COMMISSION REGULATION (EEC) No 1102/89

of 27 April 1989

laying down certain measures for implementing Council Regulation (EEC) No 1101/89 on structural improvements in inland waterway transport

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1101/89 of 27 April 1989 on structural improvements in inland waterway transport (1), and in particular Article 10 (3) thereof,

Having regard to the views expressed by the Member States and the organizations representing inland waterway carriers at Community level in the consultations held by the Commission on 29 March and 3 February 1989 respectively,

Whereas, under Article 6 of Regulation (EEC) No 1101/89, the Commission must adopt a number of decisions concerning the operation of the system for structural improvements in inland waterway transport laid down in that Regulation;

Whereas, in the course of the abovementioned consultations, the Member States and the organizations representing inland waterway carriers at Community level took the view that the capacity of the fleets concerned should be cut by 10 % in the case of dry cargo vessels and pusher craft and by 15 % in the case of tanker vessels;

Whereas, in view of the need to encourage scrapping by setting attractive premiums and considering the limited resources available to the trade associations for repaying the sums prefinanced by the Member States concerned pursuant to Article 7 of Regulation (EEC) No 1101/89, a total budget of ECU 130,5 million seems appropriate;

Whereas the Commission must determine the date on which the scrapping scheme, coordinated at Community level, is to begin; whereas that date must coincide with the date on which the Member States affected by structural overcapacity have adopted the necessary measures for implementing Council Regulation (EEC) No 1101/89.

Whereas the Commission must lay down the rate for the annual contributions to the Scrapping Funds payable by carriers in respect of each vessel they operate for the carriage of goods on the linked inland waterway networks of the Member States; whereas these rates must be such as to enable the Scrapping Funds to repay the sums prefinanced by the Member States concerned within ten years at the most, and must be set at a level acceptable to inland waterway undertakings in a difficult economic position;

Whereas the Commission must also lay down the rates for the scrapping premiums, the period during which, and the conditions subject to which, they may be obtained; whereas, to this end, in view of the overcapacity to be shed and of a limited overall budget which would be insufficient to meet all the applications for scrapping premiums lodged with the national Scrapping Funds, it would seem appropriate, to enable as much overcapacity as possible to be scrapped, to follow a procedure whereby priority consideration is given to applications for rates at the lower end of the 70 to 100 % bracket with respect to the maximum values laid down;

Whereas, because of the particular socio-economic situation affecting small vessels, appropriate measures should be adopted and, in particular, adjustments coefficients should be set so as to take account of the lower commercial value of these vessels; whereas it would therefore be advisable to set lower scrapping premiums and, accordingly, lower annual contribution rates for such vessels;

Whereas, in order to operate the mutual financial support arrangements between the various national Scrapping Funds, it would seem advisable for the Commission, with the help of the representatives of the national Funds, to balance the accounts of those Funds at the beginning of each year so as to ensure that the repayment period for the sums prefinanced by the Member States concerned is the same for all Funds;

Whereas the various types of waterway vessel differ in value and in their effect on fleet capacity; whereas special coefficients should therefore be laid down in order to determine the equivalent tonnage where a carrier brings a new vessel into service and presents for scrapping a vessel of a different type,

HAS ADOPTED THIS REGULATION:

General provisions

Article 1

1. This Regulation fixes, *into alia*, the annual contributions, the scrapping premiums and the conditions under which they may be obtained in respect of the vessels referred to in Article 2 of Council Regulation (EEC) No 1101/89 in view of the need to reduce fleet capacity by 10 % in respect of dry cargo vessels and pusher craft and by 15 % in respect of tanker vessels.

(1) See page 25 of this Official Journal.

2. A total budget of ECU 130,5 million is considered necessary, ECU 81,2 million thereof for dry cargo vessels, ECU 44,3 million for tanker vessels and ECU 5 million for pusher craft.

Article 2

The system of scrapping measures coordinated at Community level, as laid down in Regulation (EEC) No 1101/89, shall become operational on 1 January 1990.

Annual contributions

Article 3

1. Owners of the vessels referred to in Article 2 of Regulation (EEC) No 1101/89 including vessels in respect of which a scrapping premium has been applied for, shall, from 1 January 1990, be required to pay the annual contributions to the relevant Scrapping Fund. The rates for these contributions shall be as follows for the various types and categories of inland waterway vessels:

— *Dry cargo vessels*
  — Self-propelled barges: ECU 1,00 per tonne
  — Push barges: ECU 0,70 per tonne
  — Lighters: ECU 0,36 per tonne

— *Tanker vessels*
  — Self-propelled barges: ECU 3,00 per tonne
  — Push barges: ECU 1,26 per tonne
  — Lighters: ECU 0,54 per tonne

— *Pusher craft:*
  — 0,40 per kW

2. For vessels with a deadweight capacity of less than 450 tonnes, the annual contribution set out in paragraph 1 shall be reduced by 30 %. For vessels with a deadweight capacity of between 650 and 450 tonnes, the annual contribution shall be reduced by 0,15 % for every tonne by which the deadweight capacity of the vessel in question ist less than 650 tonnes.

3. The Commission may alter the rates set out in paragraph 1 in order to ensure that the sums prefinanced by the Member States concerned pursuant to Article 7 (1) of Regulation (EEC) No 1101/89 are repaid within ten years.

Article 4

1. The certificate of payment of the annual contribution in respect of 1990 must, from 1 May, be on board the vessel or, in the case of unmanned waterway vessels, on board the pusher craft.

2. Annual contributions, expressed in ecus, shall be converted into the currencies of the relevant Funds at the rate applicable on 1 January of the year in question.

Scrapping premiums

Article 5

1. The scrapping premiums for the different types and categories of vessels shall be within a bracket ranging from 70 to 100 % of the following rates:

— *Dry cargo vessels*
  — Self-propelled barges: ECU 120 per tonne
  — Push barges: ECU 60 per tonne
  — Lighter: ECU 43 per tonne

— *Tanker vessels*
  — Self-propelled barges: ECU 216 per tonne
  — Push barges: ECU 91 per tonne
  — Lighters: ECU 39 per tonne

— *Pusher craft:*
  — 240 ECU/kW

2. For vessels with a deadweight capacity of less than 450 tonnes, the maximum rates for the scrapping premiums set out in paragraph 1 shall be reduced by 30 %. For vessels with a deadweight capacity of between 450 and 650 tonnes, the maxiumum rates for the premiums shall be reduced by 0,15 % for every tonne by which the deadweight capacity of the vessel in question is less than 650 tonnes.

Article 6

1. Applications for scrapping premiums submitted by vessel owners must be received by the authorities of the relevant Fund before 1 May 1990. Applications received after this deadline shall not be considered.

2. Applicants for scrapping premiums shall indicate in their applications the percentage, within the 70 to 100 % bracket, of the rates set out in Article 5 which they wish to receive as a premium for scrapping their vessels. This percentage is referred to hereinafter as the 'premium-rate percentage'.

3. Valid applications for scrapping premiums amounting to 70 % of the rates set out in Article 5 (1) and (2) shall be deemed to be accepted by the Fund within the limits of the financial resources available in the various accounts, as provided for in Article 1 (2). The Fund authorities shall confirm their acceptance of applications within two months of receipt.

The authorities of the various Funds shall send to the Commission each month a list of the applications which they have received for scrapping premiums amounting to 70 % of the abovementioned rates. The Commission shall ensure that these applications do not exceed the financial resources referred to in Article 1 (2) and shall keep the Fund authorities informed of the current situation.

4. The Fund authorities shall, before 1 September 1990, notify in writing applicants for scrapping premiums exceeding 70 % of the rates set out in Article 5 (1) and (2) as to whether those applications have been accepted or refused.

Article 7

1. If an application for a scrapping premium is accepted, the owner of the vessel must, by 1 December 1990:

— scrap the vessel, or

— lay it up permanently until it is scrapped.

2. Where a vessel is laid up in accordance with paragraph 1, the owner shall forward to the authority of the relevant Fund all documents relating to that vessel, such as the certificate of waterworthiness and transport licence. The Member States shall ensure that vessels laid up are not used for transport or storage.

The owner of a laid-up vessel shall inform the authority of the relevant Fund of the place where the vessel is laid up. A vessel laid up may be moved only with the agreement of the Fund authority.

3. Each Fund shall, at the end of each year, send to the other Funds and to the Commission a list of the vessels in respect of which the Fund has paid a scrapping premium and which have not yet been scrapped. The list shall state, in respect of each vessel:

— its name, type, tonnage and home port,

— the name and address of the owner,

— precise details of the place where the vessel is laid up for scrapping.

