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OF THE EUROPEAN ECONOMIC COMMUNITY**

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Common industrial and commercial policy for lead and zinc

(Proposal and drafts submitted by the Commission to the Council
on 18 February 1963)

I. Introduction

For years the lead and zinc sector of EEC has been in serious difficulties caused by an artificial imbalance on the world market and the protectionist measures of leading producer countries. Taking the two metals together, the price fall between 1957 and the present day is about 45 %. Because of the close relation between ore and metal prices this fall is increasingly felt at all production stages.

This catastrophic situation, whose main aspects are described in Annex I, threatens the very existence of firms which would be fully competitive under normal economic conditions and are in no way responsible for the causes or effects of the crisis.

As every member country is to an increasing extent affected, the situation must be dealt with at Community level, on the following lines :

- i) The profitable mines which were first affected by the crisis must be kept working so as to avoid any unnecessary aggravation of the Community's dependence on ore supplies from non-member countries (at present about two thirds of requirements);
- ii) Normal activity must be maintained in the metal industry. This is being more and more jeopardized by the fall in prices and consequent difficulties in obtaining ore.

The most effective way of eliminating the artificial market distortions which are responsible for this threatening situation and its depressing effects would be to liberalize the world market completely, abolishing all customs duties, quotas, subsidies and exchange controls. However, proposals to this end have so far found no echo in the protectionist countries. Nor has it been possible to stabilize the world market by action through the United Nations.

On the other hand, national protective measures would aggravate the existing rift in the EEC market caused by the isolation of the Italian lead and zinc sector; under these conditions it is very doubtful whether the planned final objective, i.e. a common market, could be achieved.

In view of these dangers and of the fact that the crisis in the lead and zinc sector

is a problem common to all Member States, only Community action is adequate to meet the situation.

The Commission is moreover of the opinion that the Community interest should be held above any individual interest. This is the guiding principle behind the outline-programme for the Community (an emergency programme) presented by the Commission and based essentially on the accelerated implementation of the Treaty. This programme, which needs to be carried out as a matter of the highest urgency, does not exclude further measures wherever these are seen to be required. But here also Community measures should be preferred to action at national level.

If put into effect immediately the programme should forestall the introduction of far-reaching and disparate measures which would lead to further division of the EEC market.

The Commission believes that its proposals constitute an inherently balanced system making every allowance for the divergent interests of the individual Member States. The Commission therefore does not consider it feasible to isolate individual elements from this system without seriously compromising this balance of interests and the success of the proposed measures, and hence the Community interest.

Apart from the emergency programme submitted, the Commission is giving a great deal of thought to long-term problems in this raw-material sector, particularly those connected with mining. However, as the study of these problems will probably take some time, it would seem advisable as a matter of procedure to keep long-term measures separate from the present outline programme.

II. Emergency programme for a common industrial and commercial policy for lead and zinc

1. Speed-up of the Treaty time-table as regards the whole of Chapters 78 (lead) and 79 (zinc) of the common external tariff with effect from

- a) Abolition of internal duties
- b) Application of the common external tariff
- c) Implementation of a common commercial policy

2. Duty-free entry for lead bullion under a new sub-heading (78.0 A.I) in the common external tariff.

3. Maintenance of the isolation of the Italian metals and scrap market and of similar measures for semi-products for such time as the conditions referred to in Article 226 prevail. Progressive dismantling of the protective measures is provided for.

4. Suspension of the duties under the common external tariff for tariff headings 78.0 A.II (unwrought lead, other) and 79.01 A (zinc spelter) under the conditions laid down in point 5, when the prices on the London Metal Exchange have reached what is deemed a sufficiently high level.

At present a price level of £75 per long ton for lead and £85 per long ton for zinc is considered high enough.

Re-introduction of duties under the conditions laid down in point 5 when London Exchange prices fall below the above mentioned level.

5. Duties will be suspended or re-introduced, whichever is appropriate, on the seventh day after the Commission has noted that prices on the London Exchange have, as the case may be, attained or fallen below the limits laid down in point 4 on twenty consecutive business days.

The Commission's finding that the above conditions exist will be notified to the Member States.

6. Abolition of recourse to the special tariff quotas provided for in Protocol XV of List G for Germany, the Netherlands and Belgium.

III. Notes on the emergency programme

1. Attainment of the common market

The measures proposed concern the abolition of internal customs duties, the introduction of the common external tariff, the implementation of a common commercial policy and the abolition of the tariff quotas under List G.

These measures are no more than an accelerated implementation of the already exist-

ing aims of the Treaty and have no new protectionist aspect. Their purpose is to ensure a unified EEC internal and external market and at the same time to afford producers, earlier than was originally planned, the protection already provided for in the Treaty.

2. Suspension of the external tariff

The suspension of the external tariff when a satisfactory price level has been reached is a new, liberal measure in the interest of consumers and must be considered in conjunction with the abolition of the tariff quotas under List G.

In principle this suspension is no different from the suspension of duties which has been common practice in the industrial sector under Article 28 of the Treaty. The difference is simply that the suspensions here proposed are subject to a prior condition, i.e. that prices on the London Metal Exchange reach the level at which they stood when List G was signed on 2 March 1960.

However, in order to give consumers in advance the necessary assurances with regard to these measures, the suspension of duties forms an integral part of the emergency programme even though it can only become effective in the future.

This is to ensure that a decision on these future measures shall be made now, at the same time as the decision on the other parts of the emergency programme, so that there need be no fear of procedural delays later on when they come to be put into effect.

3. The mechanism of suspension

For the same reasons as those given for the suspension of the external tariff under point 2 above, it is deemed advisable that a decision be taken forthwith as to the mechanism to be used.

The mechanism proposed is designed to prevent frequent changes in the systems of import duties, because suspension or imposition, as the case may be, occurs only when quotations have been consistently above or below the critical figure for some considerable time. Prices need only rise above or fall below this figure once in a period of twenty consecutive business days and the position as regards customs duties will remain unchanged.

The further requirement that it is for the Commission to find that the conditions

determining suspension or reimposition of duties prevail is intended to ensure that such change will take place in all Member States at the same time, in order to prevent undesirable diversion of trade.

4. Common commercial policy

All the Member States have entirely liberalized imports of the products falling under Chapters 78 and 79 of the common customs tariff from all non-member countries with the exception of the State-trading countries. Since relations with these countries must be dealt with in a more general context, they are not taken into consideration in the proposals now submitted to the Council.

