

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(90) 344 final - SYN 286

Brussels, 31 August 1990

Proposal for a

COUNCIL DIRECTIVE

setting-up an Insurance Committee

(presented by the Commission)

EXPLANATORY MEMORANDUM

I. PRELIMINARY REMARKS

1. The main objective of this proposal of directive is to establish a committee which shall assist the Commission in its work in the field of insurance, covering both life assurance as well as non-life insurance. In particular implementation of the Commission's draft proposals of 3rd life and 3rd non-life directives will call for far closer cooperation between national supervisory authorities and the Commission than exists at the moment as these directives, which are of great importance in creating an Internal Market for insurance, will introduce a single license system and home country supervision of insurance undertakings.

2. The Committee shall have two tasks:

- first, to assist the Commission whenever the Council confers on it implementing powers in any of the acts which it adopts in the insurance sector and to provide for the appropriate procedure to be followed when those powers are applied.
- second, to examine any question relating to the application of existing directives and the preparation of new legislative proposals in the insurance sector.

3. The proposed procedure is a "regulatory committee" type III, variant (a), as provided for in Council Decision 87/373/EEC. This is the same procedure as was proposed by the Commission in the banking sector.

The III (a) is proposed here, too, for reasons of consistency, because of the growing links between different sectors of the financial services market; the close economic parallels which apply, particularly to the treatment of third country undertakings; and the fact that these parallels are reflected in almost identical language as regards procedures and implementing powers in the 2nd Banking Directive, the proposed 2nd life and 4th motor insurance Directives, and the proposal for an investment services Directive. In all these cases implementing powers apply, in strictly defined circumstances, to the entry of 3rd country firms into the EC market and to technical adaptations of the prudential rules in the supervisory systems applying to financial institutions in the Member States.

There is one difference with the Committee procedure which operates in the banking sector: in conformity with the Council decision 87/373/EEC, the Insurance Committee will be chaired, in all its work, by a Commission representative.

II. COMMENTS ON THE ARTICLES

Article 1

This article sets up the committee, which shall be called the "Insurance Committee", and provides for its composition and chairmanship. The Member States' representatives in the Committee are intended to belong to their supervisory authorities for the insurance sector.

The Chairmanship shall be held by a Commission representative: this is in conformity with Council Decision 87/373/EEC, laying down the procedures and organization of implementing powers of the Commission. The internal organization of the Committee, concerning for instance its agenda, number of representatives etc., will be laid down in the Committee's rules of procedure (para. 2).

Article 2

If the Council confers, in the acts which it adopts in the insurance sector, implementing powers on the Commission for the rules it lays down in those acts the Commission will need to follow the procedure set out in paragraph 2 when it applies those powers in practice (para. 1). That procedure corresponds to a 'regulatory committee' procedure III, variant (a) as provided for by Council Decision 87/373/EEC (para. 2).

Article 3

This article sets out the Second task attributed to the Committee and provides that it may examine any question in the field of life assurance or non-life insurance which concerns either any of the existing directives or the preparation of future proposals to the Council in this sector (para. 1). In order to clarify that the Committee shall not act as a forum in which the conduct or position of individual insurance undertakings may be discussed, a paragraph in this sense - which also exists in the banking sector - has been added (para. 2).

Article 4

In view of the fact that the proposal will not need implementation into the national laws of the Member States, its date of application and, therefore, also the date of creation of the Committee shall be 30 September, 1991 (indicative date).

III. REASONS FOR CHOOSING A DIRECTIVE

The proposal will form an inherent complement to all the internal market directives in the insurance which provide for implementing powers for the Commission.

For this reason it is considered correct to use the same legal basis and legal instrument as for all those other insurance directives, i.e. Article 57, para. 2 of the EEC Treaty. One single legal act which at the same time sets up the Committee - which needed to be created in any case - and regulates its 'comitology' task and procedure is justified by the procedural economy it implies: It will no longer be necessary for each individual Council act to contain complete and lengthy procedural requirements where Commission implementing powers are involved.

IV. CONSULTATION

The desirability of formalizing closer links between the Commission and the Member States has been consistently underlined in the recent years by the so-called Conference of Insurance supervisory authorities of the Member States.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the third sentence of Article 57(2) thereof;

Having regard to the proposal from the Commission;¹

In cooperation with the European Parliament;²

Whereas the Council shall confer on the Commission powers for the implementation of the rules which the Council lays down;

Whereas implementation measures are necessary for the application of Council Directives on non-life insurance and life assurance, and, in particular, technical adaptations may from time to time be necessary to take account of new developments in the insurance sector; whereas it is appropriate that these measures shall be taken in accordance with the procedure laid down in Article 2, procedure III, variant (a), of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽³⁾,

Whereas it is necessary for this purpose to set up an Insurance Committee;

Whereas the examination of matters of non-life insurance and life assurance makes cooperation desirable between the competent authorities and the Commission; whereas it is appropriate to confer this task to the Insurance Committee;

HAS ADOPTED THIS DIRECTIVE:

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(3) OJ No L 197, 18.7.1987, p. 33.

Article 1

1. The Commission shall be assisted by a committee called the "Insurance Committee", hereinafter called the 'Committee', composed of representatives of Member States and chaired by the representative of the Commission.
2. The Committee shall adopt its own rules of procedure.

Article 2

1. Where the Council, in the acts which it adopts in the field of direct non-life insurance and direct life insurance, confers on the Commission powers for the implementation of the rules which it lays down, the procedure set out in paragraph 2 shall apply.
2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 3

1. The Committee shall examine any question relating to:

(a) the application of directives on non-life insurance and life assurance referred to it by the Commission or at the request of a representative of a Member State;

(b) the preparation of new proposals to the Council concerning further coordination in the sphere of non-life insurance and life assurance, at the request of the Commission.

2. The Committee shall not consider problems relating to individual insurance undertakings.

Article 4

The Committee shall assume its functions on 30 September 1991.

Article 5

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

FICHE FINANCIERE

Objet : Proposition de directive du Conseil portant création d'un "Comité des assurances"

1. Introduction

Ce comité est du type "consultatif dont l'avis n'est pas obligatoire dans le processus législatif"; les coûts de fonctionnement relèvent donc du poste A2511 des crédits administratifs.

2. Crédits nécessaires

- frais de convocation pour la réunion de ce "Comité"

Il est prévu de convoquer ce groupe d'experts gouvernementaux deux fois par an; les frais de voyage seront pris en charge par la DG XV; chaque Etat membre désignera deux experts dans ce Comité présidé par la Commission; celle-ci assurera également le secrétariat;

total : 22.200 ECU / par an à imputer sur les crédits du poste A2511 (dotation annuelle) pour le remboursement des frais de voyage de ces experts gouvernementaux

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COMPETITIVENESS AND EMPLOYMENT IMPACT STATEMENT

Statement with respect to this fiche

The present proposal merely concerns an administrative procedure and has no impact on competitiveness and employment.

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DOCUMENTS

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