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## Information and Notices

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## I

*(Information)*

## EUROPEAN PARLIAMENT

WRITTEN QUESTION No 141/73

by Mr Premoli

to the Commission of the European Communities

*(25 May 1973)*

*Subject:* Protection of the appellation 'Grappa'

Is the Commission aware that products falsely labelled 'Grappa' and not derived from liquor of the distilled residue of pressed grapes are being sold on Community territory?

What measures does the Commission intend to take to give adequate protection to the appellation 'Grappa'?

In particular, is it possible to envisage a protection similar to that given to the name 'Cognac', the use of which is reserved for distillates of wine originating in France?

**Answer**

*(9 September 1974)*

The Commission is not aware that products not derived from liquor of the distilled residue of pressed grapes are being sold on Community territory as 'Grappa'.

Pending the adoption of Community regulations in the matter national rules continue to apply, providing that they are compatible with the EEC Treaty.

The Honourable Member is mistaken in thinking that 'Cognac' is reserved for all distillates of wine originating in France. 'Cognac' is rather a geographical term specifically reserved under French law for liquors distilled in the Cognac region from wine produced there. 'Grappa' on the other hand is a generic term used to designate liquor of the distilled residue of pressed grapes. For this reason there can be no question of considering protection similar to that given to 'Cognac'.

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## WRITTEN QUESTION No 141/74

by Mr Thornley

to the Commission of the European Communities

(24 May 1974)

*Subject:* Situation of migrant workers within the EEC

1. Does the Commission know how long migrant workers who come from countries not within 'the Nine' are employed within the EEC?

2. Does the Commission know, or could it estimate approximately, the number of those who have been legally admitted to work in the EEC and the number who have entered illegally?

3. Does the Commission know if these migrant workers from non-member countries are particularly concentrated in (a) any particular area, and (b) any particular industries?

4. Has the Community common standards to define what is a 'skilled' or 'unskilled' worker, and if so how many migrant 'skilled' workers are engaged in 'unskilled' labour within the EEC?

5. Is the Commission aware of the disparity in real economic terms between the earnings of migrant and indigenous workers in the EEC and does it propose to do anything about this issue?

6. Has the Commission statistics available as to the number of migrant workers within the nine members of the EEC who are accompanied by their wives and families in the host countries?

7. Has the Commission got relative statistics *vis-à-vis* the annual earnings of (a) single migrant

workers, (b) married migrant workers whose husbands and wives both are employed, (c) indigenous workers, whose wives are not gainfully employed, and (d) indigenous workers whose wives are gainfully employed, in as many countries of 'the Nine' in which such statistics are available?

8. In the report on the development of the social situation in the Community in 1973, it is stated that for Ireland 'there are no statistics available relating to migration'. Has the Commission any way of estimating the number of Irish-born workers who are employed in (a) Great Britain and (b) at present in the other seven countries of the Community?

9. In the same report, the Commission states 'there is in fact a large reserve of labour living abroad and wishing to return to Ireland as soon as the domestic employment prospects improve';

(a) how has the Commission arrived at this conclusion? and

(b) what steps has it taken to encourage the creation of employment in countries like the Republic of Ireland which have a lengthy tradition of unemployment?

10. If the Commission cannot provide all of these statistics, does it consider it is possible to proceed with the preparation of the action programme for migrant workers mentioned in answer to Lord O'Hagan's Written Question No 735/73 <sup>(1)</sup>.

<sup>(1)</sup> OJ No C 61, 29. 5. 1974, p. 14.

## Answer

(5 September 1974)

1. As indicated in its answer to Written Question No 276/73 <sup>(1)</sup> by Lord O'Hagan, the Commission has no official statistics on how long workers from third countries stay in the Community.

2. The Commission would refer the Honourable

<sup>(1)</sup> OJ No C 106, 6. 12. 1973, p. 9.

Member to its answers to Written Questions No 278/73 <sup>(2)</sup> and No 279/73 <sup>(3)</sup> by Lord O'Hagan.

3. Migrant workers other than agricultural workers, are concentrated

(a) in industrial and urban centres, and

<sup>(2)</sup> OJ No C 102, 24. 11. 1973, p. 19.

<sup>(3)</sup> OJ No C 12, 9. 2. 1974, p. 17.

(b) in the following industries:

- metal production and processing;
- building and public works;
- different manufacturing and service industries, the precise industries varying from country to country.

4. No.

5. The Community survey of the structure and distribution of industrial wages and salaries in 1972 has produced detailed statistics, by industry, for four Member States (France, Italy, Luxembourg, Netherlands) on differences in earnings by nationality all other things being equal (that is to say, for workers of the same age and sex with the same vocational qualification and service). These statistics are now being processed.

6. No. The only available information is as follows:

- the enquiry referred to earlier showed that in Germany 62 % of male migrant workers and 92 % of female migrant workers are accompanied by their wives and husbands.
- over the past three years the families of 115 200 migrant workers, totalling 225 098 persons, were

admitted to France through the Office national d'immigration (National Immigration Office). Some 339 951 migrant workers entered France during the same period.

7. No.

8. The Commission estimates that approximately 500 000 Irish workers are employed in Great Britain and that about 2 500 Irish nationals are employed in other Member States.

9. (a) The factual information was drawn from reports prepared by experts appointed by the Commission and the draft report was examined and verified by government experts.

(b) The creation of employment in regions which have suffered from prolonged periods of high unemployment, will be among the purposes of the European Regional Development Fund.

10. The Commission recognizes there is a lack of accurate and harmonized statistics on migrant workers and has presented proposals in the matter to the Council. The Commission feels however that despite this drawback it can proceed with the preparation of its action programme for migrant workers.

#### WRITTEN QUESTION No 158/74

by Mr Laban

to the Commission of the European Communities

(6 June 1974)

*Subject:* Butter frauds involving lorries with false floors

According to press reports<sup>(1)</sup>, a butter fraud was discovered a year ago in which lorries with false floors were used. Butter was purchased in Belgium by a British organization. Considerable export subsidies were paid out by the Community on exports of this

butter to the United Kingdom. For every 20 000 kg exported to England, however, the lorries used carried another 7 000 kg. The extra butter was concealed between the real and the false floor of the lorry.

The Commission is asked in this connection:

1. What sum is the Community estimated to have lost as a result of this fraud?

<sup>(1)</sup> See for example, 'Het Vrije Volk', 28. 5. 1974.

2. What steps is the Commission to take to claim back from the persons involved in the butter fraud the loss sustained by the Community?
3. In the Commission's view, does the fact that such a fraud could continue for so long indicate the need for stricter control of such frauds?

**Answer**

(16 September 1974)

1. Assuming that the press reports referred to are correct, the loss to the Community would correspond to the compensatory amounts which should have been charged when the butter entered Belgium.

Under Article 1 of Regulation (EEC) No 2/71<sup>(1)</sup> implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources, Belgium should have established what was due by way of accession compensatory amounts on the tonnage actually re-imported. Since this could not be done the loss to the Community, calculated on the basis of the average compensatory amounts applicable at the time, is estimated to be in the region of 800 units of account per metric ton re-imported.

However, once the case has been investigated by the competent administrative authorities or by the Courts, Belgium will be obliged under the 'own resources' rules to take all necessary steps to establish the sum due by way of accession compensatory amounts on the smuggled butter and, regardless of whether this sum can be recovered, hand it over to the Community as 'own resources'.

2. As soon as it was informed of the various press reports, the Commission made enquiries of the

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<sup>(1)</sup> OJ No L 3, 5. 1. 1971, p. 1.

appropriate authorities in the United Kingdom and Belgium.

The United Kingdom replied that the appropriate British authorities estimated that 445 metric tons of butter had been re-exported to Belgium. They had notified the Belgian customs authorities, once the fraud came to light, under the Convention on mutual assistance between the customs authorities of the Member States, to which the United Kingdom acceded in January 1974.

A detailed dossier on the fraud was subsequently sent not only to the Belgian customs authorities but also to Denmark, Germany, France, the Netherlands and Italy.

Belgium has not replied as yet but the Commission understands that the appropriate authorities are actively pursuing their investigations.

3. There is nothing to show that the special features of this case warrant any change or any tightening of Community controls. Classic frauds of this kind (the use of lorries with false floors) can only be detected by frontier controls and these are a matter for the Member States.

## WRITTEN QUESTION No 205/74

by Mr Cousté

to the Commission of the European Communities

(26 June 1974)

*Subject:* Protection of the established rights of employees in the case of concentrations, mergers and transfers

In a recent statement, Mr Hillery, Vice-President of the Commission responsible for Community social policy, introducing a Directive to protect the established rights of employees in the event of concentrations, mergers and transfers, pointed out that between 1962 and 1970 in the six original Member States the number of concentrations between undertakings had risen from 173 to 612 per year.

Could the Commission indicate the number of employees involved in these concentrations during the period 1962 to 1970?

Could the Commission also indicate the number of concentrations carried out and the number of employees involved during the same period in the three countries which have since joined the Community?

## Answer

(16 September 1974)

The statements which Vice-President Hillery has made regarding the concentration of undertakings in the Community in connection with a proposal for a Directive on the harmonization of legislation of the Member States on the retention of the rights and advantages of workers in the case of mergers, takeovers and amalgamations are based on information compiled by the departments of the Commission.

This information is based on the study of the state of competition in the common market taking as its criterion the turnover of the enterprises and not on the number of workers involved. The Commission is not in possession of such figures and an inquiry into the number of workers affected by these processes of concentration would, to the extent that it is technically possible, require extensive and protracted studies.

However, the following figures provide the Honorary Member with, in broad terms, the number of workers who might be affected by the concentration of industrial enterprises. It is safe to assume that undertakings with an annual turnover of 1 000 million units of account play an important role in the process of concentration. In 1971 there were 57 industrial enterprises in the Community including the

three new Member States with an annual turnover exceeding 1 000 millions units of account. There were:

- 18 in the Federal Republic of Germany;
- 13 in France;
- 15 in Great Britain;
- 4 in Italy;
- 2 in the Netherlands;
- 1 in Belgium;
- 1 in Luxembourg;
- 1 in Italy and Great Britain;
- 2 in Great Britain and the Netherlands.

Each of these enterprises employed more than 20 000 workers in 1971.

98 of the 104 industrial enterprises in the present Community of Nine, with a 1971 turnover of 500 million units of account, each employed at that time more than 20 000 workers.

