

Official Journal

of the European Communities

ISSN 0378-6986

C 216

Volume 36

11 August 1993

English edition

Information and Notices

<u>Notice No</u>	Contents	Page
	<i>I Information</i>	
	Commission	
93/C 216/01	Ecu	1
93/C 216/02	Information procedure — technical regulations	2
93/C 216/03	Uniform application of the Combined Nomenclature (CN) (Classification of goods)	3
93/C 216/04	Non-opposition to a notified concentration (Case No IV/M.350 — West LB/Thomas Cook)	4
93/C 216/05	State aid — C 66/91 (ex NN 154/91) — Germany	5
93/C 216/06	Recapitulation of current tenders, published in the <i>Supplement to the Official Journal of the European Communities</i> , financed by the European Economic Community under the European Development Fund (EDF) or the European Communities budget (week: 3 to 7 August 1993)	9
93/C 216/07	Commission communication regarding the data required by the Member States from parties responsible for providing statistical information, within the context of statistics on trade between Member States, pursuant to Articles 21 and 23 of Council Regulation (EEC) No 3330/91	10
93/C 216/08	Commission communication pursuant to Article 12 (3) of Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries, extended for 1993 by Regulation (EEC) No 3917/92	13

<u>Notice No</u>	Contents (continued)	Page
	Court of Justice	
	COURT OF FIRST INSTANCE	
93/C 216/09	Case T-42/93: Action brought on 17 June 1993 by Rodolfos Maslias against the European Parliament	14
<hr/>		
	II <i>Preparatory Acts</i>	
	Commission	
93/C 216/10	Proposal from the Commission to amend the proposal for a Council Decision on a consultation and authorization procedure for agreements concerning commercial aviation relations between Member States and third countries	15
<hr/>		
	III <i>Notices</i>	
	Commission	
93/C 216/11	European economic interest grouping — Notices published pursuant to Council Regulation (EEC) No 2137/85 of 25 July 1985 — Formation	22
<hr/>		
	European University Institute (see inside back cover)	

I

(Information)

COMMISSION

Ecu ⁽¹⁾

10 August 1993

(93/C 216/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,7507	United States dollar	1,12563
Danish krone	7,80795	Canadian dollar	1,45376
German mark	1,91414	Japanese yen	117,426
Greek drachma	267,304	Swiss franc	1,69802
Spanish peseta	160,155	Norwegian krone	8,35107
French franc	6,74761	Swedish krona	8,96285
Irish pound	0,822410	Finnish markka	6,56132
Italian lira	1823,21	Austrian schilling	13,4682
Dutch guilder	2,15548	Icelandic krona	81,2369
Portuguese escudo	197,627	Australian dollar	1,64518
Pound sterling	0,757645	New Zealand dollar	2,05333

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) and an automatic fax answering service (No 296 10 97) providing daily data concerning calculation of the conversion rates applicable 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).

Information procedure — technical regulations

(93/C 216/02)

- 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 (*)	Title	End of three-month standstill period (‡)
93-0181-GR	Health-law regulation 'concerning the ban on the use of slates or other means of maintaining cleanliness in baking ovens for bread and other foods'	30. 9. 1993
93-0186-F	Order relating to the specifications of diesel oil	8. 10. 1993
93-0187-I	Safety regulation for pleasure sailing	closure
93-0188-D	Amendment of List B of the General Administrative Provision to the Act governing technical work material of March 1992 by incorporating the ZH 1-368 'Code of practice involving rope ladders'	15. 10. 1993
93-0189-D	'Safety regulations for climbing irons and climbing-iron gangways' (ZH 1-542)	15. 10. 1993
93-0190-F	Technical characteristics and test conditions for radioelectrical equipment with internal or external antenna connector, intended for the transmission of data and containing devices intended solely for data or mixed devices enabling both analog transmission of speech and data transmission	20. 10. 1993
93-0191-I	Regulation implementing and executing the new highway code	14. 10. 1993

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

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

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

(*) No standstill period as the Commission has accepted the grounds for urgent adoption.

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.

UNIFORM APPLICATION OF THE COMBINED NOMENCLATURE (CN)

(Classification of goods)

(93/C 216/03)

Publication of Explanatory Notes made in accordance with Article 10 (1) of Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, as last amended by Regulation (EEC) No 1969/93⁽²⁾

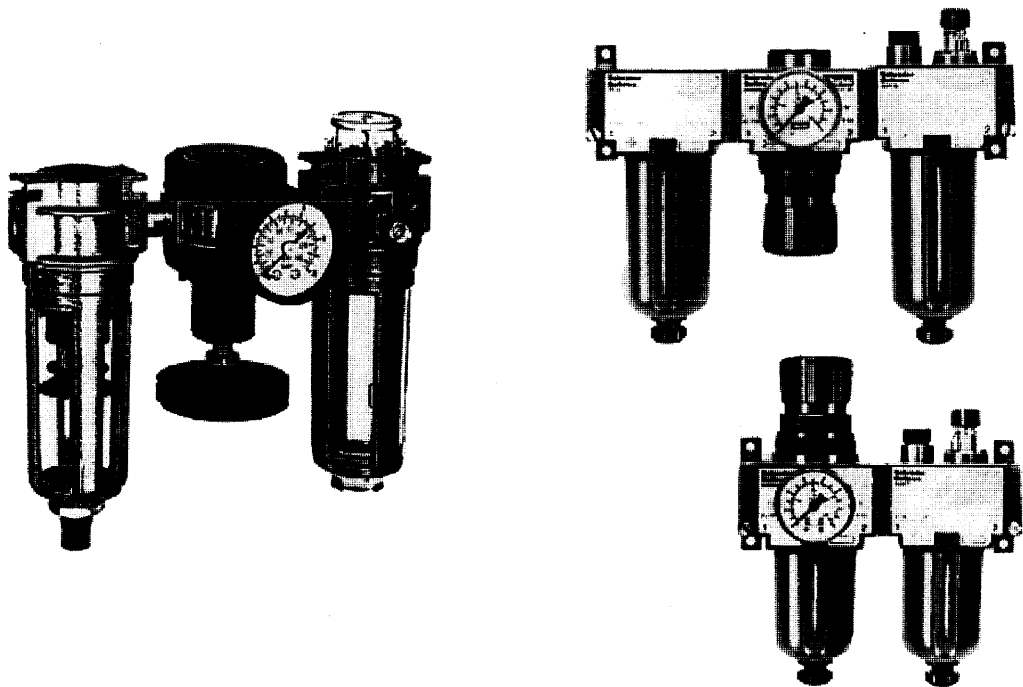
The 'Explanatory Notes to the combined nomenclature of the European Communities'⁽³⁾ are amended as follows:

Page 'Chapter 84/35'

8481 Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves

8481 10 11 Combined with filters or lubricators

This subheading covers articles consisting of different components which perform the functions needed to regulate compressed-air systems: air filtration (to remove impurities e.g. water, rust, dirt, etc.), regulation to the correct working pressure, lubrication (to ensure smooth operation of the pneumatic components). They typically have the following appearance:



8481 10 91 Combined with filters or lubricators

See the Explanatory Notes to subheading 8481 10 11.

