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President: Mr Gerhard STOLTENBERG
Minister for Finance
of the Federal Republic of Germany

Luxembourg:

Mr Jacques POOS

Minister for Economic Affairs and
the Self-Employed

Netherlands:

Mr O.C.R. RUDING

Minister for Finance

Portugal:

Mr Miguel CADILHE

Minister for Finance

United Kingdom:

Mr Nigel LAWSON

Chancellor of the Exchequer

o

o

o

Commission:

Mr Jacques DELORS

President

Mr Henning CHRISTOPHERSEN

Vice-President

Lord COCKFIELD

Vice-President

LIBERALIZATION OF CAPITAL MOVEMENTS

Pending receipt of the Opinion of the European Parliament, the Council reached agreement on the substance of the draft Directive on the full liberalization of capital movements and of a draft Regulation establishing a single facility providing medium-term financial support for Member States' balances of payments.

Both acts are the result of a joint effort made following detailed, constructive discussions conducted by the Council on Financial and Economic Affairs since the Commission proposals were submitted in 1987, in particular at its meetings in February and April and at its informal meeting in Travemünde.

A. Full liberalization of capital movements

The aim of the draft Directive is to establish the principle of the full liberalization of capital movements. As opposed to the past, when only part of the transactions were to be liberalized, henceforth all capital movements will be liberalized. Compared with the Community rules currently in force, the most significant liberalization relates to short-term transactions, in particular the possibility of having accounts abroad, of obtaining credit from foreign banks, etc.

The agreement in principle reached today constitutes a vital stage along the path towards completion of the Large Market by 1992 and a significant opening towards the achievement of Economic and Monetary Union.

Those Member States which have not yet liberalized their capital movements will have a two-year period in which to apply the Directive, i.e. until 1 July 1990. As from that date at the latest, currency and capital will therefore be able to circulate freely beyond the Community frontiers and seek the most favourable

investment terms. Furthermore, the Member States undertake in principle to endeavour to achieve, in their relations with third countries, the same degree of liberalization as that attained within the Community (erga omnes principle).

Spain, Ireland, Greece and Portugal may maintain certain restrictions on the Directive until the end of 1992. Greece and Portugal will be able to benefit from a three-year extension of their transitional arrangements owing to balance of payments difficulties or an inadequate degree of adaptation of the national financial system.

Furthermore, the achievement of liberalization is coupled with the following special conditions:

- for reasons of domestic monetary policy, Member States may take measures to regulate bank liquidity which have a specific effect on capital transactions carried out by credit institutions with non-residents;
- in the event of a serious crisis, where short-term capital movements on an exceptional scale exert strong pressure on exchange markets and seriously disrupt the conduct of monetary and exchange-rate policy in a Member State, resulting in particular in important fluctuations in domestic liquidity, safeguard measures may be introduced, for a maximum of six months, in respect of capital movements newly liberalized by the Directive; this particularly concerns short-term transactions. It was agreed that Articles 73 and 108 of the Treaty would remain applicable and, as in the past, Member States may invoke them to deal with any serious problems which might arise.

As a general rule, the Commission will authorize the Member State to take the necessary safeguard measures, for which it will lay down the conditions and details. If necessary, owing to their urgent nature, the Member State may itself take safeguard measures. In that event, the Commission and the Member States must be notified of such measures no later than the date of their entry into force. The Commission (after consulting the Monetary Committee and the Committee of Central Bank Governors) will decide whether to maintain or discontinue those measures.

- Belgium and Luxembourg will be able to maintain their double exchange market until the end of 1992.
- Specific national provisions governing the purchase of secondary residences may be maintained pending a Community regulation on the matter.
- The Commission will submit to the Council by 31 December 1988 proposals to eliminate or attenuate the risks of tax distortions, evasion and avoidance linked with the diversity of national schemes concerning tax on savings and monitoring of their application.

The Council will have to adopt a position on the Commission proposals by 30 June 1989. Any Community tax provisions will, in accordance with the Treaty, have to be adopted unanimously.

- The Directive also provides that in the event of short-term capital movements on a large scale from or to third countries seriously disrupt the monetary policy of the Member States or lead to serious tension in exchange relations, the Member States must examine any measures which could be taken to resolve the difficulties encountered.

Lastly, the Council and the Commission placed the text of the Directive on capital movements in a wider political context by stating that:

"The Directive involves the full liberalization of capital movements within the Community and lays down the timetable and detailed procedures for implementing it. This liberalization is necessary for the completion of the internal market and marks an important step towards the achievement of economic and monetary union. It is not, however, a sufficient condition for the creation of a financial area genuinely integrated into the Community.

