

COMMISSION REGULATION (EEC) No 3690/92

of 21 December 1992

amending Regulation (EEC) No 1102/89 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⁾, as amended by Regulation (EEC) No 3572/90⁽²⁾, and, in particular, Article 6 thereof,

Whereas Regulation (EEC) No 1101/89 provides for the possibility of reducing the capacity of the inland waterway fleet by organizing scrapping schemes coordinated at Community level;

Whereas, pursuant to Article 6 of Regulation (EEC) No 1101/89, the Commission must adopt a number of decisions concerning the operation of the scrapping schemes established in that Regulation; whereas, therefore, Commission Regulation (EEC) No 1102/89⁽³⁾, as last amended by Regulation (EEC) No 317/92⁽⁴⁾, laid down the rates for annual contributions to the scrapping funds, the rates for the scrapping premiums, and the period during which, and the conditions subject to which, such scrapping premiums could be obtained;

Whereas the funds continue to be financed by annual contributions and by special contributions under the old-for-new mechanism and whereas it is therefore desirable, given the continued overcapacity in the sector, to allow further scrapping premiums to be paid;

Whereas the special contributions should be used for the payment of such premiums together with the annual contributions, after full repayment of the pre-financed sums;

Whereas, it is appropriate that, as soon as the pre-financed sums are fully repaid, the annual contributions be reduced;

Whereas, within the limits of the available financial resources, it is also appropriate to amend the provisions as to the period for granting scrapping premiums, and the conditions and rates thereof;

Whereas in order to operate the mutual financial support arrangements between the national scrapping funds it is

advisable for the Commission, with the help of the representatives of the national funds, to balance the accounts of these funds at the beginning of each year so as to ensure that the repayment period for the sums pre-financed by the Member States concerned is the same for all funds and also to ensure that all owners of inland waterway vessels shall have equal opportunities for obtaining a scrapping premium under Regulation (EEC) No 1101/89;

Whereas the proposed amendments reflect the views received from Member States and from the organizations representing inland waterway carriers,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1102/89 is hereby amended as follows:

1. the following paragraph 4 is added to Article 1:

'4. Without prejudice to the provisions of paragraphs 1, 2 and 3 and in view of the need to reduce fleet capacity further, the following financial resources shall be allocated for that purpose from 1 January 1993:

- the special contributions referred to in Article 8 (1) (a) of Regulation (EEC) No 1101/89 received by the Funds after 1 January 1993,
- the annual contributions referred to in Article 4 (1) of Regulation (EEC) No 1101/89 received by the Funds after the payments advanced in accordance with Article 7 (1) of that Regulation have been repaid;

2. the following paragraph 4 is added to Article 3:

'4. As from the calendar year following the year in which the pre-financed sums under Article 7 (1) of Regulation (EEC) No 1101/89 have been repaid in respect of the separate accounts referred to in Article 3 (3) of the same Regulation, the rate of the annual contributions referred to in paragraph 1 above shall be reduced by 50%. The percentage of this reduction shall be valid until 31 December 1994 and may be readjusted so as to take account of changes in the inland waterway transport market.'

⁽¹⁾ OJ No L 116, 28. 4. 1989, p. 25.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 12.

⁽³⁾ OJ No L 116, 28. 4. 1989, p. 30.

⁽⁴⁾ OJ No L 37, 9. 2. 1991, p. 27.

3. the following paragraph 4 is added to Article 5 :

'4. Without prejudice to the provisions of paragraph 2 and as from 1 January 1993, the amount of the scrapping premium for all vessels covered by the Regulation shall be fixed at 100 % of the rates given in paragraph 1.';

4. the following paragraph 6 is added to Article 6 :

'6. (a) Contrary to the provisions of paragraphs 1 to 5, on or after 1 January 1993 owners of vessels may submit an application for a scrapping premium to the appropriate Fund authorities at any time they choose.

(b) At the end of each quarter and as from 1 April 1993, the Fund authorities shall send to the Commission a list of the valid applications for scrapping premiums and a full account of the current financial resources of the Fund. The Commission shall ensure that the applications do not exceed the financial resources referred to in Article 1 (4) and shall keep the Fund authorities informed of the level of the total financial resources available.

(c) Valid applications for scrapping premiums shall be deemed to be accepted by the Fund within the limits of the financial resources referred to in Article 1 (4). The Fund authorities shall notify applicants in writing within the two months following the end of the quarter during which the application was received as to whether their applications have been accepted or rejected.

