II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 18 February 2003

on the conclusion of an Agreement in the form of an Exchange of Letters between the United Kingdom of Great Britain and Northern Ireland on behalf of the Isle of Man and the European Community extending to the Isle of Man the legal protection of databases as provided for in Chapter III of Directive 96/9/EC

(2003/239/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases [1], and in particular Article 11(3) thereof,

Having regard to the proposal from the Commission [2],

Whereas:

(1) The right provided for in Article 7 of Directive 96/9/EC applies to databases whose makers or rightholders qualify for protection under Article 11(1) and (2) of that Directive.

(2) The Isle of Man legislation on the protection of databases is in conformity with the provisions of Directive 96/9/EC and offers protection equivalent to that provided for in Chapter III thereof. The Isle of Man intends to extend the application of that legislation to nationals of the Member States of the European Union, natural persons who have their habitual residence in the territory of a Member State and companies or firms formed in accordance with the law of one of the Member States and having their registered office, central administration or principal place of business within a Member State.

(3) The Isle of Man legislation therefore qualifies for an extension of the protection provided for in Chapter III of Directive 96/9/EC. The term of any protection thus extended should, however, not exceed that available pursuant to Article 10 of Directive 96/9/EC.

(4) The Agreement in the form of an Exchange of Letters extending to the Isle of Man the protection provided for in Chapter III of Directive 96/9/EC should be approved accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters between the United Kingdom of Great Britain and Northern Ireland on behalf of the Isle of Man and the European Community extending to the Isle of Man the legal protection of databases as provided for in Chapter III of Directive 96/9/EC is hereby approved on behalf of the Community.

The text of the Agreement in the form of an Exchange of Letters is set out in the Annex.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the letter to the United Kingdom of Great Britain and Northern Ireland in order to express the consent of the Community to be bound.

Done at Brussels, 18 February 2003.

For the Council

The President

N. CHRISTODOULAKIS

[1] OJ L 77, 27.3.1996, p. 20.
[2] OJ C 331 E, 31.12.2002. p. 313.

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

between the United Kingdom of Great Britain and Northern Ireland on behalf of the Isle of Man and the European Community extending to the Isle of Man the legal protection of databases as provided for in Chapter III of Directive 96/9/EC

A. *Letter from the United Kingdom of Great Britain and Northern Ireland, on behalf of the Isle of Man*

Sir,

I have the honour to propose that the following Agreement be concluded with a view to extending the *sui generis* protection of databases to the Isle of Man.

Agreement in the form of an Exchange of Letters between the United Kingdom of Great Britain and Northern Ireland on behalf of the Isle of Man and the European Community extending to the Isle of Man the legal protection of databases as provided for in Chapter III of Directive 96/9/EC

THE EUROPEAN COMMUNITY AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON BEHALF OF THE ISLE OF MAN

DESIRING to enhance and stimulate trade in databases and their production and distribution,

RECOGNISING that both the European Community and the Isle of Man provide for the *sui generis* protection of databases where it is shown that the obtaining, verification or presentation of the contents thereof has entailed substantial investment,

RECOGNISING that the protection under Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (*Official Journal of the European Communities* L 77, 27.3.1996, p. 20) is limited to database makers and rightholders who are nationals of a Member State of the European Union or who have their habitual residence in the territory of the European Community and to companies and firms formed in accordance with the law of a Member State and complying with the conditions of Article 11(2) of the said Directive, but that such protection may be extended to third country rightholders,

HAVE AGREED AS FOLLOWS:

Article 1

The European Community and the Isle of Man (each being a 'Relevant Party' for the purposes of this Agreement) shall provide for a *sui generis* protection of databases as provided for in Chapter III of Directive 96/9/EC and shall (so far as it is not yet afforded) extend that *sui generis* protection to databases whose makers or rightholders are:

(a) nationals of one of the Member States of the European Union;

(b) natural persons who have their habitual residence in the territory of the other Relevant Party;

(c) companies or firms formed in accordance with the law of the Isle of Man or the law of one of the Member States of the European Union and having their registered office, central administration or principal place of business within the territory of a Relevant Party.

Provided that where a company or firm as referred to in point (c) of the first paragraph has only its registered office in the territory of a Relevant Party, its operations must be genuinely linked on an ongoing basis with the economy of a Relevant Party.

Article 2

The duration of protection for databases shall be in accordance with Article 10 of Directive 96/9/EC.

Article 3

This Agreement shall take effect on 1 November 2003.

I would be grateful if you would confirm the agreement of the European Community to the Agreement set out above and I propose that this letter and your letter in reply constitute an Agreement between our two authorities.

