II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 29 June 1976

amending Directive 73/239/EEC on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance

(76/580/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 57 (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas Council Directive 73/239/EEC of 24 July 1973 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance (3), to facilitate the taking up and pursuit of the said business, has eliminated certain divergencies between national legislations; whereas it has ensured adequate protection for insured and third parties in all the Member States and, at the same time, co-ordinated in particular the provisions relating to the financial guarantees required of insurance undertakings;

Whereas, pursuant to that Directive, the minimum guarantee fund which each Member State requires of all insurance undertakings with head offices in its territory may not be less than certain amounts which are expressed in units of account in the Directive;

Whereas the unit of account is also referred to in order to determine the amount of the contribution revenue of certain mutual associations below which the Directive does not apply;

Whereas, for the purposes of the said Directive 'unit of account' means that unit which is defined in Article 4 of the Protocol on the Statute of the European Investment Bank; whereas on the basis of this definition the conversion of the amounts mentioned in the Directive into national currencies would lead to distortions of competition between undertakings whose head offices are situated in the various Member States;

Whereas by Decision 75/250/EEC (4) the Council defined on 21 April 1975 a European unit of account representing the average of any changes in the value of the currencies of the Member States; whereas the conversion rate for each currency against this unit of account is fixed automatically by reference to daily quotations on the exchange markets; whereas the use of this European unit of account places insurance undertakings on the same competitive footing;

(1) OJ No C 28, 9. 2. 1976, p. 16.
(2) OJ No C 35, 16. 2. 1976, p. 17.
(3) OJ No L 228, 16. 8. 1973, p. 3.
(4) OJ No L 104, 24. 4. 1975, p. 35.

Whereas Article 4 of the aforesaid Protocol is undergoing revision ; whereas, pursuant to the Decision of 18 March 1975 of the Board of Governors of the EIB, the Bank uses the European unit of account defined by Council Decision 75/250/EEC ;

Whereas more recently, on 18 December 1975, the Commission, by Decision No 3289/75/ECSC (1), adopted, with the unanimous assent of the Council, this European unit of account in applying the Treaty establishing the European Coal and Steel Community ;

Whereas the value of the European unit of account in each of the Member States' currencies is fixed daily and whereas a reference day must also be fixed for its use when applying this Directive ;

Whereas, however, in certain Member States the introduction of the European unit of account would lead to a reduction in terms of national currency of the amounts expressed in units of account in the Directive ; whereas such a reduction would lead to a corresponding reduction in the protection now given to insured parties by the mimimum gurarantee fund ; whereas, the said amounts should be reviewed every two years ; whereas as a result of this review, the amounts in question are likely to be amended ; whereas in certain Member States the reduction in the amounts expressed in national currency could, under these conditions, be swiftly followed by a further adjustment in those States ; whereas the implementation of these successive measures would raise difficulties for undertakings and supervisory authorities ; whereas, therefore, these amounts should be kept at the level which they would have reached on the basis of the conversion rate applicable before the introduction of the European unit of account, if this level is higher than that of the European unit of account, until the amounts fixed in Directive 73/239/EEC are reviewed ;

Whereas changes in the economic and monetary situation of the Community justify the examination at regular intervals of the latter amounts,

HAS ADOPTED THIS DIRECTIVE :

Article 1

1. The following shall be substituted for the text of Article 5 (a) of Directive 73/239/EEC :

'(a) Unit of account means the European unit of account (EUA) as defined by Commission Decision 3289/75/ECSC (1). Wherever this Directive refers to the unit of account, the conversion value in national currency to be adopted shall, as from 31 December of each year, be that of the last day of the preceding month of October for which EUA conversion values are available in all the Community currencies ;'.

2. The following note is added as a footnote to the page where Article 5 of Directive 73/239/EEC appears :

'(1) OJ No L 327, 19. 12. 1975, p. 4.'.

Article 2

As an transitional measure and until the amounts expressed in units of account in Directive 73/239/EEC have been amended for the first time, the amounts expressed in national currency for conversion of the unit of account, as defined in Article 5 (a), shall not be less than those derived according to the rate of conversion applicable to the unit of account before the adoption of this Directive.

Article 3

Every two years, the Council, acting on a proposal from the Commission, shall review and if necessary amend the amounts expressed in Directive 73/239/EEC in units of account, taking into account changes in the economic and monetary situation of the Community.

Article 4

The national provisions amended in accordance with this Directive shall be applicable as from 31 December 1976.

Article 5

This Directive is addressed to the Member States.

Done at Luxembourg, 29 June 1976.

For the Council

The President

G. THORN

(1) OJ No L 327, 19. 12. 1975, p. 4.