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Information and Notices

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Notice to readers (see page 3 of the cover)

Notice (see page 3 of the cover)

I

(Information)

COMMISSION

**Rate of interest applied by the European Monetary Cooperation Fund for its
operations in ecus: 9,75 % for February 1993**

Ecu ⁽¹⁾

(93/C 29/01)

Currency amount for one unit:

	1. 2. 1993	January ⁽²⁾		1. 2. 1993	January ⁽²⁾
Belgian and Luxembourg franc	40,0966	40,3106	United States dollar	1,19700	1,21216
Danish krone	7,50281	7,55583	Canadian dollar	1,51959	1,54786
German mark	1,94692	1,95815	Japanese yen	149,446	151,595
Greek drachma	260,851	261,628	Swiss franc	1,79969	1,79205
Spanish peseta	138,500	138,976	Norwegian krone	8,29462	8,32879
French franc	6,59069	6,64032	Swedish krona	8,89432	8,79628
Irish pound	0,797682	0,741698	Finnish markka	6,74151	6,57756
Italian lira	1806,07	1808,09	Austrian schilling	13,6973	13,7766
Dutch guilder	2,19063	2,20180	Icelandic krona	77,3024	77,4038
Portuguese escudo	176,223	176,237	Australian dollar	1,77729	1,79894
Pound sterling	0,819864	0,790857	New Zealand dollar	2,33561	2,36203

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

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

⁽¹⁾ Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).
Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).
Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).
Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).
Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).
Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

⁽²⁾ The monthly average of ecu exchange rates will be published at the end of each month.

Information procedure — technical regulations

(93/C 29/02)

- Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations.
(OJ No L 109, 26. 4. 1983, p. 8).
- Directive 88/182/EEC of 22 March 1988 amending Directive 83/189/EEC.
(OJ No L 81, 26. 3. 1988, p. 75).

Notifications of draft national technical regulations received by the Commission.

Reference ⁽¹⁾	Title	End of three-month standstill period ⁽²⁾
92-0347-DK	Notification concerning scaffolding	13. 4. 1993
92-0348-F	<i>Pro pharmacopoea</i> technical notes submitted to public enquiry	⁽³⁾
92-0349-F	Order relating to the use of vitamin D in nutritional mixtures for special liquid nourishment	19. 3. 1993
92-0350-D	Technical regulation BAPT 222 TV 40. Provisional technical regulation governing satellite-based naval radio beacons for identification in the Cospas-Sarsat system on 406,025 Mhz	6. 4. 1993
92-0351-F	Technical specifications applicable to networks distributing sound and television broadcasts by cable: teledistribution network (CATV), collective aerial (MATV and SMATV)	23. 3. 1993
92-0352-F	The list of approval tests for ISDN-VN3 level 2, SAPI S (SNB) equipment, basic DST user side access	23. 3. 1993
92-0353-E	Daft Royal Decree approving the instruction governing the design and construction of prestressed concrete structures (EP-93)	5. 4. 1993

⁽¹⁾ Year — registration number — Member State of origin.

⁽²⁾ Deadline for comments from Commission and Member States.

⁽³⁾ The usual information procedure does not apply to '*Pharmacopoeia*'.

The Commission would point out that, under the terms of its communication of 1 October 1986 (OJ No C 245, 1. 10. 1986, p. 4), it considers that if a Member State adopts a technical regulation which comes under the provisions of Directive 83/189/EEC without communicating the draft to the Commission or respecting the standstill obligation, that regulation cannot be enforced against third parties under the terms of the legal system of the Member State in question. The Commission therefore considers that litigants have a right to expect national courts to refuse to implement national technical regulations that have not been notified as required by Community law.

Information on these notifications can be obtained from the national administrations, a list of which was published in *Official Journal of the European Communities* No C 67 of 17 March 1989.

Commission communication pursuant to Article 9 (1) of Council Regulation (EEC) No 3832/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of textile products originating in developing countries, extended for 1993 by Regulation (EEC) No 3917/92

(93/C 29/03)

Pursuant to the provisions of Council Regulation (EEC) No 3832/90 ⁽¹⁾, extended for 1993 by Regulation (EEC) No 3917/92 ⁽²⁾, the Commission gives notice that the following fixed duty-free amounts have been exhausted:

