



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.01.1996

COM(96) 27 final

94/0099 (COD)

OPINION OF THE COMMISSION

pursuant to Article 189 b (2) (d) of the EC Treaty,
on the European Parliament's amendment
to the Council's common position regarding the

proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

AMENDING DIRECTIVE 89/647/EEC

AS REGARDS THE RECOGNITION OF CONTRACTUAL NETTING

BY THE COMPETENT AUTHORITIES

AMENDING THE PROPOSAL OF THE COMMISSION

pursuant to Article 189 a (2) of the EC Treaty

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on the European Parliament's amendment
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EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE AMENDING DIRECTIVE 89/647/EEC AS REGARDS THE RECOGNITION OF CONTRACTUAL NETTING BY THE COMPETENT AUTHORITIES

I. STAGE REACHED IN THE PROCEDURE

- (a) On 27 April 1994 the Commission adopted its original proposal for a Directive¹. The proposal was sent to the Council by letter of the same date.

The Council immediately sent copies of the proposal to the Parliament and the Economic and Social Committee.

- (b) On 14 September 1994 at its 318th Plenary Session in Brussels the Economic and Social Committee unanimously adopted an opinion² on the Commission proposal. It approved the Commission proposal in principle but requested certain amendments.

¹ OJ Nr C 231, 20.8.1994, p. 20

² OJ Nr C 393, 31.12.1994, p. 30

- (c) By letter of 16 January 1995 the European Monetary Institute submitted its opinion endorsing the Commission proposal in principle.
- (d) At its sitting of 16 February 1995 the European Parliament unanimously adopted the legislative resolution embodying its opinion³ on the Commission proposal. Parliament suggested 9 amendments to the proposal.
- (e) On 10 May 1995 the Commission adopted and transmitted to the Council an amended proposal⁴. It took account of the consultations of Parliament, the Economic and Social Committee and the European Monetary Institute and introduced at least in substance the 9 amendments proposed by Parliament.
- (f) On 5 September 1995 the Council adopted the common position⁵. It introduced a number of amendments to the Commission's amended proposal; in particular it rejected 6 out of the 9 Parliament amendments inserted in the amended proposal.
- (g) In the plenary session of 21 September 1995 the President of the Parliament announced receipt of the Common Position.
- (h) on 14 December 1995 the European Parliament adopted unanimously one amendment to the Common Position⁶.

In accordance with the procedure described in Article 189b(2)(d) of the Treaty, the Commission has to deliver an opinion on this amendment.

³ OJ Nr C 56, 6.3.1995, p. 79

⁴ OJ Nr C 165, 1.7.1995, p. 1

⁵ OJ Nr C 288, 30.10.1995, p. 30

⁶ Text not yet published in the Official Journal

2. POSITION TAKEN BY THE COMMISSION REPRESENTATIVE AT THE PLENARY SITTING

The European Parliament proposed one amendment to the text of the Common Position of the Council. The Commission representative accepted this amendment in the plenary session because it is rather likely to be approved by the Council thereby avoiding the conciliation procedure and promoting expedient adoption of the Directive.

3. THE COMMISSION OPINION ON THE AMENDMENT VOTED BY THE EUROPEAN PARLIAMENT

The amendment aims to render the transposition of the Directive compulsory for the Member States. The Commission has reliable indication that the Council is also willing to accept this amendment.

The Commission accepts this amendment.

Amended proposal for a

**EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE
AMENDING DIRECTIVE 89/647/EEC
AS REGARDS THE RECOGNITION OF CONTRACTUAL NETTING
BY THE COMPETENT AUTHORITIES**

(presented by the Commission pursuant to Article 189a(2) of the EC Treaty)

EXPLANATORY STATEMENT

The amendment aims to render the transposition of the Directive compulsory for the Member States. This is in line with Article 189 of the EC Treaty stating that a "... directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed ...".

Therefore, the Commission accepts this amendment.

Common Position of the Council

Amendments by Parliament

(Amendment 1)

Article 3(1)

1. Those Member States which decide to
exercise the option provided for in this
Directive shall bring into force the laws,
regulations and administrative provisions
necessary for them to comply with this
Directive after its entry into force. They
shall forthwith inform the Commission
thereof.

1. Member States shall bring into force
the laws, regulations and administrative
provisions necessary for them to comply
with this Directive after its entry into
force and no later than 30 June 1996.
They shall forthwith inform the
Commission thereof.

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