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COUNCIL OF THE EUROPEAN COMMUNITIES  
GENERAL SECRETARIAT

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## PRESS RELEASE

6341/89 (Presse 71)

1316th Council meeting

- INTERNAL MARKET -

Brussels, 3 May 1989

President: Mr Pedro SOLBES

State Secretary for Relations  
with the European Communities  
of the Kingdom of Spain

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Presse 71 - G

The Governments of the Member States and the Commission of the European Communities were represented as follows:

Belgium:

Mr Paul DE KEERSMAEKER State Secretary for European  
Affairs and Agriculture

Denmark:

Mr Niels WILHJELM Minister for Industry

Germany:

Mr Helmut HAUSSMANN Federal Minister for Economic Affairs

Mr Otto SCHLECHT State Secretary, Federal Ministry of  
Economic Affairs

Greece:

Mr Ch. STAMATOPOULOS Secretary-General, Ministry of Trade

Spain:

Mr Pedro SOLBES State Secretary for Relations with  
the European Communities

Mr Rafael PASTOR Secretary-General, State Secretariat  
for Relations with the EEC

France:

Mrs Edith CRESSON Minister for European Affairs

Ireland:

Mr Seamus BRENNAN Minister of State at the Department  
of Industry and Commerce

Italy:

Mr Antonio LA PERGOLA Minister for Community Policies

Luxembourg:

Mr Robert GOEBBELS

State Secretary for Foreign Affairs,  
Foreign Trade and Co-operation,  
State Secretary for Small and Medium-  
sized Businesses and the Self-employedNetherlands:

B.J.M. Baron van VOORST tot VOORST

State Secretary for Foreign Affairs

Portugal:

Mr Vitor A.M. da COSTA MARTINS

State Secretary for European  
IntegrationUnited Kingdom:

Mr David ELLIOT

Deputy Permanent Representative

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Commission:Mr Martin BANGEMANN  
Sir Leon BRITTANVice-President  
Vice-President

CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS

The Council held another policy debate on some of the key questions relating to the "control of concentrations between undertakings" issue, particularly in the light of two communications containing amendments which Vice-President BRITTAN had recently sent the Ministers.

Concluding the debate, the President of the Council found there was consensus amongst the delegations that an agreement should be reached on the matter as soon as possible, and that any solution should be comprehensive.

He pointed out that there was a close link between the level of thresholds and the question of applying Articles 85 and 86 to concentration operations. He thought it would be helpful to use the idea of a transitional period in order to fix the thresholds definitively.

Lastly, he noted a sympathetic approach to the new Commission proposals on procedural questions.

Accordingly, the Permanent Representatives Committee was instructed, together with the Commission, to examine in detail the above questions, particularly thresholds, application of Articles 85 and 86 and criteria for appraisal of concentrations.

The Council will resume its discussions on the subject when it has fresh material enabling it to make progress on the issue.

RIGHT OF RESIDENCE

The Council examined the Presidency compromise proposal on right of residence for students and other non-active members of the population in conjunction with a recent Commission communication outlining how a solution might be found for the problems still outstanding.

Some progress was made during the discussion, particularly with regard to the right of residence for non-active members of the population other than students.

However, the Commission considered that there was not the basis for an agreement. Vice-President BANGEMANN announced the withdrawal of the original proposal and the submission, in the coming weeks, of new proposals for a general right of residence. The Presidency took note of this decision with regret.

SECURITY TO ENSURE PAYMENT OF A CUSTOMS DEBT

The Council reached agreement on the substance of a common position with a view to adoption of a Regulation laying down rules on the security that may be required of persons by whom a customs debt has been, or may be incurred, in order to ensure payment of that debt.

In particular, the Regulation lays down the rules on giving security, forms of security and the terms for release of the security. It thus supplements the Community's existing set of provisions on customs debt: definition of customs debt, of the person making the customs declaration, of the person liable for the debt and of entry of the debt in the accounts.

