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Information and Notices

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(Continued overleaf)

I

(Information)

COMMISSION

Ecu (1)

22 January 1990

(90/C 16/01)

Currency amount for one ecu:

Belgian and Luxembourg franc con.	42,6453	Spanish peseta	131,870
Belgian and Luxembourg franc fin.	42,6453	Portuguese escudo	179,155
German mark	2,03821	United States dollar	1,18673
Dutch guilder	2,29668	Swiss franc	1,81214
Pound sterling	0,723309	Swedish krona	7,40284
Danish krone	7,88821	Norwegian krone	7,83006
French franc	6,92755	Canadian dollar	1,40070
Italian lira	1516,23	Austrian schilling	14,3512
Irish pound	0,767963	Finnish markka	4,79025
Greek drachma	189,782	Japanese yen	173,465
		Australian dollar	1,49275
		New Zealand dollar	1,93911

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.

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(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).

Commission communication pursuant to Article 9 (9) of Council Regulation (EEC) No 3420/83 of 14 November 1983

(90/C 16/02)

By virtue of Article 9 (1) of Council Regulation (EEC) No 3420/83 of 14 November 1983 on import arrangements for products originating in State-trading countries, not liberalized at Community level [1], the Commission has adopted the following changes to the import arrangements applied in Italy with regard to certain State-trading countries with effect from 18 January 1990:

Exceptional opening for 1990 of import quotas for:

— Artificial staple fibres, not carded, combed or otherwise processed for spinning: of viscose (CN code 5504 10 00 — Category ex 126)

  — *Romania:* 300 tonnes

  — *Soviet Union:* 100 tonnes

People's Republic of China

— Silk yarn (other than yarn spun from silk waste) (CN codes 5004 00 and 5006 00 10 — Category 130 A): 155 tonnes (additional)

— Yarn spun from silk waste, not put up for retail sale (CN code 5005 00 — Category ex 130 B): 700 tonnes

— Sewing machines, other than book-sewing machines of heading No 8440: other (CN code 8452 29 00): 500 items

— Men's underpants, pyjamas and dressing gowns, of silk (CN codes 6207 19 00, 6207 29 00 and 6207 99 00 — Category ex 18): 0,276 tonne

— Women's pyjamas and/or nightdresses and négligés, of silk (CN codes 6208 29 00 and 6208 99 00 — Category ex 18): 1,470 tonnes

— Other women's garments, of silk (CN code 6210 50 00 — Category ex 78): 0,130 tonne

— Tetracyclines and their derivatives; salts thereof (CN code 2941 30 00): 17,900 tonnes

— Sports footwear (CN code 6404 11 00): 5 000 pairs

— Men's pyjamas and/or nightshirts, of silk (CN code 6207 20 00 — Category ex 18): 14,400 tonnes

— Women's nightdresses and pyjamas and/or négligés, of silk (CN code 6208 29 00 and 6208 99 00 — Category ex 18): 0,486 tonne.

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[1] OJ No L 346 of 8. 12. 1983, p. 6.

Notice of the impending expiry of an anti-dumping measure

(90/C 16/03)

1. The Commission gives notice that, except where a review is initiated in accordance with the following procedure, the anti-dumping measure mentioned below shall lapse within the next six months as provided in Article 15 of Council Regulation (EEC) No 2423/88 of 11 July 1988 (1) on protection against dumped imports from countries not members of the European Economic Community.

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, interested parties may make their views known in writing and may apply to be heard orally by the Commission provided that they consider that they are likely to be affected by the result of the proceeding and that there are particular reasons why they should be heard.

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-2), 200 rue de la Loi, B-1049 Brussels (2) not later than 30 days following the publication of this notice or, for the Community industry known to be concerned, the date on which the letter informing them about the impending expiry of the measures was received, whichever date is later. The receipt of this letter is deemed to occur seven days following the date of its dispatch.

If a request for a review is not received in adequate form with the time limit specified above, the Community authorities may disregard the request and the measure concerned shall automatically lapse in accordance with Article 15 of the aforementioned Regulation.

4. Where the Commission intends to carry out a review of the measure a notice to that effect shall be published in the *Official Journal of the European Communities* prior to the end of the relevant five year period. The measure remains in force pending the outcome of the review.

5. This notice is published in accordance with Article 15 of the abovementioned Regulation.

Product	Country of origin	Measure	Reference
Hydraulic excavators	Japan	duty	L 176/6. 7. 1985

(1) OJ No L 209, 2. 8. 1988, p. 1.