Order No	Category	Origin	Fixed duty-free amount	Date of exhaustion
40.0010 (1. 1 — 30. 6. 1993)	1	India	1 130,5 tonnes	4. 1. 1993
40.0010 (1. 1 — 30. 6. 1993)	1	Thailand	1 130,5 tonnes	4. 1. 1993
40.0010 (1. 1 — 30. 6. 1993)	1	China	113 tonnes	4. 1. 1993
40.0020 (1. 1 — 30. 6. 1993)	2	India	6 457,5 tonnes	4. 1. 1993
40.0020 (1. 1 — 30. 6. 1993)	2	Thailand	1 368,5 tonnes	4. 1. 1993
40.0020 (1. 1 — 30. 6. 1993)	2	Indonesia	1 368,5 tonnes	4. 1. 1993
40.0020 (1. 1 — 30. 6. 1993)	2	South Korea	137 tonnes	4. 1. 1993
40.0033 (1. 1 — 30. 6. 1993)	3	Pakistan	315 tonnes	4. 1. 1993
40.0033 (1. 1 — 30. 6. 1993)	3	Thailand	315 tonnes	4. 1. 1993
40.0033 (1. 1 — 30. 6. 1993)	3	Indonesia	315 tonnes	4. 1. 1993
40.0033 (1. 1 — 30. 6. 1993)	3	Malaysia	315 tonnes	4. 1. 1993
40.0033 (1. 1 — 30. 6. 1993)	3	China	31,5 tonnes	4. 1. 1993
40.0033 (1. 1 — 30. 6. 1993)	3	South Korea	31,5 tonnes	4. 1. 1993
40.0040 (1. 1 — 30. 6. 1993)	4	Brazil	941 500 pieces	4. 1. 1993
40.0040 (1. 1 — 30. 6. 1993)	4	Pakistan	941 500 pieces	4. 1. 1993
40.0040 (1. 1 — 30. 6. 1993)	4	India	941 500 pieces	4. 1. 1993
40.0040 (1. 1 — 30. 6. 1993)	4	China	94 000 pieces	4. 1. 1993
40.0040 (1. 1 — 30. 6. 1993)	4	South Korea	94 000 pieces	4. 1. 1993
40.0060 (1. 1 — 30. 6. 1993)	6	China	87 500 pieces	4. 1. 1993
40.0070 (1. 1 — 30. 6. 1993)	7	India	486 000 pieces	4. 1. 1993
40.0070 (1. 1 — 30. 6. 1993)	7	China	49 000 pieces	4. 1. 1993
40.0070 (1. 1 — 30. 6. 1993)	7	South Korea	49 000 pieces	4. 1. 1993
40.0080 (1. 1 — 30. 6. 1993)	8	China	96 000 pieces	4. 1. 1993
40.0090 (1. 1 — 30. 6. 1993)	9	Pakistan	65,5 tonnes	4. 1. 1993
40.0130	13	China	403 000 pieces	5. 1. 1993

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 39.

⁽²⁾ OJ No L 396, 31. 12. 1992, p. 1.

Order No	Category	Origin	Fixed duty-free amount	Date of exhaustion
40.0140	14	China	10 000 pieces	4. 1. 1993
40.0150 (1. 1 — 30. 6. 1993)	15	China	22 500 pieces	4. 1. 1993
40.0170 (1. 1 — 30. 6. 1993)	17	China	8 000 pieces	4. 1. 1993
40.0180	18	China	22 tonnes	4. 1. 1993
40.0200 (1. 1 — 30. 6. 1993)	20	Pakistan	116 tonnes	4. 1. 1993
40.0200 (1. 1 — 30. 6. 1993)	20	India	116 tonnes	4. 1. 1993
40.0240	24	Pakistan	499 000 pieces	4. 1. 1993
40.0240	24	China	12 000 pieces	4. 1. 1993
40.0260	26	China	79 000 pieces	4. 1. 1993
40.0270	27	China	53 000 pieces	4. 1. 1993
40.0280	28	China	22 000 pieces	4. 1. 1993
40.0290	29	China	25 000 pieces	4. 1. 1993
40.0350	35	Indonesia	264 tonnes	4. 1. 1993
40.0360	36	South Korea	12 tonnes	4. 1. 1993
40.0760	76	China	10 tonnes	4. 1. 1993
40.0780	78	China	32 tonnes	4. 1. 1993
40.0830	83	China	12 tonnes	4. 1. 1993

Imports beyond these amounts are liable to payment of the normal duties of the Common Customs Tariff.

