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Information and Notices

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I

(Information)

COUNCIL

NOTICE

Establishment by the Council of common positions under the cooperation procedure provided for by Article 149 (2) of the Treaty establishing the European Economic Community

(90/C 14/01)

The Council has established common positions on the following proposals:

1. Proposal for a Decision adopting a specific research and technological development programme in the field of health: human genome analysis (1990 to 1991)
2. Proposal for a Council Directive on the minimum safety and health requirements for work with display screen equipment
3. Proposal for a Regulation amending Regulation (EEC) No 1031/88 determining the persons liable for payment of a customs debt
4. Proposal for a Regulation on the information provided by the customs authorities of the Member States concerning the classification of goods in the customs nomenclature

The texts of these common positions may be obtained from Office 12/53, Council General Secretariat, 170 rue de la Loi, B-1048 Brussels (tel: 234 76 21). The number of this Official Journal and the serial number of the proposal concerned should be quoted in all requests for texts.

COMMISSION

Ecu ⁽¹⁾

19 January 1990

(90/C 14/02)

Currency amount for one ecu:

Belgian and Luxembourg franc con.	42,6339	Spanish peseta	132,015
Belgian and Luxembourg franc fin.	42,6339	Portuguese escudo	179,048
German mark	2,03774	United States dollar	1,18708
Dutch guilder	2,29593	Swiss franc	1,80911
Pound sterling	0,724048	Swedish krona	7,38600
Danish krone	7,88516	Norwegian krone	7,82759
French franc	6,92541	Canadian dollar	1,39600
Italian lira	1516,49	Austrian schilling	14,3446
Irish pound	0,767838	Finnish markka	4,78689
Greek drachma	189,826	Japanese yen	173,432
		Australian dollar	1,49412
		New Zealand dollar	1,93493

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.

⁽¹⁾ Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, 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).

Communication of Decisions under sundry tendering procedures in agriculture (cereals)

(90/C 14/03)

(See notice in Official Journal of the European Communities No L 360 of 21 December 1982, page 43)

Standing invitation to tender	Weekly invitation to tender	
	Date of Commission Decision	Maximum refund
Commission Regulation (EEC) No 1623/89 of 9 June 1989 on a special intervention measure for barley in Spain (OJ No L 159, 10. 6. 1989, p. 24)	18. 1. 1990	ECU 79,99/tonne
Commission Regulation (EEC) No 1624/89 of 9 June 1989 opening an invitation to tender for the refund and/or levy for the export of barley to countries of zones I, II, III, IV, V, VI, VII, VIII, the German Democratic Republic and the Canary Islands (OJ No L 159, 10. 6. 1989, p. 27)	18. 1. 1990	ECU 69,97/tonne
Commission Regulation (EEC) No 1625/89 of 9 June 1989 opening an invitation to tender for the refund and/or levy for the export of common wheat to countries of zones I, II, III, IV, V, VI, VII, VIII, the German Democratic Republic and the Canary Islands (OJ No L 159, 10. 6. 1989, p. 30)	18. 1. 1990	ECU 58,77/tonne
Commission Regulation (EEC) No 1626/89 of 9 June 1989 opening an invitation to tender for the refund and/or levy for the export of durum wheat to countries of zones I, II, III, IV, V, VI, VII, VIII, the German Democratic Republic and the Canary Islands (OJ No L 159, 10. 6. 1989, p. 33)	—	No tender received
Commission Regulation (EEC) No 3126/89 of 18 October 1989 on an invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries (OJ No L 301, 19. 10. 1989, p. 14)	18. 1. 1990	Tenders rejected
Commission Regulation (EEC) No 3451/89 of 16 November 1989 opening an invitation to tender for the refund for the export of maize to countries of zones I, II, excluding the Soviet Union, III, IV, V, VI, VII and VIII, the German Democratic Republic and the Canary Islands (OJ No L 333, 17. 11. 1989, p. 29)	18. 1. 1990	ECU 82,79/tonne
Commission Regulation (EEC) no 3949/89 of 22 December 1989 on a special intervention measure for common wheat in Spain (OJ No L 379, 28. 12. 1989, p. 38)	18. 1. 1990	Tenders rejected
Commission Regulation (EEC) No 2709/89 of 7 September 1989 opening an invitation to tender for the refund for the export of rye to countries of zones I, II, III, IV, V, VI, VII, VIII, the German Democratic Republic and the Canary Islands (OJ No L 262, 8. 9. 1989, p. 15)	—	No tender received
Commission Regulation (EEC) No 3950/89 of 22 December 1989 on a special intervention measure for common wheat in Germany (OJ No L 379, 28. 12. 1989, p. 41)	18. 1. 1990	Tenders rejected

Commission communications pursuant to Article 115 of the EEC Treaty

(90/C 14/04)

By Decision C(90) 81 dated 16 January 1990 the Commission has authorized the Kingdom of Spain not to apply Community treatment to motor vehicles for the transport of persons, goods or materials, falling within CN codes 8702, 8703 and 8704, originating in South Korea and in free circulation in the other Member States.

The said Decision is applicable from 3 January 1990 until 31 December 1990.

The text of this Decision may be obtained from the Commission, Brussels: tel. 02/235 23 64, telefax (02) 235 01 20 or 235 01 21.

By Decision C(90) 82 dated 15 January 1990 the Commission has authorized the Italian Republic not to apply Community treatment to woven fabrics of silk, falling within CN codes 5007 20, 5007 90, 5803 90 10 and 5905 00 90, originating in the People's Republic of China and in free circulation in the other Member States.

The said Decision is applicable after the date of the present Decision until 31 October 1990.

The text of this Decision may be obtained from the Commission, Brussels: tel. 02/235 23 64, telefax (02) 235 01 20 or 235 01 21.

By Decision C(90) 83 dated 15 January 1990 the Commission has authorized the Italian Republic not to apply Community treatment to woven fabrics of cotton of category 2, originating in China, India and Pakistan and in free circulation in the other Member States.

The said Decision is applicable from 2 January 1990 until 31 August 1990.

The text of this Decision may be obtained from the Commission, Brussels: tel. 02/235 23 64, telefax (02) 235 01 20 or 235 01 21.

By Decision C(90) 84 dated 15 January 1990 the Commission has authorized the Italian Republic not to apply Community treatment to motor vehicles for the transport of persons, falling within CN code ex 8703, originating in Japan and in free circulation in the other Member States.

The said Decision is applicable from 2 January 1990 until 31 December 1990.

The text of this Decision may be obtained from the Commission, Brussels: tel. 02/235 23 64, telefax (02) 235 01 20 or 235 01 21.

By Decision C(90) 85 dated 16 January 1990 the Commission has authorized the Kingdom of Spain not to apply Community treatment to cross-country for the transport of persons, goods or materials, falling within CN codes ex 8703, ex 8704, originating in the Soviet Union and in free circulation in the other Member States.

The said Decision is applicable from 2 January 1990.

The text of this Decision may be obtained from the Commission, Brussels: tel. 02/235 23 64, telefax (02) 235 01 20 or 235 01 21.

By Decision C(90) 86 dated 16 January 1990 the Commission has authorized the French Republic not to apply Community treatment to underpants, briefs and knickers, category 13, originating in China and in free circulation in the other Member States.

The said Decision is applicable from 2 January 1990 until 30 September 1990.

The text of this Decision may be obtained from the Commission, Brussels: tel. 02/235 23 64, telefax (02) 235 01 20 or 235 01 21.

By Decision C(90) 87 dated 16 January 1990 the Commission has authorized the Kingdom of Spain not to apply Community treatment to motor vehicles for the transport of persons, goods or materials, falling within CN codes 8702, 8703 and 8704 originating in Japan and in free circulation in the other Member States.

The said Decision is applicable from 2 January 1990 until 31 December 1990.

The text of this Decision may be obtained from the Commission, Brussels: tel. 02/235 23 64, telefax (02) 235 01 20 or 235 01 21.

By Decision C(90) 88 dated 16 January 1990 the Commission has authorized the Italian Republic not to apply Community treatment to woven fabrics of synthetic fibres (discontinuous or waste) of category 3, originating in Pakistan and in free circulation in the other Member States.

The said Decision is applicable from 2 January 1990 until 31 August 1990.

The text of this Decision may be obtained from the Commission, Brussels: tel. 02/235 23 64, telefax (02) 235 01 20 or 235 01 21.

COURT OF JUSTICE

COURT OF JUSTICE

JUDGMENT OF THE COURT

(Second Chamber)

of 5 December 1989

in Case C-114/88: (reference for a preliminary ruling made by the Tribunal des Affaires de Sécurité Sociale de Lille): Patrick Delbar v. Caisse d'Allocation Familiales de Roubaix-Tourcoing ⁽¹⁾)

(Social security — Family allowances for self-employed persons)

(90/C 14/05)

(Language of the case: French)

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

In Case C-114/88: reference to the Court under Article 177 of the EEC Treaty by the Tribunal des Affaires de Sécurité Sociale [Social Security Court], Lille, for a preliminary ruling in the proceedings pending before that court between Patrick Delbar and Caisse d'Allocations Familiales de Roubaix-Tourcoing [Family Allowances Fund for Roubaix and Tourcoing] — on the interpretation of Article 51 of the EEC Treaty — the Court (Second Chamber), composed of F. A. Schockweiler, President of the Chamber, G. F. Mancini and T. F. O'Higgins, Judges; G. Tesaurò, Advocate-General; B. Pastor, Administrator, acting for the Registrar, gave a judgment on 5 December 1989, the operative part of which is as follows:

Article 51 of the EEC Treaty must be interpreted as meaning that a Member State on whose territory a self-employed person works is not required to pay family allowances within the meaning of Article 1 (V) (ii) of Council Regulation (EEC) No 1408/71 if the members of the person's family reside in another Member State. However, with effect from 15 January 1986, in accordance with Article 73 of Regulation (EEC) No 1408/71, as amended by Regulation (EEC) No 3427/89, a self-employed person subject to the legislation of a Member State is entitled, in respect of the members of his family who are residing in another Member State, to the family benefits provided for by the legislation of the former State, as if they were residing in that State.

JUDGMENT OF THE COURT

of 6 December 1989

in Case C-329/88: Commission of the European Communities v. Hellenic Republic ⁽¹⁾)

(Failure of a Member State to fulfil its obligations — Implementation of a directive)

(90/C 14/06)

(Language of the case: Greek)

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

In Case C-329/88: Commission of the European Communities (Agent: D. Gouloussis) v. Hellenic Republic (Agents: M. Frangkakis, E. Marinou and A. Pliakos), an application for a declaration that, by failing to introduce within the prescribed period, and subsequently to inform the Commission thereof, the laws, regulations and administrative measures necessary to comply with the provisions of Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising ⁽²⁾, the Hellenic Republic has failed to fulfil its obligations under the EEC Treaty — the Court, composed of O. Due, President, C. N. Kakouris and M. Zuleeg (Presidents of Chambers), T. Koopmans, R. Joliet, J. C. Moitinho de Almeida, G. C. Rodríguez Iglesias, F. Grévisse and M. Díez de Velasco, Judges; F. G. Jacobs, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, delivered a judgment on 6 December 1989, the operative part of which is as follows:

1. *By failing to adopt within the prescribed period the measures necessary to implement Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising, the Hellenic Republic has failed to fulfil its obligations under the EEC Treaty;*
2. *The Hellenic Republic shall pay the costs.*

⁽¹⁾ OJ No C 125, 12. 5. 1988, p. 12.

⁽¹⁾ OJ No C 323, 16. 12. 1988, p. 6.

⁽²⁾ OJ No L 250, 19. 9. 1984, p. 17.

JUDGMENT OF THE COURT

of 7 December 1989

in Case C-136/88: French Republic v. Commission of the European Communities ⁽¹⁾**(Supplementary trade mechanism — Withdrawal of a product from the STM list)**

(90/C 14/07)

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

In Case C-136/88: French Republic (Agents: Edwige Belliard and Marc Giacomini) v. Commission of the European Communities (Agent: Patrick Hetsch), supported by Kingdom of Spain (Agents: Javier Conde de Saro and Rafael García-Valdecasas y Fernández) — application for a declaration that Commission Regulation (EEC) No 530/88 of 26 February 1988 withdrawing new potatoes from the list of products covered by the supplementary trade mechanism ⁽²⁾ is void — the Court, composed of O. Due, President, C. N. Kakouris, F. A. Schockweiler and M. Zuleeg (Presidents of Chambers), T. Koopmans, G. F. Mancini, J. C. Moitinho de Almeida, F. Grévisse and M. Díez de Velasco, Judges; G. Tesauro, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, delivered a judgment on 7 December 1989, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The French Republic shall pay the costs, including those of the interveners.*

⁽¹⁾ OJ No C 153, 11. 6. 1988, p. 8.