(2) Telex COMEU B 21877; telefax (32-2) 235 65 05.

COURT OF JUSTICE

JUDGMENT OF THE COURT

(First Chamber)

of 13 December 1989

in Case C-17/88: Dimitrios Patrinos v. Economic and Social Committee of the European Communities (1)

(Staff Regulations — Probationer not established)

(90/C 16/04)

(Language of the case: French)

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

In Case C-17/88: Dimitrios Patrinos, a former probationary official of the Economic and Social Committee of the European Communities, residing in Athens, represented by M. and O. Slusny, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of E. Arendt, 4 avenue Marie-Thérèse, against the Economic and Social Committee of the European Communities (Agent: D. Bruggemann, assisted by D. Lagasse, of the Brussels Bar) — application for the annulment of the decision dismissing the applicant at the end of his probationary period — the Court (First Chamber), composed of Sir Gordon Slynn, President of the Chamber, R. Joliet and G. C. Rodríguez Iglesias, Judges; C. O. Lenz, Advocate-General; B. Pastor, Administrator, for the Registrar, gave a judgment on 13 December 1989, the operative part of which is as follows:

1. *The application is dismissed;*

2. *The parties are ordered to bear their own costs.*

(1) OJ No C 40, 12. 2. 1988.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 13 December 1989

in Case C-26/88 (reference for a preliminary ruling made by the Hessisches Finanzgericht): Brother International GmbH v. Hauptzollamt Gießen (1)

(Origin of goods — Assembly of prefabricated components)

(90/C 16/05)

(Language of the case: German)

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

In Case C-26/88: reference to the Court under Article 177 of the EEC Treaty by the Hessisches Finanzgericht [Finance court, Hessen] for a preliminary ruling in the proceedings pending before that court between Brother International GmbH, whose registered office is in Bad Vilbel, Federal Republic of Germany, and Hauptzollamt [Principal Customs Office] Gießen — on the interpretation of Articles 5 and 6 of Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods (OJ No L 148, 28. 6. 1968, p. 1) — the Court (Fifth Chamber), composed of Sir Gordon Slynn, President of the Chamber, M. Zuleeg, R. Joliet, J. C. Moitinho de Almeida and G. C. Rodríguez Iglesias, Judges W. Van Gerven, Advocate-General; J. A. Pompe, Deputy Registrar, for the Registrar, gave a judgment on 13 December 1989, the operative part of which is as follows:

1. *The simple assembly of prefabricated parts originating in a country different from that in which they were assembled is sufficient to give the resulting product the origin of the country in which assembly took place, provided that from a technical point of view and having regard to the definition of the goods in question such assembly represents the decisive production stage during which the intended use of the parts used becomes definite and the goods in question take on their specific qualities; if the application of that criterion does not lead to a conclusion, it must be examined whether all the assembly operations in question result in an appreciable increase in the commercial value ex factory of the finished product;*

2. *The transfer of assembly from the country in which the parts were manufactured to another country in which existing factories are used does not in itself justify the presumption that the sole object of the transfer was to circumvent the applicable provisions unless the tranfer of assembly coincides with the entry into force of the relevant regulations. In that case, the manufacturer concerned must prove that there was a reasonable ground for carrying out the assembly operations in the country from which the goods have been exported and that it was not for the purpose of escaping the consequences of the provisions in question.*

(1) OJ No C 45, 18. 2. 1988.

JUDGMENT OF THE COURT

(Second Chamber)

of 13 December 1989

in Case C-322/88 (reference for a preliminary ruling made by the Tribunal du travail, Brussels): Salvatore Grimaldi v. Fonds des maladies professionnelles (1)

(Industrial diseases — Effects of a recommendation)

(90/C 16/06)

(Language of the case: French)

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

In Case C-322/88: reference to the Court under Article 177 of the EEC Treaty by the Tribunal du Travail [Labour court], Brussels, for a preliminary ruling in the proceedings pending before that court between Salvatore Grimaldi, residing in Brussels, and the Fonds des maladies professionnelles, Brussels, — on the interpretation of the Commission recommendation to Member States of 23 July 1962 on the adoption of a European schedule of industrial diseases (OJ No 80, 31. 8. 1962, p. 2188/62) and of Commission recommendation 66/462 of 20 July 1966 on the conditions for granting compensation to persons suffering from industrial diseases (OJ No 147, 9. 8. 1966, p. 2696/66), in the light of the fifth paragraph of Article 189 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; J. Mischo, Advocate-General; D. Louterman, Principal Administrator, acting as Registrar, gave a judgment on 13 December 1989, the operative part of which is as follows:

In the light of the fifth paragraph of Article 189 of the EEC Treaty, the Commission recommendation of 23 July 1962 on the adoption of a European schedule of industrial diseases and Commission recommendation 66/462 of 20 July 1966 on the conditions for granting compensation to persons suffering from industrial diseases may not in themselves confer rights on individuals on which they may rely before domestic courts. However, domestic courts are bound to take those recommendations into consideration in order to decide disputes submitted to them, in particular where they are capable of clarifying the interpretation of other provisions of national or Community law.

