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I

(Information)

COMMISSION

EUROPEAN UNIT OF ACCOUNT ⁽¹⁾

17 January 1978

Currency amount for 1 EUA:

Belgian and Luxembourg franc	40·1966	Swiss franc	2·41748
German mark	2·59887	Spanish peseta	98·4909
Dutch guilder	2·77117	Swedish krona	5·71015
Pound sterling	0·633741	Norwegian krone	6·29055
Danish krone	7·06208	Canadian dollar	1·34201
French franc	5·77629	Portuguese escudo	49·1702
Italian lira	1067·36	Austrian schilling	18·6354
Irish pound	0·633741	Finnish markka	4·92003
United States dollar	1·22030	Japanese yen	294·967

The Commission has installed a telex with an automatic answering device which gives the conversion rates of the European unit of account in a number of currencies. This service is available every day from 5 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the EUA;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

⁽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.

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation opening, allocating and providing for the administration of Community tariff quotas for certain wines having a registered designation of origin, falling within subheading ex 22.05 C of the Common Customs Tariff, originating in Morocco (1978/79)

(Submitted by the Commission to the Council on 21 December 1977)

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the Interim Agreement between the European Economic Community and the Kingdom of Morocco ⁽¹⁾, signed on 27 April 1976 stipulates in Article 14 that certain wines having a registered designation of origin falling within subheading ex 22.05 C of the Common Customs Tariff, originating in Morocco, shall be imported into the Community free of customs duties within the limits of an annual Community tariff quota of 50 000 hectolitres; whereas these wines must be put up in containers holding two litres or less; whereas, however, the Community has declared itself willing to apply the abovementioned provisions in the period 1978/79 for a volume not exceeding 10 000 hectolitres to wine

exported in bulk; whereas wines in bulk must be put up in accordance with specific requirements;

Whereas the import price for the wines must at any given moment be not less than the Community reference prices for them; whereas these wines must be accompanied by a certificate of designation of origin in accordance with the model given in Annex D to the Agreement in question;

Whereas, on the basis of an Agreement in the form of an exchange of letters provided for in Article 14 of the Interim Agreement and signed on 12 March 1977 ⁽²⁾, the tariff reduction shall apply from 1 April 1977; whereas the Community tariff quota in question should therefore be opened for a second period from 1 April 1978 until 31 March 1979; whereas the Agreement in the form of an exchange of letters provides that the wines in bulk may be transported only in containers of a capacity not exceeding 25 hectolitres; whereas, however, temporarily and for a transitional period these wines may be transported in containers of a capacity not exceeding 200 hectolitres;

Whereas Council Regulation (EEC) No 2506/75 of 29 September 1975 laying down special rules for the importation of products in the wine-growing sector originating in certain third countries ⁽³⁾, introduced the idea of a free-at-frontier reference price, being the reference price less customs duties actually levied;

⁽¹⁾ OJ No L 141, 28. 5. 1976, p. 98.

⁽²⁾ OJ No L 65, 11. 3. 1977, p. 2.

⁽³⁾ OJ No L 256, 2. 10. 1975, p. 2.

Whereas it is in particular necessary to ensure equal and uninterrupted access for all Community importers to the abovementioned quotas, and uninterrupted application of the rates laid down for these quotas to all imports of the products concerned into the Member States until the quotas have been used up; whereas, having regard to the above principles, the Community nature of the quotas can be respected by allocating the Community tariff quotas among the Member States; whereas, in order to reflect most accurately the actual development of the market in the products in question, such allocation should be in proportion to the requirements of the Member States, assessed by reference to both the statistics relating to imports of the said products from Morocco over a representative reference period and the economic outlook for the quota period concerned;

Whereas in this case, however, neither Community nor national statistics showing the breakdown for each of the types of wines in question are available and no reliable estimates of future imports can be made; whereas, in these circumstances, the quota volumes should be allocated in initial shares, taking into account demand for these wines on the markets of the various States;

Whereas, to take into account import trends for the products concerned in the various Member States, each of the quota amounts should be divided into two instalments, the first being allocated among the Member States and the second held as a reserve intended to cover at a later date the requirements of Member States who have used up their initial share; whereas, in order to guarantee some degree of security to importers in each Member State, the first instalment of the Community quotas should be fixed at a level which could in the present circumstances, be 50 % of each of the quota volumes;

Whereas the initial shares of the Member States may not be used up at the same rate; whereas, in order to

take this into account and to avoid disruption, any Member State which has used up almost all of one of its initial shares should draw a supplementary share from the relevant reserve; whereas this should be done by each Member State each time one of its supplementary shares is almost used up, and so on as many times as the reserve allows; whereas the initial and supplementary shares should be valid until the end of the quota period; whereas this form of administration requires close collaboration between the Member States and the Commission, and the Commission must be in a position to follow the extent to which the quota volumes have been used up and inform the Member States thereof;

Whereas, if at a given date in the quota period a Member State has a considerable quantity of one of its initial shares left over, it is essential that it should return a significant proportion thereof to the relevant reserve, to prevent a part of one or other of the Community quotas remaining unused in one Member State when it could be used in others;

Whereas, since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are united in and represented by the Benelux Economic Union, all transactions concerning the administration of the shares allocated to the abovementioned economic union may be carried out by any one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period from 1 April 1978 to 31 March 1979 Community tariff quotas shall be opened for the following products originating in Morocco within the limits set out below:

CCT heading No	Description	Quota volume
22.05	<p>Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol:</p> <p>C. Other:</p> <p>— Wines entitled to one of the following designations of origin: Berkane, Sais, Beni M'tir, Guerrouane, Zemmour, Zennata</p> <p>of an actual alcoholic strength not exceeding 15°:</p> <p>— In containers holding two litres or less</p> <p>— In containers holding more than two litres</p>	<p>40 000 hectolitres</p> <p>10 000 hectolitres</p>

2. Within these tariff quotas the Common Customs Tariff duties applicable to these wines shall be totally suspended.

3. The wines in question shall benefit from these tariff quotas on condition that the prices on import into the Community are not at any time less than the free-at-frontier reference prices referred to in Regulation (EEC) No 2506/75 and subsequent texts which apply to such prices.