COSMETIC PRODUCTS

The Council adopted a common position on a proposal for a Directive amending Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products.

The amendment is designed to extend the present Regulatory Committee procedure for adapting the requirements laid down by the Directive to technical progress.

TRADE MARK LAW

The Council adopted a Decision on a negotiating brief for the Community delegation for the Diplomatic Conference for the conclusion of a Protocol on the Madrid Agreement concerning the International Registration of Marks.

The Conference will take place in Madrid from 12 to 28 June 1989, under the auspices of the World Intellectual Property Organization (WIPO). The objectives of the Protocol negotiated at the conference will be to ease the way for certain States to accede to the system of international registration set up by the Madrid Agreement and to permit the establishment of a link between the future Community trade mark system and the international registration system. This link should help to make the future Community trade mark system more attractive.

PUBLIC CONTRACTS - MEANS OF REDRESS

The Council reviewed progress on an amended proposal for a Directive on means of redress with regard to the award of public works and supply contracts.

The proposal is designed to facilitate compliance with Community rules on public contracts, with a view to the opening up of public procurement to Community competition.

The Directive in fact provides that contractors and suppliers must have access to effective remedies that make it possible at any stage of the contract award procedure to take action against infringements of Community rules on public procurement committed by a contracting authority.

The Council noted that considerable progress had been made on this matter, and instructed the Permanent Representatives Committee to continue its discussions, to enable the Council to adopt a common position on the proposal at its meeting on 14 June 1989.

ELECTROMAGNETIC COMPATIBILITY

The Council adopted a Directive on the approximation of the laws of the Member States relating to electromagnetic compatibility.

The provisions of the Directive will apply to apparatus liable to cause electromagnetic disturbance or whose performance is liable to be affected by such disturbance.

It defines the protection requirements and appropriate inspection procedures.

The apparatus it covers must be so constructed that:

- the electromagnetic disturbance it generates does not exceed a level allowing radio and telecommunications equipment and other apparatus to operate as intended;
- the apparatus has an adequate level of intrinsic immunity to electromagnetic disturbance to enable it to operate as intended.

By way of example, the Directive applies to radios and televisions, industrial equipment, medical and scientific apparatus, household, educational and electronic appliances and fluorescent lamps, etc. This apparatus forms part of a sector of great importance in Community trade.

The Directive is general in scope. However, it does not rule out the possibility that special Community protection requirements may be laid down for certain specific apparatus ; these requirements will then replace the general provisions.



The Directive will allow free movement of apparatus with regard to electromagnetic compatibility provided that it meets the provisions of the Directive:

- either by complying with national standards transposing harmonized standards the reference numbers of which have been published in the Official Journal of the European Communities, given that these harmonized standards will be drawn up by the CENELEC, which is recognized as the competent body in the field;
- or with national standards meeting the protection objectives of the above Directive where no harmonized standards exist yet for the areas they cover. In this case, a specific Community inspection procedure is being set up to ensure that the standards fully satisfy the requirements of the Directive.

The fact that apparatus complies with the provisions of the Directive will be certified by an EC declaration of conformity issued by the manufacturer and by an EC mark of conformity affixed to the apparatus.

TRACTORS

The Council adopted three common positions on proposals for Directives relating to roll-over protection structures on wheeled tractors. The first proposal covers standard tractors, and the two others relate to front- and rear-mounted structures on narrow-track tractors.

The first is designed to extend the scope of the existing Directive to tractors with a weight of up to 6 tonnes (the limit is currently 4,5 tonnes).

For narrow-track tractors, the proposals are designed to include additional tests in the dynamic test procedure in certain particular cases.

COLOURING MATTERS USED IN FOODSTUFFS

The Council discussed a proposal for a Directive aimed at amending the Directive of 23 October 1962 on the approximation of the rules of the Member States concerning the colouring matters that are authorized for use in foodstuffs intended for human consumption.

