

COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT

PRESS RELEASE

9724/90 (Presse 176)

1439th Council meeting
- INTERNAL MARKET -
Brussels, 8 November 1990

President: Mr Pierluigi ROMITA
Minister for Community Policies
of the Italian Republic

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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

Denmark:

Mrs Anne-Brigitte LUNDHOLT
Minister for Industry

Germany:

Mr Otto SCHLECHT
State Secretary, Federal Ministry
of Economic Affairs

Greece:

Mr G. THEOPHANOUS
Secretary-General, Ministry
of Trade

Spain:

Mr Pedro SOLBES
State Secretary for Relations with
the European Communities

France:

Mr Jean CADET
Deputy Permanent Representative

Ireland:

Mr Desmond J. O'MALLEY
Minister for Industry and Commerce

Italy:

Mr Pierluigi ROMITA
Minister for Community Policies

Luxembourg:

Mr Georges WOHLFART
State Secretary for Foreign Affairs
and Foreign Trade

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Netherlands:

Mr Piet DANKERT

State Secretary, Ministry for
Foreign Affairs

Portugal:

Mr Vitor MARTINS

State Secretary for European
Integration

United Kingdom:

Mr John REDWOOD

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

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Commission:

Mr Martin BANGEMANN
Sir Leon BRITTAN

Vice-President
Vice-President

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FIFTH DIRECTIVE ON PUBLIC LIMITED COMPANIES

The Council was given a progress report on the amended proposal for a fifth Council Directive concerning the structure of public limited companies and the powers and obligations of their organs.

The proposal for a fifth Directive covers the harmonization of national laws relating to the structure of public limited companies and to the powers and obligations of their organs, including workers' participation.

Having noted the progress achieved with regard, particularly, to the arrangements to which the members of company organs will be subject, the Council instructed the Permanent Representatives Committee to complete its preparatory work in this area at the earliest opportunity.

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ACQUISITION AND POSSESSION OF WEAPONS

The Council heard a progress report from the Presidency on a proposal for a Council Directive on control of the acquisition and possession of weapons.

The Council followed this up with a short discussion.

The aim of the proposal is to provide the Member States with the guarantees required to enable police checks on the possession of weapons at Community border crossing points to be abolished. Minimum common rules are prescribed for this purpose and the Member States will be authorized to adopt strict legislation.

The Council welcomed the progress achieved and instructed the Permanent Representatives Committee to continue its discussions so as to enable the Council to resume examination of this question at its next meeting on 13 December.

PROTECTION OF COMPUTER PROGRAMS

The Council held a policy debate on an amended proposal for a Council Directive on the legal protection of computer programs.

This proposal defines the way in which protection under the Berne Convention for the Protection of Literary and Artistic Works applies to computer programs, with particular reference to holders of copyright, the exclusive rights of right-holders and exceptions to such exclusive rights.

The debate focused on three key issues in the proposal, decompilation, rental right and term of protection. It enabled the delegations to come closer over the issues of rental right and term of protection and led to a general support for the principle that decompilation should be permitted on clearly defined conditions for the purposes of program interoperability.

At the close of the debate, the Council instructed the Permanent Representatives Committee to continue its discussions so as to enable the Council to adopt its common position at its December meeting.

2ND GENERAL SYSTEM FOR THE RECOGNITION OF PROFESSIONAL EDUCATION AND TRAINING

The Council was given a progress report on a proposal for a Council Directive on a second general system for the recognition of professional education and training, to supplement Directive 89/48/EEC.

This proposal encompasses all regulated professions covered neither by a specific Directive nor by the first general system for the general recognition of higher-education diplomas (Directive 89/48/EEC).

The Council noted the need for further discussion, with particular regard to definitions and the relationship to Directive 89/48/EEC. It instructed the Permanent Representatives Committee to continue its discussions so as to enable the Council to take a decision at the earliest opportunity.

LIFE ASSURANCE - 2ND DIRECTIVE

The Council definitively adopted the second Directive on the co-ordination of provisions relating to freedom to provide direct life assurance services and amending Directive 79/267/EEC.