1. The proper functioning of the internal market, greater economic and social cohesion within the Community and continued progress towards economic and monetary union demand that between now and completion of the large market an increasingly high degree of stability be sought in exchange relations between Member States, with that stability being based on price stability, close convergence of economic performances and strengthened co-operation in the definition of the conduct of economic and monetary policies.
2. The liberalization of capital movements must fit into a framework which ensures a satisfactory level of protection for savers and depositors, a high degree of transparency and information for investors and shareholders, equal conditions of competition on the financial markets and the solvency of banks and other financial institutions.

It is therefore important that the programme already initiated, in particular as regards the harmonization of the safeguard and supervision rules in the field of financial services, be pressed ahead with in accordance with the guidelines and timetable laid down in the White Paper on the completion of the internal market.

3. Under full liberalization arrangements, capital movements could be influenced to a greater extent by tax considerations.

The deadline laid down for applying this Directive must be put to advantage to define within the Council, taking into account in particular the Member States' budget and tax constraints, the measures to eliminate or attenuate the risk of tax distortions, evasion and avoidance linked with the diversity of the national schemes concerning tax on savings and monitoring of their application.

According to the Commission's point of view expressed in its communication COM(87) 550 accompanying the proposal, these measures could include the harmonization of the tax systems, bases and rates and a strengthening of the detailed procedures for co-operation between the national tax authorities."

B. Establishment of a single facility providing medium-term financial support for Member States' balances of payments

The aim of this proposal is to establish a single medium-term facility by amalgamating the present two mechanisms, that of Community loans and that of medium-term financial assistance.

The new financial support could go up to a ceiling of 16 000 MECU. Funds could be provided either from loans on capital markets or from financial institutions up to a maximum of 14 000 million, or from the other Member States by way of medium-term financial assistance, depending on the ceilings on outstanding debt set for each Member State.

The financial support is designed to provide aid in the form of loans to Member States experiencing difficulties or a serious threat of difficulties in its balance of current payments or its balance of capital movements.

It is for the Council to implement the support and to lay down the economic policy conditions coupled with support.

It is for the Commission to submit any proposals it deems necessary and to monitor implementation of the programme of reorganization in the beneficiary countries.

Support will be granted in the form of repayable loans and will not involve any burden for the Community budget.

INTERINSTITUTIONAL AGREEMENT ON BUDGETARY DISCIPLINE

The Council approved the Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure, the text of which had been established ad referendum at the Trialogue meeting (Presidents of the Council, Commission and European Parliament) on 27 May 1988.

The Agreement is based on the following principles:

- "1. The main purpose of the Interinstitutional Agreement is to achieve the objectives of the Single European Act, to give effect to the conclusions of the Brussels European Council on budgetary discipline and accordingly to improve the functioning of the annual budgetary procedure.
2. Budgetary discipline under the Interinstitutional Agreement covers all expenditure and is binding on all the institutions involved for as long as the Agreement is in force.
3. This Agreement does not alter the respective budgetary powers of the various institutions as laid down in the Treaty.
4. The contents of the Interinstitutional Agreement may not be changed without the consent of all the institutions which are party to it."

The Agreement, in which the partners in the Trialogue went as far as possible to allay the concern of all parties, represents a proper balance between positions which were on occasion contradictory at the outset. Although the Agreement does not resolve all the problems, it constitutes a framework for proper mutual conduct which will make it possible to avoid a degree of tension that has arisen in the past and affected the equanimity of the budget debate. This is particularly important in the light of the effects which the decisions of the Brussels European Council will have, as they will each year lead to an overshoot of the maximum rate of increase in non-compulsory expenditure, notably as a result of increases for the Structural Funds, the IMPs, the framework research programme, etc.

Common rules for transposing those political decisions into the budget were therefore particularly important in order to prevent risks of potential conflict between the two branches of the budgetary authority.

A third advantage, that of improved forecasting of Community expenditure, has been secured by introducing multiannual estimates which will also make it easier for the Member States to make their own budget estimates by taking into account the amounts to be made available to the Community.

The Agreement is based on financial estimates, viz. the financial perspective 1988-1992, the table of which is set out below (page 13).

