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Information and Notices

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Commission

I

(Information)

COMMISSION

Ecu (1)

3 June 1992

(92/C 142/01)

Currency amount for one unit:

Belgian and Luxembourg franc	42,2390	United States dollar	1,27629
Danish krone	7,92771	Canadian dollar	1,53309
German mark	2,05228	Japanese yen	162,983
Greek drachma	246,478	Swiss franc	1,87296
Spanish peseta	128,325	Norwegian krone	8,01386
French franc	6,91114	Swedish krona	7,40060
Irish pound	0,769084	Finnish markka	5,58379
Italian lira	1550,06	Austrian schilling	14,4426
Dutch guilder	2,31163	Icelandic krona	73,9230
Portuguese escudo	170,360	Australian dollar	1,67603
Pound sterling	0,701839	New Zealand dollar	2,37450

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).

Average prices and representative prices for table wines at the various marketing centres (*)

(92/C 142/02)

(Established on 2 June 1992 for the application of Article 30 (1) of Regulation (EEC) No 822/87)

Type of wine and the various marketing centres	ECU per % vol/hl
R I	
Heraklion	No quotation
Patras	No quotation
Requena	1,964
Reus	No quotation
Villafranca del Bierzo	No quotation (1)
Bastia	2,879
Béziers	3,043
Montpellier	2,989
Narbonne	3,166
Nîmes	3,002
Perpignan	No quotation
Asti	No quotation
Florence	2,214
Lecce	No quotation
Pescara	No quotation
Reggio Emilia	No quotation
Treviso	2,753
Verona (for local wines)	No quotation
Representative price	3,022
R II	
Heraklion	No quotation
Patras	No quotation
Calatayud	No quotation
Falset	No quotation
Jumilla	No quotation (1)
Navalcarnero	No quotation (1)
Requena	No quotation
Toro	No quotation (1)
Villena	No quotation (1)
Bastia	2,672
Brignoles	No quotation
Bari	2,299
Barletta	2,299
Cagliari	No quotation
Lecce	No quotation
Taranto	No quotation
Representative price	2,486
	ECU/hl
R III	
Rheinpfalz-Rheinhessen (Hügelland)	No quotation

Type of wine and the various marketing centres	ECU per % vol/hl
A I	
Athens	No quotation
Heraklion	No quotation
Patras	No quotation
Alcázar de San Juan	No quotation
Almendralejo	No quotation
Medina del Campo	No quotation (1)
Ribadavia	No quotation
Villafranca del Penedés	No quotation
Villar del Arzobispo	No quotation (1)
Villarrobledo	No quotation (1)
Bordeaux	No quotation
Nantes	No quotation
Bari	2,299
Cagliari	No quotation
Chieti	No quotation (1)
Ravenna (Lugo, Faenza)	2,725
Trapani (Alcamo)	2,498
Treviso	2,753
Representative price	2,592
	ECU/hl
A II	
Rheinpfalz (Oberhaardt)	42,97
Rheinhessen (Hügelland)	44,92
The wine-growing region of the Luxembourg Moselle	No quotation (1)
Representative price	43,933
A III	
Mosel-Rheingau	No quotation
The wine-growing region of the Luxembourg Moselle	No quotation (1)
Representative price	No quotation

(*) Since 1 September 1991, the Spanish prices published are to be multiplied by a factor of 1,07 for the ratio between the Community and Spanish guide prices, in accordance with Regulation (EEC) No 481/86 of 25 February 1986.

(1) Quotation not taken into account in accordance with Article 10 of Regulation (EEC) No 2682/77.

STATE AID

No 162/92

Belgium

(92/C 142/03)

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

Commission notice pursuant to Article 93 (2) of the EEC Treaty to the Member States and other interested parties concerning a draft Royal Decree amending the Royal Decree of 31 July 1989 on compulsory contributions to promote sales of products covered by the Advisory Section for Poultry and Small Livestock set up within the Office National des Débouchés Agricoles et Horticoles (ONDAH) *(Moniteur Belge* of 24 August 1989, page 14616)

By the letter set out below, the Commission informed the Belgian Government of its decision to initiate the procedure.

'1. By letter of 19 February 1992, recorded as received on 21 February 1992, the Belgian Permanent Representative to the European Communities notified the Commission of the abovementioned draft aid measure.

2. The notification concerns a draft Royal Decree amending the Royal Decree of 31 July 1989 referred to above.

The amendment entails:

A. extending the existing arrangements to layers and broilers;

B. extending the period of application of the Royal Decree indefinitely.

3. As regards the arrangements provided for in the Royal Decree of 31 July 1989, the Commission has initiated the procedure provided for in Article 93 (2) of the Treaty [1] in respect of the aids for the promotion of sales of poultry and small livestock products on account of their method of financing.

The method of financing involves the collection of a charge on slaughter, which is also payable on livestock imported from other Member States (levy on each animal slaughtered). It also involves the collection of a compulsory charge payable by "specialized importers" of compound feedingstuffs imported from other Member States; "specialized importers" are importers whose work involves importing only and who import compound feedingstuffs solely from Member States.

The arrangements provided for in the Royal Decree referred to above were in force until 31 December 1990.

4. The arrangements were extended to apply until 31 December 1991 and to cover rabbits (levy collected per animal and on the quantity of meat concerned). The Commission initiated the procedure [2] in respect of the extension of the aids and their financing by the collection of compulsory charges on rabbits.

