



COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT



PRESS RELEASE

10023/89 (Presse 218)

1368th Council meeting
- INTERNAL MARKET -
Brussels, 23 and 24 November 1989

President: Mrs Edith CRESSON

Minister for European Affairs
of the French Republic

10023/89 (Presse 218 - G)

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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 Nils 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 Haris CARABARBOUNIS Deputy Permanent Representative

Spain:

Mr Pedro SOLBES State Secretary for Relations with
the European Communities

France:

Mrs Edith CRESSON Minister for European Affairs

Mrs Véronique NEIERTZ State Secretary for Consumer
Affairs

Ireland:

Mr Desmond O'MALLEY Minister for Industry and Commerce

Italy:

Mr Pierluigi ROMITA

Minister for Community Policies

Mr Adolfo BATTAGLIA

Minister for Industry

Mr Paolo BABBINI

State Secretary for Industry, Trade
and Craft TradesLuxembourg:

Mr Georges WOHLFART

State Secretary for Foreign Affairs

Netherlands:

Mr Piet DANKERT

State Secretary for Foreign Affairs

Portugal:

Mr Vitor MARTINS

State Secretary for European
IntegrationUnited Kingdom:

Mr Nicholas RIDLEY

Secretary of State for Trade and
Industry

Mr John REDWOOD

Parliamentary Under-Secretary of
State, Department of Trade and
Industry

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Commission:

Mr Martin BANGEMANN

Vice-President

Sir Leon BRITTAN

Vice-President

Mrs Christine SCRIVENER

Member

CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS

On the basis of the approach emerging from its meeting on 10 October, the Council arrived at a broad consensus on the key points to make up a compromise package on the proposal for a Regulation on the control of concentrations between undertakings.

On that basis, subject to final checking, a majority of delegations were able to commit themselves to adopt the Regulation at the next Internal Market Council meeting, on 21 December.

The Council instructed the Permanent Representatives Committee to have the compromise text finalized as a matter of urgency so as to enable the Council to reach final agreement at its next meeting.

RIGHT OF RESIDENCE

The Council discussed guidelines which should make it possible to resolve some of the problems arising from the Directives on the right of residence.

The Council instructed the Permanent Representatives Committee to continue examining the matter in the light of this discussion.

COMMUNITY TRANSIT= ABOLITION OF THE TRANSIT ADVICE NOTE

The Council adopted a common position on the proposal for a Regulation concerning the abolition of the advice note in Community transit.

The Regulation comes under the approach set out in the Commission communication of June 1989 to the Council and the European Parliament on the completion of the internal market, aimed at the introduction of a transitional phase together with measures to simplify controls, with a view to the abolition of all formalities in connection with intra-Community trade and in particular the removal of fiscal frontiers.

The Regulation is due to come into force on 1 July 1990.

ELIMINATION OF FRONTIER CONTROLS IN THE FIELD OF ROAD AND INLAND WATERWAY
TRANSPORT

The Council agreed to the Regulation on the elimination of frontier controls in the field of road and inland waterway transport.

The Regulation forms part of efforts to ensure transition to a frontier-free Europe as smoothly as possible for both administrative authorities and business.

The Regulation does not cover all controls, nor does it provide for their abolition. It is designed above all to ensure that intra-Community road traffic can flow more freely.

The Regulation stipulates that the controls listed in the Annex to it, performed under Community law or national law in road or inland waterway transport between Member States, are no longer to be carried out as frontier controls but merely as part of the normal controls applied throughout a Member State's territory.

TAX EXEMPTIONS FOR CERTAIN MEANS OF TRANSPORT TEMPORARILY IMPORTED

The Council discussed the proposal amending Directive 83/182/EEC on tax exemptions within the Community for certain means of transport temporarily imported.

The main purpose of the amendment is to allow nationals of all Member States to make temporary use in their country of residence of a vehicle registered in another Member State.

Following these discussions, the President concluded that it had not proved possible to reach agreement on the proposal.

However, the representatives of the Governments of Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands and the United Kingdom undertook to grant the above tax exemptions.

The Commission deplored the fact that it had not up to now been possible to provide all the people of the Community with appropriate legal guarantees by adopting a Council Directive from which all would have benefited.