For more detailed information on the extent of the concentration process, the Commission would refer the Honourable Member to the third report on competition policy.



## WRITTEN QUESTION No 212/74

by Mr Brewis

to the Commission of the European Communities

*(28 June 1974)**Subject: Salmon fishing*

1. What information has the Commission as to the level of salmon catches in the Community in recent years?
2. Has there been a decline in salmon numbers reaching the rivers of the Community?
3. What effect on stocks is attributable to drift netting at sea notably off the coasts of Ireland and Greenland?
4. What measures are at present in force for conserving salmon stocks and does the Commission intend to make further proposals?

## Answer

*(11 September 1974)*

1. From information available to the Commission it would appear that salmon catches in the Community in the past five years were as follows (in metric tons):
  - 1969: 7 600.
  - 1970: 6 800.
  - 1971: 6 600.
  - 1972: 6 900.
  - 1973: 6 900 (provisional).
2. The Commission has no precise information which would enable it to say whether the number of salmon reaching rivers has declined in recent years.
3. The Commission has no information which would allow it to assess the effect of drift netting on stocks. It can say however that 50 % of Irish salmon are caught in this way and that this percentage has remained relatively stable in recent years. Drift netting is the only method used in Greenland.
4. The Commission is playing an active role in the work of international fisheries committees and intends to take a keen interest in all problems affecting salmon.

## WRITTEN QUESTION No 213/74

by Mr Willi Müller

to the Commission of the European Communities

(3 July 1974)

*Subject:* The health hazard posed by formamide in felt-tipped pens

1. Can the Commission confirm that felt-tipped pens, which contain formamide, constitute a health risk, and does it consider it proven or probable that mere contact with the ink can pose a health risk to a pregnant woman and her unborn child?
2. Will the Commission take steps, as the Ministry of Health and the responsible industrial association in the Federal Republic have already done to prohibit the use of formamide in fibre-tipped pen ink?
3. In view of the fact that Member States and third countries manufacture and sell felt-tipped pens with a high (40 to 50 %) formamide content, does the Commission not consider that urgent action is called for?

## Answer

(5 September 1974)

1. The term 'formamide' is generally applied to formamide itself, methylformamide, ethylformamide and more complex derivatives.

The Commission is aware that a major manufacturer of formamide has indicated in its technical sales literature that formamide can have teratogenic effects (cause malformation of the foetus).

As far as toxicity is concerned, trials with rats have shown that the lethal dose is 7 500 mg/kg when formamide is ingested orally and 17 000 mg/kg for cutaneous absorption. As a result of work on guinea pigs at the University of Osaka, the LD<sub>50</sub> for intra-muscular injection has been fixed at 2 539 mg/kg.

However, the Commission has not yet been notified of any accidents to human beings, particularly pregnant women, resulting from the normal use of felt-tipped pens.

From the toxicological point of view therefore this is not an urgent problem calling for an early decision. There is however cause for concern and the matter merits investigation in accordance with the scientific criteria used in industrialized countries.

2. The use of formamide is not, apparently, prohibited by German law. The ban referred to by the Honourable Member on the use of formamide in ink for felt-tipped pens is merely a 'gentlemen's agreement' between the Ministry of Health and the appropriate trade association.

3. The Commission will take a keen interest in the results of work now in progress and reserves the right, in the light of these findings, to take such action as is within its province.

WRITTEN QUESTION No 218/74  
by Mr Willi Müller  
to the Commission of the European Communities

(5 July 1974)

*Subject:* Hydrogen as supplementary fuel for spark-ignition engines

1. Is the Commission aware that promising experiments are now being conducted in the Federal Republic of Germany on the use of hydrogen as a supplementary fuel for spark-ignition engines, with a view to reducing considerably the pollution of the atmosphere caused by motor vehicles when idling and under part-load conditions?
2. Will the Commission not only closely follow but also promote this development as much as possible, because it ties in with the declared aims of the Community's action programme on environmental protection?

**Answer**

(9 September 1974)

1. The Commission is aware of research work going on in Germany and the Netherlands in this field which is quite well advanced at experimental level. There are however considerable difficulties in the way of large scale practical application: in particular the problems of increased production and storage have to be solved.
2. In view of the potential value of hydrogen as a supplementary fuel for certain purposes, the Commission intends to keep a close watch on work being done in this field which could help solve a number of energy supply and environmental problems. This is why the Commission's communication <sup>(1)</sup> on energy research listed hydrogen economy as one of the strategic areas to be spotlighted in the years ahead.

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<sup>(1)</sup> Energy for Europe: Research and Development (SEC(74) 2592 fin.).

## WRITTEN QUESTION No 219/74

by Mr Willi Müller

to the Commission of the European Communities

*(5 July 1974)*

*Subject:* Threat to fish reserves posed by underwater fishing

1. Is the Commission aware that well-known international nature conservancy organizations, for example the World Wildlife Fund (WWF) and the International Union for the Conservation of Nature and Natural Resources (IUCN), are demanding a strict and universal ban on underwater fishing with harpoon guns and other mechanical weapons, because this rapidly spreading form of fishing is threatening to wipe out fish reserves?
2. Are there any seas, lakes or rivers in the Community for which national legislators have already issued bans on this form of underwater fishing or intend to introduce them?
3. Can an initiative be expected from the Commission leading to a ban on such ruinous exploitation of natural resources and does it intend to decide, if necessary, to advocate, in international bodies, a world-wide ban on underwater fishing?

**Answer***(9 September 1974)*

1. According to information available to the Commission, some international nature conservancy organizations are campaigning for the protection of a number of threatened marine species now hunted by underwater fishermen.

On the occasion of the world underwater fishing championships, these organizations drew attention to the problem and called for a ban on certain methods of fishing.

It would be wrong however to conclude that these organizations blame underwater fishing for shrinking fish stocks. These are in danger from overfishing by the world's fishing fleets, whose technology is constantly improving, not from a small number of underwater fishermen using relatively rudimentary equipment.

2. Some Member States have banned underwater fishing near seaside resorts, largely for safety reasons. In some cases they have also banned the use of breathing apparatus (compressed air cylinders) for underwater fishing.
3. The Commission is taking a keen interest in all suggestions made and steps taken to protect wildlife, nature and the environment. It will make every effort to find the most suitable solution to any problems which may arise in this area.

## WRITTEN QUESTION No 220/74

by Mr Willi Müller

to the Commission of the European Communities

*(5 July 1974)**Subject:* Safety devices for motor vehicles

1. What is the Commission's position in regard to the severe criticism made by eminent experts in accident research that while motor car manufacturers draw attention to all the technical data of their products, they fail in the main to give concrete information about safety devices in their cars?
2. Is the Commission aware that motor car manufacturers have rejected the idea of a safety catalogue for motor vehicles on the grounds that this could only be achieved on an 'international' basis?
3. Will the Commission take up this argument by the motor car manufacturers, which in my view is an excuse for doing nothing, to combine existing and impending European Directives on safety on and in motor vehicles and ensure that manufacturers' brochures are shorn of their largely lyrical style and made to include a safety catalogue, perhaps in the form of a check-list?

**Answer***(11 September 1974)*

1 and 2. The Commission favours placing the greatest possible accent on safety factors in motor car advertising.

3. The Commission would point out that the Community Directives concerned with motor vehicle safety are addressed to the Member States who in consequence adopt appropriate legislation or regulations. Moreover, the Commission regularly publishes an inventory of Community legislation in the field of technical barriers to trade.

Whenever the actions of the Commission involve approximation of the legislations of Member States, they are restricted to those measures strictly necessary to ensure the free movement of products, an area which is not regarded in the conditions presently prevailing as including rules relating to publicity. However, Member States are of course free to introduce their own legislation in relation to this.

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## WRITTEN QUESTION No 221/74

by Mr Cousté

to the Commission of the European Communities

(5 July 1974)

*Subject:* Establishment of a European system for recognition of diplomas

At the meeting on 6 June of the Ministers of Education of the Community, the principle of establishing a European system for recognition of diplomas was accepted so as to give effect to the proposals from the Commission to the Council.

Is the Commission in a position to define the scope of this European system of recognition for diplomas and the time table envisaged for its implementation?

**Answer**

(16 September 1974)

The mutual recognition of diplomas, certificates and other evidence of formal qualifications in the framework of the right of establishment for self-employed activities is based on Article 57 (1) of the EEC Treaty. In accordance with this Article the Commission has submitted to the Council a number of draft Directives for the mutual recognition of diplomas for various self-employed activities.

With the object of accelerating the adoption of these Directives, the Commission submitted to the Council on 11 March 1974, a draft resolution on guidelines for the mutual recognition of diplomas, certificates and other evidences of formal qualifications by virtue of Article 57 of the EEC Treaty. On 6 June 1974 the Council, at its meeting in Luxembourg, adopted the first of these guidelines:

'Given that despite the differences existing between one Member State and another in the courses of training there is in practice broad comparability between the final qualifications giving access to identical fields of activity, the directives for the mutual recognition of

professional qualifications and for the coordination of the conditions of access to the professions should resort as little as possible to the prescription of detailed training requirements.'

In order to put it into effect lists of diplomas, certificates and other evidences of formal qualifications, which could be mutually recognized as such, should be drawn up, and consultative committees, whose terms of reference, composition and number had yet to be determined, should be set up.

The Council has invited the Committee of Permanent Representatives, in cooperation with the Commission, to ensure the implementation of this resolution, especially when considering the proposals for Directives relating to the mutual recognition of diplomas, certificates and other evidences of formal qualifications, within the context of the right of establishment and freedom to provide services; such draft Directives for the professions of doctor, pharmacist and architect are at present under discussion.

## WRITTEN QUESTION No 225/74

by Mr Notenboom

to the Commission of the European Communities

(5 July 1974)

*Subject:* Frauds by Dutch labour brokers

A great many articles have appeared in the Dutch press in recent months, and even earlier, drawing attention to frauds perpetrated by Dutch labour brokers, usually established in Holland, who hire out Dutch workers to German, and to an increasing extent, Belgian firms.

