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I

(Information)

COMMISSION

ECU ⁽¹⁾

5 November 1984

(84/C 295/01)

Currency amount for one unit:

Belgian and Luxembourg franc con.	45,0811	United States dollar	0,759964
Belgian and Luxembourg franc fin.	45,4269	Swiss franc	1,83341
German mark	2,22859	Spanish peseta	125,774
Dutch guilder	2,51168	Swedish krona	6,41904
Pound sterling	0,600288	Norwegian krone	6,52239
Danish krone	8,07082	Canadian dollar	0,995021
French franc	6,84158	Portuguese escudo	122,354
Italian lira	1391,11	Austrian schilling	15,6705
Irish pound	0,723431	Finnish markka	4,68594
Greek drachma	92,0240	Japanese yen	183,949
		Australian dollar	0,881220
		New Zealand dollar	1,53280

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 amended by Regulation (EEC) No 2626/84 (OJ No L 247, 16. 9. 1984, 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).

ECU

1 November 1984

Currency amount for one unit:

Belgian and Luxembourg franc con.	44,9890	United States dollar	0,738129
		Swiss franc	1,83794
Belgian and Luxembourg franc fin.	45,3728	Spanish peseta	125,002
German mark	2,22915	Swedish krona	6,36194
Dutch guilder	2,51444	Norwegian krone	6,47598
Pound sterling	0,604281	Canadian dollar	0,970123
Danish krone	8,06406	Portuguese escudo	121,053
French franc	6,83249	Austrian schilling	15,6631
Italian lira	1382,89	Finnish markka	4,65833
Irish pound	0,722240	Japanese yen	180,915
Greek drachma	91,3804	Australian dollar	0,865130
		New Zealand dollar	1,50639

ECU

2 November 1984

Currency amount for one unit:

Belgian and Luxembourg franc con.	44,9825	United States dollar	0,757026
		Swiss franc	1,83768
Belgian and Luxembourg franc fin.	45,5351	Spanish peseta	125,666
German mark	2,22566	Swedish krona	6,42337
Dutch guilder	2,51144	Norwegian krone	6,51043
Pound sterling	0,603689	Canadian dollar	0,991705
Danish krone	8,08315	Portuguese escudo	120,746
French franc	6,83595	Austrian schilling	15,6704
Italian lira	1390,28	Finnish markka	4,68599
Irish pound	0,722009	Japanese yen	183,125
Greek drachma	92,0166	Australian dollar	0,881186
		New Zealand dollar	1,52534

COURT OF JUSTICE

JUDGMENT OF THE COURT

(Third Chamber)

of 9 October 1984

**in Joined Cases 80 to 83/81 and 182 to 185/82:
Robert Adam and Others v. Commission of the
European Communities ⁽¹⁾
(Officials — Promotion)**

(84/C 295/02)

(Language of the Case: French)

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

In Joined Cases 80 to 83/81 and 182 to 185/82 Robert Adam, Emile de Blust, Paul de Windt and Jean-Claude Godaert, scientific officers at the Joint Research Centre, Ispra, represented by Marcel Slusny, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Mario Tramontana, 43 rue des Glacis, against Commission of the European Communities (Agents: Jean-Pierre Delahousse and Daniel Jacob) — application for the annulment, first, of the decision of 9 June 1980 by which the *ad hoc* Committee charged with assessing the suitability of scientific and technical officers in Grade B to perform Grade A duties refused to place the applicants on the list of suitable officials, and, secondly, of the decision of 24 September 1981 by which the Commission adopted on its own account the *ad hoc* Committee's decision to include the applicants on the list of suitable officials without, however, determining the area of competence as required by Article III (2) (e) of the procedural arrangements laid down by the Commission on 17 November 1978 (Administrative Notices No 220 of 20 December 1978) — the Court (Third Chamber), composed of K. Kakouris, President, U. Everling and Y. Galmot, Judges; Sir Gordon Slynn, Advocate-General; D. Louterman, Administrator, acting for the Registrar, gave a judgment on 9 October 1984, the operative part of which is as follows:

1. *It is unnecessary to give a decision in Cases 80 to 83/81.*
2. *Case 183/82 is removed from the Register of the Court.*
3. *With regard to Cases 182, 184 and 185/82:*
 - (a) *The decision contained in the letter of 24 September 1981 is annulled in so far as it fails to*

state the area of competence and fails to classify the applicants in one of the priority groups in the list of suitable officials;

(b) *For the rest, the applications are dismissed.*

4. *The Commission is ordered to bear the costs in all of the cases.*

JUDGMENT OF THE COURT

(Fifth Chamber)

of 9 October 1984

in Joined Cases 91 and 127/83 (references for a preliminary ruling made by the Gerechtshof, Amsterdam): Heineken Brouwerijen BV, v. Inspecteur der Vennootschapsbelasting, Amsterdam, and Inspecteur der Vennootschapsbelasting, Utrecht ⁽¹⁾

(Aids granted by States — Notification)

(84/C 295/03)

(Language of the Case: Dutch)

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

In Joined Cases 91 and 127/83: reference to the Court under Article 177 of the EEC Treaty by the Gerechtshof [Regional Court of Appeal], Amsterdam, for a preliminary ruling in the proceedings pending before that court between Heineken Brouwerijen BV and Inspecteur der Vennootschapsbelasting [Inspector of Corporation Taxes], Amsterdam, and Inspecteur der Vennootschapsbelasting, Utrecht — on the interpretation of Articles 92 and 93 of the EEC Treaty — the Court (Fifth Chamber), composed of O. Due, President of Chamber, K. Kakouris, U. Everling, Y. Galmot and R. Joliet, Judges; G.F. Mancini, Advocate-General; D. Louterman, Administrator, acting for the Registrar, gave a judgment on 9 October 1984, the operative part of which is as follows:

1. *Article 93 (3) of the Treaty does not require that the notification to the Commission by a Member State of plans to grant or alter aid must be immediately made known to all the interested parties; such a duty falls*

⁽¹⁾ OJ No C 114, 16. 5. 1981; OJ No C 213, 17. 8. 1982.

⁽¹⁾ OJ No C 160, 18. 6. 1983; OJ No C 214, 10. 8. 1983.

upon the Commission alone when it initiates the procedure provided for in Article 93 (2).

2. *The obligation provided for in the first sentence of Article 93 (3) to inform the Commission of plans to grant or alter aid does not apply solely to the initial plan, but also covers subsequent alterations to that plan; such information may be made available to the Commission in the course of the consultations which take place following the initial notification.*
3. *The prohibition against putting into effect aid measures, which is laid down in the last sentence of Article 93 (3), applies to the scheme of proposed aids in its entirety and in the final version adopted by the national authorities. If the plan initially notified has in the meantime undergone alterations of which the Commission has not been informed, the prohibition applies to the plan as altered, unless the alteration in question is in actual fact a separate aid measure which should be assessed separately and which is therefore not such as to influence the assessment which the Commission has already made of the initial plan; in that case, the prohibition applies only to the aid measure introduced by the alteration.*

JUDGMENT OF THE COURT

(Third Chamber)

of 9 October 1984

in Case 188/83: Hermann Witte v. European Parliament ⁽¹⁾

(Official — Payment of expatriation allowance)

(84/C 295/04)

(Language of the Case: French)

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

In Case 188/83: Hermann Witte, an official of the European Parliament, of Olm, Grand Duchy of Luxembourg, represented by Victor Biel, of the Luxembourg Bar, with an address for service at the Chambers of Mr Biel, 18a rue des Glacis, against the European Parliament, represented by Manfred Peter, Head of the Legal and Administrative Questions Division, assisted by Alex Bonn, of the Luxembourg

Bar, with an address for service at the Chambers of Mr Bonn, 22 Côte d'Eich — application for the payment of the expatriation allowance provided for in Article 4 of Annex VII to the Staff Regulations of Officials — the Court (Third Chamber), composed of K. Kakouris, President of Chamber, U. Everling and Y. Galmot, Judges; G. F. Mancini, Advocate-General; J. A. Pompe, Deputy Registrar, gave a judgment on 9 October 1984, the operative part of which is as follows:

1. *The application is dismissed.*
2. *The parties are ordered to bear their own costs.*

