

# NEWS from DG XV

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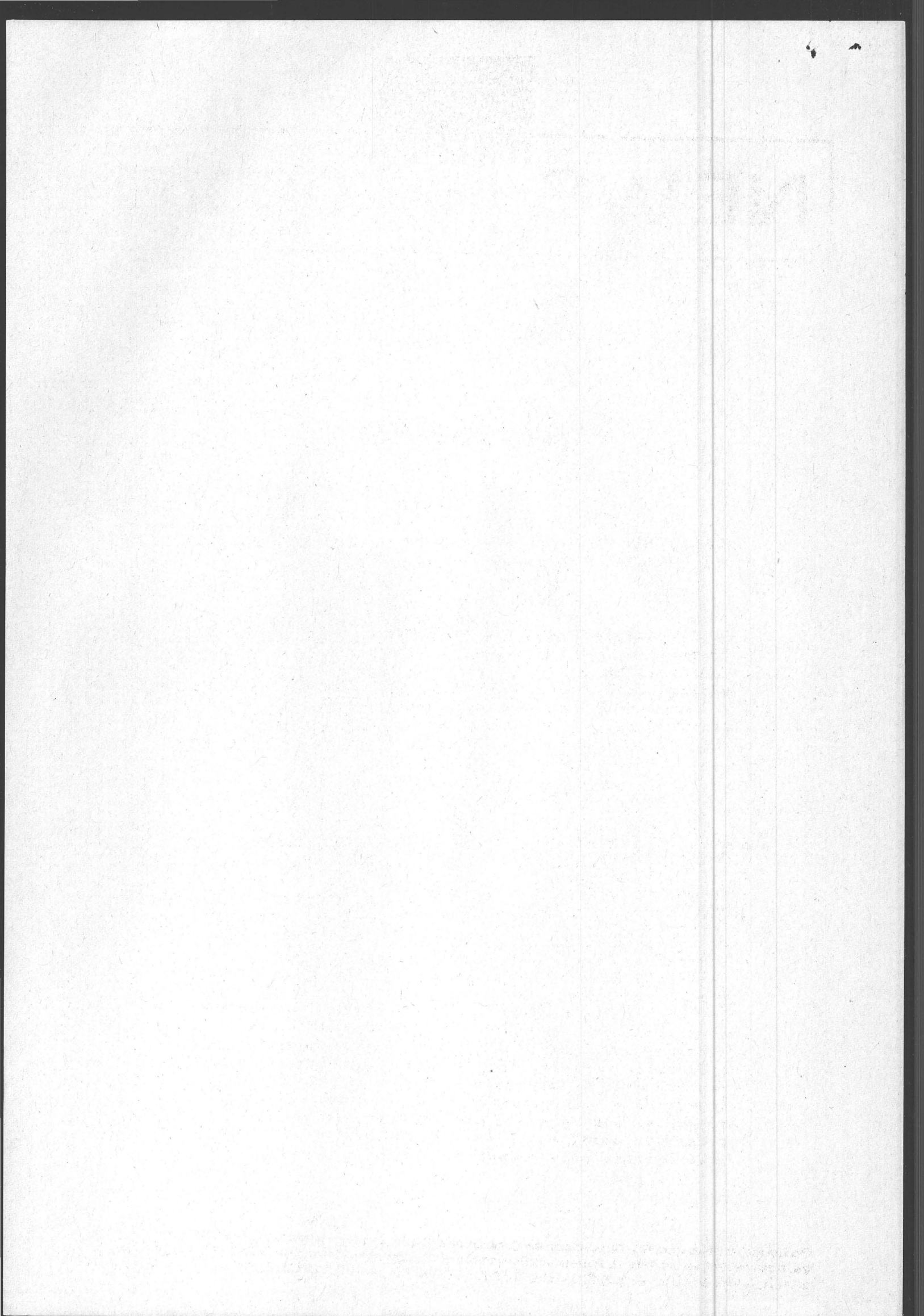
## FINANCIAL INSTITUTIONS

### COMMISSION PROPOSES A DIRECTIVE ON THE INVESTMENT AND MANAGEMENT OF PENSION FUND ASSETS

*On 16 Octobre 1991 the Commission agreed on a "Proposal for a Council Directive on the Coordination of laws, regulations and administrative provisions relating to the freedom of management and investment of funds held by institutions for retirement provision".*