Authorization for State aid pursuant to Articles 92 and 93 of the EEC Treaty

Cases where the Commission raises no objections

(93/C 29/04)

Date of adoption: 30. 9. 1992

Member State: Denmark

Aid No: N 310/92

Title: Wind energy scheme

Objective: Stimulation of investment in wind power. Guaranteed price for wind energy supplied to grid; relief of connection costs

Legal basis: Lov nr. 328 af 24. 5. 1992 om ændring af lov om udnyttelse af vedvarende energikilder m. v. og lov om elforsyning

Budget: Dkr 123,28 million in 1992

Aid intensity: 55,31 %

Duration: Indefinite

Aid No: N 442/92

Title: Energy conservation measures

Objective: Reduce consumption of energy and CO₂ emissions

Legal basis: Lov nr. 2 af 3. januar 1992 samt bekendtgørelse om statstilskud til energibesparelser i erhvervs-virksomheder

Budget: Dkr 200 million (ECU 25,5 million) per year

Duration: Indefinite

Date of adoption: 14. 12. 1992

Member State: Germany (Land of Sachsen-Anhalt)

Aid No: N 577/92

Title: Aid for waste disposal and decontamination and reclamation of polluted industrial sites

Objective: The promotion of work necessary to meet safety and environmental laws

Date of adoption: 9. 12. 1992

Member State: Denmark

Legal basis: Richtlinie über die Gewährung von Zuwendungen zur Abfallwirtschaft, Altlasten und zum Bodenschutz

Budget: Approximately DM 100 million (ECU 50 million) per year

Aid intensity: Grants of up to 40 % gross for special waste treatment plants; Up to 80 % grants to local authorities for site decontamination and reclamation

Duration: 5 years

Date of adoption: 14. 12. 1992

Member State: Germany (Hamburg)

Aid No: 668/92

Title: Modification of publishing programme

Objective: To promote small publishing houses for books

Legal basis: Hamburger Verlagsprogramm (Maßnahmen zur Förderung der Wirtschaft)

Budget: DM 75 000 p. a. (ECU 39 000)

Duration: 1997

Date of adoption: 15. 12. 1992

Member State: France

Aid No: N 606/92

Title: Renewal of parafiscal charge which funds the Trade Committee on Fuel Distribution

Objective: Modernization, diversification, opening, maintenance or closure of the businesses of self-employed fuel retailers through investment or closure grants

Legal basis: Projets de décret et d'arrêté du Ministre de l'industrie et du commerce extérieur

Budget: FF 41 million (ECU 5,85 million) for 1992

Aid intensity:

— Aid to modernization, diversification, setting-up or maintenance of businesses: 50 % with maximum of FF 120 000 (ECU 17 417)

— Closure aid: maximum of FF 120 000 (ECU 17 417)

Duration: Two years (1993/1994)

Date of adoption: 21. 12. 1992

Member State: Denmark

Aid No: N 71/B/92

Title: Developing the production and processing of fishery products

Objective: To promote a recovery in the range of products destined for export and to increase the commercial value of little-used or unusual species of fish

Legal basis: Lov om tilskud til produktudvikling af jordbrugs- og fiskeriprodukter

Budget: 1992: ECU 23 million; 1993: ECU 9 million; 1994: ECU 5 million; 1995: ECU 5 million (including the agricultural heading)

Aid intensity: Refund of 40 % of eligible costs, including interest in the case of commercial farms. 50 % in certain cases justified by the Danish authorities

Duration: Unlimited

Conditions: Progress reports containing a list of all the eligible projects and their description are to be submitted to the Commission

Date of adoption: 23. 12. 1992

Member State: Spain (Murcia)

Aid No: N 566/92

Title: Plan of aids to associations of private companies providing passenger transport

Legal basis: Draft order of 'Consejería de Política Territorial y Obras Públicas y Medio Ambiente'

Budget: Pta 10 million (ECU 72 000)

Aid intensity: Maximum Pta 200 000 (ECU 1 450) per acquisition

Duration: 1992

COURT OF JUSTICE

COURT OF JUSTICE

Reference for a preliminary ruling made by the Court of Appeal by order of that court dated 30 October 1992 in the case of Elsie Rita Johnson against the Chief Adjudication Officer

(Case C-410/92)

(93/C 29/05)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by order of the Court of Appeal of 30 October 1992, in the proceedings between Elsie Rita Johnson and the Chief Adjudication Officer which was lodged at the Court Registry on 10 December 1992 on the following questions:

1. Is the decision of the European Court of Justice in Emmott (Case C 208/90) to the effect that Member States may not rely on national procedural rules relating to the time limits for bringing proceedings so long as that Member State has not properly transposed Directive 79/7/EEC ⁽¹⁾ into its legal system to be interpreted as applying to national rules on claims for benefit for past periods in cases where a Member State has implemented measures to comply with that Directive before the relevant deadline but has left in force a transitional provision such as that considered by the Court of Justice of the European Communities in Case 384/85 (Jean Borrie Clarke)?
2. In particular in circumstances where:
 - (i) a Member State has adopted and implemented legislation to fulfil its obligations under Council Directive 79/7/EEC ('the Directive') prior to the deadline laid down in the Directive;
 - (ii) the Member State introduces ancillary transitional arrangements in order to safeguard the position of existing social security beneficiaries;
 - (iii) it subsequently transpires as a result of a preliminary ruling by the Court of Justice that the transitional arrangements breach the Directive;
 - (iv) an individual brings a subsequent claim for benefit shortly after the preliminary ruling referred to above relying on the transitional arrangements and the Directive in a national tribunal pursuant to which that individual is awarded the benefit for the future and for 12 months prior to the bringing of the claim in accordance with the relevant national rules on

payments for the period prior to the making of the claim;

must that national tribunal disapply those national rules on arrears of payment from the date that the deadline for implementation of the Directive has expired, that is 23 December 1984?

Action brought on 14 December 1992 by the Federal Republic of Germany against the Commission of the European Communities

(Case C-413/92)

(93/C 29/06)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 14 December 1992 by the Federal Republic of Germany, represented by Dr Ernst Röder, Ministerialrat, Federal Ministry for Economic Affairs, PO Box 140260, D-W-5300 Bonn 1.

The applicant claims that the Court should:

1. annul Commission Decision 92/491/EEC (K(92) 1783 final) of 23 September 1992 ⁽¹⁾ on the clearance of the accounts presented by the Member States in respect of the expenditure for 1989 of the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, in so far as it disallows expenditure of DM 432 000;
2. order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

The application challenges the Commission's refusal to charge to the EAGGF aid paid out by the Federal Republic in the amount of DM 432 000. The Federal Republic of Germany paid that amount in the 1989 financial year in accordance with Community law, in particular the provisions of Commission Regulation (EEC) No 756/70 ⁽²⁾ (on granting aid for skimmed milk processed into casein and caseinates). Regular supervision of the producer undertakings pursuant to Article 3 (3) of that Regulation took place according to a

⁽¹⁾ OJ No L 6, 10. 1. 1979, p. 24.

⁽¹⁾ OJ No L 298, 14. 10. 1992, p. 23.

⁽²⁾ Official Journal, English Special Edition 1970 (I), p. 201.

procedure of continuous individual testing previously expressly recognized by the Commission in the context of past statements of account which the Commission — wrongly — no longer wishes to regard as control by sampling (with extrapolation of the results).

Should the German practice in fact not have been in accordance with Community law, the Commission's action is nonetheless contrary to the Commission's duty to cooperate with the Member States.

Reference for a preliminary ruling by the Bundesgerichtshof by order of that court of 5 November 1992 in the case of Solo Kleinmotoren GmbH v. Emilio Boch

(Case C-414/92)

(93/C 29/07)

Reference has been made to the Court of Justice of the European Communities by an order of the Ninth Civil Chamber of the Bundesgerichtshof [Federal Court of Justice] of 5 November 1992, which was received at the Court Registry on 15 December 1992, for a preliminary ruling in the case of Solo Kleinmotoren GmbH v. Emilio Boch on the following questions:

May a judgment within the meaning of Article 27 (3) of the Brussels Convention with which the judgment whose recognition is sought is irreconcilable include an enforceable settlement reached by the same parties before a judge of the State in which recognition is sought in the course of, and to settle, a legal dispute?

If so, does that apply to all the terms laid down in that settlement or only to those which are capable of independent enforcement pursuant to Article 51 of the Brussels Convention and possibly only if the conditions for enforcement are met?

Action brought on 16 December 1992 by the Commission of the European Communities against Ireland

(Case C-418/92)

(93/C 29/08)

An action against Ireland was brought before the Court of Justice of the European Communities on 16 December 1992 by the Commission of the European Communities, represented by Miss Carmel O'Reilly and Mr Xavier Lewis, Members of its Legal Service, acting as agents, with an address for service at the office of Mr Roberto Hayder, representative of the Legal Service, Centre Wagner, Luxembourg-Kirchberg.

