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COMMISSION
OF THE
EUROPEAN COMMUNITIES

General Secretariat

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NEGOTIATIONS FOR THE ACCESSION OF PORTUGAL

PROPOSALS ON TRANSPORT

(Commission communication to the Council)

COM(81) 157 final

Introduction

1. This communication deals with Portugal's acceptance of the acquis communautaire in the field of transport. It concerns the replies which the Commission considers should be given to the requests made by Portugal in the accession negotiations for temporary derogations in this field.
2. Portugal set out the substance of its requests in its statements of 19 October 1979 and 6 June 1980. Its task was made easier by the initial examination of secondary legislation which had then already been carried out by the Commission and the Portuguese Delegation. The Portuguese requests, which originally numbered ten, were reduced to three in the statement of 6 June 1980, notably following certain technical contacts held in May 1980 in connection with the visit to Lisbon by Mr Burke, who was then the Member of the Commission with responsibility for transport.
3. The Portuguese requests therefore concern the following three acts:

Council Regulation (EEC) No 1463/70 of 20 July 1970 on the introduction of recording equipment in road transport;

Council Directive 77/143/EEC of 29 December 1976 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers;

Council Directive 75/130/EEC of 17 February 1975 on the establishment of common rules for certain types of combined road/rail carriage of goods between Member States (and Council Directive 79/5/EEC of 19 December 1978).

It should be noted that Portugal made no mention in its statements of the duration of the transitional periods it intended to request.
4. To date the Community has not taken up a position on the substance of the Portuguese requests. It has only asked Portugal, in its statement of 7 December 1979, to back up its request for temporary derogations with more substantial supporting arguments and to give precise details of the time-scale envisaged.
5. Although Portugal has supplied no details concerning the time-limits, it gave detailed supporting arguments relating to the application of Council Directive 75/130/EEC in a memorandum dated 18 December 1979¹, presented to the Conference.

¹ MEMO-P/1/79 of 18 December 1979.

Details were supplied concerning the other two requests at the technical meetings held in July 1980 between Portuguese experts and Commission officials.

6. It should be noted that the proposals are based on the acquis communautaire as it stands today. Accordingly, they are entirely without prejudice to any measures on transport which may be taken by the Community, which would obviously form part of the acquis communautaire as from their adoption.

7. Lastly, it should be added that Portugal has stressed that in the event of its acceding to the Community before Spain, there would be a transit problem vis-à-vis Spain. This question does not directly concern the accession negotiations and should, if necessary, be dealt with at a later stage.

SPECIFIC PROPOSALS

The following sets out the Portuguese position in respect of the three acts for which Portugal has requested temporary derogations and also the supporting arguments given by Portugal, followed in each case by the Commission proposal.

I. Council Regulation (EEC) No 1463/70 of 20 July 1970 on the introduction of recording equipment in road transport

(a) Portuguese position

In its statement of 6 June 1980, Portugal stressed that the use of recording equipment in road transport was unknown in Portugal and that apart from the possible psychological problems facing drivers, there was also the physical problem of installing such apparatus on Portuguese vehicles.

Portugal stated, however, that national legislation would shortly come under review to meet the Community requirement of compulsory use of recording equipment so that as from accession it can be required as part of the equipment of all new vehicles, including vehicles used in international carriage and those transporting dangerous goods. Portugal also stated that, pending accession, recording equipment and record sheets for use in vehicles registered in Portugal would be type-approved in accordance with national standards.

With regard to other vehicles, Portugal requested a temporary derogation - though without specifying its duration - in view of the time needed to install and adjust the recording equipment.

(b) Commission proposal

The Commission proposes that Portugal should apply as from accession, as it has already agreed, the Community rules on recording equipment with regard to new vehicles, vehicles used in international carriage and those transporting dangerous goods.

With regard to other vehicles, the Commission, bearing in mind the concession already made by Portugal with regard to the vehicles specified above, proposes that Portugal's request for a temporary derogation should be accepted in principle. The derogation should, however, be of short duration, as was agreed in the case of the preceding accessions. The Commission therefore proposes that recording equipment be introduced within three years from the date of accession. This would give Portugal sufficient time to implement a detailed programme covering all the legal and technical aspects involved in setting up calibration stations for the recording equipment, especially if such a programme were established straight away. The Commission proposes that Portugal be invited to supply details of such a programme to the Conference before it reaches its final stage, when the derogation will be confirmed.

II. Council Directive 77/143/EEC of 29 December 1976 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers

(a) Portugal's position

In its statement of 6 June 1980, Portugal explained that the derogation requested - the duration of which it did not specify - was justified by the need to restructure the public departments responsible for technical control of vehicles, to provide them as from accession with the technical and human resources to meet the obligations laid down in Directive 77/143/EEC, particularly as regards the checks specified in Annex II to the instrument. Portuguese legislation on periodic inspections does not specify what checks are to be carried out on vehicles, but merely contains a broad requirement for checking safety conditions and compliance with the relevant standards.

Portugal stated that, apart from legislative action and considerable investment, compliance with the obligations laid down in the directive will involve adopting implementing measures, constructing suitable installations, fitting them out with technical resources and staffing them with specialist personnel. According to the Portuguese Delegation, even if they were adopted immediately it would be difficult to apply and extend this series of measures in such a way as to operate a system of periodic inspections capable of a minimum of efficiency and covering all the Portuguese vehicles affected by the directive.

The Portuguese Delegation also stated that during the derogation period the obligations under the directive will be implemented gradually by applying them first to vehicles for international carriage and then to others.

(b) Commission proposal

The Commission proposes that a distinction be made between international and national transport.

With regard to international transport between Member States of the Community, the Commission proposes that Portugal should implement the directive in question within two years from the date of accession and should at that point provide every guarantee that Portuguese heavy vehicles engaged in intra-Community transport have actually undergone roadworthiness tests, for example by linking the issue of authorizations with such tests.

With regard to national transport within Portugal, the Commission proposes that Portugal be given four years from the date of accession in which to implement in full the directive in question. However, it suggests that Portugal be requested to endeavour to apply the directive in stages from accession, beginning with the oldest vehicles. The Commission proposes that Portugal be invited to present a detailed programme for implementing the directive to the Conference, before it reaches its final stage, when the derogation will be confirmed.

III. Council Directive 75/130/EEC of 17 February 1975 on the establishment of common rules for certain types of combined road/rail carriage of goods between Member States (and Council Directive 79/5/EEC of 19 December 1978)

It must first be pointed out that the objective of Directive 75/130/EEC is the liberalization of trade. It is aimed at making it possible for lorries to be transported over long distances by rail without prior authorization (whereas under bilateral transport agreements prior authorization is needed), thus helping to relieve congestion on the roads and to encourage rail transport.

(a) Portugal's position

For this directive too Portugal omitted to specify the period for which it intended to request a deferment of implementation. In the particular case of this directive, however, it stated that it wished to obtain "a long transitional period" in view of the technical and economic difficulties which would arise from the application of the provisions in question.

On 18 December 1979 the Portuguese Delegation transmitted a memorandum especially devoted to the problems arising out of the implementation of Directive 75/130/EEC.

In this memorandum, Portugal justifies its position by stressing that in Portugal there are no "suitable stations" within the meaning of the directive and that it will not be possible to implement the directive until a regular road/rail service using suitable stations is established.

Furthermore, Portugal was concerned to stress that the viability of such a regular service would be affected by the difference in gauge between the French railways and the Portuguese and Spanish railways.

(b) Commission proposal

It is clear that Portugal's real concern is basically to ensure that Portuguese transport operators are not placed at a disadvantage vis-a-vis Community and - especially - Spanish operators. Although it is certain that infrastructure consisting of loading and unloading stations capable of handling road/rail transshipment and vice versa are necessary for the implementation of the directive, on the other hand the liberalization measures whose application the directive is intended to facilitate could be implemented even before any such stations are constructed on Portuguese territory. On that assumption, however, the Portuguese operators are afraid of not being able to match the competition with regard to such traffic from other Community and Spanish operators.

The Commission must point out, however, that Spain, which did not request any derogation in this matter, had originally raised the question of the railway gauge when it was considering asking for a derogation. Spain subsequently decided that this argument was not a reasonable one and it would, consequently, seem even less logical to raise it in these negotiations.

The Commission considers, moreover, that the basic aim of the directives in question is the liberalization of combined transport and that Portugal must observe this principle

as from its entry into the Community. The Commission further considers that the period of time between now and Portugal's accession would be sufficient in which to carry out the physical adjustments necessary, should Portugal consider it worthwhile to do so.

The Commission therefore considers that the Portuguese request in respect of the two directives in question should not be granted.