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Contents

Financing the common agricultural policy — independent revenue for the Community — wider powers for the European Parliament

(Proposals submitted by the Commission to the Council on 31 March 1965)

Explanatory memorandum

1. Council Regulation No. 25 makes the Community responsible for the financing of its common agricultural policy through the European Agricultural Guidance and Guarantee Fund, but it makes explicit provisions regarding the introduction of common financing only for the years 1962/63, 1963/64 and 1964/65. A decision must therefore be taken before the end of these first three years as to how the common agricultural policy will be financed during and after 1965/66. In its decision of 15 December 1964 the Council therefore invited the Commission to submit proposals on this subject before 1 April 1965.

2. Under Council Regulation No. 25, the methods by which the common agricultural policy is financed during and after 1965/66 must ensure progressive development towards the common market. Consequently, the Commission's proposals must deal with two main points :

i) How will the common agricultural policy be financed after the single market stage is reached ?

ii) When will the system for the single market stage replace that of the transition period ?

With regard both to the revenue of the Fund and to its expenditure, an answer to the first question was given, in broad outline, by Article 2 of Regulation No. 25. As to the date, the Council has already given some indication of its wishes in its decision of 15 December 1964 inviting the Commission to submit before 1 April 1965 proposals on the conditions for implementing Article 2 of Regulation No. 25 from the date when common prices for the various agricultural products come into force.

3. In view of the growing importance for agriculture of the European Agricultural Guidance and Guarantee Fund, the decisions concerning the financing of the common agricultural policy as part of the budget of the Community represent a decisive step forward towards the common market. The Commission has therefore linked the proposals concerning the financing of the common agricultural policy with the whole question of achieving a financial and institutional balance as the integration of the Community progresses.

4. The decisions on agricultural policy taken by the Council on 15 December 1964 mark the beginning of a new phase in the development of the Community. At present, however, they only ensure the attainment of the common market from 1 July 1967 in one sector : for cereals, pigmeat, eggs, poultry and products derived from cereals, the introduction of a common price level as soon as the levies in trade between the Member States disappear will mean in practice that the common market is achieved on that date. For this reason the Council decided at the same time that from that moment the expenditure of Member States eligible under the Fund for market support for cereals and refunds in respect of exports to non-member countries of cereals, pigmeat, eggs, poultry, etc... shall be borne entirely by the Community.

5. If, however, the common market in agriculture and common financial responsibility were to remain confined to the afore-mentioned products, the development of the free movement of goods and of common financing might benefit some of the Member States more than others. In addition, agricultural production might concentrate more on the products for which the common agricultural policy, with the safeguards that it offers for farmers, is fully implemented, i.e. broadly speaking on cereals, poultry and pigmeat.

6. In order to avoid such anomalies, similar decisions must be taken as soon as possible ensuring, from 1 July 1967, the application of common target and guide prices, the abolition of intra-Community levies and customs duties, and full Community financing for other important agricul-

tural products. In particular there must be common target prices for milk and rice and common guide prices for cattle and calves, and intra-Community levies and customs duties on these products must be eliminated.

7. With regard to full Community financing, the spirit of solidarity among the Member States affirmed by the Council in its decision of 15 December 1964 requires at least that the financial responsibility of the Community for the fruit and vegetables sector and for durum wheat should be settled at the same time as the decision is taken on financing for milk products and beef and veal.

8. However, if the Community is to develop smoothly, the removal of obstacles to intra-Community trade cannot remain confined to the levies on agricultural produce. If there is to be a coherent economic policy, both the customs duties on agricultural produce and those imposed on industrial products will have to be abolished as from 1 July 1967. The Commission has therefore proposed that, with effect from that date, intra-Community customs duties should be abolished and the common customs tariff applied to all industrial and agricultural products. Quantitative restrictions on intra-Community trade would also be prohibited from that date.

9. If, however, from 1 July 1967 levies and customs duties on the chief agricultural products are no longer imposed in trade between the Member States, and if intra-Community customs duties on industrial products are also abolished, a problem with which all customs unions are confronted will arise for the Community; the place where levies and customs duties are collected will be les and less likely to be that at which the imported goods are consumed. These revenues can therefore hardly be placed to the credit of the Member State in which the point of collection is situated, especially as that state will already benefit from the development of services attendant on its role as a transit country. This applies equally to the years during which there will still be fiscal frontiers within the Community. In fact present experience already goes to show that the reduction of intra-Community customs duties — and *a fortiori* the total elimination of such duties — presents so many practical advantages for trade that imports gradually tend to shift to the ports that are most conveniently situated and best equipped.

10. In view of the degree of market integration that will be attained on 1 July 1967, it is important that the revenue from customs duties on imports from non-member countries should accrue to the Community in its own right from the same date. In fact on 1 July 1967:

a) As regards customs duties, the conditions referred to in Article 201 of the Treaty will be fulfilled, and the common customs tariff will be applied;

b) As regards levies on agricultural produce, the conditions laid down by Article 2(2) of Regulation No. 25 and by the decision taken by the Council on 15 December 1964 will also be fulfilled; single-price systems will have come into effect for the chief agricultural products (cereals, pigmeat, eggs, poultry, milk and milk products, beef and veal, rice, fruit and vegetables), and common prices will have entered into force for cereals, milk, and beef and veal.

11. It is, however, advisable that — in the spirit of the Treaty and having regard to the provisions of Council Regulation No. 25 — there should be a gradual transition from the system under which contributions are paid by the Member States to the Community budget to the stage when the Community will have independent revenues; it must first be agreed that the whole of the proceeds of levies should accrue to the Community. This gradual transference must extend to:

a) All receipts from levies and customs duties;

b) The relative burden on the various Member States.

Among the various possible methods of achieving such a gradual transference, there is one that seems preferable because of its simplicity:

The contribution that the individual Member States are to make to the Community budget for the 1967 financial year in accordance with the scales laid down in the Treaty and in the decisions of the Council (concerning the EAGGF) will be set beside the contribution that they would have made if during the same year all proceeds of levies and customs duties collected in the various Member States had accrued to the Community.

During the first half of 1967, the scales laid down for Member States' financial contributions will still apply. During the second half-year the Member States will pay to the Community the agricultural levies and such part of the proceeds of

customs duties as is required to cover the contributions that the individual Member States have to make by virtue of the Treaty and Council decisions concerning the EAGGF. During this period part of the customs duties will remain at the disposal of the Member States; this part will be a percentage, varying from one country to another, of the proceeds of the levies and customs duties collected within each Member State during the second half-year.

