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Information and Notices

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I

(Information)

COMMISSION

EUROPEAN UNIT OF ACCOUNT ⁽¹⁾

14 December 1976

Currency amount for 1 EUA:

Belgian and Luxembourg franc:		United States dollar	1·11884
— commercial market	40·9608	Swiss franc	2·74794
— financial market	40·9272	Spanish peseta	76·4479
German mark	2·68279	Swedish krona	4·67189
Dutch guilder	2·79462	Norwegian krone	5·85740
Pound sterling	0·663602	Canadian dollar	1·14192
Danish krone	6·56003	Portuguese escudo	35·2351
French franc	5·58620	Austrian schilling	19·0162
Italian lira	968·799	Finnish markka	4·25877
Irish pound	0·663602	Japanese yen	330·462

⁽¹⁾ — Article 2 (2) of Council Decision 75/250/EEC of 21 April 1975 on the definition and conversion of the European unit of account applied in the ACP-EEC Convention of Lomé.

— Article 2 (2) of Commission Decision 3289/75/ECSC of 18 December 1975 on the definition and conversion of the European unit of account used for the purposes of the ECSC Treaty.

COURT OF JUSTICE

JUDGMENT OF THE COURT

of 6 October 1976

in Case 12/76 (reference for a preliminary ruling made by the Oberlandesgericht Frankfurt am Main): *Industrie Tessili Italiana Como v. Dunlop A.G.* ⁽¹⁾

(Language of the Case: German)

In Case 12/76, reference under Article 1 of the Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters by the Oberlandesgericht Frankfurt am Main for a preliminary ruling in the action pending before that court between Industrie Tessili Italiana Como, Como (Italy), and Dunlop A.G., Hanau am Main (Federal Republic of Germany) on the interpretation of the concept of 'place of performance of the obligation in question' within the meaning of Article 5 (1) of the Convention of 27 September 1968 — the Court, composed of R. Lecourt, President, H. Kutscher and A. O'Keefe, (Presidents of Chambers), A. M. Donner, J. Mertens de Wilmars, P. Pescatore, M. Sørensen, Lord Mackenzie Stuart and F. Capotorti, Judges; Advocate-General: H. Mayras; Registrar: A. Van Houtte, gave a judgment on 6 October 1976 the operative part of which is as follows:

The 'place of performance of the obligation in question' within the meaning of Article 5 (1) of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters is to be determined in accordance with the law which governs the obligation in question according to the rules of conflict of laws of the court before which the matter is brought.

⁽¹⁾ OJ No C 57, 11. 3. 1976.

JUDGMENT OF THE COURT

of 13 October 1976

in Case 32/76 (reference for a preliminary ruling made by the Tribunal du Travail, Charleroi): *Alfonsa Reale, née Saieva, v. La Caisse de Compensation des Allocations Familiales* for the mining industry of the Charleroi and Basse-Sambre coalfields ⁽¹⁾

(Language of the Case: French)

In Case 32/76, reference to the Court under Article 177 of the EEC Treaty by the Tribunal du Travail (Labour Tribunal), Charleroi, for a preliminary ruling in the

⁽¹⁾ OJ No C 104, 7. 5. 1976.

proceedings pending before that court between Alfonsa Reale, née Saieva, residing at Montaperto, Italy, and La Caisse de Compensation des Allocations Familiales for the mining industry of the Charleroi and Basse-Sambre coalfields, Charleroi, Belgium — on the interpretation of Article 42 (5) of Council Regulation No 3 of 25 September 1958 concerning social security for migrant workers (Official Journal No 30 of 16 December 1958, page 561/58), as amended by Council Regulation No 1/64/EEC of 18 December 1963 (Official Journal No 1 of 8 January 1964, page 1), and Article 94 (5) of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (Official Journal No L 149 of 5 July 1971, page 2) — the Court, composed of H. Kutscher, President, A. M. Donner and P. Pescatore (Presidents of Chambers), J. Mertens de Wilmars, M. Sørensen, Lord Mackenzie Stuart and A. O'Keefe, Judges; Advocate-General: H. Mayras, Registrar: A. Van Houtte, gave a judgment on 13 October 1976 the operative part of which is as follows:

1. *Article 42 (5) of Regulation No 3 must be interpreted as determining the legislation applicable to the payment of family allowances to the children of a worker who died as a result of an accident at work and as meaning that the right of the children of the deceased to family allowances is not linked to the award of an orphan's pension;*
2. *Article 94 (5) of Regulation (EEC) No 1408/71 must be interpreted as meaning that the competent institution of a Member State is not entitled to substitute itself for an insured person with regard to the review of the rights which that person acquired before the Regulation came into force.*

Reference for a preliminary ruling by the Oberlandesgericht Karlsruhe — 4th Civil Senate, Freiburg — dated 7 October 1976 in the case of Hoffmann-La Roche AG v. Centrafarm Vertriebsgesellschaft pharmazeutischer Erzeugnisse mbH

(Case 107/76)

The Court of Justice of the European Communities has received a reference for a preliminary ruling by order of the Oberlandesgericht (Higher Regional Court) Karlsruhe — 4th Civil Senate, Freiburg — dated 7 October 1976 in the case of Hoffmann-La Roche AG, Grenzbach-Whylen, against Centrafarm Vertriebsgesellschaft pharmazeutischer Erzeugnisse mbH, Bentheim, lodged at the Court Registry on 17 November 1976, on the following questions:

1. Is the court of a Member State under a duty to refer a question concerning the interpretation of Community law under the third paragraph of Article 177 of the Treaty establishing the European Economic Community to the Court of Justice of the European Communities for a ruling when this question arises during interlocutory proceedings for an interim injunction, when in such proceedings no appeal lies against the court's decision, but when on the other hand it is open to the parties to have the question concerning the subject matter of the interlocutory proceedings made the subject matter of an ordinary action, during which a reference under the third paragraph of Article 177 of the Treaty establishing the European Communities would have if necessary to be made?

If question one is answered in the affirmative a ruling on the following questions is requested:

2. Is the person entitled to a trade-mark right protected for his benefit both in Member State A and in Member State B empowered under Article 36 of the EEC Treaty, in reliance on this right, to prevent a parallel importer from buying from the proprietor of the mark or with his consent in Member State A of the Community medicinal preparations which have been put on the market with his trade mark lawfully affixed

thereto and packaged under this trade mark, from transferring them into containers of a different size, providing them with new packaging, affixing to such packaging the proprietor's trade mark and importing the preparations distinguished and in this manner into Member State B?

3. Is the proprietor of the trade mark entitled to do this or does he thereby infringe provisions of the EEC Treaty — in particular those contained in Article 86 thereof — even if he acquires a dominant position within the market in Member State B with regard to the medicinal preparation in question, when prohibition on imports of a repacked product to which the proprietor's trade mark has been affixed has in actual fact a restrictive effect on the market, because different sizes of packages are used in countries A and B and because the importation of the product in another manner has not yet in fact made any appreciable progress on the market, and when the actual effect of the prohibition is that between the Member States there is maintained a substantial — in certain circumstances disproportionate — price differential, without its being possible to prove that the owner of the mark is using the prohibition solely or mainly to maintain this price differential?

Removal of Case 81/76 ⁽¹⁾

By order of 24 November 1976 the Court of Justice of the European Communities ordered the removal from the Register of Case 81/76: Douwe Egberts GmbH v. Hauptzollamt Kleve.

⁽¹⁾ OJ No C 223, 23. 9. 1976.

Removal of Case 8/76 ⁽¹⁾

By order of 25 November 1976 the Court of Justice of the European Communities (First Chamber) ordered the removal from the Register of Case 8/76: Enrica Lodi v. European Parliament.

