

English edition

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I

(Information)

COMMISSION

Rate of interest applied by the European Monetary Cooperation Fund for its operations in ecus: 10,25 % for April 1991

Ecu (1)

2 April 1991

(91/C 86/01)

Currency amount for one unit:

Belgian and Luxembourg franc	42,3481	Portuguese escudo	180,959
German mark	2,05730	United States dollar	1,21246
Dutch guilder	2,31894	Swiss franc	1,74836
Pound sterling	0,692041	Swedish krona	7,43357
Danish krone	7,89188	Norwegian krone	8,01312
French franc	6,98011	Canadian dollar	1,40427
Italian lira	1535,58	Austrian schilling	14,4767
Irish pound	0,770107	Finnish markka	4,85467
Greek drachma	223,140	Japanese yen	169,259
Spanish peseta	127,781	Australian dollar	1,56648
		New Zealand dollar	2,05327

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. 1984, p. 1).
 Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).
 Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).
 Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).
 Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).
 Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

Ecu

Currency amount for one ecu:

	<i>28. 3. 1991</i>	<i>March (*)</i>		<i>28. 3. 1991</i>	<i>March (*)</i>
Belgian and Luxembourg franc	42,3693	42,2789	Portuguese escudo	180,567	179,069
German mark	2,05891	2,05240	United States dollar	1,20018	1,28059
Dutch guilder	2,32103	2,31348	Swiss franc	1,75166	1,77327
Pound sterling	0,691945	0,700236	Swedish krona	7,41278	7,53498
Danish krone	7,89333	7,88105	Norwegian krone	8,00039	8,01259
French franc	6,97964	6,98529	Canadian dollar	1,39077	1,48131
Italian lira	1532,03	1530,70	Austrian schilling	14,4850	14,4393
Irish pound	0,770481	0,770241	Finnish markka	4,85412	4,90852
Greek drachma	222,729	221,353	Japanese yen	168,565	175,573
Spanish peseta	127,579	127,633	Australian dollar	1,54862	1,65958
			New Zealand dollar	2,04460	2,15433

(*) The monthly average of ecu exchange rates will be published at the end of each month.

Pilot scheme to provide financial aid for translation of contemporary literary works

(91/C 86/02)

The Commission of the European Communities decided to launch a pilot scheme in 1989 to promote the wider circulation of contemporary literary works representative of European culture by providing financial support for translation.

The scheme is being organized on the following lines:

1. Assistance will be granted for the translation of contemporary literary works typical of the culture that produced them and likely to interest a wide European reading public.

In exceptional cases, assistance may be granted for works of importance to European culture written by authors from non-Community countries which are signatories to the European Cultural Convention.

2. 'Contemporary literary works' means literature published for the first time in the twentieth century, preference being given to works published for the first time after 1945. By way of exception, works published at the end of the nineteenth century will also be considered.

3. Priority will be given in descending order, to the translation of:

- works written in one of the Community's minority languages into the more widely spoken languages,
- works written in one of the Community's minority languages into other minority languages,
- works written in a widely spoken Community language into Community minority languages,
- works written in a widely spoken Community language into other widely spoken Community languages, the main emphasis being on less widely translated literature.

4. Assistance will be granted for works whose publication on the European market is not considered viable without a Community grant.

5. Assistance may be granted for the translation of extracts from literary works to enable a publisher wishing to publish a book written in one of the minority languages, but unable to read it in the original, to appraise its literary value and saleability more accurately.

6. The procedure is as follows:

- applications for grants from publishers intending to publish translations covered by sections 1 and 2 must be sent in by 15 September 1991. They must be sent both to the Commission (typewritten, in triplicate) and to the appropriate liaison office listed in Annex 2 (typewritten, in duplicate). The closing date is final and will not be extended. Proof of the date of submission will be the postmark,
- applications must be submitted on the standard form; typed reproductions of the form will not be accepted. The particulars listed in Annex 2 must be attached to the form and sent to the Commission and the liaison office, bound together in a single file (A4 maximum size). Application forms can be obtained from any of the offices listed in Annex 2, or from the Commission's Cultural Activities Division (Office Joseph II 70, 0/8), 200 rue de la Loi, B-1049 Brussels,
- the decision whether or not to grant financial assistance will be taken by the Commission no later than 15 October 1991, after consulting the advisory group of experts, subject to funds being available.

7. The grant will cover the full amount of the translator's fees negotiated in accordance with standard practice in the country concerned. Works translated must be published within the year following that in which the grant was paid. In the event of non-publication, all advances must be repaid.

8. This pilot scheme will take effect from the date of its publication in the *Official Journal of the European Communities* and will run on a trial basis for five years. A new notice will be published each year.

