the last five years preceding the investment (2000-2005 for LCD modules and 2001-2006 for LCD TV sets)**

	Compound annual growth rate	
	<i>In volume terms</i>	<i>In value terms</i>
LCD modules > 25"	409%	233%
LCD TV sets, all sizes	197%	132%
LCD TV sets >= 21"	549%	374%

- (117) For comparison, the compound annual growth rate of the EEA's GDP over the period 2001-2006 was 2% in volume terms and 4% in value terms.
- (118) On the basis of the data provided in the table above, the annual growth rate of the relevant markets for both LCD modules and LCD TV sets at EEA level exceeds by far the average annual EEA GDP growth in both volume and value terms. The test under paragraph 68(b) of the RAG is complied with.
- (119) Therefore, the Commission concludes that the investment project under scrutiny is compatible with paragraph 68(b) of the RAG.

### **3.7. Conclusion**

- (120) The notified aid is in line with the RAG. Consequently, the aid measure is compatible with Article 87(3)(a) of the EC Treaty.

## **4. DECISION**

- (121) The Commission has decided, on the basis of the foregoing assessment, that the regional aid of PLN 183 933 990 in discounted value representing an aid intensity of 29.55% GGE in favour of Sharp Poland is compatible with the EC Treaty.
- (122) The Commission reminds the Polish authorities of their commitment to submit to the Commission a copy of the aid contracts, intermediary reports as well as a final report concerning the aid measure in question.

- (123) If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: [http://ec.europa.eu/community\\_law/state\\_aids/index.htm](http://ec.europa.eu/community_law/state_aids/index.htm). Your request should be sent by registered letter or fax to:

European Commission  
Directorate-General for Competition  
State Aid Greffe  
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Yours faithfully,  
For the Commission

*Neelie KROES*  
Member of the Commission