During the period 1968-71, the percentage of these revenues left in the hands of the Member States will be reduced each year by one fifth, so that from 1972 all such revenue will accrue to the Community.

12. If in certain years the independent revenue of the Community is insufficient to cover its expenditure, the budget will be balanced by means of contributions from the Member States computed according to the scale fixed for 1967 under the Treaty and Council decisions.

If the Community's independent revenue exceeds its normal requirements, the Community institutions will decide, in accordance with established budget procedure, how the available funds should be allocated for special Community tasks or redistributed among the Member States.

In 1968, 1969 and 1970, according to present estimates of the Community's requirements and of the revenue that will accrue to the Community from customs duties and levies when the above system is adopted, it is unlikely that there will be any funds available for redistribution among the Member States or for special Community tasks over and above normal commitments.

13. The Commission considered whether the proposed regulation should include arrangements for financing the compensation granted to the farmers of Germany, Italy and Luxembourg in consequence of the establishment of a common cereals price level to take effect from 1 July 1967. As agreement was reached in the Council on this matter on 15 December 1964, the Commission thought it preferable to leave this question open at present. It will be dealt with in the detailed proposals that will be made to the Council to give effect to the resolution of 15 December 1964.

14. The creation of independent revenues for the Community poses various urgent problems, including that of control. The cost of market support, refunds on agricultural exports, and other measures decided upon by the Council as part of the common agricultural policy, will be borne entirely by the Community from 1 July 1967. The Commission will therefore submit proposals to the Council to confer upon the Community institutions powers of control over the bodies authorized to take such action in the Member States.

In addition, it will be necessary to amend the Financial Regulation governing the EAGGF so that expenditure arising from the common agricultural policy will be considered both by the Council and by the European Parliament and appropriations will have to be approved before any payments are made.

15. As to the financing of refunds on exports, it is necessary, since the establishment of the single market implies a uniform agricultural policy for the Community (Article 2 of Regulation No. 25), to ensure that not only the revenue but also the expenditure — at least for exports effected under international arrangements — are dealt with at Community level. The beginning of the single market stage is in fact the beginning of the final stage where commercial policy is concerned.

For this reason refunds can be granted for exports effected under international arrangements — which are, moreover, part of commercial policy — only if such arrangements are recognized by the Community to be of Community character. This condition does not apply to exports effected in the absence of international arrangements.

16. The integration process should culminate in customs union for the chief agricultural products and for industrial products by 1 July 1967, and Community undertakings — in particular the common agricultural policy — will be financed by independent Community revenues obtained from levies and customs duties.

With regard to the contributions of the European Agricultural Guidance and Guarantee Fund to eligible expenditure incurred by the Member States for measures to regulate markets and refunds on exports, common financing should develop progressively towards the single market stage, the EAGGF contributing four sixths of eligible expenditure for 1965/66 and five sixths for 1966/67. This is in keeping with the progressive development towards the single market stage required under Council Regulation No. 25 (Article 5) and reaffirmed by the Council in its decisions of

15 December 1964 for cereals, pigmeat, eggs and poultry.

17. On 15 December 1964 the Council agreed that Italy's contribution to the financing of the common agricultural policy in 1965/66 and 1966/67 should be limited to 18 % and 22 % respectively, and that Belgium's contributions to the Fund should be fixed in such a manner that they would not be affected by the application of the above ceilings in respect of Italy. This was a political decision, and the figures given were arbitrary. It therefore seemed reasonable to the Commission to recommend an arbitrary solution also for the other Member States. On this basis, the simplest system appeared to be to maintain the rate paid by Belgium and Luxembourg in 1964/65, and to apportion the remaining amounts between Germany, France and the Netherlands according to the scales fixed for their contributions to the Community budget by Article 200 (1) of the Treaty. Such a solution seems justified particularly in view of the transitoty nature of the provisions for the period before the final system enters into force.

18. Thus the Commission's proposals on the financing of the common agricultural policy are closely linked with proposals in other fields that have already been submitted to the Council or will be submitted shortly.

The date by which the decision on these proposals will have to be taken will be determined by the need to ensure continuity in the financing of the common agricultural policy and by the need to be able to discuss all important agricultural products in the Kennedy round negotiations on the basis of the Community's margin of support.

On the other hand, the Commission considers that the provisions regarding the financing of the common agricultural policy at the single market stage and those concerning independent resources for the Community will in any case have to enter into force simultaneously, that is, on 1 July 1967.

19. When the above provisions come into effect in 1967, the Community will be in a very different position from that which it has known since its inception, in which its resources are derived mainly from the Member States' contributions.

This coming transformation makes it necessary to review the procedure for approval of the budget laid down in Article 203 and, in particular, to strengthen the budgetary powers of the European Parliament. This is essential in order to ensure adequate parliamentary control at the European Parliament level over large sums of money, the spending of which will no longer be subject to the control of the national parliaments.

As a necessary counterpart to its proposal, the Commission has availed itself of its powers under Article 236 to submit at the same time proposals for a revision of the Treaty, adapting it to the new situation by strengthening the Parliament's budgetary powers. In addition to amendments to Article 203 (budget procedure), the Commission considers it advisable also to provide for an amendment to Article 201 to be operative in the future (and hence not applicable to the approval of the independent revenues referred to in the present proposals). It seems logical for wider powers of control over the budget to be accompanied by wider powers to determine the Community's revenues.

20. On the latter point, the Commission's proposal provides only a limited increase in the Parliament's powers at the present stage. However, when the Parliament is elected by direct universal suffrage in accordance with Article 138(3), the power to create independent revenues for the Community, which at present rests with the Member States (Article 201(3)), would have to be completely transferred to the Community.

21. With regard to Article 203, the Commission's proposal takes into account the ideas put forward by the Parliament itself on 12 May 1964 when adopting the report presented by M. Vals on behalf of the Budget and Administration Committee, and also the arrangements suggested by the Government of the Netherlands and other Governments during discussions in 1963/64. The Commission has sought to introduce an arrangement effecting a certain balance between the powers of the Parliament, the Council and the Commission. Thus amendments made by the Parliament to the draft budget prepared by the Council will be deemed to be approved unless the Council, within a stipulated time-limit (20 days), modifies them by a large majority (five members). If, however, the Council and the Commission agree on changes to the Parliament's proposal, they can be adopted by a smaller majority (four members).

