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## Information and Notices

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**Notice** (see page 3 of this cover)

## I

*(Information)*

## COMMISSION

ECU <sup>(1)</sup>

30 December 1985

(85/C 338/01)

Currency amount for one unit:

Belgian and Luxembourg franc con.	44,5966	United States dollar	0,887451
		Swiss franc	1,84102
Belgian and Luxembourg franc fin.	45,0026	Spanish peseta	136,889
German mark	2,18402	Swedish krona	6,74019
Dutch guilder	2,46081	Norwegian krone	6,71933
Pound sterling	0,616285	Canadian dollar	1,24110
Danish krone	7,96176	Portuguese escudo	140,661
French franc	6,70025	Austrian schilling	15,3618
Italian lira	1489,59	Finnish markka	4,81176
Irish pound	0,713672	Japanese yen	178,289
Greek drachma	131,405	Australian dollar	1,30125
		New Zealand dollar	1,76959

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 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 ECU;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

*Note:* The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

<sup>(1)</sup> Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as amended by Regulation (EEC) No 2626/84 (OJ No L 247, 16. 9. 1984, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

**FIFTH ECSC RESEARCH PROGRAMME ON****'TECHNICAL CONTROL OF NUISANCES AND POLLUTION AT THE PLACE OF WORK AND IN THE ENVIRONMENT OF IRON AND STEEL WORKS'**

(85/C 338/02)

**1. Introduction**

Despite the significant progress made in earlier programmes, particularly the fourth, some difficulties remain and new ones have emerged, some of them as a result of solutions found to earlier problems. One of these is the transfer of pollution from one environment to another (e.g. gypsum generated by desulphurization). A fresh research drive is therefore essential.

Moreover, Community directives, national legislation and even regional environmental regulations are proliferating or becoming increasingly stringent.

**2. Fifth Research Programme**

Analysis of the proposals made by national experts suggests that the aim of the Fifth Programme should be to deal with priorities established according to two sets of requirements: those of Community directives and national legislation on the one hand, and technological advances and the growing problem of pollution transfer on the other.

**2.1 Measures to combat air pollution at the workplace, inside plants and in the environment**

Research on the purification of the atmosphere at the workplace and inside plants is an ongoing and still crucial objective. The priorities are the reduction of emissions during the carbonization of coal; the collection of secondary fumes in blast-furnace shops, oxygen steelworks and electric furnaces; the control of aerosols and dust generation during handling, transport, preparation and stocking of fine raw materials and recycled or non-recycled dusty waste; and the effect of smells on the internal and external environment of manufacturing plants.

**2.2 Measures to combat fresh and sea water pollution**

The priority here is research necessitated by the phased implementation of the Council Directive on pollution caused by certain dangerous substances discharged into Community's aquatic environment.

The most urgent research is on:

1. specific aspects of coking plant waste water treatment (e.g. biological nitrification);
2. the treatment of gas scrubbing waters, including those at blast-furnaces (e.g. Zn and cyanides);
3. treatment of hot and cold rolling mill effluent (e.g. emulsions);
4. treatment of effluent from surface treatment installations (e.g. heavy metals).

**2.3 Waste**

The disposal of waste in general, which includes volume reduction, treatment, recycling, beneficiation and storage, is a priority issue. The term waste covers a huge range of residual substances from blast-furnace dedusting sludge, oils, sludge and oily scale from rolling mills to steelmaking slag and dust generated throughout the steel production cycle. Toxic and dangerous waste will however, receive particularly close attention.

The problems involved in the management of waste and slag dumps and in the beneficiation and reclamation of stored or dumped substances will be examined as part of overall measures to combat pollution of the soil, the water table and the atmosphere (fine dust generation).

**2.4. Impact studies**

Impact studies, emission inventories and forecasting systems for dust fall-out and for pollutant diffusion and conversion in steelworks and the environment are of the utmost importance and will be given special attention, as will the prevention of technological hazards.

Although earlier programmes, particularly the third, placed considerable emphasis on measurements of pollutant emission and diffusion, it is important in this context to stimulate research into the harmonization of sampling methods and of qualitative and quantitative measurements of steelmaking pollutants. The effect of these pollutants on areas close to steelworks needs to be assessed. Work will also be done on techniques for identifying major sources of pollution.

Special emphasis will be placed on the development of sampling and continuous monitoring techniques.