⁽²⁾ OJ No L 53, 27. 2. 1988, p. 71.

JUDGMENT OF THE COURT

(First Chamber)

of 12 December 1989

in Case C-163/88: Georgios Kontogeorgis v. Commission of the European Communities ⁽¹⁾**(Official — Annulment of a decision refusing affiliation to the health insurance scheme)**

(90/C 14/08)

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

In Case C-163/88 Georgios Kontogeorgis, represented by P. Bernitsas, of the Athens Bar, with an address for

⁽¹⁾ OJ No C 180, 9. 7. 1988, p. 8.

service in Luxembourg at the Chambers of Aloyse May, 31 Grand-Rue, against the Commission of the European Communities (Agents: Dimitros Gouloussis and Mrs Condou-Durande) — application for the withdrawal, amendment or annulment of the decision of the Commission of 25 March 1988 (registration No 02248), signed by R. Hay, Director-General for Personnel and Administration, refusing affiliation of the applicant to the health insurance scheme for officials of the European Communities, and all other measures ancillary thereto, prior or subsequent — the Court (First Chamber), composed of Sir Gordon Slynn (President of the Chamber), R. Joliet and G. C. Rodríguez Iglesias, Judges; Advocate General: F. G. Jacobs; B. Pastor, Principal Administrator, for the Registrar, gave a judgment on 12 December 1989, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The parties shall bear their own costs.*

JUDGMENT OF THE COURT

(First Chamber)

of 12 December 1989

in Case C-265/88: (reference for a preliminary ruling made by the Pretura di Volterra): Criminal proceedings against Lothar Messner ⁽¹⁾**(Free movement of persons — Declaration of residence)**

(90/C 14/09)

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

In Case C-265/88: reference to the Court under Article 177 of the EEC Treaty by the Pretura di Volterra [Magistrate's Court, Volterra] for a preliminary ruling in the criminal proceedings pending before that court against Lothar Messner — on the interpretation of Articles 3 (c) and 56 (1) of the EEC Treaty — the Court (First Chamber), composed of Sir Gordon Slynn (President of the Chamber), R. Joliet and G. C. Rodríguez Iglesias, Judges; Advocate-General: J. Mischo; D. Louterman, Principal Administrator, for the Registrar, gave a judgment on 12 December 1989, the operative part of which is as follows:

⁽¹⁾ OJ No C 320, 13. 12. 1988, p. 8.

It is incompatible with the provisions of Community law on the free movement of persons for a Member State to impose on nationals of the other Member States exercising their right of freedom of movement the obligation, with a penal sanction for failure to comply, to make a declaration of residence within three days of entering the territory of the State.

JUDGMENT OF THE COURT

(Second Chamber)

of 13 December 1989

in Case C-100/88: Augustin Oyowé and Amadou Traoré
v. Commission of the European Communities (*)

(Officials — Former staff of the European Association
for Cooperation)

(90/C 14/10)

(Language of the case: French)

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

In Case C-100/88: Augustin Oyowé and Amadou Traoré, members of staff of the European Association for Cooperation, an international non-profit-making association set up under Belgian law, represented by Edmond Lebrun of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Tony Bieber, 83 boulevard Grande-Duchesse Charlotte, against Commission of the European Communities (Agent: Hendrik van Lier, assisted by Claude Verbraeken of the Brussels Bar) — application:

- (a) for a declaration that the applicants are members of staff of the Commission within the meaning of Article 2 (c) of the Conditions of Employment of Other Servants of the European Communities, with all the legal consequences entailed thereby;
- (b) for an order that the Commission should appoint the applicants officials or, at the very least, initiate in respect of them the procedure for appointment as officials;
- (c) in the alternative, for an order that the Commission should guarantee that they will enjoy the full benefit of their pensions regardless of the country in which they may reside in the future;

(*) OJ No C 117, 4. 5. 1988, p. 6.

- (d) for the annulment of the decision rejecting their complaint —

the Court (Second Chamber), composed of F. A. Schockweiler, President of the Chamber, G. F. Mancini and T. F. O'Higgins, Judges; M. Darmon, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 13 December 1989, the operative part of which is as follows:

1. *The implied decision of the Commission rejecting the applicants' complaint of 4 November 1987 is annulled.*
2. *The remainder of the application is dismissed.*
3. *The Commission is ordered to pay the costs.*

Reference for a preliminary ruling by the Cour de Cassation of the Grand Duchy of Luxembourg by judgment of that court of 30 November 1989 in the case of the Minister of Finance of the Grand Duchy of Luxembourg and the Director of Customs v. Aimé Richardt and Les Accessoires Scientifiques snc

(Case C-367/89)

(90/C 14/11)

Reference has been made to the Court of Justice of the European Communities by judgment of the Cour de Cassation [Court of Cassation] of the Grand Duchy of Luxembourg of 30 November 1989, which was received at the Court Registry on 6 December 1989, for a preliminary ruling in the case of the Minister of Finance of the Grand Duchy of Luxembourg and the Director of Customs v. Aimé Richardt and Les Accessoires Scientifiques snc on the following question:

Is Council Regulation (EEC) No 222/77 to be interpreted as laying down the mandatory obligation for the T 1 document provided for therein to be recognized without reservation as a valid authorization for transit in the territory of any Member State of the European Economic Community, irrespective of the nature of the goods transported and even if they endanger the external security of the State concerned, or conversely does the Regulation allow a Member State the possibility of refusing to recognize the T 1 document as equivalent to a transit authorization when the national legislation of that State considers the goods transported to be strategic equipment and, on external security grounds, makes transit through its territory subject to the grant of special permission?

COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

Action brought on 23 November 1989 by The Algemene Financieringsmaatschappij Nefico BV against Commission of the European Communities

(Case T-157/89)

(90/C 14/12)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 23 November 1989 by The Algemene Financieringsmaatschappij Nefico BV, represented by Rechtsanwält Professor Arved Deringer and Rechtsanwält Dr. Frank Montag of Deringer, Tessin, Herrmann & Sedemund, with an address for service in Luxembourg at the chambers of M^c Aloyse May, 31, Grand-Rue.

The applicant claims that the Court should:

1. declare void Commission Decision 89/536/EEC of 15 September 1989, relating to a proceeding (IV/31.734 — Film purchases by German television stations) under Article 85 of the EEC Treaty ⁽¹⁾;

2. alternatively, declare the Decision void with respect of Nefico;

and

3. oblige the Commission to pay the costs of Nefico in the present proceedings.

Contentions and main arguments adduced in support:

The applicant asserts that the Decision violates the law in many respects:

1. The Commission did not take into account and evaluate all the information at its disposal. The agreements under discussion are in fact disproportionate and excessive in the meaning of the case-law of the Court of Justice, with respect to the quantity of program material covered, as well as with respect to the long licence periods; and as well as with respect to the territory. Therefore, they cannot be justified by the specific conditions of the market.
2. The Commission violated Article 85 (3) of the EEC Treaty because the requirements of this provision, namely improvement of the distribution of films, fair share for consumers, indispensability of the restrictions and no possibility of eliminating competition in respect of a substantial part of the products, are not met.
3. The Commission violated Article 85 (3) and Nefico's procedural rights as well as its obligation not to abuse its powers of discretion by granting the exemption because it could not legally exempt the agreements

against the express will of one of the parties thereto only on the application of the other party.

4. The Commission violated Article 86 of the EEC Treaty by granting the exemption because the excessive and intolerable restrictions of competition in the agreements are in the last resort due to an abuse of the dominant position enjoyed by the Degeto/ARD thus the result of actions prohibited by Article 86; the Commission may not grant an exemption under Article 85 (3) for the result of such prohibited abusive behaviour.

5. The Commission infringed Article 190 of the EEC Treaty in many respects in this proceeding so that the Decision must be invalidated for insufficient reasoning.

Action brought on 29 November 1989 by Dimitrios Coussios against the Commission of the European Communities

(Case T-159/89)

(90/C 14/13)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 29 November 1989 by Dimitrios Coussios, residing at 8a, avenue des Ombrages, 1200 Brussels, represented by Jean-Noël Louis of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Yvette Hamilius, 7-11 route d'Esch.

The applicant claims that the Court should:

1. Declare that the application is admissible and well founded;

2. Consequently, declare void:

— the Commission's decision annulling the procedure for filling a post published under number COM/119/87,

— all the subsequent decisions adopted by the Commission based on that unlawful decision,

— as far as may be necessary, the implied rejection by the Commission of the administrative complaint lodged by the applicant on 27 April 1989;

⁽¹⁾ OJ No L 284, 3. 10. 1989, p. 36.

3. Order the defendant to pay the costs of the proceedings, under either Article 69 (2) or the second subparagraph of Article 69 (3) of the Rules of Procedure, together with the costs necessarily incurred in connexion with the proceedings and, in particular, the costs relating to an address for service, travel and subsistence expenses and lawyer's fees in accordance with Article 73 (b) of those Rules.

Contentions and main arguments adduced in support:

In support of its action, the applicant pleads:

- an infringement of Article 25 of the Staff Regulations, inasmuch as the notification of the contested decision contained no statement of reasons enabling the applicant and the Court to ascertain whether it is well founded,
- an infringement of Article 45 of the Staff Regulations, inasmuch as the second vacancy notice was only issued in order to give a semblance of legality to a decision which had already been adopted, in a situation where the candidate selected could not even be appointed to a category A post,
- misuse of procedure, inasmuch as the contested decision had no other purpose than to enable a new vacancy notice to be published, and thus to give the candidate selected the opportunity of validly lodging his candidature.

Action brought on 4 December 1989 by Elfriede Sebastiani against the European Parliament

(Case T-163/89)

(90/C 14/14)

An action against the European Parliament was brought before the Court of First Instance of the European Communities on 4 December 1989 by Elfriede Sebastiani, residing at 39 rue de la Libération, L-5969 Itzig, Grand Duchy of Luxembourg, represented by Paul Greinert and Partners, Rechtsanwälte, 15 Hauptmarkt, D-5500 Trier, with an address for service in Luxembourg at the applicant's office, General Secretariat of the European Parliament, Bâtiment Tour, Bureau 8/38, Kirchberg, Luxembourg.

The applicant claims:

1. Compensation for the financial damage, together with interest at the usual bank rate, incurred by her as a result of the refusal to promote her on an interim basis;
2. By means of a back-dated promotion or promotion at a higher level to the B 3 post corresponding to her official duties, compensation for the financial damage, including interest, which the applicant has suffered in comparison with her comparable colleague in the French section (Head of French Pool), as a result of being placed at this disadvantage as regards promotion;
3. Reimbursement of the applicant's expenses in bringing these proceedings;
4. The Court is also asked to order the appointing authority to alter its staff policy which is discriminatory against individual Member States owing to an unjust allocation of posts and is not in keeping with Article 27 of the Staff Regulations, and in that way create the framework for a proper staff policy as defined in Articles 45 and 27 of the Staff Regulations, by means of a correct allocation of posts and promotions in the General Secretariat of the European Parliament.

Contentions and main arguments adduced in support:

On the basis of the criteria laid down for promotions in Article 45 (1) of the Staff Regulations, the applicant ought to have received promotion to B 3 at the latest at the same time as her colleague in the French section, as the applicant, although her staff reports were about the same, had more 'merits'. That she was not is owing to a discriminatory staff policy on the basis of nationality. This discrimination stems from the incompetence of the appointing authority in the allocation of posts to individual Member States generally and, in the applicant's particular case, from its inability to carry out and maintain a proper staff policy by means of an allocation of posts and promotions which is in accordance with Articles 27, 45 (1) and 7 (1).

The applicant is placed at a disadvantage and financially damaged by the staff policy operated by her appointing authority which discriminates against individual Member States and Community officials.