If any aggravation of the present crisis were to necessitate the reimposition of quantitative restrictions, and the only measures applied at Community level were customs measures, serious difficulties might arise. Such restrictions at national level would provoke diversions of trade which would frustrate any protective measures introduced by an individual Member State.

In order to obviate this danger it seems indispensable to transpose to the Community plane all the liberalization measures taken by the member countries and to make any future changes in these measures subject to a formal Council decision on a proposal from the Commission, the Council deciding by qualified majority.

Only thus can the interests of the Community as a whole be effectively protected and serious disturbances in the future be avoided.

Since these are only emergency arrangements they can of course be supplemented by such other measures of common commercial policy as may be called for by the development of the situation regarding lead and zinc.

IV. Conclusions

The Commission

1. Recommends to the Council, in accordance with Article 155 of the Treaty establishing the European Economic Community, a speedier implementation of the Treaty aims in the lead and zinc sector, and submits for examination and approval a draft decision of the Representatives of the Governments of the Member States of the European Economic Community meeting in Council;

2. Recommends to the Council certain changes in the common external tariff for unwrought lead and zinc spelter and submits a draft decision on this matter;

3. Submits to the Council a proposal for consolidating the Member States' liberalization measures vis-à-vis non-member countries in the lead and zinc sector;

4. Draws the Council's attention to the fact that abolition of the tariff quotas provided for in Protocol XV of List G cannot be the subject of a Council decision but only of a statement in the minutes of the Council by the Member States concerned, expressing their intention to refrain from applying to the Commission for tariff quotas under Protocol XV of List G.

Draft

DECISION

by the Representatives of the Governments of the Member States of the European Economic Community meeting in Council, concerning the speedier implementation of the Treaty in the lead and zinc sector

The representatives of the Governments of the Member States of the European Economic Community Meeting in Council.

Having regard to the provisions of the Treaty establishing the European Economic

Community, in particular Articles 15 and 24 thereof;

Having regard to the common external tariff of the European Economic Community;

Having regard to the communication from the Commission,

Have taken the following decision :

Article 1

1. On the Member States shall apply in full the duties under Chapters 78 (lead) and 79 (zinc) of the common external tariff of the European Economic Community. On the same date customs duties on imports as between Member States shall be entirely abolished for products falling under the said chapters.

2. Notwithstanding the provisions of the foregoing paragraph, the Italian Republic

may apply to certain products falling under the said chapters of the common external tariff the safeguard measures authorized under Article 226 of the Treaty establishing the European Economic Community.

Article 2

This decision shall be noted in the Council's minutes, and published in the official gazette of the European Communities.

The Governments of the Member States shall inform the General Secretariat of the Council within one month whether any special procedure is required under their national laws in order to give effect to this decision; in such case they shall notify the General Secretariat without delay that the said procedure has been complied with.

Draft

COUNCIL DECISION

on duties under the common customs tariff for unwrought lead (tariff heading No. 78.01 A) and for zinc spelter (tariff heading No. 79.01 A)

The Council of the European Economic Community,

Having regard to the provisions of the Treaty, in particular Article 28 thereof;

Having regard to the common external tariff of the European Economic Community;

Having regard to the draft decision submitted by the Commission concerning duties under the common external tariff for unwrought lead (tariff heading No. 78.01 A) and zinc spelter (tariff heading No. 79.01 A);

Whereas the lead and zinc industries of the European Economic Community are experiencing serious difficulties arising from the abnormal structure and artificial distortions of the world market;

Whereas in order to resolve these difficulties the Representatives of the Governments of the Member States of the European Economic Community meeting in Council decided, on 1963, to accelerate the implementation of the customs union in these two sectors;

Whereas lead bullion is a form of unwrought lead which cannot be used without

refining and is therefore a raw material for lead manufacture; and whereas it is therefore fitting that this product should enjoy the same customs treatment as the other raw materials used in lead production, which are exempt from duty;

Whereas, to be harmonious, a common industrial and commercial policy for lead and zinc must provide for the total suspension of duties under the common external tariff on unwrought lead (other than lead bullion) under tariff heading ex 78.01 A and zinc spelter under tariff heading 79.01 A as soon as the world market prices of these products reaches or exceeds a certain level;

Whereas the duties in question should be reimposed when world prices for the products concerned again fall below this level;

Whereas a procedure is required to fix the dates from which suspension and reimposition of the above-mentioned duties shall take effect; and whereas the suspension or reimposition of one or other of these duties should depend upon whether prices on the London Metal Exchange have, for purposes of suspension, on 20 consecutive business days been equal to or higher than

units of account per 100 kilos for unwrought lead and units of account per 100 kilos for zinc spelter, or, for purposes of reimposition, lower than those figures; and whereas the Commission should be empowered, in accordance with the arrangements set out below, to fix the date at which the said suspension or reimposition shall take effect,

Has adopted the present decision :

Article 1

Heading 78.01 of the common customs tariff of the European Economic Community shall be amended as follows :

78.01 — Unwrought lead (including argenteriferous lead); lead waste and scrap :

A. unwrought :

I. lead bullion : exempt
II. other : 1.32 units of account per 100 kg.

B. unchanged.

Article 2

1. The duties in tariff sub-headings 78.01 A (unwrought lead other than lead bullion) and 79.01 A (zinc spelter) of the common external tariff of the European

Economic Community shall be entirely suspended in accordance with the procedure laid down in paragraph 3, when prices on the London Metal Exchange reach or exceed on 20 consecutive business days units of account per kg. for unwrought lead and units of account per kg. for zinc spelter.

2. The suspension of duties provided for in paragraph 1 shall terminate, in accordance with the procedure laid down in paragraph 3, when prices on the London Metal Exchange have on 20 consecutive business days been lower than units of account per kg. for unwrought lead and units of account per kg. for zinc spelter.

3. When the Commission notes that the conditions stated in paragraphs 1 and 2 are fulfilled for one or other of the products in question it shall fix the date from which the duty on this product shall be reimposed. This may not be later than the tenth day following the period of 20 days referred to above. It shall be notified to the Member States and published in the official gazette.

Article 3

This decision shall come into force on

Article 4

This decision is addressed to all the Member States.