### 2.5 Noise

Noise pollution generated by steelmaking is a special problem because of the size of the equipment, manufacturing and handling processes, the resonance characteristics of the materials handled and, in many cases, the proximity of residential areas.

The aim will therefore be to improve existing sound-damping techniques. At the same time, special attention will be given to the detection, location and identification of noise sources harmful to the health of workers and the environment of steelmaking areas.

### 3. Conclusions

The Commission of the European Communities

- considering that it is necessary to help the steel industry comply with the provisions of such directives as affect it and use the best techniques available for preventing pollution,

- considering the need to encourage research on industrial hygiene at the workplace in the iron and steel industry and on the improvement of the environment,

- taking into account the favourable opinions and agreement expressed concerning research by the scientific, professional and government and consultative committees,

- having regard to Article 55 of the Treaty establishing the European Coal and Steel Community,

has decided, subject to budget availabilities, to make available a total appropriation in the region of 20 million ECU for the implementation of a fifth research programme on the 'Technical control of nuisances and pollution at the place of work and in the environment of iron and steel works' starting in 1985 and probably lasting five years.

4. Document EUR 10338 *in extenso*, the 'Fifth research programme on technical control of nuisances and pollution at the place of work and in the environment of iron and steel works', may be obtained on request from the

Commission of the European Communities,  
Directorate-General XIII A 2, Room B 4/82,  
or

Directorate-General V-E-2, Room C 4/89,  
Jean Monnet Building,  
Luxembourg-Kirchberg,  
BP 1907.

### Notice pursuant to Article 19 (3) of Regulation No 17 (<sup>1</sup>), concerning Case No IV/31 285 — Sofreb

(85/C 338/03)

1. On 29 June 1984, Société Française de Développement de la Boîte-Boissons, hereinafter called Sofreb, in accordance with Articles 2 and 4 of Regulation No 17 (<sup>1</sup>), sought negative clearance from Article 85 (1) of the EEC Treaty or, failing that, exemption under Article 85 (3) for the agreements by which it was set up.

2. The company, which was registered on 21 December 1983 in the form of a French société anonyme (public

limited liability company) with a share capital of FF 82 million, has its registered office at Custines, department of Meurthe et Moselle, in Lorraine.

3. 33,4 % of Sofreb's shares are held by Continental Can USA through its German subsidiary Schmalbach-Lubeca and the remaining 66,6 % by Sacilor through two wholly-owned subsidiaries (Sip and Solodev) and one other subsidiary in which it has a 60 % stake (Dilling).

4. Sofreb's objects are the construction and operation of an industrial plant for the manufacture of two-piece metal drinks cans at its factory at Custines in Lorraine.

(<sup>1</sup>) OJ No 13, 21. 2. 1962, p. 204, English Special Edition 1959-1962 November 1972, p. 87.

5. Schmalbach-Lubeca is a large producer of tin cans, including drinks cans. It will provide the know-how necessary for 10 years on a non-exclusive basis. Schmalbach also has the right to supply at market rates a significant proportion of Sofreb's requirements of easy-open ends until Sofreb can produce them itself.

Sacilor-Dilling is a major steel group which produces tinplate. There is no agreement between the parent companies and Sofreb for the supply of tinplate.

6. The parties submitted the following arguments.

- (a) The drinks cans market is highly competitive in the Community, with German, Dutch, Belgian and French producers.
- (b) The parent companies are not competitors.
- (c) The French market is supplied mainly by Carnaud with three-piece cans and Sofreb's entry will mean the presence of a new competitor.

7. The Commission proposes to take no action with regard to the agreement outlined above. This procedure may be closed with the sending by the Commission's Directorate-General for Competition of an administrative letter ('comfort letter')<sup>(1)</sup>. The Commission invites interested third parties to send their observations within one month from the publication of this notice to the following address, quoting the reference 'IV/31.285':

Commission of the European Communities,  
Directorate-General for Competition,  
Directorate for Restrictive Practices and Dominant Positions — IV/B.,  
200, rue de la Loi,  
B-1049 Brussels

<sup>(1)</sup> OJ No C 343, 31. 12. 1982, p. 4.