(1) OJ No C 320, 13. 12. 1988.

JUDGMENT OF THE COURT

(Second Chamber)

of 13 December 1989

in Case C-49/89 (reference for a preliminary ruling made by the Cour de cassation of the French Republic): Corsica Ferries France v. Direction Générale des Douanes (1)

(Maritime transport — Freedom to provide services — Discrimination)

(90/C 16/07)

(Language of the case: French)

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

In Case C-49/89: reference to the Court under Article 177 of the EEC Treaty by the Cour de cassation [Court of Cassation] of the French Republic for a preliminary ruling in the proceedings pending before that court between Corsica Ferries France, a company incorporated under French law, whose registered office is in Bastia, and Direction générale des douanes [Directorate-General of Customs] on the interpretation of Articles 59, 62 and 84 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; C. O. Lenz, Advocate-General; B. Pastor, Administrator, for the Registrar, gave a judgment on 13 December 1989, the operative part of which is as follows:

The EEC Treaty, in particular Articles 59, 61, 62 and 84, thereof, did not, before the entry into force of Council Regulaton (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries, prevent a Member State from levying, in connection with the use by a ship of harbour installations situated within its island territory, charges on the embarkation and disembarkation of passengers arriving from or going to a port situated in another Member State, whilst in the case of voyages between two ports situated in national territory those charges were levied only on embarkation at the island port.

(1) OJ No C 78, 29. 3. 1989.

JUDGMENT OF THE COURT

of 14 December 1989

in Case C-3/87 (reference for a preliminary ruling from the High Court of Justice of England and Wales): The Queen v. Ministry of Agriculture, Fisheries and Food, *ex parte* Agegate Limited (1)

(Fishing — Licences — Conditions)

(90/C 16/08)

(Language of the case: English)

In Case C-3/87: reference to the Court under Article 177 of the EEC Treaty by the High Court of Justice of England and Wales for a preliminary ruling in the proceedings pending before that court between The Queen and the Ministry of Agriculture, Fisheries and Foor, *ex parte* Agegate Limited — on the interpretation of the provisions of Community law concerning in particular the free movement of workers and fishing and of Articles 55 and 56 of the Act concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Communities of 1985 (OJ No L 302, 15. 11. 1985, p. 23) in order to determine whether the conditions which the crews of fishing vessels flying the British flag must satisfy under national legislation are compatible with Community law — the Court, composed of O. Due, President, Sir Gordon Slynn, C. N. Kakouris, F. A. Schockweiler (Presidents of Chambers), T. Koopmans, G. F. Mancini, R. Joliet, T. F. O'Higgins, G. C. Rodríguez Iglesias, F. Grévisse and M. Díez de Velasco, Judges; J. Mischo, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 14 December 1989, the operative part of which is as follows:

1. *Community law does not preclude a Member State from requiring, as a condition for authorizing one of its vessels to fish against its quotas, that 75 % of the crew of the vessel in question must be nationals of the Member States of the Community;*

2. *Community law precludes a Member State from requiring, as a condition for authorizing one of its vessels to fish against its quotas, that 75 % of the crew of the vessel in question must reside ashore in that Member State;*

3. *Save in those cases where Council Regulation (EEC) No 1408/71 otherwise provides, Community law does not preclude a Member State from requiring, as a condition for authorizing one of its vessels to fish against its quotas, that the skipper and all the crew of the vessel must be making contributions to the social security scheme of that Member State;*

4. *Articles 55 and 56 of the 1985 Act of Accession must be interpreted as meaning that their application to Spanish fishermen working on board British vessels is not excluded by the sole fact that the fishermen in question are paid on a 'share' basis and as not precluding national legislation or a national practice whereby Spanish workers are excluded from 75 % of the crew of those vessels, provided that such a restriction, introduced after the 1985 Act of Accession, does not in any circumstances make the position of Spanish workers more unfavourable and that the restriction does not concern Spanish nationals already employed at the time of accession as workers on British territory or on board a British vessel where the employment relationship displays a sufficiently close link with that territory;*

5. *Since none of the applicable provisions of Community law does not have direct effect, those provisions may be relied upon by individuals before a national court.*

(1) OJ No C 39, 17. 2. 1987.