Proposal

submitted by the Commission for a decision of the Council unifying the Member States' liberalization measures for lead and zinc imports from non-member countries

The Council of the European Economic Community,

Having regard to the provisions of the Treaty, in particular Article 111 thereof;

On the proposal of the Commission;

Whereas the lead and zinc industries of the European Economic Community are confronted by serious difficulties arising from the abnormal structure and artificial distortions of the world market;

Whereas in order to resolve these difficulties the Representatives of the Governments

of the Member States of the European Economic Community, meeting in Council decided, on 1963, to accelerate the implementation of the customs union in these two sectors;

Whereas for these same reasons the Council has decided to suspend under certain conditions the duties under the common external tariff for unwrought lead and for zinc spelter and to create a new sub-heading with a nil duty for lead bullion;

Whereas it is indispensable that these tariff measures be accompanied by the unifica-

tion of commercial policy measures in the above-mentioned sector;

Whereas the Member States have liberalized imports of all products under Chapters 78 and 79 of the common external tariff from all non-member countries except the State-trading countries;

Whereas the liberalization measures taken individually by the Member States should be consolidated and transposed to the Community plane;

Whereas, these liberalization measures having thus become Community measures, any necessary amendment thereto should be made by decision of the Council acting by qualified majority;

Whereas by their nature the Member States' commercial relations with the State-trading countries call for special measures which lie outside the scope of this decision,

Has adopted the present decision :

Article 1

The liberalization measures of Member States in force on 1 January 1963 vis-à-vis non-member countries other than State-trading countries, in respect of the products under Chapters 78 and 79 of the common external tariff, shall be consolidated as Community measures.

Article 2

Any amendment to the aforesaid measures shall be proposed by the Commission to the Council. The Council shall decide by qualified majority.

Article 3

This decision is addressed to all Member States.

Proposal for a Council directive on procedure for introducing freedom of establishment and freedom to supply services in respect of self-employed persons in manufacturing activities coming under ISIC Major Groups 23-40 (industrial and artisan activities) (Articles 54 and 63)

(Submitted by the Commission to the Council on 9 April 1963)

The Council of the European Economic Community

Having regard to the provisions of the Treaty and in particular Article 54 (2) and (3) and Article 63 (2) and (3) thereof;

Having regard to the General Programme for the removal of restrictions on freedom of establishment and in particular Title IV-A thereof;

Having regard to the General Programme for the removal of restrictions on freedom to supply services and in particular Title V-C thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the Economic and Social Committee;

Having regard to the opinion of the European Parliament and the reasons adduced in support of it;

Whereas the General Programmes provide for the removal, before the end of the second year of the second stage, of all discriminatory treatment based on nationality, in respect of establishment and the supply of services in the exercise of a large number of manufacturing and production activities; whereas in this connection, as the Programme indicates, no distinction is made between industrial enterprises and artisan enterprises in respect of the date of liberalization; whereas it is in fact impossible to make provision for artisan enterprises to be liberalized at a later date, since the legal definitions of artisan activities differ too much from one country to another and since distortions could appear if enterprises of identical economic structure were liberalized at different dates; whereas, in addition, the co-ordination of legislation in respect of artisan activities would require an enormous amount of preparatory work which would only delay the application of liberalization measures;

Whereas, nevertheless, the abolition of restrictions on foreigners must be accompanied by transitional measures — designed to attenuate the effects of differences between national laws — adopted in a specific directive.

Whereas, since the adoption of the General Programmes, a special EEC Nomenclature of industrial activities has been drawn up under the title “Nomenclature des Industries établies dans les communautés européennes” (NICE) [Nomenclature of Industries in the European Communities]; whereas, while it uses the same decimal classification, this Nomenclature, containing references to the national nomenclatures, is better adapted to the needs of the Community’s Member States than the ISIC (International Standard Industrial Classification of all Economic Activities); whereas it would consequently be advisable to adopt the NICE for the classification of activities to be liberalized when a directive relates to many activities which for the purpose of easier implementation must be specified, provided the time-table laid down in the General Programmes and resulting from the adoption of the ISIC is not thereby modified; whereas in the case in point the adoption of the NICE can have no such effect;

Whereas the liberalization of the activities referred to in the present directive is supplemented by other directives; whereas provision has been made for special measures for achieving freedom of establishment and freedom to supply services for commercial representatives as also freedom to supply services through travelling salesmen, and in addition for the wholesale trade and for admission to public works tendering;

Whereas, in addition directives will be adopted, of general application to all “self-employed” activities, establishing provisions on the entry and residence of beneficiaries, and directives will also be adopted, as necessary, on the co-ordination of the guarantees which Member States, in order to protect the interests both of members or partners and of third parties, require of companies and firms;

Whereas, in addition, certain restrictions on the supply of services have been eliminated in limited sectors by means of special directives, as is the case for example for the movement of tools, machines, apparatus and other ancillary equipment used in the performance of the service, for the transfer of the funds needed for the performance

of the service, and for payments for services where payment restrictions were the only limiting factor on their supply;

Whereas freedom for self-employed persons to supply services in the above-mentioned branches of activity presupposes, when the performance of the service entails a journey to the country of the person receiving the service, the lifting of all restrictions affecting both those supplying the service themselves and any of their employees accompanying them or acting on their behalf; whereas these employees, at least when they stay in the country of the person receiving the service is only temporary, retain their financial and legal connections with the country of their employer and can therefore be released immediately from the obligation to obtain a work permit in those countries in which permits for dependent workers still exist;

Has adopted the present directive :

Article 1

Member States shall abolish all the restrictions referred to in Title III of the General Programme for the abolition of restrictions on freedom of establishment and in Title III of the General Programme for the abolition of restrictions on the freedom to supply services on the right of the natural persons and companies — hereinafter called “beneficiaries” — referred to in Title I of each of the said Programmes to engage in and carry on the activities described in Article 2.

Article 2

1. The provisions of the present directive shall apply to those manufacturing and production activities of self-employed persons listed in Schedule I to the General Programme for the removal of restrictions on freedom of establishment (Major Groups 23-40).

These activities correspond to those listed in Major Groups 23-40 of the “Nomenclature of industries in the European Communities” (NICE), which takes into account the structural characteristics of European manufacturing; they are listed in the annex to the present directive. Member States shall conform with this presentation for the classification of various activities, except where this would conflict with the time-table adopted in the General Programme.