The applicant requests the Court to:

1. declare that by failing to bring into force the measures necessary to comply with Council Directive 87/101/EEC of 22 December 1986 amending Directive 75/439/EEC on the disposal of waste oils ⁽¹⁾ and/or by failing to inform the Commission forthwith thereof, Ireland has failed to fulfil its obligations under that Directive, and in particular Article 2 thereof, and under the Treaty establishing the European Economic Community;
2. order Ireland to pay the costs.

Pleas in law and main arguments adduced in support:

Article 189 of the EEC Treaty, under which a directive shall be binding, as to the result to be achieved, upon each Member State, carries by implication an obligation on the Member States to observe the period for compliance laid down in the directive. That period expired on 1 January 1990 without Ireland having enacted the provisions necessary to comply with the Directive referred to in the conclusions of the Commission.

⁽¹⁾ OJ No L 42, 12. 2. 1987, p. 43.

Action brought on 20 December 1992 by NTN Corporation against the Council of the European Communities

(Case C-423/92)

(93/C 29/09)

An action against the Council of the European Communities was brought before the Court of Justice of the European Communities on 20 December 1992 by NTN Corporation, 3-17, 1 Chome Kyomachibori, Nishi-Ku, Osaka, Japan, represented by Professor Dr Jürgen Schwarze and Malte Sprenger, Rechtsanwalt, with an address for service in Luxembourg at the chambers of Me Claude Penning, 43, avenue du X Septembre.

The applicant claims that the Court should:

- annul Article 1 of Council Regulation (EEC) No 2849/92 ⁽¹⁾ as far as it imposes an anti-dumping duty on the applicant,
- order the Council of the European Communities to pay the costs of the application.

Pleas in law and main arguments adduced in support:

The applicant appeals against the Regulation because it contains a decision, i.e. a measure affecting it directly and individually. The applicant is mentioned by name and the duty imposed on the applicant has been

⁽¹⁾ OJ No L 286, 1. 10. 1992, p. 2.

specifically calculated with regard to its individual circumstances.

The applicant challenges the legality of Article 1 of the Regulation on the grounds of infringement of essential procedural requirements, infringement of the rule of law and misuse of powers, and claims that the Regulation should be annulled because neither the procedure followed nor the application of the substantive anti-dumping rules meets the requirements which are set by the existing Community law in this field.

Procedure:

The Procedure which has led to the imposition of an anti-dumping duty on the import of the ball bearings manufactured by the applicant by far exceeds the normal time period of one year from its initiation within which an anti-dumping investigation should be concluded. The Commission and the Council have given no concrete reasons as to why it may have been necessary to exceed the normal time period by more than two years. It cannot be left to the arbitrary discretion of the Commission to choose the 'right' moment to present the results of an anti-dumping investigation.

Substantive anti-dumping rules:

The Commission has failed to establish material injury during the reference period. The applicant submits that several recitals of Regulation (EEC) No 2849/92 are incorrect or incomplete, thus distorting the Commission's findings.

The Commission has failed to determine the possible effects of expiry of the measures. The applicant submits that the challenged Regulation is again based on incorrect assumptions which lead to illegal results.

Paragraph 2 of Article 1 (4) of Regulation (EEC) No 2849/92 provides that the anti-dumping duties imposed shall be increased or reduced by 1 per cent for each month's increase or decrease in the period of payment. Such a provision is not legally permitted as basic Regulation (EEC) No 2423/88 ⁽¹⁾ does not provide for such a 'flexible' duty but allows a fixed duty only.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

Action brought on 23 December 1992 by the Commission of the European Communities against the Federal Republic of Germany

(Case C-431/92)

(93/C 29/10)

An action against the Federal Republic of Germany was brought before the Court of Justice of the European

Communities on 23 December 1992 by the Commission of the European Communities, represented by Ingolf Pernice, acting as Agent, with an address for service in Luxemburg at the office of Roberto Hayder, a representative of the Legal Service of the Commission of the European Communities, Room C 254, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

- (a) declare that, by granting consent, pursuant to a decision dated 31 August 1989, to the construction of a new power station block in Grosskrotzenburg without first assessing its environmental impact, the Federal Republic of Germany has infringed its obligations under the combined provisions of Articles 5 and 189 of the EEC Treaty and Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ⁽¹⁾, and in particular the combined provisions of Articles 2, 3 and 8 of that Directive;
- (b) order the defendant to pay the costs.

Pleas in law and main arguments adduced in support:

— Infringement of the combined provisions of Articles 2 and 3 of the Directive: although, at the time when the decision was made granting the consent, the time allowed for the transposition of the Directive into national law had already expired, it was not until 1 August 1990 that the German transposition measures took effect. No formal assessment of the environmental impact of the project has been carried out within the meaning of the Directive. One of the issues between the parties is the question whether the procedure followed for the grant of consent pursuant to the German federal legislation then applying (Bundes-Immissionsschutzgesetz [Federal Emissions Law] of 15 March 1974) satisfied the requirements of the Directive. The applicant asserts that the particular characteristics of the assessment of the impact on the environment ('interdependence analysis') were neither (a) reflected in the procedure followed pursuant to the Bundes-Immissionsschutzgesetz nor taken into account in arriving at the actual decision granting the consent. Whilst an assessment of the relevant effects per se may have been carried out with reference to the factors specified in Article 3 of the Directive, nevertheless no overall view, detached from the narrow confines of legal technicalities, has been taken of the environmental effects of the project.

— The infringement of Article 8 of the Directive arises as a direct result of the failure to carry out a proper environmental impact assessment.

⁽¹⁾ OJ No L 175, 5. 7. 1985, p. 40.

II

(Preparatory Acts)

COMMISSION

Amendment to the proposal for a Council Directive amending Directive 75/130/EEC on the establishment of common rules for certain types of combined carriage of goods between Member States⁽¹⁾

(93/C 29/11)

COM(92) 538 final

(Submitted by the Commission pursuant to Article 149 (3) of the EEC Treaty on 7 December 1992)

The Commission proposal for a Council Directive amending Directive 75/130/EEC on the establishment of common rules for certain types of combined carriage of goods between Member States is amended as follows:

1. the fifth recital is amended, becoming:

'Whereas a sea transport operation continued by another mode or modes of transport should therefore come under the heading of combined transport;'

2. the sixth recital is deleted and replaced by:

'Whereas the current rules on tax exemptions or refunds applicable to road vehicles used in combined transport should be harmonized so as to make them more effective and ensure more uniform application of such rules throughout the Community;'

3. the following recital is inserted after the sixth recital and becomes the seventh recital:

'Whereas a Community policy which seeks to relaunch combined transport and an intermodal approach must seek to harmonize and make compatible the national technical regulations and standards governing combined transport;'

4. the former seventh recital now becomes the eighth; it is not amended;

5. Article 1 (1) is amended as follows:

'1. Article 1 is replaced by the following:

"Article 1

For the purposes of this Directive "combined transport" means the transport of goods between Member States where the tractor unit, lorry,

trailer, semi-trailer with or without tractor, swap body or container (of 20 feet or more) uses the road on one leg of the journey and rail and/or inland waterway and/or maritime services on the other leg, or uses the railways on one leg and inland waterway and/or maritime services on the other."';

6. Article 1 (3) is amended as follows:

'3. The following new Article 2 is inserted:

"Article 2

1. This Directive shall apply to the types of combined transport defined in Article 1 where the initial or final road haulage leg of the journey takes place:

- between the point where the goods are loaded and the nearest suitable rail loading station for the initial leg, and between the point where the goods are unloaded and the nearest suitable rail unloading station for the final leg, or
- within a radius not exceeding 150 km as the crow flies from the inland waterway port of loading or unloading, or
- within a radius not exceeding 150 km as the crow flies from the sea port of loading or unloading.

2. For the purposes of this Directive, the maritime section of a combined transport journey must cover a minimum distance of 125 km as the crow flies.

3. Within 10 years of the entry into force of this Directive, the Member States may, in agreement with the Commission, extend the maximum distance proposed in the third indent of paragraph 1 to 200 km if the Member State concerned is able to demonstrate that such a measure is advisable within its territory in view of its railway and inland waterway capacity and there is no danger of distortion of competition."';

⁽¹⁾ OJ No C 282, 30. 10. 1992, p. 8.

7. Article 1 (4) is amended as follows:

'4. Former Article 3 becomes Article 4 and reads as follows:

"Article 4

In the case of combined transport for hire or reward, a transport document which fulfils at least the requirements laid down in Article 6 of Council Regulation No 11 ⁽¹⁾ shall also specify the rail loading and unloading stations relating to the rail leg and/or the inland waterway loading and unloading ports relating to the inland waterway leg and/or the maritime loading and unloading ports relating to the maritime section of the journey. These details shall be recorded before the transport operation is carried out and shall be confirmed by means of a stamp affixed by the rail and/or port authorities in the stations and/or inland waterway and/or sea ports concerned when that part of the journey carried out by rail or inland waterway or by sea has been completed.

⁽¹⁾ OJ No 52, 16. 8. 1960, p. 1121/60."';

8. Article 1 (5) is amended as follows:

'5. Article 4 becomes Article 5 and reads as follows:

"Article 5

1. When a frontier is crossed on the road journey before the rail journey and/or before the inland waterway journey and/or before the sea journey, Member States may require the operator to furnish an appropriate document proving that a reservation has been made for the transport by rail of the tractor unit, lorry, trailer, semi-trailer, swap body or container (of 20 feet or more) and for the transport by inland waterway and/or by sea of the tractor unit, lorry, trailer, semi-trailer, swap body or container (of 20 feet or more).

2. Member States may authorize the inspection authorities to require the rail and/or inland waterway and/or sea transport document to be produced on completion of the rail, inland waterway or sea leg of the combined transport journey."';

9. Article 1 (10) is amended as follows:

'10. Former Article 8 becomes Article 9, and point 1 reads as follows:

"1. By 1 July 1993 the Commission shall submit proposals for rules common to all the Member States to ensure that the taxes listed in paragraph 3 applicable to road vehicles (lorries, tractors, trailers or semi-trailers), when used for combined transport, are reduced or refunded either by a standard amount or in proportion to

the journeys undertaken by rail, inland waterway or sea.

The Member States shall refund all indirect or equivalent taxes applied to the vehicle if it has, within a 12-month period, undertaken more than 120 journeys of which part of the total route was effected by rail, inland waterway or sea in inter-Community combined transport. Member States may require the operator to prove by means of the document referred to in Article 4 that he has used combined transport.

Where the above number of journeys has not been undertaken, the following reductions shall apply:

- between 91 and 120 journeys: 75 % of the reduction in the indirect taxes levied,
- between 61 and 90 journeys: 50 % of the reduction in the indirect taxes levied,
- between 31 and 60 journeys: 25 % of the reduction in the indirect taxes levied.

Where the distance covered by rail, inland waterway or sea exceeds 400 km, the journey shall count double. If the distance exceeds 800 km, the journey shall count triple."';

10. Article 1 (12) is amended as follows:

'12. Former Article 9 becomes Article 10 and reads as follows:

"Article 10

Where a trailer or semi-trailer belonging to an undertaking engaged in own-account combined transport is hauled on a final section by a tractor belonging to an undertaking engaged in transport for hire or reward, the transport operation so effected shall be exempt from presentation of the document provided for in Article 4, but another document shall be provided giving evidence of the journey covered or to be covered by rail and/or by inland waterway and/or by sea."';

11. the following point 14 is added to Article 1:

'14. The following new Article 14 is inserted:

"Article 14

The Commission shall present to the Council and Parliament as soon as possible and not later than 1 July 1993 a report, accompanied by proposals, on the harmonization of regulations, technical specifications and standards governing combined transport, and in particular the compatibility and standardization of load units and vehicles used in combined transport."';

12. the present Article 14 becomes Article 15.

**Amendment to the proposal for a Council Regulation (EEC) amending Regulation (EEC)
No 1107/70 on the granting of aids for transport by rail, road or inland waterway ⁽¹⁾**

(93/C 29/12)

COM(92) 538 final

(Submitted by the Commission pursuant to Article 149 (3) of the Treaty on 7 December 1992)

The Commission proposal for a Council Regulation amending Regulation (EEC) No 1107/70 on the granting of aids for transport by rail, road and inland waterway is amended as follows:

1. after the second recital the following recital is added (third recital):

‘Whereas investment in transshipment terminals, which form the interfaces of the various modes of transport, is crucial to the development of combined transport;’

2. the former third recital is amended and becomes the new recital 7a:

‘Whereas the possibility of granting such aid for the operating costs of combined transport services crossing the territory of non-member countries is warranted in the case of all transit countries and, in particular, Austria, Switzerland, Slovenia and the other States of the former Yugoslavia;’

3. the seventh recital is amended, becoming:

‘Whereas the present aid arrangements should be maintained until 31 December 1995 and the Council should decide, under the conditions laid down in the Treaty, on the arrangements to be applied subsequently or, if necessary, on the conditions for terminating such aid;’

4. a new recital 8a is added:

‘Whereas sea transport is a key component of a Community policy favouring intermodal transport and the Commission should present, as soon as possible, proposals on the granting of such aids for transport by sea, and particularly for port terminals;’

5. Article 1 is amended as follows:

Article 1

Article 3 (1) (e) of Regulation (EEC) No 1107/70 is hereby replaced by the following:

“(e) until 31 December 1995, where the aids are granted as a temporary measure and designed to facilitate the development of combined transport, such aids have to relate to:

- investment in infrastructure, and notably in transshipment terminals, or
- investment in fixed and moveable facilities necessary for transshipment, or
- investment in transport facilities specifically designed for combined transport and used exclusively in combined transport, or
- other costs incurred in running combined transport services in transit across Austria, Switzerland, Slovenia and the States of the former Yugoslavia.