JUDGMENT OF THE COURT

of 14 December 1989

in Case C-216/87 (reference for a preliminary ruling from the High Court of Justice of England and Wales): The Queen v. Ministry of Agriculture, Fisheries and Food, *ex parte* Jaderow Ltd and Others (1)

(Fishing — Licences — Conditions)

(90/C 16/09)

(Language of the case: English)

In Case C-216/87: reference to the Court under Article 177 of the EEC Treaty by the High Court of Justice of England and Wales for a preliminary ruling in the proceedings pending before that court between The Queen and the Ministry of Agriculture, Fisheries and Food, *ex parte* Jaderow Ltd and Others — on the interpretation of a number of provisions and principles of Community law in order to determine whether the conditions to which the operation of fishing vessels flying the United Kingdom flag is subject under national legislation are compatible with Community law, — the Court, composed of O. Due, President, Sir Gordon Slynn, C. N. Kakouris, F. A. Schockweiler (Presidents of Chambers), T. Koopmans, G. F. Mancini, R. Joliet, T. F. O'Higgins, G. C. Rodríguez Iglesias, F. Grévisse and M. Díez de Velasco, Judges; J. Mischo, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 14 December 1989, the operative part of which is as follows:

(1) OJ No C 223, 20. 8. 1987.

Community law as it now stands:

1. *does not preclude a Member State, in authorizing one of its vessels to fish against national quotas, from laying down conditions designed to ensure that the veesel has a real economic link with that State if that link concerns only the relations between that vessel's fishing operations and the populations dependent on fisheries and related industries;*

2. *does not preclude a Member State, in authorizing one of its vessels to fish against national quotas, from laying down the condition, in order to ensure that there is a real economic link as defined above, that the vessel is to operate from national ports, if that condition does not involve an obligation for the vessel to depart from a national port on all its fishing trips;*

3. *does not preclude a Member State, in authorizing one of its vessels to fish against national quotas, from taking the position that the fact of the vessel's operation from national ports may be proved by the landing of a proportion of its catches, or its periodic presence, in national ports;*

4. *does not preclude a Member State from accepting, as evidence of compliance with the condition that the vessel must operate from national ports, only the landing of a specified proportion of the vessel's catches or a specified periodic presence of the vessel in national ports, provided that the frequency with which the vessel is required to be present in those ports does not impose, directly or indirectly, an obligation to land the vessel's catches in national ports or hinder normal fishing operations;*

5. *does not preclude legislation or a practice of a Member State whereby a new condition not previously stipulated is laid down for the grant of licences to fish against national quotas.*

JUDGMENT OF THE COURT

(Sixth Chamber)

of 14 December 1989

in Case C-168/88 (reference for a preliminary ruling made by the Arbeidsrechtbank Antwerpen): Theo Dammer v. VZW Securex and Rijksdienst voor Kinderbijslag der Werknemers (1)

(Social security for migrant workers — Family benefits)

(90/C 16/10)

(Language of the case: Dutch)

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

In Case C-164/88: reference to the Court under Article 177 of the EEC Treaty by the Arbeidsrechtbank Antwerpen [Labour tribunal, Antwerp] for a preliminary ruling in the proceedings pending before that court between Theo Dammer and 1. VZW Securex Kinderbijslagsfonds, Ghent and 2. Rijksdienst voor Kinderbijslag der Werknemers, Brussels — on the interpretation of Articles 12 and 73 of Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (OJ No L 149, 5. 7. 1971, p. 2), as amended on several occasions, with a view to determining which Member State is required to award family benefits in respect of a child whose parents work in two different Member States neither of which is their State of residence — the Court (Sixth Chamber), composed of C. N. Kakouris, President of the Chamber, F. A. Schockdeiler, T. Koopmans, G. F. Mancini and M. Díez de Velasco, Judges; M. Darmon, Advocate-General; D. Louterman, Principal Administrator, for the Registrar, gave a judgment on 14 December 1989, the operative part of which is as follows:

Articles 12 and 73 of Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community must be interpreted as meaning that a worker's right to familiy benefits in the Member State of employment in respect of members of his family residing in a second Member State when family benefits are already being paid in respect of the same members of family to his (or her) spouse in a third Member State in which that spouse is employed, may be exercised on condition that the amount of family benefits actually received in the third Member State is lower than the amount of benefit for which the first Member State has provided. In that event the worker is entitled to an additional benefit payable by the competent institution of the first State equal to the difference between the two amounts.