In spite of Regulation (EEC) No 1408/71 <sup>(1)</sup> on the application of social security schemes to employed persons and their families moving within the Community, and Regulation (EEC) No 574/72 <sup>(2)</sup> (fixing the procedure for application, etc.), as a result of differences in legislation, administrative procedures, the complexity of the matter and the multiplicity of social security authorities, government departments operating independently of one another within the country and, all the more so, outside it, a situation has arisen which is extremely unsatisfactory in many respects. Thousands of workers are not insured for certain periods, no social security contributions are paid, insufficient income tax is

deducted from them or none at all, and if it is deducted it is often not paid over, so that they mistakenly believe that they have fulfilled their tax commitments, and they wrongfully receive family allowances which they have to pay back again.

The tax authorities and social security funds in certain Member States are deprived of thousands of millions of units of account, while a few people receive incredible and usually untaxed incomes as a result of these frauds. There is frustration among a great many of the officials employed in the relevant fields because they see obvious frauds going unpunished or barely contested.

In reply to questions asked, in the Netherlands Parliament it was stated that combating these frauds is a very complicated matter, from which the questioner concludes that, for the time being, not much success is to be expected from efforts in that direction.

Is the Commission prepared to examine this problem and possibly to take action to ensure that decisions of the Council produce fair social security conditions, free from the abovementioned serious abuses for workers moving within the Community?

<sup>(1)</sup> OJ No L 149, 5. 7. 1971, p. 2.

<sup>(2)</sup> OJ No L 74, 27. 3. 1972, p. 1.

## Answer

(16 September 1974)

1. The social security legislation applicable to Community workers is clearly specified in Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community. The general rule is defined in Article 13 which states that a worker is subject solely to the legislation of the Member State in which he is employed. The fact that he resides in another Member State, or that the registered office or place of business of the undertaking or individual employing him is situated in another Member State, is immaterial. There are however exceptions to this general rule. Article 14 (1) (a) reads as follows:

'A worker employed in the territory of a Member State by an undertaking to which he is normally attached who is posted by that undertaking to the territory of another Member State to perform work there for that undertaking shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of that work does not exceed 12 months and that he is not sent to replace another worker who has completed his term of posting.'

In certain circumstances the initial term of posting may be extended for a maximum period of 12 months.

2. In cases of this kind the social security institution of the Member State whose legislation remains applicable issues the worker concerned with an E 101 certificate to the effect that he will remain subject to that legislation until a specified date. This means that, throughout the term of posting, both worker and employer are exempt from paying social security contributions in the country to which the worker is posted although contributions must obviously continue to be paid in the country from which the worker is posted.

3. It is for the authorities of the country from which the worker is posted to check that the conditions laid down in Article 14 (1) (a) have been satisfied before an E 101 certificate is issued and to ensure that contributions are in fact being paid on the worker's behalf. In the same way it is primarily for employers, and then for the authorities, in the country to which the worker is posted to check that he has an E 101 certificate and if he does not have one to see to it that he is registered.

4. On 17 December 1970 the Court of Justice ruled in the Manpower case (Case 35/70) that the exception to the general rule contained in Article 14 (1) (a) applied to workers engaged by a temporary employment agency and placed with an undertaking situated on the territory of another Member State. Under Decision No 87 of the Administrative Committee on Social Security for Migrant Workers application of this provision is

conditional on a definite link existing between the worker and the agency. This means that E 101 certificates are not issued where workers are merely placed in employment.

5. It is clear therefore that abuses of the kind reported by the Honourable Member could be stamped out by correct implementation of existing legislation — both Community and national — and cooperation between national administrations. The matter raised by the Honourable Member will be referred to the next meeting of the Administrative Committee on Social Security for Migrant Workers in the hope that greater cooperation between Member States' social security institutions will put a stop to abuses of this kind.

The Commission has also drawn the attention of the Technical Committee for the Free Movement of Workers to the problems created by the fact that a temporary employment agency situated in one Member State is treated as the employer of the workers it engages even where these workers are actually employed in another Member State by a third party who cannot be held responsible in social security matters if the employer defaults.

The Technical Committee felt that the best way of bringing such abuses to light was to encourage mutual assistance and a permanent exchange of information between national employment services. A Working Party appointed for this purpose held its first meeting in Brussels in July.

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WRITTEN QUESTION No 226/74

by Mr Broeksz

to the Commission of the European Communities

(5 July 1974)

*Subject:* Notices of public works contracts and concessions

1. Can the Commission state, separately for each Member State, how many notices of:

— public works contracts (both open and restricted procedures),



- public works concessions, and
- subcontracts,

respectively, have so far been published in the *Official Journal of the European Communities* in accordance with Council Directive No 72/277/EEC <sup>(1)</sup> of 26 July 1972?

2. If it should be ascertained that one or more Member States have not complied with the requirements of the above Directive, or have not always done so, what measures has the Commission taken in the past against such State or States and/or what measures does it propose to take in the future?

3. When does the Commission intend to provide the European Parliament with the first detailed statistics showing how many contracts of each category referred to in question 1 have been awarded in each Member State to domestic contractors and how many to contractors from other Member States, as most recently promised by the Commission in the plenary sitting of 17 October 1973?

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<sup>(1)</sup> OJ No 176, 3. 8. 1972, p. 12.

#### Answer

(16 September 1974)

1. The Commission has analysed the notices published in the Official Journal, in accordance with Council Directive No EEC/72/277, between 1 July and 31 December 1973, inclusive. The analysis is set out in the Annex to this answer. No notices appeared in respect of public works concessions.

2. In the Commission's view, the position in Italy is not in conformity with the provisions of the basic Directive No EEC/71/305 <sup>(1)</sup>; and action has already been started in accordance with the procedure laid down in Article 169 of the EEC Treaty. The Commission is discussing with certain other Member States the manner in which it considers that the provisions of the Directive can be more effectively applied.

3. As to the statistics indicating the extent to which contracts are being awarded to undertakings from the awarding authority's own country and from other Member States respectively, some unexpected problems have arisen which the Commission has referred to the Advisory Committee on Public Works Contracts. The Committee is indeed studying with great care and due urgency the methods of appraising most efficiently the economic effects of the Directives concerned.

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<sup>(1)</sup> OJ No L 185, 16. 8. 1971, p. 5.

## ANNEX

|                             | Open procedures | Restricted procedures |
|-----------------------------|-----------------|-----------------------|
| Belgium                     | 88              | 1                     |
| Denmark                     | 8               | 1                     |
| Federal Republic of Germany | 193             | 38                    |
| France                      | 10              | 97                    |
| Ireland                     | 1               | 1                     |
| Italy                       | 0               | 0                     |
| Luxembourg                  | 1               | 0                     |
| Netherlands                 | 33              | 10                    |
| United Kingdom              | 18              | 489                   |

## WRITTEN QUESTION No 236/74

by Mr Wieldraaijer and Mr Laban

to the Commission of the European Communities

(10 July 1974)

*Subject:* French import-restricting practices

It has become apparent that France sets no store by the free movement of goods, especially textile products, in the Community.

In cases of re-exportation of goods originating in third countries from, for example, the Benelux countries to France, the Benelux exporter must produce a certificate showing that all duties have been paid, etc. This certificate is necessary to obtain a French import permit, which is seldom refused, but usually takes at least a month to be granted. The loss of interest alone has a protectionist effect.

In view of the above:

1. Is the Commission aware of the situation referred to?
2. If so, what steps has the Commission taken and what steps does it intend to take to put an end to this obstacle to the free movement of goods in the Community?
3. If not, is the Commission prepared to investigate this obstacle to the free movement of goods in the Community, and then to take suitable steps?

## Answer

(16 September 1974)

I. Article 1 of Commission Decision No 71/202/EEC<sup>(1)</sup> of 12 May 1971, as amended by

Commission Decision No 73/55/EEC<sup>(2)</sup> of 9 March 1973, allows Member States 'to make importation of

<sup>(1)</sup> OJ No L 121, 3. 6. 1971, p. 26.

<sup>(2)</sup> OJ No L 80, 28. 3. 1973, p. 22.

products originating in third countries and put into free circulation in other Member States subject to the granting of an import authorization where:

- the importation into the Member States in question of such products directly from the third country concerned is subject, in conformity with the Treaty, to quantitative restrictions or to voluntary restraint on the part of the third country concerned under a trade agreement with the Member State in question; and
- deflection of trade is to be feared because of divergence between these measures and the measures of commercial policy applied in other Member States.'

In cases of this kind Member States may insist on the person applying for an import licence producing any

information relevant to clearance for home consumption: a description of the product, its origin and price, the total quantity or the total value of the goods to be imported and information concerning its free circulation in another Member State.

The import licence must be issued promptly, normally within eight working days of the application being received. Where the Commission is notified, a maximum of 12 working days is allowed.

II. The Commission is not aware that it usually takes at least a month to obtain a French import licence.

It has referred the matter to the French authorities and will inform the Honourable Member of the outcome of its enquiries.

#### WRITTEN QUESTION No 240/74

by Mr Hougardy

to the Commission of the European Communities

(10 July 1974)

*Subject:* European Science Foundation

Can the Commission indicate what part it will play in financing and managing the European Science Foundation?

Can the Commission indicate what role the Foundation will play within the scientific and technological policy programme, particularly as regards avoiding duplication and promoting European know-how?

#### Answer

(16 September 1974)

On 14 January 1974 the Council approved the establishment of relations between the European Science Foundation and the European Communities.

Once the Foundation is officially set up — probably on 18/19 November in Strasbourg — the Commission will present further proposals to the Council.

The aim of the European Science Foundation is to promote cooperation on pure research and hence:

(a) to encourage the free movement of research workers;

(b) to stimulate free exchange of ideas and information;

(c) to facilitate harmonization of pure research in the individual Member States;

(d) to provide financial support for joint action already agreed or planned;

(e) to facilitate cooperation in the running of existing large-scale installations;

(f) to promote cooperation in the assessment and realization of important projects and in providing expensive special services.

The Foundation should help to eliminate duplication and promote European know-how. In this its aims are completely in line with the Community's research

and development policy approved by the Council on 14 January 1974.

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WRITTEN QUESTION No 243/74

by Lord O'Hagan

to the Commission of the European Communities

(15 July 1974)

*Subject:* Experiments on live animals

1. What is the legislation that controls experiments on live animals in each Member State?
2. What plans has the Commission to harmonize such legislation?

Answer

(11 September 1974)

No survey of Member States' legislation controlling experiments on live animals has been undertaken to date. Nor does the Commission have any concrete plans at present for Community legislation in the matter.

