Monitoring the application of Community law. 21st annual report 2003

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PURPOSE: Presenting the 21st Annual Report from the Commission on the monitoring and application of Community law 2003.

CONTENT: This Report has been prepared by the Commission in accordance with a request to do so by the European Parliament under Resolution 9, of February 1983. The Treaties of the European Union award the Commission the exclusive responsibility to act as guardian of the Treaties and as such it plays a pivotal role in monitoring and ensuring the uniform application of Community law by the Member States. Whilst the Commission is responsible for ensuring compliance with EU law and monitoring its implementation, the 2001 White Paper on European Governance emphasises that it is up to the national administrations and courts to apply Community legislation. The Report points out therefore, that co-operation between the administrative bodies in the Member States and the Commission is crucial if the Commission is to monitor the application and implementation of Community law. To summarise, the 2003 Annual Report makes the following observations:

- By the end of December 2003, there were 3927 infringement cases running of which: 1855 related to cases already in motion and for which proceedings had begun, 999 cases for which a reasoned opinion had been sent, 411 cases which had been sent to the Court of Justice and 69 cases for which Article 228 proceedings had already begun

- The total number of infringement cases had increased by 15% from 2356 in 2002 to 2709 in 2003.

- The statistics for 2003 reflect a decrease in the number of complaints registered by the Commission from 1431 in 2002 to 1290 in 2003, indicating a decrease of 9.85%. The 2003 figures correspond to the levels registered between 1999 and 2001, thus the increase of complaints in 2002 may be seen as a deviation.

- Complaints still form the bulk of infringement procedures initiated by the Commission against the Member States. The principal sectors concerned are environment (493 complaints), internal market (314 complaints) and taxation and customs (119 complaints). As of end December, 1158 cases were active.

- The number of proceedings for failure to notify has almost doubled compared to the figures of 2001 and 2002. The statistics for 2003 show an increase of 92.1% from the previous year (from 607 cases to 1166).

- On 31 December 2003, 524 out of the 1,166 cases were still on-going. The same figure for 2002 was 71 cases.

- 1552 letters of formal notice were issued in 2003, a vast increase of 56%, compared to 995 letters issued in 2002. However, the number of reasoned opinions showed a less dramatic increase from 487 in 2002 to 533 in 2003, which represents an increase of 9.4%. Whereas 48.94% of formal notices in 2002 led to reasoned opinions, this figure was only 34.34% under 2003 indicating an increase in the number of cases being settled at the formal notice stage.

- The number of cases referred to the Court of Justice rose from 180 in 2002 to 215 in 2003, an increase of 19.4%. This increase must be seen against the increased volume of reasoned opinions issued under 2003.

- 48.36% of the cases opened in 2003 were still pending on 31 December 2003.

- The number of terminations of decisions was 2329.

The Report notes that the Commission has called for improved effectiveness in monitoring the transposition of national measures through improved Member State/Commission consultation and through the establishment of a "concordance table". In addition, the Secretariat General has begun to develop databases which allow for the electronic notification of national execution measures to the Commission, which is due to become operational by May 2004.

The Report also goes on to state that the Commission has sought to reduce the time elapsing between the adoption of its infringement decisions and their notification to the Member States. In this context, an internal verification is being planned on the outlook for the continuing control of Community law in an enlarged EU. Other areas examined in the Report include the transposition of Directives, enhanced transparency (mainly through the use of the internet), the development of a web-based Electronic Notification database and making adequate preparation for the EU's enlargement from fifteen to twenty-five new Member States.