(1) OJ No C 190, 19. 7. 1988.

Action brought on 20 November 1989 by Sàrl Schiocchet against the Commission of the European Communities

(Case C-354/89)

(90/C 16/11)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 20 November 1989 by Sàrl Schiocchet, represented by S. C. P. Charrière-Champetier-Spitzer, Avocats à la cour de Paris, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-Rue.

The applicant claims that the Court should declare Commission Decision 89/524/EEC of 7 September 1989 on a dispute between Luxembourg and France on the establishment of a special regular passenger service between those two States (1) void.

Conditions and main arguments adduced in support:

When, in accordance with Article 8 (2) of Council Regulation (EEC) No 517/72 (2), the Commission considered current and foreseealbe transport needs, it should have realized that the needs which Sàrl Autocars Emile Frisch was planning to meet were already, and at least partly, met by the applicant. The line to which the contested decision relates has been served since 1976, as regards the stops at Aumetz, Errouville, Crusnes and Thil, by the applicant under an authorization issued in accordance with Regulation (EEC) No 517/72; as regards the stops at Beuvillers, Audun-le-Roman and Hussigny, prior applications for a service authorization had been made by the applicant.

(1) OJ No L 272, 21. 9. 1989, p. 18.
(2) OJ No L 67, 20. 3. 1972, p. 19.

Action brought on 27 November 1989 by SA Extramet industrie against the Council of the European Communities

(Case C-358/89)

(90/C 16/12)

An action against the Council of the European Communities was brought before the Court of Justice of the European Communities on 27 November 1989 by SA Extramet industrie, represented by Chantal Momège of the Paris Bar and Aloyse May of the Luxembourg Bar, with an address for service in Luxembourg at the Chambers of Aloyse May.

The applicant claims that the Court should:

— declare the action brought by Extramet industrie against Council Regulation (EEC) No 2808/89 (1) admissible,

— declare that Regulation void,

— in any event, declare recital 24 in the preamble to that Regulation void,

— in the alternative, grant Extramet's request for an exemption.

Contentions and main arguments adduced in support:

The calcium metal produced by the Péchiney company (the Community producer) is not a like product, within the meaning of Council Regulation (EEC) No 2423/88 (2), to the calcium metal imported by the applicant from China and the USSR. The degree of purity of the latter is over 99 %. Thanks to the granulation process invented by the applicant, it can be used in the refining of steels not containing silicon for the purposes of desulphuration, spheroidization of alumina inclusions and deoxidation, and improvement of the cleanness and pourability of the steels. It can also be used for the reduction of rare earths by calcium (calcium thermic reactions) for the production of very strong magnets (iron-neodymium-boron magnets).

The Commission was wrong in calculating the normal value on the basis of the prices applied by Pfizer on the United States domestic market which involve, essentially, transactions between associates within the same group, at prices much higher than market prices.

As regards the injury caused, the Commission was wrong in taking account of Péchiney's production in 1985, which was abnormally high as a result of the complainant's policy of expansion, unjustified in a period of falling consumption. Likewise, the Commission should have taken account of Péchiney's anti-competitive conduct without waiting for a final decision in the proceedings initiated in that respect, in as much as conclusive evidence has been provided of those practices.

(1) OJ No L 271, 20. 9. 1989, p. 1.
(2) OJ No L 109, 2. 8. 1988, p. 1.

Reference for a preliminary ruling by the Tribunal du travail de Nivelles, Wavre Section, by judgment of that court of 4 December 1989 in the case of Caisse d'assurances sociales pour travailleurs indépendants 'Integrity', asbl v. Nadine Leloup, née Rouvroy, and Others

(Case C-373/89)

(90/C 16/13)

Reference has been made to the Court of Justice of the European Communities by judgment of the tribunal du travail [Labour tribunal], Nivelles, Wavre Section, of 4 December 1989, which was received at the Court Registry on 15 December 1989, for a preliminary ruling in the case of Caisse d'assurances sociales pour travailleurs indépendants 'Integrity', asbl v. Nadine Leloup, née Rouvroy, and Others on the following question:

Does Article 37 of the Royal Decree of 19 December 1967 laying down general rules for the implementation of Royal Decree No 38 of 27 July 1967 organizing social security for self-employed persons comply with Directive 79/7/EEC of 19 December 1978 [1] on the progressive implementation of the principle of equal treatment for men and women in matters of social security?