4. Wine in containers holding more than two litres must be put up in accordance with the following requirements:

- (a) the containers must be suitable for transporting wine and be used solely for that purpose;
- (b) the containers must be completely filled;
- (c) the means of closing the containers must be such that they cannot be tampered with and must ensure that they cannot be the subject of operations during transportation or storage other than those carried out under the supervision of the authorities of either Morocco or the Member States;
- (d) each container must be labelled in such a way as to permit identification of the quality wine it contains;
- (e) the wine in question may be transported only in containers of a capacity not exceeding 200 hectolitres.

5. Each of these wines, when imported, shall be accompanied by a certificate of designation of origin, issued by the relevant Moroccan authority, in accordance with the model annexed to this Regulation.

Article 2

1. The tariff quotas laid down in Article 1 shall be divided into two instalments.

2. A first instalment of each quota shall be allocated among the Member States; the shares which, subject to Article 5, shall be valid up to 31 March 1979 shall be as follows:

Member States	<i>(in hectolitres)</i>	
	Wines having a registered designation of origin in containers holding:	
	two litres or less	more than two litres
Benelux	3 330	840
Denmark	2 000	500
Germany	4 000	1 000
France	4 000	1 000
Ireland	1 340	320
Italy	2 000	500
United Kingdom	3 330	840
Total	20 000	5 000

3. The second instalment of each quota, amounting to 20 000 and 5 000 hectolitres respectively, shall constitute the reserve.

Article 3

1. If 90 % or more of one of a Member State's initial shares, as specified in Article 2 (2), or of that share less the portion returned to the relevant reserve where Article 5 has been applied, has been used up, that Member State shall, without delay, by notifying the Commission, draw a second share equal to 15 % of its initial share, rounded up where necessary to the next whole number, in so far as the amount in the reserve allows.

2. If, after one or other of its initial shares has been used up, 90 % or more of the second share drawn by a Member State has been used up, that Member State shall, in accordance with the conditions laid down in paragraph 1, draw a third share equal to 7.5 % of its initial share, rounded up where necessary to the next whole number, in so far as the amount in the reserve allows.

3. If, after one or other of its second shares has been used up, 90 % or more of the third share drawn by a Member State has been used up, that Member State shall, in accordance with paragraph 1, draw a fourth share equal to the third.

This process shall continue apply until the reserves are used up.

4. Notwithstanding paragraphs 1, 2 and 3, Member States may draw smaller shares than those fixed in these paragraphs if there is reason to believe that those fixed might not be used up. They shall inform the Commission of their reasons for applying this paragraph.

Article 4

Each additional share drawn pursuant to Article 3 shall be valid until 31 March 1979.

Article 5

Member States shall return to the reserve, not later than 1 February 1979, the unused portion of their initial share which, on 15 January 1979, is in excess of 20 % of the initial amount. They may return a greater portion if there are grounds for believing that such portion might not be used in full.

Member States shall notify the Commission, not later than 1 February 1979, of the total imports of the products concerned effected under the Community quotas up to and including 15 January 1979 and, where appropriate, the proportion of each of their initial shares that they are returning to each of the reserves.

Article 6

The Commission shall keep account of the shares opened by Member States pursuant to Articles 2 and 3 and shall inform each State of the extent to which the reserve has been used up as soon as it has been notified.

The Commission shall notify the Member States, not later than 5 February 1979, of the state of each reserve after the return of shares pursuant to Article 5.

The Commission shall ensure that the drawing which uses up a reserve is limited to the balance available, and to this end, shall specify the amount thereof to the Member State making the final drawing.

Article 7

1. Member States shall take all measures necessary to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that imports may be charged without interruption against their aggregate shares in the Community quotas.
2. Member States shall ensure that importers of the products concerned established in their territory have free access to the shares allocated to them.
3. The extent to which a Member State has used up its shares shall be determined on the basis of the imports originating in Morocco and entered for home use.

Article 8

At the request of the Commission, Member States shall inform it of imports actually charged against their shares.

Article 9

The Member States and the Commission shall collaborate closely in order to ensure that this Regulation is observed.

Article 10

This Regulation shall enter into force on 1 April 1978.

