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R E P O R T

of the Committee on Budgetary Control

on the Commission proposal for a Council directive amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value added tax (C3-0424/90 - COM(90) 525 final - SYN 313)

Rapporteur: Mrs Annemarie GOEDMAKERS

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A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

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| <p>* = Consultation procedure requiring a single reading</p> <p>**I = Cooperation procedure (first reading)</p> | <p>**II = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment</p> <p>*** = Parliamentary assent which requires the votes of a majority of the current Members of Parliament</p> |
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By letter of 12 December 1990 the Council consulted the European Parliament, pursuant to Article 100a of the EEC Treaty, on the Commission proposal for a Council directive amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value added tax.

At the sitting of 21 January 1991 the President of Parliament announced that he had referred this proposal to the Committee on Budgetary Control as the committee responsible and to the Committee on Agriculture, Fisheries and Rural Development for its opinion.

At its meeting of 29 January 1991 the Committee on Budgetary Control appointed Mrs Goedmakers rapporteur.

At its meeting of 23 April 1991 it considered the Commission proposal and its draft report.

At the latter meeting it adopted the draft resolution unanimously.

The following took part in the vote: Price, chairman; Wynn and Suarez Gonzalez, vice-chairmen; Goedmakers, rapporteur; Dalsass, Kellett Bowman, Langes, Marck, Theato and Tomlinson.

The opinion of the Committee on Agriculture, Fisheries and Rural Development will be published separately.

The report was tabled on 24 April 1991.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A

Commission proposal for a Council directive
amending Directive 76/308/EEC on mutual assistance
for the recovery of claims resulting from operations forming
part of the system of financing the European Agricultural Guidance
and Guarantee Fund, and of agricultural levies and customs duties
and in respect of value added tax

Commission text¹

Amendments

(Amendment No. 1)

ARTICLE 1, SOLE PARAGRAPH, POINT 2
Article 3 of Directive 76/308/EEC

2. Articles 2 and 3 are replaced by
the following:

'Article 2
(text unaltered)

Article 3

This Directive applies to all claims
concerning:

(a) refunds, interventions and other
measures forming part of the system
of central or partial financing of
the European Agricultural Guidance
and Guarantee Funds, including sums
to be collected in connection with
these actions;

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the following:

'Article 2
(text unaltered)

Article 3

This Directive applies to all claims
concerning:

(a) refunds, interventions and other
measures forming part of the system
of central or partial financing of
the European Agricultural Guidance
and Guarantee Funds, all co-
responsibility levies, producers'
financial participation,
contributions and other duties
levied in connection with the common
organization of the market;
including sums to be collected in
connection with these actions;

¹ For full text see COM(90) 525 final; OJ No. C 306, 6.12.1990, p.7

Commission text¹

Amendments

(b) import duties;

(b) import duties;

(c) export duties;

(c) export duties;

(d) value added tax;

(d) value added tax;

(e) the following excise duties:

(e) the following excise duties:

- excise duty on manufactured tobacco;
- excise duty on alcoholic beverages and on the alcohol contained in other products;
- excise duty on mineral oil;

- excise duty on manufactured tobacco;
- excise duty on alcoholic beverages and on the alcohol contained in other products;
- excise duty on mineral oil;

(f) interest and costs incidental to the recovery of the claims referred to above.'

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¹ For full text see COM(90) 525 final; OJ No. C 306, 6.12.1990, p.7

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament on the Commission proposal for a Council directive amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value added tax

The European Parliament,

- having regard to the Commission proposal to the Council (COM(90) 0525 final - SYN 313),
 - having been consulted by the Council pursuant to Article 100a of the Treaty (C3-0424/90),
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Agriculture, Fisheries and Rural Development (A3-098/91),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Commission to amend its proposals accordingly, pursuant to Article 149(3) of the EEC Treaty;
 3. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 4. Calls on the Council to incorporate Parliament's amendments in the common position in accordance with Article 149(2)(a) of the EEC Treaty;
 5. Instructs its President to forward this opinion to the Council and Commission.