5. The notification of the new extension of the existing arrangements does not contain any new elements allowing for a change in the Commission's position as set out in its letters of 30 November 1990 and 31 July 1991.

6. Admittedly the extension of the collection of compulsory charges to cover layers and broilers does not alter the appraisal of the aids provided for in the Royal Decree of 31 July 1989. The aim of aids thus financed is not affected by that extension; moreover, as the compulsory charges on these two products are collected on the basis of production (flat-rate annual contribution) and not on the basis of quantities purchased, or where applicable imported from other Member States, produced or sold, they do not provide protection over and above the aids proper.

Nevertheless, since the product of the charges collected is paid into a joint fund for poultry and small livestock products, it is not possible to isolate aids for holders of layers and broilers from the aids referred to above. There is thus no reason for a change in the Commission's appraisal of the aids provided for in the Royal Decree of 31 July 1989, as amended by the Royal Decree of 5 August 1991, as a result of the extension of the collection of the charges.

[1] Letter No SG(89)D/15032 of 30 November 1989 to the Belgian Government (OJ No C 24, 1. 2. 1990, p. 13).

[2] Letter No SG(91)D/14.912 of 31 July 1991 to the Belgian Government (OJ No C 302, 22. 11. 1991, p. 4).

The procedure provided for in Article 93 (2) of the Treaty should accordingly be initiated with regard to the draft Royal Decree providing for an extension of the aid scheme referred to above on account of the way it is financed.

7. Under that procedure, the Commission hereby gives notice to the Belgian Government to submit its comments within four weeks of the date of this letter.

The Commission reminds the Belgian Government that in accordance with Article 93 of the Treaty, the measures contemplated connot be implemented before the procedure provided for in paragraph 2 of that Article has resulted in a final decision.

The Commission also informs the Belgian Government that it will be giving notice to the Governments of the other Member States and interested parties other than the Member States to submit their comments by publishing a notice in the *Official Journal of the European Communities.*'

The Commission hereby gives notice to the other Member States and interested parties to submit their comments on the measures concerned within one month from the date of publication of this notice to the following address:

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

The comments will be forwarded to the Belgian Government.

Notice to the Member States laying down guidelines for operational programmes which Member States are invited to establish within the framework of a Community initiative for regions heavily dependent on the textiles and clothing sector

(92/C 142/04)

1. At its meeting on 13 May 1992, the Commission of the European Communities decided to establish a Community initiative for regions heavily dependent on the textiles and clothing sector (hereinafter referred to as Retex), within the meaning of Article 11 of Council Regulation (EEC) No 4253/88 [1].

I. Aims

2. The purpose of the Community initiative is to accelerate the diversification of economic activities in regions heavily dependent on the textiles and clothing sector so as to render them less dependent on this sector and to encourage the adjustment of commercially viable businesses in all sectors of industrial activity.

II. Eligible measures

3. Measures are intended to assist all sectors of industrial activity in regions eligible for Retex. The measures qualifying in a given area will complement the schemes to assist industry, which include assistance for investment in production equipment, contained in the relevant Community support framework.

Programmes submitted by Member States should consist of a balanced set of measures.

These measures may include:

(a) improving know-how by providing businesses with aid to pay for advisory services, and the equipment (excluding machines for production) to put the advice into practice, in the fields of design, quality control, computer-aided manufacturing and planning, marketing and internal business organization, and the health and security of the workforce;

(b) aid for the formation of local associations of businesses and other cooperation schemes for the purposes of:

— improving know-how in the areas described under (a) above,

— accelerating the spread of innovative production methods and new forms of business organization,

— research and development,

— marketing and diversification of products,

— strengthening links between firms and their suppliers and customers in order to meet new requirements for flexibility and quality,

— improving information on market trends in association with schemes to support design, quality and marketing,

— creating networks of contacts elsewhere in the same Member State and the rest of the Community in connection with the above measures;

(c) the setting up of a team to provide ideas and advice coordinated with aid schemes (particularly those listed under (a) and (b) above) to sectors which comprise large numbers of small and medium-sized businesses in the form of internal audits of firms, awareness of their changing environment, and counselling when defining and implementing their modernization plans;

(d) temporary contributions towards paying engineers, technical staff and managers who are recruited to help in implementing modernization plans drawn up with the assistance of outside experts, particularly the team referred to in (c);

(e) vocational training schemes for staff of businesses, associations of businesses and providers of joint services based in the region concerned, and for staff in textile and clothing firms faced with redundancy or already unemployed;

(f) the rehabilitation of industrial wasteland, including restoring redundant industrial buildings; aid to reduce pollution caused by industry, especially aid to facilitate the treatment and recycling of liquid effluent and industrial waste and for technical assistance intended to promote the development of less polluting production and maintenance processes;

(g) improving access to venture capital and loans.

[1] OJ No L 374, 31. 12. 1988, p. 1.

Member States should ensure that firms benefiting respect national legislation concerning working conditions.

III. Eligible zones

4. The zones eligible for Retex are those which are heavily dependent on the textile and clothing sector which are eligible for assistance from the European Regional Development Fund under Objectives 1, 2 and 5 (b).

All of the zones which meet the criteria in paragraph 6 below used for the determination of the apportionment of assistance between Member States do not need to be included necessarily in the operational programmes submitted by Member States. Equally, the operational programmes may include other Objective 1, 2 or 5 (b) areas heavily dependent on the textile and clothing sector but not meeting all of the criteria set out in paragraph 6.