This new budget procedure, like that proposed in Article 201, would be a step towards full budgetary powers for the European Parliament, which it will exercise when elected by direct universal suffrage.

22. The amendments proposed by the Commission also include the abolition of the weighted voting system set out in Article 203(5) for decisions on budget proposals relating to the European Social Fund. The Commission felt that such weighting would no longer be justified when the system of independent resources for the Community is introduced, which will also cover the expenditure of the European Social Fund.

I. Proposal for a regulation on the financing of the common agricultural policy

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community and in particular Articles 43, 200(3) and 209 thereof;

Having regard to Regulation No. 25 on the financing of the common agricultural policy (1);

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Whereas, by reason of the progress that has been made towards the common market and the common policy for agriculture, the necessary conditions exist for implementing from 1 July 1967 the principles laid down for the single market stage in Article 2 of Regulation No. 25 on the financing of the common agricultural policy, and therefore for discontinuing from the same date the system of financing laid down for the transition period in Articles 3-8 of that regulation;

Whereas, under the transitional system, both the contribution of the European Agricultural Guidance and Guarantee Fund to eligible expenditures, and the revenues which maintain that Fund, have yet to be determined for the period from 1 July 1965 to the end of the transition period, in accordance with Article 5(1) and Article 7(2) of Regulation No. 25;

Whereas, with regard to expenditure, the Fund's contribution to eligible expenditures under the Guarantee Section should, for the years 1965/66 and 1966/67, be increased regularly from the three sixths already fixed for the year 1964/65 to the full financing envisaged for the year 1967/68; and whereas, in accordance with the rule of one third contained in Article 5(2) of Regulation No. 25, any increase in such expenditures must automatically lead to an increase in the expenditures eligible under the Guidance Section;

Whereas if free movement for one or more products within the Community is attained before 1 July 1967, it must be possible, as an exception to the general rule, for expenditures of the Guarantee Section relating to these products to be financed in its entirety;

Whereas, with regard to revenues, the contributions of Member States for the years 1965/66 and 1966/67 should be computed according to scales that will limit the contributions of certain Member States as provided for in the Council's resolution of 15 December 1964 on the financing of the common agricultural policy;

Whereas, in accordance with the principle stated in Article 2(2) of Regulation No. 25, the introduction of the single market system from 1 July 1967 will involve full financing of expenditure for refunds on exports to non-member countries and for measures to regulate markets under the common organization of agricultural markets, since such expenditure is the financial consequence of agricultural policy decisions taken by the Community;

Whereas it is advisable to enable the Guarantee Section of the Fund to finance measures other than those provided for in Article 2 (2 a and b) of Regulation No. 25 should such measures be decided upon in connection with the common organization of markets;

Whereas, if they are to be properly regarded as entirely the responsibility of the Commu-

(1) See official gazette No. 30, 20 April 1962, p. 991/62

nity, the measures to be financed will have to be based, at the single market stage, on precise and comprehensive Community rules, particularly as regards commercial policy;

Whereas, since refunds on exports to non-member countries, measures taken to regulate markets, and other measures, are to be financed in their entirety, effective means must be found of ensuring that such expenditure conforms to Community rules;

Whereas the Guidance Section of the Fund, in accordance with Article 2 (2 c) of Regulation No. 25, is to finance the operations mentioned in Article No. 11 of Regulation No. 17/64/CEE on the grant of aid from the European Agricultural Guidance and Guarantee Fund, and is to be able to finance other measures in order that the objectives set out in Article 39 (1 a and b) of the Treaty may be attained;

—*hereas,* according to the afore-mentioned resolution of 15 December 1964, these operations must have due regard to the unfavourable structural situation in Italy and to the need to improve agricultural structures in Luxembourg, which is the purpose of the Protocol concerning the Grand Duchy of Luxembourg;

Whereas, at the single market stage, the ratio between the expenditure of the Guarantee Section and the commitments of the Guidance Section of the Fund may be maintained by allocating to the latter an amount equal to one third of that fixed for the former, subject to certain adjustments in order to ensure that Community programmes already in progress are not jeopardized by lack of funds;

Whereas, as a result of the establishment of a common level of cereal prices to take effect from 1 July 1967, the Fund will also have to finance, under a special section, compensation to the farmers of Germany, Italy and Luxembourg;

Whereas in accordance with the principle stated in Article 2(1) of Regulation No. 25, the introduction of the single market system from 1 July 1967 will mean that the proceeds of the levies will be the property of the Community and be appropriated to Community expenditure, so that the budget resources of the Community will comprise such revenue together with all other revenues decided in accordance with the rules of the Treaty and the contributions of Member States as determined under Article 200 of the Treaty; and whereas to this end the procedure provided for in Article 201 of the Treaty must be brought into operation,

Has adopted the present Regulation:

Article 1

The financing of the common agricultural policy through the European Agricultural Guidance and Guarantee Fund, hereinafter referred to as the Fund, shall be derived, from 1 July 1965, into two stages:

i) From 1 July 1965 to 30 June 1967, the transitional system provided for in Articles 3-8 of Regulation No. 25 shall be maintained;

ii) From 1 July 1967, the single market system provided for in Article 2 of Regulation No. 25 shall be applied.

I. Transitional system

Article 2

1. The contribution of the Guarantee Section of the Fund to expenditure eligible under Article 3(1 *a*, *b* and *c*) of Regulation No. 25 shall be:

four sixths for 1965/66;

five sixths for 1966/67.

2. Notwithstanding the provisions of paragraph 1 above, the Council, acting on a proposal of the Commission, unanimously during the second stage and by qualified majority thereafter, may decide that the expenditure relating to one or more products shall be financed in full from the date when free movement of these products within the Community is attained, if that date is prior to 1 July 1967.

Article 3

The expenditure of the Fund shall be met by financial contributions from the Member States calculated according to the following scales:

	1965/66	1966/67
Belgium	7.96	7.96
Germany	32.35	30.59
France	32.35	30.59
Italy	18	22
Luxembourg	0.22	0.22
Netherlands	9.12	8.64

Article 4

Each year the Commission, after consulting the Fund Committee in accordance with Article 27(1) of Regulation No. 17/64/CEE, shall submit to the Council and to the European Parliament a report on the management of the Fund during the year ended, dealing with the movements of its operational accounts, the nature of its expenditure, eligibility thereof, and the apportionment of its revenue.

