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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3637/92

of 27 November 1992

on a system of distribution of Rights of Transit (Ecopoints) for heavy goods vehicles with a laden weight of over 7,5 tonnes registered in a Member State transiting through Austria

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 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 an Agreement has been reached between the Republic of Austria and the European Economic Community on the transit of goods by road and rail (3);

Whereas Article 15 of the abovementioned Agreement provides for a reduction of pollution generated by heavy goods vehicles using Austrian territory in transit, which shall be achieved by cutting total NO_x emissions of heavy goods vehicles with a laden weight of over 7,5 tonnes, by 60 % in the twelve year period of the agreement, namely until the end of 2003;

Whereas these total NO_x emissions will be represented by a number of points (Ecopoints) to be used by vehicles in order to be allowed to transit through Austria;

Whereas the Agreement provides that the competent Austrian authorities will make available to the Community the abovementioned Ecopoints, which are to be distributed by the Community among its Member States in accordance with its own rules and procedures;

Whereas it is necessary to establish rules governing the distribution and management of the Ecopoints which are made available to the Community;

Whereas Ecopoints should be made available to the Member States by the Commission;

Whereas 96,66 % of the available Ecopoints should be distributed to Member States according to an agreed scale which is based on the transport relations with Austria for 1991;

Whereas Member States should return to the Commission, in good time, those Ecopoints which, on the basis of available data, are unlikely to be used by the end of the relevant year;

Whereas the Commission should retain the remaining and returned points as a reserve for distribution according to agreed objective criteria for compensation of certain Member States at the latest one month before the end of the relevant year;

Whereas on distributing this reserve, according to objective criteria, the Commission will be assisted by the committee set up by Article 4 of Council Decision 92/577/EEC of 27 November 1992 concerning the conclusion of the Agreement between the European Economic Community and the Republic of Austria on the transit of goods by road and rail (4),

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation establishes the system of distribution, between the interested hauliers, of Ecopoints made

(1) Opinion delivered on 20 November 1992 (not yet published in the Official Journal).
(2) Opinion delivered on 24 November 1992 (not yet published in the Official Journal).
(3) See p. 4 of this Official Journal.
(4) See p. 4 of this Official Journal.

available to the Community by virtue of Article 15 of the Agreement between the European Economic Community and the Republic of Austria on the transit of goods by road and rail.

Article 2

1. A number of Ecopoints equal to 96,66 % of the total available shall be distributed between the Member States according to the distribution scale shown in Annex I.

2. These Ecopoints shall be made available to the Member States, each year in two portions, the first before 1 October of the preceding year and the second before 1 March of the relevant year.

Article 3

1. The competent authorities of the Member States will distribute their available Ecopoints in accordance with Article 2 to interested operators, established on their territory.

2. Each year the competent authorities of the Member States shall return to the Commission, by 15 October at the latest, any Ecopoints which, on the basis of available data and the estimates for traffic for the final month of the year, are likely not be used before the end of the year.

Article 4

1. The Ecopoints, which are not distributed among Member States, in accordance with Article 2, as well as those which have been returned to the Commission, in accordance with Article 3, shall constitute a Community reserve.

2. The Ecopoints of the Community reserve are to be allocated by the Commission to the Member States, according to the procedure set out in Article 5, at least one month before the end of the year, taking into account the manner in which each Member State managed the Ecopoints allocated to it and the objective needs of the hauliers of each Member State, which may, in particular, be determined using the following criteria:

— the special position of Italy and Greece, as detailed in Annex II,

— a disadvantageous starting position,

— problems with the technical upgrading of the vehicle fleet concerning NO_x emissions,

— geographical circumstances,

— unforeseen occurrences.

Article 5

The Commission shall be assisted by the committee set up by Article 4 of Decision 92/577/EEC.

The representative of the Commission shall submit to the committee a draft concerning the allocation of Ecopoints of the Community reserve. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the allocation envisaged if it is in accordance with the opinion of the committee.

If the allocation envisaged is not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal for the allocation of Ecopoints of the Community reserve. The Council shall act by a qualified majority.

If, on the expiry of a period of four weeks from the date of referral to the Council, the Council has not acted, the proposed allocation of Ecopoints shall be adopted by the Commission.

Article 6

This Regulation shall enter into force at the same time as the Agreement between the European Economic Community and the Republic of Austria on the transit of goods by road and rail.

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

Done at Brussels, 27 November 1992.

For the Council

The President

J. PATTEN

ANNEX I

Distribution scale of Ecopoints

Member State	Units
Belgium	32 500
Denmark	40 500
Germany	482 500
Greece	60 500
Spain	1 200
France	5 000
Ireland	1 000
Italy	510 000
Luxembourg	5 000
Netherlands	123 500
Portugal	400
United Kingdom	8 500
Total:	1 270 600

ANNEX II

Special position referred to in the first indent of Article 4 (2)

Of the normal reserve of 3,34 % of the total number of Ecopoints, a portion corresponding to 0,41 % of the total (estimated equivalent to 5 430 of the units in Annex I) shall in principle be allocated, on a priority basis and in accordance with the distribution scale in Annex I, to Italy and Greece.