Member States are invited to concentrate Retex on the zones for which the present or anticipated difficulties are the greatest.

When submitting proposals for operational programmes implementing Retex, the Member States will communicate the list and geographical definition of these zones to the Commission.

From 1 January 1994 onwards, zones heavily dependent on the textile and clothing sector within the five East German Länder, and other zones heavily dependent on the textile and clothing sector becoming eligible under Objectives 1, 2 or 5 (b), can become eligible to Retex. This possibility may also be extended to a limited extent to other areas heavily dependent on the textile and clothing sector if the flexibility for Community initiatives to include such areas is established in the amended legislation governing the structural Funds.

IV. The Community's contribution to finance the Retex initiative

5. Operational programmes under Retex are jointly financed by the Member State and the Community. The financial requirement up to the end of 1993 for the Community contribution to Retex is estimated at ECU 100 million. It is expected that Retex will run for a further four years over the period 1994 to 1997, the Community assistance during this period being of the order of ECU 400 million, which will be financed from the appropriations for the structural Funds to be decided for the period beyond 1993 in the framework of the financial guidelines for the period 1993 to 1997.

To the extent that additional zones become eligible for Retex from 1 January 1994 onwards, the Commission reserves the right to review the amount of the Community contribution to Retex.

6. The assistance provided by the Community to Member States will be allocated to the extent of 80 % in relation to the dependency on the textile and clothing sector in Objective 1 areas and to the extent of 20 % in relation to such dependency in Objective 2 and 5 (b) areas. In each of these groups, the apportionment among the Member States will depend on the current level of employment in the textiles and clothing sector in regions or groups of adjoining regions, at the NUTS III level, which meet the following criteria:

— eligible for assistance under Objectives 1, 2 and 5 (b),

— have at least 2 000 jobs in the textiles and clothing industries,

— have a level of employment in textiles and clothing which is greater than 10 % of overall industrial employment.

At the latest one month after the publication of these guidelines in the *Official Journal of the European Communities*, Member States wishing to benefit from Retex shall submit to the Commission the list of regions satisfying these criteria and the statistics of employment relating to them.

V. Implementation

7. Member States wishing to benefit from Retex are invited to present operational programmes within six months of the date of publication of this notice. Proposals for operational programmes received after this date need not be taken into consideration by the Commission.

During the preparation of proposals, the Commission will offer the necessary technical assistance.

Regional and local authorities and the social partners should be involved in the preparation and implementation of operational programmes in the manner appropriate to each Member State.

8. All correspondence related to this notice should be addressed to:

Mr E. Landaburu,
Director-General,
Directorate-General for Regional Policy,
Commission of the European Communities,
200 rue de la Loi,
B-1049 Brussels.

COURT OF JUSTICE

COURT OF JUSTICE

JUDGMENT OF THE COURT

(Sixth Chamber)

of 7 May 1992

in Joined Cases C-251/90 and C-252/90 (references for a preliminary ruling from the Sheriff Court of Grampian, Highland and Islands at Elgin): Procurator Fiscal v. Kenneth Gordon Wood and James Cowie [1]

(Fisheries — Licences — Conditions)

(92/C 142/05)

(Language of the case: English)

In Joined Cases C-251/90 and C-252/90: references to the Court under Article 177 of the EEC Treaty by the Sheriff Court of Grampian, Highland and Islands at Elgin (Scotland) for a preliminary ruling in the proceedings pending before that court between the Procurator Fiscal, Elgin, and Kenneth Gordon Wood and between the Procurator Fiscal, Elgin, and James Cowie, on the interpretation of Article 7 of the EEC Treaty and of Articles 2 and 3 of Council Regulation (EEC) No 101/76 of 19 January 1976 laying down a common structural policy for the fishing industry [2] — the Court, composed of F. A. Schockweiler (President of the Chamber), G. F. Mancini, C. N. Kakouris, M. Díez de Velasco and J. L. Murray, Judges; G. Tesauro, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 7 May 1992, the operative part of which is as follows:

1. *Article 7 of the EEC Treaty and Article 2 (1) of Council Regulation (EEC) No 101/76 are to be interpreted as meaning that a Member State which makes access to its fishing quotas subject to the grant of a licence is not precluded from including in such a licence a provision requiring the master of a vessel flying the flag of that State to report by radio his intention to cross from one ICES area to another, even though that condition does not apply to vessels flying the flag of other Member States fishing for the same species in the same areas.*

2. *Pursuant to Article 15 of Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities, Member States are required to notify to the Commission a condition such as that described above which they put in licences which they grant to vessels flying their flag authorizing such vessels to fish against their quotas.*

3. *Failure to notify a national control measure such as the condition described above does not affect its validity under Community law.*

[1] OJ No C 249, 3. 10. 1990.

[2] OJ No L 20, 28. 1. 1976, p. 19.