**New text of Annex I to the Agreement of 26 July 1957 between the Austrian Federal Government on the one part, and the Governments of the Member States of the European Coal and Steel Community and the High Authority of the European Coal and Steel Community, on the other, establishing through international railway tariffs for the carriage of coal and steel through the territory of the Republic of Austria**

(85/C 338/04)

(*Official Journal of the ECSC No 6 of 20 February 1958, p. 78*)

With effect from 1 January 1986, Annex I to the abovementioned Agreement, as last amended on 9 January 1985 (OJ No C 6 of 9 January 1985, p. 2) is drawn up as follows:

**PORTIONS CHARGED BY THE AUSTRIAN FEDERAL RAILWAYS**

The portions charged by the Austrian Federal Railways, provided for in Article 2 (3) of the Agreement, shall be calculated as follows:

1. The normal tariff charges for 15, 20 and 25 tonnes of the Austrian internal tariffs are reduced by determined amounts for the types of goods as follows: coal, coke, ores, flue dust, crude steel, pig iron, semi-finished products, hot-rolled steel coils for rerolling, exceeding 500 mm in width, finished products and scraps.
2. The reductions provided for in point 1 shall apply to the following routes:

Kufstein — Brennero/Brenner,  
Salzburg Hbf — Tarvisio Centrale,  
Salzburg Hbf — Rosenbach frontier,

Lindau-Reutin — Brennero/Brenner,  
Simbach (Inn) — Tarvisio Centrale,  
Passau Hbf — Spielfeld frontier,  
Buchs (SG) — Rosenbach frontier,  
Lindau-Reutin — Rosenbach frontier.

3. Any amendment of the rules, as to establishing tariff rates, especially those based on an amendment of the international tariff rates of the Austrian Federal Railways — shall be brought to the knowledge of the governments, which are parties to the Agreement and to the Commission of the European Communities at least 15 days before the provided date of implementation.
4. When such an amendment is made under the provisions of Article 8 of the Agreement, it must be agreed between the Austrian Federal Government, the Governments of the Member States and the Commission of the European Communities.
5. The determined portions laid down to the abovementioned rules shall be published in 'the international tariff for the carriage of goods between the Member States of the European Communities for coal and steel'.

**Commission communications pursuant to Article 115 of the EEC Treaty**

(85/C 338/05)

By Decision dated 23 December 1985 the Commission has authorized the United Kingdom not to apply Community treatment to fresh bananas, falling within subheading 08.01 B I of the Common Customs Tariff, originating in dollar-zone countries and in free circulation in the other Member States.

The said Decision is applicable from 1 January to 31 December 1986.

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By Decision dated 23 December 1985 the Commission has authorized the Italian Republic not to apply Community treatment to fresh bananas, falling within subheading 08.01 of the Common Customs Tariff, originating in certain third countries and in free circulation in the other Member States.

The said Decision is applicable from 1 January to 30 June 1986.

**Communication on intra-Community surveillance**

(85/C 338/06)

By Decision dated 23 December 1985 the Commission has authorized the Italian Republic to introduce intra-Community surveillance of imports of bananas falling within subheading 08.01 B of the Common Customs Tariff, originating in certain third countries and in free circulation in the Community, in respect of which protective measures may be adopted pursuant to Article 115 of the EEC Treaty.

The full text of the Decision will be published in a subsequent issue.

**STATE AIDS****Federal Republic of Germany**

*(Articles 92 to 94 of the Treaty establishing the European Economic Community)*

**Notice pursuant to Article 93(2) of the EEC Treaty to interested parties, other than the Member States, of plans by the Rheinland-Pfalz State Government to award aid to a metalworking firm in Betzdorf**

(85/C 338/07)

1. The Government of the Federal Republic of Germany has informed the Commission of plans by the Rheinland-Pfalz State Government to award a grant for extensions by a metalworking firm in Betzdorf. The grant would cover 7,5 % of the investment cost. The extensions involve the manufacture of beer kegs, metal lockers and radiators and a reorganization of the distribution system for these products.
2. The Commission has decided to open the Article 93(2) procedure. It considers that the economic and social situation of the Betzdorf area of the Siegen labour market region does not justify the award of regional aid.
3. In accordance with Article 93(2), interested parties other than the Member States are hereby invited to send their observations on the case within four weeks of the date of publication of this notice, to:

Commission of the European Communities,  
rue de la Loi, 200,  
B-1049 Brussels.

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**Notice of initiation of an anti-dumping proceeding concerning imports of electronic typewriters manufactured by Tokyo Juki Industrial Co. Ltd/JDK Corporation and originating in Japan**

(85/C 338/08)

1. Following an anti-dumping investigation into imports of electronic typewriters <sup>(1)</sup> originating in Japan, the Council, by Regulation (EEC) No 1698/85 <sup>(2)</sup> imposed definitive anti-dumping duties on certain imports of these products, including imports of electronic typewriters manufactured by Tokyo Juki Industrial Co. Ltd/JDK Corporation.

2. In the light of certain information received by the Commission with regard to Tokyo Juki Industrial Co. Ltd/JDK Corporation and in view of the completely changed circumstances in the situation of this firm, the Commission has concluded on its own initiative that a review of the situation with regard to Tokyo Juki Industrial Co. Ltd/JDK Corporation in accordance with Article 14 (1) of Regulation (EEC) No 2176/84 on protection against dumped or subsidized imports from

<sup>(1)</sup> Common Custom Tariff subheading ex 84.51A or ex 84.52B corresponding to NIMEXE codes 84.51 ex 12, ex 14, ex 19, ex 20 or 84.52 ex 95.

<sup>(2)</sup> OJ No L 163, 22. 6. 1985, p. 1.

countries not members of the European Economic Community <sup>(2)</sup> is warranted.

3. Interested parties may make known their views in writing, in particular by replying to the questionnaire addressed to the parties known to be concerned and by providing supporting evidence. Furthermore, the Commission will hear parties who so request when making their views known, provided that they can show that they are likely to be affected by the result of the proceeding.

This notice is published in accordance with Article 7 (1) (a) of the abovementioned Regulation.

**Time limit**

Any information relating to the matter should be sent in writing to reach the Commission of the European Communities, Directorate-General for External Relations (Division I-C-1), rue de la Loi 200, B-1049 Brussels not later than 30 days following the publication of this notice allowing a further seven days for delivery.

<sup>(2)</sup> OJ No L 201, 30. 7. 1984, p. 1.

**Notice of the impending expiry of certain anti-dumping measures**

(85/C 338/09)

1. The Commission gives notice that, except where a review is initiated in accordance with the following procedure the anti-dumping measures listed below shall lapse within the next six months.

**2. Procedure**

An interested party may lodge a written request for a review. This request shall contain sufficient evidence that the expiry of the measure would lead again to injury or threat of injury. Furthermore the Commission will hear parties who so request when making their views known

provided they can show that they are likely to be affected by the result of the proceeding.

**3. Time limit**

Requests for a review by an interested party and any requests for hearings should be sent in writing to reach the Commission of the European Communities, Directorate-General for External Relations (Division I-C-1), rue de la Loi 200, B-1049 Brussels (telex: COMEU B 21877) not later than 30 days following the publication of this notice allowing a further seven days for delivery.



4. Where the Commission carries out a review of the measure, that measure remains in force pending the outcome of the review.

5. This notice is published in accordance with Article 15 of Council Regulation (EEC) No 2176/84 of 23 July

1984 (\*) on protection against dumped or subsidized imports from countries not members of the European Economic Community.

(\*) OJ No L 201, 30. 7. 1984, p. 1.

Product	Country of origin or export	Measure	Official Journal No and date
Chemical fertilizer	United States of America	undertakings	No L 39, 12. 2. 1981, p. 4
Vinyl acetate monomer	United States of America	duty	No L 129, 15. 5. 1981, p. 1.
Styrene monomer	United States of America	duty	No L 154, 13. 6. 1981, p. 10

**Notice of initiation of an anti-dumping proceeding concerning imports of electronic typewriters originating in Taiwan (extension)**

(85/C 338/10)

The Commission has received a complaint alleging that imports of electronic typewriters originating in Taiwan are being dumped and are thereby causing injury to a Community industry.

**Complainant**

The complaint was lodged by the Committee of European Typewriter Manufacturers (CETMA) on behalf of producers representing substantially all Community production of electronic typewriters.

**Product**

The product allegedly being dumped is all kinds of electronic typewriters falling within Common Customs Tariff subheading ex 84.51 A and corresponding to NIMEXE codes 84.51 ex 12, ex 14, ex 19 and ex 20 and 84.52 ex 95.

**Previous procedure**

By Regulation (EEC) No 1698/85 (\*) a definitive anti-dumping duty was imposed on imports of electronic typewriters originating in Japan. The present complaint is partly based on an alleged circumvention of this duty on the grounds that one Japanese company, against

which an anti-dumping duty is currently in force, now exports electronic typewriters assembled in Taiwan from parts supplied from Japan.