2. No distinction shall be made between industrial and artisan enterprises in the classification of enterprises.

Article 3

1. In accordance with the General Programmes, the present directive shall not apply:

a) In the chemical industry:
To the manufacture of medicinal and pharmaceutical preparations;

b) In the manufacture of transport equipment:

i) To shipbuilding and repairing;

ii) To the manufacture of railway equipment (vehicles and parts thereof);

iii) To the manufacture of aircraft (including the manufacture of space equipment).

2. The present directive shall not apply to eye tests carried out by opticians with a view to the manufacture of spectacle lenses.

Article 4

1. Member States shall in particular remove restrictions:

a) Which prevent beneficiaries from establishing themselves in the host country or providing services there under the same conditions and with the same rights as nationals;

b) Which, as a result of an administrative practice, have the effect of applying to beneficiaries treatment which is discriminatory in comparison with that applied to nationals.

2. These restrictions include in particular those contained in the provisions which prohibit or limit, in respect of beneficiaries, establishment or the supply of services in the following ways:

In the Federal Republic of Germany:

i) By requiring persons to hold a travelling salesman's card ("Reisegewerbekarte") before visiting other persons in the course of business (Gew. O., sec. 55 d, text of 5 February 1960, BGBI, I p. 61, amendment p. 92; Regulation of 30 November 1960; BGBI, I, p. 871);

ii) By requiring legal persons from abroad to hold a special permit if they wish to do business on Federal territory (Gewerbeordnung sec. 12 and Aktiengesetz sec. 292);

In Belgium:

By the requirement of a "professional card" (royal decree of 16 November 1939, *Moniteur belge* of 27 and 28 November 1939; Regent's decree of 17 December 1945 and departmental order of 17 December 1945, *Moniteur belge* of 19 December 1945; departmental order of 11 March 1954, *Moniteur belge* of 2, 3 and 4 May 1954).

In France:

By the requirement of a special foreigner's card (decree-law of 12 November 1938, *Journal officiel* of 13 November 1940; Act of 8 October 1940, *Journal officiel* of 13 November 1940).

In Italy:

By the additional condition with which foreigners must comply — that of holding a consular visa in order to obtain special authorization from the "questore" for certain products. (*Testo Unico delle leggi di Pubblica Sicurezza*, Article 127(2), last sentence).

Article 5

If membership of a business, trade or professional organization is obligatory in a Member State, or if such an organization is set up or governed by means of legislative or administrative provisions, the State in question shall secure membership for nationals of the five other Member States enjoying the right of establishment.

Such membership shall confer on those concerned the same rights as those conferred on nationals by reason of membership.

A Member State may nevertheless reserve to its own nationals the right of eligibility for executive functions in this organization if, under its own legislation, these functions are connected with the exercise of public authority.

In the Grand Duchy of Luxembourg membership of the "Chambre de Commerce" and of the Chamber of Handicrafts ("Chambre des métiers") shall not imply the right to participate in the election of the administrative bodies.

Article 6

Without prejudice to the application of Articles 92 *et seq.* of the Treaty, Member States shall grant to their nationals going to another Member State in order to exercise one of the activities defined in Article 2 no aid liable to distort the conditions of establishment.

Article 7

When the host Member State requires proof of good character from its own nationals wishing to be admitted to the activity in question, that State shall accept as sufficient proof, from nationals of other Member States, the submission of a certificate based on police records ("casier judiciaire") or of a similar document. When the host country requires from its own nationals a certificate showing that there has been no bankruptcy, the submission of a similar document by beneficiaries of the present directive shall be deemed sufficient.

These documents, issued by the authorities of the country of origin, shall be recognized as valid for three months from the date of issue.

Article 8

All Member States shall exempt from all work permit requirements employees whose permanent residence is in another Member State but who are temporarily on their territory to perform services which are part of the activities referred to in Article 2, either while accompanying their employer who is a beneficiary of the present direc-

tive, or on his behalf. Whenever necessary for the performance of such services, Member States shall also abolish those restrictions on the activities of the said employees which, by virtue of the present directive, are no longer imposed on their employer.

For the application of paragraph 1 the activity of employees shall be deemed temporary when it does not exceed either three consecutive months or a total of 120 days in any period of twelve months.

Article 9

Member States shall put into effect before 1 January 1964 the measures needed to comply with the provisions of the present directive, and shall inform the Commission thereof within one month.

Article 10

The present directive is addressed to all Member States.

N.B.: In accordance with Article 191, directives take effect upon notification to the Member States to which they are addressed.

Annex referred to in Article 2 (1), sub-paragraph 2

List of manufacturing and production activities referred to in the directive. This list is based on the "Nomenclature of industries in the European Communities" (NICE):

<i>Major Group 23</i>	<i>Group</i>	<i>Manufacture of textiles</i>
	232	Processing of textile fibres on wool-working machines
	233	Processing of textile fibres on cotton-working machines
	234	Processing of textile fibres on silk-working machines
	235	Processing of textile fibres on flax and hemp-working machines
	236	Manufacture of other textile fibres (jute, hard fibres, etc.) and cordage
	237	Knitted goods
	238	Textile finishing
	239	Manufacture of textiles not elsewhere classified
<i>Major Group 24</i>		<i>Manufacture of footwear, other wearing apparel and bedding</i>
	241	Machine manufacture of footwear (other than of rubber and of wood)
	242	Manual manufacture and repair of footwear
	243	Manufacture of wearing apparel
	244	Manufacture of mattresses and bedding
	245	Manufacture of furs and fur apparel
<i>Major Group 25</i>		<i>Manufacture of wood and cork (except wooden furniture)</i>
	251	Sawing and industrial preparation of wood
	252	Manufacture of semi-finished wood products
	253	Carpentry, joinery, parquet flooring (mass production)
	254	Manufacture of wooden packings
	255	Manufacture of wood products not elsewhere classified (except furniture)
	259	Manufacture of articles made of straw, cork, basket-work, rattan and brushware