JUDGMENT OF THE COURT

(Second Chamber)

of 7 May 1992

in Joined Cases C-258/90 and C-259/90: Pesquerias De Bermeo SA and Naviera Laida SA v. Commission of the European Communities [1]

(Fisheries — Project for exploratory fishing voyage — Commission Decision finding that the project does not fulfil the conditions for obtaining Community financial aid under Council Regulation (EEC) No 4028/86)

(92/C 142/06)

(Language of the case: Spanish)

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

In Joined Cases C-258/90 and C-259/90: Pesquerias De Bermeo SA and Naviera Laida SA, companies incorporated under Spanish law and having their registered

[1] OJ No C 269, 25. 10. 1990.

offices in Las Arenas-Guecho (Spain), represented by Antonio Ferrer López and Luis Maria Angulo Errazquin, of the Vizcaya Bar, with an address for service in Luxembourg at the Chambers of Arendt & Harles, 4 avenue Marie-Thérèse, v. Commission of the European Communities (Agent: José Luis Iglesias Buhigues) — application for the annulment of Commission Decisions EXP/ES/1/90 and EXP/ES/2/90 of 6 June 1990 finding that the projects for exploratory fishing voyages in the waters of the South-West Atlantic Ocean do not fulfil the conditions for the grant of Community financial aid pursuant to Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector [1] — the Court (Second Chamber), composed of F. A. Schockweiler, President of the Chamber, G. F. Mancini and J. L. Murray, Judges; C. Gulmann, Advocate-General; D. Louterman, Principal Administrator, for the Registrar, gave a judgment on 7 May 1992, the operative part of which is as follows:

1. *The applications are dismissed.*

2. *The applicants are ordered to pay the costs.*

[1] OJ No L 375, 30. 5. 1986.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 7 May 1992

in Case C-347/90 (reference for a preliminary ruling by the Pretura di Milano): Aldo Bozzi v. Cassa Nazionale di Previdenza ed Assistenza a favore degli Avvocati e dei 'Procuratori legali' [1]

(Interpretation of Article 33 of the sixth VAT Directive)

(92/C 142/07)

(Language of the case: Italian)

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

In Case C-347/90: reference to the Court under Article 177 of the EEC Treaty by the Pretura di Milano, Sezione Lavoro, for a preliminary ruling in the proceedings pending before that court between Aldo Bozzi and Cassa Nazionale di Previdenza ed Assistenza a favore degli Avvocati e dei 'Procuratori Legali' — on the interpretation of Article 33 of Council Directive No 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [2] — the Court (Sixth Chamber), composed of F. A. Schockweiler, President of the Chamber, G. F. Mancini, C. N. Kakouris, M. Díez de Velasco and J. L. Murray, Judges; Advocate-General F. G. Jacobs; D. Triantafyllou, Administrator, for the Registrar, gave a judgment on 7 May 1992, the operative part of which is as follows:

Article 33 of Council Directive (77/388/EEC) of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax must be interpreted as meaning that it does not preclude the introduction or maintenance of contributions having the characteristics of the supplementary contribution ('contributo integrativo') payable in Italy by advocates and 'procuratori legali' to the Cassa Nazionale di Previdenza ed Assistenza.

[1] OJ No C 4, 8. 1. 1991.

[2] OJ No L 145, 13. 6. 1977, p. 1.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 7 May 1992

in Case C-70/91 P: Council of the European Communities v. Anita Brems [1]

(Official — Meaning of 'dependent child' — Persons treated as such — Child of the official — Illegality of general implementing rules)

(92/C 142/08)

(Language of the case: French)

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

In Case C-70/91 P: Council of the European Communities (Agents: Arthur Alan Dashwood and Jorge Monteiro) — appeal against the judgment of the Court of First Instance of the European Communities (Third Chamber) of 14 December 1990 in Case T-75/89, between Anita Brems and the Council of the European Communities, seeking to have that judgment set aside,

[1] OJ No C 88, 5. 4. 1991.

the other party to the proceedings being Anita Brems, an official of the Council of the European Communities, residing at Relegem (Belgium), represented by Jean-Noël Louis, of the Brussels Bar, with an address for service in Luxembourg at the offices of Fiduciaire Myson Sàrl, 1 rue Glesener, who contends that the Court should dismiss the appeal as wholly unfounded — the Court (Sixth Chamber), composed of F. A. Schockweiler, President of the Chamber, G. F. Mancini, C. N. Kakouris, M. Díez de Velasco and J. L. Murray, Judges; M. Darmon, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 7 May 1992, the operative part of which is as follows:

1. *The appeal is dismissed.*

2. *The appellant is ordered to pay the costs.*

Action brought on 16 April 1992 by Lezzi Pietro & Co. Srl against the Commission of the European Communities

(Case C-123/92)

(92/C 142/09)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 16 April 1992 by Lezzi Pietro & Co. Srl, represented by Wilma Viscardini Donà, Advocate, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 8/10 rue Mathias Hardt.

The applicant claims that the Court should:

— declare void the Commission Decision of 24 October 1991 in which it found there should be post-clearance recovery of import duties in a particular case and in consequence rejected a request made by Italy that Article 5 (2) of Regulation (EEC) No 1697/79 [1] should apply,

— order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

False premise: the original classification of wild onions dealt with in heading 0703 was not wrong because it followed from Council Regulations (EEC) No 288/84 and (EEC) No 2658/87 [2] and cannot be amended either by the Commission or the Member States.

Alternatively, infringement of Article 5 (2) of Regulation (EEC) No 1697/79 which gives a 'right' that there should be no action for post-clearance recovery of import duties which were not collected as a result of an error made by the competent authorities provided that the importer acted in good faith: the applicant was not in a position to perceive the mistake by the Italian customs authorities resulting from mistaken information in the Tariffa Integrata Comunitaria and notification of this correction to the said authority by the central administration only after the importation.

Infringement of Article 190 of the EEC Treaty. The Commission states that the importer could have discovered the mistake made by the Italian administration but does not explain how the importer could have known of an amending notice from the Commission addressed to the Italian administration.