(d) Applications for scrapping premiums received by the Fund authorities may not be withdrawn or modified before the notification referred to in point (c).';

5. the following paragraph 5 is added to Article 7 :

'5. Notwithstanding the provisions of paragraphs 1 to 4, submission of an application for a scrapping premium on or after 1 January 1993, if the application is accepted, shall entail an obligation on the part of the vessel owner to scrap the vessel within six months of the date of the written notification referred to in Article 6 (6) (c).

If the vessel has not been scrapped within this time limit, the authorities of the relevant Fund may have it scrapped on behalf of, and at the expense of, its owner. If the costs arising from scrapping exceed the amount of the scrapping premium, the application shall be considered null and void.';

6. the following paragraph 6 is added to Article 8 :

'6. The provisions of paragraphs 1 to 5 shall not apply to applications for scrapping premiums submitted on or after 1 January 1993. However, with regard to applications submitted after that date, if the finances needed to satisfy the applications are greater than the financial resources referred to in Article 1 (4), the date of receipt of the application by the Fund shall be used as a selection criterion, that is to say, the first application received shall be given priority.

If an application is rejected for lack of financial resources, the applicant may, within one month after receipt of the written notification referred to in Article 6 (6) (c), ask the Fund authorities to place the application on a waiting list, at the same time noting the date that it was received by the Fund. The Commission, with the help of the authorities of the various Funds, shall draw up a joint waiting list; applications on the waiting list shall be ranked according to the date of receipt by the Fund.

In allocating any financial resources which later become available, preference shall be given to the application which was received first.';

7. the following paragraph 3 is added to Article 9 :

'3. For applications for scrapping premiums submitted on or after 1 January 1993, the rates for the scrapping premiums, expressed in ecus, shall be converted into the currencies of the relevant Funds at the rate published in the first *Official Journal of the European Communities* of the year in which the application was submitted.

The scrapping premium shall be paid at the earliest when the vessel owner has provided proof that the vessel has been scrapped and, at the latest, within a period of not more than 10 months after the date of the written notification referred to in Article 6 (6) (c).';

8. Article 10 is replaced by the following :

Article 10

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

- (a) — the Fund's debts on 31 December of the previous year (D_n),
- the Fund's receipts during the previous year (R_n), in so far as these receipts, as referred to in Article 1 (4), are not intended for the payment of scrapping premiums ;

- (b) — the Fund's receipts in the previous year, in so far as these receipts, in accordance with Article 1 (4), are intended for the payment of scrapping premiums (R_{dn}),
- the Fund's financial commitments incurred during the previous year in respect of scrapping premiums (P_n),
- the Fund's surplus as at 1 January of the previous year deriving from receipts intended for the payment of scrapping premiums in accordance with Article 1 (4) (S_n).

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

- the total debts of all the Funds on 31 December of the previous year (D_t),
- the total receipts of all the Funds for the previous year (R_t),
- the adjusted annual receipts of each Fund (R_{nn}) calculated as follows:

$$R_{nn} = \frac{R_t}{D_t} \times D_n$$

- for each Fund, the difference between annual receipts (R_{an}) and annual adjusted receipts ($R_{an} - R_{nn}$),
- the sums which each Fund whose annual receipts exceed the adjusted annual receipts ($R_{an} > R_{nn}$) transfers to a Fund whose annual receipts are less than its adjusted annual receipts ($R_{an} < R_{nn}$).

(b) The Commission, with the assistance of the Fund authorities, shall determine, on the basis of the information referred to in paragraph 1 (b):

- the total financial commitments incurred by all the Funds during the previous year in respect of the scrapping premiums (P_t),
- the total receipts of all the Funds, as referred to in Article 1 (4), during the previous year (R_{dt}),
- the total surplus of all the Funds on 1 January of the previous year (S_t),
- the adjusted annual financial commitment of each Fund (P_{nn}), calculated as follows:

$$P_{nn} = \frac{P_t}{R_{dt}} \times (R_{dn} + S_t)$$

- for each Fund, the difference between annual commitments (P_n) and annual adjusted commitments (P_{nn}),
- the sums which each Fund whose annual commitments are less than the annual adjusted commitments ($P_n < P_{nn}$) transfers to a Fund whose annual commitments are more than the annual adjusted commitments ($P_n > P_{nn}$).

3. Each of the Funds involved shall transfer the sums referred to in the fifth indent of paragraph 2 (a) and in the sixth indent of paragraph (b) to the other Funds by 1 March of the current year.

Article 2

This Regulation shall enter into force on 1 January 1993.

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

Done at Brussels, 21 December 1992.

For the Commission

Karel VAN MIERT

Member of the Commission