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I

(Information)

COUNCIL AND COMMISSION

Mission of third countries

(92/C 109/01)

The President of the Council and the President of the Commission of the European Communities received His Excellency Ambassador Humberto JIRON who presented to them his letters of credence in this capacity as Head of the Mission of the Republic of Panama to the European Communities (EEC, ECSC, EAEC) with effect from 27 March 1992.

On this occasion the newly appointed Head of Mission also presented his predecessor's letters of recall.

The President of the Council and the President of the Commission of the European Communities received His Excellency Ambassador Pablo GÓMEZ VELÁSQUEZ who presented to them his letters of credence in his capacity as Head of the Mission of the Republic of Honduras to the European Communities (EEC, ECSC, EAEC) with effect from 27 March 1992.

On this occasion the newly appointed Head of Mission also presented his predecessor's letters of recall.

The President of the Council and the President of the Commission of the European Communities received His Excellency Ambassador Clyde KULL who presented to them his letters of credence in his capacity as Head of the Mission of the Republic of Estonia to the European Communities (EEC, ECSC, EAEC) with effect from 27 March 1992.

The President of the Council and the President of the Commission of the European Communities received His Excellency Ambassador Alfredo CAÑETE who presented to them his letters of credence in his capacity as Head of the Mission of the Republic of Paraguay to the European Communities (EEC) with effect from 31 March 1992.

On this occasion the newly appointed Head of Mission also presented his predecessor's letters of recall.

The President of the Council and the President of the Commission of the European Communities received His Excellency Ambassador Ivan SILAYEV who presented to them his letters of credence in his capacity as Head of the Mission of Russia to the European Communities (EEC, ECSC, EAEC) with effect from 31 March 1992.

On this occasion the newly appointed Head of Mission also presented his predecessor's letters of recall.

COMMISSION

Ecu ⁽¹⁾

28 April 1992

(92/C 109/02)

Currency amount for one unit:

Belgian and Luxembourg franc	42,2594	United States dollar	1,23746
Danish krone	7,94266	Canadian dollar	1,48001
German mark	2,05419	Japanese yen	164,954
Greek drachma	240,179	Swiss franc	1,88651
Spanish peseta	128,691	Norwegian krone	8,01629
French franc	6,92670	Swedish krona	7,41117
Irish pound	0,769232	Finnish markka	5,58715
Italian lira	1543,74	Austrian schilling	14,4573
Dutch guilder	2,31170	Icelandic krona	73,4558
Portuguese escudo	173,096	Australian dollar	1,63469
Pound sterling	0,698855	New Zealand dollar	2,29372

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day. Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

⁽¹⁾ Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).
 Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).
 Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).
 Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).
 Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).
 Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

Commission communication under Article 4 (1) of Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries (extended for 1992 by Council Regulation (EEC) No 3587/91)

(92/C 109/03)

In pursuance of Article 4 (1) of Council Regulation (EEC) No 3831/90 ⁽¹⁾, extended for 1992 by Regulation (EEC) No 3587/91 ⁽²⁾, the Commission gives notice that following fixed duty-free amounts have been exhausted:

Order No	Description	Origin	Fixed duty-free amount (ECU)	Date of exhaustion
10.1120	Motor vehicles, new, of a cylinder capacity not exceeding 3 000 cm ³	South Korea	46 305 000	27. 3. 1992

Imports beyond these amounts are liable to payment of the normal duties of the Common Customs Tariff.

⁽¹⁾ OJ No L 370, 31. 12. 1990.

⁽²⁾ OJ No L 341, 12. 12. 1991.

Commission communication under the provisions of Council Regulation (EEC) No 3832/90 of 20 December 1990, applying tariff preferences for 1991 in respect of textile products originating in developing countries (extended, for 1991, by Council Regulation (EEC) No 3587/91)

(92/C 109/04)

In pursuance of the provisions of Council Regulation (EEC) No 3832/90 ⁽¹⁾, extended for 1992 by Council Regulation (EEC) No 3587/91 ⁽²⁾, the Commission gives notice that the following quotas have been exhausted after obligatory returns have been made:

Order No	Category	Origin	Quota amount	Date of exhaustion
40.0100	10	Thailand	1 537 000 Pairs	20. 3. 1992
40.0830	83	South Korea	12 Tonnes	21. 3. 1992

Imports beyond these amounts are liable to payment of the normal duties of the Common Customs Tariff.