(1) On the post-clearance recovery of import duties or export duties which have not been required of the person liable for payment on goods entered for a customs procedure involving the obligation to pay such duties (OJ No L 197, 3. 8. 1979).

(2) On the classification of goods under subheading 07.01H of the Common Customs Tariff (OJ No L 33, 4. 2. 1984, p. 1) and the combined nomenclature (OJ No L 256, 7. 9. 1987).

Reference for a preliminary ruling made by order of the High Court of Justice, Queen's Bench Division, Commercial Court, dated 24 February 1992, in the case of 1. An Bord Bainne Cooperative Limited and 2. Compagnie Inter-Agra SA, against Intervention Board for Agricultural Produce

(Case C-124/92)

(92/C 142/10)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by order of the High Court of Justice, Queen's Bench Division, Commercial Court, dated 24 February 1992, in the proceedings between 1. An Bord Bainne Cooperative Limited and 2. Compagnie Inter-Agra SA against Intervention Board for Agricultural Produce, which was lodged at the Court Registry on 16 April 1992 on the following questions:

1. Is there *force majeure* within the meaning of Community law and for the purposes of Commission Regulation (EEC) No 765/86 (1) when:

   (a) a tender by a Community undertaking for the purchase of butter pursuant to Regulation (EEC) No 765/86 was accompanied by a written undertaking in accordance with the said Regulation that the butter would be converted into butteroil and exported from the Community to a specified third country;

   (b) the tender was accepted by the national intervention agency;

   (c) the competent authorities of the third country, pursuant to the relevant legislation of that country, then changed the quality requirements for imported butteroil in such a way as to render it impossible (despite the best efforts of the intending exporter) for acceptable butteroil to be produced from the butter which was the subject of the tender so as to enable export to be made to that country in accordance with the written undertaking;

   (d) the change in the quality requirements was not published or communicated to the tenderer or intending exporter in advance, and was totally unexpected by them?

2. If the answer to Question 1 is yes, does *force majeure* in the circumstances of this case operate to prevent the forfeiture of securities provided pursuant to Commission Regulation (EEC) No 765/86, and in particular a tendering security provided pursuant to Article 6 (1) thereof?

(1) OJ No L 72, 15. 3. 1986, p. 11.

Reference for a preliminary ruling from the Cour d'Appel (Chambre Sociale), Chambéry, by judgment of that court of 17 March 1992 in the case of Mulox IBC Limited v. Hendrick Geels

(Case C-125/92)

(92/C 142/11)

Reference has been made to the Court of Justice of the European Communities by judgment of the Cour d'Appel (Chambre Sociale) [Court of Appeal — Chamber for social welfare matters], Chambéry, of 17 March 1992, which was received at the Court Registry on 17 April 1992, for a preliminary ruling in the case of Mulox IBC Limited against Hendrick Geels on the following question:

Does the application of the jurisdiction rule under Article 5 (1) of the Brussels Convention of 27 September 1968 require the obligation characterizing the employment contract to have been performed wholly and solely in the territory of the State of the court seised of the dispute, or is it sufficient for its operation that part of the obligation — possibly the main part — has been performed in the territory of that State?

Reference for a preliminary ruling made by order of the High Court of Justice, Queen's Bench Division, Commercial Court, dated 25 February 1992, in the case of H. J. Banks & Company Limited against British Coal Corporation

(Case C-128/92)

(92/C 142/12)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by order of the High Court of Justice, Queen's Bench Division, Commercial Court, dated 25 February 1992, in the proceedings between H. J. Banks & Company Limited and British Coal Corporation, on the following questions:

1. Do Articles 4 (d), 60, 65 and/or 66 (7) of the ECSC Treaty apply to licenses to extract unworked coal and to the royalty and payment terms therein?

2. If the answer to Question 1 is that such provisions do not apply:

   (i) do Articles 85 and 86 of the EEC Treaty apply to the circumstances set out in Question 1;

   (ii) is the answer to (i) affected by Article 232 (1) of the EEC Treaty?

3. Are Articles 4 (d), 60, 65 and/or 66 (7) of the ECSC Treaty directly effective and such as to give rise to rights enforceable by private parties which must be protected by national courts?

4. Does the national court have the power and/or the obligation under Community law to award damages in respect of breach of the said Articles of the ECSC and EEC Treaties for loss sustained as a result of such breach?

5. To what extent (if at all) do the answers to Questions 3 and 4 depend upon:

   (i) a prior determination by the Commission; and/or

   (ii) the exhaustion of remedies (if any) in relation thereto available under the ECSC Treaty; and/or

   (iii) the completion of the steps or procedures indicated in the relevant provisions?

6. If the Commission has taken a Decision pursuant to a complaint, as it did in the Decision of 23 May 1991, to what extent is a national court bound by that Decision:

   (i) with regard to the issues of fact decided by the Commission; and

   (ii) with regard to the Commission's construction of Articles of the ECSC Treaty?