<i>Major Group 26</i>	260	<i>Manufacture of wooden furniture</i>
<i>Major Group 27</i>		<i>Manufacture of paper and paper products</i>
	271	Manufacture of pulp, paper and paperboard
	272	Processing of paper and paperboard, manufacture of articles of pulp
<i>Major Group 28</i>	280	<i>Printing, publishing and allied industries</i>
<i>Major Group 29</i>		<i>Manufacture of leather</i>
	291	Tanneries and leather-finishing plants
	292	Manufacture of leather products and similar products
<i>ex Major Group 30</i>		<i>Manufacture of rubber, plastics, man-made fibres and starch products</i>
	301	Processing of rubber and asbestos
	302	Processing of plastics
	303	Manufacture of man-made fibres
<i>ex Major Group 31</i>		<i>Manufacture of chemicals</i>
	311	Manufacture of basic chemicals and manufacture followed by more or less extensive processing of these products
	312	Specialized manufacture of chemicals principally intended for industry and agriculture [to be added here — the manufacture of vegetable or animal industrial oils and fats covered by ISIC, Group 312 ⁽¹⁾]
	313	Specialized manufacture of chemicals principally intended for domestic uses and application: [to be deleted here — the manufacture of medicinal and pharmaceutical preparations (ex ISIC, Group 319)]
<i>Major Group 32</i>	320	<i>Manufacture of petroleum products</i>
<i>Major Group 33</i>		<i>Manufacture of non-metallic mineral products</i>
	331	Manufacture of structural clay products
	332	Manufacture of glass and glass products
	333	Manufacture of pottery, china, earthenware and refractory products
	334	Manufacture of cement, lime and plaster
	335	Manufacture of structural and public works materials in concrete, cement and plaster
	339	Stone-working and non-metallic mineral products
<i>Major Group 34</i>		<i>Manufacture and initial processing of ferrous and non-ferrous metals</i>
	341	Iron and steel basic industries (in accordance with the ECSC Treaty, this includes integrated coke ovens)
	342	Manufacture of steel tubes
	343	Wire-drawing, drawing, rolling of steel and plate, cold-forming
	344	Manufacture and initial processing on non-ferrous metals
	345	Ferrous and non-ferrous metal foundries
<i>Major Group 35</i>		<i>Manufacture of metal products (except machinery and transport equipment)</i>
	351	Forging, stamping, pressing
	352	Second-stage processing, treatment and surface treatment of metals
	353	Structural metal work
	354	Boiler-making, construction of storage vessels and other items from plate
	355	Manufacture of hand tools and finished metal articles, except electrical equipment
	359	Subsidiary mechanical engineering activities

⁽¹⁾ The manufacture of margarine and of edible fats comes under "Food manufacturing industries", both in the NICE (Group 200) and in the ISIC (ex Group 209) (Schedule II of the General Programmes).

<i>Major Group 36</i>	<i>Manufacture of machinery, except electrical machinery</i>
361	Manufacture of agricultural machinery and tractors
362	Manufacture of office machinery
363	Manufacture of metal-working machine tools, equipment and tools for machines
364	Manufacture of textile machinery and machine accessories, manufacture of sewing machines
365	Manufacture of machinery and equipment for the food manufacturing, chemical and related industries
366	Manufacture of machinery for mines, iron and steel basic industries and foundries, for civil engineering and building; manufacture of lifting equipment and materials-handling equipment
367	Manufacture of transmission gear
368	Manufacture of specific machinery not elsewhere classified
369	Manufacture of other non-electrical machinery and equipment
<i>Major Group 37</i>	<i>Manufacture of electrical machinery, apparatus, appliances and supplies</i>
371	Manufacture of electrical wire and cables
372	Manufacture of electrical generating, transmission and distribution apparatus (motors, generators, transformers, circuit-breakers, industrial equipment, etc.)
373	Manufacture of industrial electrical equipment
374	Manufacture of telecommunications equipment, counters, measuring instruments and electro-medical equipment
375	Manufacture of electronic equipment, radio, television and electro-acoustic appliances
376	Manufacture of electrical domestic appliances
377	Manufacture of lamps and lighting equipment
378	Manufacture of batteries and accumulators
379	Repairs, technical installation work (installation of electrical machinery) ⁽¹⁾
<i>ex Major Group 38</i>	<i>Manufacture of transport equipment</i>
383	Manufacture of motor vehicles and parts thereof
384	Independent workshops for the repair of motor vehicles, motor cycles or bicycles
385	Manufacture of motor cycles, bicycles and parts thereof
389	Manufacture of transport equipment not elsewhere classified
<i>Major Group 39</i>	<i>Miscellaneous manufacturing industries</i>
391	Manufacture of precision, measuring and controlling instruments
392	Manufacture of surgical and medical instruments and supplies, and orthopaedic apparatus (except orthopaedic shoes)
393	Manufacture of photographic and optical goods
394	Manufacture and repair of watches and clocks
395	Jewellery, silverware and plate ware, cutting of precious stones
396	Manufacturing and repair of musical instruments
397	Manufacture of games, toys and sports equipment
399	Miscellaneous manufacturing industries
<i>Major Group 40</i>	<i>Construction</i>
400	Construction (non-specialized), demolition
401	Construction of buildings (dwellings and other buildings)
402	Civil engineering: construction of roads, bridges, railroads, etc.
403	Installation
404	Equipping

⁽¹⁾ The installation of electrical wiring in buildings comes under Group 403.

Proposal for a Council directive on procedure for introducing freedom of establishment and freedom to supply services in respect of self-employed persons in mining and quarrying (ISIC Major Groups 11-19) (Article 54 (2) and Article 63 (2) of the Treaty)

(Submitted by the Commission to the Council on 9 April 1963)

The Council of the European Economic Community,

Having regard to the provisions of the Treaty and in particular Article 54(2) and (3) and Article 63(2) and (3) thereof;

Having regard to the General Programme for the removal of restrictions on freedom of establishment and in particular Title IV - A thereof;

Having regard to the General Programme for the removal of restrictions on freedom to supply services and in particular Title V - C thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the Economic and Social Committee;

Having regard to the opinion of the European Parliament and the reasons adduced in support of it;

Whereas the General Programmes provide for the introduction of freedom of establishment and of freedom to supply services in mining and quarrying before the end of the second year of the second stage; whereas this in fact relates to the right to engage in and carry on mineral production activities; whereas wholesale trade activities in these products are liberalized by another directive applying to all wholesale trade activities save the wholesale coal trade, which is excluded for the time being;