The Commission would as soon as possible be taking such action as came within its sphere of responsibility to see that compliance with Community law in this respect was everywhere ensured.

APPROXIMATION OF LAWS RELATING TO APPLIANCES BURNING GASEOUS FUELS

The Council discussed a proposal for a Directive on the approximation of laws relating to appliances burning gaseous fuels.

The aim of the proposal is to harmonize national provisions concerning safety and energy conservation for appliances burning gaseous fuels, thereby ensuring elimination of barriers to trade arising out of the disparities in such provisions. The proposal comes under the programme laid down by the White Paper for the elimination of technical barriers and is based on the Council Resolution of 7 May 1985 on a new approach to standardization.

The proposal's coverage includes appliances burning gaseous fuels used for cooking, heating, hot water production, refrigeration, lighting and washing.

Noting that considerable progress had been made, the Council instructed the Permanent Representatives Committee to continue with discussions in order to resolve one last technical problem and enable it to adopt its common position at its meeting on 21 December.

APPROXIMATION OF LAWS RELATING TO INSURANCE AGAINST CIVIL LIABILITY IN RESPECT OF
THE USE OF MOTOR VEHICLES

The Council unanimously recorded substantive agreement on its common position concerning the proposal for a third Directive on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles.

The purpose of the proposal is to resolve certain problems not dealt with by the first two Directives. First Directive 72/166/EEC was primarily designed to abolish insurance green card controls. Second Directive 84/5/EEC was intended to reduce disparities in treatment of accident victims.

This proposal comes within the context of the establishment of the internal market and is meant to provide greater protection for the interests of accident victims and for those of insured persons.

Its provisions accordingly:

- require compulsory cover for any passenger of the vehicle, including cases where the vehicle belongs to the passenger or is in his possession or he is the person insured;
- stipulate that every civil liability insurance policy must, besides covering the entire territory of the Community, ensure in each Member State the cover required in the Member State in which the vehicle is normally based or the cover required by the Member State in which the vehicle is being used, whichever is the broader;

- further harmonizes national provisions regarding guarantee funds to compensate victims where the vehicle responsible for an accident is uninsured or unidentified, as set up under the 2nd Directive; it will no longer be possible to require a victim to establish that the person responsible is unable or unwilling to pay compensation.

HARMONIZATION OF LAWS RELATING TO NON-AUTOMATIC WEIGHING INSTRUMENTS

The Council arrived at substantive agreement on a common position concerning a proposal for a Directive on the harmonization of the laws of the Member States relating to non-automatic weighing instruments.

The aim of the proposal is to eliminate barriers to trade within the Community as a result of metrological and technical requirements and of inspection procedures which differ from one Member State to another.

PROCUREMENT PROCEDURES OF ENTITIES OPERATING IN THE WATER, ENERGY, TRANSPORT AND TELECOMMUNICATIONS SECTORS

The Council held a policy debate on the proposal for a Directive on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

The proposal is of great importance for the completion of the internal market since it is designed to open up procurement hitherto excluded to genuine Community-wide competition.

The arrangements proposed introduce a flexible system of procurement procedures for works, supply and software service contracts, while ensuring compliance with the principles of non-discrimination and transparency.

The main points discussed were:

- the scope, in particular the contracting entities covered;
- possible sectoral derogations;
- the treatment of structurally less-favoured regions.

It should be pointed out that a Directive on the monitoring of this Directive in excluded sectors is currently being prepared at the Commission.

The Council instructed the Permanent Representatives Committee to continue with discussions so as to enable it to adopt its common position at the next Internal Market Council meeting, on 21 December.

DIRECT LIFE ASSURANCE - FREEDOM TO PROVIDE SERVICES

The Council discussed a proposal for a second Council Directive on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC. Parliament's Opinion on the proposal is pending.

The purpose of this Directive is to:

- supplement Directive 79/267/EEC;
- lay down special provisions governing freedom to provide services for the activities covered by that Directive, as specified in Title III of this Directive.

The points discussed included:

- the scope of Title III of the Directive: the possibility of covering group assurance, tontines and capital redemption operations;
- the definition of passive provision of services;
- transitional provisions for certain countries;
- the arrangements applicable to composites.