*ANNEX 1***Particulars required in support of applications from publishers wishing to publish the translation of a contemporary literary work**

- Assessment of the potential market
- Evidence that Community support will be of substantial help in ensuring the commercial viability of the translation
- Agreement in principle between the copyright holder(s) and the publisher of the translation
- Scheduled dates for completion and publication, price estimates, draft translation contract, confirmation of the qualifications and skill of the translator
- Marketing plans
- Evidence that the publisher has received no other public financing
- Confirmation that the translator and the Community contribution will both be clearly acknowledged.

*ANNEX 2***Liaison offices****1. BELGIUM**

Commissie van Advies tot bevordering van de Nederlandse letterkunde — Administratie voor Kunst,
Kolonienstraat 29-31,
B-1000 Brussel;

Commission des lettres de la Communauté française,
Galerie Ravenstein 4/28,
B-1000 Bruxelles;

Monsieur Roger Havenith,
Chaussée Romaine 733, boîte 3,
B-1020 Bruxelles

2. DENMARK

Dansk litteraturinformationscenter,
Fru Lise Bostrup,
Amaliegade 38,
DK-1256 København K

3. FEDERAL REPUBLIC OF GERMANY

Europäisches Übersetzerkollegium in Straelen,
D-4172 Straelen — Niederrhein 1

4. GREECE

Κα' Αλκηστις Σουλογιάνη,
Τμήμα Γραμμάτων,
Υπουργείο Πολιτισμού,
Ερμού 17,
GR-10186 Αθήνα

5. SPAIN

Federación de Gremios de Editores de España,
C/Juan Ramón Jiménez, 45-9º Izd.,
E-28036 Madrid

6. FRANCE

Direction du livre et de la lecture,
27, avenue de l'Opéra,
F-75001 Paris

7. IRELAND

Arts Council,
70 Merrion Square,
IRL-Dublin

8. ITALY

Sottocomitato consultivo per gli incentivi alle traduzioni di opera italiane in lingue straniere,
Direzione generale relazioni culturali,
Ministero affari esteri,
Piazzale Farnesina,
I-00194 Roma

9. LUXEMBOURG

Service de littérature du ministère des affaires culturelles,
19-21, rue Goethe,
L-1637 Luxembourg

10. NETHERLANDS

Interim Stichting Nederlands Literair Productie-Vertalingen Fonds,
Singel 464,
NL-1017 AV Amsterdam

11. PORTUGAL

Instituto Português do Livro e da Leitura,
Av. de Berna, 13/4º,
PT-1000 Lisboa

12. UNITED KINGDOM

Dr Alastair Niven,
Director of Literature,
Arts Council of Great Britain,
105 Piccadilly,
UK-London W1U 0AU

Commission of the European Communities offices

BELGIUM

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Joseph II straat 99, B-1040 Brussel
Tel. 235 38 44

DENMARK

København

Højbrohus
Østergade 61
Postbox 144
DK-1004 København K
Tel. 14 41 40

FEDERAL REPUBLIC OF GERMANY

Bonn

Zitelmannstraße 22
D-5300 Bonn
Tel. 53 00 90

Berlin (Suboffice attached to Bonn)

Kurfürstendamm 102
D-1000 Berlin 31
Tel. 892 40 28

München (Suboffice attached to Bonn)

Erhardtstraße 27
D-8000 München 2
Tel. 202 10 11

GREECE

Aθήνα

2 Vassilissis Sofias
Postfach 11002
GR-10674 Athina
Tel. 724 39 82 (3 Anschlüsse)

SPAIN

Madrid

Calle de Serrano 41
5ª Planta
E-28001 Madrid
Tel. 435 17 00/435 15 28

Barcelona

Edificio Atlántico
Av. Diagonal, 407bis
E-08008 Barcelona
Tel. 415 81 77
Fax. 415 63 11

FRANCE

Paris

288, Blvd Saint Germain
F-75007 Paris
Tel. 40 63 40 99

Marseille (Suboffice attached to Paris Office)

C.M.C.I
2, rue Henri Barbusse
F-13241 Marseille Cedex 01
Tel. 91 91 46 00

IRELAND

Dublin

39 Molesworth Street
IRL-Dublin 2
Tel. 71 22 44

ITALY

Roma

Via Poli 29
I-00187 Roma
Tel. 678 97 22

Milano (Suboffice attached to Rome Office)

Corso Magenta 59
I-20123 Milano
Tel. 80 15 05/6/7/8

LUXEMBOURG

Luxembourg

Bâtiment Jean Monnet
Rue Alcide De Gasperi
L-2920 Luxembourg
Tel. 430 11

NETHERLANDS

Den Haag

Korte Vijverberg 5
NL-2513 AB Den Haag
Tel. 346 93 26

PORTUGAL

Lisboa

Centro Europeu Jean Monnet
Rua do Salitre 56
P-1200 Lisboa
Tel. 154 11 44

UNITED KINGDOM

London

Jean Monnet House
8 Storey's Gate
UK-London SW1P 3AT
Tel. 222 81 22

Belfast (Suboffice attached to London)