II. Single market stage

Article 5

1. The Guarantee Section of the Fund shall finance the following operations effected in accordance with Community rules under the common organization of agricultural markets :

a) Refunds on exports to non-member countries;

b) Measures taken to regulate markets;

c) Other measures decided upon by the Council, acting on a proposal of the Commission by qualified majority.

Refunds referred to in sub-paragraph (a) above in respect of exports effected under bilateral or multilateral arrangements shall be financed by the Fund only if the said arrangements are recognized by the Community to be of Community character.

2. Acting by qualified majority on a proposal of the Commission, the Council shall determine the operations to which paragraph 1 above shall apply, and shall lay down Community rules to govern such operations.

Article 6

1. The Guidance Section of the Fund shall finance the following operations effected in accordance with Community rules :

a) The adaptation and improvement of the conditions of production in agriculture;

b) The adaptation and guidance of agricultural production;

c) The adaptation and improvement of the marketing of agricultural products;

d) The development of outlets for agricultural products.

2. The commitments of the Guidance Section of the Fund shall correspond to one third of the total expenditure of the Guarantee Section. Provided always that they shall at least be equal to the average of the commitments of the two previous years.

3. Should the provisions of paragraph 2 above impede the execution of the Community programmes referred to in Article 16 of Regulation No. 17/64/CEE, the Council, acting in accordance with Article 203 of the Treaty, shall increase the amount allocated to the commitments of the Guidance Section.

4. Before 1 January 1972, the Council, on the basis of a report by the Commission, shall reconsider the provisions of paragraphs 2 and 3 above.

5. In addition, the Council, acting according to the procedure laid down in Article 43 of the Treaty, may decide that operations other than those mentioned in paragraph 1 above shall be financed by the Guidance Section of the Fund in order that the objectives defined in Article 39(1 *a* and *b*) of the Treaty may be attained.

Article 7

1. When the single market system comes into force, Articles 2-6, 8 and 23 of Regulation No. 17/64/CEE shall no longer apply.

2. Before 1 October 1966, the Commission, after consulting the Fund Committee in accordance with Article 27(1) of Regulation No. 17/64/CEE, shall submit proposals to the Council concerning the measures to be taken in pursuance of Article 5 and any

other measures necessary to supplement the provisions in force or adapt them to the requirements of the single market system, including measures to facilitate control of expenditure.

3. In addition, the Commission, after consulting the Fund Committee in accordance with Article 27(1) of Regulation No. 17/64/CEE, shall submit proposals to the Council before 1 October 1966 for amending the Financial Regulation relating to the European Guidance and Guarantee Fund (Regulation No. 64/127/CEE) (1) so that the appropriations to be included in any budget may correspond to the expenditure to be incurred during the period to which the said budget applies.

Article 8

Each year before 1 October, the Commission, after consulting the Fund Committee in accordance with Article 27(1) of Regulation No. 17/64/CEE, shall submit to the Council and to the European Parliament a report on the management of the Fund during the year ended, dealing with the movements of its operational accounts, the nature of its expenditure and the conduct of Community financing transitions.

The present Regulation shall be binding in all its parts and directly applicable in each Member State.

(1) Official gazette No. 34, 27 February 1964, p. 599/64

II. Proposal for provisions to be adopted by the Council by virtue of Article 201 of the Treaty concerning the replacement of the financial contributions of Member States by independent Community revenues

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community and in particular Article 201 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Whereas from 1 July 1967 there will be a uniform agricultural price system and common prices for the various agricultural products will be in effect; and whereas therefore the single market stage will have been reached in this sector;

Whereas from the same date the common customs tariff will be definitively established;

Whereas, as a result of the elimination of customs duties and agricultural levies in trade between Member States, the place where the import charges are imposed and that where the goods are consumed will be less and less likely to lie within the territory of the same State, so that it is no longer reasonable for the proceeds of customs duties and levies to go to the Member States that has collected them;

Whereas Article 2(1) of Regulation No. 25 on the financing of the common agricultural policy stipulates that, as soon as the single agricultural market comes into effect, the proceeds of agricultural levies shall accrue to the Community and shall be appropriated to Community expenditure;

Whereas Article 201 of the Treaty expressly provides for the possibility of allocating to the Community, as independent revenue, the proceeds of the common customs tariff when the latter has been finally introduced;

Whereas the procedure provided for in Article 201 of the Treaty should now be initiated, in order that the proceeds of the common customs duties and agricultural levies may accrue to the Community from 1 July 1967;

Whereas, since in the first few years receipts from the common customs tariff and agricultural levies will continue to reflet the structure of imports on the national markets, the budgets of the Member States will be affected in varying degrees by the transfer of these receipts to the Community; and whereas it is therefore advisable to provide for a transitional system gradually attaining the complete transfer of the receipts in question from the year 1972,

Has adopted the present provisions:

Article 1

From 1 July 1967, the proceeds, in trade with non-member countries, of:

i) The levies and other charges introduced as part of the common agricultural policy, hereinafter referred to as "agricultural levies", and

ii) The common customs duties and the charges introduced by virtue of Article 235 of the Treaty on certain goods obtained by the processing of agricultural products, hereinafter referred to as "customs duties".

Shall accrue, by the arrangements set out in Articles 2 and 3 below, to the Community as independent revenue.

Article 2

1. Without prejudice to other receipts, the budget of the Community for the year 1967 shall be financed in two equal parts :

a) During the first half-year by financial contributions from the Member States;

b) During the second half-year from the Community's independent revenue.

2. For the second half of 1967, the Member States shall pay to the Community the agricultural levies and a part of the customs duties collected in their respective territories. The total amount of such payments shall be equal, for each Member State, to the amount of its financial contributions under paragraph 1(a) above.

Article 3

1. The Commission shall note in the case of each Member State the percentage of the receipts referred to in Article 1 that, during the second half-year of 1967, has remained in its hands after discharging its obligations under Article 2(2).

2. In each financial year from 1968 to 1971, the percentage of the receipts referred to in paragraph 1 remaining in the hands of each Member State shall be reduced each year by one fifth.

3. From 1 January 1972, all the receipts referred to in Article 1 shall accrue to the Community.

Article 4

Without prejudice to other receipts, those arising from the implementation of Articles 1-3 shall form part ot the budget of the Community and shall be used to finance without distinction any expenditure provided for therein.

Article 5

While respecting the requirement of Article 199 of the Treaty that the budget shall be balanced, the Commission shall include in the preliminary dratt budget drawn up in pursuance of Article 203(2) of the Treaty all estimates of expenditure compatible with the aims of the Community, and shall provide, where appropriate, for payments to be made to the Member States.