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

ANNEX

<p>1. المصدر - Eksportør - Ausfühler - Exporter - Exportateur - Esportatore - Exporteur:</p>	<p>2. الرقم - Nummer - Nummer - Number - Numéro - Numero - Nummer</p>	<p>00000</p>
<p>4. المرسل اليه - Modtager - Empfänger - Consignee - Destinataire - Destinatario - Geadresseerde:</p>	<p>3. (Name of authority guaranteeing the designation of origin)</p>	
<p>6. وسيلة النقل - Transportmiddel - Beförderungsmittel - Means of transport - Moyen de transport - Mezzo di trasporto - Vervoermiddel:</p>	<p>5. شهادة التسمية الاصلية CERTIFIKAT FOR OPRINDELSESBETEGNELSE BESCHEINIGUNG DER URSPRUNGSBEZEICHNUNG CERTIFICATE OF DESIGNATION OF ORIGIN CERTIFICAT D'APPELLATION D'ORIGINE CERTIFICATO DI DENOMINAZIONE DI ORIGINE CERTIFICAAT VAN BENAMING VAN OORSPRONG</p>	
<p>8. مكان الافراغ - Losningssted - Entladungsort - Place of unloading - Lieu de déchargement - Luogo di sbarco - Plaats van lossing:</p>	<p>7. (Designation of origin)</p>	
<p>9. الانواع والارقام ، عدد ونوع الطرود Mærker og numre, kollienes antal og art Zeichen und Nummern, Anzahl und Art der Packstücke Marks and numbers, number and kind of packages Marques et numéros, nombre et nature des colis Marca e numero, quantità e natura dei colli Merken en nummers, aantal en soort der colli</p>	<p>10. الوزن الخام Bruttovægt Rohgewicht Gross weight Poids brut Peso lordo Brutogewicht</p>	<p>11. لترات Liter Liter Litres Litres Litri Liter</p>
<p>12. لترات (بالحروف) - Liter (i bogstaver) - Liter (in Buchstaben) - Litres (in words) - Litres (en lettres) - Litri (in lettere) - Liter (voluit):</p>		
<p>13. تأشيرة الهيئة المرسله - Påtegning fra udstedende organ - Bescheinigung der erteilenden Stelle - Certificate of the issuing authority - Visa de l'organisme émetteur - Visto dell'organismo emittente - Visum van de instantie van afgifte:</p>		
<p>14. تأشيرة الحمارك - Toldstedets attest - Sichtvermerk der Zollstelle - Customs stamp - Visa de la douane - Visto della dogana - Visum van de douane</p>	<p>(Oversættelse se nr. 15 - Übersetzung siehe Nr. 15 - see the translation under No 15 - Voir traduction au n° 15 - Vedi traduzione al n. 15 - Zie voor vertaling nr. 15)</p>	

Det bekræftes, at vinen, der er nævnt i dette certifikat, er fremstillet i området og ifølge marokkansk lovgivning er berettiget til oprindelsesbetegnelse: ».....«.

Alkohol tilsat denne vin er alkohol fremstillet af vin.

Wir bestätigen, daß der in dieser Bescheinigung bezeichnete Wein im Bezirk gewonnen wurde und ihm nach marokkanischem Gesetz die Ursprungsbezeichnung „.....“ zuerkannt wird.

Der diesem Wein zugefügte Alkohol ist aus Wein gewonnener Alkohol.

We hereby certify that the wine described in this certificate is wine produced within the wine district of and is considered by Moroccan legislation as entitled to the designation of origin '.....'.

The alcohol added to this wine is alcohol of vinous origin.

Nous certifions que le vin décrit dans ce certificat a été produit dans la zone de et est reconnu, suivant la loi marocaine, comme ayant droit à la dénomination d'origine «.....».

L'alcool ajouté à ce vin est de l'alcool d'origine vinique.

Si certifica che il vino descritto nel presente certificato è un vino prodotto nella zona di ed è riconosciuto, secondo la legge marocchina come avente diritto alla denominazione di origine «.....».

L'alcole aggiunto a questo vino è alcole di origine vinica.

Wij verklaren dat de in dit certificaat omschreven wijn is vervaardigd in het wijndistrict van en dat volgens de Marokkaanse wetgeving de benaming van oorsprong „.....“ erkend wordt.

De aan deze wijn toegevoegde alcohol is alcohol, uit wijn gewonnen.

16. (1)

يحتفظ بهذه الخانة لبيانات اخرى من الدولة المصدر

(1) Rubrik forbeholdt eksportlandets andre angivelser.

(1) Diese Nummer ist weiteren Angaben des Ausfuhrlandes vorbehalten.

(1) Space reserved for additional details given in the exporting country.

(1) Case réservée pour d'autres indications du pays exportateur.

(1) Spazio riservato per altre indicazioni del paese esportatore.

(1) Ruimte bestemd voor andere gegevens van het land van uitvoer.

Amending the proposal to the Council Directive amending for the sixth time the Directive of 23 October 1962 on the approximation of the rules of the Member States concerning the colouring matters authorized for use in foodstuffs intended for human consumption ⁽¹⁾

(Submitted by the Commission to the Council on 23 December 1977 pursuant to the second paragraph of Article 149 of the EEC Treaty)

1. Summary

This modified proposal implements the modifications suggested by the European Parliament at its meeting on the 16 December 1977.

2. Modification to the proposal of the Directive

2.1. Article 1 is modified as follows:

Article 2 of the Directive of 23 October 1962 is hereby amended to read as follows:

1. By way of derogation from Article 1 Member States may authorize the *further* use in foodstuffs of the substances listed in Annex II *in so far as they have been permitted hitherto*.
2. Within *two* years following notification of this Directive, the Commission shall re-examine the derogations in paragraph 1 and shall propose any necessary amendments to the Council *having consulted the Scientific Committee for Food*.

⁽¹⁾ OJ No C 300, 13. 12. 1977, p. 3.