Reference for a preliminary ruling by the Corte Suprema di Cassazione (Sezione I Civile) in the case of OTO SpA v. Ministero delle Finanze

(Case C-130/92)

(92/C 142/13)

Reference has been made to the Court of Justice of the European Communities by order of the Corte Suprema di Cassazione [Supreme Court of Cassation] of 19 February 1992, which was received at the Court Registry on 22 April 1992, for a preliminary ruling in the case of OTO SpA against the Ministero delle Finanze [Ministry of Finance] on the following question:

On the basis of Article 12 of the Treaty of Rome establishing the EEC — which prohibits the introduction between the Member States of charges having equivalent effect to customs duty — must a charge equivalent to a customs duties be understood as meaning only a charge which is imposed by a Member State of the Community on products imported from another Member State or as also including a tax that, albeit not affecting imports directly, makes a product coming from a non-member country *de facto* economically more advantageous than the same type of product coming from a Member State? Particular regard should be had to the situation where that unfavourable treatment for the Member State of the Community is due to the fact that, under the new tax, the value for tax purposes of the product admitted into the market by the Member State in the case of a product which was previously imported from a non-member country will be increased by the charges for that product's entry into free circulation, which will not be the case where the product comes from a non-member country.

Reference for a preliminary ruling made by order of the Court of Appeal, dated 14 October 1991, in the case of Mrs F. M. Roberts against Birds Eye Walls Ltd

(Case C-132/92)

(92/C 142/14)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by order of the Court of Appeal, dated 14 October 1991, in the proceedings between Mrs F. M. Roberts and Birds Eye Walls Ltd, on the following questions:

1. Is it a breach of Article 119 of the EEC Treaty for an employer to operate a discretionary occupational pension scheme, using a formula common to male and female ex-employees, whereby the same total retirement pension (occupational and State in the aggregate) is calculated for them and there is deducted from that total that part of the State retirement pension in respect of which contributions were paid by the employer and the ex-employee during the ex-employee's pensionable employment with that employer, and the employer pays directly to the employee that reduced amount, the object being to equalize the total retirement pension (as calculated under the common formula) for male and female ex-employees alike, with the result that between the ages of 60 and 65 the employer pays less to a female employee than to a male employee because a deduction is made for female ex-employees by reason of their entitlement to State pension from the age of 60 whereas no such deduction is made for male ex-employees since they are not entitled to State pension until the age of 65?

2. Is the answer to Question 1 affected in circumstances where the female is not entitled to a State pension because as a married woman she has a choice of paying national insurance contributions at the full rate, entitling her to a full State pension in her own right, or at a reduced rate, not entitling her to a State pension (or entitling her only to a reduced pension) and she chooses the latter?

3. Are the answers to the foregoing affected in circumstances where the employee, though not entitled to a State retirement pension (or entitled only to less than the full pension) is in fact entitled to, and receives, a State widow's pension equal in amount to a full State retirement pension?

Removal from the Register of Case C-229/91 P [1]

(92/C 142/15)

By order of 6 April 1992 the President of the Court of Justice of the European Communities ordered the removal from the Register of Case C-229/91 P: Automobiles Peugeot and Peugeot SA v. Commission of the European Communities, Eco System SA, Bureau Européen des Unions de Consommateurs (BEUC) and United Kingdom Government.

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[1] OJ No C 291, 8. 11. 1991.

COURT OF FIRST INSTANCE

Action brought on 13 April 1992 by the Vereniging van Samenwerkende Prijsregelende Organisaties in de Bouwnijverheid against the Commission of the European Communities

(Case T-29/92)

(92/C 142/16)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 13 April 1992 by the Vereniging van Samenwerkende Prijsregelende Organisaties in de Bouwnijverheid [Association of Price-regulating Organizations in the Construction Industry — SPO], of Amersfoort, and Others, represented by L. H. Van Lennep, of The Hague Bar, and E. H. Pijnacker Hordijk, of the Amsterdam Bar, with an address for service in Luxembourg at the Chambers of L. Frieden, 6 avenue Guillaume, of the Luxembourg Bar.

The applicants claim that the Court should:

— declare that the measure adopted by the defendant entitled 'Commission Decision of 5 February 1992 relating to a proceeding pursuant to Article 85 of the EEC Treaty (IV/31.572 and 32.571 — Building and construction industry in the Netherlands)' is non-existent,

— declare void the Commission Decision of 5 February 1992 relating to a proceeding pursuant to Article 85 of the EEC Treaty (IV/31.572 and 32.571 — Building and construction industry in the Netherlands [1]),

— make such other provision as the Court deems appropriate,

— order the defendant to pay the costs, including those connected with the application for the adoption of interim measures pursuant to Articles 185 and 186 of the EEC Treaty.

Pleas in law and main arguments adduced in support:

1. Application of the criterion laid down by the Court in its judgment of 27 February 1992 in Joined Cases T-79/89 etc., PVC, shows that the Commission has failed to adopt a decision addressed to the applicants.

2. Breach of Article 85 (1) and (3) of the Treaty, or of the duty to state reasons, inasmuch as the Commission failed to take into account, or failed to take sufficient account of, the special characteristics of the building sector in the Netherlands and the problems connected therewith.

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[1] OJ No L 92, 7. 4. 1992, p. 1.

3. Breach of Article 85 (1) of the Treaty, inasuch as the Commission failed to define, or to define correctly, the relevant markets.

4. Breach of Article 85 (1) of the Treaty, or of the duty to state reasons, inasmuch as the Commission seriously misjudged the application and effects of the agreements notified to it on the balance of competition and assumed on patently false grounds that the SPO agreements restricted, prevented or distorted competition to an appreciable extent.

5. Breach of Article 85 (1) of the Treaty, or of the duty to state reasons, inasmuch as the Commission assumed on false grounds that the SPO agreements have an appreciably unfavourable influence on trade between Member States.

6. Breach of Article 4 (2) (1) of Regulation No 17, inasmuch as the Commission has assumed that the agreements which preceded the Uniforme Prijsregelende Reglementen were notifiable.