II

(Preparatory Acts)

COMMISSION

Modified proposal for a Council Regulation (EEC) on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Council Directive 77/435/EEC

*COM(89) 623 final**(Submitted by the Commission on 18 December 1989)**(90/C 14/15)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas, under Article 8 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽¹⁾, as last amended by Regulation (EEC) No 2048/88⁽²⁾, the Member States take the measures necessary to satisfy themselves that transactions financed by the European Agricultural Guidance and Guarantee Fund (EAGGF) are actually carried out and are executed correctly, to prevent and deal with irregularities and to recover sums lost as a result of irregularities or negligence;

Whereas scrutiny of the commercial documents of undertakings receiving or making payments can be a very effective means of surveillance of transactions forming part of the system of financing by the Guarantee Section of the EAGGF; whereas this scrutiny supplements other inspections already carried out by the Member States; whereas, furthermore, national provisions relating to scrutiny which are more extensive than those provided for in the Regulation are not affected by this Regulation;

Whereas Member States must be encouraged to reinforce the scrutiny of commercial documents of undertakings receiving or making payments which they have carried out in accordance with Council Directive 77/435/EEC⁽³⁾;

Whereas the implementation by Member States of the rules arising from Directive 77/435/EEC has disclosed the need for certain provisions of that Directive to be amended on the basis of experience gained; whereas in view of the nature of the provisions concerned the amendments should be included in a Regulation;

Whereas the documents used as a basis for such scrutiny should be determined in such a way as to enable the relevant activities of the undertakings to be fully scrutinized;

Whereas the undertakings to be scrutinized must be selected on the basis of the nature of the transactions carried out on their responsibility and the breakdown of the undertakings receiving or making payments according to their financial importance in the system of financing by the Guarantee Section of the EAGGF;

Whereas, furthermore, it is necessary to provide for a minimum number of inspections of commercial documents; whereas this number must be determined by a method which precludes substantial differences between the Member States by virtue of differences in the structure of their expenditure under the Guarantee Section of the EAGGF; whereas this method may be based on the number of undertakings of a certain importance in the system of financing by the Guarantee Section of the EAGGF;

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 185, 15. 7. 1988, p. 1.

⁽³⁾ OJ No L 172, 12. 7. 1977, p. 17.

Whereas the powers of the officials responsible for scrutiny and the obligations on undertakings to make commercial documents available to such officials for a specified period and to supply such information as may be requested by them should be defined; whereas it should also be stipulated that commercial documents may be seized in certain cases;

Whereas it is necessary to organize cooperation among the Member States on account of the international structure of agricultural trade and with a view to the completion of the internal market; whereas it is also necessary for a centralized documentation system concerning undertakings receiving or making payments established in third countries to be set up at Community level;

Whereas, while it is the responsibility of the Member States in the first instance to adopt their scrutiny programmes, it is necessary that these programmes be approved by the Commission so that it can assume its supervisory and coordinating role and to ensure that the programmes are adopted on the basis of appropriate criteria; whereas scrutiny can thus be concentrated on sectors or undertakings where the risk of fraud is high;

Whereas the departments carrying out scrutiny pursuant to this Regulation must be organized independently of the departments carrying out scrutiny prior to payment;

Whereas it is essential that each Member State establish a special department responsible for monitoring the application of this Regulation and for coordinating the general surveillance of scrutiny carried out in accordance with this Regulation; whereas the officials belonging, to that department may make inspections of undertakings in accordance with this Regulation;

Whereas encouragement for reinforcing the departments responsible for the application of this Regulation should be provided in the form of a temporary, degressive Community contribution towards the expenditure incurred by Member States in engaging extra staff and towards the costs of training staff and equipping the departments;

Whereas an estimate should be made in the amount of the Community financing required for implementing this measure; whereas such amount forms part of the financial forecast attached to the interinstitutional Agreement of 29 June 1988⁽¹⁾; whereas the appropriations actually available will be determined under the budgetary procedure in compliance with that Agreement;

Whereas information collected during the scrutiny of commercial documents must be protected by professional secrecy;

Whereas arrangements should be made for an exchange of information at Community level so that the results of the application of this Regulation can be used to greater effect,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation relates to scrutiny of the commercial documents of undertakings receiving or making payments relating directly or indirectly to the system of financing by the Guarantee Section of the EAGGF hereinafter called 'undertakings', in order to ascertain whether transactions forming part of the system of financing by the Guarantee Section of the EAGGF have actually been carried out and have been executed correctly.

2. For the purposes of this Regulation 'commercial documents' means all books, registers, vouchers and supporting documents, accounts and correspondence relating to the undertakings business activity, as well as commercial data, in so far as these documents relate directly or indirectly to the transactions referred to in paragraph 1.

Article 2

1. Member States shall carry out systematic scrutiny of the commercial documents of undertakings. The scope and frequency of such scrutiny shall be determined by the competent authorities of the Member States in the light of the nature of the transactions to be scrutinized. Member States shall ensure that the selection of undertakings for scrutiny gives the best possible assurance of the effectiveness of the measures for preventing and detecting irregularities under the system of financing by the Guarantee Section of the EAGGF. *Inter alia*, the selection shall take account of the financial importance of the undertakings in that system.

2. The scrutiny referred to in paragraph 1 shall apply for each period of control referred to in paragraph 1 to a number of undertakings which may not be less than half the undertakings whose receipts or payments, or the sum thereof, under the system of financing by the Guarantee Section of the EAGGF, amounted to more than ECU 50 000 for the year preceding or beginning the period of control in question.

For the period of control beginning in 1990 the amount of ECU 60 000 quoted in the first subparagraph is replaced by ECU 90 000.

It shall be compulsory for undertakings the sum of whose receipts or payments amounted to more than ECU 200 000 and which were not scrutinized in accordance with this Regulation during the preceding scrutiny period to be scrutinized.

⁽¹⁾ OJ No L 185, 15. 7. 1988, p. 33.

Undertakings the sum of whose receipts or payments amounted to less than ECU 10 000 shall be scrutinized in accordance with this Regulation only for specific reasons to be indicated by the Member States in their annual programme as referred to in Article 10 of this Regulation or by the Commission in any proposed amendment to that programme.

3. In addition to those undertakings directly receiving or making payments under the system of financing by the Guarantee Section of the EAGGF mentioned in paragraph 2 in appropriate cases the scrutiny provided for in paragraph 1 shall be applied also to undertakings in which those undertakings have a financial interest and to such other undertakings as may be relevant for the purposes of Article 3.

4. The scrutiny period shall run from 1 July to 30 June of the following year. A Member State may begin to effect controls before the 1st July as soon as the Commission has notified its agreement to the provisional programme mentioned in Article 10 of this Regulation.

Scrutiny shall cover at least the year preceding the scrutiny period; it may be extended to cover a period which precedes the period of control to be determined by the Member State as well as the period between 1 January of the year in which the period of control commenced and the effective date of control of an enterprise.

5. The systematic scrutiny carried out pursuant to this Regulation shall not prejudice the inspections undertaken pursuant to Article 6 of Council Regulation (EEC) No 283/72⁽¹⁾ or those undertaken pursuant to Article 9 of Regulation (EEC) No 729/70.