Proposals for Council Regulations

- I. concerning the adaptation of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, with a view to applying it to self-employed persons and their families
- II. concerning the adaptation of the Annexes to Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, with a view to applying it to self-employed persons and their families

(Submitted by the Commission to the Council on 31 December 1977)

I

Proposal for a Council Regulation concerning the adaptation of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, with a view to applying it to self-employed persons and their families

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 2, 7, 51 and 235 thereof,

Having regard to the proposal of the Commission drawn up after consultation of the Administrative Commission on Social Security for Migrant Workers,

Having regard to the opinion of the European Parliament,

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

Whereas, in order to attain freedom of movement for workers and eliminate the obstacles that would, in the sphere of social security, result from the application of national legislations only, the Council adopted, on the basis of Article 51 of the Treaty, Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community ⁽¹⁾, as last amended by Regulation (EEC) No 2595/77 ⁽²⁾, fixing the rules for

coordinating social security schemes for employed persons;

Whereas freedom of movement for persons, which is one of the cornerstones of the Community, is not confined to employed persons but also extends to self-employed persons in the framework of the freedom of establishment and the freedom to supply services;

Whereas, in pursuance of the Treaty, any discrimination on grounds of nationality with regard to establishment and the provision of services has been prohibited since the end of the transitional period;

Whereas, in the sphere of social security, the application of national legislations only would not afford sufficient protection to self-employed persons moving within the Community; whereas, in order to make the freedom of establishment and the freedom to provide services fully effective, the social security schemes for self-employed persons should therefore be coordinated;

Whereas the Council furthermore recognized the need for such action in its resolution of 21 January 1974 concerning a social action programme ⁽³⁾, in which it expressed the political will to adopt the measures necessary to promote the coordination of social security schemes for self-employed persons within the framework of the freedom of establishment and the freedom to provide services;

⁽¹⁾ OJ No L 149, 5. 7. 1971, p. 2.

⁽²⁾ OJ No L 302, 26. 11. 1977, p. 1.

⁽³⁾ OJ No C 13, 12. 2. 1974.

Whereas the Treaty makes no provision for powers to take action to this effect but recourse to Article 235 of the Treaty is nevertheless fully justified as these measures concern a Community action which has proved necessary to achieve, for the proper functioning of the common market, the Community objective of bringing about freedom of establishment and freedom to provide services;

Whereas Regulation (EEC) No 1408/71, even though it applies to employed persons, already covers certain categories of self-employed persons; whereas, for reasons of equity, it would therefore be appropriate to apply, to the largest possible extent, the same rules to self-employed persons as are laid down for employed persons;

Whereas, however, the aim being to retain the rights of workers under the different social security schemes that apply to employed persons and those applying to self-employed persons in the case of persons having worked both as employed and as self-employed persons, this objective cannot be fully attained in the absence of a coordination of these schemes at the internal level by all the Member States;

Whereas, for the sake of simplification, it is important that all rules applying to both employed and self-employed persons and to persons who have been both employed and self-employed be brought together in one single instrument;

Whereas there are thus grounds for making the necessary adaptations to Regulation (EEC) No 1408/71 to make it possible to apply the provisions of that Regulation to self-employed persons and their families moving within the Community to the largest possible extent that is compatible with the nature of their professional or trade activity and the characteristics of the special social security schemes that cover them,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1408/71 shall be adapted as follows:

1. Article 1 shall be amended as follows:

(a) the text under (a) shall be replaced by the following:

'(a) "worker" means an employed person or a self-employed person;'

(b) after paragraph (a) the following new paragraph (a) shall be added:

'(a) a "employed person" or "self-employed person" means, respectively, with regard to each of the contingencies corresponding to the social security branches listed in Article 4 (1) against which he is insured:

(i) any person who is insured compulsorily, on an optional continued basis or voluntarily under a social security scheme organized for the benefit of employed persons or of self-employed persons;

(ii) any person who is compulsorily insured under a social security scheme for all residents, certain categories of residents or for the whole working population if such person can be identified as an employed or self-employed person by virtue of the manner in which such scheme is administered or financed;

(iii) any person who is compulsorily insured under a social security scheme for all residents, certain categories of residents or the whole working population if such person cannot be identified as an employed or self-employed person by virtue of the manner in which such scheme is administered or financed:

— if he is compulsorily insured under another social security scheme listed in Annex V as an employed or self-employed person within the meaning of paragraphs (i) or (ii),

— failing this, if he satisfies the criteria laid down in Annex V;

(iv) subject to the provisions of Annex V, any other person insured compulsorily, on an optional continued basis or voluntarily, under a scheme as referred to in (ii) or (iii), if he has previously been insured under such scheme as an employed or self-employed person within the meaning of (ii) or (iii);'