4. Vessels laid up must, in all cases, be scrapped before 1 December 1992. If a vessel is not scrapped by that date the authority of the relevant Fund may have it scrapped on behalf, and at the expense, of its owner.

Artikel 8

1. If the finances required to cover valid applications for scraping premiums exceed the financial resources available in the various accounts, as provided for in Article 1 (2), the premium-rate percentage indicated by the vessel owner in his application shall serve as a selection criterion, in that applications for lower percentages shall be given priority over those for higher percentages.

2. To facilitate the operation of the selection procedure referred to in paragraph 1 the Commission, with the help of the authorities of the various Funds, shall draw up a joint list of valid applications; such applications shall be listed in order, starting with the application for the lowest premium-rate percentage. Separate lists shall be drawn up for dry cargo vessels, tanker vessels and pusher craft.

3. The different Funds shall continue to grant scrapping premiums in accordance with the list, until the financial resources available in the various accounts referred to in Article 1 (2) are used up. If more than one application requesting the same premium-rate percentage is submitted, priority shall be given to the first one received.

4. If the financial resources required to cover valid applications are less than the funds available in the various accounts referred to in Article 1 (2) the applications for scrapping premiums shall be deemed to be accepted in respect of the premium percentages applied for. In such cases, the period of ten years allowed for repaying the sums prefinanced by the Member States concerned to the Fund shall be reduced accordingly.

Article 9

1. The scrapping premium shall not be paid until the owner of the vessel has provided proof that the vessel had been scrapped or laid up in accordance with Article 7.

2. The rates for the scrapping premiums, expressed in ecus, shall be converted into the currencies of the relevant Funds at the rate applicable on the date referred to in Article 2.

Mutual financial support

Article 10

1. With a view to operating the mutual financial support arrangements between the separate accounts of the various Funds as required und Article 5 (2) of Regulation (EEC) No 1101/89, each Fund shall, from 1 January 1991, communicate the following information to the Commission at the beginning of each year:

— the Fund's debts on 31 December of the previous year (Dn);

— the Fund's receipts during the previous year (Ran), comprising receipts from annual contributions and the special contributions referred to in Article 8 of Regulation (EEC) No 1101/89.

2. The Commission, with the help of the Fund authorities, shall determine, on the basis of the information referred to in paragraph 1:

— the total debts of all the Funds on 31 December of the previous year (Dt);

— the total receipts of all the Funds for the previous year (Rt);

— the adjusted annual receipts of each Fund (Rnn) calculated as follows:

$$Rnn = \frac{Rt}{Dt} \times Dn;$$

— for each Fund, the difference between annual receipts (Ran) and annual adjusted receipts (Ran − Rnn);

— the sums which each Fund whose annual receipts exceed the adjusted annual receipts (Ran > Rnn) is required to transfer to a Fund whose annual receipts are less than the adjusted annual receipts (Ran < Rnn).

3. Each of the Funds involved shall transfer the sums referred to in the last indent of paragraph 2 to the other Funds by 1 March.

Equivalent tonnage

Article 11

1. Where a vessel owner brings into service one of the vessels referred to in Article 8 of Regulation (EEC) No 1101/89 and presents for scrapping a vessel or vessels of another type, the equivalent tonnage to be taken into consideration shall be determined, within each of the two categories of vessels indicated below, in accordance with the following adjustment coefficients:

— *Dry cargo vessels*
  — Self-propelled barges over 650 tonnes: 1,00,
  — Push barges over 650 tonnes: 0,50,
  — Lighters over 650 tonnes: 0,36;

— *Tanker vessels*
  — Self-propelled barges over 650 tonnes: 1,00,
  — Push bargers over 650 tonnes: 0,42,
  — Lighters over 650 tonnes: 0,18.

2. For vessels with a deadweight capacity of less than 450 tonnes, the coefficients set out in paragraph 1 shall be reduced by 30 %. For vessels with a deadweight capacity of between 450 and 650 tonnes, these coefficients shall be reduced by 0,15 % for every tonne by which the deadweight capacity of the vessel in question is less than 650 tonnes.

Consulting

Article 12

1. The Commission shall consult the Member States whenever it plans to amend this Regulation.

2. On all matters concerning the application of the system the Commission shall request the opinion of a group made up of experts from the professional organizations representing inland waterway carriers at Community level. This group shall be known as the 'Group of Experts on Structural Improvements in Inland Waterway Transport'.

Final provisions

Article 13

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 April 1989.

For the Commission
Karel VAN MIERT
Member of the Commission