The proposal is designed:

- to delete Annex II of the original Directive, ending the system of national derogations concerning colouring matters and the solvents used to dissolve them;
- to restrict the use of three colouring matters which have up to now been permitted for both mass and surface colouring of any foodstuff (erythrosine - E 127, caustic sulphite caramel - E 150 b, canthaxanthin - E 160 g) to certain specific uses;
- to update the procedure for updating the purity criteria for all the substances covered by the Directive in order to reflect current technological practice and toxicological awareness.

At the close of the discussion, during which it was found that some progress had been made, particularly with regard to certain colouring matters, the Council instructed the Permanent Representatives Committee to continue its discussions in order to find a solution to the remaining differences as soon as possible.

FRUIT JUICES, BATCHES, LABELLING AND OFFICIAL INSPECTION OF FOODSTUFFS

The Council noted that the Commission had sent amended proposals for Directives, following the second reading in the European Parliament, concerning:

- the approximation of the laws concerning fruit juices and certain similar products  
(common position : see press release 8674/88);
- marks identifying the batch to which a foodstuff belongs  
(common position : see press release 9344/88);
- the labelling, presentation and advertising of foodstuffs  
(common position : see press release 9344/88);
- the official inspection of foodstuffs  
(common position : see press release 10463/88).

The Council instructed the Permanent Representatives Committee to study these amended proposals in order to reach a decision on the subject once and for all as soon as possible.

MISCELLANEOUS DECISIONSOther internal market decisionsMovement of goods within the Community - temporary use

The Council formally adopted a Regulation amending Regulation (EEC) No 3/84 introducing arrangements for movement within the Community of goods sent from one Member State for temporary use in one or more other Member States.

The Regulation is designed to renew Regulation No 3/84, while extending its scope and simplifying procedures.

Dangerous substances - fertilizers

The Council also adopted common positions on Directives:

- amending for the eighth time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations.  
(See Press Release 5829/89 of 13 April 1989).

- on the approximation of the laws of the Member States in respect of the trace elements boron, cobalt, copper, iron, manganese, molybdenum and zinc contained in fertilizers.

This text is designed to supplement Directive 76/116/EEC with regard to these seven nutrients, whether they are present in or added to fertilizers or marketed as such.

Medicinal products

The Council formally adopted Directives:

- amending Directives 65/65/EEC, 73/318/EEC and 75/319/EEC on the approximation of the provisions laid down by law, regulation or administrative action relating to proprietary medicinal products.

The purpose of this Directive is to extend the scope of the existing regulations to cover medicinal products hitherto excluded.

- extending the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products and laying down additional provisions for immunological medicinal products consisting of vaccines, toxins or serums and allergens.
- extending the scope of Directives 65/65/EEC and 75/319/EEC and laying down additional provisions for radiopharmaceuticals.

Foodstuffs

The Council formally adopted Directives:

- on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses.

The existing Directive 77/94/EEC which currently governs this sector and grants Member States the option of adopting national derogations in the absence of specific Community Directives will be repealed. The new Directive lays down the general rules governing all foodstuffs intended for particular nutritional

uses and fixes a list of the categories of foodstuffs for which specific provisions will be adopted.

- amending for the ninth time Directive 73/241/EEC on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption.

#### Customs co-operation

The Council formally adopted Decisions:

- accepting on behalf of the Community the Recommendation of 5 June 1962 of the Customs Co-operation Council concerning the customs treatment of registered baggage carried by rail, as amended on 21 June 1988.
- authorizing the Member States to accept an amendment to the Customs Convention on the ATA Carnet for the Temporary Admission of Goods.

#### Research policy

The Council formally adopted a Decision concerning work for third parties performed by the Joint Research Centre relevant to the European Economic Community.

This Decision provides that the Commission may, for the purpose of fulfilling the overall objectives of the Community relating to research and technological development, place the installations, equipment or expert assistance of the Joint Research Centre at the disposal of third parties whether public or private, against payment.