The purpose of this Directive is to supplement the "first" Directive on life assurance (Directive 79/267/EEC) and to facilitate the effective exercise of freedom to provide services in this area, thereby granting policy-holders complete latitude of recourse to the widest possible market. The Directive is the counterpart to the second Directive on insurance other than life assurance, adopted by the Council on 22 June 1988.

The content of the Directive may be said, in essence, to:

- lay down specific provisions on access to, and the exercise of, freedom to provide services; two different systems are prescribed, depending on whether the initiative comes from the insurer or the policy-holder;
- specify the powers of the authorities responsible for monitoring the provision of services and the methods which they may employ for this purpose;
- provide for the right to renounce the contract during a certain period following its conclusion, in the interests of the protection of the policy-holder;
- provide, in the light of the extension of the Directive's scope to include group insurance and of the need to guarantee the independence of brokers in all the Member States, for the possibility of deferred application in the case

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both of group insurance and the freedom to provide services through brokers;

- ensure that, in order to prevent distortions of competition, the fiscal arrangements applicable are those of the Member State in which the undertaking is entered into, i.e. that of the policy-holder.

Specific transitional provisions are laid down for some Member States which are required, in view of their economic situation, to make an effort on a particularly wide front.

MOTOR VEHICLE LIABILITY INSURANCE

The Council definitively adopted the Directive amending, particularly as regards motor vehicle liability insurance, the first and second Directives on insurance other than life assurance.

The purpose of this Directive is to extend the scope of the second Directive - on freedom to provide services in the field of direct insurance other than life assurance - to include motor vehicle third-party liability insurance.

The Directive sets out to facilitate as far as possible freedom to provide motor vehicle third-party liability insurance between Member States, while ensuring a high degree of protection for policy-holders and accident victims.

With regard to the monitoring of insurers, it should be noted that the second Directive lays down two separate types of arrangement: large risk arrangements, governed fundamentally by the State in which the insurer is established ("monitoring by the country of origin"), and small risk arrangements (i.e. small policy-holders), where the State in which the risk is situated may, under certain conditions, require proof of approval and monitor the policy terms, rates and technical reserves.

A system for the gradual application of the large risk arrangements, adjusted in line with the subsequent harmonization of the technical reserves, has been laid down to take particular account of the need to protect road accident victims.

CONTROL OF CONCENTRATIONS

The Council heard an oral report from Vice-President Sir Leon BRITTAN on the implementation of Council Regulation (EEC) No 4061/89 on the control of concentrations of undertakings, which entered into force on 21 September 1990.

The delegations expressed satisfaction with the establishment of administrative procedures at the Commission and, with the positive experience of the initial monitoring operations and hoped that this important Regulation would continue to be implemented swiftly and efficiently, with due regard for confidentiality.

It was agreed that the Commission would report annually to the Council.

MISCELLANEOUS DECISIONS

Normative procedures - References to Community law in national implementing measures - Interconnection

With the aim of increasing legal certainty, transparency, effective monitoring by the Commission of the implementation of Community Directives, and the provision of information to business circles and to the public, the Council approved a standard form of words to be included in the Directives, concerning the reference to Community Directives to be made by Member States when adopting national texts in order to comply with such Directives.

The agreement provides that the customary form of words appearing in every Directive, reading

"Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive",

will be followed by a second paragraph, reading:

"When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.".

This decision does not entail any further obligation on the Member States to publish texts. Where, therefore, a Member State is not obliged, by Community law or decisions of the Court, to adopt national measures implementing a Directive, on the grounds that its legislation is already in compliance therewith, the new provision does not create any obligation to enact specific legislation on the matter. Similarly, where a Directive may be transposed into national law by unpublished administrative measures, the new provision does not impose any obligation to publish.

It was also stated that the new provision means that, where it is not made in the actual text of the national implementing measures, the reference to Community Directives must appear in an appropriate position in the same issue of the official publication, so as fully to meet the desired objective of transparency.