Please accept, Sir, the assurance of my highest consideration.

Done at Brussels,
Fait à Bruxelles, le
Hecho en Bruselas, el
Udfærdiget i Bruxelles, den 26 -03- 2003
Geschehen zu Brüssel am
Έγινε στις Βρυξέλλες, στις
Fatto a Bruxelles, addì
Gedaan te Brussel,
Feito em Bruxelas, em
Tehty Brysselissä
Utfärdat i Bryssel den

For the United Kingdom of Great Britain and Northern Ireland on behalf of the Isle of Man
Por el Gobierno del Reino Unido de Gran Bretaña e Irlanda del Norte, en nombre de la Isla de Man
For Det Forenede Kongerige Storbritannien og Nordirland på vegne af Isle of Man
Für das Vereinigte Königreich Großbritannien und Nordirland im Namen der Insel Man
Για το Ηνωμένο Βασίλειο της Μεγάλης Βρετανίας και της Βόρειας Ιρλανδίας εξ ονόματος της Νήσου του Μαν
Pour le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, au nom de l'île de Man
Per il Regno Unito di Gran Bretagna e Irlanda del Nord, per conto dell'Isola di Man
Voor het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland namens het eiland Man
Pelo Reino Unido da Grã-Bretanha e Irlanda do Norte, em nome da Ilha de Man
Mansaarta edustavan Ison-Britannian ja Pohjois-Irlannin yhdistyneen kuningaskunnan puolesta
För Förenade konungariket Storbritannien och Nordirland på Isle of Mans vägnar

Nigel Sheinwald

B. *Letter from the European Community*

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'I have the honour to propose that the following Agreement be concluded with a view to extending the *sui generis* protection of databases to the Isle of Man.

Agreement in the form of an Exchange of Letters between the United Kingdom of Great Britain and Northern Ireland on behalf of the Isle of Man and the European Community extending to the Isle of Man the legal protection of databases as provided for in Chapter III of Directive 96/9/EC

THE EUROPEAN COMMUNITY AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON BEHALF OF THE ISLE OF MAN

DESIRING to enhance and stimulate trade in databases and their production and distribution,

RECOGNISING that both the European Community and the Isle of Man provide for the *sui generis* protection of databases where it is shown that the obtaining, verification or presentation of the contents thereof has entailed substantial investment,

RECOGNISING that the protection under Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (*Official Journal of the European Communities* L 77, 27.3.1996, p. 20) is limited to database makers and rightholders who are nationals of a Member State of the European Union or who have their habitual residence in the territory of the European Community and to companies and firms formed in accordance with the law of a Member State and complying with the conditions of Article 11(2) of the said Directive, but that such protection may be extended to third country rightholders,

HAVE AGREED AS FOLLOWS:

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The European Community and the Isle of Man (each being a "Relevant Party" for the purposes of this Agreement) shall provide for a *sui generis* protection of databases as provided for in Chapter III of Directive 96/9/EC and shall (so far as it is not yet afforded) extend that *sui generis* protection to databases whose makers or rightholders are

(a) nationals of one of the Member States of the European Union;

(b) natural persons who have their habitual residence in the territory of the other Relevant Party;

(c) companies or firms formed in accordance with the law of the Isle of Man or the law of one of the Member States of the European Union and having their registered office, central administration or principal place of business within the territory of a Relevant Party.

Provided that where a company or firm as referred to in point (c) of the first paragraph has only its registered office in the territory of a Relevant Party, its operations must be genuinely linked on an ongoing basis with the economy of a Relevant Party.

Article 2

The duration of protection for databases shall be in accordance with Article 10 of Directive 96/9/EC.

Article 3

This Agreement shall take effect on 1 November 2003.

I would be grateful if you would confirm the agreement of the European Community to the Agreement set out above and I propose that this letter and your letter in reply constitute an Agreement between our two authorities.'

I have the honour to confirm that the above is acceptable to the European Community and that your letter and this letter constitute an Agreement in accordance with your proposal.

Please accept, Sir, the assurance of my highest consideration.

Hecho en Bruselas, el
Udfærdiget i Bruxelles, den
Geschehen zu Brüssel am
Έγινε στις Βρυξέλλες, στις 26-03-2003
Done at Brussels,
Fait à Bruxelles, le
Fatto a Bruxelles, addì
Gedaan te Brussel,
Feito em Bruxelas, em
Tehty Brysselissä
Utfärdat i Bryssel den

Por la Comunidad Europea
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Voor de Europese Gemeenschap
Pela Comunidade Europeia
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar