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 180, 23. 7. 1993, p. 9.

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

Page 'Chapter 92/1'

SECTION XVIII

9207 Musical instruments, the sound of which is produced, or must be amplified, electrically (for example, organs, guitars, accordions)

9207 10 30 Digital-pianos

In contrast to synthesizers and keyboards, the range and key width of digital-pianos correspond exactly to those of acoustic pianos (heading No 9201). They use sound sampling to reproduce the sound of acoustic pianos as accurately as possible. The action, including that of the pedals, corresponds to that of acoustic pianos. As a rule, they have built-in amplifiers and loudspeakers.

9207 10 50 Synthesizers

Synthesizers differ from the other musical instruments of subheading 9207 10 in that, in addition to providing pre-programmed sounds (or 'pre-sets'), which may also be modulated, they allow the players to program their own sounds. Synthesizers may also have other built-in electronic components such as samplers, amplifiers, loudspeakers, sequencers, echo, flanging, distortion and other effect units, and electronic percussion.

9207 10 80 Other

This subheading includes keyboards which are instruments that allow the player to use pre-programmed sounds (or 'pre-sets') only. The player cannot generate and program his own sounds. Keyboards may also have built-in amplifiers and loudspeakers.

Non-opposition to a notified concentration
(Case No IV/M.350 — West LB/Thomas Cook)

(93/C 216/04)

On 30 June 1993 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 ⁽¹⁾. 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.

⁽¹⁾ OJ No L 395, 30. 12. 1989; Corrigendum: OJ No L 257, 21. 9. 1990, p. 13.

STATE AID

C 66/91 (ex NN 154/91)

Germany

(93/C 216/05)

*(Articles 92 to 94 of the Treaty establishing the European Economic Community)***Commission notice pursuant to Article 93 (2) of the EEC Treaty to other Member States and interested parties concerning the terms of a land sale contract concluded on 26 June 1991 between the city of Berlin (Germany) and Sony**

In the letter reproduced below, the Commission informed the German Government of its decision to terminate the procedure initiated on 18 December 1991 ⁽¹⁾.

By notarial act signed on 26 June 1991 and on the basis of a market price valuation ("Verkehrswertermittlung") carried out by the Senatsbauverwaltung (Senate Administration for Construction and Housing) on 14 March 1991, the Berlin Senate sold 30 917 m² of land on the Potsdamer Platz for DM 101 098 590 to Sony.

Sony acquired the site in order to transfer its European headquarters from Cologne to Berlin, an operation involving a total investment in Berlin of DM 1 billion.

The contract of sale also included a number of additional conditions agreed by Sony, in particular the obligation to:

- build an administrative complex, offices, accommodation, restaurants and shops, corresponding to a minimum built-surface ratio of 4:5 (usable area in relation to total area ("Geschoßflächenzahl")),
- retain the "Esplanade" building covered by a preservation order,
- make available to the German authorities, for a period of 25 years, an area of 15 000 m² for cultural purposes ("Filmhaus") at a rent of DM 25 per square metre (adjusted in accordance with the cost-of-living index), a figure considered not to reflect market conditions,
- allocate an area of 25 000 m² for the use of Sony itself (European and German headquarters, other purposes).

Sony's building plans must take account of the result of an architectural competition; in addition, it accepts that the urban development plans ("Bauleitplanung") have

not been finalized, which means it is unable to start building work immediately after signing the contract.

By decision of 18 December 1991, the Commission initiated the procedure provided for in Article 93 (2) of the EEC Treaty in respect of the conditions of sale of the land in question. The decision was motivated by doubts as to whether the transaction truly reflected market conditions (see NN 154/91), the doubts being explained in detail in the initiation of the procedure. The German Government was asked to have the land independently valued, for example by the Review Panel for Land Valuation in Berlin (GGB — Gutachterausschuß für Grundstückswerte in Berlin). The valuation was to take account of the questions raised by the Commission under the procedure, including the value of the additional commitments made by Sony.

The German Government was informed of this decision by letter No SG(92) D/871 of 23 January 1992.

In accordance with Article 93 (2) of the EEC Treaty, the Commission published a notice in the *Official Journal of the European Communities* No C 48 of 22 February 1992, page 3, inviting the other Member States and interested parties to submit their comments.

The German Government sent its initial comments by letter dated 24 February 1992. It answered some of the questions raised by the Commission, included a copy of the notarial act of purchase and other documents and informed the Commission that the GGB had been asked to prepare a valuation of the land as at 1 March 1991, which would be available in May 1992.

Despite several reminders, it was only on 22 December 1992 that the German authorities notified their position on all the aspects of the case, including in particular:

- a valuation by the GGB dated 27 August 1992 which, based on a comparison ("Vergleichswertmethode") of prices obtained in the period 1990 to 1992,

⁽¹⁾ OJ No C 48, 22. 2. 1992, p. 3.

assessed the value of the land (and the obligations connected with the preservation of the Esplanade building) at DM 260 million. The GGB was unable to put a figure on the value of the commitments made by Sony regarding the "Filmhaus", which is why the Berlin authorities had commissioned another valuation of this aspect from an approved expert in rentals ("öffentlich bestellter und vereidigter Sachverständiger"),

- the valuation of the second expert dated 9 December 1992 assessing the discounted value of Sony's additional Filmhaus commitments at DM 137 million,
- a letter from the GGB dated 14 December 1992 answering the questions and criticisms of the Berlin authorities concerning the method it used. In its letter, the GGB admitted that its valuation method was based on data which the Berlin Senate could not have known when it assessed the original price of the land at DM 101 098 590 on 14 March 1991.

On the hypothesis that only data already known in March 1991 could be used as an empirical basis for valuing the land, the GGB explained in detail how the value could be calculated by taking a different approach, i.e. on the basis of the average standard land value ("Bodenrichtwertmethode"). This approach (also used by the GGB in the Daimler-Benz/Potsdamer Platz case, State aid C 5/91, OJ No L 263, 9. 9. 1992), is based on a map of land values in comparable neighbourhoods of Berlin. The maps are drawn up regularly by the GGB, on the basis of sales prices achieved in a given reference period, either in the area in question or in comparable areas. The map proposed by the GGB is the one for 31 December 1990, drawn up in January 1991; showing price trends in Berlin in the period 1989 to 1990, it takes account of a "land price inflation" factor.

It must be noted, however, that although the GGB proposes the standard land value approach, it emphasizes that the result of this approach cannot be regarded as the value of the land in question. It points out that this method does not take account of the intense activity on the Berlin property market in March 1991 following the political upheavals which led to extraordinary price increases.

Consequently, since the two comparable sales which took place before March 1991 cannot be regarded as an adequate basis on which to draw viable conclusions, the GGB considered that the only option was, on the basis of a free and judicious estimate ("in sachgemäßer freier Schätzung"), to correct the result obtained by the standard average value method.

However, the GGB did not calculate the value of the land by the average value method or estimate the size of the correction to be made.

That is why, in their letter of 22 December 1992, the German authorities themselves provided a calculation of the value of the land based on the average value which follows the various stages recommended by the GGB. Thus, by:

- starting with an average standard value (Bodenrichtwert) of the land of DM 3 000/m² at 31 December 1990,
- multiplying by 1,39 to take account of a built/total area ratio of 4:5,
- taking account of price trends between 31 December 1990 and 1 March 1991 entailing a 10 % increase in prices per square metre,
- taking account of a 10 % reduction in the price due to the obligation to retain the Esplanade building,
- multiplying the price of DM 4 128 per square metre thus obtained by the area of 30 917 m²,
- and adding the value of the Esplanade building, valued on 27 August 1992 by the GGB at DM 2 389 000,

a value of DM 130 014 276 is arrived at.

It should be noted that this result, which is some DM 28,9 million over the sale price of DM 101 098 590, does not take account of the GGB's recommendation that correction should be made for the extraordinary price increases of the time.

In short, without allowing for the correction, the German authorities conclude in their letter of 22 December 1992 that the price paid for the land (DM 101 098 590) and Sony's commitments concerning the Filmhaus (DM 137 300 000, according to the valuation by the independent expert) are considerably higher than the figure obtained by the average value method (uncorrected) of DM 130 014 000, whilst the figure of DM 260 million given by the GGB in its valuation of August 1992 is regarded as the product of an unacceptable methodology. The German Government therefore considers that the property transaction in question does not comprise aid elements within the meaning of Article 92 (1) of the EEC Treaty.

The valuations and calculations sent by the German authorities on 22 December 1992 were discussed at two meetings between those authorities and the Commission

held in Berlin on 11 February 1993 and in Brussels on 19 February 1993.

No comments were received from other Member States or interested parties within the month following publication of the initiation of the procedure in the *Official Journal of the European Communities*.

By letters dated 16 March and 17 July 1992 Sony submitted its comments. These concerned the activities of Sony, the fact that Sony did not negotiate the price of the land with the German authorities as it regarded the price as fixed and non-negotiable, and included estimates drawn up by Sony concerning the value of its contractual commitments.

Comments were received from one political party in Berlin in a letter addressed to Mr Van Miert dated 15 January 1993.

The Commission would point out that the fact that proceedings have lasted 14 months since their initiation is due solely to the slow response on the part of the German authorities and the GGB.

When it initiated the procedure, the Commission asked the German authorities to have the value of the land at 1 March 1991 and the value of additional commitments by Sony assessed by a committee of independent and neutral experts, such as the "Gutachterausschuß für Grundstücksgeschäfte Berlin" (GGB).

The Commission notes that no such independent valuation by a committee of experts was provided, since:

- the GGB did not specify the size of the correction to be made to the figure obtained by the average value method,
- one expert (for the Filmhaus aspect) cannot replace a committee of independent experts.

Nevertheless, the Commission considers that the information supplied by the German authorities is sufficient to allow it to determine whether there is an aid element in the transaction. Furthermore, a fresh valuation is unlikely to shed any further light.

The GGB valuation of August 1992: The GGB valuation of 25 August 1992 must be rejected because of methodological errors. The analysis of the possible existence of aid must be based on the situation prior to 1 March

1991, and cannot therefore use data not known to the authorities carrying out the original valuation of the land price. The questions and criticisms raised by the German authorities must be considered relevant in this respect, and the approach based on a comparison with land sold after 1 March 1991 must be rejected.

The average standard land value method: In its letter of 14 December 1992 the GGB outlined a second methodological approach ("Bodenrichtwertmethode") which uses only data known at March 1991. As already stated, this is a standard method based on the land values map ("Bodenrichtwertkarte"), drawn up by the GGB in January 1991, which shows average values at 31 December 1990. The average value of the land in question of DM 3 000 per square metre at that date reflects, on the one hand, the uncertainty surrounding urban development plans for the Potsdamer Platz and, on the other, the rise in land prices in that area following the removal of the Berlin Wall.

Previous average value maps (relating to the end of 1984, 1986 and 1988) show an average value of DM 450 per square metre throughout the period in question.

Thus the average value of DM 3 000 /m² takes account of the fact that, between the end of 1988 and the end of 1990, the value of the land in question was multiplied by a factor of 6,7; the trend for extraordinary price increases is to some extent reflected in the 10 % increase proposed by the GGB to take account of price increases between 1 January and 1 March 1991.

The calculations of the German authorities: According to the calculations of the German authorities (average values method), which did not take account of the supplement considered necessary by the GGB, the value of the land at 1 March 1991 is DM 130 014 000. It should, however, be noted that the GGB described this method as inadequate in view of the movements on the property market in Berlin at that time.

Correction of the result obtained by the average value method: According to the GGB, the result obtained by this method must be corrected by an increase, the size of which must be determined by a free and judicious estimate. No such estimate was provided. The figure given by the German authorities (DM 130 014 000), based on the average values method, does not include the correcting factor.

The German authorities stated that, according to German case-law and consistent administrative practice, an addition to a basic value, as recommended by the

GGB, should not exceed 30 %, i.e. DM 39 million in relation to the abovementioned DM 130 014 000. Otherwise, the approach used to calculate the basic value must be regarded as wrong.

However, the average value map of January 1991 was not itself called into question by the GGB. Consequently, it would be justified to consider that the market price (at 1 March 1991) of the land in question should not exceed DM 169 million. In addition, due to the uncertainty resulting from the failure of the GGB to provide an indication of the size of the supplement, it is in the Commission's view good statistical practice to fix that amount at 50 % of the maximum to be added, i.e. DM 19,5 million. The "probable market price" can therefore be fixed at DM 149,5 million.

Two plots of land were sold before 1 March 1991. The two sales allow some of the previous arguments to be verified to a certain extent. However, the GGB's comment that definitive conclusions cannot be drawn from the two cases is certainly justified. As a result, the following considerations are of a purely secondary nature.

The average price (standardized for the purpose of comparison) resulting from the above two transactions is DM 5 429 per square metre. This corresponds to a total of DM 167 848 million for the whole plot, on condition, however, that building work can begin immediately after signature of the contract. This condition, which was met in the two comparison cases, was not present in the case in hand. According to the information from the GGB, a specific waiting period due to the lack of urban development plans was necessary. If this is corrected in line with the 1991 reference rate for Germany, a figure of DM 139 859 million is obtained. By allowing for a 10 % reduction in the price of the land, as recommended by the GGB, due to the obligation to retain the Esplanade building, and by adding the value of the Esplanade building, calculated by the GGB in its August valuation at DM 2 389 000, a control price of DM 128,26 million is obtained, i.e. a price that is still below the figures given by the German authorities.

The value of Sony's contractual commitments relating to the Filmhaus: It should first be noted that the GGB refused to examine the Filmhaus aspects since they were not known at the time of the original valuation of the land price in March 1991. The GGB also considered it did not have the necessary information (location of Filmhaus in the complex, size, equipment, quality) to give an opinion. It therefore became necessary to seek an answer through other channels.

The meetings on 10 and 19 February 1993 enabled the Commission to examine the valuation prepared by the independent expert, and to correct its calculation of the value of Sony's Filmhaus commitments from the original figure of DM 137 300 000 to 43 820 000.

The corrections, agreed by the German authorities, concern the following aspects in particular:

- the discounted value of DM 137 300 000, provided without further details by the independent expert, is calculated on the basis of 1998, the first year, according to the expert, in which rent will be paid for the Filmhaus area at the price "subsidized" by Sony, and is discounted, for comparison, to 1991,
- the first year of rental of the Filmhaus area, as provided for in 1991, is 1996 (five years for planning and construction),
- the valuation neglected the tax aspects (corporation tax), amounting to 36 % on distributed profits and 50 % on undistributed profits,
- the discount rate for 1991 of 9,55 % applicable to Germany, as provided for in the "principles of coordination" (OJ C 31, 3. 2. 1979, Annex, points 13 to 15), was applied.

It should also be noted that the hypothetical price Sony could obtain depends largely on how the 15 000 m² allocated to the Filmhaus is divided between the underground and above-ground areas. An alternative calculation based on a larger proportion of underground area gives a result of DM 34 825 000 instead of DM 43 820 000 as calculated above. However, no information existed on the distribution of space at the time of the signing of the contract.

Removal of foundations: Sony agreed to bear the costs of removing the foundations still on the site, provided such costs did not exceed DM 5 million. This fact is not taken into account in the expert valuations. The value of this commitment is estimated at DM 2 million.

Overall calculation: The total commitments and payments made by Sony may be summarized as follows:

- sales price: DM 101,1 million
- Filmhaus: DM 43,8 to 34,8 million
- foundations: DM 2,0 million.

Consequently, Sony's total commitments and payments can be put at between DM 146,9 million and 137,9 million, giving an average of DM 142,4 million.

This figure is higher than the "market" price (DM 130 million) calculated by the German authorities, and is also higher than the "control price" (DM 128,3 million) based on the two land sales in March 1991. On the other hand, it is lower than the "probable market price" of DM 149,5 million calculated above. The difference between the two prices is DM 7,1 million, i.e. 4,99 % of the average value of Sony's payments and commitments.

Since a 5 % margin of error is normally accepted in estimates of property values, the difference of 4,99 % cannot be regarded as justifying doubts as to the existence of aid in the sale of the land.

The Commission therefore considers that the sale of land by the Berlin Senate to Sony does not comprise state aid within the meaning of Article 92 (1) of the EEC Treaty and has decided to terminate the procedure it initiated pursuant to Article 93 (2) by letter SG(92) D/871 of 23 January 1992. This letter will be published in the *Official Journal of the European Communities* to inform other Member States and interested parties of the decision.'

Recapitulation of current tenders, published in the *Supplement to the Official Journal of the European Communities*, financed by the European Economic Community under the European Development Fund (EDF) or the European Communities budget

(week: 3 to 7 August 1993)

(93/C 216/06)

Invitation to tender No	Number and date of 'S' Journal	Country	Subject	Final date for submission of bids
3716	S 150, 4. 8. 1993	Ethiopia	ET-Addis-Ababa: meteorological equipment	23. 9. 1993
3715	S 150, 4. 8. 1993	Ethiopia	ET-Addis-Ababa: road maintenance equipment	1. 10. 1993
3723	S 150, 4. 8. 1993	Fiji	FJ-Suva: prequalification of companies	22. 9. 1993
3714	S 151, 5. 8. 1993	Ethiopia	ET-Addis-Ababa: steel billets	8. 10. 1993
3713	S 151, 5. 8. 1993	Ethiopia	ET-Addis-Ababa: dump trucks	23. 9. 1993
3720	S 151, 5. 8. 1993	Ethiopia	ET-Addis-Ababa: tannery chemicals	22. 9. 1993
3721	S 151, 5. 8. 1993	Ethiopia	ET-Addis-Ababa: raw materials and chemicals for shoe factory	23. 9. 1993
3722	S 151, 5. 8. 1993	Ethiopia	ET-Addis-Ababa: specialized equipment	1. 10. 1993
3650	S 151, 5. 8. 1993	Benin	BJ-Cotonou: medical equipment (additional information)	12. 10. 1993
3663	S 151, 5. 8. 1993	Bhutan	BT-Thimphu: laboratory equipment	18. 10. 1993

Commission communication regarding the data required by the Member States from parties responsible for providing statistical information, within the context of statistics on trade between Member States, pursuant to Articles 21 and 23 of Council Regulation (EEC) No 3330/91 (*)

(93/C 216/07)

The following Commission communication lists the data required by the Member States in order to compile statistics on trade between Member States. In the tables below, the Member States are designated by the following codes:

BE: Belgium	IE: Ireland
DK: Denmark	IT: Italy
DE: Germany	LU: Luxembourg
GR: Greece	NL: Netherlands
ES: Spain	PT: Portugal
FR: France	GB: United Kingdom

These tables show the current situation in each of the Member States and have been drawn up without prejudice to measures which may be taken by the Member States in the future concerning the data mentioned in Article 23 (2) of Council Regulation (EEC) No 3330/91.

(*) OJ No L 316, 16. 11. 1991, p. 1.

**STATISTICS ON TRADE BETWEEN MEMBER STATES
DATA REQUESTED BY MEMBER STATES**

DISPATCH

Detailed declaration

Box(*)		BE	DK	DE	GR (*)	ES	FR (*)	IE	IT (*)	LU	NL	PT	GB
1	Party responsible, No.	x	x	x	x	x	x	x	x	x	x	x	x
2	Period	x	x	x	x	x	x	x	x	x	x	x	x
3	Marking of last form				x	x						x	
4	Declaring third party	x	x	x	x	x	x	x	x	x	x	x	x
5	—												
6	Description of goods		x	x	x	x				x	x	x	
7	Item number	x	x	x	x	x	x	x	x	x	x	x	x
8 a	Member State of destination	x	x	x	x	x	x	x	x	x	x	x	x
8 b	Region of origin			x		x	x		x			x	
9	Delivery terms												
	First sub-box					x	x	x				x	x
	Second sub-box					x	x						
10	Nature of transaction												
	Codes of column A							x	x		x		x
	Codes of column A and B	x	x	x	x	x	x			x		x	
11	Mode of transport	x	x	x	x	x	x	x	x	x	x	x	x
12	Port or airport of loading	x		x		x					x	x	

Box ⁽¹⁾		BE	DK	DE	GR ⁽²⁾	ES	FR ⁽²⁾	IE	IT ⁽²⁾	LU	NL	PT	GB
13	Commodity code	x	x	x	x	x	x	x	x	x	x	x	x
	9th digit (optional)						x					x	
14	—												
15	Statistical procedure	x		x		x	x		x		x		
16	Net mass	x	x	x	x	x	x	x	x	x	x	x	x
17	Supplementary units	x	x	x	x	x	x	x	x	x	x	x	x
18	Invoiced amount	x		x	x	x	x	x	x	x	x	x	x
	Break-down by type of goods			x		x	x	x	x				x
19	Statistical value	x	x	x	x	x	x	x	x	x	x	x	
20	Place, date, signature		x	x	x	x	x	x	x		x	x	x

(¹) Numbering in accordance with Intrastat forms N or R referred to in Article 2 of Commission Regulation (EEC) No 3590/92 (OJ No L 364, 12. 12. 1992, p. 32).

(²) Member State which collects the information by means of a single statistical and fiscal declaration.

(³) Member State which collects the information by means of a statistical declaration attached to the fiscal declaration.

DISPATCH

Simplified declaration

Box ⁽¹⁾		BE	DK	DE	GR ⁽²⁾	ES	FR ⁽²⁾	IE	IT ⁽²⁾	LU	NL	PT	GB
1	Party responsible, No	o	o	o	x	x	x	o	o	x	x	o	o
2	Period	o	o	o	x	x	x	o	o	x	x	o	o
3	Marking of last form	o	o	o	x	x		o	o			o	o
4	Declaring third party	o	o	o	x	x	x	o	o	x	x	o	o
5	—												
6	Item number	o	o	o	x	x	x	o	o	x	x	o	o
7	Member State of destination	o	o	o	x	x	x	o	o	x	x	o	o
8	Commodity code	o	o	o	x	x	x	o	o	x	x	o	o
	9th digit (optional)	o	o	o			x	o	o			o	o
9	Invoiced amount	o	o	o	x	x	x	o	o	x	x	o	o
	Break-down by type of goods	o	o	o	x	x	x	o	o		x	o	o
10	Statistical value	o	o	o	x	x		o	o	x		o	o
11	Place, date, signature	o	o	o	x	x	x	o	o		x	o	o

o: no simplified declaration

(¹) Numbering in accordance with Intrastat form S referred to in Article 2 of Regulation (EEC) No 3590/92.

(²) Member State which collects information by means of a single statistical and fiscal declaration.

(³) Member State which collects information by means of a statistical declaration attached to the fiscal declaration.

Transmission delay

	BE	DK	DE	GR ⁽¹⁾	ES	FR	IE	IT ⁽¹⁾	LU	NL	PT	GB
Number of working days after reference month	10	5	5	25	7	10	10	15	6	8	10	10

(¹) Member State applying the derogation provided for under Article 9 (4) of Commission Regulation (EEC) No 3046/92 (OJ No L 307, 23. 10. 1992).

ARRIVAL

Detailed declaration

Box ⁽¹⁾		BE	DK	DE	GR ⁽²⁾	ES	FR ⁽²⁾	IE	IT ⁽²⁾	LU	NL	PT	GB
1	Party responsible, No.	x	x	x	x	x	x	x	x	x	x	x	x
2	Period	x	x	x	x	x	x	x	x	x	x	x	x
3	Marking of last form				x	x						x	
4	Declaring third party	x	x	x	x	x	x	x	x	x	x	x	x
5	—												
6	Description of goods		x	x	x	x				x	x	x	
7	Item number	x	x	x	x	x	x	x	x	x	x	x	x
8 a	Member State of origin	x	x	x	x	x	x	x	x	x	x	x	x
8 b	Region of destination			x		x	x		x			x	
9	Delivery terms												
	First sub-box					x	x	x				x	x
	Second sub-box					x	x						
10	Nature of transaction												
	Codes of column A							x	x		x		x
	Codes of column A and B	x	x	x	x	x	x			x		x	
11	Mode of transport	x	x	x	x	x	x	x	x	x	x	x	x
12	Port or airport of unloading	x		x		x					x	x	
13	Commodity code	x	x	x	x	x	x	x	x	x	x	x	x
	9th digit (optional)						x					x	
14	Country of origin	x		x		x	x	x	x	x			x
15	Statistical procedure	x		x		x	x		x		x		
16	Net mass	x	x	x	x	x	x	x	x	x	x	x	x
17	Supplementary units	x	x	x	x	x	x	x	x	x	x	x	x
18	Invoiced amount	x		x	x	x	x	x	x	x	x	x	x
	Break-down by type of goods			x		x	x	x	x				x
19	Statistical value	x	x	x	x	x	x	x	x	x	x	x	
20	Place, date, signature		x	x	x	x	x	x	x		x	x	x

(¹) Numbering in accordance with Intrastat forms N or R referred to in Article 2 of Commission Regulation (EEC) No 3590/92 (OJ No L 364, 12. 12. 1992, p. 32).

(²) Member State which collects the information by means of a single statistical and fiscal declaration.

(³) Member State which collects the information by means of a statistical declaration attached to the fiscal declaration.

ARRIVAL

Simplified declaration

Box ⁽¹⁾		BE	DK	DE	GR ⁽²⁾	ES	FR ⁽²⁾	IE	IT ⁽²⁾	LU	NL	PT	GB
1	Party responsible, No	o	x	o	x	x	x	o	o	x	x	x	o
2	Period	o	x	o	x	x	x	o	o	x	x	x	o
3	Marking of last form	o		o	x	x		o	o			x	o
4	Declaring third party	o	x	o	x	x	x	o	o	x	x	x	o
5	—												
6	Item number	o	x	o	x	x	x	o	o	x	x	x	o
7	Member State of origin	o	x	o	x	x	x	o	o	x	x	x	o
8	Commodity code	o	x	o	x	x	x	o	o	x	x	x	o

Box ⁽¹⁾		BE	DK	DE	GR ⁽²⁾	ES	FR ⁽²⁾	IE	IT ⁽²⁾	LU	NL	PT	GB
	9th digit (optional)	○		○			×	○	○			×	○
9	Invoiced amount	○		○	×	×	×	○	○	×	×	×	○
	Break-down by type of goods	○		○	×	×	×	○	○		×		○
10	Statistical value	○	×	○	×	×		○	○	×		×	○
11	Place, date, signature	○	×	○	×	×	×	○	○		×	×	○

○: no simplified declaration

⁽¹⁾ Numbering in accordance with Intrastat form S referred to in Article 2 of Regulation (EEC) No 3590/92.

⁽²⁾ Member State which collects information by means of a single statistical and fiscal declaration.

⁽²⁾ Member State which collects information by means of a statistical declaration attached to the fiscal declaration.

Transmission delay

	BE	DK	DE	GR ⁽¹⁾	ES	FR	IE	IT ⁽¹⁾	LU	NL	PT	GB
Number of working days after reference month	10	5	5	25	7	10	10	15	6	8	10	10

⁽¹⁾ Member State applying the derogation provided for under Article 9 (4) of Commission Regulation (EEC) No 3046/92 (OJ No L 307, 23. 10. 1992).