That perspective will be updated by the Commission each year prior to the budgetary procedure in order to adjust the data technically to GNP and price trends. The Commission will, moreover, submit proposals to the two branches of the budgetary authority for the necessary adjustments, taking into account the conditions of execution on the basis of the schedules for commitment and payment appropriations. The Agreement also provides for the possibility of reviewing the financial perspective by joint decision of the two branches of the budgetary authority.

For the Council the expenditure ceilings laid down in the financial estimates, plus the safety margin of 0,03% of GNP, also constitute the maximum annual limits for own resources, which will be entered, as percentages of Community GNP, in the decision on own resources as an additional component of budgetary discipline.

An important aspect of the Agreement is the mutual obligation to comply with the financing objectives set by the European Council for certain priority policy areas (Structural Funds, Integrated Mediterranean Programmes, framework programme in the field of research).

The Council, the European Parliament and the Commission are in agreement, moreover, on the budgetary discipline defined by the European Council for compulsory expenditure (in particular the guideline in the agricultural sector), and undertake to comply with it.

FINANCIAL PERSPECTIVE
Commitment appropriations

million ECU at 1988 prices

	1988	1989	1990	1991	1992
1. EAGGF Guarantee	27 500	27 700	28 400	29 000	29 600
2. Structural operations	7 790	9 200	10 600	12 100	13 450
3. Policies with multiannual allocations (IMPs, research)(1)	1 210	1 650	1 900	2 150	2 400
4. Other policies	2 103	2 385	2 500	2 700	2 800
of which non-compulsory	1 646	1 801	1 860	1 910	1 970
5. Repayments and administration (including financing of stock disposal)	5 700	4 950	4 500	4 000	3 550
6. Monetary reserve *)	1 000	1 000	1 000	1 000	1 000
TOTAL	45 303	46 885	48 900	50 950	52 800
of which **)					
compulsory	33 698	32 607	32 810	32 980	33 400
non-compulsory	11 605	14 278	16 090	17 970	19 400
Payments appropriations required	43 779	45 300	46 900	48 600	50 100
of which **)					
compulsory	33 640	32 604	32 740	32 910	33 110
non-compulsory	10 139	12 696	14 160	15 690	16 990
Payment appropriations as % of GNP	1,12	1,14	1,15	1,16	1,17
Margin for unforeseen expenditure	0,03	0,03	0,03	0,03	0,03
Own resources required as % of GNP	1,15	1,17	1,18	1,19	1,20

TAX EXEMPTIONS

The Council held a brief exchange of views on a Presidency compromise proposal to resolve the last issues outstanding in connection with a proposal for a Directive on tax exemptions for certain temporarily imported means of transport.

The Council called upon the Permanent Representatives Committee to continue its work with a view to reaching a solution as soon as possible.

The Council also adopted in the official languages of the Communities the Directive amending Directive 83/181/EEC relating to exemption from value added tax on the final importation of certain goods.

This Directive, which aims at customs and VAT arrangements being as unified as possible, accordingly incorporates some of the amendments to customs arrangements recently adopted by the Council in Regulation No 1315/88: the introduction of exemptions for reference substances for the quality control of medical products, awards, trophies, and souvenirs of a symbolic nature and for fuel to be used for the refrigeration systems and other special systems on board transport vehicles. It is also aimed at repealing the present arrangements for optional exemption of imports of negligible value: henceforth a compulsory exemption will be introduced for items whose value does not exceed 10 ECU and an optional exemption for items whose value is greater than 10 ECU but not greater than 22 ECU. The Member States will, however, have the right to exclude mail order sales from the compulsory exemption. Lastly, the Directive introduces a new VAT exemption for importations of official publications and printed matter distributed on the occasion of elections to the European Parliament and of national elections.

OTHER FINANCIAL DECISION

The Council also formally adopted the Regulation amending Regulation No 2891/77 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources. The aim of these amendments is in particular to adapt the definition of the establishment of traditional own resources in order to cope with difficulties experienced in the past.

Bruxelles, le 10 juin 1988.

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NOTE BIO(88) 202 AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

Préparation du Conseil Eco-Fin du 13 juin (H. Lohan)

Création d'un espace financier européen

Les Ministres des Finances pourraient se mettre d'accord lundi sur le paquet de propositions "création d'un espace financier européen". Il n'y a pas de divergence de points de vue sur la proposition de règlement concernant le mécanisme unique de soutien financier à moyen terme. Cette proposition avait été modifiée en mal par la Commission⁽¹⁾ à la lumière des avis des Comités. Les ministres devraient donc discuter des points suivants encore ouverts dans la proposition de directive pour la libération des mouvements de capitaux:

Clause de sauvegarde spécifique

D'après la position de la Commission, les mesures de sauvegarde peuvent être prises, en cas d'urgence par un Etat membre sans procédure communautaire préalable. Toutefois une autorisation a posteriori par la Commission après consultation des Comités serait nécessaire. La durée de l'application des mesures de sauvegarde resterait limitée à 6 mois, sans possibilité de prorogation. Trois Etats membres insistent sur une autorisation préalable, trois autres demandent que la période de 6 mois soit renouvelable.