JUDGMENT OF THE COURT

(First Chamber)

of 11 October 1984

in Case 103/83: Union Sidérurgique du Nord et de l'Est de la France (Usinor) v. Commission of the European Communities ⁽¹⁾

(Steel — Production quotas)

(84/C 295/05)

(Language of the Case: French)

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

In Case 103/83: Union Sidérurgique du Nord et de l'Est de la France (Usinor), represented by Lise Funck-Brentano, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Marlyse Neuen-Kauffman, 21 rue Philippe II, against the Commission of the European Communities (Agent: Frank Benyon) — application for a declaration that the Commission's refusal to increase the applicant's quota in respect of products in Categories V and Id for the second quarter of 1983 is void — the Court (First Chamber), composed of Lord Mackenzie Stuart, President, G. Bosco, President of Chamber, and T. Koopmans, Judge; Sir Gordon Slynn, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 11 October 1984, the operative part of which is as follows:

1. *The application is dismissed.*
2. *The applicant is ordered to pay the costs.*

⁽¹⁾ OJ No C 168, 28. 6. 1983.

⁽¹⁾ OJ No C 265, 5. 10. 1983.

JUDGMENT OF THE COURT**(First Chamber)****of 11 October 1984**

in Case 128/83 (reference for a preliminary ruling made by the Cour d'Appel de Rouen): Caisse Primaire d'Assurance Maladie de Rouen v. A. Guyot ⁽¹⁾)

(Unemployed migrant workers — Rights to sickness benefits)

(84/C 295/06)*(Language of the Case: French)*

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

In Case 128/83: reference to the Court under Article 177 of the EEC Treaty by the Cour d'Appel [Court of Appeal], Rouen, for a preliminary ruling in the proceedings pending before that court between Caisse Primaire d'Assurance Maladie [Local Sickness Insurance Fund], Rouen, and A. Guyot — on the interpretation of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security sickness to employed persons and their families moving within the Community — the Court (First Chamber), composed of Lord Mackenzie Stuart (President), G. Bosco (President of Chamber), T. Koopmans, Judge; G. F. Mancini, Advocate-General; H. A. Rühl, Principal Administrator acting as Registrar, gave a judgment on 11 October 1984, the operative part of which is as follows:

Article 71 of Council Regulation (EEC) No 1408/71 of 14 June 1971 does not apply to an unemployed person who, during his last employment, was residing in the Member State in which he was employed.

⁽¹⁾ OJ No C 202, 29. 7. 1983.

JUDGMENT OF THE COURT**(First Chamber)****of 11 October 1984**

in Case 151/83: Société Aciéries et Laminoirs de Paris (ALPA) v. Commission of the European Communities ⁽¹⁾)

(Steel — Production quotas)**(84/C 295/07)***(Language of the Case: French)*

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

In Case 151/83: Société Aciéries et Laminoirs de Paris (ALPA), represented by Lise Funck-Brentano,

⁽¹⁾ OJ No C 222, 19. 8. 1983.

of the Paris Bar, with an address for service in Luxembourg at the Chambers of Marlyse Neuen-Kauffman, 21 rue Philippe II, against the Commission of the European Communities (Agent: Frank Benyon) — application for a declaration that the Commission's refusal to regard the applicant as an undertaking for the purposes of the system of production quotas is void — the Court (First Chamber), composed of Lord Mackenzie Stuart, President, G. Bosco, President of Chamber and T. Koopmans, Judge; Sir Gordon Slynn, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 11 October 1984, the operative part of which is as follows:

1. *The application is dismissed;*
2. *The applicant is ordered to pay the costs.*

Action brought on 18 September 1984 by the Kingdom of Belgium against the Commission of the European Communities

(Case 234/84)**(84/C 295/08)**

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 18 September 1984 by the Kingdom of Belgium, represented by its Agent, Robert Hoebaer, assisted by J. F. Bellis of the Brussels Bar, with an address for service in Luxembourg at the Belgian Embassy, 4 rue des Girondins.

The applicant claims that the Court should:

1. Declare void the Commission's decision of 17 April 1984 in so far as it declares that the shareholding of Bfrs 145 million of the Société Régionale d'Investissement de Wallonie [Regional Investment Company of Wallonia] in the Meura company is incompatible with the common market within the meaning of Article 92 of the EEC Treaty and must be brought to an end;
2. Order the Commission to pay the costs.