⁽¹⁾ OJ No L 370, 31. 12. 1990.

⁽²⁾ OJ No L 341, 12. 12. 1991.

Standing invitation to tender pursuant to Commission Regulation (EEC) No 570/88 of 16 February 1988 on the sale of butter at reduced prices and the granting of aid for butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs

(92/C 109/05)

(See notice in Official Journal of the European Communities No L 55 of 1 March 1988, page 31)

Tender No: 89

Date of Commission Decision: 23 April 1992

(ECU/100 kg)

Formula			A/C—D		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum price	Butter ≥ 82 %	Unaltered	109	112	130	—
		Concentrated	97	—	119	—
	Butter < 82 %	Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Processing security		Unaltered	202		181	
		Concentrated	214		192	
Maximum aid amount	Butter ≥ 82 %		145	142	132	130
	Butter < 82 %		—	138	—	—
	Concentrated butter		190	185	174	171
	Cream		—	—	55	—
Processing security	Butter		160	—	145	—
	Concentrated butter		209	—	191	—
	Cream		—	—	61	—

Communication of Decisions under sundry tendering procedures in agriculture (milk and milk products)

(92/C 109/06)

(See notice in Official Journal of the European Communities No L 360 of 21 December 1982, page 43)

(ECU/100 kg)

Standing invitation to tender	Tender No	Date of Commission Decision	Use to which the butter is to be put	Maximum buying-in price	Maximum aid level	Processing security
Commission Regulation (EEC) No 1589/87 of 5 June 1987 on the sale by tender of butter to intervention agencies (OJ No L 146, 6. 6. 1987, p. 27)	110	23. 4. 1992	Butter with a fat content of less than 82 %:			
			— Spain — Other Member States	— —		
			Butter with a fat content of 82 % or more:			
			— Spain — Other Member States	272,24 263,50		

(ECU/100 kg)

Standing invitation to tender	Tender No	Date of Commission Decision	Maximum aid	End-use security
Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community (OJ No L 45, 21. 2. 1990, p. 8)	49	23. 4. 1992	210	242

(ECU/100 kg)

Standing invitation to tender	Tender No	Date of Commission Decision	Use to which the butter is to be put	Minimum selling price	End-use security	Coefficient applying to the monetary compensatory amounts applicable
Commission Regulation (EEC) No 3378/91 of 20 November 1991 laying down detailed rules for the sale of butter from intervention stocks for export and amending Regulation (EEC) No 569/88 (OJ No L 319, 21. 11.1991, p. 40)	—	—	<ul style="list-style-type: none"> — Butter exported in the unaltered state — Butter exported after processing into concentrated butter 	} No tenders received	— —	Spain: — Other Member States: —

COURT OF JUSTICE

COURT OF JUSTICE

JUDGMENT OF THE COURT

of 10 March 1992

in Case C-214/89 (reference for a preliminary ruling made by the Oberlandesgericht Koblenz): **Powell Duffryn plc v. Wolfgang Petereit** ⁽¹⁾

(Brussels Convention — Jurisdiction agreement — Clause contained in the statutes of a company limited by shares)

(92/C 109/07)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case C-214/89: reference to the Court under the Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters by the Oberlandesgericht [Higher Regional Court] Koblenz for a preliminary ruling in the proceedings pending before that court between Powell Duffryn plc and Wolfgang Petereit on the interpretation of Article 17 of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, as amended by the 1978 Accession Convention, the Court, composed of O. Due, President, Sir Gordon Slynn, R. Joliet, F. A. Schockweiler, F. Grévisse, P. J. G. Kapteyn, Presidents of Chamber, G. F. Mancini, C. N. Kakouris, J. C. Moitinho de Almeida, G. C. Rodríguez Iglesias, M. Díez de Velasco, M. Zuleeg and J. L. Murray, Judges; Advocate-General: G. Tesauero, H. A. Rühl, Principal Administrator, gave a judgment on 10 March 1992, the operative part of which is as follows:

1. *A clause conferring jurisdiction on the courts of a Contracting State to entertain disputes between a company limited by shares and its shareholders, inserted into the statutes of such company and adopted in accordance with the provisions of the applicable national law and the statutes constitutes an agreement conferring jurisdiction within the meaning of Article 17 of the Brussels Convention.*
2. *Irrespective of the manner of acquisition of the shares, the formal requirements laid down in Article 17 must be considered to be complied with in regard to any shareholder, where the clause conferring jurisdiction is contained in the statutes of the company and those statutes are lodged in a place to which the shareholder may have access or are entered in a public register.*

3. *The requirement that a dispute must arise in connection with a particular legal relationship within the meaning of Article 17 is satisfied if the clause conferring jurisdiction in the statutes of a company may be interpreted as referring to the disputes between the company and its shareholders as such.*

4. *It is for the national court to interpret the clause conferring jurisdiction invoked before it, in order to determine which disputes fall within its scope.*

JUDGMENT OF THE COURT

of 31 March 1992

in Case C-284/90: **Council of the European Communities v. European Parliament** ⁽¹⁾

(Budgetary procedure — Amending and supplementary budget — Carrying forward of income — Budgetary balance)

(92/C 109/08)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case C-284/90: Council of the European Communities (Agents: Arthur Alan Dashwood and Yves Crétien) against European Parliament (Agents: Jorge Campinos and Christian Pennera), supported by Commission of the European Communities (Agents: Jean Amphoux and David Gilmour) — application for a declaration that the amending and supplementary budget No 2 for 1990 adopted by the European Parliament on 11 July 1990 and the President of the European Parliament's declaration of 12 July 1990 that the amending and supplementary budget No 2 had been finally adopted ⁽²⁾ are void — the Court, composed of O. Due, President, R. Joliet, F. A. Schockweiler, F. Grévisse and P. J. G. Kapteyn (Presidents of Chambers),

⁽¹⁾ OJ No C 211, 17. 8. 1989.

⁽¹⁾ OJ No C 278, 6. 11. 1990.

⁽²⁾ OJ No L 239, 3. 9. 1990, p. 1.

G. F. Mancini, C. N. Kakouris, J. C. Moitinho de Almeida, G. C. Rodriguez Iglesias, M. Díez de Velasco and M. Zuleeg, Judges; F. G. Jacobs, Advocate-General; J.-G. Giraud, Registrar, gave a judgment on 31 March 1992, the operative of which is as follows:

1. *The President of the European Parliament's declaration of 11 July 1990 that the amending and supplementary budget No 2 of the European Communities for 1990 had been finally adopted is declared void.*
2. *The annulment of the President of the Parliament's declaration of 11 July 1990 does not affect the validity of the transactions of payment or commitment or relating to the call for and levy of own resources, before the present judgment was delivered, in implementation of the amending and supplementary budget No 2, as published in the Official Journal of the European Communities.*
3. *The Parties, including the intervener, are ordered to pay their own costs.*

JUDGMENT OF THE COURT

(Third Chamber)

of 2 April 1992

in Case C-378/92 P: Antonino Pitrone v. Commission of the European Communities ⁽¹⁾

(Appeal — Official — Reorganization of the service — Creation of a new post)

(92/C 109/09)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case C-378/90 P: Antonino Pitrone, represented by Nicolas Decker, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 16 Avenue Marie-Thérèse, appeal against the judgment of the Court of First Instance of the European Communities (Fourth Chamber) of 23 October 1990 in Case T-46/89 between Antonino Pitrone and Commission of the European Communities, seeking to have that judgment set aside, the other Party to the proceedings being the Commission of the European Communities (Agent: Sean Van Raepenbusch, assisted by Claude Verbraeken and

Denis Waelbroeck) — the Court of Justice (Fourth Chamber), composed of F. Grévisse, President of the Third Chamber, J. C. Moitinho de Almeida and M. Zuleeg, Judges; M. Darmon, Advocate-General; D. Louterman, Principal Administrator, acting for the Registrar, gave a judgment on 2 April 1992, the operative part of which is as follows:

1. *The appeal is dismissed.*
2. *The appellant is ordered to pay the costs.*

Reference for a preliminary ruling from the Landgericht Augsburg by order of that court of 10 March 1992 in the case of CMC Motorradcenter GmbH v. Pelin Baskiciogullari

(Case C-93/92)

(92/C 109/10)

Reference has been made to the Court of Justice of the European Communities by order of the Landgericht [Regional Court] Augsburg of 10 March 1992, which was received at the Court Registry on 23 March 1992, for a preliminary ruling in the case of CMC Motorradcenter GmbH v. Pelin Baskiciogullari on the following question:

Is it compatible with Article 30 of the EEC Treaty for a German importer to be placed under an obligation to inform the purchaser of a motorcycle made by the Yamaha corporation that German dealers authorized by Yamaha often refuse to carry out repairs under guarantee if the motorcycle has been obtained through parallel importation?

Action brought on 30 March 1992 by Friedrich Steensen-Feddersen against the European Economic Community, represented by the Council and the Commission of the European Communities

(Case C-103/92)

(92/C 109/11)

An action against the European Economic Community, represented by the Council and the Commission of the European Communities, was brought before the Court of Justice of the European Communities on 30 March 1992 by Friedrich Steensen-Feddersen, D-2343 Karby,

(¹) OJ No C 26, 2. 2. 1991.

represented by Dr Mailänder, Dr Adolff, Dr Winkler, Dr Gerstenmeier, H. Schädel, Dr Kessler, Dr Schmidt-Lorenz, Dr Fischer and Dr Waldenmaier, Rechtsanwälte, 83 Lenzhalde, D-7000 Stuttgart 1, with an address for service in Luxembourg at the Chambers of Ernest Arendt and Jean Medernach, 4 Avenue Marie-Thérèse.

The Applicant claims that the Court should:

1. order the defendant to pay the applicant DM 114 672,60 together with interest at the annual rate of 10 % payable from 1 November 1983 to the date of payment;
2. declare the defendant liable to compensate the applicant for all present and future damage resulting from the fact that by virtue of Article 3a (2) of Regulation (EEC) No 857/84 ⁽¹⁾, as inserted by Regulation (EEC) No 764/89 ⁽²⁾, he was allocated only 60 % of the quantity of milk delivered by the producer during the 12 calendar months preceding the month in which the application for the non-marketing premium was made.

In the alternative:

Order the defendant to pay the applicant DM 50 000 together with interest at the annual rate of 8 % to the date of payment;

3. order the defendant to pay the costs.

The pleas in law and main arguments adduced in support are the same as those in Case C-216/90 ⁽³⁾.

⁽¹⁾ OJ No L 90, 1. 4. 1984, p. 13.

⁽²⁾ OJ No L 84, 29. 3. 1989, p. 2.

⁽³⁾ OJ No C 222, 6. 9. 1990, p. 3.

Action brought on 30 March 1992 by Peter Rabe against the European Economic Community, represented by the Council and the Commission of the European Communities

(Case C-104/92)

(92/C 109/12)

An action against the European Economic Community, represented by the Council and the Commission of the European Communities, was brought before the Court of Justice of the European Communities on 30 March 1992 by Peter Rabe, D-2397 Handewitt, represented by Dr Mailänder, Dr Adolff, Dr Winkler, Dr Gerstenmeier, H. Schädel, Dr Kessler, Dr Schmidt-Lorenz, Dr Fischer and Dr Waldenmaier, Rechtsanwälte, 83 Lenzhalde, D-7000 Stuttgart 1, with an address for service in Luxembourg at the Chambers of Ernest Arendt and Jean Medernach, 4 Avenue Marie-Thérèse.