Some progress was recorded and the Council instructed the Permanent Representatives Committee to continue with discussions on the basis of the approach arrived at so as to enable it to adopt its common position at the Internal Market Council meeting on 21 December.

MISCELLANEOUS DECISIONS

Customs union

The Council adopted Regulations:

- amending the legal basis (Articles 28, 43 and 113, instead of Articles 28, 43, 113 and 235) of Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (in response to the recent case law of the Court of Justice);
- opening tariff quotas for the importation into Spain of certain fishery products originating in the Canary Islands or Ceuta and Melilla (1990);
- opening and providing for the administration of Community tariff quotas for certain fishery products originating in the Canary Islands (1990);
- increasing the volume of the Community tariff quotas opened for 1989 for polyvinyl butyral (from 1 500 tonnes to 4 000 tonnes) and magnetrons (from 600 000 units to 1 000 000 units).

Tax exemptions for imports of personal property

The Council adopted the Directive amending Directive 83/183/EEC as regards tax exemptions for permanent imports of the personal property of individuals.

This Directive forms part of the follow-up to the report from the ad hoc Committee on a People's Europe, approved by the European Council meeting in Brussels on 29 and 30 March 1985.

It is designed to simplify formalities in connection with removals within the Community; in future, Member States are to grant duty-free import on the basis of a full inventory of the goods involved in the removal on plain paper. No reference to value may be demanded on the inventory of goods.

In addition, current rules on periods of use of the goods imported and quantitative limits for certain goods are to be relaxed:

- in order to qualify for exemption, there will no longer be any minimum period of use of goods except for motor-driven vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft, in the case of which Member States may require that the person concerned should have had the use of them for at least six months before the change of residence;
- requirements subsequent to import are abolished for most of the goods imported duty-free; however, there remains a requirement that motor-driven vehicles (including their trailers) caravans, mobile homes, pleasure boats and private aircraft may not be disposed of, hired out or lent during the period of 12 months following their importation free of duty;
- the quantitative limits on some goods subject to excise duty are raised to four times the duty-free allowances for intra-Community travellers under Directive 69/169/EEC except for tobacco products, which Member States may limit to the same quantities as are laid down in that Directive;

- duty-free import of personal property is granted without any period of use in the case of a change of normal residence on the occasion of a marriage; in addition, exemption is granted for presents customarily given on the occasion of a marriage which are received by a person qualifying for such duty-free import, for up to ECU 350 per present. Member States may, however, grant exemption for more than ECU 350 provided that the value of each exempt present does not exceed ECU 1 400.

Relations with the ACP States and the OCT

The Council adopted the Regulation amending Regulation (EEC) No 486/85 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) or in the overseas counties and territories.

The amendment makes provision for the levy on imports of molasses falling within CN code 1703 to be reduced by ECU 0,5 per 100 kilograms. The levy is not to be collected where it is if less than or equal to ECU 0,5 per 100 kilograms. These provisions are to apply within an overall limit of 600 000 tonnes per marketing year.

This concession is designed to grant the ACP a preferential margin in the context of traditional ACP-EEC trade flows.

The Community envisages, moreover, continuing this concession under the next ACP-EEC Convention (Lomé IV).

Appointment

The Council appointed Mr François SCHWEITZER member of the Economic and Social Committee in place of Mr Marcel GLESENER for the remainder of the latter's term of office, which runs until 29 September 1990.

Bruxelles, le 23 novembre 1989

NOTE BIO(89) 351 (SUITE 1) AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

433

CONSEIL MARCHÉ INTERIEUR (G. GUARNERI)

SUPPRESSION DE L'AVIS DE PASSAGE

Le Conseil a adopté une proposition de règlement visant à apporter une nouvelle simplification des procédures administratives aux frontières intérieures de la Communauté et consistant en la suppression de l'obligation incombant aux transporteurs de remettre un avis de passage à l'entrée de chaque Etat Membre emprunté au cours d'une opération de transit communautaire aux fins de pouvoir déterminer, en cas d'irrégularité, l'Etat membre où celle-ci s'est produite.

