

Proposal for a Council Directive amending Directive 72/156/EEC on regulating international capital flows and neutralizing their undesirable effects on domestic liquidity

COM(87) 550 final

(Submitted by the Commission to the Council on 4 November 1987)

(88/C 26/02)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Community, and in particular Article 70 paragraph 1 thereof,

Article 1

The exacting terms of Directive 72/156/EEC shall be replaced by the following:

Having regard to the proposal from the Commission, which consulted the Monetary Committee for this purpose,

Article 1

Having regard to the opinion of the European Parliament,

Whereas by Directive .../.../EEC, for the implementation of Article 67 of the Treaty, the Council established the free movement of capital between the residents of the Member States;

1. In the arrangements which they apply to the conclusion or performance of transactions and to transfers in respect of capital movements with third countries, the Member States shall endeavour to attain the same degree of liberalization as in the case of operations taking place with residents of the other Member States of the Community.

Whereas the Member States shall endeavour to attain the highest possible degree of liberalization in respect of movement of capital between the residents of the Community and those of third countries;

2. The Member States shall inform the Commission of the restrictions which they impose on movements of capital to or from third countries at the date of entry into force of this Directive, and of any subsequent change to these provisions.

Whereas by Directive 72/156/EEC ⁽¹⁾ the Council established a set of instruments for regulating international capital flows and neutralizing their undesirable effects on domestic liquidity; whereas in view of the fact that the free movement of capital within the Community has been established, these instruments may be put into operation in order to regulate short-term capital movements between residents of the Member States of the Community only on the conditions and according to the safeguard procedures laid down in the Treaty and in Directive .../.../EEC; whereas Directive 72/156/EEC must be amended accordingly;

3. The Commission may make recommendations to Member States on this subject.

Article 2

Whereas it must be possible for these instruments to be used on a recommendation from the Commission, in order to ensure coordinated action by the Member States, in the event of short-term capital flows to or from third countries leading to serious disturbances in their domestic monetary situation and in the stability of exchange rate relationships in the European Monetary System;

The Member States shall take all necessary measures to ensure that the monetary authorities have available the following instruments and are able, where necessary, to put them into operation immediately without further enabling measures:

Whereas, for the sake of clarity, it is advisable to present in a single text all the exacting terms of Directive 72/156/EEC, as amended by this Directive,

(a) for effective regulation of international capital flows:

- rules governing the constitution of short-term assets or liabilities placed with non-residents and payment of interest on the short-term holdings of non-residents,
- regulation of short-term financial loans and credits granted to or contracted with non-residents;

(b) for the neutralization of those effects produced by international capital flows on domestic liquidity which are considered undesirable:

- regulation of the net external position of credit institutions,
- fixing minimum reserve ratios, in particular for the holdings of non-residents.

⁽¹⁾ OJ No L 91, 18. 4. 1972, p. 13.

Article 3

1. The Member States shall forthwith adopt the necessary measures to comply with this Directive. They shall forthwith inform the Commission thereof.

2. Each Member State shall, where necessary, and taking account of the interests of the other Member States, apply all or some of the instruments mentioned in Article 2.

When these instruments apply to movements of capital occurring between residents of the Member States of the Community, they may be put into operation only on the conditions and according to the procedures laid down in the provisions of the Treaty relating to the use of a safeguard clause or in the provisions of Article 2 and 3 of Directive .../.../EEC for the implementation of Article 67 of the Treaty.

Without prejudice to these provisions, the Commission may recommend to the Member States that all or some of the instruments mentioned in Article 2 be put into

operation, in the event of short-term capital flows to or from third countries leading to serious disturbances in the domestic monetary situation and in the stability of exchange rate relationships in the European Monetary System.

3. When the instruments mentioned in Article 2 are applied, the Commission shall ensure close coordination between the authorities of the Member States.

Article 4

In exercising the powers which are conferred upon it by this Directive, the Commission shall act in consultation with the Monetary Committee and the Committee of Governors of Central Banks.

Article 5

This Directive is addressed to the Member States.'

Article 2

This Directive is addressed to the Member States.

Proposal for a Council Regulation (EEC) establishing a single facility providing medium-term financial support for Member States' balances of payments

COM(87) 550 final

(Submitted by the Commission to the Council on 4 November 1987)

(88/C 26/03)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 108 and 235 thereof,

Having regard to the proposal from the Commission, which consulted the Monetary Committee for this purpose,

Having regard to the opinion of the European Parliament,

Whereas Article 108 of the Treaty provides for the granting of mutual assistance, to be decided by the Council on a proposal from the Commission, to a Member State in difficulties or seriously threatened with difficulties as regards its balance of payments; whereas the resolution of the European Council of 5 December 1978 on the establishment of the European Monetary System (EMS) and related matters confirmed the need for a Community facility for medium-term financial assistance of balances of payments;

Whereas it should be possible for the operation of lending to a Member State to take place soon enough in order to

encourage that Member State to adopt, in good time, measures likely to prevent the occurrence of an acute balance-of-payments crisis;

Whereas a financing facility, in the form of a credit line or a loan commitment to a Member State undertaking to implement a capital liberalization programme despite a fragile balance-of-payments situation, should provide back-up for such a programme in orderly exchange-rate conditions;

Whereas each loan to a Member State must be linked to the adoption by that Member State of economic policy measures designed to re-establish or to ensure a sustainable balance-of-payments situation and adapted to the gravity of the balance-of-payments situation in that State and to the way in which it develops;

Whereas appropriate procedures and instruments should be provided for in advance to enable the Community and Member States to ensure that, if required, medium-term