Article 3

1. The accuracy of primary data under scrutiny shall be verified by an adequate number of cross-checks, including, *inter alia*:

- comparisons with the commercial documents of suppliers, customers, carriers and other third parties directly or indirectly connected with transactions within the EAGGF system,
- physical checks upon the quantity and quality of stocks,
- and
- comparisons with the records of financial flows leading to or consequent upon the transactions within the EAGGF system.

2. In particular, where undertakings are required to keep particular book records of stock in accordance with Community or national provisions, inspection of these records shall, in appropriate cases include a comparison with the commercial documents and, where appropriate, the actual quantities in stock.

Article 4

Undertakings shall keep the commercial documents referred to in Articles 1 (2) and 3 for at least three calendar years, starting from the end of the calendar year in which they were drawn up. The Member States may prescribe a longer period for the retention of these documents.

Article 5

1. The persons responsible for the undertakings shall ensure that all commercial documents and additional information requested are supplied to the officials responsible for the scrutiny or to the persons empowered for that purpose.

2. The officials responsible for the scrutiny or the persons empowered for that purpose may require that extracts or copies of the documents referred to in paragraph 1 be supplied to them.

Article 6

1. In any case which might constitute an irregularity to the detriment of the EAGGF the officials responsible for control are entitled to seize commercial documents in accordance with the national provisions which apply.

2. Member States shall adopt appropriate measures to penalize natural or legal persons who fail to fulfil their obligations under this Regulation.

Article 7

1. Member States shall assist each other for the purposes of the scrutiny provided for in Articles 2 and 3 where an undertaking is established in a Member State other than that in which payment of the amount in question has or should have been made or received.

2. During the first quarter of the year following the year of payment, Member States shall send a list of the undertakings referred to in paragraph 1 to each Member State in which such an undertaking is established; the list shall contain all the details necessary to enable the Member State of destination to identify the undertakings. A copy of each list shall be sent to the Commission.

The Member State receiving or making the payment may ask the Member State in which the business is established to inspect that business as a matter of priority, in accordance with Article 2, indicating specific reasons for the request. A copy of each request is to be sent to the Commission.

⁽¹⁾ OJ No L 36, 10. 2. 1972, p. 1.

3. During the first quarter of the year following the year of payment, Member States shall send the Commission a list of undertakings established in a third country for which payment of the amount in question has or should have been made or received in that Member State.

Article 8

1. Information collected in the course of scrutiny as provided for in this Regulation shall be protected by professional secrecy. It may not be communicated to any persons other than those who, by reason of their duties in the Member States or in the institutions of the Communities, are required to have knowledge thereof for the purposes of performing those duties.

2. This Article shall not prejudice national provisions relating to legal proceedings.

Article 9

1. Before 1 January following the scrutiny period Member States shall send the Commission a detailed report on the application of this Regulation.

2. The report must set out any difficulties encountered and the measures taken to overcome them and put forward, where appropriate, suggestions for improvements.

3. The Member States and the Commission shall have regular exchanges of views on the application of this Regulation.

4. The Commission will evaluate annually the progress achieved, in its annual report on the administration of the funds referred to in Article 10 of Regulation (EEC) No 729/70.

Article 10

1. Member States shall draw up forward programmes for scrutinies to be carried out pursuant to Article 2 of this Regulation during the subsequent scrutiny period.

2. Each year, before 15 April, the Member States shall send the Commission their programme as referred to in paragraph 1 and shall specify:

- the number of undertakings to be scrutinized and their breakdown by sector on the basis of the amounts relating to them,
- the criteria adopted for drawing up the programme.

3. The forward programmes referred to in paragraph 1 shall require approval by the Commission, which shall send its agreement or requests for amendments within six weeks of receipt of the programme to the Member State

concerned. If the Commission does not request any amendments by that date, the programme shall be deemed to be approved.

4. Programmes may be the subject of subsequent amendments rendered necessary during the execution of the programme. Amendments shall be notified to the Commission as quickly as possible. Within six weeks from the receipt of such notification, the Commission shall make known its approval of the amended programme or its requests for changes to the Member State concerned.

5. Exceptionally, at any stage, the Commission may require the inclusion of a particular category of undertaking in the programme of one or more Member States.

Article 11

1. In each Member State not later than 30 June 1990 a special department is to be made responsible for monitoring the application of this Regulation and for:

- the performance of the scrutiny provided for herein by officials employed directly by that special department, or
- the coordination and general surveillance of the scrutiny carried out by officials belonging to other departments.

Member States may also provide that scrutinies to be carried out pursuant to this Regulation are allocated between the special department and other national departments, provided that the former is responsible for their coordination and general surveillance.

2. The department or departments responsible for the application of this Regulation must be organized in such a way as to be independent of the departments or branches of departments responsible for the payments and the scrutiny carried out prior to payment.

3. In order to ensure that this Regulation is properly applied the special department referred to in paragraph 1 shall take all the measures necessary.

4. The special department shall be responsible in addition for:

- training the national officials responsible for carrying out the scrutiny referred to in this Regulation, to enable them to acquire sufficient knowledge for performing their duties,
- administering the scrutiny reports and any other documents relating to the scrutinies carried out and provided for under this Regulation,
- the preparation and communication of the reports referred to in Article 9 and the provisional programmes referred to in Article 10.

5. The department shall be entrusted by the Member State concerned with all the powers necessary to perform the tasks referred to in paragraphs 3 and 4

It shall consist of a sufficient number of officials who are suitably trained to carry out those tasks.

6. The provisions of this Article do not apply when the minimum number of firms to control, in accordance with Article 2 (2), is less than 10.

Article 12

1. The Community shall contribute towards the expenditure actually incurred by Member States in remunerating personnel recruited as from 1 January 1990 and intended to be employed only:

— on the staff of the special department referred to in Article 11 (1),

or

— on the staff of other national departments, provided that such personnel is employed solely in performing the scrutiny provided for in this Regulation.

2. The Community financial contribution shall be at the rate of 50 % for the first three years and 25 % for the fourth and fifth years, for a period of five years starting from 1 January 1990, up to an overall amount of:

— ECU 500 000 per year for the first three years and ECU 250 000 for the fourth and fifth years in the case of the Federal Republic of Germany, Spain, France, Italy and the United Kingdom,

— ECU 250 000 per year for the first three years and ECU 125 000 for the fourth and fifth years in the case of Belgium, Denmark, Greece, Ireland, the Netherlands and Portugal,

and

— ECU 50 000 per year for the first three years and ECU 25 000 for the fourth and fifth years in the case of Luxembourg.