The applicant claims that the Court should:

1. order the defendant to pay the applicant DM 105 686,40 together with interest at the annual rate of 10 % payable from 26 March 1986 to the date of payment;
2. declare the defendant liable to compensate the applicant for all present and future damage resulting from the fact that by virtue of Article 3a (2) of Regulation (EEC) No 857/84 ⁽¹⁾, as inserted by Regulation (EEC) No 764/89 ⁽²⁾, he was allocated only 60 % of the quantity of milk delivered by the producer during the 12 calendar months preceding the month in which the application for the non-marketing premium was made;

In the alternative:

Order the defendant to pay the applicant DM 50 000 together with interest at the annual rate of 10 % to the date of payment;

3. order the defendant to pay the costs.

The pleas in law and main arguments adduced in support are the same as those in Case C-216/90 ⁽³⁾.

⁽¹⁾ OJ No L 90, 1. 4. 1984, p. 13.

⁽²⁾ OJ No L 84, 29. 3. 1989, p. 2.

⁽³⁾ OJ No C 222, 6. 9. 1990, p. 3.

COURT OF THE FIRST INSTANCE

JUDGMENT OF THE COURT OF FIRST
INSTANCE

of 1 April 1992

in Case T-26/91: Leonella Kupka-Floridi v. Economic
and Social Committee ⁽¹⁾

*(Official — Recruitment — Probationary period —
Decision not to establish the official at the end of the
probationary period — Duty to have regard to the
welfare of staff — Patent mistake of assessment —
Consultation of the Staff Reports Committee)*

(92/C 109/13)

(Language of the case: French)

*(Provisional translation; the definitive translation will be
published in the Reports of Cases before the Court)*

In Case T-26/91: Leonella Kupka-Floridi, a former
official of the Economic and Social Committee, residing

in Amsterdam, represented by Georges Vandersanden, of
the Brussels Bar, with an address for service in
Luxembourg at the Chambers of Alex Schmitt, 62
Avenue Guillaume, against the Economic and Social
Committee (Agent: Moisés Bermejo Garde, assisted by
Denis Waelbroeck, of the Brussels Bar, and at the
hearing by David Pardes, of the Brussels Bar) —
application for annulment of the decision of 27 June
1990 of the Secretary-General of the Economic and
Social Committee to dismiss the applicant at the end of
her probationary period — the Court of First Instance
(Third Chamber), composed of B. Vesterdorf, President
of the Chamber, A. Saggio and J. Biancarelli, Judges; H.
Jung, Registrar, gave a judgment on 1 April 1992, the
operative of which is as follows:

1. *The application is dismissed;*
2. *The Parties are ordered to bear their own costs.*

⁽¹⁾ OJ No C 137, 28. 5. 1991.

III

(Notices)

COMMISSION

Prior notification of a concentration**(Case No IV/M.221 — ABB/BREL)**

(92/C 109/14)

1. On 22 April 1992 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾ by which the undertaking Asea Brown Boveri Limited (ABB) belonging to the Asea Brown Boveri group acquires within the meaning of Article 3 (1) b of the Regulation control of the whole of BREL Group Limited (BREL) by way of a purchase of a further 40 % of the shares in BREL from Trafalgar House plc. ABB already owns 40 % of BREL's shares.

2. The business activities of ABB are the design, manufacture, sale and service of products in the power generation, transmission and distribution, environmental control technology, transportation and industrial automation and control sectors. BREL is active in the design, construction, maintenance, repair and refurbishment of railway rolling stock and equipment and general engineering.

3. Upon preliminary examination, the Commission finds that the notified concentration could fall within the scope of Council Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32-2) 236 43 01) or by post, under reference number IV/M.221 — ABB/BREL, to the following address:

Commission of the European Communities,
Directorate General for Competition (DG IV),
Merger Task Force,
Avenue de Cortenberg 150,
B-1049 Brussels.

⁽¹⁾ OJ No L 257, 21. 9. 1990, p. 13.

INFO 92

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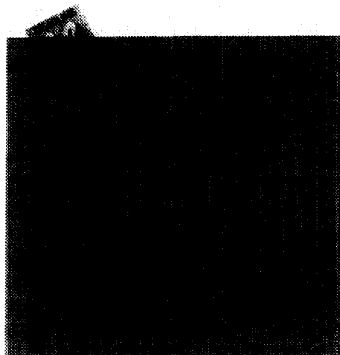
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