⁽¹⁾ OJ No C 43, 25. 2. 1976.

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Directive amending Directive 76/625/EEC of 20 July 1976 concerning the statistical surveys to be carried out by the Member States in order to determine the production potential of plantations of certain species of fruit trees

(Submitted by the Commission to the Council on 1 December 1976)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas in accordance with Article 8 of Council Directive 76/625/EEC of 20 July 1976 concerning the statistical surveys to be carried out by the Member States in order to determine the production potential of plantations of certain species of fruit trees, the Commission submits to the Council, within one year after notification of the results, a report on experience acquired during the first survey and subsequently annual reports on the subject of Articles 5 and 6;

Whereas it is useful for these reports to be submitted also to the Parliament for information;

Whereas it is therefore necessary to amend the Directive accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The first paragraph of Article 8 of Directive 76/625/EEC shall be replaced by the following:

'The Commission shall submit to the Parliament and the Council, within one year after notification of the results by Member States, a report on experience acquired during the first survey in the enlarged Community; the Commission shall also submit to them from 1 January 1977 annual reports on the subjects of Articles 5 and 6.'

Article 2

This Directive is addressed to the Member States.

PUBLIC WORKS CONTRACTS

(Publication of notices of public works contracts and licences in conformity with Council Directive 71/305/EEC of 26 July 1971 supplemented by Council Directive 72/277/EEC of 26 July 1972)

MODEL NOTICES OF CONTRACTS**A. Open procedures**

1. Name and address of the authority awarding the contract (Article 16e)⁽¹⁾:
2. The award procedure chosen (Article 16b):
3. a) The site (Article 16c):
b) The nature and extent of the services to be provided and the general nature of the work (Article 16c):
c) If the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several, or for all of the lots (Article 16c):
d) Information relating to the purpose of the contract if the contract entails the drawing up of projects (Article 16c):
4. Any time limit for the completion of the works (Article 16d):
5. a) Name and address of the service from which the contract documents and additional documents may be requested (Article 16f):
b) The final date for making such request (Article 16f):
c) Where applicable, the amount and terms of payment of any sum payable for such documents (Article 16 f):
6. a) The final date for receipt of tenders (Article 16g):
b) The address to which they must be sent (Article 16g):
c) The language or languages in which they must be drawn up (Article 16g):
7. a) The persons authorized to be present at the opening of tenders (Article 16h):
b) The date, time and place of this opening (Article 16h):
8. Any deposits and guarantees required (Article 16i):
9. The main procedure for financing and payment and/or references to the instruments regulating these (Article 16j):
10. Where applicable, the specific legal form which must be assumed by the group of contractors to whom the contract is awarded (Article 16k):
11. The minimum economic and technical standards required of the contractors (Article 16l):
12. Period during which the tenderer is bound to keep open his tender (Article 16m):
13. Criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned if they do not appear in the contract documents (Article 29):
14. Other information:
15. The date of dispatch of the notice (Article 16a):

⁽¹⁾ The Articles in brackets refer to Council Directive 71/305/EEC of 26 July 1971 (OJ No L 185, 16. 8. 1971, p. 5).

B. Restricted procedures

1. Name and address of the authority awarding the contract (Article 17a)⁽¹⁾:
2. The award procedure chosen (Article 17a):
3. a) The site (Article 17a):
 - b) The nature and extent of the services to be provided and the general nature of the work (Article 17a):
 - c) If the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots (Article 17a):
 - d) Information relating to the purpose of the contract if the contract entails the drawing up of projects (Article 17a):
4. Any time limit for the completion of the works (Article 17a):
5. Where applicable, the specific legal form which must be assumed by the group of contractors to whom the contract is awarded (Article 17a):
6. a) The final date for the receipt of requests to participate (Article 17b):
 - b) The address to which they must be sent (Article 17 b):
 - c) The language or languages in which they must be drawn up (Article 17b):
7. The final date for the dispatch of invitations to tender (Article 17c):
8. Information concerning the contractor's personal position, and the minimum economic and technical standards required of him (Article 17d):
9. The criteria for the award of the contract if these are not stated in the invitation to tender (Article 18d):
10. Other information:
11. The date of dispatch of the notice (Article 17a):

⁽¹⁾ The Articles in brackets refer to Council Directive 71/305/EEC of 26 July 1971 (OJ No L 185, 16. 8. 1971, p. 5).