- (c) The text in paragraph (b) shall be replaced by the following:
- '(b) "frontier worker" means any worker who pursues his professional or trade activity in the territory of a Member State and resides in the territory of another Member State to which he returns as a rule daily or at least once a week; however, a frontier worker who is posted elsewhere in the territory of the same or another Member State by the undertaking to which he is normally attached, or who engages in the provision of services elsewhere in the territory of the same or another Member State, shall nevertheless retain the status of frontier worker for a period not exceeding four months, even if, in the course of that period, he cannot return daily or at least once a week to the place where he resides;'
- (d) Paragraph (j) shall be amended as follows:
- (i) in the second paragraph, in (i) and (ii), the word 'subparagraph' shall be replaced by 'paragraph';
- (ii) after the second paragraph, the following new paragraph shall be inserted:
- 'The term also excludes provisions governing special schemes for self-employed persons the creation of which is left to the initiative of those concerned or which apply only to a specified part of the Member State concerned. These restrictions may be lifted under the same conditions as those provided for in the preceding paragraph in respect of industrial agreements;'
- (iii) in the first and second lines of the third paragraph, the word 'subparagraph' shall be replaced by the words 'second paragraph';
- (e) in the first and second lines of paragraph (r), the words 'contribution periods or periods of employment' shall be replaced by the words 'contribution periods, periods of employment, of professional or trade activity or of residence';
- (f) the text of paragraph (s) shall be replaced by the following:
- '(s) "periods of employment" and "periods of professional or trade activity" means periods of employment or periods of professional or trade activity as defined or recognized as such by the legislation under which they were completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of employment or of professional or trade activity.'
2. Article 13 (2) shall be amended as follows:
- (a) in the first line of paragraph (a), the word 'employed' shall be replaced by the words 'who normally pursues his professional or trade activity';
- (b) in the first line of paragraph (b), the word 'employed' shall be replaced by the words 'who pursues his professional or trade activity'.
3. Article 14 (1) shall be amended as follows:
- (a) after subparagraph (a) a new subparagraph (b) shall be inserted, to be worded as follows:
- '(b) (i) a worker who normally pursues his professional or trade activity in the territory of a Member State and who engages in the provision of services in the territory of another Member State shall remain subject to the legislation of the former State, provided that the expected duration of such provision of services does not exceed 12 months;
- (ii) if the duration of the provision of services is prolonged as a result of unforeseen circumstances beyond the duration originally envisaged, and exceeds 12 months, the legislation of the former State shall remain applicable until such time as this provision of services has been completed, provided that the competent authority of the State to whose territory the worker has gone to engage in the said provision of services or the body designated by that authority has given its consent; this consent must be sought before the end of the initial period of 12 months; however, this consent cannot be given for any period exceeding 12 months;'
- (b) paragraph (b) shall become paragraph (c);
- (c) paragraph (c) shall become paragraph (d) and the following new text shall be added thereto:

- (iii) to the legislation of the Member State in whose territory he pursues his main activity, in the cases not provided for in (i) and (ii) above; the criteria for determining which is the main activity shall be defined by the Implementing Regulation referred to in Article 97;
- (d) paragraph (d) shall become paragraph (e) and shall read as follows:
- (e) a worker who pursues his professional or trade activity in an undertaking which has its registered office or place of business in the territory of a Member State and which straddles the common frontier of two Member States shall be subject to the legislation of the Member State in whose territory the undertaking has its registered office or place of business;
- (e) after the new paragraph (e), the following new paragraphs shall be added:
- (f) if the legislation to which the worker should be subject in accordance with the provisions of paragraphs (d) and (e) does not allow him to join, even voluntarily, an old-age insurance scheme, the person concerned shall be subject to the legislation of the other Member State, which shall apply to him independently of these provisions or, if the legislation of two or more Member States thus apply to him, to the legislation determined by common agreement between these States or their competent authorities;
- (g) in the cases provided for in paragraphs (d) and (f), the institution or institutions that administer the legislation determined in accordance with these provisions shall take into account any professional or trade activity pursued in the territory of another Member State.
4. Article 14 (2) shall be amended as follows:
- (a) after paragraph (a), the following new paragraph shall be inserted:
- (b) a worker who normally pursues his professional or trade activity either in the territory of a Member State or on board a vessel flying the flag of a Member State, and who, on his own account, carries out work on board a vessel flying the flag of another Member State, shall remain subject to the legislation of the first State, provided that the expected duration of that activity does not exceed 12 months;
- (b) paragraph (b) shall become paragraph (c) and shall read as follows:
- (c) a worker who, while not habitually pursuing his professional or trade activity at sea, pursues his activity in the territorial waters or in a port of a Member State on a vessel flying the flag of another Member State, but is not a member of the crew, shall be subject to the legislation of the first State;
- (c) paragraph (c) shall become paragraph (d).
5. In paragraphs 1 and 2 of Article 23, the words 'wage or salary' and 'wages or salaries' shall be replaced by 'earnings'.
6. Article 34 shall be amended as follows:
- (a) after the title the following new paragraph 1 shall be inserted:
- '1. For the purposes of Articles 28, 28a, 29 and 31, a worker who is in receipt of two or more pensions due under the legislation of a single Member State shall be regarded as a pensioner entitled to draw a pension under the legislation of one Member State, within the meaning of these provisions.'
- (b) the present text of Article 34 shall become paragraph 2.
7. Article 35 shall be amended as follows:
- (a) paragraph 1 shall read as follows:
- '1. Subject to the provisions of paragraph 2, if the legislation of the country of stay or residence contains several sickness or maternity insurance schemes, the provisions applicable under Articles 19, 21 (1), 22, 25, 26, 28 (1), 29 (1) or 31 shall be those of the scheme covering manual workers in the steel industry. Where, however, the said legislation includes a special scheme for workers in mines and similar undertakings, the provisions of such scheme shall apply to that category of workers and members of their families provided the institution of the place of stay or residence to which application is made is competent to administer such scheme.'
- (b) the following new paragraph 2 shall be inserted after paragraph 1:
- '2. If the legislation of the country of stay or residence contains one or several special schemes covering all or most occupational categories of self-employed persons, which grant benefits in kind less favourable than those granted to employed persons; the provisions applicable to the person

concerned and to the members of his family in pursuance of Articles 19 (1) (a) and (2), 22 1) (i) and (3), 28 (1) (a) and 31 (a), shall be those of the scheme or schemes determined by the Implementing Regulation referred to in Article 97,

(a) if, in the competent State, the person concerned is insured under a special scheme for self-employed persons which also grants less-favourable benefits in kind than those granted to employed persons, or

(b) if the pensioner in receipt of one or more pensions is, under the legislation of the Member State or Member States competent for pensions, entitled only to the benefits in kind provided for by a special scheme for self-employed persons which also grants less favourable benefits in kind than those granted to employed persons.'