Whereas, since the adoption of the General Programmes, a special EEC Nomenclature of industrial activities has been drawn up under the title "Nomenclature des industries établies dans les Communautés européennes" (NICE) [Nomenclature of industries in the European Communities]; whereas, while it uses the same decimal classification, this Nomenclature, containing references to the national nomenclatures, is better adapted to the needs of the Community's Member States than the ISIC (International Standard Industrial Classification of all Economic Activities); whereas it would consequently be advisable to adopt the NICE for the classification of activities to be liberalized when a directive relates to

many activities which for the purpose of easier implementation must be specified, provided the time-table laid down in the General Programmes and resulting from the adoption of the ISIC is not thereby modified; whereas in the case in point the adoption of the NICE can have no such effect;

Whereas the Treaty establishing the European Coal and Steel Community contains no provisions on the liberalization of the right of establishment and freedom to supply services and whereas the liberalization of the activities referred to in the present directive is based wholly on the provisions of the Treaty establishing the European Economic Community;

Whereas freedom for self-employed persons to supply services in the above-mentioned branches of activity presupposes, when the performance of the service entails a journey to the country of the person receiving the service, the lifting of all restrictions affecting both those supplying the service themselves and any of their employees accompanying them or acting on their behalf; whereas these employees, at least when their stay in the country of the person receiving the service is only temporary, retain their financial and legal connections with the country of their employer and can therefore be released immediately from the obligation to obtain a work permit in those countries in which permits for dependent workers still exist;

Has adopted the present directive :

Article 1

Member States shall abolish all the restrictions referred to in Title I of the General Programme for the abolition of restrictions on freedom of establishment and in Title III of the General Programme for the abolition of restrictions on the freedom to supply services on the right of the natural persons and companies — hereinafter called "beneficiaries" — referred to in Title I of each of the said Programmes to engage in and carry on the activities described in Article 2.

Article 2

1. The provisions of the present directive shall apply to those activities of self-employed persons in mining and quarrying listed in Schedule I to the General Programme for the removal of restrictions on freedom of establishment (Major Groups 11-19).

These activities correspond to those listed in Major Groups 11-19 of the "Nomenclature of industries in the European Communities" (NICE), which takes into account the structural characteristics of European mining and quarrying; they are listed in the annex to the present directive. Member States shall conform with this presentation for the classification of various activities, except where this would conflict with the time-table adopted in the General Programme.

2. These activities are those having as their object the extraction of minerals whose natural form is either solid, liquid or gas. The exploitation of underground and open-cast mines, of quarries and oil-wells and all other operations necessary for dressing and beneficiating ores and other crude minerals, such as breaking, milling, washing, cleaning and grading, are included in this branch of activity, provided these operations are carried out by an enterprise whose main activity is mining or quarrying. This branch of activity also includes prospecting for minerals and preparing sites for mining, quarrying or drilling operations.

Article 3

In accordance with the General Programmes, the present directive shall not apply, in the case of petroleum and natural gas, to the technical activity of prospecting and drilling, to the extent that this activity is not carried out by the concessionary.

Article 4

1. Member States shall in particular remove restrictions:

a) Which prevent beneficiaries from establishing themselves in the host country or providing services there under the same conditions and with the same rights as nationals;

b) Which, as a result of an administrative practice, have the effect of applying to beneficiaries treatment which is discriminatory in comparison with that applied to nationals;

c) Which, by reason of regulations or practices, exclude beneficiaries from the acquisition of concessions or licences and thereby subject them to limitation or to conditions applying to them alone;

d) On the exercise of any activity in business, trade or professional organizations.

2. These restrictions include in particular those contained in the provisions which prohibit or limit, in respect of beneficiaries, establishment or the supply of services in the following ways:

In the Federal Republic of Germany:

i) By requiring persons to hold a travelling salesman's card ("Reisegewerbekarte") before visiting other persons in the course of business (Gew. O., sec. 55 d, text of 5 February 1960, BGBl, I, p. 61, amendment p. 92; Regulation of 30 November 1960, BGBl, I, p. 871);

ii) By requiring foreign legal persons to hold a special permit for the granting of autonomous mining concessions and for starting up a mineral extraction undertaking (Preuss. Gesetz of 23 June 1909, Gesetzesammlung p. 619);

iii) By the requirement, under various "Land" laws, that foreigners must hold a special permit if they wish to acquire real estate;

iv) By requiring legal persons from abroad to hold a special permit if they wish to do business on Federal territory (Gewerbeordnung sec. 12 and Aktiengesetz sec. 292);

In Belgium:

By the requirement of a "professional card" (royal decree) of 16 November 1939, *Moniteur belge* of 27 and 28 November 1939; Regent's decree of 17 December 1945 and departmental order of 17 December 1945, *Moniteur belge* of 19 December 1945);

In France:

i) By the requirement of a foreign trader's identity card ("carte d'identité d'étranger commerçant") (decree-law of 12 November 1938), (*Journal officiel* of 13 November), decree of 2 February 1939, (*Journal officiel* of 4 February) for the purpose of exercising a mining and quarrying activity;

ii) By a French nationality requirement governing the grant of concessions for mining substances other than solid minerals fuels and potash salts:

a) In the case of a limited company ("société anonyme"), the chairman of the

board, the general manager, the auditors and at least two-thirds of the members of the board must be French;

b) In the case of a *partnership limited by shares* ("société en commandite par actions"), the managers and two-thirds of the members of the "supervisory committee" ("Conseil de surveillance") must be French;

c) In the case of a *limited partnership without shares* ("société en commandite simple"), the managers and the active partners must be French;

d) In the case of a *general partnership* ("société en nom collectif"), all the partners must be French;

e) In the case of a *limited liability company* ("société à responsabilité limitée"), the manager or managers and two-thirds at least of the supervisory committee must be French; where there is no "supervisory committee", all the members ("associés") must be French;

i) By the requirement that all persons entitled to sign on the above-mentioned companies' or firms' behalf be French;

ii) By the requirement that all commercial companies being concessionaries or lessees, apart from exceptions granted by decree, be incorporated under French law [decree of 6 October 1955 - No. 55 - 1349; decree of 17 July 1956 - No. 56 - 715, Article 25 *et seq.* of the Mining Code ("Code Minier")].

In Italy :

By the requirement that natural persons be Italian, or that the registered offices of foreign companies be in Italy, if it is desired to bid for rights to exploit petroleum and natural gas (Act No. 6 of 11 January 1957).