Délai de mise en application

La Commission propose un délai de 12 mois après l'adoption formelle de la directive. La position des pays membres se situe dans une fourchette de 12 à 24 mois.

Régime transitoire

Selon la Commission, les régimes transitoires prendraient fin à la fin 1992 pour tous les quatre pays concernés (Espagne, Portugal, Grèce, Irlande). L'échéance pourrait être prorogée pour une durée de deux ans au bénéfice du Portugal et de la Grèce par décision du Conseil, sur proposition de la Commission. Deux Etats membres demandent un délai transitoire plus long.

Libération erga omnes

Il y a accord sur le principe que les Etats membres s'efforcent de libéraliser "erga omnes" et qu'une clause à cette fin soit introduite dans le texte de la nouvelle directive. La clause d'effort de libération erga omnes ne porterait pas préjudice à l'application des conditions éventuelles de réciprocité dans les domaines de l'établissement, de la prestation de services et de l'admission de titres étrangers sur le marché national. En plus, une "clause de coopération communautaire" prévoirait une concertation entre Etats membres sur les mesures à prendre en cas de perturbation grave de la situation monétaire ou financière des Etats membres, suite à des mouvements de capitaux en relation avec des pays tiers. La concertation aurait lieu au sein des Comités sur l'initiative d'un Etat membre ou de la Commission.

(1) Voir P(88) 57

Un Etat membre est d'avis que la procédure de concertation devrait figurer dans une déclaration du Conseil plutôt que dans la directive elle-même. S'il y a accord pour traiter dans la directive de libération la question des relations avec les pays tiers selon les lignes proposées par la Commission, celle-ci accepterait que la directive de 1972, ayant trait à la même question, soit abrogée.

Les questions connexes à la libération des mouvements de capitaux pourraient être abordées sous forme d'une déclaration commune du Conseil et de la Commission, qui soulignerait le caractère d'ensemble des propositions de libération d'un côté et de la stabilité des relations de change dans le cadre d'une discipline commune, de l'harmonisation des règles prudentielles et de surveillance dans le domaine des services financiers, et des aspects fiscaux de l'autre.

Sur les problèmes fiscaux, le Conseil entendra un rapport oral du président du groupe ad hoc à haut niveau mis en place par le Conseil ECO-FIN d'avril. Ce rapport devrait en principe reconnaître la légitimité des préoccupations de plusieurs pays membres sur cette question et indiquer quelques approches possibles de solution. La Commission proposera qu'un engagement soit pris dans la déclaration de prendre les mesures communautaires destinées à supprimer ou atténuer les risques de distortions et d'évasion fiscales, au cours du délai de mise en oeuvre de la directive.

L'avis du Parlement Européen est prévu pour la session du 13 au 18/Juln.

Fiscalité - E. Reuter

Le Conseil examinera le problème du traitement fiscal des importations temporaires de véhicules automobiles. La Commission préconise une clarification sur la base des principes dégagés par la jurisprudence de la Cour de Justice qui favorise les droits des citoyens agissant de bonne foi. Le dossier est compliqué cependant par des réactions de méfiance des administrations nationales et le manque d'intérêt des Etats membres de la périphérie (Grèce, Portugal, Irlande et Danemark).


Amities,
C. D. EHLERLANN

n o t e b i o (88) 202 (suite et fin) aux bureaux nationaux cc. aux membres du service du porte parole

conseil eco - fin du 13 juin 1988 (e. reuter)

le dernier point a l'ordre du jour a concerne les franchises fiscales applicables aux importations temporaires de voitures. la proposition de la commission, qui s'inscrit dans le cadre de l'europe des citoyens, vise notamment le cas des voitures de location, des voitures pretees a un membre de la famille, des voitures appartenant a un employeur et des voitures de rechange utilisees a la suite d'immobilisation. elle entend clarifier la situation de ceux qui conduisent de bonne foi un vehicule immatricule dans un autre etat membre que celui dans lequel ils resident.

