COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 188 final.

Brussels, 27 May 1977.

PROTECTION AND PROMOTION OF ENERGY-RELATED INVESTMENTS
- GUARANTEED MINIMUM PRICE FOR ENERGY PRODUCED IN THE
COMMUNITY

(Working paper by Commission departments)

WORKING PAPER BY THE SERVICES OF THE COMMISSION

PROTECTION AND PROMOTION OF ENERGY-RELATED INVESTMENTS

Guaranteed Minimum Price for Energy produced in the Community

Introduction

Over the next ten years development of the Community's energy resources will demand the investment of more than 200 000 million u.a.

If industry is to be able to finance investment on this scale the first essential is for this investment to be assured of an economic return through prices which will cover the long-term development costs of the new energy resources concerned.

To facilitate the financing involved the Commission considers that it would be necessary on the one hand to grant loans or loan guarantees to firms which could not raise the necessary capital on the market solely on the basis of their assets and, on the other, to provide a mechanism for the protection of the investments concerned against uncertainties affecting the world oil price. Protection might take the form of long-term purchase contracts between producers and consumers or of a price guarantee for energy produced in the Community.

The Commission is presenting separately a communication to the Council regarding the grant of loans, or loan guarantees, to the energy sector and others relating to the conclusion of long-term contracts. The purpose of this paper is to analyse the various possible methods for providing a guaranteed minimum price for energy produced in the Community.

The objectives of guaranteed minimum price arrangements for energy produced in the Community.

Community producers would have an assurance that, in the event of a fall in oil prices on the world market, their output would continue to sell in all Member States at a price not less than guaranteed minimum level, which would thus act as something of a "safety net" for Community investors. This is one of the proposals which the Commission put to the Council in January 1976 (Doc. COM (76) 20).(See also footnote 1 below).

(1) Member States of the International Energy Agency have undertaken that imported crude oil will not be sold on their markets below a set price (MSP). This provides an indirect guarantee for domestic energy production but not for that traded between Member States. An exception is made, however, for oil sold between Member States of a customs union, if protection is provided by means of commercial policy measures.

A guarantee of this kind would have the following advantages :

- it would prevent a fall in world-market prices from causing the decline of high-cost energy sources and slowing the development of new energy sources needed to provide supplies in the long term;
- it would avoid an open-ended burden on national budgets to support energy production which had become uncompetitive.

Possible procedures

For establishing a guaranteed minimum price mechanism in the Community, there is a choice between two kinds of measure :

- commercial policy measures vis-à-vis member countries, aimed at protecting Community production;
- an obligation to buy crude oil produced in the Community at a price not less than the guaranteed minimum level.

Consumption taxes would affect both Community production and imported products and could have no effect upon the promotion of Community investments. For this reason such a measure would not serve the desired objective unless it were accompanied by subsidies in favour of Community products.

a) Commercial policy measures

The guarantee would benefit all energy produced in the Community. Protection could take the form of a customs duty, import levies or import quotas.

An import levy can be applied more flexibily than a customs duty since it enables protection to be varied in accordance with actual market prices; the levy may be collected either cargo by cargo or on the basis of prices averaged over a day or a week. Furthermore, the Community has experiences of this sort of mechanism since it is very generally used for the protection of the agricultural market.

The imposition of quotas on imports allows internal producers to charge prices higher than those ruling on the world market. These internal prices, however, are not fixed with certainty and it would be necessary to ensure that they stayed within the limits set by the guarantee.

Commercial policy measures, however, cannot be taken vis-à-vis non-member countries with which the Community has free trade or preference agreements, e.g. the EFTA countries, the Lomé Convention countries or - from 1980 - the Mahgreb countries, etc.[1] The Community could if necessary ask for the safeguard clauses in the agreements in question to be applied, but this would be an extreme course which the Community could take only after all other possibilities of finding a solution through consultation and cooperation had been exhausted (see Annex II to the Commission Communication to the Council of 17 March 1977 (COM (77) 71 final).

b) Obligation to buy at the Guaranteed Minimum Price

The guarantee would benefit only oil.

Under this scheme, purchasers would be required to pay a price not less than the guaranteed minimum for crude oil produced in the Community or products derived from it.

Disparities between the terms on which different companies obtain their supplies cou could, if necessary, be corrected either by subsidies from the governments of the purchasing countries, to cover the difference between the guaranteed minimum price of oil produced in the Community and the lower price of imported oil, or by a system

1 In 1975 the Community imported from these countries 74 million tonnes of crude oil and 10 million tonnes of petroleum products.

of compensation between refiners (1) (2).

Establishment of a price-guarantee mechanism in the Community

Although it would be more in keeping with the objectives of the Treaty for the guarantee mechanism to be uniform throughout the Member States, it is also possible to visualise its varying from one to another, with each country taking the measures best suited to its own market.

The choice between "uniform" and "variable" application depends on the kind of measure envisaged ;

- the introduction of a customs duty or import levy requires a Council decision tak by a qualified majority (Article 113). Protection would apply uniformly to all Member States;
- the fixing of import quotas, if general, must be decided in the Council. However since oil is not yet subject to a common import regime, Member States may also modify their national import regimes in accordance with the procedures laid down in the Council Decision of 19 December 1972, in respect of GATT countries (and those treated in the same way) or in the Council Decision of 27 March 1975, in th case of State-trading countries. If indirect imports tend to undermine these measures and the aims being pursued, protection can be provided under Article 115
- in certain member states the possibility exists of imposing upon enterprises an obligation to buy at a guaranteed minimum price at a level which the Council would determine.

Once the kind of guarantee had been settled, it would still remain to determine a number of points such as :

- the choice of the reference crude oil;
- the price relationships between the various qualities of crude oil and the principal products derived from them, and the reference crude oil; and
- the inclusion or otherwise of petro-chemical feedstocks.

---

1) A compensation mechanism of this kind is currently used in the United States, to equali the terms of acquisition of different categories of crude oil, namely "old" and "new" domestic oil, and imported oil.

2) Member States belonging to the IEA which opted for this scheme would also have to tax products at the consumer level, in order to bring domestic prices up to the level fixed for the MSP.

Procedures would likewise have to be laid down for revising the reference level.

Conclusions

In view of what has been said above, it would appear that only two schemes can be considered for the Community :

- for uniform application : an import levy;
- for application varying from country to country : import quotas or the obligation to buy at a guaranteed minimum price.

The table in Annex I sets out the various procedures which could be used to provide a guaranteed price mechanism and their advantages and disadvantages.

Because of the implications for the Community's relations with third countries, the Community could for the time being only take a decision which would establish the principle of a guaranteed minimum price.

As to the kind of mechanism to be provided and its establishment, it would be necessary to agree upon a Community procedure permitting the appropriate decisions to be made swiftly and in compliance with the Treaty.

Should the Council decide upon a uniform application in the form of an import levy, a procedure would have to be provided for bringing the scheme into operation and for suspending it.

If the Council were to prefer non-uniform application of the guarantee it would suffice for the Member States to inform the Commission of how they intended to comply with their obligations; the Commission would have the task of ensuring that the measures envisaged **with the provisions of the Treaty including the rules regarding competition.**

Possible Guaranteed Minimum Price Proceedures

Procedure	Decision	Application	Kind of Protection	Energy Sources Protected	Advantages (A) and/or Disadvantages (D)
Customs duty	Council Decision	Uniform throughout the Community	Imports from non-member countries with the exception of countries having preference agreements with the Community (1)	All Energy Sources	D - No flexibility according to origin
Import levy	"	"	"	"	A - Protection can be adjusted from cargo to cargo
Import quota(s)	"	Quotas by country	"	"	D - Monitoring of production costs required
"	Decision taken separately by each Member State	"	"	"	A - Application varying to suit each Member State D - Monitoring of production costs required
Taxes on consumption	"	Application varying to suit each country	All consumption	"	A - Can be used to supplement Scheme 5 below D - Provides no guarantee for Community production
Obligation to purchase at the guaranteed minimum price	"	Application varying to suit each country (subsidies or compensation between refiners)	Community production and, if necessary, that of certain non-member countries (to be negotiated).	Oil only	A - Application varying to suit the Member State A - Smaller increase in prices paid by consumers

1) Except that the safeguard clauses in the agreements in question might be brought into operation.