COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 399 final

Brussels, 1 September 1993

Proposal for a

COUNCIL DECISION

allowing for separate liability of the Czech Republic and the Slovak Republic with regard to the loan facility granted to Czechoslovakia pursuant to Council Decision 91/106/EEC

(presented by the Commission)

EXPLANATORY MEMORANDUM

In February of 1991, the EC Council decided to grant a loan of ECU 375 million to the Czech and Slovak Federal Republic (CSFR). The loan was disbursed in two tranches, the first one of ECU 185 million in August 1991 and the second one of ECU 190 million in February 1992. The aim of the loan was to strengthen the balance of payments and reserves situation in the former CSFR, thus facilitating the introduction of currency convertibility.

In view of the dissolution of the federation on January 1, 1993, the Commission, at the end of last year, took the initiative to propose to the authorities of the CSFR and the two successor republics that the loan be continued on the understanding that the two republics would be jointly and severally responsible for the full amount as regards the Community as lender.

In response to the Commission initiative, the authorities of the Czech and Slovak Republics proposed a formal division of the EC loan on the basis of a 2:1 ratio, in accordance with the law regarding the division of property of the former CSFR adopted on November 13, 1992 by the Federal Assembly of the CSFR. This law states that the commitments arising from the loans accepted by the former CSFR should be divided between the two successor states in the ratio corresponding to the population of the individual republics, that is, a ratio of 2 to 1.

In justifying their position, the new republics emphasized the fact that individual responsibility is one of the most important aspects of sovereignty, and that economic autonomy was a crucial factor in the separation of the Czech and Slovak Republics. They also argued that some other important official creditors had already accepted separate liability of the successor states.

The Commission, having considered the views expressed on this issue within the G-24, and after proper consultation of the Monetary Committee, has decided to accede to the request made by the authorities of the successor republics and is proposing that the Community agrees to divide the 1991 EC loan according to the 2:1 ratio, with each successor republic being individually liable for only its allocated part of the loan. Accordingly, the Czech Republic and the Slovak Republic will be responsible for, respectively, two thirds and one third of the total payments of principal, interest and fees associated with the EC loan.

During the interim period between the date of the effective dissolution of the CSFR, that is, December 31, 1992 and the date on which the reallocation of the 1991 loan comes into effect the Czech and the Slovak Republics will remain jointly responsible for all payments falling due, persuant to Declarations made by each to the Community in December 1992 on the assumption of liabilities under all agreements between the Community and former CSFR. It must be noted in this respect that since the partition of the Federation, the authorities of both republics are indeed discharging fully and timely their obligations fallen due. Payments of ECU 10,5 million have been made to this end on the 18th of March and ECU 9,6 million on the 15th of June.

It is proposed to the Council to authorise the Commission to agree with the Czech and the Slovak authorities on the amendment or novation of the original Loan Agreement necessary to make effective the separate liability of the Czech and the Slovak Republics, whilst transposing, as appropriate, the original terms and conditions of the Community loan operation. The separate liability of the two Republics would also have to be reflected in a new drafting of the remarks accompanying the corresponding Budget token entry.

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allowing for separate liability of the Czech Republic and the Slovak Republic with regard to the loan facility granted to Czechoslovakia pursuant to Council Decision 91/106/EEC[1)].

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission[2)] submitted following consultation of the Monetary Committee,

Having regard to the opinion of the European Parliament[3)],

Whereas pursuant to Council Decision 91/106/EEC the Community has granted to the Czech and Slovak Federal Republic (CSFR) a medium-term loan of ECU 375 million in principal, with a view to ensuring a sustainable balance-of-payments situation, strengthening its reserves and facilitating the introduction of currency convertibility; whereas the loan was fully disbursed by the Commission on two instalments of respectively ECU 185 million in August 1991 and ECU 190 million in February 1992;

Whereas in accordance with the constitutional act on the dissolution of the CSFR adopted by the Federal Assembly of the CSFR on 25 November 1992, the CSFR ceased to exist as of 31 December 1992 and its successor states are the Czech Republic and the Slovak Republic;

Whereas the constitutional act on the division of property of the CSFR between the Czech Republic and the Slovak Republic adopted by the Federal Assembly on 13 November 1992 stipulates that the loans accepted by the CSFR will be divided between the Czech Republic and the Slovak Republic in the ratio of two to one, corresponding to the relative proportion of their populations; and whereas the Czech and the Slovak authorities have requested the Community to agree accordingly on the division of the liability of the CSFR arising from the Community loan operation of ECU 375 million granted pursuant to Council Decision 91/106/EEC;

Whereas the Czech Republic and the Slovak Republic are jointly continuing to discharge fully their debt servicing obligations stemming from the Community loan operation of ECU 375 million as these obligations fall due; and whereas these Republics have agreed to take over respectively two thirds and one third of the payment obligations of principal, interest and fees relating to this operation;

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1) OJ N° L56, 2.3.1991, p. 24
2)
3)

Whereas the Commission should be authorised to take the appropriate action to ensure that the liabilities arising under the loan granted purusant to Decision 91/106/EEC should be divided between the Czech and the Slovak Republics in conformity with the act of the Federal Assembly of 13 November 1992;

Whereas the Treaty does not provide, for the adoption of this Decision, powers other than those of Article 235,

HAS DECIDED AS FOLLOWS :

Sole Article

1. The Czech Republic and the Slovak Republic may assume separate liability for respectively two thirds and one third of all the payments of principal, interest and fees associated with the service of the Community medium-term loan of ECU 375 million granted to the Czech and Slovak Federal Republic (CSFR) pursuant to Council Decision 91/106/EEC of 25 February 1991.

2. To this end, the Commission is authorised to agree with the authorities of the Czech and the Slovak Republics, after consultation of the Monetary Committee, on the necessary adjustments to the original Loan Agreement between the Community and the CSFR.

3. The terms and conditions stipulated in Decision 91/106/EEC shall apply mutatis mutandis to the arrangements to be entered into pursuant to paragraph 2 and the financial terms of the original Loan Agreement will be preserved.

4. All related costs that may be incurred by the Community in concluding and carrying out the arrangements provided for by this Decision shall be borne by the Czech Republic and the Slovak Republic as to two thirds and one third respectively.

Done at Brussels,

For the Council

The President

FINANCIAL RECORD

1. Budget line concerned

Article (BO-214) loan guarantee for aid to Czechoslovakia.

2. References (legal base)

Article 235 of the Treaty

3. Classification of the Expenditure

Obligatory

4. Description and Justification for the action

a. Description of the action

Amendment to the remarks accompanying the existing token entry with a view to reflecting the separate liability of the Czech and the Slovak Republics with regard to the servicing of the Community loan of ECU 375 million granted to Czechoslovakia pursuant Council decision 91/106/EEC of 25 February 1991.

b. Justification for the action

- Czechoslovakia ceased to exist as of 31 December 1992.

- The authorities of the Czech and the Slovak Republics have requested the Community to agree on the division of the liability of the CSFR arising from the Community loan, according to a two to one ratio, consistent with their separation agreement.

5. Effect of the action on intervention credits

The Czech Republic and the Slovak Republic will be held separately liable for respectively two thirds and one third of the payments of principal, interest and fees associated with the service of the Community loan.

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DOCUMENTS

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