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WRITTEN QUESTION No 251/74

by Mr Antoniozzi

to the Commission of the European Communities

(19 July 1974)

*Subject:* The granting of voting rights and majority to 18-year-olds in France

Was there any agreement between the Community States on the French decision to grant voting rights and majority to 18-year-olds given that this decision is linked to the legal systems of other EEC countries? Are any actions or contacts being initiated with a view to harmonizing this important matter which is certainly relevant to the internal situation in each Community country and of common interest, particularly with regard to direct elections by universal suffrage to the European Parliament?

**Answer**

(9 September 1974)

The issue raised by the Honourable Member is primarily a matter for the Member States. Although it is quite possible that Community initiatives may be taken in this field some time in the future, the Commission feels that, at present, disparities in the laws of the Member States are unlikely to cause problems serious enough to warrant harmonization.

**WRITTEN QUESTION No 254/74**

by Mr Cousté

to the Commission of the European Communities

(19 July 1974)

*Subject:* The Community social action programme against poverty

Could the Commission indicate what lessons it has drawn from the recent seminar on action against poverty?

In view of the fact that the social action programme of the European Community includes a campaign against poverty in certain areas of the Community, does the Commission have any precise plans in mind? If so, what means does it intend to use to implement them and how soon?

**Answer**

(11 September 1974)

One of the priorities listed in the Council's resolution of 21 January 1974 concerning the social action programme was the implementation, in cooperation with the Member States, of specific measures to combat poverty, the first step being the preparation of pilot schemes.

The Commission has set up a specialist working party to advise on the preparation of a series of pilot schemes. A seminar on action against poverty was also held from 24 to 27 June. This was attended by about 60 people including representatives of public

and private organizations which have been active in this area, research workers and people with field experience.

The purpose of these consultations was essentially practical — to examine ways and means of preparing a series of pilot schemes — and it is already clear that they have borne fruit. The Commission should be in a position to present proposals to the Council before the end of the year. If the Council approves actual implementation of this section of the social action programme should get under way next year in line with the resolution of 21 January 1974.

**WRITTEN QUESTION No 259/74** ✓**by Mr Albertsen****to the Commission of the European Communities***(19 July 1974)*

*Subject:* Postal services between EEC Member States

By all accounts, postal services in several EEC countries are being reduced. For years it has been considered hopeless to contact someone in Denmark if you were on holiday in, for example, Italy. The latest reports say that mail that has accumulated in Italy has been sold as waste paper and destroyed.

Postal services in other Member countries also seem to be slow and inefficient, and this affects communications from the EEC institutions to the individual Member States and, therefore, also to Members of the European Parliament.

Does the Commission intend to take action to guarantee better postal services in the Member States and, consequently, better communications within the Communities?

**Answer***(11 September 1974)*

The improvement of postal services is a matter for the national administrations of Member States.

**WRITTEN QUESTION No 260/74****by Mr Laban****to the Commission of the European Communities***(19 July 1974)*

*Subject:* Consequences of a decrease in the soya-bean harvest in the USA

According to estimates of American experts <sup>(1)</sup> the USA soya-bean harvest this year will be more than 10 % lower than in 1973.

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<sup>(1)</sup> International Herald Tribune, 2 July 1974, p. 7.

1. Is the Commission aware of this estimate?
2. If so, which measures will the Commission undertake to prevent a rise in animal feedingstuffs resulting from a possible soya-bean shortage?
3. How will the Commission secure Community protein supplies in case of a soya-bean shortage?

**Answer**

*(11 September 1974)*

1. The Commission is aware of the different forecasts for this year's soya-bean harvest, but would point out that they vary considerably.

2 and 3. To ensure protein supplies the Community has established a common organization of the market in dehydrated fodder and has also adopted special measures on soya beans.

The Commission would be powerless to prevent fodder prices rising in the event of a world shortage of soya beans.

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## COURT OF JUSTICE

### JUDGMENT OF THE COURT

(Second Chamber)

of 11 July 1974

in Joined Cases 177/73 and 5/74: **Andreas Reinarz v. Commission of the European Communities** <sup>(1)</sup>

*(Language of the Case: Dutch)*

In Joined Cases 177/73 and 5/74: Andreas Reinarz (applicant, and defendant in the procedural issue, in Case 5/74) (represented by A. J. Hammerstein) v Commission of the European Communities (defendant, and applicant in the procedural issue, in Case 5/74) (agent: Seerp Ybema) application for annulment of the implied rejection by the defendant of the applicant's complaint for the purpose of establishing his right, at the time of his termination of service, to a resettlement allowance equal to four times his final salary, the Court (Second Chamber), composed of M. Sørensen, President of Chamber, H. Kutscher and Lord Mackenzie Stuart (Rapporteur), Judges; Advocate-General: H. Mayras; Registrar: A. Van Houtte, gave on 11 July 1974 a judgment, the operative part of which is as follows:

The Court hereby:

1. *Dismisses appeal 177/73 as inadmissible.*
2. *Dismisses appeal 5/74 as unfounded.*
3. *Orders each party to bear its own costs.*

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<sup>(1)</sup> OJ No C 6, 22. 1. 1974 and OJ No C 21, 6. 3. 1974.

### JUDGMENT OF THE COURT

of 3 July 1974

in Case 9/74 (reference for a preliminary ruling by the Bayerisches Verwaltungsgericht, III Chamber): **Donato Casagrande v. City of Munich** <sup>(1)</sup>

*(Language of the Case: German)*

In Case 9/74: reference to the Court under Article 177 of the EEC Treaty by the Bayerisches Verwaltungsgericht, III Chamber, for a preliminary ruling in the action pending before that Court between Donato Casagrande, Munich and City of Munich on the

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<sup>(1)</sup> OJ No C 30, 19. 3. 1974.



interpretation of the first paragraph of Article 12 of Council Regulation (EEC) No 1612/68 of 19 October 1968 (OJ No L 257/2, 1968), the Court, composed of R. Lecourt, President, A. M. Donner (Rapporteur) and M. Sørensen (Presidents of Chambers), R. Monaco, J. Mertens de Wilmars, P. Pescatore, H. Kutscher, C. Ó Dálaigh and Lord Mackenzie Stuart, Judges; Advocate-General: J. P. Warner; Registrar: A. Van Houtte, gave on 3 July 1974 a judgment, the operative part of which is as follows:

*In providing that the children of a national of a Member State who is or has been employed in the territory of another Member State shall be admitted to educational courses 'under the same conditions as the nationals' of the host State, Article 12 of Regulation (EEC) No 1612/68 refers not only to rules relating to admission, but also to general measures intended to facilitate educational attendance.*

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### JUDGMENT OF THE COURT

of 11 July 1974

in Case 10/74: Franz Becker v. Commission of the European Communities <sup>(1)</sup>

*(Language of the Case: French)*

In Case 10/74: Franz Becker (represented by Victor Biel) v. Commission of the European Communities (represented by Joseph Griesmar), application for annulment of the defendant's implied rejection of the applicant's claim to be granted a resettlement allowance equal to four months of his final salary, the Court (Second Chamber), composed of M. Sørensen, President of Chamber, H. Kutscher and Lord Mackenzie Stuart (Rapporteur), Judges; Advocate-General: H. Mayras; Registrar: A. Van Houtte, gave on 11 July 1974 a judgment the operative part of which is as follows:

The Court hereby:

1. *Dismisses the appeal.*
2. *Orders each party to bear its own costs*

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<sup>(1)</sup> OJ No C 30, 19. 3. 1974.

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### JUDGMENT OF THE COURT

of 11 July 1974

in Case 11/74 (reference for a preliminary ruling by the French Conseil d'État): Union des Minotiers de la Champagne v. the French Government <sup>(1)</sup>

*(Language of the Case: French)*

In Case 11/74: reference to the Court under Article 177 of the EEC Treaty by the French Conseil d'État, for a preliminary ruling in the action pending before that Court between

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<sup>(1)</sup> OJ No C 30, 19. 3. 1974.

Union des Minotiers de la Champagne, Reims and the French Government on the validity of Council Regulation (EEC) No 1210/70 of 29 June 1970 establishing the principal marketing centres for cereals for the 1970/71 marketing year and the derived intervention prices applicable at those centres (OJ No L 141/9, 1970), the Court, composed of R. Lecourt, President, A. M. Donner and M. Sørensen (Rapporteur), Presidents of Chambers, R. Monaco, J. Mertens de Wilmars, P. Pescatore, H. Kutscher, C. Ó Dálaigh and Lord Mackenzie Stuart, Judges; Advocate-General: A. Trabucchi; Registrar: A. Van Houtte, gave on 11 July 1974 a judgment, the operative part of which is as follows:

*The question raised has not revealed matters of such a nature as to affect the validity of Council Regulation (EEC) No 1210/70.*

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**Action brought on 23 August 1974 by Mr Luigi Vellozzi against the Commission of the European Communities**

(Case 62/74)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 23 August 1974 by Mr Luigi Vellozzi, living in Brussels, represented and assisted by Emile Drappier, advocate at the Cour d'Appel, Brussels, with an address for service in Luxembourg at the chambers of Ernest Arendt, Centre Louvigny.

The applicant claims that the Court should:

1. Declare null and void the application of the provisions of Article 60 of the Staff Regulations to the applicant.
2. Declare null and void the decision notified to the applicant by letter of 3 April 1974 from Mr A. Pratley, Head of the 'Individual Rights and Privileges' Division, applying Article 60 of the Staff Regulations to the applicant.
3. Declare null and void the decision notified to the applicant by letter of 10 May 1974 from Mr A. Pratley, Head of the 'Individual Rights and Privileges' Division, confirming the application of Article 60 of the Staff Regulations to the applicant.
4. Declare null and void the decision notified to the applicant by letter of 14 May 1974 from Mr A. Pratley, Head of the 'Individual Rights and Privileges' Division, reconfirming the application of Article 60 of the Staff Regulations to the applicant.
5. Declare null and void the decision notified to the applicant by letter of 11 July 1974 from Mr A. Pratley, Head of the 'Individual Rights and Privileges' Division, confirming once again the application of Article 60 of the Staff Regulations to the applicant.
6. Declare null and void the decision notified to the applicant by letter of 11 July 1974 from Mr A. Pratley, Head of the 'Individual Rights and Privileges' Division, 'as a precaution, to stop' the applicant's salary relating to the month of July 1974.

Order the defendant to bear the costs and expenses of the action.