Windsor House
9/15 Bedford Street
UK-Belfast BT2 7EG
Tel. 24 07 08

Cardiff (Suboffice attached to London)

4 Cathedral Road
UK-Cardiff CF1 9SG
Tel. 37 16 31

Edinburgh (Suboffice attached to London)

7 Alva Street
UK-Edinburgh EH2 4PH
Tel. 225 20 58

Nomination of members of the Board of Directors of the European Foundation for the improvement of living and working conditions

(91/C 86/03)

In accordance with Article 6 of Council Regulation (EEC) No 1365/75 of 26 May 1975 on the creation of a European Foundation for the improvement of living and working conditions ⁽¹⁾, the Commission decided on 20 March 1991 to appoint:

1. as full members to represent the Commission on the Administrative Board of the European Foundation for the improvement of living and working conditions:

Mr J. DEGIMBE	Director-General of Employment, Industrial Relations and Social Affairs,
Mr R. HULL	adviser to the Directorate-General for the Environment, Nuclear Safety and Civil Protection,
Mr R. PETRELLA-TIRONE	Head of unit in the Directorate-General for Science, Research and Development;

2. as alternates on the Administrative Board of the said Foundation:

Ms F. DEVONIC	Head of Unit
Mrs R. LAMBERT	Head of Unit
Mr H. OTT	Head of Unit

⁽¹⁾ OJ No L 139, 30. 5. 1975, p. 1.

UNIFORM APPLICATION OF THE COMBINED NOMENCLATURE (CN)

(Classification of goods)

(91/C 86/04)

Publication of explanatory notes made in accordance with Article 10 (1) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽¹⁾, as last amended by Regulation (EEC) No 315/91 ⁽²⁾

The explanatory notes to the combined nomenclature of the European Communities ⁽³⁾ are amended as follows:

Page 'Chapter 23/4'

2306 90 91 Of germ of maize

The first paragraph is replaced by the following:

'This subheading covers the residues from the extraction of oil of germs of maize obtained by wet or dry processing (see Additional Note 1 to the present Chapter).'

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 37, 9. 2. 1991.

⁽³⁾ The publication *Explanatory Notes to the Combined Nomenclature of the European Communities* is at present available in all language versions, with the exception of Danish and Greek which are in preparation and will be published as soon as possible.

COURT OF JUSTICE

COURT OF JUSTICE

JUDGMENT OF THE COURT

of 28 February 1991

in Case C-234/89 (reference for a preliminary ruling by the Oberlandesgericht Frankfurt am Main): Stergios Delimitis v. Henninger Bräu AG ⁽¹⁾

(Competition — Beer-supply agreements — Effects on intra-Community trade — Block-exemption — Jurisdiction of the national courts)

(91/C 86/05)

(Language of the case: German)

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

In Case C-234/89: reference to the Court under Article 177 of the EEC Treaty by the Oberlandesgericht [Higher Regional Court] Frankfurt am Main for a preliminary ruling in the proceedings pending before that court between Stergios Delimitis and Henninger Bräu AG — on the interpretation of Article 85 of the EEC Treaty and Commission Regulation (EEC) No 1984/83 of 22 June 1983 on the application of Article 85 (3) of the Treaty to categories of exclusive purchasing agreements ⁽²⁾ — the Court, composed of O. Due, President, G. F. Mancini, T. F. O'Higgins, J. C. Moitinho de Almeida and M. Diez de Velasco, Presidents of Chambers, F. A. Schockweiler, F. Grévisse, M. Zuleeg and P. J. G. Kapteyn, Judges; W. Van Gerven, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 28 February 1991, the operative part of which is as follows:

1. *A beer-supply agreement is prohibited under Article 85 (1) of the EEC Treaty if two cumulative conditions are satisfied. In the first place, access to the national market for the distribution of beer on premises for the sale and consumption of drinks must, in the economic and legal context of the agreement at issue, be difficult for competitors who might establish themselves in that market or enlarge their share of it. The fact that, in that market, the agreement at issue is one of a number of similar agreements having a cumulative effect on competition is merely one of several factors for determining whether access to the market is indeed difficult. In the second place, the agreement at issue must contribute significantly to the obstructive effect of the contracts viewed as*

a whole in their economic and legal context. The scale of the contributory rôle played by the individual agreement depends on the position of the contracting parties in the market in question and on the duration of the agreement.