If, when drawing up its preliminary draft budget, the Commission provides for payments to be made to the Member States, it shall take into account the economic and social situation in the different regions of the Community and the need to ensure that burdens are equitably shared within the Community.

Article 6

1. If the revenues of the Community other than the financial contributions of Member States are insufficient to balance the Community's budget, the sums necessary to ensure such balance shall, until the end of the 1971 financial year, be paid by the Member States according to the scale of contributions implicit in Article 2(1, a).

2. Before the end of 1971, the Council shall determine, in accordance with Article 200(3) of the Treaty, the scale to be applied in calculating contributions from the 1972 financial year onwards.

Article 7

1. Acting on a proposal of the Commission by qualified majority and after consulting the European Parliament, the Council shall decide before 1 July 1967 on the arrangements for paying over to the Community the receipts referred to in Article 1 that have been collected by Member States.

2. By the same procedure, the Council may decide that flat-rate compensation shall be paid by the Community to the Member States for costs incurred by the relevant government departments in collecting Community dues.

Article 8

The Member States shall notify the Secretariat ot the Council without delay of the completion of the procedures required under their municipal law for the adoption of the present provisions.

The present provisions shall come into force on the first day of the month following the deposit of the last of the acts of notification referred to in the preceding paragraph.

III. Draft treaty amending Articles 201 and 203 of the Treaty establishing the European Economic Community

Contracting parties .....

Preamble .....

Article 1

Article 201 of the Treaty establishing the European Economic Community shall be replaced by the following provisions :

"*Article 201*

The Commission shall study the conditions under which the financial contributions of Member States provided for in Article 200 may be replaced by independent Community revenue.

For this purpose, the Commission shall submit proposals to the Council, which shall refer them to the Assembly.

The Council, acting by unanimous vote, shall adopt the necessary provisions. Nevertheless, it may decide such provisions by qualified majority if the Assembly has rendered an opinion supporting the Commission's proposals by a two-thirds majority of the votes cast constituting an absolute majority of its members.

The provisions adopted by the Council must be approved by the Member States according to their respective constitutional rules, until such time as the members of the Assembly are elected in the manner provided for in Article 138(3) of the Treaty."

Article 2

Article 203 of the Treaty establishing the European Economic Community shall be replaced by the following provisions, which shall apply to the preparation of the budget for the year 1968 and of succeeding budgets.

"*Article 203*

1. The financial year shall run from 1 January to 31 December inclusive.

2. Each of the institutions of the Community shall draw up provisional estimates of its expenses. The Commission shall combine these estimates in a preliminary draft budget. It shall attach its opinion, which may contain divergent estimates.

The preliminary draft budget shall be laid before the Council by the Commission not later than 15 September of the year preceding that to which it refers. The Commission shall at the same time transmit the preliminary draft budget to the Assembly.

The Council shall, whenever it intends to depart from the preliminary draft, consult the Commission and, where appropriate, the other institutions concerned.

3. The Council, acting by qualified majority, shall establish the draft budget and shall then transmit it to the Assembly.

The draft budget shall be laid before the Assembly not later than 15 October of the year preceding that to which it refers.

The Assembly shall have power to amend the draft budget by an absolute majority of its members, provided that the requirement of Article 199, second paragraph, of the Treaty is respected.

4. *a)* If the budget has not been amended by the Assembly within one month from its receipt, it shall be deemed to be finally approved.

b) If, within this period, the Assembly has amended the draft budget, the draft budget so amended shall be transmitted to the Council and to the Commission. The Commission shall then inform the Council, within 15 days, of its approval of the amendments made by the Assembly, or, if it does not approve these amendments, of the alterations that it proposes to make to these amendments.

Each of the Assembly's amendments shall be deemed to be finally approved unless, within a period of 20 days after receipt of the Commission's communication :

i) The Council, by a majority of members, alters the Assembly's amendment in the manner proposed by the Commission;

ii) The Council, by a majority of five of its members, adopts provisions differing both from the Assembly's amendment and from the Commission's proposal.

The budget shall be deemed to be finally adopted as soon as the amendments to it have been approved in accordance with the provisions of the preceding sub-paragraph."

Article 3

(Entry into force) .....

Article 4

(Final provisions) .....

Commission proposals for Community action with regard to distortions of competition on the world shipbuilding market and Commission proposal for a Council directive instituting a Community arrangement on aids designed to offset distortions of competition on the world shipbuilding market

(submitted by the Commission to the Council on 13 April 1965)

Commission proposals for Community action with regard to distortions of competition on the world shipbuilding market

I. COMMUNITY ACTION: REASONS AND GENERAL PRINCIPLES

1. In recent years Community shipbuilding has had to face growing competition from non-member countries. Japanese shipbuilding has succeeded in increasing very considerably its share in the world market — and not only because of official support measures. Japan's share of new tonnage ordered rose from 36 % in 1962 to 44 % in 1964 (1); during this period the EEC's share was contracting appreciably (from 45 % in 1955 to 17 % in 1963 and 22.5 % in 1964) (1).

The Action Programme of the Community for the Second Stage, published in 1962, stated that "for shipbuilding... the Commission will, before the end of the second stage, draw up a common policy, embodying constructive solutions at Community level. The specific problems in these sectors will have to be considered against the background of a more comprehensive structure policy".

The Commission's work in this field was, however, postponed so that priority could be given to the work undertaken in the autumn of 1963 in OECD by the Working Party on Shipbuilding (WP 5 of the Industry Committee) in an endeavour to re-establish fair competition on the shipbuilding market.

Particular importance attached to these efforts since the main shipbuilding countries — including Japan — were represented in the Working Party. Unfortunately however it would seem, as things now stand, that it will be a long time before the work in OECD is brought to a successful conclusion.

Meanwhile the pressure of competition has grown more severe and Community shipowners are increasingly placing orders in Japan. The meagre results obtained by OECD and the growing difficulties of EEC shipyards in the face of competition from Japan demand Community action. On this, the Commission's view is fully endorsed by the government experts and employers' and workers' representatives consulted. A proposal has therefore been put to the Council that it should adopt a Community aid arrangement designed to remedy distortions of competition on the international market (Parts II and III of this memorandum).