B

EXPLANATORY STATEMENT

I - The need for mutual assistance among Member States for the recovery of claims - Directive 76/308/EEC

1. Directive 76/308/EEC of 15 March 1976 arose from the need to provide legal protection for claims arising in one Member State which it practice need to be recovered in the legal system of another Member State.

2. To this end, the directive aimed to establish a uniform enforcement document and to overcome the obstacles created by existing differences in national legislation on the recovery of claims, to prevent fraudulent operations which would have been facilitated by the gradual implementation of the common market.

3. However, the directive did not apply to all types of claim, but only to those resulting from operations forming part of the system of financing of the EAGGF Guarantee Section, and those concerning duties levied on import into the Community (agricultural levies and customs duties).

4. One implicit aim of the directive was to protect (indirectly) the Community budget by protecting claims relating to the Community's own resources.

5. The need for such a legal basis was recognized by Parliament and by the Economic and Social Committee, which did, however, point out certain shortcomings needing to be dealt with in the proposed regulations:

- . claims should have been enabled to benefit in the State of the requested authority from the same preferential treatment as in the State of the authority making the request¹;
- . the mutual assistance system should have been extended to include VAT and other taxes on consumption.²

¹ See amendments to 7th recital and Article 8 appended to Parliament's resolution of 16 March 1973 (OJ No. C 19, 12 April 1973, pp. 38-40) and opinion of the Economic and Social Committee of 28 March 1973 (OJ No. C 69, 28 August 1973, pp. 3-5).

² See opinion of the Economic and Social Committee, cited above.

II - Progressive improvement of the directive

The improvements called for by Parliament and by the Economic and Social Committee were not adopted by the Council. The Commission was, however, made aware of the need to extend and strengthen the protection given to claims arising in the public sector and to continue the process of reinforcing the rules:

- by the Directive of 6 December 1979³, Directive 76/308/EEC was extended to cover value added tax;
- the proposal for a directive currently under discussion⁴ is now aimed at extending the rules to include excise duties on certain products (Article 3) and to consolidate the protection of claims by providing that they 'shall be accorded the same preferential treatment as similar claims arising in the Member State where the requested authority is situated'.

III - EVALUATION AND CONCLUSIONS

The proposed directive remedies the existing gaps in legislation which had been pointed out by Parliament and by the Economic and Social Committee as regards the preferential treatment accorded to claims and the extent of protection. On this last point, the extension of mutual assistance to the recovery of excise duty on manufactured tobacco, alcoholic beverages and mineral oils makes it possible to protect in a uniform manner claims concerning goods which from now on will be able to move freely within the Community customs area; it goes without saying that the proposal for a directive conforms to the requirements of the creation of a single European market, which it is aimed at establishing and helping to function (Article 100a: approximation of laws).

However, the directive also aims to abolish obstacles to the establishment or functioning of the common market to prevent 'fraudulent operations', and the achievement of this objective can only benefit the Community budget which is the creditor in respect of most of these claims. It follows that it is advisable to give as wide as possible an application to Article 3, on the scope of the directive, in the matter of claims which constitute the Community's own resources. It is for this reason that subparagraph (a) of Article 3 (claims concerning refunds, interventions and other measures forming part of the system of financing the EAGGF) is extended to include all duties relating to the management and stabilization mechanisms of the EAGGF Guarantee Section (deductions, co-responsibility levies, contributions) in addition to the traditional operational mechanisms. This can only strengthen significantly national provisions protecting the sources of funding for the Community budget, which the Court of Auditors rightly considers insufficient (see paragraph 4.3.50 of the Annual Report for 1989, OJ No. C 313, 12.12.1990).

³ OJ No. L 331, 27.12.1979, p. 10

⁴ COM(90) 525 - OJ No. C 306, 6.12.1990, p. 7