Trade policy

The Council formally adopted a Regulation opening and providing for the administration of Community tariff quotas for:

- new potatoes, from 16 May to 30 June 1989, in respect of a volume of 70 000 tonnes at a rate of duty of 7,7% (for the Community as at present constituted, with special provisions for Spain and Portugal);
- fresh table grapes, from 8 June to 4 August 1989, in respect of a volume of 8 600 tonnes at a rate of duty of
  - = 5,9% for category 09.1407 ex 0806 10 15
  - = 7,2% for category 09.1407 ex 0806 10 19

(for the Community as constituted on 31 December 1985),

originating in Cyprus.

Relations with the EFTA Countries

The Council formally adopted Decisions on the conclusion of the Third Additional Protocols to the Agreements between the European Economic Community and the Republics of Austria, Finland and Iceland, the Kingdoms of Norway and Sweden and the Swiss Confederation, consequent on the accession of the Kingdom of Spain and the Portuguese Republic to the Community.

System of Generalized Preferences

The Council formally adopted a Regulation applying supplementary generalized tariff preferences in respect of certain products originating in developing countries and sold at the Berlin "Partners in Progress" fair.



Fisheries policy

The Council formally adopted a Regulation amending Regulation (EEC) No 2245/85 laying down certain technical measures for the conservation of fish stocks in the Antarctic.

Agricultural policy

After the formal adoption of a first set of Regulations (see Press Release 6001/89 Presse 67 of 27 April 1989), following the discussions of 17 to 22 April on the prices package, the Council formally adopted the other Regulations and a Decision on the prices for agricultural products and on related measures (1989/1990). The Regulations and Decision concerned are as follows:

Cereals and rice

- amending Regulation (EEC) No 2727/75 on the common organization of the market in cereals;
- fixing the prices applicable to cereals for the 1989/1990 marketing year;
- fixing the amount of the co-responsibility levy for cereals for the 1989/1990 marketing year;
- amending Regulation (EEC) No 3103/76 on aid for durum wheat;
- fixing for the 1989/1990 marketing year the amount of the aid for durum wheat;
- fixing the monthly price increases for cereals, wheat and rye flour and wheat groats and meal for the 1989/1990 marketing year;

- amending Regulation (EEC) No 1418/76 on the common organization of the market in rice;
- fixing rice prices for the 1989/1990 marketing year;
- fixing the monthly price increases for paddy rice and husked rice for the 1989/1990 marketing year;
- fixing the amount of the production aid for certain varieties of rice sown in the 1989/1990 marketing year;
- amending Regulation (EEC) No 1008/86 laying down detailed rules for production refunds applicable to potato starch;
- fixing the minimum price for potatoes to be paid by the starch manufacturer to the potato producer for the 1989/1990 cereals marketing year;

#### Sugar

- fixing, for the 1989/1990 marketing year, certain sugar prices and the standard quality of beet;
- fixing, for the 1989/1990 marketing year, the derived intervention prices for white sugar, the intervention price for raw sugar, the minimum prices for A and B beet, the threshold prices, the amount of compensation for storage costs and the prices to be applied in Spain and Portugal;

Olive oil - oilseeds

- amending Regulation No 136/66/EEC on the establishment of a common organization of the market in oils and fats;
- amending Regulation (EEC) No 2261/84 laying down rules on the granting of aid for the production of olive oil and of aid to olive oil producer organizations;
- fixing the production target price, the production aid and the intervention price for olive oil for the 1989/1990 marketing year;
- fixing the target prices and intervention prices for colza, rape and sunflower seed for the 1989/1990 marketing year;
- fixing the monthly increases in the target price, the intervention price and the intervention buying-in price for rapeseed and sunflower seed for the 1989/1990 marketing year;
- amending Regulation No 724/67/EEC laying down conditions for intervention in respect of oilseeds during the last two months of the marketing year and principles for the disposal of seeds bought in by intervention agencies;
- amending Regulation (EEC) No 2194/85 adopting general rules concerning special measures for soya beans;
- fixing the guide price for soya beans for the 1989/1990 marketing year;