*This Directive is significant in two respects :*

*First, it will free pension funds from arbitrary national restrictions governing their choice of management and the investment of their assets. No longer will national authorities be able to oblige funds to hold their assets locally, for example, or to invest a given proportion of their assets in Government stocks, as some Member States currently require. Indeed the Directive will forbid Member States from requiring pension funds to invest in any particular category of asset. Nor will they be able to subject the investment decisions of pension funds to any kind of prior approval or systematic notification. It will be incumbent upon pension funds, for their part, to diversify their investments sufficiently to avoid major accumulations of risk, and to take account of the security, quality, liquidity and profitability of their portfolio as a whole.*



*The second reason why this Directive is significant is that it marks a beginning in the Community's efforts to overcome the many practical problems which face companies with pension liabilities in several Community countries, and which face workers who move between Member States. At present companies are forced to maintain separate pension funds in the separate countries in which they are represented - which is inefficient - while workers taking up employment in another Member State often lose pension rights when they transfer, or run into tax problems if they seek to remain within a pension scheme in the country where they were formerly employed.*

*The Directive is a short one, consisting of only 7 Articles.*

*The first contains definitions, notably of the "institutions for retirement provision" to which the Directive applies. The definition is widely drawn, including institutions which provide retirement benefits prescribed by or provided for in social security legislation other than competent institutions within the meaning of Regulation 1408/71.*

*The second Article states that the Directive applies to such institutions with respect to the management and investment of their assets.*

*Article 3 concerns pension fund management. It stipulates that Member States shall not restrict the freedom of pension funds to choose an investment manager established in another Member State. The Article introduces a similar freedom to use asset custodians established in another Member State.*

*Article 4 concerns pension fund investment.*

*The first part lays down basic prudential principles for the investment of pension fund assets. Assets shall be invested in a manner*

appropriate to the nature and the duration of the corresponding liabilities and the level of their funding, taking account of the requirements of security, quality, liquidity and profitability of the institution's portfolio as a whole. They shall be sufficiently diversified in such a way as to avoid major accumulations of risk in the portfolio as a whole. And investments in the sponsoring undertaking or undertakings shall be restricted to a prudent level.

The second part of Article 4 forbids Member States to require pension funds to invest in particular categories of assets or to localize their assets in a particular Member State. This does not mean that Member States cannot impose maximum limits on investment in particular categories, only that they cannot require minimum investment in particular categories. The text in this case comes directly from the insurance directives, although in other respects there are fundamental differences with the insurance proposals.

The third part establishes limits on rules which Member States may impose on currency matching (of assets to liabilities). The potential limits which Member States may introduce are less restrictive than those proposed for life insurance (in the 3rd Directive) to reflect the fact that pension fund liabilities are often not fixed in monetary terms.

The fourth part of Article 4 forbids Member States to impose prior approval or systematic notification requirements on investment decisions.

The fifth part allows Member States to lay down detailed rules consistent with the principles established in the rest of Article 4.

Articles 5-7 contain customary final provisions.

(COM/91/301final).

#### STAGES POUR ASSUREURS DE HONGRIE ET DE POLOGNE

Une nouvelle série de stages de formation auprès de compagnies d'assurances et d'organismes de contrôle a débuté pour des professionnels de l'assurance de la Hongrie et de la Pologne, afin de leur permettre d'acquérir une expérience pratique du marché européen de l'assurance et de son contrôle.

Cette action est menée par la Commission, en fait les DG I et XV, en faveur des pays d'Europe centrale et orientale, dans le cadre du programme PHARE.

Cela a débuté par deux journées d'accueil (les 16 et 17 Septembre 1991) à Bruxelles, où les participants ont entendu des exposés sur :

- l'action de la Commission à l'égard de ces pays;
- le processus législatif de nos directives assurances;
- les objectifs de contrôle et les dispositions européennes et nationales à ce sujet.

Les stagiaires ont ensuite eu des entretiens séparés avec les fonctionnaires de la division A2, suivis de discussions qui ont permis notamment de mieux cerner leurs besoins de formation.

Les stagiaires passeront de un à trois mois dans divers services des autorités de contrôle de la Communauté européenne et des compagnies d'assurances.