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**Reference for a preliminary ruling referred by the Tribunale di Bolzano in the case pending before that Court between the firm of W. Cadsky SpA and the Istituto Nazionale per il Commercio Estero (ICE)**

(Case 63/74)

By order of 26 July 1974 (lodged with the Registry of the Court of Justice of the European Communities on 27 August 1974) made in the case pending before it between the firm of W. Cadsky SpA and the Istituto Nazionale per il Commercio Estero, the Tribunale of Bolzano referred the following questions to the Court of Justice of the European Communities for a preliminary ruling:

1. Does a monetary tax introduced unilaterally by the State before the entry into force of the EEC Treaty and imposed only on goods for export (in the present case fruit and vegetable products) constitute a charge having an effect equivalent to a duty?  
or
2. Does it become impossible to describe such a tax as a charge having an effect equivalent to a duty when:
  - (a) the tax is instituted by the State for the benefit of a minor public body and not the State;
  - (b) the tax relates to an inspection the purpose of which is to ensure that the product possesses certain characteristics before it is issued with a certificate of control, it being impossible for the product to be exported unless it has undergone this inspection and is accompanied by the said certificate;
  - (c) the tax relates to the use of a national export stamp, this stamp being obligatory and it being impossible for the product to be exported unless it bears this stamp?
3. Is the collection of charges having an effect equivalent to duties on intra-Community exports prohibited by Article 16 of the Treaty in the case of all products, including fruit and vegetables, with effect from 1 January 1962 and, consequently, must Article 13 of Regulation No 159/66/EEC be interpreted in such a way as not to conflict with Article 16 of the Treaty and accordingly as providing solely for the abolition of duties and charges having equivalent effect on intra-Community imports?

**Reference for a preliminary ruling made by judgment of the Finanzgericht Rheinland-Pfalz of 29 August 1974 in the proceedings between Firma Reich and Hauptzollamt Landau**

(Case 64/74)

A reference for a preliminary ruling has been made to the Court of Justice of the European Communities by a judgment of the Finanzgericht Rheinland-Pfalz, IIIrd Senate of 29 August 1974 in the proceedings between Firma Adolf Reich, Stuttgart and Hauptzollamt Landau together with Einfuhr- und Vorratsstelle für Getreide und Futtermittel, Frankfurt-on-Main, which was lodged with the Registry of the Court on 6 September 1974 on the following question:

Are Article 7 (a) of Council Regulation No 54 of 30 June 1962 (OJ No 54/1581, 1962), and Article 9 of Commission Regulation No 87 of 25 July 1962 (OJ No 66/1895, 1962), to be interpreted as meaning that the rate of levy fixed in advance upon the import of maize from a Member State, fixed pursuant to Article 2 (1) and (2) of Council Regulation No 31 of 2 April 1963 (OJ No 59/1225, 1963), is also to be applied where the import was not effected in the month indicated in the application for a reason which under Article 8 (3) of Regulation No 87 justifies an exception being made?

## II

*(Preparatory Acts)*

## COUNCIL

## ASSENT No 16/74

given by the Council, pursuant to Article 56 (2) (a) of the Treaty establishing the European Coal and Steel Community, to enable the Commission to grant a maximum loan of FF 5 000 000 to Tubes Euro Lens (France)

In a letter of 30 July 1974, the Commission submitted to the Council a request for assent, pursuant to Article 56 (2) (a) of the Treaty establishing the European Coal and Steel Community, for the granting of a maximum loan of FF 5 000 000 (approximately 0.9 million units of account), or its equivalent value, to Tubes Euro Lens in Lens (Nord-Pas-de-Calais), to assist in fitting out a factory for the manufacture of copper pipes for heat exchangers.

At its 304th meeting held on 23 September 1974, the Council gave its assent as requested by the Commission.

*For the Council*

*The President*

Ch. PONCELET

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## COMMISSION

### Proposal for a Council Directive on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs

*(Submitted to the Council by the Commission on 6 August 1974)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 227 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas laws relating to materials and articles intended to come in their finished state into contact with products intended for human consumption should take account primarily of human health requirements but also, within the limits laid down for the protection of health, of economic and technological requirements;

Whereas the manufacture and sale both of foodstuffs packaged in the said materials and articles and of the materials and articles themselves is of considerable importance in the common market;

Whereas the existing differences between the national laws relating to the said materials and articles hinder the free movement of foodstuffs packaged therein and of the materials and articles themselves and may create unequal conditions of competition, thereby directly affecting the establishment or functioning of the common market;

Whereas, if free movement is to be achieved in respect of foodstuffs packaged in the aforesaid materials and articles and of the materials and articles themselves, it is necessary that such laws be approximated;

Whereas the first step should be to lay down, in an outline Directive, general principles on the basis of which differences in the relevant laws may subsequently be eliminated by means of implementing Directives;

Whereas the principle underlying the present Directive should be that any material or article intended to come into contact with foodstuffs must be sufficiently stable not to transfer substances to the foodstuffs in quantities which might prove dangerous to human health or bring about an undesirable change in the composition or in the organoleptic characteristics of the said foodstuffs;

Whereas, in order to achieve this object, it may prove necessary to establish a list of substances (with purity standards and conditions of use) in respect of the substances whose use is authorized in the manufacture of the materials and articles concerned and to lay down overall and/or specific migration and other limits;

Whereas specific Directives should be drawn up to deal with the different types of material, and whereas each should contain those of the provisions indicated in the outline Directive which are best calculated, having regard to the particular technical characteristics of the type of material concerned, to achieve the objectives laid down in that outline Directive;

Whereas, in order that consumers may be properly informed as to their correct use, it should be provided that all such materials and articles sold empty by retail are to bear the words 'for food use' or a conventional symbol;

Whereas in order to encourage technical development, Member States should be allowed to permit temporarily in their own territory and under official control the use pending a final decision at

Community level of substances not covered by the relevant specific Directives;

Whereas, should it appear subsequently that the use of a substance in a material or article may be a health risk, Member States must be able to suspend or limit such use until a decision at Community level is taken;

Whereas the updating of the list of substances which may be used in the manufacture of the relevant materials and articles and the laying down of detailed rules relating to the methods of sampling and analysis required for the purpose of checking compliance with such list, of purity standards, of conditions of use in respect of the constituent substances, and of the prescribed overall and specific migration limits are implementing measures of a technical nature; and whereas, in order to simplify and speed up procedure, the task of adopting such measures should be entrusted to the Commission;

Whereas it is desirable that for all cases where the Council empowers the Commission to implement the rules laid down in respect of materials and articles intended to come into contact with foodstuffs provision should be made for a procedure establishing close cooperation between the Member States and the Commission within the Standing Committee for Foodstuffs set up by the Council Decision of 13 November 1969 <sup>(1)</sup>;

Whereas, in order to facilitate the adaptation to the new requirements laid down herein of the processes used in the manufacture of the materials and articles concerned, it should be provided that the rules are to apply only to materials and objects manufactured in or imported into the Community two years after the notification of this Directive,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

1. This Directive applies to materials and articles which come or are intended to come in their finished state into contact with foodstuffs. Such materials and articles are hereinafter called 'materials and articles'.

2. For the purposes of this Directive:

- (a) chewing gum and drinking water, including 'beverage waters', shall be regarded as foodstuffs;
- (b) tobacco and products with a tobacco base shall not be regarded as foodstuffs.

However, this Directive shall not apply to piping for the public supply of drinking water.

#### *Article 2*

The Member States shall take all provisions necessary to ensure that foodstuffs may be marketed only if the materials and articles with which they are in contact comply with the rules laid down in this Directive.

They shall also see to it that the said materials and articles themselves may be marketed, or used only if they comply with the said rules.

#### *Article 3*

Materials and articles must not, under their normal or foreseeable conditions of use, transfer their constituents to foodstuffs in a quantity liable either to endanger human health or to entail an undesirable change in the composition of or a deterioration in the organoleptic characteristics of the said foodstuffs.

#### *Article 4*

1. The Council shall adopt, under the procedure provided for in Article 100 and by means of Directives, special provisions applicable to particular groups of materials and articles (specific Directives). Such Directives may include in particular:

- (a) a list of substances the use of which is authorized, to the exclusion of all others;
- (b) purity standards for such substances;
- (c) special conditions of use for these substances and/or the materials and articles in which they have been used;
- (d) specific limits on the migration of certain specified constituents or groups of constituents into or onto foodstuffs;
- (e) an overall limit on the migration of constituents into or onto foodstuffs;

<sup>(1)</sup> OJ No L 291, 19. 11. 1969, p. 9.

- (f) other rules designed to ensure that the provisions of Article 3 are complied with;
- (g) the basic rules necessary for the purpose of checking compliance with the provisions referred to in (d), (e) and (f).

2. Amendments on account of the growth of scientific and technical knowledge shall be made as follows:

- in respect of the provisions referred to in paragraph 1 (a), (b), (c) and (d) under the procedure provided for in Article 9;
- in respect of the provisions referred to in paragraph 1 (e), (f) and (g), under the procedure provided for in the relevant specific Directives.

3. By way of derogation from Article 2, any Member State may, where pursuant to paragraph 1 (a) a list of substances has been established, authorize the use within its territory and under its official control of a substance not included in that list.

Each Member State shall within two months inform the other Member States and the Commission of every authorization under the preceding subparagraph and shall furnish evidence in support of such authorization.

Within a reasonable period following authorization of a substance of a Member State, a decision shall be taken under the procedure provided for in Article 9 to determine whether the substance may be included in the list as referred to in paragraph 1 (a) or whether authorization should be revoked.

#### Article 5

1. Where a Member State considers that the use of a material or article complying with the special provisions referred to in Article 4 (1) might endanger human health, that Member State may temporarily suspend or restrict the application of the provisions in question. It shall forthwith inform the other Member States and the Commission of the measures taken and of the reasons for such measures.

2. A decision shall be taken forthwith under the procedure laid down in Article 9 in order to determine whether amendments should be adopted or whether the measures taken by the Member States should be revoked. Until a decision has been so taken, the measures taken by the Member State may remain operative.

#### Article 6

1. Without prejudice to the rules contained in the specific Directives, all materials and articles marketed as such must be accompanied by the following:

(a) one or more of the following indications as appropriate:

- 'for food use',
- 'pour contact alimentaire',
- 'til levnedsmidler',
- 'für Lebensmittel',
- 'per alimenti',
- 'voor levensmiddelen',

or a symbol to be determined in accordance with the procedure laid down in Article 9;

(b) particulars of any special conditions of use fixed pursuant to Article 4 (1) (c); or

(c) particulars either:

- of the name or corporate name and address or registered office, or
- of the registered trade mark of the manufacturer or processor, or of a seller established within the Community.