**Allegation of dumping**

As sales of alphanumeric electronic typewriters on the Taiwanese domestic market are insufficient to permit a valid comparison, the allegation of dumping is based on a comparison of the constructed value with the constructed export price. On this basis the dumping margins estimated are significant.

**Allegation of injury**

With regard to injury in general, the complaint refers to the fact that injury caused to the Community industry by dumped imports of electronic typewriters had already been established during the investigation which resulted in the present anti-dumping duty. It is furthermore alleged that imports of electronic typewriters from Taiwan increased from about 6 000 units in 1982 to about 84 000 units in 1984, resulting in a substantial increase of market share. It is also alleged that dumped imports from Taiwan have enabled one particular Japanese company to continue undercutting the prices of the Community producers despite the duty imposed on its exports from Japan.

(\*) OJ No L 163, 22. 6. 1985, p. 1.

**Procedure**

Having decided, after consultation, that there is sufficient evidence to justify initiating a proceeding, the Commission has commenced an investigation in accordance with Article 7 of Council Regulation (EEC) No 2176/84 on protection against dumped or subsidized imports from countries not members of the European Community <sup>(1)</sup>.

Interested parties may make known their views in writing, in particular by replying to the questionnaire addressed to the parties known to be concerned and by providing supporting evidence. Furthermore, the Commission will hear parties who so request when

making their views known, provided that they can show that they are likely to be affected by the result of the proceeding.

This notice is published in accordance with Article 7 (1) (a) of the abovementioned Regulation.

**Time limit**

Any information relating to the matter and any requests for hearing should be sent in writing to reach the Commission of the European Communities, Directorate-General for External Relations (Division I-C-1), rue de la Loi 200, B-1049 Brussels <sup>(2)</sup> not later than 30 days following the publication of this notice allowing a further seven days for delivery.

<sup>(1)</sup> OJ No L 201, 30. 7. 1984, p. 1.

<sup>(2)</sup> Telex Comeubru 21877.

### Commission communication amending the basis prices for certain iron and steel products

(85/C 338/11)

The Commission of the European Communities in its communication of 31 December 1977 <sup>(1)</sup> as last amended by communication No 85/C 120/90 of 15 May 1985 <sup>(2)</sup>, published basic prices for certain steel products.

The Commission does not believe it opportune to proceed with a revision of these prices for merchandise imported from 1 January 1986. It is following the development of costs and prices, as well as the normal conditions of competition and it will re-examine the level of the published prices if the situation demands, in the course of 1986.

The Commission, takes account, however of the intervening variations since 15 May 1985 in the rates of exchange as well as the entry of Spain and Portugal in the Community and fixes a new equivalent value for the ECU for basic prices.

#### Equivalent of 1 ECU

44,85	Belgian and Luxembourg francs
2,215	German marks (DM)
2,495	Dutch guilders
0,585	Pound sterling
8,025	Danish krone
6,75	French franc
1 495,00	Italian lira
0,715	Irish pound
130,00	Greek drachma
136,00	Spanish peseta
139,00	Portuguese escudo

With the aim of maintaining a uniform price level, the Commission can adjust these prices in reaction to variations in the rate of exchange.

<sup>(1)</sup> OJ No L 353, 31. 12. 1977, p. 1.

<sup>(2)</sup> OJ No C 120, 15. 5. 1985, p. 25.

## COURT OF JUSTICE

### Judgment of the Court of 5 December 1985

in Case 124/83 (reference for a preliminary ruling made by the Østre Landsret): *Direktoratet for Markedsordningerne v. Nicolas Corman et Fils SA* <sup>(1)</sup>

(Common organization of the agricultural markets — Butter intended for processing — Improper use — Liability of the tenderer)

(85/C 338/12)

*(Language of the Case: Danish)*

*(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)*

In Case 124/83: reference to the Court under Article 177 of the EEC Treaty by the Østre Landsret [Eastern Division of the Danish High Court] for a preliminary ruling in the proceedings pending before that court between the *Direktoratet for Markedsordningerne*, Copenhagen, and *Nicolas Corman et Fils SA*, Brussels — on the interpretation of certain provisions of Regulation (EEC) No 232/75 of the Commission of 30 January 1975 on the sale of butter at reduced prices for use in the manufacture of pastry products and icecream (Official Journal No L 24, 1975 p. 45) — the Court, composed of Lord Mackenzie Stuart, President, U. Everling, K. Bahlmann and R. Joliet (Presidents of Chamber), G. Bosco, T. Koopmans, O. Due, Y. Galmot and C. Kakouris, Judges; P. VerLoren van Themaat, Advocate-General; P. Heim, Registrar, gave a judgment on 5 December 1985, the operative part of which is as follows:

1. *The buyer of the butter who has given an undertaking to comply with the conditions referred to in Article 6 (1) (c) of Regulation (EEC) No 232/75 of the Commission (the successful tenderer) is not released from his obligations solely because the processing security was released on the basis of a control copy referred to in Article 18 (2) of the Regulation.*

*The successful tenderer may not rely on the lack of supervision by the customs authorities, his own good faith or on the administration's previous practice in order to be discharged from his obligations; those circumstances do not constitute force majeure within the meaning of Article 18 (2) of Regulation (EEC) No 232/75.*

2. *If the butter sold at a reduced price is not used in accordance with Regulation (EEC) No 232/75, the Member States must require the successful tenderer to pay the difference between the reduced price which was paid and the market price.*

3. *The release of the security does not bar an action against the successful tenderer for failure to fulfil his obligations by application of the principle of legal certainty.*

4. *If the processing security was released as a result of an error in the control document, the burden of proving that error, in particular of proving that the butter was not used for its prescribed purpose, rests on the national authorities concerned.*

### ORDER OF THE COURT

(Second Chamber)

of 28 November 1985

in Case 19/85: *Annick Grégoire-Foulon v. European Parliament* <sup>(1)</sup>

(85/C 338/13)

(Officials — No necessity for judicial decision — Admissibility)

*(Language of the Case: French)*

*(Provisional translation: the definitive translation will be published in the Report of Cases before the Court)*

In Case 19/85: *Annick Grégoire-Foulon*, an official of the European Parliament, residing at 227 Rue des Romains, Bertrange, Luxembourg, represented by *Fernand Entringer*, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 2 Rue Palais de Justice against the European Parliament (Agents: *H. J. Opitz* and *Manfred Peter*, assisted by *Alex Bonn*, of the Luxembourg Bar — application for the annulment of the decision of the advisory committee established by the Parliament not to place the applicant's name on the list of persons eligible for promotion in 1984 — the Court (Second Chamber), composed of *K. Bahlmann*, President of Chamber, *O. Due* and *F. Schockweiler*, Judges; *M. Darmon*, Advocate-General; *P. Heim*, Registrar, made an order on 28 November 1985, the operative part of which is as follows:

1. *It is unnecessary for the Court to give a decision on the claims formulated in the application.*
2. *The claims formulated in the reply are dismissed as inadmissible.*
3. *Case No 19/85 is ordered to be removed from the register.*
4. *The European Parliament is ordered to pay the costs.*

<sup>(1)</sup> OJ No C 50, 22. 2. 1985.

<sup>(1)</sup> OJ No C 204, 30. 7. 1983.

**Action brought on 11 October 1985 by André Huybrechts against the Commission of the European Communities**  
**(Case 306/85)**  
 (85/C 338/14)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 11 October 1985 by André Huybrechts, residing at 41 Chemin Ducal, B-1970 Wezembeek, represented by Edmond Lebrun, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Tony Biever, 83 Boulevard Grande-Duchesse Charlotte.

The applicant claims that the Court should:

1. Declare the application admissible and well founded.
2. In consequence, annul:
  - (a) the decision of the appointing authority of 19 December 1984 appointing Jean Delorme to the post of Head of Division VIII-A-3 'Energy, Mining and Industry';
  - (b) the subsequent decision of the appointing authority, notified in a memorandum of 5 February 1985, rejecting his application for the post;
  - (c) the appointing authority's decision, at first implied and then express, rejecting his complaint which was registered on 19 March 1985.
3. Order the Commission to pay the costs.

*Contentions and main arguments adduced in support:*

- Infringement of Articles 25 (2) and 45 (1) of the Staff Regulations; infringement of essential procedural requirements: no comparison took place of the merits of the officials who applied for the post or of their respective staff reports.
- Infringement of Articles 5 (3), 7 (1) and 45 (1) of the Staff Regulations, of the general principle that every administrative measure must be based on relevant grounds which are not vitiated by mistakes of law or fact and of the duty to have regard to the welfare of officials: where an apparently surprising choice is made, the grounds given for it must be capable of making out a convincing case that nevertheless the authority has not exceeded its discretion.
- Infringement of Articles 7 (1) and 45 (1) of the Staff Regulations; misuse of powers: the appointment made falls within the class of appointments occurring at the end of the term of office of a Commission and commonly known as 'pitchforkings'.

**Action brought on 14 October 1985 by Deufil GmbH & Co. KG against the Commission of the European Communities**  
**(Case 310/85)**  
 (85/C 338/15)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 14 October 1985 by Deufil GmbH & Co. KG whose registered office is at D-4619 Bergkamen-Rünthe, represented by Neumann, Kroke, Beisken & Partner, Rechtsanwälte, 14 Königsallee, D-4000 Düsseldorf, with an address for service in Luxembourg at the office of Emile Vogt, Director, c/o Compagnie Financière de Crédit et de Gestion, 40 Boulevard Joseph II, L-1040 Luxembourg.

The applicant claims that the Court should:

1. Declare void the Decision of the Commission of the European Communities of 10 July 1985 concerning aid granted by the German Government to a manufacturer of polyamide and polypropylene yarn in Bergkamen (No K(85) 1925 final).
2. Order the defendant to pay the costs.

*Contentions and main arguments adduced in support:*

- The investment allowance and investment assistance for the Land Nordrhein-Westfalen granted by the Federal Government under its regional economic development programme pursuant to Paragraph 1 of the Investitionszulagegesetz [Law on investment allowances] of 1982 are not aids within the meaning of Article 92 of the EEC Treaty but measures of conjunctural policy for the purposes of Article 103 of the EEC Treaty.
- Alternatively: the applicant's production capacity, which has been subsidized only to the extent of barely 15 % of the total investment necessary for the development of polypropylene yarn fibre production, is not likely even to give grounds for fearing a distortion of competition. Further, as regards polyamide and polypropylene yarns and fibres in the common market there is no disparity between supply and demand which could justify intervention on account of the applicant's (small) production capacity.
- Having regard to Article 92 (3) (a) and (c) of the EEC Treaty the investment subsidy and aid is compatible with the common market because it promotes the economic development of the structurally weak area of Bergkamen.

— Alternatively: the demand that the Federal Government should make a claim for repayment is incompatible with the principle of the protection of legitimate expectation. The corresponding notices are final. Such a claim for repayment of the funds would undermine the applicant's equity capital basis and lead to considerable problems of liquidity.

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**Removal from the Register of Case 163/85 (1)**

(85/C 338/16)

By order of 20 November 1985 the Court of Justice of the European Communities ordered the removal from

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(1) OJ No C 152, 21. 6. 1985.

the Register of Case 163/85: Commission of the European Communities v. Ireland.

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**Removal from the Register of Joined Cases 285/83 and 120/84 (1)**

(85/C 338/17)

By order of 26 November 1985 the Third Chamber of the Court of Justice of the European Communities ordered the removal from the Register of Joined Cases 285/83 and 120/84: Dario Nobile v. Commission of the European Communities.

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(1) OJ No C 16, 21. 1. 1984 and OJ No C 149, 7. 6. 1984.

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## II

*(Preparatory Acts)*

## COUNCIL

## ASSENT No 42/85

given by the Council pursuant to the first paragraph of Article 95 of the Treaty establishing the European Coal and Steel Community to enable the Commission to take a decision amending Decision No 528/76/ECSC concerning the Community system of measures taken by the Member States to assist the coal mining industry

(85/C 338/18)

In a letter dated 27 September 1985, the Commission requested the assent of the Council of the European Communities to enable it to take a decision amending Decision No 528/76/ECSC concerning the Community system of measures taken by the Member States to assist the coal mining industry.

At its 1050th meeting held on 9 and 10 December 1985, the Council gave its assent, as requested by the Commission.

*For the Council**The President*

M. FISCHBACH

## ASSENT No 43/85

given by the Council pursuant to the second paragraph of Article 54 of the Treaty establishing the European Coal and Steel Community to the co-financing of the replacement of oil-fired boilers by five coal-fired boilers at the Aylesford Paper Mills site of Reed Paper and Board (UK) Ltd

(85/C 338/19)

In a letter dated 18 October 1985, the Commission requested the assent of the Council of the European Communities to enable it to grant a loan for the co-financing of the replacement of oil-fired boilers by five coal-fired boilers at the Aylesford Paper Mills site of Reed Paper and Board (UK) Ltd.

