II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 December 1987

renewing and amending Decision 85/15/EEC authorizing Ireland to continue to apply certain protective measures pursuant to Article 108 (3) of the EEC Treaty

(Only the English text is authentic)

(88/12/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 108 (3) thereof,

Whereas by Decision 85/15/EEC [1], amended by Decision 87/150/EEC [2], the Commission authorized Ireland to continue, until 19 December 1987, to apply certain protective measures to capital movements liberalized in accordance with the Council Directive of 11 May 1960 [3], as last amended by Directive 86/566/EEC [4],

Whereas Ireland has claimed that its balance of payments is still in difficulties and has requested a renewal of certain protective measures, in accordance with Article 2 (3) of Decision 85/15/EEC; whereas, however, relaxations are to be made by the Irish authorities, with effect from 1 January 1988, in the protective measures now in force for which renewal is requested;

Whereas it emerges from the Commission's review of the overall economic situation of Ireland that the improvement in Ireland's external position since 1984 permits a significant relaxation in the restrictions now applied to outward portfolio investment; whereas, however, if this improvement is to continue and be consolidated, notably by means of a reduction in the public sector deficit, and in more satisfactory growth conditions, the maintenance, for a relatively short period, of protective measures in this area is justified;

Whereas the authorization to apply the protective measures should be renewed and amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 85/15/EEC is hereby amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

1. Ireland is authorized, temporarily and within the limits of the measures listed in the Annex hereto, to prohibit or to subject to prior exchange authorization the conclusion or performance of transactions and transfers relating to the capital movements liberalized at the date of this Decision, pursuant to Article 1 of the Council Directive of 11 May 1960 (First Directive for the implementation of Article 67), as last amended by Directive 86/566/EEC.

2. Unless otherwise provided for by the Commission under the conditions laid down in Article 2 (3), this Decision shall remain in force until 31 December 1988.'

2. The Annex is hereby replaced by the following:

[1] OJ No L 8, 10. 1. 1985, p. 32.
[2] OJ No L 63, 6. 3. 1987, p. 34.
[3] OJ No 43, 12. 7. 1960, p. 921/60.
[4] OJ No L 332, 26. 11. 1986, p. 22

'ANNEX

Type of operation	Restrictions authorized by way of derogation from Community obligations
Operations in securities	Acquisition by residents of foreign securities or of domestic securities issued on a foreign market may be prohibited or made subject to authorization. The restriction shall not apply to; — the acquisition by residents of foreign securities when such acquisition is financed from the proceeds of the sale of other foreign securities belonging to the resident or from borrowing abroad; — the acquisition of securities issued by the Communities or by the European Investment Bank and dealt in on a stock exchange. From 1 January 1988, the restriction shall not apply to: — the acquisition by residents (aged 18 years or over) of foreign securities or of domestic bonds issued on a foreign market, subject to a limit of £ Irl 5 000 per investor and an overall limit of £ Irl 30 million; — the acquisition by resident insurance companies, pension funds and unit trusts of foreign securities or of domestic bonds issued on a foreign market, up to a limit of 12,5 % of their net Irish pound cash flow (1) in the previous year; — the acquisition by residents of domestic securities (other than bonds) issued on a foreign market and of American Depositary Receipts (ADRs) of resident companies.

(1) Net Irish pound cash flows means:

(i) in respect of insurance companies:

— in relation to business written in Ireland, premium income in Irish pounds plus income on investments, less expenditure in Irish pounds;

(ii) in respect of pension funds:

— in relation to Irish liabilities, annual contributions (excluding discretionary contributions) plus income on investments less expenditure in Irish pounds;

(iii) in respect of unit trusts:

— in relation to investments by Irish residents, annual subscriptions plus income on investments, less expenditure in Irish pounds (including redemptions).'

Article 2

This Decision is adressed to Ireland.

Done at Brussels, 16 December 1987.

For the Commission

The President

Jacques DELORS