

## II

*(Preparatory Acts)*

## COMMISSION

**Proposal for a Council Directive amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value added tax**

*COM(90) 525 final — SYN 313**(Submitted by the Commission on 27 November 1990)**(90/C 306/10)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Council Directive 76/308/EEC<sup>(1)</sup>, as last amended by the Act of Accession of Spain and Portugal, has established common rules on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value added tax;

Whereas it is not at present possible, in principle, to enforce in one Member State a claim for recovery in respect of customs and excise duties substantiated by a document drawn up by the authorities of another Member State;

Whereas the fact that national provisions in force in the various Member States relating to recovery of excise duties are applicable only within the national territory of each Member State is in itself an obstacle to the establishment and functioning of the internal market; whereas in these circumstances it is therefore necessary to lay down common rules on mutual assistance between Member States for the recovery of excise duties,

in particular for the excise duties which are currently imposed by all the Member States; whereas these rules must also apply to the recovery of interest and costs incidental to such claims;

Whereas it is therefore appropriate to extend the scope of the Directive to those excise duties;

Whereas, in principle, a claim substantiated by a document authorizing its enforcement is recovered according to the laws, regulations and administrative procedures applicable to the recovery of similar claims arising in the Member State where the competent authority to which the request for assistance is made is situated; whereas that principle must be applied above all to the preferential treatment that some claims are given;

Whereas each Member State should provide the Commission with a list of the competent authorities authorized to make or receive requests for assistance so that those lists can be circulated among the other Member States;

Whereas a mutual assistance scheme along such lines is necessary to ensure the functioning of the internal market as laid down in Article 8a of the EEC Treaty,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 76/308/EEC is hereby amended as follows:

1. the title is replaced by the following:

'Council Directive of 15 March 1976 on mutual assistance for the recovery of claims resulting from

<sup>(1)</sup> OJ No L 73, 19. 3. 1976, p. 18.

operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties, and in respect of value added tax and certain excise duties';

2. Articles 2 and 3 are replaced by the following:

*Article 2*

In this Directive:

1. *Import duties* means:

- customs duties and charges having equivalent effect on imports,
- agricultural levies and other import charges laid down within the framework of the common agricultural policy or in that of specific arrangements applicable to certain goods resulting from the processing of agricultural products.

2. *Export duties* means:

- customs duties and charges having equivalent effect on exports,
- agricultural levies and other export charges laid down within the framework of the common agricultural policy or in that of specific arrangements applicable to certain goods resulting from the processing of agricultural products.

3. *Applicant authority* means: the competent authority of a Member State which makes a request for assistance concerning one of the claims referred to in Article 3.

4. *Requested authority* means: the competent authority of a Member State to whom a request for assistance is made.

*Article 3*

This Directive applies to all claims concerning:

- (a) refunds, interventions and other measures forming part of the system of total or partial financing of the European Agricultural Guidance and Guarantee Fund, including sums to be collected in connection with these actions;

(b) import duties;

(c) export duties;

(d) value added tax;

(e) the following excise duties:

- excise duty on manufactured tobacco,
- excise duty on alcoholic beverages and on the alcohol contained in other products,
- excise duty on mineral oils;

(f) interest and costs incidental to the recovery of the claims referred to above.';

3. Article 10 is replaced by the following:

*Article 10*

Claims to be recovered shall be accorded the same preferential treatment as similar claims arising in the Member State where the requested authority is situated.';

4. Article 19 is replaced by the following:

*Article 19*

Member States shall communicate to the Commission a list of the authorities authorized to make or receive requests for assistance, as well as any subsequent relevant changes.

The Commission shall inform the other Member States.'

*Article 2*

Member States shall implement the provisions necessary to comply with this Directive not later than 1 January 1992.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

*Article 3*

This Directive is addressed to the Member States.