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[1] OJ No L 6, 10. 1. 1979, p. 24.

II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Directive on the approximation of the rates of excise duty on mineral oils (1)

COM(89) 526 final

(Submitted by the Commission on 6 November 1989)

(90/C 16/14)

(1) COM(87) 327 final.

ORIGINAL TEXT	AMENDED PROPOSAL
THE COUNCIL OF THE EUROPEAN COMMUNITIES,	THE COUNCIL OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,	Unchanged
Having regard to the proposal from the Commission,	Unchanged
Having regard to the opinion of the European Parliament,	Unchanged
Having regard to the opinion of the Economic and Social Committee,	Unchanged
Whereas Council Directive ... lays down provisions relating to the structures of excise duty applicable to mineral oils;	Unchanged
Whereas for the purpose of establishing an internal market without frontiers it is necessary to apply common rates of excise duty to each of these products;	Whereas, in order to set in train a process of convergence, it is necessary to fix target rates of excise duty for each of these products;
	Whereas these target rates take account of the Community policies on energy, the environment and transport;
	Whereas, so as not to prejudge the guidelines which the Commission will propose in those areas, the setting of the levels of the target rates will be the subject of a Commission proposal between now and 31 December 1990;
Whereas, it is necessary to provide for the periodic adjustment of those common rates;	Whereas it is necessary to provide for the periodic adjustment of those target rates;
Whereas the excise rate on mineral oils should be charged at a specific rate by reference to a given quantity of the products,	Unchanged
	Whereas these target rates cannot be applied immediately because of the diverse situations in Member States; whereas, therefore, flexibility of rates

ORIGINAL TEXT	AMENDED PROPOSAL
	should be introduced in the form of minimum rates or rate bands in order to achieve a frontier-free internal market by 1 January 1993;
	Whereas this Directive lays down minimum rates, target rates and rate bands; whereas these should be adjusted in line with price movements; whereas such decisions should be taken by the Council under a less burdensome procedure,
HAS ADOPTED THIS DIRECTIVE:	HAS ADOPTED THIS DIRECTIVE:
Article 1	*Article 1*
Not later than 31 December 1992 Member States shall apply common rates of excise duty on mineral oils in accordance with this Directive.	Member States shall apply target rates of excise duty on mineral oils in accordance with this Directive. The levels of those rates shall be the subject of a Commission proposal for a Directive between now and 31 December 1990.
	Article 1a
	Not later than 1 January 1993, Member States shall apply rates which, in accordance with this Directive, will not be less than the minimum rates or, where appropriate, will fall within the prescribed bands.
Article 2	*Article 2*
The mineral oils covered by this Directive are those defined in Directive . . .	Unchanged
Article 3	*Article 3*
The common rates of excise duty laid down in this Directive shall be adjusted periodically in accordance with provisions to be established before 1 January 1989 in directives adopted by the Council acting on proposals from the Commission.	1. Every two years, and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the target rates of duty, the minimum rates and the rate bands laid down herein and shall, acting unanimously, take such measures as are necessary.
	2. In any event, every two years, and for the first time not later than 31 December 1994, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, shall take such measures as are necessary to maintain the real value of the target rates of duty, the minimum rates and the rate bands laid down herein.
Article 4	*Article 4*
The common rate of excise duty on leaded petrol shall be ECU 340 per 1 000 litres. The common rate of excise duty on unleaded petrol shall be ECU 310 per 1 000 litres.	As from 1 January 1993, the minimum rate of excise duty on leaded petrol shall be fixed at ECU 337 per 1 000 litres.
	Article 4a
	As from 1 January 1993, the rate of excise duty on unleaded petrol shall be ECU 50 lower than the rate applicable to leaded petrol.