**ACCORD CEE/SUISSE CONCERNANT L'ASSURANCE DIRECTE  
AUTRE QUE L'ASSURANCE SUR LA VIE**

*Le 20 Juin 1991, le Conseil a adopté :*

- la décision du Conseil relative à la conclusion de l'accord*
- la directive du Conseil relative à l'application de l'accord*
- le règlement arrêtant des dispositions particulières pour l'application des articles 37 et 39 de l'accord*

*(JOCE L 205 du 27.7.1991).*

**PROPOSITION DE DIRECTIVE DU CONSEIL CONCERNANT LES  
COMPTES ANNUELS ET LES COMPTES CONSOLIDES DES  
ENTREPRISES D'ASSURANCE**

*Position commune du Conseil : 23.9.1991  
(DOC. 7367/91)*

**PROPOSITION DE DIRECTIVE DU CONSEIL PORTANT  
CREATION D'UN COMITE DES ASSURANCES**

*Position commune du Conseil : 22.7.1991  
(DOC. 7498/91)*

**JOINT STATEMENT ON THE ESTABLISHMENT OF IMPROVED  
COOPERATION BETWEEN THE UNITED STATES SECURITIES  
AND EXCHANGE COMMISSION AND THE COMMISSION OF THE  
EUROPEAN COMMUNITIES**

On 21 Octobre 1991, the European Commission has signed the following joint statement with the US Securities and Exchange Commission (SEC) aiming to improve cooperation between regulatory authorities both bilaterally and multilaterally:

"The United States Securities and Exchange Commission and the Commission of the European Communities recognise the importance of cooperation between securities regulatory authorities on a bilateral and multilateral basis. They desire to promote cooperation between the SEC and the relevant authorities of the European Community relating to the administration and enforcement of their respective securities laws. They hereby declare their intention to work together to promote efforts by the SEC and the national authorities of the European Community :

(a) to facilitate the exchange of information and the provision of mutual assistance between the SEC and the relevant national authorities of the Community in circumstances involving the administration and enforcement of their respective securities laws;

(b) to cooperate in maintaining the financial integrity of the participants in the securities markets of the United States and the European Community; and

(c) to consult regularly on matters of mutual interest concerning the operation and oversight of the securities markets of the United States and the European Community.

Further to this declaration the SEC and the Commission of the European Communities will begin a regular dialogue to review developments in securities markets and to discuss the principles underlying securities regulation in the United States and in the European Community."

## COMITE CONSULTATIF BANCAIRE

*La 30e réunion du Comité Consultatif Bancaire a eu lieu le 4 juillet 1991, à Venise.*

*Les principaux sujets à l'ordre du jour étaient:*

- l'avis du Comité sur les systèmes des dépôts*
- la comptabilité des règles de l'UEM avec les règles prudentielles*
- les relations internationales et la surveillance prudentielle*
- la proposition du Trésor des Etats Unis en vue de moderniser le système financier*
- l'élection des nouveaux Président et Vice-Président.*

*Président : Jean-Louis Butsch, directeur général à la Banque de France et secrétaire général de la Commission bancaire.*

*Vice-Président: Jean-Louis Duplat, Président de la Commission bancaire belge.*

*La prochaine réunion est prévue pour le 7 novembre 1991 à Bruxelles.*

## URUGUAY ROUND

*Negotiations have intensified considerably since the summer break. The Director General of GATT, Mr Dunkel, has set a deadline of November for agreement to be reached in the different negotiating groups, failing which he has said that he will table his own package of proposals on a "take it or leave it" basis.*

*As regards financial services the Community is still pressing for a strong financial services annex, incorporating meaningful commitments inter alia on national treatment and market access. There is still however strong resistance to this especially from the developing countries.*



Community negotiators, along with other countries which share the Community's view, are endeavoring to find a way of bridging this gap so as to bring to the negotiations to a successful conclusion. One possibility might be adoption of the so-called two track approach which would allow developing countries to delay adoption of the stronger obligations on national treatment and market access as envisaged in the financial services annex and to apply only the more modest obligations of the framework agreement.

Such an approach would at least represent a starting point for the progressive assumption by developing countries of international obligations in financial service. However, even this approach requires some further work on all sides.

The Community has also recently presented its list of requests to its negotiating partners designed to promote better access to their financial markets and equal competitive opportunities for EC firms operating in those markets. Negotiations on this request list are expected to begin at the end of the year.

#### EUROPEAN ECONOMIC AREA

Political agreement was reached at the General Affairs Council session of 21 and 22 October 1991 in Luxembourg to conclude negotiations on the EEA agreement by the end of this year. The agreement will result in the creation of a 19 country single market beginning on 1 January 1993 incorporating the four freedoms of movement of goods, services, capital and labour.

In effect the EFTA countries will implement the directives designed to create the single financial services market including at this stage the second banking directive and the second generation insurance directives. Additional directives will also be implemented by them as they are adopted by the Council. This means that the EC single passport for financial services, except for some transitional arrangements, will be valid throughout the EEA with effect from 1993.

The transitional arrangements principally apply to Switzerland and Liechtenstein in the application of certain securities trading directives, to certain small banks in Austria and Finland concerning the solvency ratio requirements, and to a number of small insurance companies in Iceland, Norway and Finland on their solvency margins. A transition period for the implementation of the various accounts directives will also apply.

It was agreed that as far as possible a common regime would apply to third country financial institutions wishing to establish subsidiaries in the Community. Whenever a Community competent authority granted an authorization for the establishment of a third country financial institution the authorization would be valid throughout the whole EEA i.e. the third country financial institution will be allowed branch into EFTA states in addition to other Community Member States. If, however, the third country in question specifically discriminated against any or all EFTA states or applied a quota system for the establishment of EEA financial institutions in its territory, the EFTA state(s) would have the right to refuse branching into its jurisdiction.

A difficult question during the negotiations concerned participation by EFTA countries in the Community's comitology procedures. Insofar as financial services are concerned certain modalities have yet to be resolved. Concerning new legislative developments the agreement will involve participation of the Community in an information and consultation procedure with the EFTA states. The exact mechanism by which this will take place has yet to be agreed between the parties. It has though been agreed that EFTA should participate in the Contact Committee established under the Money Laundering Directive when that committee is discussing matters concerning the proper functioning of the directive. They will not have the right to vote at these meetings.

COMPANY LAW

SECOND MEETING OF THE ACCOUNTING ADVISORY FORUM

*On 23 October the Accounting Advisory Forum met for the second time. The Forum is an advisory body to the Commission, consisting of representatives of European organisations of preparers, users and auditors of accounts as well as accounting academics and representatives of national accounting standards-setting bodies in the EC.*

*As a new member of the Forum we could welcome the Comité Européen des Assurances. For this meeting we had also invited Leaseurope as an observer because accounting for lease contracts was on the agenda .*

*The functions of the Forum are to advise the Commission on technical accounting issues and on the position to be taken in meetings of the international Accounting Standards Committee as well as to serve as a forum for discussion and cooperation between interested parties on accounting in the EC.*

*At the meeting four main subjects were discussed. Two of them, foreign currency translation and accounting for government grants were discussed for the second time, based on revised working documents. A topic which was brought before the Forum for the first time is accounting for lease-contracts. All three working documents were received very well. The document on leasing serves as a good basis for further discussion in a working group which was formed at the meeting. The document on accounting for government grants only needs minor amendments. And the document on foreign currency translation will be reviewed by the already existing working group to see to what extent new problems brought forward by the members can also be addressed.*

The final subject discussed was the relationship with the international Accounting Standards Committee, a body of national organisations of accounting professions which issues accounting standards. The drafts of those standards are published, with an invitation to interested parties to comment. Before the Commission, which is represented in an observer capacity in the Board of IASC, expresses its opinion on those drafts it would like to seek the advice of experts representing the interested parties within the Community. So a working group was formed to advise the Commission on its reaction to recently exposed drafts of IAS by the IASC.

**ADOPTION EN PREMIERE LECTURE PAR LE PARLEMENT EUROPEEN LE 10 JUILLET 1991**

*-Proposition de directive du Conseil modifiant la directive 77/91/CEE concernant la constitution de la société anonyme ainsi que le maintien et les modifications de son capital*

*-Deuxième modification à la proposition de cinquième directive du Conseil fondée sur l'article 54 par.3 point g) du traité CEE, concernant la structure des sociétés anonymes et les pouvoirs et obligations de leurs organes.*

**G. E. I. E.**

*Le nombre de G.E.I.E. immatriculés s'élève actuellement à 206.*

*La répartition par Etat membre est la suivante :*

<i>Belgique</i>	<i>: 68</i>
<i>Pays-Bas</i>	<i>: 58</i>
<i>France</i>	<i>: 38</i>
<i>Allemagne</i>	<i>: 21</i>
<i>Royaume-Uni</i>	<i>: 14 + 1 établissement</i>
<i>Espagne</i>	<i>: 4</i>
<i>Danemark</i>	<i>: 1</i>
<i>Irlande</i>	<i>: 1</i>

**TEXT COMPLETED 30.10.1991**