At its 1050th meeting held on 9 and 10 December 1985, the Council gave its assent, as requested by the Commission.

*For the Council**The President*

M. FISCHBACH

## ASSENTS No 44/85 AND No 45/85

given by the Council pursuant to Article 95 of the Treaty establishing the European Coal and Steel Community to

- the Commission Decision on the conclusion of an Arrangement with the United States of America extending and amending the Arrangement of 21 October 1982 relating to trade in certain steel products <sup>(1)</sup>
- the Commission Decision amending Decision No 2872/82/ECSC on the restriction of exports of certain steel products to the United States of America <sup>(2)</sup>

(85/C 338/20)

The Commission requested these assents in a communication forwarded to the Council on 7 November 1985.

At its 1050th meeting held on 9 and 10 December 1985, the Council gave the assents requested by the Commission.

*For the Council*

*The President*

M. FISCHBACH

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<sup>(1)</sup> OJ No L 307, 1. 11. 1982, p. 11.

<sup>(2)</sup> OJ No L 307, 1. 11. 1982, p. 27.

## III

*(Notices)*

## COMMISSION

**Further notice of invitation to tender for the supply of butteroil as food aid under Regulation (EEC) No 3610/85**

(85/C 338/21)

Further to the general notice of invitation to tender <sup>(1)</sup> and to the information given in the Annex to Regulation (EEC) No 3610/85 <sup>(2)</sup>, interested parties are informed that the butter for the manufacture of butteroil to be supplied is held in the following stores:

## BUNDESREPUBLIK DEUTSCHLAND

**Lot—Partie—Lot—Partita—Partij—Parti A: Pakistan**

**1 200 000 kg Butteroil = 1 464 000 kg Butter**

— Rhenus AG  
Kühlhaus Tegel  
Sterkraderstraße 56—59  
1000 Berlin 27

1 464 000 kg

## BELGIË—BELGIQUE

**Lot—Partie—Lot—Partita—Partij—Parti B: Tansanie**

**340 000 kg de beurre/boter: 414 800 kg butteroil**

— AVV Belgische Boerenbond NV  
Klerkenstraat 92-94  
8151 Houthulst (Klerken)

184 725 kg

— SA Nicolas Falise  
rue Raymond Noel 34  
5740 Bois de Villers

230 075 kg

<sup>(1)</sup> OJ No C 208, 4. 8. 1983, p. 9.

<sup>(2)</sup> OJ No L 344, 21. 12. 1985, p. 20.



**Further notice of invitation to tender for the supply of skimmed-milk powder as food aid under  
Regulation (EEC) No 3611/85**

(85/C 338/22)

Further to the general notice of invitation to tender <sup>(1)</sup> and to the information given in the Annex to Regulation (EEC) No 3611/85 <sup>(2)</sup>, interested parties are informed that the skimmed-milk powder to be supplied is held in the following stores:

BUNDESREPUBLIK DEUTSCHLAND

**Lot—Partie—Lot—Partita—Partij—Parti D: Tansanie — 1 200 t**

<i>Lagerhalter</i>	<i>Lagerort</i>	<i>Menge/t</i>
Hans Brodersen	2390 Flensburg-Gottrupelfeld	500
Habro-Hallen		
Hasselbeckerring 2		
2391 Nordhackstedt		
Ernst Arp	2370 Rendsburg	500
Kraftfutterwerk — Landhandel	Am Obereiderhafen	
Am Obereiderhafen		
2370 Rendsburg		
Hugo Wrigg	2240 Wesselburen	200
Lagerei		
Inh. Edith Zuba		
Bahnhofstraße 1		
2244 Wesselburen		

**Lot—Partie—Lot—Partita—Partij—Parti I: PAM-Tunisie — 227 t**

D. Wandel + Co	2800 Bremen-Industrieafen	227
Am Holzhafen 12		
2800 Bremen 1		

<sup>(1)</sup> OJ No C 208, 4. 8. 1983, p. 9.

<sup>(2)</sup> OJ No L 344, 21. 12. 1985, p. 24.

### NOTICE

On 31 December 1985 in the *Annex to the Official Journal of the European Communities* No C 338 A, the 'Common catalogue of varieties of vegetable species — Twelfth complete edition' will be published.

Interested readers may order this Annex (free to subscribers to the Official Journal) from the Office for Official Publications of the European Communities, Sales Department, L-2985 Luxembourg.