Open procedure

1. Rijkswaterstaat, Directie Utrecht, Maliebaan 18, Utrecht, the Netherlands.
2. Public invitation to tender pursuant to the Uniform Aanbestedingsreglement (standard regulations for invitations to tender).
3. a) Municipalities of Nigtevecht, Abcoude and Loenen a/d Vecht.
b) Specification No U 1771: bank protection and other works along the west bank of the Amsterdam-Rhine canal between km 13.255 and km 18.705, with ancillary works.
The works mainly comprise (approximate quantities):
5 400 m bank protection works to be executed using material supplied by the government;
supply and placing of 22 000 m³ sand;
supply and placing of 1 600 reinforced concrete anchor blocks;
30 000 m³ earthworks.
c)
d)
4. 65 weeks.
5. a) The specification may be obtained as from 22 December 1976 from the Staatsuitgeverij, Christoffel Plantijnstraat 1, The Hague (Tel. 070 — 814511), quoting No U 1771.
The specification may be inspected as from the same date at:
the Ministerie van Verkeer en Waterstaat, Plesmanweg 1, The Hague;
the Hoofdirectie van de Waterstaat, Koningskade 4, The Hague;
the address given in 1.
Information may be obtained from the Rijkswaterstaat, afdeling Nieuwe Werken Noord, Zuidersluis 1, Nieuwegein on Tuesday, 4 January 1977, from 10 a.m. to 12 noon and from 2 p.m. to 4 p.m.
The information notice may be inspected as from that date at that address.
Copies of the information notice are obtainable free of charge on request from that department.
- b)
- c) Cost of the specification: FL 24 (including VAT, but excluding postage). Payable to the Staatsuitgeverij, Christoffel Plantijnstraat 1, The Hague, on receipt of bill.
6. a) 11 a.m. on 18 January 1977.
b) Rijkswaterstaat, Directie Sluizen en Stuwen, Maliebaan 31, Utrecht.
c) Dutch.
7. a) Public.
b) 11 a.m. on 18 January 1977 at the address given in 6 b).
- 8.
9. Payments every four weeks to the amount of expenditure incurred, after constitution of a security equal to 5 % of the contract price.
- 10.
11. The tenderer must prove his financial and economic standing and technical expertise, within one week of receiving a request to do so, by supplying the following information:
proof of his firm's inscription in the trade register;
a banker's statement showing the firm's financial standing;
a statement of total turnover and turnover on construction works for the past three financial years;
a list of projects completed by his firm in the past five years, specifying the cost of these projects, the completion period, the place and the name of the principal.
12. 30 days from the date on which the contract is awarded.
13. The tenderer must be able to prove that he possesses experience in the execution of similar projects.
- 14.
15. 7 December 1976.

Restricted procedure

1. Département d'Ille-et-Vilaine, Direction des affaires départementales, et des finances, Préfecture d'Ille-et-Vilaine, 1, rue Martenot, F-35000 Rennes.
2. Restricted invitation to tender.
3. a) Département of Ille-et-Vilaine, communes of Gael, St. Meen-le-Grand, Le Crouais and Quedillac.
b) Rerouting of 8.5 km of the road CD166 (in four sections).
Main lot: placing of 0/31.5 5 700 metric tons; of wet-mix bituminous macadam 33 100 metric tons; of bituminous concrete 8 220 metric tons; farm fences 15 900 m.
Secondary lot B: Borrow 8 200 m³; cutting 160 000 m³; embankments 61 000 m³; drainage system 2 000 m.
Secondary lot C: Supplies 0/4: 16 800 metric tons; 4/10: 10 700 metric tons; 10/20: 10 500 metric tons; 10/14: 1 800 metric tons; 0/31.5: 5 700 metric tons.
c) General contractors with subcontractors appointed for the contract or consortia with joint liability may tender for all the lots or specialized contractors for only one of the secondary lots.
d)
4. 12 months.
- 5.
6. a) 4 p.m. on 28 December 1976.
b) Préfecture d'Ille-et-Vilaine, 2ème Direction, 3ème Bureau, 35000, Rennes, France.
c) French.
- 7.
8. Information form type MPC 10.
Declaration type MPC 17.
9. Price; technical merit; professional and financial guarantees.
10. Further information may be obtained from: Bureau d'Etudes de l'Arrondissement de Gestion, 2 Cale de la Barbotière, 35000, Rennes, France.
11. 6 December 1976.

Restricted procedure

1. The Greater London Council, HG/D/D4. 1, The County Hall, London SE1 7PB, England, United Kingdom.
2. Lowest acceptable offer in competition among selected contractors.
3. a) Dunkery Road, Lower Marvels Wood, Mottingham Estate, Bromley, Kent. Ordnance Survey Ref: TQ 4171 N.E.
 b) The building of 9 two-person flats, 12 two-person old-person flats, 19 four-person houses, 13 five-person houses and 4 six-person houses being a total of 57 dwellings with supporting roadway, car parking spaces and footpaths. Approximate estimated cost in excess of £ 750 000.
 The type of construction is to be load-bearing and cavity walls of brick and block, with stock facing bricks. The pitched roofs are timber trusses finished with concrete roof tiles throughout. Foundations are short-bored piles with precast concrete floors. Windows are standard 'ejma' softwood sections painted and single glazed. Softwood staircases and intermediate timber floors. Dry lining throughout. Heating in all the houses is by individual gasfired boilers with a balanced flue. The old-persons dwellings however have a group boiler. The site slopes by some 8 m from south to north and about one-fifth of the site is tree-covered on the east side, which then extends into the woods. These trees on the site are to be preserved.
 The form of contract will be the Greater London Council's standard form of contract which is based upon the Royal Institute of British Architects' standard form of contract (1963 edition) as revised with a full fluctuations clause for labour and materials.
 Bills of quantities will be supplied and they are to be fully-priced and returned by the tenderers.
 c) It is not intended to subdivide the contract.
 d) No design contribution is required by the tenderers.
4. Anticipate commencement of work May 1977. Contract period 18 months.
5. Should a group of contractors in temporary association be successful, each firm will need to become jointly and severally responsible for the contract before acceptance.
6. a) 30 December 1976.
 b) Hutchison, Locke and Monk, 19 The Green, Richmond, Surrey, England.
 c) English.
7. 13 January 1977.
8. Name and address of the contractor's bankers from whom the council's bankers can inquire as to the contractor's financial standing.
 Balance sheets for the past three years.
 Overall turnover and turnover on construction works for the past three years.
 List of work completed over the past five years, especially that comparable with this project, together with names and addresses of architects concerned and from whom a reference can be sought.
 Details of resources of labour and plant.
 Details of proposed organization and management techniques for handling the contract.
9. The lowest acceptable offer in competition, subject to relationship of the price tendered to the comparable estimate prepared by the architect.
10. Six weeks will be allowed for tendering.
 The work will be supervised by the appointed architect, directions on site may be given by a full-time clerk of works.
 The preparation of the final account will be by the approved quantity surveyor.
 A copy of the conditions of contract will be supplied to each tenderer, together with two unbound copies of the bills of quantities; additional copies of the bills of quantities not exceeding two will be supplied free of charge if requested.
 The tender and bills of quantities must be completed in sterling and payment will be made only in sterling.
 No right exists to participate in the competition, nor can information be given as to the progress of the tenderer's application.
11. 2 December 1976.