2. The way the conditions of competition are developing on the world market makes immediate action by the Community necessary. But these problems are not the only ones with which the Community's shipbuilding industry has to cope.

i) At present rationalization in Community shipyards seems by and large to be lagging a little behind what is being achieved in the main competing shipyards in non-member countries. Community action might be contemplated in this field also, so that the competitiveness of the EEC shipyards should be made comparable with that of the Community's main rivals in this field;

ii) Some shipyards in the Community cannot compete at all and should be converted to other uses. Certain shipyards are concentrated in Community ports where no alternative work can be found without special intervention and the consequence is that the slump in this sector is engendering regional and social problems.

The Commission is, then, aware that an attempt to reduce distortions of competi-

(1) 1964 = first nine months only. Source: Cebosine.

tion on the world market cannot by itself provide a general solution to the problem of shipbuilding in the Community. The preliminary studies which must be carried out if the Commission is to be in a position to tackle these other problems properly are already in hand and will be pressed forward as rapidly as possible in close association with the appropriate authorities of the Member States. The Commission will in due course report to the Council of Ministers.

II. OUTLINES OF A COMMUNITY AID ARRANGEMENT TO SHIPBUILDING DESIGNED TO REMEDY DISTORTIONS OF COMPETITION ON THE WORLD MARKET

A. Working hypothesis

1. *Need for protection against foreign competition*

a) Despite their divergent views on the prospects for shipbuilding in the Community, all national delegations are agreed on the urgent need for joint action which would protect shipbuilding against competition by offsetting the effects of support measures granted in non-member countries. They believe such action vital to safeguard the industry in the Community until the conditions of competition on the world market are placed on a sounder footing. The pressure at present exerted on the industry in the Community by competition from certain non-member countries has been brought out very clearly in the report on "Shipbuilding in the EEC countries" drafted recently by the Commission's departments (Industry series, No. IV/1964). That the support granted by non-member countries is on a considerable scale is also evident from the results obtained in the OECD Working Party (WP 5 of the Industry Committee).

b) The market for the building of seagoing vessels is of its nature essentially a world market. It has therefore proved impossible to protect this industry from external competition by traditional customs weapons of duties and quota restrictions without seriously hampering the operations of Community shipowners. Only a special method, then, that of aids, can be used to protect this market.

2. *Elimination of intra-Community distortions of competition*

Given the need to comply with the Treaty and the principle that any joint solution adopted must be a Community one, the second working hypothesis must be the elimination of all distortions of competition within the Community. Any Community measures adopted should therefore avoid favouring certain shipyards rather than others, although this principle need not exclude degressive aids granted in connection with rationalization or reorganization schemes or aids intended to provide a solution to regional difficulties.

B. Assessment of competition from non-member countries

For more detailed information on the pressure of external competition on the Community industry, a Working Party of government and Commission experts has attempted to assess as accurately as possible the impact of the official support measures granted in non-member countries. This Working Party met on 18 September 1964 and its report was approved by all the national delegations at a meeting on 6 October 1964.

The Working Party considered that only Japanese aid needed to be examined, it being common knowledge that the conditions of competition on the world shipbuilding market are at the moment governed entirely by the Japanese shipyards. The Working Party carried out a systematic examination of the effects of the support measures in force in Japan; the assessment was made solely by comparing the effects with the general conditions of production in that country.

Of the various measures of government intervention in Japan, the Working Party selected two for study, ignoring the others, their impact on prices have been found negligible. The two measures selected — long-term credit for ships sold abroad, and the less important measures affecting the price of ship plate — have a pronounced impact on the export prices of ships.

The Working Party took the view that the impact of the support measures operating in Japan amounts, on a general average, to a little more than 10 % of the contract price of the ships sold abroad. It therefore feels that Community protection against support measures in force in non-member

countries should be fixed at something like 10 % of the contract prices.

The results obtained by this Working Party must not be regarded as an estimate of the disparities between the competitiveness of shipyards in non-member countries, notably in Japan, and that of shipyards in the Community. For such a comparison, differences in natural conditions of production would also have had to be taken into account.

C. The Community nature of aid arrangements

1. *General principles*

The principles on which any Community measures must be based are the following:

i) The measures must, by definition, be such that they can be given Community character, in other words it must be possible for them to be managed by a Community body or applied on comparable lines in each Member State. Only in this way can all danger of impairment of competition within the Community be forestalled;

ii) They must be clear and simple, and so avoid provoking groundless suspicions within the Community or outside;

iii) They must be flexible enough to be adapted to developments on the shipbuilding market.

2. *Community nature of the arrangement planned*

In the light of these three general principles the Commission, having consulted the various national delegations on several occasions, considers that a Community arrangement in the field of state aids to shipbuilding should take the following form:

a) The level of protection against competition from non-member countries should be the same throughout the Community. Any other solution would jeopardize the "Community" nature of the scheme;

b) The measures by which their common protection is provided must be similar or at least comparable in all Member States. Only the institution of common machinery can ensure that the scheme will be clear and simple and can therefore avoid any risk of mutual and unwarranted suspicion.

D. The solution recommended

1. *Level and duration of common protection*

a) The Commission believes that common protection of the Community industry against competition from non-member countries, and especially against the effects of the support measures currently applied in these countries, is in present circumstances fully justified. Given the support measures operating in Japan, such protection should be provided at the level of about 10 % of the contract prices of ships. Manifestly, the figure is not one that can be worked out with strict arithmetic accuracy, but it none the less provides a good basis for discussion;

b) The impact of support measures in Japan has been ascertained on the basis of the situation today. Accordingly the Community scheme will have to include provision for the level of protection to be reviewed if the conditions of competition from non-member countries should change appreciably.

In any case, the Community scheme as a whole should be reviewed at the end of the transitional period.

2. *Scope of the common protection*

The Commission sees little point in extending the benefit of such joint protection as may be granted to include types of shipbuilding not exposed to such severe competition from non-member countries — whether Japan or other — or to certain activities which, though related to shipbuilding, constitute a very different market. Accordingly it is proposed to the Council that it should restrict the scope of the measures to the construction of large seagoing merchant and fishing vessels. Without prejudice to other measures that might be adopted in their interest, the following sectors should therefore be excluded from the Community arrangement:

a) Construction of small seagoing vessels (under 3 000 GRT);

b) Construction of floating and other engineering equipment (floating docks, pontoons, dredgers, elevators, cranes, etc.);

c) Naval shipbuilding;

d) Ship repairs, except actual conversion work (e.g., where the work carried out represents 25 % or more of the market

value of ship and the ship itself is within the scope of the Community arrangement).