(c) paragraphs 2 and 3 shall become paragraphs 3 and 4, respectively.

8. In Article 38:

(a) paragraph 2 shall be amended as follows:

— in the third line, after the word 'completed', the word 'only' shall be added;

— in the fifth line, after the words 'special scheme', the words 'applying to employed persons' shall be added;

(b) the following new paragraph 3 shall be added:

'3. Where the legislation of a Member State makes the granting of certain benefits conditional upon the insurance periods having been completed only in an occupation subject to a special scheme for self-employed persons, insurance periods completed under the legislations of other Member States shall be taken into account for the granting of these benefits only if completed under a corresponding scheme or, failing this, in the same occupation.'

9. The text of paragraph 3 of Article 39 shall be replaced by the following:

'3. A person who is not entitled to benefits under paragraph 1 shall receive the benefits to which he is still entitled under the legislation of another Member State, taking account, where appropriate, of the provisions of Article 38.'

10. In Article 45:

(a) paragraph 2 shall be amended as follows:

— in the third line, the word 'only' shall be added after the word 'completed';

— in the fourth line, the words 'for employed persons' shall be added to the words 'special scheme';

(b) the following new paragraph shall be inserted after paragraph 2:

'3. Where the legislation of a Member State makes the granting of certain benefits conditional upon the insurance period having been completed only in an occupation subject to a special scheme for self-employed persons, periods completed under the legislations of other Member States shall be taken into account for the granting of these benefits only if they have been completed under a corresponding scheme or, failing this, in the same occupation.'

(c) paragraph 3 shall become paragraph 4 and be amended as follows:

'(i) the word "benefits" in the second and twelfth lines shall be replaced by the words "survivors' benefits";

(ii) the words "can establish" in the eleventh line shall be replaced by the words "if the person concerned can establish";'

(d) the following new paragraph 5 shall be added after paragraph 4:

'5. Where the legislation of a Member State which makes the granting of invalidity benefits conditional upon a worker being subject to its legislation at the time when the risk materializes has no requirements as to the length of insurance periods either for the entitlement to or the calculation of benefits, any worker who is no longer subject to that legislation shall, for the purposes of this chapter, be deemed to be still so subject at the time when the risk materializes, if at that time he is subject to the legislation of another Member State or, failing this, in the case of an employed person, if he can establish a claim to benefits under the legislation of another Member State. However, this latter condition shall be deemed to be satisfied in the case referred to in Article 48 (1).'

11. In Article 47 (1), the words 'wage or salary' and 'wages or salaries' shall be replaced by the word 'earnings'.
12. In Article 58 (1) and (2), the words 'wage or salary' and 'wages or salaries' shall be replaced by the word 'earnings'.
13. The text of Article 68 (1) shall be replaced by the following:
- '1. The competent institution of a Member State whose legislation provides that the calculation of benefits should be based on the amount of the previous earnings shall take into account exclusively the earnings of the person concerned in respect of his last professional or trade activity under the legislation of that State. However, if the person concerned had been in his last activity under that legislation for less than four weeks, the benefits shall be calculated on the basis of the normal earnings corresponding, in the place where the unemployed person is residing or staying, to an equivalent or similar activity to his last activity under the legislation of another Member State.'
14. In the first line of Article 69 (1), the words 'a worker' shall be replaced by the words 'an employed person'.
15. In the second line of the second subparagraph of Article 70 (1), the words 'a worker' shall be replaced by the words 'an employed person'.
16. In Article 71:
- (a) in the first line of paragraph 1 (a) (i), the words 'a frontier worker' shall be replaced by the words 'an employed person who is a frontier worker and';
- (b) in the first line of paragraph 1 (a) (ii), the words 'a frontier worker' shall be replaced by the words 'an employed person who is a frontier worker and';
- (c) in the first line of paragraph 1 (b) (i), the words 'a worker' preceding the words 'other than' shall be replaced by the words 'an employed person';
- (d) in the first line of paragraph 1 (b) (ii), the words 'a worker' preceding the words 'other than' shall be replaced by the words 'an employed person'.
17. In the title, the third and fourth lines and the sixth line of Article 72, the words 'periods of insurance or employment' shall be replaced by the words 'periods of insurance, employment or professional or trade activity'.
18. Article 73 shall be amended as follows:
- (a) in paragraph 2, the part of the sentence starting with the words 'the worker must satisfy' shall be deleted;
- (b) the text of paragraph 3 shall be replaced by the following:
- '3. However, a worker who is subject to French legislation by virtue of the provisions of Article 14 (1) (a) or (b) shall be entitled to the family benefits set out in Annex V in respect of members of his family who accompany him to the territory of the Member State where he is posted or where he is engaged in the provision of services.'
19. In the fourth line of Article 79 (1) (a), the words 'professional or trade activity' shall be inserted after the word 'employment'.
20. In Article 92:
- (a) the following new paragraph 1 shall be added:
- '1. For the purpose of fixing the amount of contribution payable to the institution of a Member State, account shall, where appropriate, be taken of any income obtained and any professional or trade activity pursued in the territory of any other Member State.'
- (b) paragraphs 1 and 2 shall become paragraphs 2 and 3 respectively.
21. The title of Article 94 shall be replaced by the following:
- 'Miscellaneous provisions applicable to employed persons.'
22. After Article 94, the following new Article 94a shall be added:
- 'Article 94a*
- Miscellaneous provisions applicable to self-employed persons
1. This Regulation shall create no entitlement to benefits for a period prior to . . . (1).
2. All insurance periods, as also, where applicable, all periods of employment, of
- (1) Date of entry into force of the Regulation contained in this proposal.