2. The items specified in the preceding paragraph must be indicated, in indelible characters and in such manner as to be clearly visible and easily legible:

- either on the materials or articles themselves; or
- on labels affixed to the said materials or articles or to their packaging.

However, in the case of transactions prior to the retail stage such items may be indicated on the accompanying documents.

3. However, any Member State may prohibit retail trade in materials and articles on its territory if the items specified in paragraph 1 (a) and (b) are not shown in its national language or languages on the labels or packaging.

#### Article 7

1. Member States shall take all necessary measures to ensure that the marketing:

- of foodstuffs which are in contact with materials or articles complying with the rules laid down in this Directive, or
- of the said materials and articles themselves,

cannot be hindered by the application of non-harmonized national provisions governing the composition, behaviour in the presence of foodstuffs or labelling of such materials and articles.



2. Paragraph 1 shall not apply in respect of non-harmonized provisions justified on grounds of:

- protection of public health,
- suppression of fraud, unless such provisions are liable to impede the application of the rules laid down by this Directive,
- protection of industrial and commercial property, indications of source or prevention of unfair competition.

#### *Article 8*

The sampling procedures and methods of analysis required in order to check compliance with provisions laid down pursuant to Article 4 (1) (a), (b), (c), (d), (e) or (f) shall be determined in accordance with the procedure laid down in Article 9.

#### *Article 9*

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Standing Committee on Foodstuffs set up by the Council Decision of 13 November 1969 (hereinafter called 'the committee') by its Chairman, either on his own initiative or at the request of a representative of a Member State.
2. The representative of the committee shall submit to the Commission a draft of the measures to be taken. The committee shall give its Opinion on that draft within a time limit set by the Chairman having regard to the urgency of the matter. Opinions shall be delivered by a majority of 41 votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The Chairman shall not vote.
3. (a) Where the measures envisaged are in accordance with the Opinion of the committee, the Commission shall adopt them.  
(b) Where the measures envisaged are not in accordance with the Opinion of the committee, or if no Opinion is delivered, the

Commission shall without delay submit to the Council a proposal on the measures to be taken. The Council shall act by a qualified majority.

- (c) If within three months of the proposal being submitted to it the Council has not acted, the proposed measures shall be adopted by the Commission.

#### *Article 10*

This Directive does not apply to materials and articles or foodstuffs intended to be exported outside the Community.

#### *Article 11*

1. Member States shall within one year following notification of this Directive make such amendments to their laws as may be necessary in order to comply with its provisions and shall forthwith inform the Commission thereof. The laws so amended shall apply to materials and articles and foodstuffs manufactured in or imported into the Community on or after a date two years from the notification of this Directive. However, Article 7 shall become applicable only as and when the relevant special provisions adopted pursuant to Article 4 (1) come into force.
2. Following notification of this Directive, Member States shall further see to it that the Commission is informed, before their adoption and in good time to enable it to submit its comments, of any major provisions by way of law, regulation or administrative action subsequently proposed by them in the field governed by this Directive.

#### *Article 12*

This Directive shall apply also to the French overseas departments.

#### *Article 13*

This Directive is addressed to the Member States.

**Proposal for a Council Directive on the approximation of the laws of the Member States relating to the reverse and the speedometer of motor vehicles**

*(Submitted to the Council by the Commission on 9 August 1974)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the technical requirements which motor vehicles must satisfy pursuant to national laws relate, *inter alia*, to the reverse and the speedometer;

Whereas these requirements, particularly those relative to the speedometer, differ from one Member State to another; whereas it is therefore necessary that all Member States adopt the same requirements either in addition to or in place of their existing rules, in order, in particular, that the EEC type-approval procedure which was the subject of the Council Directive of 6 February 1970 <sup>(1)</sup> on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers may be applied in respect of each type of vehicle;

Whereas the national legislations relating to motor vehicles imply mutual recognition of the inspections carried out by each of them on the basis of common provisions; that such a system in order to function successfully must be applied by all Member States with effect from the same date,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

For the purposes of this Directive, 'vehicle' means any motor vehicle intended for use on the road, with

or without bodywork, having at least four wheels and a maximum design speed exceeding 25 km/h, with the exception of vehicles which run on rails, agricultural tractors and machinery and public works vehicles.

*Article 2*

No Member State may refuse to grant EEC type-approval or national type-approval of a vehicle on grounds relating to the reverse and the speedometer if these satisfy the requirements set out in the Annex to the present Directive.

*Article 3*

No Member State may refuse registration or prohibit the sale or entry into service or use of a vehicle on grounds relating to the reverse or the speedometer if these satisfy the requirements set out in the Annex to the present Directive.

*Article 4*

The Member State which grants type-approval shall take the necessary measures to ensure that it is informed of any modification of any of the parts or characteristics referred to in the Annex, Section II.2.1. The competent authorities of that Member State shall determine whether it is necessary to carry out fresh tests on the modified vehicle type and to prepare a new report. Where such tests reveal failure to comply with the requirements of this Directive, the modification shall not be authorized under EEC type-approval.

*Article 5*

The amendments necessary for adjusting the requirements of the Annex so as to take account of technical progress shall be adopted in accordance with the procedure laid down in Article 13 of the Council Directive of 6 February 1970 concerning the approximation of Member States laws concerning the type-approval of motor vehicles and their trailers.

<sup>(1)</sup> OJ No L 42, 23. 2. 1970, p. 1.

**Article 6**

1. The Member States shall adopt and publish the provisions necessary to insure compliance with the present Directive before 1 April 1976, and inform the Commission immediately.

They shall apply these provisions with effect from 1 October 1976.

2. As soon as this Directive has been notified, the Member States shall take care to inform the Commission, in sufficient time to enable it to submit its comments, of any draft laws, regulations or administrative provisions which they intend to adopt in the field covered by the Directive.

**Article 7**

This Directive is addressed to the Member States.

**ANNEX****I. REVERSE**

I.1. All motor vehicles of which the maximum authorized weight exceeds 400 kg shall be provided with a device for reversing which can be operated from the driving position.

**II. SPEEDOMETER****II.1. Presence**

All motor vehicles of categories M1 and N1 <sup>(1)</sup> shall be provided with a speedometer. The fitment of this device on motor vehicles of other categories is optional.

**II.2. Definitions**

For the purpose of this Directive:

II.2.1. 'Vehicle type' with regard to the speedometer, means a category of motor vehicles which do not differ in such essential respects as:

II.2.1.1. maximum *permissible weight* on the driving axle;

II.2.1.2. *tyres* normally fitted;

II.2.1.3. *overall transmission ratio* including reduction drive if fitted (number of revolutions at the entry of the device per one wheel revolution on straight line);

II.2.1.4. *gear ratio* of the reduction drive, if fitted;

II.2.1.5. *ratio* of the speedometer itself (metres travelled by the vehicle for one revolution at the entry of the device);

II.2.1.6. *make(s) and type(s)* of speedometer;

(<sup>1</sup>) See definitions at Annex I 'Information document' of the Directive of 6 February 1970 concerning the type-approval of motor vehicles (OJ No L 42, 23. 2. 1970).

- II.2.2. '*Tyres normally fitted*' means the type or types of tyre provided by the manufacturer on the vehicle type considered and specified on the information document of the Directive relative to the reception of the motor vehicles and their trailers.
- II.2.3. '*Normal running pressure*' means the pressure reached in average conditions of normal road use. This pressure shall be considered to be equal to the cold inflation pressure specified by the vehicle manufacturer increased by 0.2 bar.
- II.2.4. '*Speedometer*' means the device intended to indicate to the driver the speed of his vehicle at any moment.
- II.2.5. '*Reduction drive*' means the gear reduction device fitted between the propeller shaft and the speedometer.
- II.3. **Request for EEC approval**
- II.3.1. The EEC approval request for a vehicle type with regard to a speedometer shall be submitted by the vehicle manufacturer or by his duly accredited representative.
- II.3.2. It shall be accompanied by the following documents in triplicate and the following indications:
- II.3.2.1. description of the vehicle type, for the purposes of this Directive;
- II.3.2.2. details of tyres normally fitted;
- II.3.2.3. ratio of the speedometer itself.
- II.3.3. A vehicle representative of the vehicle type to be approved shall be submitted to the technical service responsible for conducting the approval tests for the test described in item II.5 below.
- II.4. **Specifications**
- II.4.1. The speedometer shall be situated in the driver's direct field of vision and the marking on its dial shall be clearly legible both by day and night.
- II.4.2. The dial of the speedometer shall be uniformly graduated. The graduations shall be of 1, 2, 5 or 10 km/h. The values of the speed, multiples of 20 km/h, shall be indicated on the dial.
- II.4.3. The checks for accuracy of the speedometer shall be carried out in accordance with the following procedure:
- II.4.3.1. The vehicle is equipped with one of the types of tyre normally fitted. The test shall be repeated for each of the types of speedometer specified by the manufacturer.
- II.4.3.2. The vehicle is loaded so that the load on the driving axle would be equal to the maximum technically permissible weight on that axle.
- II.4.3.3. The temperature inside of the vehicle shall be  $20 \pm 5^{\circ}\text{C}$ .
- II.4.3.4. During each test the pressure of tyres shall be the normal running pressure as defined in II.2.3 above.

- II.4.3.5. The vehicle is tested at the following three speeds: 40 km/h, 80 km/h and 120 km/h or 80% of the maximum speed specified by the manufacturer, if this is inferior to 150 km/h.
- II.4.3.6. The test instrumentation used for measuring the true vehicle speed (i.e. speed recording fifth wheel) shall be accurate to  $\pm 0.5\%$ .
- II.4.3.7. The surface of the test track shall be flat, dry and shall provide sufficient adhesion.
- II.4.4. At the speeds specified for the test at II.5.3.5 above, and between these speeds, there shall be the following relationship between the speed indicated on the dial of the speedometer (V1) and the actual speed (V2):
- $$0 \leq V1 - V2 \leq \frac{V2}{10} + 4 \text{ km/h.}$$

**Amendments to the proposal for a sixth Council Directive on the harmonization of legislation of Member States concerning turnover taxes — Common system of value added tax: uniform basis of assessment**

*(Presented by the Commission to the Council pursuant to the second paragraph of Article 149 of the EEC Treaty on 12 August 1974)*

TITLE I

INTRODUCTORY PROVISIONS

*Article 1*

- The text of the second subparagraph of this Article is amended as follows:

‘They shall adopt the necessary laws, regulations and administrative provisions so that the system as modified may enter into force without delay and not later than . . . . .’.