Restricted procedure

1. The County Council of Hertfordshire, County Hall, Hertford, Hertfordshire, England, United Kingdom.
2. The lowest acceptable offer in competition among selected tenderers.
3. a) St Albans is situated 32 km north-west of the centre of London. The site is on the A405 trunk road to the south-east of St Albans, between London Colney roundabout and Colney Heath.
b) Improvement of approximately 2.5 km of the trunk road by constructing a new carriageway alongside the existing, and reconstruction of the existing in order to provide dual carriageways throughout in flexible or rigid pavement. No bridgeworks are involved. Estimated cost of the whole works is between £415 000 and £1 million (excluding Statutory Undertakers works).
c)
d)
4. 12 months from the date of commencement of the works as notified by the engineer to the contractor.
5. In the event of a group of contractors submitting an acceptable offer it will be necessary for each member of the group to sign an undertaking that each company or firm in the group will be jointly and severally responsible for the due performance of the contract.
6. a) 14 January 1977.
b) The Department of Transport, Con (H) 4, Room S3/02, 2 Marsham Street, London SW1P 3EB, England.
c) English.
7. Approximately early March 1977 subject to completion of statutory processes.
8. Proof of inscription of the company on a professional register or the companies' register in the United Kingdom or Ireland.
Balance sheets/accounts for the past three years including a statement of turnover on construction work and proportion of turnover on civil engineering work and a banker's reference.
A statement of technical qualifications of the managerial and supervisory staff who would be responsible for executing the work and any previous experience of UK construction practice.
A list of works over one million units of account carried out during the past five years, the value, type of work, site and authority (with address of authority) for whom work was executed.
Details of plant and machinery available for executing the work.
Whether the contractor proposes to use his own labour force or to rely on locally recruited labour.
9. Details of the award criteria will be shown in the tender invitation.
10. The contract will be based on the Institution of Civil Engineers conditions of contract for use in connection with works of civil engineering construction (fifth edition) as modified by the Department of the Environment for use in highway works contracts, the specifications for road and bridge works, drawings and bill of quantities. Price fluctuations on labour and materials will not apply.
Interim payments will be made monthly on the basis of the valuation of work executed and materials delivered to the site.
11. 3 December 1976.

Restricted procedure

1. Direction des Travaux Neufs, Fort de Vanves, 27 boulevard de Stalingrad, 92240 Malakoff, France. Tel. 657 12 81, Ext. 330.
2. Restricted invitation to tender on specifications with public preselection.
3. a) Ecole polytechnique, Palaiseau (Essonne), France.
b) Construction of two blocks of flats consisting of ground floor and three upper storeys, each housing 4 two-person flats and 17 one-room flats.
c) *Unum quid* contract comprising the following work: carcass work; sealing; plastering; fittings; locksmithing; plumbing; HV and LV circuits; floor finishings; painting and glazing; storage heating and water heating; external lighting;
Approximate value: 5 800 000 French francs.
The following work is not included: driveways and various services; telephones; grassed areas.
d)
4. Twelve months.
5. General contractor and subcontractors, the contractor himself determining which parts he subcontracts.
6. a) 27 January 1977.
b) See 1.
c) French.
7. 27 April 1977.
8. Applicants must provide the information required by: Décret No 73-431 of 4 March 1973 (Journal Officiel de la République Française No 85 of 10 April 1973 — Economie et Finances), information form to be provided by applicants — Article 41.1 of the Code des Marchés Publics;
Arrêté of 16 March 1971 (Journal Officiel de la République Française No 85 of 6 April 1971), declaration to be submitted by individual contractors or companies applying for public works contracts — Article 41.2 of the Code des Marchés Publics in accordance with Article 17 d) of Council Directive 71/305/EEC.
9. Mainly price, contractors' professional and financial guarantees and references obtained for similar work.
- 10.
11. 7 December 1976.