Commission communication pursuant to Article 12 (3) of Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries, extended for 1993 by Regulation (EEC) No 3917/92

(93/C 216/08)

Pursuant to Article 12 (3) of Council Regulation (EEC) No 3831/90 ⁽¹⁾, extended for 1993 by Council Regulation (EEC) No 3917/91 ⁽²⁾, the Commission gives notice that the following tariff ceilings have been reached:

Order No	Description	Origin	Amount of ceiling
10.0030	<ul style="list-style-type: none"> — Heavy oils — Gas oils — For other purposes — Fuel oils — For other purposes — Lubricating oils; other oils — To be mixed in accordance with the terms of additional note 6 (C) to this chapter — For other purposes 	Saudi Arabia	574 875 tonnes
10.0330	Sulphonamides	South Korea	ECU 4 961 000
10.0480	<ul style="list-style-type: none"> Sacks and bags (including cones) — Of polymers of ethylene 	Malaysia	ECU 4 829 000

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 1.

⁽²⁾ OJ No L 396, 31. 12. 1992, p. 1.

COURT OF JUSTICE

COURT OF FIRST INSTANCE

Action brought on 17 June 1993 by Rodolfos Maslias against the European Parliament

(Case T-42/93)

(93/C 216/09)

An action against the European Parliament was brought before the Court of First Instance of the European Communities on 17 June 1993 by Rodolfos Maslias, an official of the European Parliament, represented by Kharisios Tagaras, of the Thessaloniki Bar, with an address for service in Luxembourg at the Chambers of Evelyn Korn, 21 rue Nassau.

The applicant claims that the Court of First Instance should:

- declare void the decision of the European Parliament by which, first, payment of household allowance to the applicant was discontinued from 1 August 1992 and, secondly, household allowance for the period October 1991 to July 1992 was required to be repaid retrospectively, as having been unduly paid, as that decision appears and takes effect in letter No 23988/92 from the European Parliament to the applicant and the applicant's monthly salary payslips from August 1992,
- declare void the implied rejection by the European Parliament of the administrative complaint which the applicant submitted on 18 November 1992 on the basis of Article 90 (2) of the Staff Regulations,
- order the defendant to repay to the applicant the amounts of Bfrs 15 624 deducted monthly, as from 1 January 1993, with legal interest at 8 % on each deduction,
- order the European Parliament to pay the costs.

Pleas in law and main arguments adduced in support:

In support of his argument that the discontinuation of payment of household allowance from 1 August 1992 was unlawful, the applicant relies on the fundamental principle of the equality of men and women in the workplace (*inter alia* equal pay and equal access to employment and career development) and the principle of sound and proper administration.

With regard to the lawfulness of the retrospective demand to repay amounts alleged by the European Parliament to have been unduly paid, the applicant relies on the following:

- (a) the lawfulness of the payment of the household allowance even after 1 October 1991;
- (b) the lack of a statement of reasons in the decision in respect of the retrospective recovery of the allowances paid;
- (c) misapplication by the defendant of Article 85 of the Staff Regulations according to which recovery of sums unduly paid is permitted only 'if the recipient was aware that there was no due reason for the payment or if the fact of the overpayment was patently such that he could not have been unaware of it'.

Apart from the confused state of the legislation and case-law in matters of family allowances, it would be unreasonable to maintain that the fact of overpayment was so patent that the official's lack of awareness should not be excused, when the administration itself took 10 months to discover the fact of overpayment.

II

(Preparatory Acts)

COMMISSION

Proposal from the Commission to amend the proposal for a Council Decision on a consultation and authorization procedure for agreements concerning commercial aviation relations between Member States and third countries

(93/C 216/10)

*COM(92) 434 final**(Submitted by the Commission on 23 October 1992)*

ORIGINAL PROPOSAL

Proposal for a Council Decision on a consultation and authorization procedure for agreements concerning commercial aviation relations between Member States and third countries

AMENDED PROPOSAL

Proposal from the Commission to amend the proposal for a Council Decision on a consultation and authorization procedure for agreements concerning commercial aviation relations between Member States and third countries

(COM(90) 17 final of 23 February 1990)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the proposal from the Commission,

Whereas Council Decision 69/494/EEC of 16 December 1969 on the progressive standardization of agreements concerning commercial relations between Member States and third countries and on the negotiations of Community agreements ⁽¹⁾ provides a consultation and authorization procedure for all commercial agreements with third countries;

Whereas Council Decision 69/494/EEC of 16 December 1969 on the progressive standardization of agreements concerning commercial relations between Member States and third countries and on the negotiations of Community agreements ⁽¹⁾ provides a consultation and authorization procedure for all commercial agreements with third countries;

Whereas it is necessary that commercial relations with third countries in the field of civil aviation are governed by special provisions replacing the provision of Decision 69/494/EEC;

Whereas it is necessary that commercial relations with third countries in the field of civil aviation are governed by special provisions replacing the provision of Decision 69/494/EEC;

⁽¹⁾ OJ No L 326, 29. 12. 1969, p. 39.

⁽¹⁾ OJ No L 326, 29. 12. 1969, p. 39.

ORIGINAL PROPOSAL

Whereas commercial aviation relations are regulated by bilateral air services agreements, their Annexes and amendments thereto, and other bilateral and multilateral arrangements containing provisions on market access, capacity, tariff arrangements or related provisions;

Whereas a procedure must be established to ensure that the replacement of national agreements by Community agreements is carried out progressively;

Whereas, while all negotiations with a view to conclusion of new treaties, agreements, or arrangements, or to amendment of those already existing, must be conducted in accordance with a Community procedure, it is never the less permissible for existing bilateral air services agreements, their Annexes and any amendments thereto, and any other commercial bilateral or multilateral arrangement concerning aviation relations with third countries to be provisionally extended, expressly or tacitly, provided that their extension does not hinder the implementation of the common commercial aviation policy;

Whereas, in order to ascertain whether this condition is met, prior consultation should take place at Community level between the Member States and the Commission;

Whereas, however, in certain exceptional cases, where negotiation by the Community is not yet possible and an interruption in relations based on agreement might compromise the development of commercial aviation relations with the third country in question to the detriment of the Community and the Member States, provision should be made, as a temporary measure and for a limited period, for possible negotiation by Member States;

Whereas, in order to prevent such negotiations hindering the implementation of the common commercial aviation policy, they may be conducted by Member States in the framework of guidelines agreed upon beforehand in accordance with a Community procedure and covering the basic terms of the agreement to be negotiated;

AMENDED PROPOSAL

Whereas commercial aviation relations are regulated by bilateral air services agreements, their Annexes and amendments thereto, and other bilateral and multilateral arrangements containing provisions on market access, capacity, tariff arrangements or related provisions;

Whereas a regulatory framework for negotiations with third countries and a transitional period should be provided for;

Whereas the transitional period should go beyond 31 December 1992 to allow for a gradual introduction of Community negotiations;

Whereas the transitional provisions need to be provided for six years, with the possibility of a further extension on a yearly basis;

Whereas it is necessary to provide for authorization for provisions in the air transport services agreements and additional arrangements concluded before 1 January 1993 between Member States and third countries to remain in force, in order to avoid interrupting their commercial relations with the third countries concerned; whereas such authorization does not absolve the Member States from the obligation to take all appropriate steps to eliminate any incompatibility between such agreements and the provisions of Community law;

Whereas most of the matters covered by these agreements will in future be governed by Community agreements; whereas the provisions of the agreements which are to remain in force must not constitute an obstacle for the implementation for the common external aviation policy; whereas Member States may have to adapt, or, if necessary, terminate those agreements where their remaining in force hinders the implementation of the common external aviation policy;

Whereas during the transitional period the Council should have the possibility to authorize Member States to conduct bilateral negotiations with third countries;

Whereas in cases where it is decided that Member States can conduct negotiations with third countries the Council may issue directives for such negotiations;

Whereas Article 113 of the Treaty not only provides for the procedure for negotiations by the Community, but also for the establishment of a special committee appointed by the Council to assist the Commission in its task;

Whereas, in cases where the Community negotiates with third countries, procedures for the allocation of negotiating results should ensure neutrality and compatibility with Community legislation;

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Whereas, before an agreement is signed, the results of the negotiations must be checked to ensure that they conform with the joint conclusions;

Whereas, before an agreement is signed, the results of the negotiations should be checked to ensure that they conform with the joint conclusions.

HAS ADOPTED THIS DECISION:

HAS ADOPTED THIS DECISION:

TITLE I

TITLE I

Express or tacit extension of agreements already existing**Express or tacit extension of agreements already existing***Article 1**Article 1*

Member States shall communicate to the Commission all bilateral air services agreements, their Annexes and any amendments thereto, or any other commercial bilateral or multilateral arrangements with third countries concerning aviation relations within the meaning of Article 113 of the Treaty, at the latest one year after adoption of this Decision.

Member States shall communicate to the Commission all bilateral air services agreements, their Annexes and any amendments thereto, or any other commercial bilateral or multilateral arrangements with third countries concerning aviation relations within the meaning of Article 113 of the Treaty, at the latest one year after adoption of this Decision.

However, such agreements or arrangements the extension of which, whether express or tacit, is proposed shall be notified to the Commission not later than three months before the date of express extension or of the expiry of the period during which notice of termination of the agreement or arrangement in question may be given.

However, such agreements or arrangements the extension of which, whether express or tacit, is proposed shall be notified to the Commission not later than three months before the date of express extension or of the expiry of the period during which notice of termination of the agreement or arrangement in question may be given.

The Commission shall communicate the text of the notified agreements and arrangements to the other Member States within two weeks following the notification.

The Commission shall communicate the text of the notified agreements and arrangements to the other Member States within two weeks following the notification.

*Article 2**Article 2*

After the notification has been received, prior consultation shall take place at the request of a Member State or on the initiative of the Commission. Such a request for consultation shall be filed with the Commission by the Member State concerned within four weeks after the notification to it of the agreement or arrangement by the Commission.

After the notification has been received, prior consultation shall take place at the request of a Member State or on the initiative of the Commission. Such a request for consultation shall be filed with the Commission by the Member State concerned within four weeks after the notification to it of the agreement or arrangement by the Commission.

Consultation shall begin within three weeks following the receipt by the Commission of the notification referred to in the second paragraph of Article 1 or of the request from a Member State.

Consultation shall begin within three weeks following the receipt by the Commission of the notification referred to in the second paragraph of Article 1 or of the request from a Member State.

The main purpose of the consultation shall be to establish whether a Community negotiation should be initiated or, if not, whether the agreements to be extended expressly or tacitly contain provisions relating to the common commercial aviation policy within the meaning of Article 113. If such is the case, it shall be established whether such provisions could constitute an obstacle to that policy. The consultation shall also cover all instruments currently in force between the other Member States and the third country concerned.

The main purpose of the consultation shall be to establish whether a Community negotiation should be initiated or, if not, whether the agreements to be extended expressly or tacitly contain provisions relating to the common commercial aviation policy. If such is the case, it shall be established whether such provisions could constitute an obstacle to that policy. The consultation shall also cover all instruments currently in force between the other Member States and the third country concerned.

ORIGINAL PROPOSAL

Article 3

If the Commission establishes, either after consultation or on its own initiative, that even though certain provisions in the instruments to be extended expressly or tacitly come within the scope of the common commercial aviation policy within the meaning of Article 113 those provisions would not, during the period of extension envisaged, constitute an obstacle to implementation of the common commercial aviation policy, it may authorize Member States to extend, expressly or tacitly, for a period to be specified, the provisions in question of the instruments which were the subject of the consultation. This period shall not exceed one year.

If, however, the instruments in question contain either a Community reservation clause or a clause providing for annual notice of termination, express or tacit extension may be authorized by the Commission for a longer period.

Article 4

If the Commission establishes, either after consultation or on its own initiative, that provisions in the instrument to be extended expressly or tacitly could, during the period of extension envisaged, constitute an obstacle to the implementation of the common commercial aviation policy, in particular by reason of divergencies between the policies of Member States, it shall submit a detailed report to the Council. This report shall be accompanied by the necessary proposals and, where appropriate, by recommendations requesting that the Commission be authorized to open Community negotiations with the third countries in question.

AMENDED PROPOSAL

Article 3

If the Commission establishes, either after consultation or on its own initiative, that even though certain provisions in the instruments to be extended expressly or tacitly come within the scope of the common commercial aviation policy those provisions would not, during the period of extension envisaged, constitute an obstacle to implementation of the common commercial aviation policy, it may authorize Member States to extend, expressly or tacitly, for a period to be specified, the provisions in question of the instruments which were the subject of the consultation. This period shall not exceed one year.

If, however, the instruments in question contain either a Community reservation clause or a clause providing for annual notice of termination, express or tacit extension may be authorized by the Commission for a longer period.

Article 4

If the Commission establishes, either after consultation or on its own initiative, that provisions in the instrument to be extended expressly or tacitly could, during the period of extension envisaged, constitute an obstacle to the implementation of the common commercial aviation policy, in particular by reason of divergencies between the policies of Member States, it shall submit a detailed report to the Council. This report shall be accompanied by the necessary proposals and, where appropriate, by recommendations requesting that the Commission be authorized to open Community negotiations with the third countries in question.

Article 5

The provisions governing matters covered by the common external aviation policy within the meaning of Article 113 of the Treaty and contained in air transport services agreements and additional agreements concluded before 1 January 1993 between Member States and third countries may be maintained in force by the Commission until 31 December 1998 as regards those areas not covered by agreements between the Community and the third countries concerned and in so far as their provisions are not contrary to the Community policy.

To the extent that such agreements are not compatible with the Treaty, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other in accordance with the procedures provided for in this Decision.

ORIGINAL PROPOSAL

AMENDED PROPOSAL

TITLE II

TITLE II

Transitional provisions**Transitional provisions***Article 5**Article 6*

1. Without prejudice to Article 113 of the Treaty and until 31 December 1992, the Council acting on a proposal from the Commission and after the required prior consultation may, by way of exception, authorize bilateral negotiations between Member States and certain third countries in cases where Community negotiations prove to be not yet possible as a result of compelling circumstances of an administrative or technical nature.

1. Until 31 December 1998, the Council acting by qualified majority on a proposal from the Commission, after the required prior consultation, may authorize Member States to conduct bilateral negotiations with third countries concerning the conclusion, modification and/or application of bilateral air services agreements, the Annexes thereto or any other commercial bilateral or multilateral arrangements with third countries in cases where Community negotiations prove to be not yet possible. Directives and conditions may be attached to the authorization.

2. The provisions of this Article shall apply where, for any special reason, a Member State considers that, in order to avoid any interruption in commercial relations based on agreements, negotiations must be undertaken with some third country.

2. The provisions of this Article shall apply where, for any special reason, a Member State considers that, in order to avoid any interruption in commercial relations based on agreements, negotiations must be undertaken with some third country.

3. In derogation of paragraph 1, the Commission may, until 31 December 1992, authorize Member States to enter into bilateral negotiations with third countries concerning modification and/or application of Annexes of existing agreements in respect of exercise of traffic rights, designation of airlines, approval of air fares and scheduling;

3. By way of derogation from paragraph 1, the Commission may, until 31 December 1998, authorize Member States to enter into bilateral negotiations with third countries concerning the modification and/or application of the Annexes to existing agreements in respect of the exercise of traffic rights, the designation of airlines, the approval of air fares and scheduling.

*Article 6**Article 7*

Consultation conducted in accordance with Article 5 shall be ensured by the Commission and:

Consultation conducted in accordance with Article 6 shall be ensured by the Commission and:

(i) shall involve such coordination as will ensure the proper functioning and the strengthening of the internal market, as will take account of the legitimate interests of the Member States, as regards safeguarding and extending their commercial aviation relations with third countries and as will contribute towards the establishment of uniform principles of common commercial aviation policy in relation to the country in question;

(i) shall involve such coordination as will ensure the proper functioning and the strengthening of the internal market, as will take account of the legitimate interests of the Member States, as regards safeguarding and extending their commercial aviation relations with third countries and as will contribute towards the establishment of uniform principles of common commercial aviation policy in relation to the country in question;

(ii) shall be resumed during negotiations if developments in the latter so require and particularly if the Member State concerned intends to digress from the guidelines adopted at the time of consultation;

(ii) shall be resumed during negotiations if developments in the latter so require and particularly if the Member State concerned intends to digress from the guidelines adopted at the time of consultation;

(iii) shall — as regards points (i) and (ii) — lead to conclusions which will serve as guidelines for the Commission or for the Member State during the negotiations.

(iii) shall — as regards points (i) and (ii) — lead to conclusions which will serve as guidelines for the Commission or for the Member State during the negotiations.

ORIGINAL PROPOSAL

Article 7

At the end of negotiations the Member State concerned shall communicate to the Commission the results of such negotiations and shall inform the other Member States thereof.

If within five working days after communication to the Commission no Member State has raised any objection with the Commission to the proposed agreement or communicated any such objection to the Member State concerned, the Commission shall forthwith inform the Council and the other Member States of that fact, unless, for its part, the Commission has any objection to raise.

Upon receipt of this information the agreement in question may be concluded.

In all other cases, the agreement may be concluded only after authorization by the Council, acting by a qualified majority on a proposal from the Commission.

TITLE III

Final provisions*Article 8*

The information and consultations provided for in this Decision shall be covered by professional secrecy and shall, in particular, not involve the disclosure by the Commission of information provided by a Member State under this Decision and certified by that State as being commercially sensitive, except for the purposes of Article 1.

AMENDED PROPOSAL

Article 8

At the end of negotiations the Member State concerned shall communicate to the Commission the results of such negotiations and shall inform the other Member States thereof.

If within five working days after communication to the Commission no Member State has raised any objection with the Commission to the proposed agreement or communicated any such objection to the Member State concerned, the Commission shall forthwith inform the Council and the other Member States of that fact, unless, for its part, the Commission has any objection to raise.

Upon receipt of this information the agreement in question may be concluded.

In all other cases, the agreement may be concluded only after authorization by the Council, acting by a qualified majority on a proposal from the Commission.

TITLE III

Final provisions*Article 9*

The information and consultations provided for in this Decision shall be covered by professional secrecy and shall, in particular, not involve the disclosure by the Commission of information provided by a Member State under this Decision and certified by that State as being commercially sensitive, except for the purposes of Article 1.

Article 10

The consultation and coordination provided for in this Decision shall take place within the framework of a special committee appointed by the Council and as provided for in Article 113 of the Treaty.

Article 11

1. The Council having concluded an agreement between the Community and a third country or countries and established criteria *inter alia* for the allocation of traffic rights, the Commission shall take the necessary measures for its implementation.

2. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Article 9

The following Article 15a is inserted in Decision 69/494/EEC;

'Article 15a

This Decision does not apply to agreements and arrangements concerning aviation matters.'

Article 10

This Decision is addressed to the Member States.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous subparagraph.

Article 12

The following Article 15a is hereby inserted in Decision 69/494/EEC:

'Article 15a

This Decision does not apply to agreements and arrangements concerning aviation matters.'

Article 13

The Council may extend, on the basis of a Commission proposal, the transitional periods of Articles 5 and 6 for one or more periods of one year. The Commission's proposal shall be submitted at the latest six months before the expiry of the relevant transitional periods.

Article 14

This Decision is addressed to the Member States.

III

(Notices)

COMMISSION

EUROPEAN ECONOMIC INTEREST GROUPING

Notices published pursuant to Council Regulation (EEC) No 2137/85 of 25 July 1985⁽¹⁾ —
Formation

(93/C 216/11)

- | | |
|---|---|
| <p>1. <i>Name of grouping</i>: Siralp Electronic</p> <p>2. <i>Date of registration of grouping</i>: 22. 7. 1993</p> <p>3. <i>Place of registration of grouping</i>:</p> <p>(a) <i>Member State</i>: F</p> <p>(b) <i>Place</i>: ZI Arc Isère, F-73390 Bourgneuf</p> <p>4. <i>Registration number of grouping</i>: Chambéry
C 391 658 754 (n° de gestion: 93C4)</p> <p>5. <i>Publication(s)</i>:</p> <p>(a), (b)</p> <p>(c) <i>Date of publication</i>:</p> | <p>1. <i>Name of grouping</i>: CETRAL</p> <p>2. <i>Date of registration of grouping</i>: 29. 6. 1993</p> <p>3. <i>Place of registration of grouping</i>:</p> <p>(a) <i>Member State</i>: L</p> <p>(b) <i>Place</i>: 21, rue Glesener, Luxembourg</p> <p>4. <i>Registration number of grouping</i>: D 6</p> <p>5. <i>Publication(s)</i>:</p> <p>(a) <i>Full title of publication</i>: Recueil spécial des sociétés et associations du Grand-Duché de Luxembourg</p> <p>(b) <i>Name and address of publisher</i>: Recueil spécial des sociétés et associations du Grand-Duché de Luxembourg</p> <p>(c) <i>Date of publication</i>: 3. 8. 1993</p> |
|---|---|

⁽¹⁾ OJ No L 199, 31. 7. 1985, p. 1.