‘2. A Member State which, at the date of this Directive, does not apply *in toto* the principle laid down by paragraph 1 and proposes to continue thus shall so inform the Commission not later than two months after the date of this Directive.

The Commission may, within four months following receipt of such information, consult the Member States on the effects of this request, in particular on the fairness of competition and on the Community’s own resources; it shall submit proposals to the Council which, acting by a qualified majority, shall decide thereon within four months.’.

TITLE II

FIELD OF APPLICATION

*Article 2*

*(unchanged)*

TITLE III

TERRITORY

*Article 3*

- The text of the first two subparagraphs of paragraph 2 of this Article is amended as follows:

TITLE IV

TAXABLE PERSONS

*Article 4*

- The text of the second indent of paragraph 3 (c) of this Article is deleted.
- The text of the second subparagraph of paragraph 4 of this Article is amended as follows:

‘Subject to the consultations provided for in Article 30, each Member State may treat as a

single taxable person, persons established in its national territory who are legally independent but are bound to one another by financial, economic and organizational relationships.’

— The text of the second subparagraph of paragraph 5 of this Article is amended as follows:

‘However, where they carry out transactions covered by paragraph 1 which, from the economic point of view, and independently of national legislation, would be likely to be carried out by persons governed by private law, they shall be considered to be taxable persons in respect of such transactions. This provision extends to the activities of broadcasting authorities, and of the agricultural intervention agencies in respect of dealings in agricultural products in pursuance of a Regulation on the common organization of the market in the relevant product.’

#### TITLE V

#### TAXABLE TRANSACTIONS

##### Article 5

##### Supply of goods

— The text of paragraph 2 (b) of this Article is deleted, and accordingly:

- (c) becomes (b);
- (d) becomes (c);
- (e) becomes (d);
- (f) becomes (e);
- (g) becomes (f).

— The following paragraph 5 is added to this Article:

‘5. Forward transactions may be treated by Member States as if there were a single supply from the first seller to the last buyer.’

##### Article 6

##### Works of construction

*(unchanged)*

##### Article 7

##### Supply of services

— The following paragraphs 3 and 4 are added to this Article:

‘3. The provisions of Article 5 (4) shall apply in like manner with respect to the supply of services.’

‘4. In order to prevent serious distortion of competition, Member States may, subject to the consultations provided for in Article 30, treat as a supply of services the carrying out by a taxable person of a service within his own undertaking, where the value added tax on such a service, had it been carried out by another taxable person, would not be wholly deductible.’

#### Article 8

##### Imports

*(unchanged)*

#### TITLE VI

#### PLACE OF TAXABLE TRANSACTIONS

##### Article 9

##### Supply of goods

*(unchanged)*

##### Article 10

##### Supply of services

— The following paragraph 3 is added to this Article:

‘3. For the purposes of charging tax on the supplies referred to in Article 2 (3) the place where the service is received shall be deemed to be the place where the business of the person receiving the service is established or, in the absence of such a place, the place where he has his permanent address.’

#### TITLE VII

#### CHARGEABLE EVENT AND THE CHARGE TO TAX

##### Article 11

— The text of (b) in the third subparagraph of paragraph 2 of this Article is amended as follows:

‘(b) in respect of supplies referred to in the first subparagraph of Article 23 (3) (a), the time of issue of the invoice.’

- The text of the third subparagraph of paragraph 3 of this Article is amended as follows:

'However, where goods are subject, on importation, to the Common Customs Tariff duties, to agricultural levies or to charges having equivalent effect, the chargeable event shall occur and the tax shall become chargeable at the same time as such common duties, charges and levies.'

- The text of the last subparagraph of paragraph 3 of this Article is amended as follows:

'Where on importation goods are placed under a transit, bonded warehouse or temporary importation arrangement under customs and/or fiscal supervision, with suspension of customs duties and/or taxes, Member States may provide that the chargeable event shall occur and the tax shall become chargeable only when the goods are declared for home use.'

## TITLE VIII

### TAXABLE AMOUNT

#### Article 12

##### A. *Within the territory of the country*

- The text of paragraph 1 (a), (b), (c) and (d) of Section A of this Article is amended as follows:

'(a) in respect of supplies of goods and services, other than those referred to in (b), (c) and (d) below, everything which constitutes the consideration which has been or is to be obtained by the supplier in respect of such supplies;

(b) in respect of supplies under Article 5 (3), the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, calculated at the time of supply;

(c) in respect of supplies under Article 7 (2) and (4), the "open market value" of the subject of the relevant supply.

"Open market value" of services means the amount which a customer at the marketing stage at which the supply takes place would have to pay to a supplier at arm's length within the territory of the country at the time of the supply, under conditions of fair competition, to obtain the services in question;

(d) in respect of supplies of buildings, other than as referred to in Article 4 (3) (b), purchased for the purpose of resale by a taxable person to a non-taxable person or to a taxable person for whom the value added tax on the building in question is not deductible, the taxable amount may be the difference between the selling price and the purchase price.'

- The text of Section A, paragraph 3 (e) of this Article is amended as follows:

'(e) amounts paid in the name or for account of the customer and credited in the supplier's books to a suspense account.'

- The following paragraph 5 is added to Section A of this Article:

'5. Where the supply is of goods for which tax is only partially deductible in accordance with Article 17 (5), the taxable amount shall be reduced in proportion to the percentage deduction actually applied to the goods in question.'

##### B. *Importation of goods*

- The text of Section B, paragraph 1 (a) of this Article is amended as follows:

'(a) the price paid or to be paid by the importer, where this price is the sole consideration for importation;'

##### C. *Miscellaneous provisions*

- The text of paragraph 2 of these miscellaneous provisions is amended as follows:

'2. Where a Member State proposes to maintain or introduce standard or minimum rates for certain transactions in order to prevent fraud or to simplify the calculation and collection of the tax, it shall consult the Commission for the purpose of applying the procedure laid down in Article 31.'

## TITLE IX

### RATES

#### Article 13

- The text of the first subparagraph of paragraph 1 of this Article is amended as follows:

'1. The rate applicable to taxable transactions shall be that in force at the time of the chargeable event. However, in the cases provided for in the

last subparagraph of Article 11 (3), the rate applicable shall be that in force at the time when application is made for the goods to be released for home use.'

- The following subparagraph is added to paragraph 1 of this Article:

'Where the rate is changed, and subject to the consultations provided for in Article 30, Member States may take transitional measures particularly in respect of certain transactions still being carried out.'

- The following subparagraph is added to paragraph 4 of this Article:

'The same provision shall apply in respect of the supply of the services referred to in Article 2 (3) within the territory of the country.'

## TITLE X

### EXEMPTIONS

#### Article 14

##### Exemptions within the territory of the country

##### A. Exemptions for certain activities in the public interest

- The text of paragraph 1 (a) of Section A of this Article is amended as follows:

'(a) the supply of services, other than passenger transport and telecommunications, and supplies of goods incidental thereto, by public postal services;'

- The text of paragraph 1 (k) of Section A of this Article is amended as follows:

'(k) the supply of services by theatres, cinema-clubs, concert-halls, museums, libraries, public parks, botanical or zoological gardens, educational exhibitions, and operations other than those of radio or television organizations, within the framework of activities in the public interest of a social, cultural or educational nature, by:

- bodies governed by public law; or
- non-profit-making organizations; or
- private charitable organizations.'

- The following subparagraph (l) is added to paragraph 1 of Section A of this Article:

'(l) works referred to in Article 6 where they are carried out by or on behalf of local government bodies and where they are not destined for resale, not included in the price of the land, and are not let but are placed free of charge at the disposal of the users.'

##### B. Other exemptions

- The text of subparagraphs (b), (c), (f), (h), (i) and (l) of Section B of this Article is amended as follows:

'(b) the supply of services by undertakers and cremators and supplies of goods incidental thereto;

(c) supplies of goods and services to organizations responsible for constructing, installing and maintaining cemeteries, graves and monuments commemorating war dead and victims of acts of violence;

(f) dealings in debts, shares, shares of interest, debentures and other securities, excluding all documents establishing title to goods and all rights, interests and shares covered by Article 5 (1) (a) and (b). This exemption shall not cover supplies of services relative to such transactions;

(h) dealings in currency other than as collector's items, and in gold to be used as coin, and in credit transfers and deposits; gold to be used as coin means gold of a standard of at least 900/1 000, for authorized financial institutions. This exemption shall not cover supplies of services relative to such transactions;

(i) supplies by states and local government bodies of tax marks, discs, bands or stamps;

(l) supplies of buildings or parts thereof and of the land pertaining thereto, after first occupation, by a taxable person for whom the value added tax on the building is not deductible and to whom Article 12 A (1) (d) is not applicable. For the purposes of this exemption flat-rate farmers, as defined in Article 27, shall be deemed to be taxable persons subject to the normal scheme.'



- The following subparagraphs (n) and (o) are added to Section B of this Article:

'(n) supplies of services by authors, writers, composers, lecturers, journalists, actors, musicians, where they are not themselves involved in the publishing or reproduction of their works;

(o) supplies of services by members of the legal and judicial professions, where those services are in connection with the administration of justice.'

#### Article 15

##### Exemptions of imported goods

*(unchanged)*

#### Article 16

##### Exemptions of exports and like transactions and international transport

- The letter A is added before the phrase:

'The Member States shall, subject to the conditions ...'

