COMMISSION REGULATION (EC) No 241/97

of 10 February 1997

amending Regulation (EEC) No 1102/89 laying down certain measures for implementing Council Regulation (EEC) No 1101/89 on structural improvements in inland waterway transport

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1101/89 of 27 April 1989 on structural improvements in inland waterway transport [1], as last amended by Commission Regulation (EC) No 2310/96 [2], and in particular Articles 4a, 6 and 10 (3) thereof,

Whereas Regulation (EEC) No 1101/89, as amended, provides for the possibility of reducing structural overcapacity in inland waterway transport in the Member States concerned by introducing schemes coordinated at Community level for the scrapping of vessels in 1996, 1997 and 1998, with a view to reducing fleet capacity by some 15 %;

Whereas, pursuant to Commission Regulation (EEC) No 1102/89 of 27 April 1989 laying down certain measures for implementing Council Regulation (EEC) No 1101/89 on structural improvements in inland waterway transport [3], as last amended by Regulation (EC) No 2326/96 [4], the Commission establishes the practical arrangements for these scrapping schemes;

Whereas, in respect of the scrapping scheme for 1997, the total financial contribution payable to the Scrapping Funds by the Member States concerned is estimated at ECU 64 million, to achieve a reduction in capacity of about 5 %; whereas this contribution is calculated in proportion to the size of the active fleet of each Member State concerned, as provided for in Council Regulation (EC) No 2254/96 [5];

Whereas, for 1997, the financial contribution from the Member States concerned and the contribution payable by the trade must be shared between dry cargo vessels, pusher craft and tanker vessels;

Whereas, in order to achieve the objective of reducing overcapacity, the annual contribution payable by the trade must be maintained and the 50 % rate provided for in Article 3 (4) must be restored to the rates laid down in Article 3 (1);

Whereas the scrapping premiums should also be increased to make the scrapping scheme more attractive; whereas a procedure should also be reintroduced under which priority is given to applications for the lowest premiums within a bracket ranging from 80 % to 100 % of the maximum rates applicable from 1 January 1997, so that as much capacity as possible can be scrapped;

Whereas, in order to improve the operation of the mutual financial support arrangements between the separate national Scrapping Funds, the 'adjusted annual financial commitments' formula established in 1989 by Article 10 (2) of Regulation (EEC) No 1102/89 should be adapted;

Whereas, on a transitional basis, the special contribution payable as part of the measures to avoid increasing existing overcapacity and to prevent the appearance of new overcapacity should be maintained at its 1990 level for vessels, the building of which has passed a certain stage and which are brought into service within six months following into entry into force of this Regulation;

Whereas, to enable the 1997 scrapping scheme to go ahead, between May and December 1997, the lodging of new applications pursuant to Article 6 (6) (a) of Regulation (EEC) No 1102/89 must be suspended so that no vessel can be placed on a quarterly waiting list and at the same time be entered under the 1997 scrapping scheme procedure; whereas the quarterly mechanism for applying for premiums from the Scrapping Funds, as provided for in Article 6 (6) (b) of the Regulation, as amended, must therefore also be suspended;

Whereas the budgetary implications for the Member States concerned and the need to initiate the procedure by introducing national implementing measures from the start of 1997 make it necessary to bring this Regulation into force as a matter of urgency;

Whereas the Member States and the Group of Experts on Structural Improvements in Inland Waterway Transport, set up pursuant to Article 12 of Regulation (EEC) No 1102/89, have been consulted on the proposed amendments,

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[1] OJ No L 116, 28. 4. 1989, p. 25.
[2] OJ No L 313, 3. 12. 1996, p. 8.
[3] OJ No L 116, 28. 4. 1989, p. 30.
[4] OJ No L 316, 5. 12. 1996, p. 13.
[5] OJ No L 304, 27. 11. 1996, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1102/89 is amended as follows:

1. The following paragraph 6 is added to Article 1:

'6. Without prejudice to the provisions of paragraphs 1 to 5, and in view of the need to reduce the capacity of their inland waterway fleets by some 5 % in 1997, the Member States concerned shall pay to the Scrapping Funds, from 1 January 1997 and from their national budgets, the amounts necessary for scrapping the vessels referred to in Article 2 of Regulation (EEC) No 1101/89, namely ECU 54 million, to supplement the financial resources referred to in paragraph 4. To achieve this aim, a total budget of ECU 64 million is considered necessary for 1997, of which ECU 40 million (*) is for the scrapping of dry cargo vessels and pusher craft and ECU 24 million (*) for the scrapping of tanker vessels. For 1997, each of the Member States concerned shall pay a financial contribution proportional to the capacity of its active fleet, in equivalent tonnage, the national contributions being as follows:

— Austria: ECU 900 000,

— Belgium: ECU 7 920 000,

— Germany: ECU 13 760 000,

— France: ECU 1 260 000,

— The Netherlands: ECU 30 160 000.

(*) Approximate figure at present.'

2. Article 3 (4) is deleted.

3. Article 5 is amended as follows:

(a) In paragraph 1 '100 %' is replaced by '115 %' and a new subparagraph is added:

'For 1997, the scrapping premium rates shall be as follows:

— *Dry cargo vessels:*

— Self-propelled barges: ECU 135/tonne

— Push barges: ECU 60/tonne

— Lighters: ECU 47/tonne

— *Tanker vessels:*

— Self-propelled barges: ECU 243/tonne

— Push barges: ECU 108/tonne

— Lighters: ECU 43/tonne

— *Pusher craft:*

ECU 180/kW with a linear increase to ECU 240/kW where the motive power is equal to or greater than 1 000 kW.'

(b) The following text is added to paragraph 2:

'For vessels with a deadweight capacity of between 650 and 1 650 tonnes, the maximum rates for the scrapping premiums shall show a linear increase from 100 % to 115 % for vessels up to 1 650 tonnes. For vessels with a deadweight capacity of more than 1 650 tonnes, the maximum rates for the scrapping premiums shall remain at 115 %.'

(c) Paragraph 4 is deleted.

4. Article 9 (2) is amended as follows:

The expression 'referred to in Article 2' is replaced by 'of publication of the first *Official Journal of the European Communities* for 1997 in which the interest rates applied by the European Monetary Institute to its operations in ecu for the month of January are specified'.

5. Article 10 (2) (b), the fourth indent is replaced by the following:

'— the adjusted annual financial commitment (P_{nn}) of each Fund, calculated as follows:

$$P_{nn} = \frac{P_t}{(R_{dt} + S_t)} \times (R_{dn} + S_n).'$$

Article 2

For 1997, Article 6 of Regulation (EEC) No 1102/89 is replaced by the following:

'Article 6

1. Applications for scrapping premiums submitted by vessel owners must be received by the authorities of the relevant Fund between 1 May and 31 August 1997. Applications received after this deadline shall not be considered. An application for a scrapping premium, once received by the Fund authorities, may not be withdrawn or modified.

2. Applicants for scrapping premiums shall indicate in their applications the percentage, within the bracket ranging from 80 % to 100 % of the maximum rates set out in Article 5, which they wish to receive as a premium for scrapping their vessels. This percentage is referred to hereinafter as the "premium-rate percentage".

3. Valid applications for scrapping premiums amounting to 80 % of the rates set out in Article 5 (1) and (2) shall be deemed to be accepted by the Fund within the limits of the financial resources available in the various accounts, as provided for in Article 1 (6). The Fund authorities shall confirm their acceptance of applications within two months of receipt.

The authorities of the various Funds shall send to the Commission each month a list of the applications which they have received for scrapping premiums amounting to 80 % of the abovementioned rates. The Commission shall ensure that these applications do not exceed the financial resources referred to in Article 1 (6) and shall keep the Fund authorities informed of the current situation.

4. The Fund authorities shall, before 1 November 1997, notify in writing applicants for scrapping premiums exceeding 80 % of the rates set out in Article 5 (1) and (2) as to whether those applications have been accepted or refused.'

Article 3

For 1997, Article 7 of Regulation (EEC) No 1102/89 is amended as follows:

(a) in paragraph 1, '1 December 1990' is replaced by '1 April 1998'. The final sentence is deleted;

(b) in paragraph 4, '1 December 1992' is replaced by '1 December 1999'.

Article 4

The scrapping premium, where it constitutes the special contribution payable under the system for preventing any increase in existing overcapacity or the appearance of new overcapacity, shall be maintained at its 1990 level for a transitional period of six months from the date of entry into force of this Regulation in respect of vessels which meet the conditions set out in Article 8 (3) (a) of Regulation (EEC) No 1101/89.

Article 5

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, 10 February 1997.

For the Commission

Neil KINNOCK

Member of the Commission