3. *Joint intervention machinery*

One possible line of Community action would be intervention in the field of credit. Facilities could be offered which would cover the various elements of financing, i.e. both credit proper and, as appropriate, credit insurance for transactions concerning new vessels. The credit arrangements should cover deliveries both at home and abroad, so as to avoid putting Community shipowners at a disadvantage. The Commission is, however, aware that the choice of procedures for operating such aid is liable to raise difficulties for certain Member States, especially where they are already aiding shipbuilding in other ways. Consequently it has preferred to postpone decisions on the detailed procedure for granting Community aid.

4. *"Transitional period"*

The institution of a Community aid arrangement to combat distortions of competition on the world market raises the problem of how the existing national aid systems in certain Member States should be adapted. These aids not only share with the new Community arrangement the objective of remedying certain distortions of competition on the world market but are also designed to enable shipbuilding rationalization programmes to be carried out and regional difficulties to be solved. In the near future aids for these two purposes should be clearly separated from aids intended to remedy distortions of competition on the international market, as they must operate on a different plane and with separate procedures. Consequently a transitional period is needed during which work to reorganize the structures of the industries concerned and re-establish them on a sound business footing can be pressed forward more rapidly and national aid systems can be progressively adjusted. This is why the latest date from which the Community arrangement is to be introduced in Member States has not been fixed before 1 January 1967 rather than earlier.

III. PROCEDURE

The EEC Treaty provisions on aids do not allow of the institution of a compulsory system of Community aids — applicable uniformly in all the countries — to remedy distortions of competition on the world shipbuilding market. Since, then, the EEC Treaty has not provided the requisite powers of action, the Commission proposes to the Council that it should adopt a directive on this matter under Article 235 of the Treaty.

IV. CONCLUSION

In view of the foregoing, the Commission propose to the Council that it should adopt, in accordance with the provisions of Article 235 of the EEC Treaty, the attached directive, the purpose of which is the institution of a Community system of aids to shipbuilding designed to remedy distortions in the conditions of competition on the world market.

Proposal for a Council directive instituting a Community arrangement on aids designed to offset distortions of competition on the world shipbuilding market

(submitted by the Commission to the Council)

The Council of the European Economic Community,

Having regard to the provisions of the Treaty establishing the European Economic Community and particularly Articles 92 to 94, 111 to 113 and 235 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Whereas shipbuilding in the Community has been exposed in recent years to increas-

ingly severe competition from non-member countries, and whereas consequently it has lost considerable ground to its rivals in the rest of the world;

Whereas distortions in the conditions of competition on the world market are one of the fundamental reasons for this;

Whereas the re-establishment of normal conditions of competition does not seem feasible in the near future;

Whereas, however, it is a matter of urgency that shipbuilding in the Community should be safeguarded pending a return to normal conditions of competition;

Whereas it is impossible to protect this industry from external competition by means of customs or trade protection measures, since it serves an essentially international market;

Whereas consequently common protection of this industry against distortions of competition on the world market can only be established in a special form, that of aids;

Whereas such common protection should be regarded as the first stage of a common shipbuilding policy;

Whereas the arrangement intended to remedy distortions of competition on the world market must be a Community arrangement;

Whereas such arrangement must be implemented by all Member States with equal vigour and using similar procedures, so as to avoid any distortion of competition within the Community;

Whereas the measures contemplated must apply not only to external but also to internal deliveries, so that Community shipowners shall not be placed at a disadvantage;

Whereas the provisions contemplated in the Community arrangement must bear a relation to the nature and scale of the distortions of competition on the world market which they are intended to offset;

Whereas, in this respect, the need for Community protection from distortions of competition on the world may at present be assessed at 10 % of the contract prices of new vessels; and whereas the scope of the new system must be confined to large seagoing merchant and fishing vessels;

Whereas it is desirable, given the differing systems operated at the present time in the Member States, to establish an appropriate procedure for fixing the detailed arrangements whereby these aids may be granted;

Whereas a simplified procedure is needed so that the provisions contemplated with regard to the level of aid and to its scope can be adapted to any changes in the conditions of competition on the world shipbuilding market;

Whereas it is appropriate to limit to 31 December 1969 at latest the application of the system in question, though this should not rule out an extension should distortions in the conditions of competition on the world market not be eliminated before that date;

Whereas, despite the urgent need to establish this Community system of aid, a certain lapse of time will be necessary, if only for the adjustment of existing national aid arrangements;

Whereas the provisions of the Treaty do not allow of the institution of a compulsory system of aids — applicable uniformly in all the countries — to remedy distortions of competition on the world shipbuilding market, and whereas, consequently, the Treaty has not provided the requisite powers of action;

Has adopted the present directive:

Article 1

To offset distortions of competition on the world market for new ships, a system of aids granted by the Member States from their own funds shall be instituted for Community shipbuilding. On any order covered by Article 2, the Member States shall grant an aid amounting to 10 % of the contract price.

Article 2

The aid system instituted by the present directive shall apply to orders for:

i) New seagoing merchant and fishing vessels of 3 000 GRT and over, built in a Community shipyard;

ii) The repair, alteration or conversion in a Community shipyard of seagoing merchant or fishing vessels of 3 000 GRT and over, provided that the value of the work involved represents not less than 25 % of the market value of the vessel concerned.

Article 3

The Council, acting by means of a qualified majority vote on a proposal from the Commission, shall establish, by means of a directive, detailed procedures for granting the aid provided for above; these procedures shall ensure that the incidence of the aid will be equal in each of the Member States and that it can easily be assessed.

Article 4

1. Each Member State concerned shall report to the Commission once a year, not later than three months after the end of the year, on the results of the implementation of the present provisions.

2. The Commission shall report to the Council once a year, not later than six months after the end of the year, on the results of the implementation of the present provisions.

3. Should a change in the conditions of competition on the world shipbuilding market so require, the Council, acting by means of a qualified majority vote on a proposal from the Commission, shall alter the level of aid fixed in Article 1 and the scope of this aid fixed in Article 2.

Article 5

1. The Member States shall put into effect any measures needed to ensure that the present aid system shall be operative at latest by 1 January 1967 and shall lapse on 31 December 1969.

2. At latest on the entry into force of the present arrangements, each Member State shall adjust its national aids to shipbuilding in such a way that, up to the level of aid referred to in Article 1, the aids concerned shall be granted under the present aid system and according to the detailed procedures to be established under Article 3. This provision shall apply notwithstanding the permanent review of the supplementary part of the existing aids and the possibility of instituting new aids compatible with the Common Market in accordance with Articles 92 and 93 of the Treaty.