Contentions and main arguments adduced in support:

- The shareholding at issue is not an 'aid' within the meaning of Article 92 (1) of the EEC Treaty. It is normal that the shareholder should support, by contributing additional capital, the restructuring drive undertaken by the company concerned.
- The contested decision does not establish in any way in what respect the shareholding at issue affects trade between Member States or distorts competition.

- The requirement laid down in the decision that the alleged 'aid' be 'brought to an end' cannot be carried out. Any repayment of share capital may only be effected with the consent of the company's creditors and solely out of disposable profits. In fact the company has no such profits.
- The Commission infringed the rights of the defence by failing to inform the applicant of the complaints made by the Member States and trade organizations which took part in the administrative procedure.

Action brought on 1 October 1984 by NTN Toyo Bearing Co. Ltd and others against Council of the European Communities

(Case 240/84)

(84/C 295/09)

An action against the Council of the European Communities was brought before the Court of Justice of the European Communities on 1 October 1984 by NTN Toyo Bearing Co. Ltd, having its registered office at 3-17, 1-chome Kyomachibori, Nishi-ku, Osaka, Japan, NTN Wälzlager (Europa) GmbH, Max-Planck-Straße 23, D-4006 Erkrath 1 — Unterfeldhaus, NTN France SA, Schweighouse-sur-Moder (France) and NTN Bearings-GKN Limited, Mount Road, Burntwood, Walsall, Staffordshire, United Kingdom, represented by Professor Dr Werner von Simson of the University of Freiburg and Mr Malte Sprenger, Rechtsanwalt beim Oberlandesgericht Düsseldorf, with an address for service in Luxembourg at the chambers of Me Claude Penning, 43, avenue du Dix-Septembre.

The applicants claim that the Court should:

- annul Articles 1 and 2 of Regulation (EEC) No 2089/84 ⁽¹⁾,
- order the Council of the European Communities to pay the costs of the application.

Contentions and main arguments:

- The anti-dumping duty imposed is unlawful, as Regulation (EEC) No 2089/84 fails to take into account that following price increases no dumping margin between the export price and the price of the same products in Japan subsists. If GATT, and subsequently the relevant Community Regulations allow for undertakings to be accepted it follows that the argument by which the Council declared

factual price increases as being incapable of influencing the 'facts as established', is unsound in law. The Council had a duty to take these increases into account when deciding on a definitive anti-dumping duty for the duty is lawful only if it is needed to avoid export prices which would otherwise show a dumping margin.

- The acceptability of a voluntary undertaking offered by the applicants has not been considered on the merits of the case.
- The Council failed to limit itself to what seemed to be absolutely necessary to counteract dumping and consequent injury by imposing anti-dumping duties on all bearings which formed the object of the investigation, whereas, according to its findings, the increase of sales concentrated in most cases on a limited number of base types aimed mainly at high-volume consumers.
- It is inconsistent and does not conform with the concept of relevant Community regulations, nor with Article VI of GATT, to compare normal value determined on the weighted average of sales prices to export prices which have been constructed on a transaction-by-transaction basis.

Action brought on 4 October 1984 by Erminio Valerio Pizzinato against the Commission of the European Communities

(Case 241/84)

(84/C 295/10)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 4 October 1984 by Erminio Valerio Pizzinato, represented by Giuseppe Marchesini, Advocate at the Court of Cassation of the Italian Republic, with an address for service in Luxembourg at the Chambers of Victor Biel, 18A Rue des Glacis.

The applicant claims that the Court should:

- (a) annul the decision whereby the Director of the Joint Nuclear Research Centre at Ispra filled the post of laboratory technician in the Applied Mechanics Division (Vacancy Notice No COM/R/547/83);
- (b) order the defendant to pay the costs.

Contentions and main arguments adduced in support:

- Infringement of Article 27 of the Staff Regulations of Officials of the European Communities

⁽¹⁾ OJ No L 193, 21. 7. 1984, p. 1.

read together with Article 1 (d) and Article 5 of Annex III thereto: the appointing authority failed to observe the requirements set out in the vacancy notice ('In-depth experience in the field of mechanical measurements', 'Experience of data acquisition and data processing') although it acknowledged that the applicant fully satisfied the requirements of experience, ability and efficiency laid down in the Staff Regulations, Annex III thereto and the vacancy notice.