- The text of point 3 of this Article is amended as follows:

'(3) goods consigned or transported to a bonded warehouse under customs and (or) fiscal control, or deliveries within such warehouse;'

- The text of point 7 of this Article is amended as follows:

'(7) goods for the fuelling and provisioning of aircraft as referred to in point 6, in accordance with rules to be laid down by each Member State;'

- The text of point 10 (a) and (e) of this Article is amended as follows:

'(a) assignments of patents, manufacturing processes, trade marks and like rights and the granting of licences;

(e) services of consultants, engineers and planning offices and similar services and the supply of computer data;'

- The text of point 11 of this Article is amended as follows:

'Services supplied by brokers and other intermediaries, acting in the name or for account of another person, where they form part of transactions specified in this Article, or of transactions which are carried out outside their national territory and other usual services directly relating to exportation as defined in points 1, 2 and 3;'

- The text of point 13 (b) of this Article is amended as follows:

'(b) the transport of goods which are being carried to a destination outside national territory or to a bonded warehouse under customs and/or fiscal control or in transit;'

- The following Section B is added to this Article:

'B. Member States may, subject to the consultations provided for in Article 30, exempt supplies of goods to a taxable person if such goods are to be exported, processed or unprocessed, provided that during the previous year the taxable person has exported at least 50 % of his turnover.'

## TITLE XI

### DEDUCTIONS

#### Article 17

##### Existence and scope of the right to deduct

- The text of paragraph 2 (a) of this Article is amended as follows:

'(a) value added tax invoiced to him in accordance with Article 23 (3) in respect of goods or of services supplied or to be supplied to him;'

- The text of paragraph 3 (b) of this Article is amended as follows:

'(b) of occupations which are exempt under Articles 15 (2), (3) and (11) and Article 16.'

- The text of the second subparagraph of paragraph 4 of this Article is amended as follows:

'The refund shall be made upon application from the taxable person. No application shall be made in respect of an amount of tax lower than 50 units of account, but several invoices, provided

they are issued during the same calendar year, may together form the subject of a single application.’

#### Article 18

##### Rules for exercising the right to deduct

- The text of the third subparagraph of paragraph 2 of this Article is amended as follows:

‘Where by error or omission the taxable person does not make the deduction at the right time, he may exercise his right to deduct at any time up to and including 31 December of the year following that in which the deduction could have been made in accordance with the first subparagraph. The deduction shall in such case be made in accordance with the provisions in force at the time when the deduction should have been made. It may be exercised when the return provided for in Article 23 (7) is made.’

- The following fourth subparagraph is added to paragraph 2 of this Article:

‘Notwithstanding the provisions of the preceding subparagraph, the taxable person is entitled to have taken into account deductions which he was not able to make validly, where the taxable amount is subsequently increased.’

- The text of the first subparagraph of paragraph 3 of this Article is amended as follows:

‘Where for a given tax period, the amount of authorized deductions exceeds the amount of tax due the excess shall be refunded as soon as possible, but not later than one month after the periodic return is made. Where the amount concerned is less than 10 units of account Member States may, instead of making a refund, carry the excess forward to the following period.’

- The text of the second subparagraph of paragraph 3 of this Article is deleted.

#### Article 19

##### Calculation of the deductible proportion

- The text of paragraph 2 of this Article is amended as follows:

‘2. By way of derogation from paragraph 1, there shall be excluded from the calculation of the deductible proportion, amounts of turnover attributable to exempt transactions specified in

Article 14 B (f) and (h), to the sale of capital goods used by the taxable person for the purposes of his business, and to incidental real estate or financial transactions, except where these incidental operations form part of a regular business activity by the taxable person.’

#### Article 20

##### Adjustment of deductions

*(unchanged)*

#### TITLE XII

##### PERSONS LIABLE FOR PAYMENT OF TAX

#### Article 21

##### Persons liable to pay tax to the tax authority

- The text of paragraph 1 (a) of this Article is amended as follows:

‘(a) taxable persons who carry out taxable transactions, and agents of taxable persons established in another country who carry out taxable transactions, provided that the taxable transactions are carried out through or with the collaboration of such agents.’

#### TITLE XIII

##### ASSESSMENT OF THE AMOUNT OF TAX TO BE PAID AND LIABILITY FOR PAYMENT OF THE TAX

#### Article 22

*(unchanged)*

#### TITLE XIV

##### OBLIGATIONS OF PERSONS LIABLE FOR PAYMENT

#### Article 23

##### Obligations under the internal system

- The text of paragraph 3 (b) of this Article is amended as follows:

'(b) The invoice shall state clearly the price exclusive of tax and the corresponding tax at each rate as well as any exemptions.

However, in respect of invoices for a total amount, including tax, no greater than 20 units of account, the taxable person may simply state the total amount, including the tax, the applicable rate or any exemptions.'

- The text of paragraph 4 of this Article is amended as follows:

'Every taxable person shall submit a return within one month after the end of each tax period. This period shall be fixed by Member States as a month, two months or a quarter or, in exceptional cases, a half-year or a year. This return must set out all the information required to calculate the tax to be paid and the deductions to be made, including the total amount of the supplies relevant to such tax and the total amount of exempted supplies.'

- The text of paragraph 5 of this Article is deleted, and accordingly:

paragraph 6 becomes paragraph 5;

paragraph 7 becomes paragraph 6;

paragraph 8 becomes paragraph 7;

paragraph 9 becomes paragraph 8 and the text thereof is amended as follows:

'8. Subject to the consultations provided for in Article 30, Member States may where necessary impose other obligations should this prove necessary for the collection of the tax or the prevention of fraud.'

Paragraph 10 becomes paragraph 9 and the text thereof is amended as follows:

'9. Member States may release taxable persons from certain obligations arising out of exempt supplies.'

#### *Article 24*

##### **Obligations in respect of imports**

- The following third subparagraph is added to this Article:

'The provisions of this Article may also apply to the supply of services referred to in Article 2 (3).'

#### **TITLE XV**

##### **SPECIAL SCHEMES**

#### *Article 25*

##### **Special schemes for small undertakings**

- The text of the second subparagraph of paragraph 2 of this Article is amended as follows:

'However, disposals of tangible or intangible investment property which formed part of the fixed assets of the undertaking, supplies of buildings and of building land, the exempt transactions specified in Article 14 B (d) and (f) and the letting of buildings shall be disregarded in calculating the turnover.'

- The text of paragraph 3 of this Article is amended as follows:

'Paragraph 1 (a) shall not apply to the transactions specified in Article 4 (3) (b) and (c), nor to the transactions specified in the second subparagraph of paragraph 2 of this Article.

However, a taxable person who makes the appropriate application may enjoy the exemption provided for in paragraph 1 (a), provided that he is liable for value added tax only in respect of the letting of buildings.'

#### *Article 26*

##### **Special scheme for second-hand goods**

- The text of paragraph 1 of this Article is amended as follows:

'1. "Second-hand goods" means used movable property which can be reused as it is or after repair. However, the arrangements provided for in this Article shall apply also to original works of art created by the hand of the artist, antiques, collectors' items, and stamps and coins being collectors' items.'

#### *Article 27*

##### **Common flat-rate scheme for farmers**

- The text of the third subparagraph of paragraph 3 of this Article is amended as follows:

'The levels of input charge so calculated, rounded down to the nearest tenth of one per cent, shall

be so fixed in accordance with the procedure laid down in Article 31 that they may be adopted:

- for the first time, not later than 30 September of the second year following that of the adoption of this Directive;
  - for each three-yearly updating: not later than 30 September of the third year;
  - in the case of changes likely to affect the level of the charge: as soon as possible.’
- The text of the fourth subparagraph of paragraph 3 of this Article is amended as follows:

‘Member States shall supply the Commission with the macro-economic statistics and other data required for the common method of calculation:

- for the first time, not later than 30 May of the second year following that of the adoption of this Directive;
- for each three-yearly updating: not later than 30 June of the third year;
- in the case of changes likely to affect the level of the charge: as soon as possible.’

#### TITLE XVI

#### TRANSITIONAL PROVISIONS

##### *Article 28*

- The text of paragraph 1 of this Article is amended as follows:

‘1. The exemption under Article 16 A point 13 (c) is applicable until the expiration of the period of three years following the date of adoption of the present Directive. The Commission shall in due course present to the Council proposals concerning the tax scheme to be applied at the expiration of the above period to international passenger transport by sea or air.’

- The text of the first subparagraph of paragraph 2 of this Article is amended as follows:

‘Any provisions brought into force by the Member States in exercise of the rights conferred on them by Article 17 of second Council Directive No 67/228/EEC of 11 April 1967 shall cease to apply, in each Member State, with effect from the date on which the provisions referred to in the second subparagraph of Article 1 of this Directive come into force.’

- The text of paragraph 3 of this Article is amended as follows:

‘3. Member States which avail themselves of the provisions of the second subparagraph of paragraph 2 shall supply to the Commission in every two years, and for the first time within six months after the date of adoption of this Directive, with such information as will enable it to determine whether the grounds on which the exemptions referred to in that subparagraph have been maintained in force still obtain. The Commission shall take such information into account in the reports provided for in Article 32 and will make proposals in such reports for the adaptation by stages of the abovementioned exemptions to the obligations resulting from the achievement of Economic and Monetary Union.’

#### TITLE XVII

#### VALUE ADDED TAX COMMITTEE

##### *Article 29*

*(unchanged)*

##### *Article 30*

- The text of this Article is amended as follows:

‘In addition to the consultations made compulsory by Articles 4, 7, 13, 16, 23, 25 and 27, the Committee may examine any question relating to the application of any Community act concerning the value added tax, raised by the Chairman either on his own initiative or at the request of the representative of a Member State.’

##### *Article 31*

*(unchanged)*

## TITLE XVIII

## MISCELLANEOUS PROVISIONS

*Article 32*

— The text of this Article is amended as follows:

'For the first time on 1 January of the fourth year following that in which this Directive is adopted and thereafter every two years, the Commission shall, after consulting the Member States, send the Council a report on the application of the common value added tax system in the Member States. This report shall be transmitted by the Council to the European Parliament.'

*Article 33*

— The text of this Article is amended as follows:

'At the appropriate time the Council acting on a proposal from the Commission, after receiving the Opinion of the European Parliament, and in accordance with the interests of the common market, shall adopt further Directives on the common value added tax system, in particular to

restrict progressively or to repeal measures taken by the Member States by way of derogation from the system, in order to achieve complete parallelism of the national value added tax systems and thus permit the attainment of the objective stated in Article 4 of the first Directive.'

*Article 34*

*(unchanged)*

*Article 35*

— The text of this Article is amended as follows:

'Second Council Directive No 67/228/EEC of 11 April 1967 shall cease to have effect in each Member State, from the date of entry into force of the provisions referred to in the second subparagraph of Article 1 of this Directive.'

*Article 36*

*(unchanged)*

## ANNEX A

*(unchanged)*

## ANNEX B

*(unchanged)*

## ANNEX C

*(unchanged)*

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