2. *A beer-supply agreement which permits the reseller to buy beer from other Member States is not liable to affect trade between those States, provided that the permission corresponds to a real possibility that a national or foreign supplier will supply the reseller with beers originating in other Member States.*
3. *The conditions governing the application of Article 6 (1) of Commission Regulation (EEC) No 1984/83 of 22 June 1983 on the application of Article 85 (3) of the Treaty to categories of exclusive purchasing agreements are not satisfied if the drinks covered by the exclusive purchasing terms are not listed in writing in the agreement itself but are stated to be those set out in the price-list used by the brewery or its subsidiaries, as amended from time to time.*
4. *The block-exemption under Regulation (EEC) No 1984/83 does not apply to an agreement for supplying beer for premises used for the sale and consumption of drinks leased to the reseller or otherwise made available to him by the supplier, when that agreement includes an undertaking to purchase drinks other than beer, unless it meets the requirement laid down in Article 8 (2) (b) of the Regulation.*
5. *A national court may not extend the scope of Regulation (EEC) No 1984/83 to beer-supply agreements which do not explicitly meet the conditions for exemption contained in it. Similarly, the national court may not by virtue of Article 85 (3) declare Article 85 (1) of the Treaty to be inapplicable to such an agreement. It may, however, declare the agreement void under Article 85 (2) if it is convinced that the agreement could not be the subject of a decision exempting it under Article 85 (3).*

⁽¹⁾ OJ No C 238, 16. 9. 1989.

⁽²⁾ OJ No L 173, 30. 6. 1983, p. 5.

Reference for a preliminary ruling made by the High Court of Justice, Queen's Bench Division, by order of that court dated 19 October 1990 in the case of the Queen against the Immigration Appeal Tribunal and Mr Surinder Singh, *ex parte*: Secretary of State for the Home Department

(Case C-370/90)

(91/C 86/06)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by an order of the High Court of Justice, Queen's Bench Division, of 19 October 1990 in the proceedings between The Queen and the Immigration Appeal Tribunal and Mr Surinder Singh, *ex parte*: Secretary of State for the Home Department, which was lodged at the Court Registry on 17 December 1990 on the following question:

Where a married woman who is a national of a Member State has exercised Treaty rights in another Member State by working there and enters and remains in the Member State of which she is a national for the purposes of running a business with her husband, do Article 52 of the Treaty of Rome and Council Directive 73/148/EEC of 21 May 1973 entitle her spouse (who is not a community national) to enter and remain in that Member State with his wife?

Reference for a preliminary ruling made by the Court of Appeal by order of that court dated 21 December 1990 in the case of Sonia Jackson against the Chief Adjudication Officer

(Case C-63/91)

(91/C 86/07)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by an order of the Court of Appeal, of 21 December 1990 in the proceedings between Sonia Jackson and The Chief Adjudication Officer which was lodged at the Court Registry on 14 February 1991 on the following questions:

1. Is supplementary allowance — which was a benefit available in a variety of personal circumstances to persons whose means were insufficient to meet their statutory requirements and who may or may not have suffered from one of the risks listed in Article 3 of Directive 79/7/EEC — within the scope of Article 3 of Directive 79/7/EEC?

2. Is the answer to question 1 the same in all cases or does it depend upon whether a person is suffering from one of the risks listed in Article 3 of Directive 79/7/EEC?

3. Are the conditions of entitlement for receipt of supplementary allowance capable of falling within Directive 76/207/EEC where those conditions relate solely to access to supplementary allowance but the effect of application of those conditions may be such as to affect the ability of a single parent to take up access to vocational training?

Reference for a preliminary ruling made by the Court of Appeal by order of that court dated 21 December 1990 in the case of Patricia Cresswell against the Chief Adjudication Officer

(Case C-64/91)

(91/C 86/08)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by an order of the Court of Appeal, of 21 December 1990 in the proceedings between Patricia Cresswell and The Chief Adjudication Officer which was lodged at the Court Registry on 14 February 1991 on the following questions:

1. Is income support — which is a benefit available in a variety of personal circumstances to persons whose means are insufficient to meet their needs as defined by statute and who may or may not have suffered from one of the risks listed in Article 3 of Directive 79/7/EEC — within the scope of Article 3 of Directive 79/7/EEC?

2. Is the answer to question 1 the same in all cases or does it depend upon whether a person is suffering from one of the risks listed in Article 3 of Directive 79/7/EEC?

3. Are the conditions of entitlement for receipt of income support capable of falling within Directive 76/207/EEC where those conditions relate solely to access to income support but the effect of the application of those conditions may be such as to affect the ability of a single parent to take up part-time employment?