- fixing the minimum price for soya beans for the 1989/1990 marketing year;
- fixing the guide price for flax seed for the 1989/1990 marketing year;

#### Textile fibres

- fixing the guide price for unginced cotton for the 1989/1990 marketing year;
- fixing the maximum guaranteed quantity of cotton and the minimum price for unginced cotton for the 1989/1990 marketing year;
- fixing the amounts of aid for fibre flax and hemp and the amount withheld to finance measures to promote the use of flax fibre for the 1989/1990 marketing year;
- fixing the amount of aid in respect of silkworms for the 1989/1990 rearing year;
- fixing the aid for hemp seed for the 1989/1990 marketing year;

#### Peas, field beans and sweet lupins

- fixing, for the 1989/1990 marketing year, the activating threshold price for aid, the guide price and the minimum price for peas, field beans and sweet lupins;
- fixing for the 1989/1990 marketing year the monthly increases in the activating threshold price, the guide price and the minimum price for peas and field beans;

Sheepmeat

- fixing the basic and intervention prices for sheepmeat for the 1990 marketing year;

Pigmeat

- amending Regulation (EEC) No 2759/75 on the common organization of the market in pigmeat;
- fixing the basic price and the standard quality for slaughtered pigs for the period 1 July 1989 to 30 June 1990;

Eggs and poultry

- amending Regulations (EEC) No 2771/75 on the common organization of the market in eggs and No 2777/75 on the common organization of the market in poultrymeat;

Wine

- amending Regulation (EEC) No 822/87 on the common organization of the market in wine;
- amending Regulation (EEC) No 355/79 laying down general rules for the description and presentation of wines and grape must;
- fixing the guide prices for wine for the 1989/1990 wine year;
- on the granting, by certain Member States, of aid for the short-term private storage of table wine and must;

Tobacco

- amending Regulation (EEC) No 727/70 on the common organization of the market in raw tobacco;
- fixing, for the 1989 harvest, the norm and intervention prices and the premiums granted to purchasers of leaf tobacco, the derived intervention prices for baled tobacco, the reference qualities, the production areas and the guaranteed maximum quantities and amending Regulations (EEC) No 1577/86, No 1975/87 and No 2268/88;
- laying down special measures applicable to raw tobacco of certain varieties from the 1989, 1990 and 1991 harvests;

Seeds

- amending Regulation (EEC) No 2358/71 on the common organization of the market in seeds;
  - fixing the amounts of aid for seeds for the 1990/1991 and 1991/1992 marketing years.
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Bruxelles, le 3 mai 1989

NOTE BIO(89)138 AUX BUREAUX NATIONAUX  
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

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Conseil Marché Intérieur

Droit de séjour : la Commission met les Douze devant leurs responsabilités et retire une proposition de directive (W. Héliu)

" Nous sommes en train de désavouer le Traité et de faire la caricature de la libre circulation des citoyens européens. Il n'est pas concevable que d'une part, la Communauté adopte des programmes comme Erasmus pour promouvoir la libre circulation des étudiants et que, d'autre part, on refuse à ces mêmes étudiants un droit élémentaire, le droit de séjour."

C'est ce qu'a déclaré mercredi le Vice-Président Martin Bangemann au Conseil des Ministres du Marché Intérieur, en annonçant que, dans ces conditions, la Commission Européenne retirait purement et simplement la proposition en la matière qui se trouve sur la table des Ministres depuis le mois de Juillet 1979.

Indépendamment d'autres objections, c'est l'attitude du Danemark et du Royaume-Uni qui ont motivé la position de la Commission Européenne : ces deux pays s'opposent au principe même de la reconnaissance d'un droit de séjour aux citoyens non-actifs, arguant du fait - d'ailleurs contesté - que le Traité de Rome ne s'adresse qu'aux personnes actives .

En annonçant le retrait de la proposition, M. Bangemann a annoncé que la Commission Européenne ferait de nouvelles propositions dans les plus brefs délais.