Cette mesure de simplification s'inscrit dans le cadre de la période transitoire proposée par la Commission dans sa communication au Conseil et au Parlement du 14 juin 1989 (COM(89) 260 final) et comportant un démantèlement progressif des frontières intérieures.

Dans son intervention Mme Scrivener s'est félicité de l'esprit d'ouverture et de la collaboration qui a régné tout le long des travaux et a permis de franchir un pas important vers l'allègement généralisé des charges pour les entreprises.

FRANCHISES FISCALES APPLICABLES AUX IMPORTATIONS TEMPORAIRES DE CERTAINS MOYENS DE TRANSPORT

Le troisième point de substance à l'ordre du jour était la proposition de modification de la directive 83/182/CEE concernant les franchises fiscales applicables aux importations temporaires de certains moyens de transport.

Il s'agit d'un point très important qui touche aux déplacements privés ou professionnels des citoyens à l'intérieur de la Communauté. L'automobile reste le moyen le plus courant pour franchir les frontières entre les Etats membres. Or, à l'heure actuelle, un particulier, n'est pas autorisé - sauf exception - à conduire dans l'Etat Membre dont il est résident, un véhicule de tourisme importé temporairement et immatriculé dans un autre Etat Membre.

Il s'ensuit par exemple au hasard des plaintes que la Commission reçoit :

- que l'époux expatrié qui rentre chez lui en voiture, ne peut prêter sa voiture à sa femme;
- que la voiture de service utilisée dans l'Etat Membre du lieu de travail ne peut l'être aux fins de loisirs dans l'état de résidence, même si le contrat de travail prévoit un tel usage;
- qu'en tout état de cause, il est exclu qu'un ami étranger de passage vous prête sa voiture;
- que si un soir votre avion est dévié pour cause de brouillard et atterri dans un autre Etat Membre, vous ne pouvez rentrer chez vous avec une voiture de location.

Au cours de son intervention, Mme Scrivener a déclaré :
"Ce dossier est d'importance pour nos opinions publiques, car il représente l'une des sources d'incompréhension de nos citoyens sur nos objectifs : comment pouvons-nous avoir un grand dessein pour l'Europe, et tolérer le maintien de réglementations fiscales proches de la brimade ?

Ces situations sont évidemment ressenties comme intolérables, et ternissent considérablement l'image de la Communauté.

Il convient d'ajouter que la Commission n'est pas la seule à penser ainsi : la Cour de Justice s'est également prononcée plusieurs fois sur un certain nombre de principes qui régissent l'essentiel des problèmes posés."

Huit Etats membres se sont prononcé en faveur de la proposition de la Commission. Les quatre restants, caractérisés par une imposition particulièrement lourde des automobiles, s'y opposaient craignant des pertes de recettes fiscales et des fraudes.

Dans un esprit de compromis, la Commission a proposé d'intégrer la dimension temps dans un accord global pour permettre aux quatre Etats qui s'y étaient opposés de prendre des mesures de contrôle internes.

Les quatre délégations n'ayant pas accepté la proposition de compromis, les huit autres se sont engagées à appliquer, en ce qui les concerne, les dispositions de la directive proposée.

En conclusion, Mme Scrivener a indiqué que "La Commission déplore l'impossibilité de parvenir à un accord sur sa proposition relative à la modification de la directive 83/182. Compte tenu de l'importance de ce dossier pour l'Europe des citoyens, elle prendra dans les plus brefs délais toutes dispositions pour le respect du droit communautaire en la matière."

FRANCHISES FISCALES APPLICABLES AUX IMPORTATIONS DEFINITIVES DE BIENS PERSONNELS DES PARTICULIERS

Au cours du même Conseil, les Ministres ont adopté une proposition de modification de la directive 83/183/CEE relative aux franchises fiscales applicables aux importations définitives de biens personnels des particuliers. Cette proposition vise à simplifier pour les intéressés les formalités d'importation, d'exportation et de transit lors des déménagements effectués dans la Communauté. Elle s'insère dans le cadre des mesures suggérées par le Comité ad hoc "Europe des citoyens" et réduit sensiblement les entraves fiscales auxquelles les citoyens de la Communauté doivent faire face en cas d'importation définitive de biens personnels en provenance d'un Etat Membre.