- Misuse of powers in connection with the appointment of another candidate on the basis of criteria (age, advantage of assigning the person appointed a relatively low grade) altogether outside the requirements laid down in the Staff Regulations.
- Infringement of essential procedural requirements: failure to publish the notice of open competition in the *Official Journal of the European Communities*.
- Contrary to the instructions of the Director-General of the Joint Nuclear Research Centre at Ispra in a notice of 25 October 1983 concerning appointments to the Centre, the appointing authority failed to inform the chairman of the local staff committee why it had not followed the proposal made by the selection board.

Reference for a preliminary ruling by the College van Beroep voor het Bedrijfsleven, The Hague, by judgment of that court of 2 October 1984 in the case of Tezi BV, Woerden, v. Minister for Economic Affairs, The Hague

(Case 242/84)

(84/C 295/11)

Reference has been made to the Court of Justice of the European Communities by a judgment of the College van Beroep voor het Bedrijfsleven [administrative court of last instance in matters of trade and industry] of 2 October 1984, which was received at the Court Registry on 4 October 1984, for a preliminary ruling in the case of Tezi BV v. Minister for Economic Affairs on the following questions:

1. Must Articles 113 and 115 of the EEC Treaty, taken together, be interpreted as meaning that the

Commission may still apply Article 115 in relation to international trade in textiles after the conclusion of the Arrangement regarding international trade in textiles ('the Multifibre Arrangement') and the adoption of Council Regulation (EEC) No 3589/82 ⁽¹⁾?

2. If the answer to Question 1 is yes, must the phrase 'Measures of commercial policy taken in accordance with this Treaty by any Member State' contained in Article 115 of the Treaty be interpreted as including a breakdown of Community quantitative limits between the Member States, as provided for in Annex IV to Council Regulation (EEC) No 3589/82?

⁽¹⁾ OJ No L 374, 31. 12. 1982, p. 106.

Reference for a preliminary ruling by the Østre Landsret by judgment of that court of 27 September 1984 in the case of John Walker & Sons Ltd v. Ministerium for Skatter og Afgifter

(Case 243/84)

(84/C 295/12)

Reference has been made to the Court of Justice of the European Communities by a judgment of the Østre Landsret [Eastern Division of the High Court of Denmark] of 27 September 1984, which was received at the Court Registry on 5 October 1984, for a preliminary ruling in the case of John Walker & Sons Ltd v. Ministerium for Skatter og Afgifter [Ministry for Fiscal Affairs] on the following questions:

1. Must the first paragraph of Article 95 of the EEC Treaty be interpreted as meaning that Scotch whisky and fruit wine of the liqueur type, as described in the Law in question and in the Annex to this decision, are to be regarded as 'similar ... products', the one being imported and the other of domestic origin, with the effect that it is contrary to that provision to maintain tax rules whereby whisky, like other distilled spirits, is subject to a combined duty calculated partly on the basis of its alcohol content and partly on the basis of its price, whilst the tax on fruit wine and wine made from grapes is calculated solely in relation to the quantity of the beverage, where the tax rules result in a lower duty on fruit wine (and wine made from grapes) than on whisky, where those rules do not make a distinction on the basis of the beverages' country of origin, where no whisky is manufactured in the Member State concerned, but approximately three-quarters of the beverages consumed which are subject to the higher duty on

spirits are of domestic origin, and where more than 99 % of the fruit wine of the liqueur type consumed is of domestic origin?

2. Must the second paragraph of Article 95 be interpreted as meaning that, in the circumstances set out in Question 1, a comparison between the duties on Scotch whisky and on fruit wine of the liqueur type should be undertaken and, in the event of an affirmative answer, is it contrary to

that provision if the duties, considered in relation to the beverage's price, quantity and alcohol content, are as described in the Annex to this decision?

3. For the purpose of answering questions 1 and 2, is it relevant that the historical basis for the rules on the taxation of fruit wine is a desire to provide fruit-growers who work in difficult climatic conditions with a wider market for their produce?
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