7. Breach of Article 85 (1) of the Treaty, or of the duty to state reasons, inasmuch as the requirements laid down in that provision for granting exemption are met in this case, and in any event the refusal to grant exemption is based on grounds which are insufficient both in fact and in law.

8. Breach of Article 85 (1) and (3) of the Treaty, or of the duty to state reasons, or at least misuse of powers, inasmuch as when it was considering the agreements notified to it the Commission failed to take into account the amendments proposed by the SPO during the notification procedure, and in any event the implied rejection of the proposed amendments in the contested decision is based on grounds which are insufficient both in fact and in law.

9. Breach of Article 85 (3) of the Treaty, or of the principle of proportionality and the principle of subsidiarity, inasmuch as the Commission failed to take into account, or failed sufficiently to take into account, the negative consequences of its interference with the balance of competition on the relevant markets.

10. Breach of Article 15 (2) of Regulation No 17, or misuse of powers, inasmuch as the Commission imposed fines on the applicants.

Action brought on 22 April 1992 by Francis Wattiau against the European Parliament

(Case T-31/92)

(92/C 142/17)

An action against the European Parliament was brought before the Court of First Instance of the European Communities on 22 April 1992 by Francis Wattiau residing at L-8142 Bridel, represented by G. Vandersanden of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Alex Schmitt, 62 rue Guillaume, L-1560.

The applicant claims that the Court should:

1. declare the action admissible and well founded, and consequently;

2. annul the decision of 10 July 1991 of the Bureau of the European Parliament appointing Garth Davies as Director of the Directorate for Data Processing and Telecommunications;

3. order the defendant to pay the costs.

Pleas in law and main arguments adduced in support:

The applicant claims that there has been a breach of the appointment procedure, and in particular of Articles 4 and 20 of the Staff Regulations, and he claims that the contested post was filled without there having previously been a vacancy notice to allow officials interested in the post to submit their applications. He maintains that following the departure of the Director for Data Processing a recruitment notice to fill the post through the appointment of a member of the temporary staff was published in the *Official Journal of the European Communities*; the selection committee appointed to examine applications drew up a list of suitable candidates for the post and transmitted it to the appointing authority, but the latter considered that the candidates were not suitable and decided to by-pass that procedure and to appoint on its own initiative an official of the Parliament by way of promotion, without opening an internal appointment procedure. The applicant considers that such actions constitute a flagrant and inadmissible breach of procedure and that that method of proceeding is prejudicial both to the interests of the officials who might present themselves as candidates and to the interests of the service.

Furthermore the applicant claims that, because the recruitment notice referred only to the appointment of a member of the temporary staff, potential candidates were not able to make themselves known and compete for a promotion on an equal and objective basis. The official appointed therefore benefited from a promotion without there having been any comparative examination of the respective merits of the officials eligible for promotion. The applicant therefore concludes that the defendant has infringed Article 45 of the Staff Regulations.

The applicant also maintains that by adopting an appointment procedure which is in flagrant contradiction of the rules of the Staff Regulations applying to the matter, the defendant has failed to show even elementary respect for the requirements of good management and sound administration.

Finally the applicant alleges a misuse of procedure.

III

(Notices)

COMMISSION

Programme on International Cooperation on the Evaluation of the Consequences of the Accident at the Chernobyl Nuclear Power Plant

Call for participation

(92/C 142/18)

Implementation of a programme on International Cooperation on the Evaluation of the Consequences of the Accident at the Chernobyl Nuclear Power Plant in agreement between the Commission of the European Communities and Institutions in the Republics of Belorus, the Russian Federation and Ukraine within the framework of the Chernobyl Centre of International Research (CHECIR).

Following the communication to the Council [SEC(91) 220 final], in October 1991 the Commission of the European Communities started joint Experimental Coordinated Projects (ECPs) on Environmental Effects and Joint Study Projects (JSPs) on Emergency Management.

The Commission intends to extend this cooperation through additional contracts in the framework of the various above-mentioned ECPs and JSPs with Community Institutions actively involved in the field of Radiation Protection. The Commission will finance about 50 % of the work of the contracting organisations: the envisaged duration is 12 months and the budget is about ECU 4 000 000. Organisations replying to this call for participation should state in which of the projects they would like to participate and attach a detailed technical description (5 pages maximum) of the proposed work. Given the current stage of implementation of the individual projects and the aim of maintaining a high level of efficiency, the number of proposals accepted will be very limited. The Commission will consult the relevant Advisory Management and Coordination Committee on the relevance of the proposals and on the basis of the accepted proposals will set up the appropriate organisational structure.

Organisations eligible to participate are invited to submit proposals.

The deadline for responding to this call for participation is 10. 7. 1992 (17.00).

All correspondence concerning this call should be sent to:

— Commission of the European Communities, DG XII-D-3, Unit Radiation Protection Research, 75, rue Montoyer, B-1040 Brussels.

Upon request, more information concerning the detailed scientific research topics is available.

Topics to be studied jointly by the multi-national structures under the coordination of the Commission are in the following areas:

A. Experimental Coordinated Projects

1. Contamination of surfaces by re-suspended material.

a) Inhalation risks from resuspended particles in the range below 10 μm.

b) The importance of large particles in the transfer of material.

c) Identification and characterisation of sources of resuspension.

d) Inhalation risks from resuspended particles in the range above 10 μm.

e) Resuspension measurements outside the former Soviet Union.

2. The transfer of radionuclides through the terrestrial environment to agricultural products and livestock, including the influence of agro-chemical practices.

a) Migration of radionuclides in different soil systems.

b) Transfer of radionuclides to and within plants.

c) Influence of agricultural practices on the transfer of radionuclides from soils to plants.

d) Transfer of radionuclides to livestock, offspring and agricultural products.

e) Modelling.

3. The modelling and study of the mechanisms of transfer of radioactive material from terrestrial ecosystems to and in water bodies.

a) Quantification of radiocaesium mobilisation from fresh water sediments and flooded soils and the role of clays on long-term immobilisation.

b) Role of particle resuspension and subsequent radionuclide re-equilibration as a potential means of remobilisation.

c) Radionuclide concentrations in fish species at different trophic layers.

d) Role of age and size on radionuclide uptake in fish.

4. Evaluation and development of decontamination strategies for a range of environmental situations and evaluation of their efficacy and other impacts.

a) Decontamination strategies.

b) Decontamination of soils.

c) Processing of radioactive timber and preliminary treatment of organic wastes.

d) Decontamination of urban areas and machines.

e) Decontamination by food processing.

f) Integration of results and analysis of decontamination strategies.

5. The behaviour of radionuclides in natural and semi-natural ecosystems (forests, marshes, heather, etc.).

a) Vertical migration in soil as a function of radionuclide physico-chemical form.

b) Availability of radionuclides for transfer between soil layers and for plant uptake as a function of their physico-chemical forms in soil solution.

c) Role of litter decomposition on radionuclide availability and migration.

d) Role of micromycetes on radionuclide migration.

e) Intake and transfer of radionuclides in wild animals.

B. Joint Study Projects

1. Real-time on-line decision support systems for off-site emergency management following a nuclear accident.

a) Data assimilation techniques for real-time systems.

b) Effectiveness of countermeasures involving the movement of people.

c) Agricultural countermeasures.

d) Contamination of surface water systems.

e) Operation of decision support systems.

2. Development and application of techniques to establish intervention levels for use in nuclear accidents.

a) Historical portrayal of countermeasures taken following the Chernobyl accident.

b) Investigation of social and psychological factors.

c) Conceptual framework for intervention.

d) Distribution of exposures in affected populations.

e) Decision-Aiding System for establishing intervention levels.

Prior notification of a concentration

(Case No IV/M.222 — Mannesmann/Hoesch)

(92/C 142/19)

1. On 27 May 1992, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 [1]. Under the operation, Mannesmannröhre-Werke AG (MRW), a subsidiary of Mannesmann AG, and Hoesch AG will establish and transfer their existing precision steel tube activities into Mannesmann Hoesch Präzisionsrohr GmbH (MHP), with each taking a 50 % shareholding. Furthermore MRW will acquire a 50 % shareholding in Gebr. Fuchs GmbH, a wholly owned subsidiary of Hoesch AG producing non-precision steel tubes. This gives rise to a concentration by the undertakings falling under the terms of Article 3 (1) (b) of the merger Regulation (acquisition of joint control).

2. The business activities of the undertakings concerned are:

— for Mannesmann AG: engineering and construction, information technology, tubes hydraulic and vehicle components,

— for MRW: production and distribution of precision and non-precision steel tubes,

— for MHP: production and distribution of precision steel tubes,

— for Fuchs: production and distribution of non-precision steel tubes,

— for Hoesch AG: production and distribution of steel and metal tools.

3. Upon preliminary examination, the Commission finds that the notified concentration could fall within the scope of Council Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32 2) 236 43 01) or by post, under reference number IV/M.222 — Mannesmann/Hoesch, to the following address:

Commission of the European Communities,
Directorate-General for Competition (DG IV),
Merger Task Force,
Avenue de Cortenberg 150,
B-1049 Brussels.

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[1] OJ No L 257, 21. 9. 1990, p. 13.

Non-opposition to a notified concentration

(Case No IV/M.221 — ABB/BREL)

(92/C 142/20)

On 26 May 1992, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6 (1) (b) of Council Regulation (EEC) No 4064/89. Third parties showing a sufficient interest can obtain a copy of the decision by making a written request to:

Commission of the European Communities,
Directorate-General for Competition (DG IV),
Merger Task Force,
Avenue de Cortenberg 150,
B-1049 Brussels.

Non-opposition to a notified concentration

(Case No IV/M.224 — Volvo/LEX)

(92/C 142/21)

On 21 May 1992, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6 (1) (b) of Council Regulation (EEC) No 4064/89. Third parties showing a sufficient interest can obtain a copy of the decision by making a written request to:

Commission of the European Communities,
Directorate-General for Competition (DG IV),
Merger Task Force,
Avenue de Cortenberg 150,
B-1049 Brussels.

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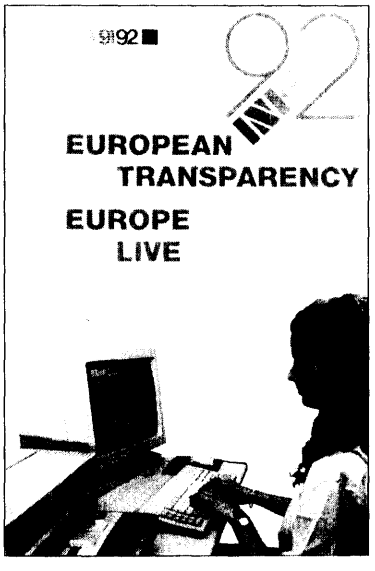

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07/10/91