le compromis de la presidence permettait une derogation en faveur de quatre etats membres : grece, portugal, irlande et danemark. lord cockfield a deplore une telle approche qui consacrait une division de la communaute, "l'europe a deux vitesses" et qui, de plus, incitait les etats membres a maintenir des controles aux frontieres et a ignorer les droits des citoyens de la communaute. un tel compromis n'etait pas acceptable pour la commission. le dossier a ete renvoye au coreper.

conseil eco - fin (h. lohan)

les ministres se sont mis d'accord sur la directive "liberation des mouvements de capitaux" et sur le reglement concernant le mecanisme unique de soutien financier a moyen terme. les deux textes pourront etre adoptes prochainement, apres l'avis du parlement, par un des prochains conseils. l'accord d'aujourd'hui mene a bien le programme pour la liberation complete des mouvements de capitaux propose par la commission en 1986.

la directive sur la liberation des mouvements de capitaux entrera en vigueur dans 24 mois. des regimes transitoires sont prevus pour l'espagne, le portugal, la grece et l'irlande jusqu'a la fin de l'annee 1992. cette echeance pourrait etre prorogee pour une duree de trois ans au benefice du portugal et de la grece apres examen de la situation economique et financiere de ces deux pays.

la directive prevoit que des mesures de sauvegarde peuvent etre prises en cas de perturbation grave dans la conduite de la politique monetaire et de change d'un etat membre resultant de mouvements brusques et d'une ampleur exceptionnelle de capitaux a court terme. si un etat membre, pour des raisons d'urgence, ne peut invoquer la procedure communautaire necessaire a priori, la commission doit decider a posteriori s'il doit modifier ou peut maintenir ces mesures. la duree de l'application des mesures de sauvegarde est limitee a 6 mois, sans possibilite de prorogation. avant la fin de l'annee 1992, le conseil examinera sur la base d'un rapport de la commission si le regime de clause de sauvegarde demeure adapte aux besoins. cet examen ne pourra pas desavantager les pays qui appliquent des regimes transitoires.

les états membres s'efforceront de libéraliser les mouvements de capitaux "erga omnes". la clause de libération "erga omnes" ne préjuge pas des conditions éventuelles de réciprocité dans les domaines de l'établissement, de la prestation de services et d'admission de titres étrangers sur le marché national. une "clause de coopération communautaire" prévoit que les états membres se consultent sur les mesures à prendre en cas de perturbation grave de la situation monétaire ou financière des pays suite à des mouvements de capitaux en relation avec les pays tiers. par conséquent, la directive de 1972 sur la régulation des flux internationaux est abrogée. cette clause permet à la communauté de réagir d'une seule voix en cas de perturbation.

les questions connexes à la libération des mouvements de capitaux font l'objet d'une déclaration commune du conseil et de la commission, en particulier les états membres rechercheront d'ici l'achèvement du grand marché un degré de plus en plus élevé de stabilité des relations de change entre eux. de plus, la déclaration préconise que l'application de la directive doit être mise à profit pour définir au sein du conseil les mesures destinées à supprimer ou à atténuer les risques de distorsion et d'évasion et de fraude fiscales liées à la diversité des régimes nationaux concernant la fiscalité de l'épargne et le contrôle de son application. dans ce contexte, une clause a été introduite dans la directive selon laquelle la commission soumettra au conseil, avant le 31 décembre 1988, des propositions à cette fin. le conseil devra se prononcer sur les propositions avant le 30 juin 1989. les dispositions fiscales devront être adoptées en conformité avec les traités à l'unanimité.

dans une conférence de presse, le président delors a souligné l'importance de l'accord d'aujourd'hui pour l'objectif 1992. il en découle un dynamisme nouveau pour la création d'un marché unique de services financiers dans la communauté, le progrès vers l'union économique et monétaire et une meilleure allocation de l'épargne ainsi que pour les places financières de la communauté.

le président delors a rajouté que sans l'accord d'aujourd'hui, il serait difficile de s'imaginer que la discussion sur le futur du SME, les perspectives d'une monnaie commune et une banque centrale communautaire progressent. une discussion politique de ces points est attendue pour le conseil européen d'hanovre. selon le président delors, il convient de combiner vision et pragmatisme. dans cet esprit, il a réposé les questions de savoir quelle monnaie pour la communauté, quelle structure pour une banque centrale communautaire, quel rôle pour l'écu et quelles mesures de transition ?

amities,

c.d. ehlermann

13.6.1988

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