Article 5

Without prejudice to the application of Article 92 *et seq.* of the Treaty, Member States shall grant to their nationals going to another Member State in order to exercise one of the activities defined in Article 2 no aid liable to distort the conditions of establishment.

Article 6

When the host Member State requires proof of good character from its own nationals wishing to be admitted to the activity in question, that State shall accept as sufficient proof, from nationals of other Member States, the submission of a certificate based

on police records ("casier judiciaire") or of a similar document.

When the host country requires from its own nationals a certificate showing that there has been no bankruptcy, the submission of a similar document by beneficiaries of the present directive shall be deemed sufficient.

These documents, issued by the authorities of the country of origin, shall be recognized as valid for three months from the date of issue.

2. In so far as the issue of a permit is subject to proof of technical capability, the host Member State shall regard certificates in respect of work carried out in the country of origin as being equivalent to certificates issued by itself.

The same shall apply to certificates issued by banks in the country of origin, relating to financial means, should evidence of the existence of such means be required in the host country.

Article 7

1. All Member States shall exempt from all work permit requirements employees whose permanent residence is in another Member State but who are temporarily on their territory to perform services which are part of the activities referred to in Article 2, either while accompanying their employer who is a beneficiary of the present directive, or on his behalf. Whenever necessary for the performance of such services, Member States shall also abolish those restrictions on the activities of the said employees which, by virtue of the present directive, are no longer imposed on their employer.

2. For the application of paragraph 1 the activity of employees shall be deemed temporary when it does not exceed either three consecutive months or a total of 120 days in any period of twelve months.

3. The present directive shall affect neither :

a) Those provisions of the Treaty establishing the European Coal and Steel Community which relate to workers having recognized qualifications in the coal and steel industries;

b) Those provisions of the Treaty establishing the European Atomic Energy Community which relate to access to qualified posts in the nuclear field; nor

c) The provisions adopted in implementation of these Treaties.

4. Nevertheless, paragraph 1 shall apply to the categories of workers referred to in paragraph 3, to the extent that their legal position is not regulated in the Treaties or provisions referred to above.

Article 8

Member States shall put into effect before 1 January 1964 the measures needed to comply with the provisions of the present

directive, and shall inform the Commission thereof within one month.

Article 9

The present directive is addressed to all Members States.

N.B.: In accordance with Article 191, directives take effect upon notification to the Member States to which they are addressed.

Annex to Article 2 (1), sub-paragraph 2

List of the industrial or commercial activities referred to in the directive and based on the Nomenclature of industries in the European Communities (NICE)

Major Group	Group	
11		Mining and preparation of solid fuels
	111	Mining and preparation of coal
	112	Mining and preparation of lignite
12		Mining of metal ores
	121	Mining of iron ore
	122	Mining of non-ferrous metal ores and connected activities
ex 13	ex 130	Extraction of petroleum and natural gas (excluding prospecting and drilling)
14	140	Mining of building materials and refractory clay
19	190	Mining or other minerals, peat-beds

Proposal for a Council directive detailing transitional measures affecting self-employed persons in manufacturing activities coming under ISIC Major Groups 23-40 (Industrial and artisan activities)

(Submitted by the Commission to the Council on 9 April 1963)

The Council of the European Economic Community

Having regard to the provisions of the Treaty and in particular Article 54 (2) and Article 63 (2) thereof;

Having regard to the General Programme for the removal of restrictions on freedom of establishment and in particular Title V, paragraphs 2 and 3 thereof;

Having regard to the General Programme for the removal of restrictions on freedom to supply services and in particular Title VI, paragraphs 2 and 3 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the European Parliament and the reasons adduced for it;

Whereas in addition to providing for the removal of restrictions, the General Programmes also recognize the need to examine whether this should be preceded, accompanied or followed by the reciprocal recognition of diplomas, certificates and other qualifications, and by the co-ordination of legislative and administrative provisions on admission to and the pursuit of the activities in question, and whether, pending such recognition or co-ordination, transitional measures should be adopted as and when required;

Whereas conditions for admission to and the pursuit of industrial and artisan manufacturing activities, are not laid down in all

the countries; whereas the definition of artisan activities and consequently their delimitation in relation to industry differ in the various Member States; whereas, moreover, in some cases there is freedom to engage in and carry on artisan activities, and in others there are strict provisions requiring the possession of a qualification for admission to a particular occupation;

Whereas when the General Programmes were approved, the Council noted that artisan activities raised co-ordination or recognition problems the solution of which required careful preparation;

Whereas it is therefore not feasible to arrange for co-ordination or recognition to be realized at the same time as the removal of restrictions;

Whereas it would nevertheless seem desirable to facilitate the introduction of the right of establishment and the freedom to supply services in the activities in question by adopting transitional measures as authorized by the General Programmes; whereas, in so doing, the lack of any regulations at all in some Member States should be particularly taken into account so that nationals of States in which no conditions are prescribed for admission to these activities are not unduly handicapped thereby; and whereas, lastly, such measures should guard against a one-sided liberalization of establishment and the supply of services focused on the States having no statutory requirements, since this would benefit persons who could not satisfy the conditions governing admission to and the pursuit of such occupations in their own country of origin;

Whereas in order to avoid such consequences, transitional measures should contain the following provisions :

a) Most States that have regulations on admission to the activities in question should recognize actual pursuit of the occupation in the country of origin for a reasonable period as adequate proof that the person concerned has equivalent vocational qualifications to those required of their own nationals;

b) Any State that does not control admission to the activities in question should be authorized, where necessary, to demand proof from nationals of the other Member States that they are qualified to pursue such activity in their country of origin;

Whereas with regard to this second point, transitional measures can nevertheless only be accepted with great reserve, since they

partly run counter to the removal of restrictions and thus might hinder freedom of movement if they were generally applied; and whereas they should accordingly be limited in time and in scope; and whereas, to safeguard the interests of the Community and the Member States, the Commission should be charged with authorizing the implementation of such measures, in accordance with the general provisions of the Treaty concerning safeguard clauses;

Whereas the measures laid down in the present directive will no longer be needed when the co-ordination of the conditions of admission to and the pursuit of the occupations in question and the reciprocal recognition of degrees, diplomas and other qualifications have been achieved; and whereas in any event they will have to be relinquished at the end of the transition period, because thereafter there could be no question of their taking the place of the measures explicitly required by the Treaty, such as the co-ordination of national regulations and the reciprocal recognition of qualifications for admission to and the pursuit of "self-employed" activities in each country, as far as may be necessary to facilitate such admission and pursuit;

Has adopted the present directive :

Article 1

1. Member States shall adopt, under the conditions stated, the following transitional measures with respect to the establishment on their territory of the natural persons and companies and firms referred to in the General Programmes (Title I) and with respect to supply of services by such natural persons and companies and firms — hereinafter called "beneficiaries" — for "self-employed" manufacturing activities.