ORIGINAL TEXT	AMENDED PROPOSAL
Article 5	*Article 5*
The Common rate of excise duty on diesel shall be ECU 177 per 1 000 litres.	As from 1 January 1993, the rate of excise duty on diesel shall be not less than ECU 195 or more than ECU 205 per 1 000 litres.
Article 6	*Article 6*
The common rate of excise duty on heating gas oil shall be ECU 50 per 1 000 litres.	As from 1 January 1993, the rate of excise duty on heating gas oil shall not be less than ECU 47 or more than ECU 53 per 1 000 litres.
Article 7	*Article 7*
The common rate of excise duty on heavy fuel oil shall be ECU 17 per 1 000 kilograms.	As from 1 January 1993, the rate of excise duty on heavy fuel oil shall not be less than ECU 16 or more than ECU 18 per 1 000 kilograms.
Article 8	*Article 8*
The common rate of excise duty on liquid petroleum gas and methane used as road fuel shall be ECU 85 per 1 000 litres.	As from 1 January 1993, the minimum rate of excise duty on liquid petroleum gas and methane used as road fuel shall be ECU 84,5 per 1 000 litres.
Article 9	*Article 9*
1. The common rate of excise duty on kerosene when used as a propellant shall be ECU 340 per 1 000 litres.	1. As from 1 January 1993, the minimum rate of excise duty on kerosene when used as a propellant shall be ECU 337 per 1 000 litres.
2. The common rate of excise duty on kerosene when used for other purposes shall be ECU 50 per 1 000 litres.	2. As from 1 January 1993, the rate of excise duty on kerosene when used for other purposes shall not be less than ECU 47 or more than ECU 53 per 1 000 litres.
Article 10	*Article 10*
Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission of any provisions of national law which they adopt in the field governed by this Directive.	As from 1 January 1993, Member States may adjust their rates of excise duty on mineral oils provided that such adjustments bring their rates more closely into line with the target rates as fixed in accordance with Article 1.
Article 11	*Article 11*
This Directive is addressed to the Member States.	Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission of any provisions of national law which they adopt in the field governed by this Directive. The provisions adopted pursuant to the first paragraph shall make express reference to this Directive.
	Article 12
	This Directive is addressed to the Member States.

Proposal for a Council Regulation (EEC) on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector

COM(89) 641 final

(Submitted by the Commission on 21 December 1989)

(90/C 16/15)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 87 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas Article 85 (1) of the Treaty may, in accordance with Article 85 (3), be declared inapplicable to categories of agreements, decisions and concerted practices which fulfil the conditions contained in Article 85 (3);

Whereas the provisions for the implementation of Article 85 (3) must be adopted by way of regulation pursuant to Article 87;

Whereas cooperation between undertakings in the insurance sector is, to a certain extent, desirable to ensure the proper functioning of this sector and may at the same time promote the interest of consumers;

Whereas exemptions under Article 85 (3) cannot themselves affect Community and national provisions promoting the interests of consumers in this sector;

Whereas agreements, decisions and concerted practices serving such aims may, in so far as they fall within the prohibition contained in Article 85 (1), be exempted therefrom under certain conditions; whereas this applies particularly to agreements, decisions and concerted practices relating to common risk premium tariffs based purely on collectively ascertained statistics or loss experience, standard policy conditions, common coverage of certain types of risks, the settlement of claims, the testing and acceptance of security devices, and registers of and information on aggravated risks;

Whereas in view of the large number of notifications submitted pursuant to Council Regulation No 17 [1], as last amended by the Act of Accession of Spain and Portugal, it is desirable that in order to facilitate the task of the Commission it should be enabled to declare by way of regulation that the provisions of Article 85 (1) do not apply to certain categories of agreements, decisions and concerted practices;

Whereas it should be laid down under which conditions the Commission, in close and constant liaison with the competent authorities of the Member States, may exercise such powers;

Whereas, pursuant to Article 6 of Regulation No 17, the Commission may provide that a decision taken in accordance with Article 85 (3) of the Treaty shall apply with retroactive effect; whereas it is desirable that the Commission be empowered to issue regulations whose provisions are to the like effect;

Whereas, pursuant to Article 7 of Regulation No 17, agreements, decisions and concerted practices may, by decision of the Commission, be exempted from prohibition, in particular if they are modified in such manner that Article 85 (3) applies to them; whereas it is desirable that the Commission be enabled to grant by regulation like exemption to such agreements, decisions and concerted practices if they are modified in such manner as to fall within a category defined in an exempting regulation;

Whereas the possibility cannot be excluded that, in a specific case, the conditions set out in Article 85 (3) may not be fulfilled; whereas the Commission must have power to regulate such a case pursuant to Regulation No 17 by way of decision having effect for the future,

HAS ADOPTED THIS REGULATION:

Article 1

1. Without prejudice to the application of Regulation No 17 the Commission may, by regulation and in accordance with Article 85 (3) of the Treaty, declare that Article 85 (1) shall not apply to categories of agreements between undertakings, decisions of associations of undertakings and concerted practices in the insurance

[1] OJ No 13, 21. 2. 1962, p. 204/62.

sector which have as their object cooperation with respect to:

(a) common risk premium tariffs based purely on collectively ascertained statistics or loss experience;

(b) common standard policy conditions;

(c) the common coverage of certain types of risks;

(d) the settlement of claims;

(e) the testing and acceptance of security devices;

(f) registers of and information on aggravated risks.