Comme certaines délégations lui demandaient si l'attitude de la Commission Européenne ne risquait pas de " charger l'atmosphère " de la campagne en vue des élections du Parlement Européen à la mi-Juin, M. Bangemann a répondu que, au contraire, les citoyens allaient pouvoir poser à leurs candidats des questions essentielles liées à leur statut de citoyen de la Communauté Européenne.

M. Bangemann a d'ailleurs rappelé aux Douze, que les Chefs d'Etat et de Gouvernement ont, à quatre reprises, souligné, lors de réunions au sommet, à quel point l'octroi du droit de séjour aux étudiants et aux non-actifs est un élément essentiel de l'Europe des citoyens.

Rappel :

La directive proposée en 1979 couvre en réalité deux catégories de personnes : les étudiants et les inactifs. En effet, les autres catégories de citoyens, salariés ou non-salariés ont, de par le droit fondamental de travailler ou d'exercer une profession libérale, un droit de séjour automatique dans le pays d'accueil où ils travaillent ou exercent cette profession. Ce droit s'étend d'ailleurs aux membres de leur famille. Au terme de leurs activités professionnelles, ces personnes ont également de droit de demeurer dans ce pays.

Pour simplifier le débat, la Commission Européenne avait proposé la semaine dernière ( voir P 19 du 26 avril ) aux Douze un accord politique selon les lignes suivantes :

1. les bénéficiaires :

- les étudiants ( qui étudient dans un pays de la CE autre que celui dans lequel vivent ou travaillent leurs parents) ;

- les non-actifs ( retraités, rentiers, etc)

2. les conditions :

- ne pas être à charge de l'assistance sociale;

- être couvert par une assurance-maladie.

Ceci, selon la Commission Européenne, aurait permis de sortir de l'impasse causée notamment par le fait que certains pays souhaitent que les étudiants apportent la preuve de "ressources suffisantes", un concept inacceptable aux yeux de la Commission.

Amitiés,

*E. D. Fub -*

CD EHLERMANN



Bruxelles, May 3 1989

NOTE BIO(89)138 suite et fin AUX BUREAUX NATIONAUX  
CC AUX MEMBRES DU SERVICE PORTE-PAROLE

**Merger regulation (M.F.Berendt)**

The Council discussed the Commission's proposed regulation on mergers during the lunch, without reaching formal conclusions. This proposal would establish a system whereby all mergers or takeovers above a certain scale would be assessed by the Commission to see whether they conflicted with the competition rules of the Treaty and all those below would be the responsibility of the national authorities, so escaping from the present situation where mergers may be referred both to national and to Community authorities.

The discussions were encouraging, with more flexibility apparent among ministers than anticipated. The Commission had suggested a two-stage approach for fixing the demarcation line between Community and national responsibility, beginning at 5 000mecu which would be reduced to 2 000mecu from 1993. The German minister stated formally for the first time that his government would be willing to the 5 000mecu as the starting point, but without any commitment to a final figure.

Asked to give an assessment of the discussion, Sir Leon Brittan underlined the wide degree of consensus on the urgency of the proposal. Mergers would take place with increasing frequency towards 1992. Without the merger regulation the Commission would be forced to handle them under articles 85 and 86 of the Treaty, for which the Commission had power but no coherent procedure. A Community regulation would make life easier for industry. There had been wide acceptance of the Commission approach which could include a quick informal letter when there was no objection to a merger and an explanation of why Commission assessment need not lead to suspension of the merger process.

Sir Leon identified three main issues which needed intensive discussion in the Council:

- the way in which the competition rules (articles 85 and 86 would be applied in the context of the new regulation
- the criteria which the Commission would use in assessing mergers and takeovers
- the thresholds to be used for deciding whether a merger should be examined at the Community or the national level.

The regulation is now referred to COREPER for more detailed negotiations on the main points.

Regards  
C.D.Ehlermann