professional or trade activity or of residence completed under the legislation of a Member State before ...⁽¹⁾ shall be taken into consideration for the purpose of determining entitlement to benefits in accordance with the provisions of this Regulation.

3. Subject to the provisions of paragraph 1, an entitlement shall exist under this Regulation even if it relates to an event prior to ...⁽¹⁾.
4. Any benefit which has not been determined or has been suspended by reason of the nationality or place of permanent residence of the person concerned shall, on the application of the person concerned, be determined or resumed with effect from ...⁽¹⁾ unless the entitlement previously determined has been compounded by a capital payment.
5. Persons whose pension rights were determined before ...⁽¹⁾ may apply for such pension rights to be reviewed, taking account of the provisions of this Regulation. This provision shall also apply to the other benefits referred to in Article 78 of Regulation (EEC) No 1408/71.
6. If the application referred to in paragraphs 4 and 5 is submitted within two years from ...⁽¹⁾ persons concerned shall by virtue of this Regulation acquire from that date the entitlement to benefits, and the provisions of the legislation of any Member State concerning the forfeit or limitation of rights shall not apply to them.

7. If the application referred to in paragraph 4 or 5 is submitted after the expiry of the two-year period following ...⁽¹⁾ a right to benefit that has not lapsed or is not barred by limitation shall be acquired from the date on which the application was submitted except where more favourable provisions of the legislation of a Member State apply.'

Article 2

The title of Regulation (EEC) No 1408/71 shall be replaced by the following:

'Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed and self-employed persons and their families moving within the Community.'

Article 3

This Regulation shall enter into force on the first day of the seventh month following the publication in the *Official Journal of the European Communities* of the Regulation adapting Regulation (EEC) No 574/72 to make it applicable to self-employed persons and their families.

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

⁽¹⁾ Date of entry into force of the Regulation contained in this proposal.

II

Proposal for a Council Regulation concerning the adaptation of the Annexes of Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, with a view to applying it to self-employed persons and their families

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community⁽¹⁾, as last

amended by Regulation (EEC) No 2595/77⁽²⁾, and in particular Article 95 thereof,

Having regard to the proposal of the Commission drawn up after consultation of the Administrative Commission on Social Security for Migrant Workers,

Having regard to the opinion of the European Parliament,

⁽¹⁾ OJ No L 149, 5. 7. 1971, p. 2.

⁽²⁾ OJ No L 302, 26. 11. 1977, p. 1.

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

Whereas the adjustments to be made to the aforementioned Regulation (EEC) No 1408/71 in order to make it applicable to self-employed persons and members of their families necessitate the adaptation of certain Annexes of the abovementioned Regulation;

Whereas the legislations applicable to self-employed persons, which stipulate that the amount of invalidity benefits is independent of the length of insurance or residence periods, must be listed in Annex III, pursuant to Article 37 (2) of Regulation (EEC) No 1408/71,

Whereas it is necessary to amend certain detailed rules for implementing the legislations of certain Member States listed in Annex V with a view to their application to self-employed persons;

Whereas, more especially, subsequent to the new definition of the term 'worker' introduced in Regulation (EEC) No 1408/71 it is necessary, as laid down in the definition, to specify in Annex V whether the expressions 'employed person' or 'self-employed person' within the meaning of the Regulation apply to persons who are insured under a social security scheme for all residents, certain categories of residents or for the whole of the working population of a Member State,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III of Regulation (EEC) No 1408/71 shall be adapted as follows:

1. The text of A. Belgium shall be amended as follows:

'The legislations relating to the general invalidity scheme, to the special invalidity scheme for miners, to the special scheme for sailors in the Merchant Navy and to the legislation concerning insurance against incapacity for work for self-employed persons.'

2. The text of D. France shall be replaced by the following:

D. FRANCE:

1. Employed persons:

All the legislations on invalidity insurance, except for the legislation concerning the

invalidity insurance of the miners' social security scheme.

2. Self-employed persons:

The legislation on the invalidity insurance of self-employed agricultural workers.'

Article 2

Annex V of Regulation (EEC) No 1408/71 shall be adapted as follows:

1. A. BELGIUM:

- (a) The text of paragraph 1 shall be replaced by the following:

'For the purposes of Article 35 (2) of the Regulation, the provisions of the compulsory sickness and invalidity insurance scheme applicable to self-employed persons shall be considered as a special scheme applicable to self-employed persons.'

- (b) A new paragraph 4, as follows, shall be inserted:

'4. For the purposes of Article 46 (2) of the Regulation the old-age insurance periods completed by self-employed persons under Belgian legislation, prior to the entry into force of the legislation on the incapacity for work of self-employed persons, shall be considered as periods completed under the latter legislation.'