3. For the purposes of this Regulation, 'remuneration' means the salaries after tax, of the officials responsible for the application of this Regulation and the travel costs necessitated by the performance of their duties.

Their amount may be decided by each Member State at a fixed rate.

Article 13

The Community shall contribute towards the expenditure incurred by Member States in training the staff of the departments responsible for the application of this Regulation at the rate of 50 % for the first three years and 25 % for the fourth and fifth years, for a period of five years with effect from 1 January 1990, up to an overall amount of:

— ECU 100 000 per year for the first three years and ECU 50 000 for the fourth and fifth years in the case of the Federal Republic of Germany, Spain, France, Italy and the United Kingdom,

— ECU 50 000 per year for the first three years and ECU 25 000 for the fourth and fifth years in the case of Belgium, Denmark, Greece, Ireland, the Netherlands and Portugal,

and

— ECU 10 000 per year for the first three years and ECU 5 000 for the fourth and fifth years in the case of Luxembourg.

Article 14

The Community shall contribute towards the expenditure actually incurred by the Member States in respect of the purchase of data-processing and office equipment required by the departments responsible for the application of this Regulation, at the rate of 100 % up to a maximum amount of:

— ECU 100 000 for the Federal Republic of Germany, Spain, France, Italy and the United Kingdom,

— ECU 60 000 for Belgium, Denmark, Greece, Ireland, the Netherlands and Portugal,

and

— ECU 20 000 for Luxembourg.

Article 15

1. The maximum amount of Community expenditure deemed necessary for carrying out the measure introduced by this Regulation shall be ECU 5 740 000 for the first year, ECU 4 860 000 for the second and third years and ECU 2 430 000 for the fourth and fifth years.

2. The budgetary allocation will determine the appropriation available for each exercise.

Article 16

The annual amount of expenditure borne by the Community shall be fixed by the Commission on the basis of data provided by the Member States.

Article 17

The amounts in ecus appearing in this Regulation are converted into national currencies by applying the rate of exchange operating on the first working date of the year when the control period begins and published in the 'C' series of the *Official Journal of the European Communities*.

Article 18

Detailed rules for the application of this Regulation shall be adopted where necessary, in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 19

Article 9 of Regulation (EEC) No 729/70 shall apply to the scrutiny of specific expenditure financed by the Community under this Regulation.

Article 20

Commission officials shall have access to all documents prepared either with a view to or following the scrutiny

organized under this Regulation and to the data held in the processing systems referred to in Article 14.

Article 21

1. Directive 77/435/EEC is repealed with effect from 1 January 1990. The controls previously put into effect in accordance with this Directive are considered from this date to be carried out in accordance with this Regulation.

2. In all Community instruments where reference is made to Directive 77/435/EEC, such reference shall be deemed to refer to the corresponding Articles of this Regulation.

Article 22

This Regulation comes into force on the third day following its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 1 January 1990.

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

III

(Notices)

COMMISSION

NOTICE ISSUING PARTIAL INVITATION TO TENDER No 3/90 FOR THE SALE OF
VINOUS ALCOHOL PURSUANT TO REGULATION (EEC) No 1781/89

(90/C 14/16)

By Regulation (EEC) No 1781/89 of 21 June 1989 ⁽¹⁾, as last amended by Regulation (EEC) No 142 of 19 January 1990 ⁽²⁾, the Commission issued a standing invitation to tender for vinous alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Spanish, French and Italian intervention agencies.

Tenderers must comply with the provisions of Council Regulation (EEC) No 3877/88 of 12 December 1988 laying down general rules on the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies ⁽³⁾ and of Commission Regulation (EEC) No 1780/89 ⁽⁴⁾, as last amended by Regulation (EEC) No 141/90 ⁽⁵⁾, laying down detailed rules of application and in particular those set out below.

In accordance with Article 3 of Regulation (EEC) No 1781/89 a partial invitation to tender No 3/90 is hereby issued for 100 000 hectolitres of alcohol at 100 % vol.

The reference numbers of the vats, the places of storage and the quantity of alcohol at 100 % vol in each vat are specified in section X below.

I. Tenders

1. Tenders should be submitted for a quantity of alcohol in storage in a single Member State in the vats listed in section X. A breakdown must be given by vat reference number. For each tender that quantity must not be less than 100 hectolitres and not more than 5 000 hectolitres of alcohol at 100 % vol where the final industrial use may be ranked as use as motor fuel. A tender may state that it is to be considered as having been submitted only if a contract is awarded for the entire quantity specified in a tender or a part thereof specified by the tenderer.

2. Tenders must be submitted to the intervention agencies holding the alcohol in question, namely:

SENPA, Beneficiencia 8, E-28004 Madrid (tel. 522 29 61, telex 23427 SENPA, telefax 5219832),

or

SAV, acting on behalf of Onivins, Zone Industrielle, Avenue de la Ballastière, BP 231, F-33505 Libourne Cedex (tel. 57 51 03 03, telex 572025, telefax 57250725),

or

AIMA, Via Palestro 81, I-00185 Roma (tel. 47 49 91, telex 620331, 620252 or 613003, telefax 4453940 or 4953940),

or sent to one of the above addresses by registered mail.

3. Tenders must be enclosed in a sealed envelope marked 'Tender in response to partial invitation to tender No 3/90 (EC alcohol)', which itself must be enclosed in an envelope addressed to the intervention agency concerned.

4. *Tenders must reach the intervention agency concerned by 12 noon (Brussels time) on 5 February 1990 at the latest.*

5. Each tender must state the name and address of the tenderer and must specify:

- (a) the reference number of the vat or vats to which it relates;
- (b) the quantity concerned, with a breakdown by vat reference number;
- (c) the price tendered for the lot, expressed in ecus per hectolitre of alcohol at 100 % vol;
- (d) the precise use planned for the alcohol.

6. Each tender must be accompanied by proof that a tendering security of ECU 3 per hectolitre of alcohol at 100 % vol or the equivalent thereof in Spanish pesetas, French francs or Italian lire has been lodged with:

SENPA, Beneficiencia 8, E-28004 Madrid (tel. 522 29 61, telex 23427 SENPA, telefax 5219832),

⁽¹⁾ OJ No L 178, 24. 6. 1989.