2. The activities referred to shall be those specified in the Council's directives of on the removal of restrictions.

Article 2

Member States in which it is permissible to engage in and pursue an activity referred to in Article 1 (2) only on fulfilling certain conditions of qualification, shall ensure that any beneficiary shall, upon request, be informed of the regulations covering the occupation which he wishes to take up before he establishes himself or before he starts to pursue the said activity on a temporary basis.

Article 3

Where legislative or administrative provisions or an administrative practice limit the granting of a special permit to certain groups of persons or to certain situations, Member States shall ensure that the beneficiaries referred to in Article 1 (1), are granted parity of treatment with the said groups of persons or situations, and that they benefit from the same treatment in the question of admission to the activity.

Article 4

1. Where a Member State makes admission to or pursuit of any of the activities referred to in Article 1 subject to the possession of general, commercial or professional knowledge or aptitudes, it shall accept as sufficient proof of such qualifications the actual exercise of the activity in question in another Member State :

a) If the person concerned has worked on his own account or in a managerial capacity for five consecutive years;

b) If the person concerned has worked on his own account or in a managerial capacity for three consecutive years, provided he can prove that he has been trained for at least three years in the profession or occupation in question and that this is confirmed by a certificate recognized by the State or recognized as fully valid by a business, commercial or professional organization.

2. The phrase "in a managerial capacity" as used in paragraph 1 shall be understood to cover any person having occupied, in an establishment in the sector concerned, the post of :

a) Manager or branch manager, providing this post involves technical management;

b) Assistant manager, if this involves the same responsibility as that of the manager.

Article 5

For the purpose of implementation of Article 4 :

1. Member States in which the right to engage in one of the occupations referred to in Article 1 depends on the possession of a qualification shall, with the aid of the Commission, inform the other Member States of the essential characteristics of the occupation (job description).

2. The competent authority appointed to this end by the country of origin shall give proof of the gainful activities actually pursued by the beneficiary, as also the dura-

tion thereof. This certificate shall be based on the job description communicated by the Member State in which the beneficiary wishes to exercise the occupation either permanently or temporarily.

3. The host Member State shall, at the request of the interested person, give permission to exercise the activity in question where such activity corresponds to the essential points of the job description communicated by virtue of paragraph 1 and where the other conditions which may be laid down in the Member State's regulations are fulfilled.

Article 6

1. Where in a Member State admission to or pursuit of any of the activities referred to in Article 1, is not subject to the possession of certain knowledge and aptitudes, and the said Member State must, pursuant to the Council's directives of and , abolish any existing discriminatory restrictions, it may on application be authorized by the Commission, for a limited period and for one or more specified occupations, to require nationals of other Member States wishing to engage in the occupations on its territory to produce evidence that they are qualified to pursue them in their country of origin. The Commission shall stipulate the conditions and method on which such authorization may be granted, particularly its term of validity.

Such authorization may not be sought in respect of persons whose country of origin does not make admission to the activities in question subject to proof of a certain knowledge.

2. Where paragraph 1 is applied, the Member State shall grant permission to pursue the activity in question simply on production by the person concerned of a certificate, issued by the authority designated for the purpose by the person's country of origin, to the effect that he is entitled to pursue such occupation there.

Article 7

The measures referred to in Article 4 shall remain in force during the transition period until provisions have been enacted for the co-ordination of national regulations governing admission to and the pursuit of the activities in question and for the reciprocal recognition of qualifications.

The measures provided for in Article 6 may not be authorized beyond the time-limit stipulated in the preceding sub-paragraph.

Article 8

Member States shall mutually inform one another of the authorities designated by them for issuing the certificates provided for in Article 5 (2) and Article 6 (2). They shall submit a list of authorities to the Commission.

A list of authorities now competent is given in Annex I. This list shall be regularly brought up to date on the basis of information supplied by the Member States and any changes shall be published in the official gazette of the Communities by the Commission.

Article 9

Member States shall put into effect before 1 January 1964 the measures needed to comply with the provisions of the present directive, and shall inform the Commission thereof within one month.

Article 10

Should any Member State, after publication of the present directive, wish to introduce or substantially amend any legislative or administrative provisions relating to admission to the activities in question, it shall enact measures implementing the present directive in respect of nationals of the other Member States.

In addition, the Commission shall be given due notice of the draft enactment so that it may adopt a position thereon.

Article 11

The present directive is addressed to all Member States.

N.B. In accordance with Article 191, directives take effect upon notification to the Member States to which they are addressed.

ANNEX

(Referred to in Article 8)

The following authorities are at present empowered to issue certificates in respect of independent activities :

a) *In Belgium :*

- i) For an occupation controlled by the act of 24 December 1958 and in accordance with Article 11 of this act : the "Chambre des métiers et négoce" [Chamber of Industry and Commerce] of the province in which the occupation is exercised;
- ii) For an occupation not covered by regulations : the local administrative authority.

b) *In the Federal Republic of Germany :*

- i) For the industrial and commercial fields with the exception of artisan activities : the "Industrie- und Handelskammern" [Chambers of Industry and Commerce];
- ii) For artisan activities : the "Handwerkskammern" [Chambers of Handicrafts];

c) *In France :*

- i) For artisan activities : the "Chambres des métiers" [Chambers of Industry];
- ii) For industrial activities : the "Chambres de commerce et d'industrie" [Chambers of Industry and Commerce];

d) *In Italy :*

"Camera di commercio, dell'industria e dell'agricoltura" [Chambers of Commerce, Industry and Agriculture];

e) *In the Netherlands :*

"Kamers voor Koophandel en Fabrieken" [Chambers of Industry and Commerce].

f) *In Luxembourg :*

- i) For artisan activities : the "Chambre des métiers" [Chamber of Handicrafts];
- ii) For industrial activities : the "Chambre de commerce" [Chamber of Commerce].