2. B. DENMARK:

- (a) The text of paragraph 1 shall be replaced by the following:

'1. (a) Any person who, from the fact of pursuing an activity as an employed person, is subject to legislation on accidents at work and occupational diseases shall be considered an employed person within the meaning of Article 1 (a) a (iii), first indent, of the Regulation;

- (b) Any person who, pursuant to the law on daily cash benefits in the event of sickness or maternity, is entitled to such benefits on the basis of an earned income other than a wage or salary shall be considered as a self-employed person within the meaning of Article 1 (a) a (iii), first indent, of the Regulation.'

- (b) Paragraph 2 shall be deleted and the following paragraphs shall therefore be renumbered;
- (c) The text of the new paragraph 2 shall read as follows:
- ‘2. Periods of insurance, employment or occupational activity completed in a Member State other than Denmark shall be taken into account for admission to membership of an approved unemployment insurance fund in the same way as if they were periods of employment or occupational activity completed in Denmark.’
- (d) In the new paragraph 3, line 8 to line 11, the words ‘persons whose income does not exceed the level indicated in Article 3 of Law No 311 of 9 June 1971 concerning the Public Health Service’ shall be replaced with ‘persons who, pursuant to the Law concerning the Public Health Service, shall be insured in category 1.’
- (e) The text of the new paragraph 7 shall read as follows:
- (a) The periods during which a frontier worker residing within the territory of a Member State other than Denmark has pursued his occupational activity in Denmark shall be considered as periods of residence for the purposes of Danish legislation. The same applies to periods in which a frontier worker is posted to or provides services in a Member State other than Denmark;
- (b) The periods during which a seasonal worker residing within the territory of a Member State other than Denmark has worked in Denmark shall be considered as periods of residence for the purposes of Danish legislation. The same applies to periods in which a seasonal worker is posted to the territory of a Member State other than Denmark.’
3. C. GERMANY:
- (a) Paragraph 1 shall read as follows:
- ‘1. If the competent institution for granting family benefits, is a German institution, in accordance with Title III, Chapter 7 of the Regulation:
- (a) any person compulsorily insured against unemployment or any person who, as a result of such insurance, obtains cash benefits under sickness insurance or comparable benefits shall be considered as an employed person within the meaning of Article 1 (a) a (iii), first indent, of the Regulation;
- (b) any person pursuing a self-employed activity who is bound to join, or pay contributions in respect of old-age insurance to a special insurance scheme for the self-employed or who is bound to join a pension insurance scheme for employed persons shall be considered as a self-employed person within the meaning of Article 1 (a) a (iii), first indent, of the Regulation.’
- (b) The following paragraphs shall be renumbered and the text of the present paragraph 6 shall be deleted.
- (c) The following paragraph 10 shall be added after paragraph 9:
- ‘10. Unemployment assistance (Arbeitslosenhilfe) for the self-employed shall be granted provided that, before he registers as unemployed, the person concerned has pursued a principal, self-employed activity for at least one year in the territory of the Federal Republic of Germany and that he has not ceased such activity temporarily.’
4. D. FRANCE:
- In paragraph 4 (d), the words ‘The single wage or salary allowance’ shall be deleted and replaced with ‘the family supplement.’
5. E. IRELAND:
- (a) The text of paragraph 1 shall be replaced by the following:
- ‘1. Any person who is compulsorily or voluntarily insured pursuant to the provisions of Section 4 of the Social Welfare Act 1952 shall be considered an employed person within the meaning of Article 1 (a) a (iii), first indent, of the Regulation.’
- (b) The text of paragraph 2 shall read as follows:
- ‘2. Any person who is pursuing an occupational activity without a contract of employment or who has retired from such

activity shall be considered a self-employed person within the meaning of Article 1 (a) a (iii), second indent, of the Regulation. As regards sickness benefits in kind, the person concerned must also be entitled to such benefits under Section 45 or 46 of the Health Act 1970.'

6. H. NETHERLANDS:

The following paragraph 5 shall be added after paragraph 4:

'5. Any person pursuing an activity or occupation without a contract of employment shall be considered a self-employed person within the meaning of Article 1 (a) a (iii), second indent, of the Regulation.'

7. I. UNITED KINGDOM:

(a) Paragraph 1 shall read as follows:

'1. (a) Any person required to pay contributions as an employed person or as a self-employed person pursuant to the National Insurance Act shall be considered an employed person or a self-employed person respectively within the meaning of Article 1 (a) a (iii), first indent, of the Regulation.'

(b) For the purposes of Title III, Chapter 7, of the Regulation, account shall not be taken of Article 1 (a) a (iv).'

(b) In paragraph 17 (1) (a), line 3, the word 'worker' shall be amended to read 'employed person'.

(c) In paragraph 17 (1), the following text shall be inserted after paragraph (a):

'(b) For each week of insurance, occupational activity or residence as a self-employed person, the person concerned shall be deemed to have paid a Class 2 contribution as a self-employed person.'

(d) In paragraph 17 (1), paragraph (b) shall be renumbered paragraph (c). In line 5, the words 'person concerned' shall read 'worker'.

Article 3

This Regulation shall enter into force on the first day of the seventh month following the publication in the *Official Journal of the European Communities* of the Regulation adapting Regulation (EEC) No 574/72 with a view to applying it to self-employed persons and their families.

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

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