⁽²⁾ OJ No L 16, 20. 1. 1990, p. 23.

⁽³⁾ OJ No L 346, 15. 12. 1988, p. 7.

⁽⁴⁾ OJ No L 178, 24. 6. 1989, p. 1.

⁽⁵⁾ OJ No L 16, 20. 1. 1990, p. 25 (Regulation amending Regulation (EEC) No 1780/89 for the fourth time).

or

SAV, acting on behalf of Onivins, Zone Industrielle, Avenue de la Ballastière, BP 231, F-33505 Libourne Cedex (tel. 57 51 03 03, telex 572025, telefax 57250725),

or

AIMA, Via Palestro 81, I-00185 Roma (tel. 47 49 91, telex 620331, 620252 or 613003, telefax 4453940 or 4953940).

7. Each tender must be accompanied by a statement from the tenderer whereby he undertakes to refrain from lodging any complaint relating to the quantity and characteristics of the alcohol.
8. Each tender must be accompanied by a declaration from the tenderer whereby he undertakes to comply with all the provisions of Regulation (EEC) No 1780/89.
9. The conversion rates to be used for the conversion of ecus into national currencies are to be those applicable on the day before the publication of the notice of partial invitation to tender No 2/89 and set out in the 'L' series of the *Official Journal of the European Communities* in Annex III to Regulation (EEC) No 1876/89⁽¹⁾, as amended by Regulation (EEC) No 65/90⁽²⁾.

II. Samples and examination of the alcohol

1. Any interested party may obtain, on application to the SAV, SENPA or AIMA and on payment of ECU 2 per litre or the equivalent thereof in Spanish pesetas, French francs or Italian lire, samples of the alcohol offered for sale to be taken by a representative of SAV, AIMA or SENPA. The charge is to be converted into national currency at the rate in point 9 of the preceding section.

However, the quantity delivered per interested party and per vat may not exceed five litres.

2. SAV, AIMA or SENPA are to supply any relevant information concerning the characteristics of the alcohol offered for sale.

III. Destination and use of the alcohol

The alcohol offered for sale must be used within the Community for the implementation of small-scale projects designed in particular to find new industrial uses as referred to in Article 2 of Regulation (EEC) No 1780/89.

The procedures for checking the destination and use of the alcohol are those laid down pursuant to Article 36 of Regulation (EEC) No 1780/89.

⁽¹⁾ OJ No L 188, 1. 7. 1989, p. 1.

⁽²⁾ OJ No L 9, 11. 1. 1990.

IV. Award of contract

Contracts for the final use scheduled for the alcohol will be awarded to the tenderers offering the best terms. Where two or more tenders are at identical prices and, when combined, cover more than the quantity of alcohol to which the partial invitation to tender relates, contracts will be awarded:

- (a) in proportion to the quantities specified in the tenders concerned;
- (b) by sharing out the said quantity among the tenderers, by agreement with the latter; or
- (c) by drawing lots.

The intervention agency concerned will immediately inform each tenderer, in writing and with advice of receipt, of the result of his tender.

Should a number of acceptable offers be wholly or in part for the same vats. Unsatisfied tenderers may then be offered alcohol of the same type from the same stores according to the provisions of Article 7 (4a) of Regulation (EEC) No 1780/89.

V. Statement of award

Successful tenderers shall obtain a statement of award from the intervention agency concerned within two weeks following receipt of the notification of acceptance, or if the procedure laid down in Article 7 (4a) of Regulation (EEC) No 1780/89 is adopted within two weeks of the day on which the declaration of allocation is made out, and at the same time will provide evidence to show that a performance guarantee of ECU 30 per hectolitre of alcohol at 100 % vol or the equivalent thereof in Spanish pesetas, French francs or Italian lire has been lodged with the intervention agency concerned; the rates to be used for converting ecus into national currencies are those specified in point 9 of section I.

VI. Taking-over — removal

The physical removal of all alcohol must be completed three months after the date of receipt of the notification of acceptance.

The removal of the alcohol is subject to presentation of a removal order issued by the intervention agency once payment has been made for the quantity to be removed.

VII. Payment

Successful tenderers will pay the price of the alcohol to the intervention agency concerned not later than the day preceding that on which they take over the alcohol.

VIII. Securities

The lodging and release of securities are subject to the relevant Community rules and in particular those laid down in Article 33 of Regulation (EEC) No 1780/89.

IX. Final date for the use of the alcohol

All the alcohol must have been used within two years of the date of the first removal.

X. ANNEX

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol	Alcoholic strength (% vol)
1. FRANCE	Sté Deulep 30800 St Gilles du Gard	506	9 680	35	Neutral	+ 96
	Sté Verniers (Narbonne)	103	9 429	39	Neutral	+ 96
	Gièvres (Selles s/Cher)	31	3 971	35	Off flavour	—
		30	3 183	35	Off flavour	—
	PROMA 43, av. Georges Brassens 13230 Port Saint Louis du Rhône	c 2	13 689	35	Raw	+ 92
Total			39 952			
2. SPAIN	Tarancón (Cuenca)	A 9	25 323	35, 36	Neutral	+ 96
	Total					25 323
3. ITALY	Flli Cipriani SpA Chizzola di Ala (TN)	155	1 270	35	Neutral	+ 96
		74	826	35	Neutral	+ 96
	Dist. Bertolino SpA Partinico (PA) C/da Percianotta Agro di Monreale (PA)	1/A	5 116	35	Neutral	+ 96
		{ B2-B12 F12-B3-B4	5 000	35	Off flavour	—
	Neri sas Via S. Silvestro n. 6 Faenza (RA)	1	3 604	39	Neutral	+ 96
	Dist. Bonollo SpA Formigine (MO) Loc. Paduni Anagni (FR)	23	5 046	39	Neutral	+ 96
	Caviro Soc. coop. Via Convertite n. 14/13 Faenza (RA)	88	1 796	39	Neutral	+ 96
	Dist. Mazzari SpA Via Giardino 10 S. Agata sul Santerno (RA)	V-1313	1 559	39	Off flavour	—
		V-1311	1 084	39	Neutral	+ 96
Dist. G. Di Lorenzo srl Ponte Valleceppi (PG) Loc. Pontenuovo di Torgiano (PG)	6	8 357	39	Neutral	+ 96	
	17	320	39	Off flavour	—	
	19	325	39	Off flavour	—	
	23	422	39	Off flavour	—	
Total			34 725			
Grand total			100 000			

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