Action brought on 13 February 1991 by the Commission of the European Communities against the Hellenic Republic

(Case C-65/91)

(91/C 86/09)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 13 February 1991 by the Commission of the European Communities, represented by Theophanis Christoforou and Maria-Anna Paraskevas, members of its Legal Department, with an address for service in Luxembourg at the office of Guido Berardis, a member of its Legal Department, Wagner Building, Kirchberg.

The applicant claims the Court should:

1. Declare that by including matches (heading No 36.06 of the Common Customs Tariff) in its unpublished 'List D', resulting in refusal to issue import permits for those products originating in Sweden and, for a certain period, in Bulgaria, the Hellenic Republic has failed to fulfil its obligations under Article 1 (2) of Regulation (EEC) No 288/82 ⁽¹⁾, Article 6 of Regulation (EEC) No 3420/83 ⁽²⁾, as amended, and Article 13 of the 1972 Agreement between the European Economic Community and the Kingdom of Sweden, as amended by the 1980 Additional Protocol to the Agreement consequent upon the accession of the Hellenic Republic to the Community ⁽³⁾;
2. Declare that by refusing to produce to the Commission the laws, regulations and other provisions concerning the importation procedure, in particular those concerning 'List D', and the provisions applicable at the time of the refusal to issue import permits and/or at present, the Hellenic Republic has failed to fulfil its obligations under Article 5 (1) of the EEC Treaty;
3. Order the Hellenic Republic to pay the costs.

Contentions and main arguments adduced in support:

Before the accession of the Hellenic Republic to the European Communities the production and sale of matches was subject to a State monopoly of a commercial character.

Article 40 (1) of the Act of Accession of the Hellenic Republic to the European Communities provides that State monopolies of a commercial character must be adjusted by 31 December 1985. Consequently, from 1 January 1986 no restriction could be applied to the importation into Greece of matches from non-member countries unless such restrictions were provided for in the relevant provisions of Community law. It appears from the information given to the Commission by the complainant companies that from 7 May 1986 the Greek authorities imposed as a condition for the importation of matches from non-member countries the issue of a permit as described above, although neither for matches from Bulgaria or matches from Sweden was any quantitative restriction provided for in the relevant legislation (Regulations (EEC) No 3420/83 and (EEC) No 288/82 respectively, and the 1972 Agreement between the EEC and Sweden). Although Articles 24 to 27 of the Agreement with Sweden lay down procedures for the adoption of protective measures, the Greek authorities did not make use of those procedures but instead submitted on 21 July 1987 a request for Community surveillance under Regulation (EEC) No 288/82, on the ground that the market share of the national match company, which enjoyed a monopoly before the accession of Greece to the Communities, had fallen to 60 %. On 3 August 1987 the Commission refused to order Community surveillance, but allowed Greece to apply national surveillance. For those reasons the Commission considers that at least for the period from February to 3 August 1987 the defendant has failed to fulfil its obligations under Article 1 (2) of Regulation (EEC) No 288/82 and Article 13 of the 1972 Agreement between the EEC and Sweden, as subsequently amended. Since the defendant has failed to notify to the Commission the national surveillance measures taken on 3 August 1987, as required by Articles 12 (3) and 14 of Regulation (EEC) No 288/82, it has also failed to fulfil its obligations under those provisions.

Moreover, the refusal of the Greek authorities to cooperate with the Commission and provide the necessary information on 'List D', which is drawn up by the Ministry of Commerce and kept secret by the Bank of Greece without ever being published, constitutes an infringement of Article 5 (1) of the EEC Treaty.

⁽¹⁾ OJ No L 35, 9. 2. 1982, p. 1.

⁽²⁾ OJ No L 346, 8. 12. 1983, p. 6.

⁽³⁾ OJ No L 300, 31. 12. 1972, p. 186; and OJ No L 357, 30. 12. 1980, p. 104.

Action brought on 15 February 1991 by Emerald Meats Limited against the Commission of the European Communities

(Case C-66/91)

(91/C 86/10)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 15 February 1991 by Emerald Meats Limited, of Emerald House, 8 Herbert Street, Dublin, represented by John Ratliff, Barrister of the Middle Temple, and Elisabethann Wright, Barrister of the Inn of Court of Northern Ireland; instructed by John Lavery, of Lavery, Kirby & Company Solicitors, Main Street, Blackrock, Co. Dublin, with an address for service c/o Stanbrook and Hooper, 3 rue Thomas Edison, L-1445 Luxembourg.

The applicant claims that the Court should:

1. Annul the Commission's decision, dated 6 February 1991, to the extent that it indicates that the Commission has decided to:
 - allocate the 1991 GATT quota concerned, without ensuring that Emerald Meats receives its entitlement in 1990 and 1991,
 - withhold the issue of the corresponding import licences until after proceedings before the national courts, and
 - prohibit issue of import licences until the final outcome of those proceedings, unless a guarantee equivalent to the levy increased by 20 % is provided;
2. Order damages from the European Community for the loss which Emerald Meats has and will suffer as a result of the Commission's failure to administer and manage the 1991 allocation of the said Community tariff quota in accordance with Community Law;
3. Order interest to be paid on such damages;
4. Order the Commission to pay the applicant's costs in the action.

Contentions and main arguments adduced in support:

The application relates to Emerald Meats' entitlement to GATT quota pursuant to Commission Regulation (EEC)

No 3885/90. The case follows chronologically from cases C-106/90 ⁽¹⁾ and C-371/90 ⁽²⁾.

The decision of 6 February 1991 is a telex from the Director-General for Agriculture to the United Kingdom and Irish authorities which is contrary to the Treaty because:

1. The Commission cannot lawfully take a decision and adopt a regulation allocating the 1991 GATT quota to the traders concerned, and then order that licences will not be issued to certain applicants pending a national court ruling. That is not Community management of the Community quota.
2. The whole approach of the Commission is based upon the incorrect premise that there are 'dual', matching and numerically identical applications. This is wrong because only Emerald Meats' application is valid. Nor are the imports claimed by Emerald Meats and the beef processors in Ireland the same. The figure for 'dual' applications which the Commission proposes to use in its decision apportioning and allocating 1991 quota will therefore be wrong, as will be the corresponding regulation. The decision and regulation will therefore be unlawful to that extent.
3. The whole approach of the Commission that Emerald Meats' entitlement can be put into abeyance for some brief period (i.e. until after the hearings before the Irish courts) is also wrong. There is a clear risk that the Irish proceedings may be delayed, and that judgment may not be received for some time.
4. The Commission has no power under the regulations concerned to require provision of the proposed guarantee, increased by 20 %. The requirement is unlawful and penal and will in effect prevent Emerald Meats from using its entitlement. Moreover, the Commission appears to be using the guarantee for the ulterior purpose of giving the Commission and/or the relevant authorities a form of insurance against possible claims.

⁽¹⁾ OJ No C 126, 22. 5. 1990, p. 3.

⁽²⁾ OJ No C 310, 11. 12. 1990, p. 11.

5. Such a requirement is moreover totally unreasonable. Emerald Meats simply does not have the means to provide such a guarantee for the tonnage to which it is entitled. The requirement is unlawful and infringes the principle of proportionality.

3. Is Article 12 (2) of the Directive compatible with certain provisions of national law (Articles 36 (8) and 8bis of Law No 154 of 27 April 1989) which impose on public limited companies [società per azioni] falling under Article 3 of the Directive annual charges which are not quantified on the basis of the cost of the service and which are higher than the charges applied within the territory of the State to private limited capital companies [società di capitali a responsabilità limitata] in respect of like transactions?

4. Should the annual State fee for entering a company in the companies' register, imposed by Article 36 (8) of Law No 154 of 27 April 1989, be viewed as a tax prohibited under Article 10 of the Directive?

Reference for a preliminary ruling by the Tribunale di Genova by order of that court of 14 January 1991 in the case of Ponente Carni SpA v. Amministrazione delle Finanze

(Case C-71/91)

(91/C 86/11)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunale di Genova [District Court, Genoa] of 14 January 1991, which was received at the Court Registry on 21 February 1991, for a preliminary ruling in the case of Ponente Carni SpA v. Amministrazione delle Finanze [Italian Finance Administration] on the following questions:

1. Are 'duties paid by way of fees or dues' within the meaning of Article 12 (1) (e) of Council Directive 69/355/EEC ⁽¹⁾ of 17 July 1969 ⁽²⁾ to be construed as meaning solely charges made for optional services performed individually by the public authorities in the specific interests of the person requesting them, or do they cover the broader concept of charges generally imposed for services performed in the public interest?
2. Do the administrative acts performed by the State in order to 'maintain the appropriate machinery for making public all documents relating to the conduct of companies' acquire by virtue of Community law the nature of a service performed individually and giving rise to a claim for payment of a precuniary charge in accordance with Article 12 (1) (e) of the said Directive and, if so, is Article 12 (1) (e) of that Directive compatible with national legislation which makes a company within the meaning of Article 3 thereof liable for the payment of charges which are not quantified on the basis of the cost of the service?

Reference for a preliminary ruling by the Supremo Tribunal Administrativo, Lisbon, by order of that court of 14 February 1991 in the case of Caves Neto Costa SA v. Minister for Trade and Tourism and Secretary of State for Foreign Trade

(Case C-76/91)

(91/C 86/12)

Reference has been made to the Court of Justice of the European Communities by an order of the Supremo Tribunal Administrativo [Supreme Administrative Court] Lisbon of 14 February 1991, which was received at the Court Registry on 25 February 1991, for a preliminary ruling in the case of Caves Neto Costa SA v. Minister for Trade and Tourism and Secretary of State for Foreign Trade on the following questions:

1. Does the progressive adjustment as from 1 January 1986 by the Portuguese Republic of monopolies of a commercial character, so as to ensure that by 1 January 1993 no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States, require the Portuguese Republic, with regard to the monopoly over the importation of pure alcohol exercised by a public body, the Administração-Geral do Açúcar e do Alcool, to establish quotas for free importation from the other Member States for each of

⁽¹⁾ Council Directive 69/335/EEC is meant.

⁽²⁾ Official Journal, English Special Edition 1969 (II), p. 412.

- the years comprised in the transitional period, or else does it allow such quotas to be established after the first years of the period in question have elapsed?
2. If the second alternative is correct, as from what date within the transitional period is it reasonable to expect the Portuguese Republic to open up the exclusive right to import pure alcohol by fixing quotas for free importation?
3. Are the quotas specified by the Commission in its recommendation of 8 October 1987, which is expressly provided for in Article 208 (1) of the Act of Accession, to be regarded as correct so far as ethyl alcohol is concerned?

COURT OF FIRST INSTANCE

Action brought on 26 February 1991 by Michael Harrison against the Commission of the European Communities

(Case T-13/91)

(91/C 86/13)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 26 February 1991 by Michael Harrison, of Ainsdale, Southport (United Kingdom), represented by Albert Rodesch, of the Luxembourg Bar, with an address for service in Luxembourg at his Chambers, 7-11 route d'Esch.

The applicant claims that the Court of First Instance should:

- Annul the decision of 4 October 1990 of the Personnel Division,

- Order the Commission to pay the costs.

Contentions and main arguments adduced in support:

The applicant claims that the contested decision infringes Article 59 of the Staff Regulations of Officials and Article 9 of the Rules on Sickness Insurance for Officials of the European Communities. He considers that the Commission's decision to regard his absences as unauthorized and to suspend payment of his salary, a decision adopted without a prior medical examination allowing him to repudiate the medical certificates produced, is unjustified and improper.

III

(Notices)

COMMISSION

Notice of invitation to tender — Contract for the provision of technical assistance services for implementation of the Euroform, Now and Horizon Community initiatives

(91/C 86/14)

I. PURPOSE AND ELIGIBILITY

1. Summary of the subject of the contract

The Commission of the European Communities requires the services of a company or body to implement support measures relating to the management, coordination and technical administration of the Community initiatives concerned. More specifically, the company selected will be responsible, subject to the Commission's authority, for managing the technical assistance relating to the Community initiatives which will, in particular, include the following:

- (a) assisting the Commission to define the operational principles and long-term development strategy for the Community initiatives;
- (b) preparing seminars, workshops, round tables and conferences required to develop the component actions of the Community initiatives (i.e. preparation of documentation, timetables, general organizational support, . . .);
- (c) searching for and putting forward the technical experts required in order to implement supporting measures according to location and area of expertise;
- (d) at the request of the Commission or Member States, producing working documents on matters arising out of the daily application of the Community initiatives;
- (e) maintain liaison between the various parties involved in the Community initiatives;
- (f) identifying operations with a multiplier effect;

- (g) putting together transnational partnerships which give priority to linking projects located in Objective 1 regions;
- (h) creating or developing support structures such as networks;
- (i) creating linkages between the Community initiatives and the other programmes supported by them (Force, Eurotecnet, LEDA, ERGO, IRIS, Helios, etc.);
- (j) assisting operators with the technical and financial preparation of applications for assistance, making use of the existing structures for the implementation of programmes supported by the Community initiatives;
- (k) follow-up of projects, optimization and dissemination of information on work accomplished;
- (l) drawing up monthly progress reports on the implementation of Community initiatives;
- (m) all such tasks connected with implementation of the Community initiatives as the Commission sees fit to have carried out.

2. Applicant organizations

- 2.1. The organization or group of partner organizations concerned must either have, or be prepared to establish, suitable offices in Brussels. It must be capable of offering linguistic expertise in several of the Community languages. It will have established know-how in areas related to vocational training, chiefly as regards the new occupational qualifications, new skills and the new employment opportunities which should be generated by completion of the single market and technological change.

It will also possess demonstrable experience in occupational training of the target groups covered by the Community initiatives, namely women, the disabled and groups of individuals with specific problems in economic, social and occupational integration.

The company will likewise possess a sound understanding of and practical experience in Community vocational training networks, which is of paramount importance for technical assistance in the organization of transnational partnerships. Finally, the successful company will have correspondents in Objective 1 regions, which these Community initiatives are primarily intended to benefit and, in so far as possible, will be relatively familiar with the administrative procedures of the ESF and Community training programmes.

- 2.2. By way of guidance, and subject to such more detailed provisions as may be found in the general conditions of contract, the Commission is looking for assistance from a team of not more than 10 people during the preliminary phase to be increased to not more than 20 people by 1 January 1992.

3. Legal basis

The legal basis of the technical assistance provided by the successful company will be a contract annually renewable for the duration of the Community initiatives commencing in September 1991. The contract will contain the general conditions applied by the Commission to this type of contract; details will be found in the tender dossier.

II. PROCEDURE

1. Conditions of contract

The conditions of contract are available from: Commission of the European Communities, Directorate-General for Employment, Industrial Relations and Social Affairs — V/D/1, 200 rue de la Loi, B-1049 Brussels — For the attention of: Mr G. Katzourakis — from 15 April 1991.

2. Receipt of tenders

- 2.1. Tenders must be sent to: Commission of the European Communities, Directorate-General for Employment, Industrial Relations and Social Affairs — V/D/1, 200 rue de la Loi, B-1049 Brussels — For the attention of: Mr G. Katzourakis, Arch. 1/23, not later than 9 May 1991, before 5 p.m. if delivered by hand.

2.2. Tenders must be sent:

- (a) preferably by post; or
- (b) delivered by hand to the official mentioned in the preceding paragraph.

Tenders sent by post must be registered.

- 2.3. Proof of the date of submission will be the postmark or, if delivered by hand, the receipt dated and signed by the official of the DG/V/D1 designated as authorized to receive tenders.

- 2.4. Tenders must be placed inside two sealed envelopes. The inner envelope, addressed to the department specified in the invitation to tender, must be marked as follows: 'Invitation to tender No V/91/002 from (name of organization). Not to be opened by the internal mail department'. Self-adhesive envelopes which can be opened and resealed without trace may not be used.

2.5. The tender must include:

- the articles of the body corporate submitting the tender,
- the organization chart of the team responsible for the programme of work,
- an itemized budget for the periods of application of the contract submitted on the basis of the conditions of contract taking account of the fact that the Commission is exempt from all duties and taxes, including VAT.

- 2.6. Tenders, which may be written in any official Community language, must be submitted in triplicate to the address mentioned above.

3. Selection procedures

- 3.1. Tenders will be evaluated in accordance with the following criteria:

- the organization's ability, duly demonstrated by the tenderer, to meet the requirements summarized in the present notice and defined in detail in the conditions of contract,
- the proposed budget,

- the professional and financial guarantees given by the tenderer and the capacity of the body corporate.
- 3.2. Tenders must remain valid for a period of 3 months from the final date for receipt of tenders.
- 3.3. The envelopes containing tenders will be opened by an ad hoc committee, which will open the envelope at 5 p.m. o'clock on 9 May 1991. It will be responsible for ensuring that the procedures for submitting tenders have been complied with.
- 3.4. The Commission reserves the right to deal with the body corporate of its choice.
- 3.5. Tenderers will be informed of the results of their tender.
- 3.6. The financial terms of the contract are fixed in ecus. The total contract amount is proportionate to the Commission's available budget.

Call for tenders relating to the establishment and management of an intermediate support structure for the implementation of initiatives undertaken by the Commission in the context of interventions cofinanced by the Structural Funds

(91/C 86/15)

1. Commission of the European Communities, Directorate-General for Regional Policy, Bâtiment CSTM 8/151, rue de la Loi 200, B-1049 Bruxelles, telephone 32 2 236 07 19, telefax 32 2 236 43 15.
2. Call for tenders invited under open procedure No 91/104.
3. **Site:** Brussels and Community regions.
4. **Subject:** The Community Support Frameworks and the forms of intervention derived from them are, in accordance with the legislation arising from the reform of the Structural Funds, being implemented in a partnership framework.
- In this context, the Commission intends to call on the support of an external structure which will be tasked with the organization and management of a limited number of initiatives which will take on issues of a horizontal character to facilitate, within the partnership framework, the implementation of interventions cofinanced by the structural funds.
- The duties to perform will be essentially operational in character. They will be concerned with the management and logistic organization of initial research, working groups, seminars, and conferences at national and international level, as well as responsibility for translation, publication and distribution of the results of these activities.
5. Tender documents, including the schedule of conditions and an application form, can be obtained free from the address referred to above at paragraph 1. Requests should be made only in writing or by telefax.
6. **Deadline for requests for the tender documents:** 26 April 1991.
7. **Deadline for receipt of tenders:** 13 May 1991.
8. **Date of submission of notice:** 22 March 1991.
9. **Date of receipt of notice by the OPOCE:** 22 March 1991.