Amitiés,


C.D. EHLERMANN

Brussels, 24 November 1989

NOTE BIO (89) 351 suite 2 AUX BUREAUX NATIONAUX
CC: AUX MEMBRES DU SERVICE PORTE-PAROLE

Internal Market Council - 23 November 1989

Mergers (M.F. Berendt)

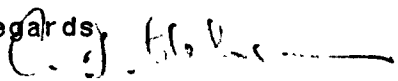
Ministers edged closer to agreement on the mergers regulation after a long restricted session. "We have maintained the momentum of the Luxembourg Council" said Sir Leon Brittan after the meeting, but the issues were extremely complex and member states were entitled to more time to examine them. He said that he was more optimistic than ever about getting an agreement by the end of the year.

The shape of the final agreement - foreseen for the Council of December 21 - is broadly clear. The thresholds above which the Commission would examine mergers would be 5000mecu global turnover of the companies involved, provided 250mecu was within the Community and not more than two-thirds of the business within a single member state. The thresholds for banks would be calculated on the basis of one tenth of total assets. These figures would apply for a transitional period of four years after which they would be modified on the basis of a Commission proposal. Although resistant until now, the British are expected to agree that this modification should be decided by qualified majority vote when they are satisfied with the rest of the package. The Commission will declare in the Council minutes its intention to propose lower thresholds.

There was broad acceptance of the criteria to be used by the Commission in examining a merger, and the legitimate interests which could be invoked by member states in retaining national powers (public security, media ownership, prudential rules for financial institutions, subject to Commission acceptance of a legitimate national concern). A formula was also agreed which would allow member states to request the Commission to examine a merger below the thresholds. If the Commission found that competition was seriously threatened in the member state concerned, it could act accordingly. This will be of special importance to those countries which do not have anti-trust organisations.

The main outstanding task for the Council is to decide the exact conditions (other than the legitimate interests noted above) under which a member state could intervene above the threshold. While there was a relaxation in the German demand for an automatic right to take a second look if the Commission gave the go-ahead to a merger, there is likely to be further discussion of the final formula on the basis of a Presidency/Commission compromise and a British alternative.

Regards,


C.D. Ehlermann

DISK 2 PAGE 27
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/TELEXHF
BRUSSELS, 23 NOVEMBER 1989
NOTE BIO (89) 351 AUX BUREAUX NATIONAUX
CC: AUX MEMBRES DU SERVICE PORTE-PAROLE

*Internal Market
Council*

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MOTOR VEHICLE INSURANCE (M.F. BERENDT)

THE COUNCIL ADOPTED COMMISSION PROPOSALS FOR UP-DATING LEGISLATION ON MOTOR VEHICLES. THE NEW MEASURES WILL COME INTO EFFECT FROM THE BEGINNING OF 1993. THEY WILL MEAN THAT INSURANCE COVER PROVIDED IN ONE MEMBER STATE OF THE COMMUNITY WILL BE APPLICABLE FOR THE INSURED PERSON IN ALL OTHER MEMBER STATES SO THAT INSURANCE COMPANIES WHICH CURRENTLY MAKE AN EXTRA CHARGE FOR INSURANCE COVER FOR 'FOREIGN TRAVEL' E.G. UK, WILL NO LONGER HAVE ANY JUSTIFICATION FOR MAKING SUCH A CHARGE. THE INSURANCE PAYABLE IN THE EVENT OF AN ACCIDENT WILL BE BASED ON THE HIGHER OF TWO RATES: THOSE LAID DOWN UNDER THE NATIONAL RULES OF THE COUNTRY WHERE THE VEHICLE IS INSURED OR THOSE LAID DOWN IN THE COUNTRY BEING VISITED. A TRANSITIONAL CHARGE UNTIL END 1995 WILL APPLY FOR GREECE, SPAIN, PORTUGAL AND IRELAND, WHILE SPECIAL CONDITIONS FOR IRISH MOTORCYCLE PASSENGERS MEAN THAT THE TERMS WILL NOT BE APPLIED TO THEM UNTIL THE END OF 1998.
C.D. EHLERMANN

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