Motor vehicle equipment and parts

The Council adopted the Decision authorizing the Community to take part in negotiations, within the United Nations Economic Commission for Europe, aimed at amending the Agreement of 20 March 1958 concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts.

Annual accounts and consolidated accounts

The Council adopted two Directives on the accounts of undertakings, its common position on which was adopted on 29 June 1990:

- amending Directive 78/660/EEC on annual accounts and Directive 83/349/EEC on consolidated accounts, as regards the scope of those Directives.

The purpose of this amendment is to make partnerships or limited liability partnerships subject to the accounting obligations of the 4th and 7th Directives on company law if their fully liable members are alone established in the form of a public or private limited liability company (with share capital). The same concern for the protection of the members and, in particular, third parties arises in the case of partnerships which are, in fact, companies with share capital. The aim of the Directive in question is, therefore, to plug a seemingly ever-increasing gap;

- amending Directive 78/660/EEC on annual accounts and Directive 83/349/EEC on consolidated accounts, as regards exemptions for small and medium-sized companies and the publication of accounts in ecus.

This amendment is designed to enable the Member States to extend further the exemptions already provided for SMUs under the 4th and 7th Directives in accordance with the general policy to reduce unnecessary charges facing such companies. It also counterbalances the effect of the "scope" Directive inasmuch as partnerships falling within the scope of the said Directive may qualify for SMU treatment if they comply with the rules defining them.

Customs Union

The Council adopted the Regulations

- increasing the volume of the Community tariff quota opened for 1990 for ferro-chromium containing more than 6% by weight of carbon from 400 000 to 525 000 tonnes;

- amending Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff as regards the rate of duty applicable to gas oil under subheading ex 2710 00 69;

- temporarily suspending the autonomous Common Customs Tariff duties
 - = on a number of industrial products (in the chemical and allied sectors)

 - = for certain products intended for the construction, maintenance and repair of aircraft

 - = on certain industrial products (micro-electronics and related sectors);

- opening and providing for the administration of Community tariff quotas
 - = bound in GATT for certain agricultural and industrial products

 - = for certain fruits and fruit juices.

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Rendez-Vous de Midi - 7 November 1990

1) Internal Market Council - 8 November 1990 (M.F. Berendt)

The Council will be adopting two directives on insurance which will come into effect as from January 1 1993:

- second directive on life assurance
- motor insurance: free provision of services

These two directives have already been subject to a common position in the Council and have been through a second reading in the European Parliament. The life assurance directive will mean that consumers will be able to seek life cover from insurers anywhere in the Community on their own initiative. As far as commercial insurance is concerned (supplementary pensions for example), insurance companies will be free to market their products anywhere in the Community. They will also be able to offer their services in another member state without being established there. Brokers (courtiers) will be free to operate throughout the Community as from 1996, offering life assurance contracts from companies in another member country to a consumer who approaches them. The three year delay in implementation will give time for member states without regulations for the broking profession to introduce the necessary rules.

The motor insurance directive will bring this sector within the scope of the second non-life insurance directive, but only to a limited extent, since the authorities in the consumer's member state will be responsible for controlling the technical reserves necessary to ensure that any insurance contracts are covered by the resources of the insurance company. This will apply until the proposed third non-life directive (now on the Council table) has been put into effect. The directive will put all tariffs on a fully commercial basis, so they will no longer be fixed by governments.

2) Renault/Volvo

The Commission has taken its first decision under the merger regulation (see IP(90)895), giving the all clear to the agreement under which Renault and Volvo have pooled their truck and bus manufacturing operations. The Commission decided that the car manufacturing deal did not constitute a merger in its present form, but was also cleared under Articles 85 and 86.

Matériel distribué

- IP 889 Modification du projet de budget CECA 1991
- P - 84 Crédits à l'exportation, protection et promotion des investissements - Pays de l'Europe centrale et orientale
- IP 897 Abjudication - viande bovine
- IP 895 Fusion Renault/Volvo
- Economie européenne: résultats des enquêtes auprès des chefs d'entreprise et des consommateurs, octobre 90
- Eurostat: Sidérurgie, 10/90

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