The Commission shall present a progress report on those measures to the Council every two years giving details of where the aids went to, their amount and their impact on combined transport. Member States shall supply the Commission with the information needed to compile the report. By 31 December 1995, and on a proposal from the Commission, the Council shall decide on the arrangements to be applied subsequently and, if necessary, on the conditions for terminating them”;

6. Article 1 is completed as follows:

‘I Article 3 (1) a new subparagraph (f) is inserted:

“(f) by 30 June 1993 the Commission shall submit to the Council and to the European Parliament a report with proposals on the granting of aids for transport by sea and particularly for port terminals”;

⁽¹⁾ OJ No C 282, 30. 10. 1992, p. 10.

III

(Notices)

COMMISSION

Outcome of the invitations to tender (Community food aid)

(93/C 29/13)

as provided for in Article 9 (5) of Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid

(Official Journal of the European Communities No L 204 of 25 July 1987, page 1)

26 January 1993

Regulation (EEC) No	Lot	Action No	Recipient	Product	Quantity (tonnes)	Delivery stage	Number of tenders	Successful tenderer	Awarded price (ECU/tonne)
Decision of 12. 1. 1993	A	1218/92 and 1371-1375/92	Namibia	HTOUR	510	DEST	7	Agripole — Paris (F)	821,98

BLT: Common wheat
 FBLT: Common wheat flour
 CBL: Long grain milled rice
 CBM: Medium grain milled rice
 CBR: Round grain milled rice
 BRI: Broken rice
 FHAF: Rolled oats
 FROf: Processed cheese
 SUB: Sugar
 ORG: Barley
 SOR: Sorghum
 DUR: Durum wheat
 GDUR: Durum wheat groats

MAI: Maize
 FMAI: Maize flour
 GMAI: Maize groats
 SMAI: Maize meal
 LENP: Whole milk powder
 LEP: Skimmed-milk powder
 LEPv: Vitaminized skimmed-milk powder
 CT: Tomato concentrate
 B: Butter
 BO: Butteroil
 HOLI: Olive oil
 HCOLZ: Refined rape or colza oil
 HPALM: Semi-refined palm oil

HTOUR: Refined sunflower oil
 CB: Corned beef
 RsC: Currants
 BABYF: Babyfood
 PAL: Pasta
 FEQ: Horse beans (*Vicia faba equina*)
 FMA: Broad beans (*Vicia faba major*)
 SAR: Sardines
 DEB: Free at port of landing — landed
 DEN: Free at port of landing — ex ship
 EMB: Free at port of shipment
 DEST: Free at destination

Amendment to notice of invitation to tender for the refund for the export of milled round grain rice to certain third countries

(93/C 29/14)

(Official Journal of the European Communities No C 244 of 23 September 1992)

On page 22, paragraph 2 under heading I 'Subject' is amended as follows:

- '2. The total quantity in respect of which there may be fixed a maximum export refund as provided in Article 1 (2) of Commission Regulation (EEC) No 584/75 (¹), as last amended by Regulation (EEC) No 409/90 (²), is approximately 35 000 tonnes.'

Notice to readers

A list of documents forwarded by the Commission to the Council is published each week in Official Journal 'C' series.

These documents are available from the Sales Offices, the addresses of which are given on the back cover.

They contain an explanatory memorandum and, where appropriate, an SME impact statement (indicated by a footnote (¹)).

Those documents (indicated by a footnote (²)) on which the European Parliament is to be consulted and which have already been published in the Official Journal 'C' series under 'Preparatory acts' will continue to be published in order to inform readers of the progress of texts at the various stages of the decision-making/legislative process which are set out in Article 149 (3) of the Treaty.

NOTICE

On 2 February 1993, in the *Annex to the Official Journal of the European Communities* No C 29 A, the 'Common catalogue of varieties of agricultural plant species — First supplement to the 18th complete edition' will be published.

Interested readers may order this Official Journal from the Office for Official Publications of the European Communities, Sales Department, L-2985 Luxembourg.

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