2. Such regulation shall define the categories of agreements, decisions and concerted practices to which it applies and shall specify in particular:

(a) the restrictions or clauses which may, or may not, appear in the agreements, decisions and concerted practices;

(b) the clauses which must be contained in the agreements, decisions and concerted practices or the other conditions which must be satisfied.

Article 2

Any Regulation pursuant to Article 1 shall be made for a specified period.

It may be repealed or amended where circumstances have changed with respect to any of the facts which were basic to its being made; in such case, a period shall be fixed for modification of the agreements, decisions and concerted practices to which the earlier regulation applies.

Article 3

A regulation pursuant to Article 1 may provide that it shall apply with retroactive effect to agreements, decisons and concerted practices to which, at the date of entry into force of that regulation, a decision issued with retroactive effect pursuant to Article 6 of Regulation No 17 would have applied.

Article 4

1. A regulation pursuant to Article 1 may provide that the prohibition contained in Article 85 (1) shall not apply, for such period as shall be fixed by that regulation, to agreements, decisions and concerted practices already in existence on 13 March 1962 which do not satisfy the conditions of Article 85 (3), where:

— within six months from the entry into force of the regulation, they are so modified as to satisfy the said conditions in accordance with the provisions of the Regulation, and

— the modifications are brought to the notice of the Commission within the time limit fixed by the regulation.

The provisions of the first subparagraph shall apply in the same way to agreements, decisions and concerted practices existing at the date of accession of new Member States to which Article 85 (1) applies by virtue of accession and which do not satisfy the conditions of Article 85 (3).

2. Paragraph 1 shall apply to agreements, decisions and concerted practices which had to be notified before 1 February 1963, in accordance with Article 5 of Regulation No 17, only where they have been so notified before that date.

As regards agreements, decisions and concerted practices existing at the date of accession of new Member States to which Article 85 (1) applies by virtue of accession and which had to be notified within six months from the date of accession in accordance with Articles 5 and 25 of Regulation No 17, paragraph 1 shall not apply unless they have been so notified within this period.

3. The benefit of the provisions laid down pursuant to paragraph 1 may not be claimed in actions pending at the date of entry into force of a regulation adopted pursuant to Article 1; neither may it be relied on as grounds for claims for damages against third parties.

Article 5

Before making a regulation, the Commission shall publish a draft thereof to enable all persons and organizations concerned to submit their comments within such time limit, being not less than one month, as the Commission shall fix.

Article 6

1. The Commission shall consult the Advisory Committee on Restrictive Practices and Monopolies:

(a) before publishing a draft regulation;

(b) before adopting a regulation.

2. Except where otherwise provided by this Regulation, paragraphs 5 and 6 of Article 10 of Regulation No 17, relating to consultation with the Advisory Committee, shall apply; joint meetings with the Commission shall however take place not earlier than one month after dispatch of the notice convening them.

Article 7

Where the Commission, either on its own initiative or at the request of a Member State or of natural or legal persons claiming a legitimate interest, finds that in any particular case agreements, decisions and concerted practices to which a regulation made pursuant to Article 1 of this Regulation applies have nevertheless certain effects which are incompatible with the conditions laid down in Article 85 (3), it may wirhdraw the benefit of application of that regulation and take a decision in accordance with Articles 6 and 8 of Regulation No 17, without any notification pursuant to Article 4 (1) of Regulation No 17 being required.

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

ECONOMIC AND SOCIAL COMMITTEE

THE ECONOMIC AND SOCIAL COMMITTEE SUPPORTS THE REMOVAL OF FISCAL FRONTIERS

The Economic and Social Committee voted by a very large majority in favour of the harmonization of indirect taxation as from 1 January 1993. The approval of this fiscal package proposed by the Commission is in keeping with the stands taken by the Committee in this area over the last 10 years. While giving its approval the Committee made various requests for clarification, specific suggestions and comments of a technical nature the significance of which will not be lost on those who are required to implement and apply the decisions taken by the Community in one of the areas which most directly affect the citizens and economic operators of Europe.

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