

COUNCIL REGULATION (EEC) No 3916/90

of 21 December 1990

on measures to be taken in the event of a crisis in the market in the carriage of goods by road

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas under Article 3 (3) of Regulation (EEC) No 3164/76 ⁽⁴⁾, as last amended by Regulation (EEC) No 1841/88 ⁽⁵⁾, the Council is required to decide on the measures to be taken in the event of a crisis in the sector of carriage of goods by road;

Whereas it is therefore essential to introduce a Community safeguard mechanism to deal with any severe disturbances in the market for the carriage of goods by road and to remedy them;

Whereas provision should accordingly be made for taking action to resolve a crisis, to specify the nature of such action, to set up an appropriate decision-making procedure and to ensure that the data needed for the application of the safeguard clause are available,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to the market for international carriage of goods by road on Community territory, between Member States, for hire or reward.

(1) OJ No C 87, 5. 4. 1990, p. 4 and OJ No C 294, 24. 11. 1990, p. 11.

(2) Opinion delivered on 26 October 1990 (not yet published in the Official Journal).

(3) Opinion delivered on 19 September 1990 (not yet published in the Official Journal).

(4) OJ No L 357, 29. 12. 1976, p. 1.

(5) OJ No L 163, 30. 6. 1988, p. 1.

Article 2

For the purposes of this Regulation, a crisis means the existence of problems specific to the market defined in Article 1, such that there is a serious and potentially enduring excess of supply over demand implying a serious threat to the financial stability and survival of a significant number of road haulage undertakings provided that the short-term and medium-term forecasts for the market in question do not indicate any substantial and lasting improvements.

Article 3

The Commission shall collect the data necessary to monitor the market and to detect a possible crisis.

For this purpose, Member States shall cooperate with the Commission in the communication and processing of data which are available or can be readily obtained.

Article 4

1. Where a Member State believes a crisis exists, it may request the Commission to investigate.

2. To enable the situation to be assessed by the Commission, the Member State concerned shall provide quantified substantive information.

3. Following such a request from a Member State the Commission shall immediately consult the Committee referred to in Article 5.

4. If, following consultation of the Committee, the Commission concludes that a crisis exists, it may, by decision, take measures to prevent any further increase in the supply of capacity in the market affected through limits on the increase in the activity of existing hauliers and restrictions on access to the market for new hauliers.

The said decision shall be taken within 30 days of receipt of the request from a Member State.

The measures introduced in accordance with this Article may remain in force for a period up to but not exceeding six months, renewable once with the same period of validity.

5. The Commission shall without delay notify the Member States and the Council of any decision taken pursuant to paragraph 4 or, where appropriate, of its decision not to take measures.

6. A Member State or States may submit a Commission decision as referred to in paragraph 5 to the Council within 30 days of its notification. The Council, acting by a qualified majority, may, within the period of validity laid down in the third subparagraph of paragraph 4, take a different decision within 30 days following referral by the Member State or States concerned.

7. Where the Commission considers that:

- the measures referred to in paragraph 4 need to be prolonged, and/or
- additional separate measures need to be taken,

it shall submit a proposal to the Council, which will take a decision by qualified majority.

Article 5

The Commission shall be assisted by an Advisory Committee composed of representatives of the Member States and chaired by a representative of the Commission.

The tasks of the Committee shall be:

- to follow the situation on the transport market referred to in Article 1 and advise the Commission on the subject,
- to advise the Commission, at its request, on the collection of data referred to in Article 3,
- to advise the Commission, at its request, on any request from a Member State under Article 4 (1),

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

Done at Brussels, 21 December 1990.

- to advise the Commission on the measures proposed to resolve a crisis, in particular on the practical application of such measures.

In addition, the Committee may, within the framework of this Regulation, be consulted by the Commission on any other matter relating to the implementation of this Regulation.

The Committee shall draw up its rules of procedure.

Article 6

Where the procedure defined in this Article is used, the Commission shall submit to the Committee a draft of the interim to be taken to resolve a crisis. 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, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 7

The Commission shall submit to the European Parliament and to the Council by no later than 31 December 1995 a report on the application of this Regulation, accompanied by any necessary proposals.

Article 8

This Regulation shall enter into force on 1 January 1991.

For the Council

The President

A. RUBERTI