3. The Member States shall inform the Commission — at latest three months before their entry into force — of all measures planned in implementation of paragraphs 1 and 2 of this Article; the Commission shall, without prejudice to the provisions of Article 93(3) of the Treaty, make any observations within two months following such communication.

Article 6

The present directive is addressed to all Member States

Proposal for a second Council directive for the harmonization among Member States of turnover tax legislation, concerning the form and the methods of application of the common system of taxation on value added

(submitted by the Commission to the Council on 14 April 1965)

Explanatory memorandum

I. Scope and purposes of the proposed Directive

On 5 November 1962 the Commission of the European Economic Community, acting in compliance with Article 99 of the Treaty of Rome, submitted to the Council a first proposal for a Directive concerning harmonization among Member States of turnover tax legislation. This proposal was subsequently slightly altered to take account of a number of amendments suggested by the European Parliament and by the Economic and Social Committee. The amended version of the proposal was submitted to

the Council on 12 June 1964. The proposal deals with the stages which will have to be traversed in this field of taxation with a view to safeguarding healthy competition and to creating a common market having the characteristics of a domestic market.

During the first stage, it is proposed to replace current systems by a common system of taxation on value added (TVA). Legislation to introduce taxation on value added shall be adopted by national Parliaments and promulgated before 31 December 1967, but its entry into force may be postponed until 31 December 1969.

During the second stage the ultimate aim of harmonization is to be achieved through the abolition of fiscal boundaries between Member States. To this end, the Commission is to submit to the Council, before the end of 1968, proposals indicating how and by what date these fiscal boundaries are to be abolished.

When the Commission submitted the amended version of its first proposed Directive to the Council, it simultaneously adopted and addressed to Member States an Opinion regarding the form of a common TVA system and the methods of its application. This Opinion was delivered with a view to acquainting Member States with at least the outlines of the form and the methods of application of the common TVA system, so that they should be able to decide in full knowledge of the proposed common system.

In accordance with Article 3 of the first Directive, the Commission now submits a proposal for a second Directive concerning the form and the methods of application of the common system of taxation on value added. This second Directive restates the Commission's afore-mentioned Opinion, with additions and occasional modifications on some points.

The introduction of a common TVA system has two objectives; first, it is to create, as far as possible, neutrality of tax effects on competition both nationally and at Community level, and secondly, it is to establish one of the preconditions for an abolition of fiscal boundaries. To facilitate this abolition of fiscal boundaries, the common methods of application have been worked out in the most detailed possible manner, so as to enable Member States to introduce all at once legislation so harmonized that the achievement of the ultimate aim should in principle require no subsequent major changes in the law, but merely certain adjustments concerning, in particular, tax rates and exemptions.

This Directive, then, proposes a harmonization of the law governing turnover taxes, which harmonization is deemed to further the interests of the Common Market in accordance with Article 99 of the Treaty. It provides for Community rules binding upon Member States only to the extent that these were found to be indispensable for the creation and proper functioning of the Common Market.

The provisions of this second Directive will be binding upon Member States as to the results to be achieved, in accordance with Article 189, paragraph 3, of the Treaty of Rome. It follows that the wording of the Directive need not necessarily be taken over textually into national legislation. Nevertheless, it would appear extremely useful to request Member States to follow the proposed wording as closely as possible in their legislation, for by this means subsequent difficulties of interpretation can largely be avoided and certain foundations would be laid for Community law in the matter of tax harmonization.

By virtus of the temporary subsistence of fiscal boundaries, this second Directive makes room for the maintenance of certain differences in the methods of taxing value added in Member States. Later, when drafting a third Directive, which is to enable fiscal boundaries to be abolished, it will be expedient to consider to what extent such differences in methods of application need to disappear compulsorily, or whether certain differences might, if need be, be allowed to continue.

Even now it can be stated with certainty that the provisions of the present Directive will have to be altered or supplemented with respect to the following points :

a) the scope of TVA will have to be extended to the whole of the Common Market (1); it follows that there will be neither taxation of imports (2) nor export exemptions (3) in trade among Member States;

b) tax rates (4) and exemptions (5) will have to be determined by common accord.

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(1) See Article 1

(2) See Article 1 in conjunction with Article 5

(3) See Article 8, paragraph 1 and 2

(4) See Article 9

(5) See Article 8, paragraph 3

Matters to be considered further from the point of view of more far-reaching or better harmonization within the framework of a third Directive include the following;

a) the right of Member States to limit the scope of TVA to the stages up to and including wholesale trade (1);

b) the extension of the list enumerating the services subject to common rules (2);

c) the determination of the place at which a service is deemed to be located (3);

d) the right of Member States to apply special arrangements to small firms (4).

II. The form and principles of a common system of taxation on value added

The common system of taxation on value added was conceived as entailing a general consumption tax designed ultimately to tax consumption expenditure, while avoiding any cumulative taxation and arriving, in principle, at the same economic effects as would follow from the application of a single-stage tax levied at the last stage within the scope of TVA.

To make clear the nature of this tax, the Commission already defined the concept of TVA in Article 2 of the proposal for the first Directive. From this definition it will be seen that, for technical reasons, the tax is levied at all economic stages within its scope by means of fractional payments, so that it falls at every stage on the value added at the same stage, according to the "tax-on-tax" deduction method. TVA, therefore, is to be passed on so that the charge falls ultimately upon the consumer, who is the sole person at whom this kind of taxation is directed. This deliberate and intended shift is facilitated by the fact that the tax can be calculated precisely and readily at each stage of production and distribution.

If such a TVA system is to be as undiluted and as neutral as possible in its effects on competition, it must necessarily tend towards general application. It should, in principle, encompass all economic activities (production, distribution including retail trade, and services) and it should, to the extent possible, do without exemptions. On the other hand, collection of this tax should be spread over all stages of the economic process.

By making the scope of the system so broad, the tax can be collected in the simplest possible manner and its general rate can be fixed at a lower level. In this conception it will indeed be found that the cases of mixed firms (firms partly liable to the tax and partly outside its scope, so that there is a problem of determining the deductions, which apply only to taxable activities — the so-called pro rata problem) are far fewer in number and no longer raise any difficult problems. If, however, TVA stops at the wholesale stage, various difficulties might arise, including in particular:

a) the necessity of drawing a line between deliveries effected by retail traders and by persons liable to the tax, which might create technical and juridical complications;

b) the existence of mixed firms, and hence pro rata problems;

c) a tendency to shift certain functions of wholesale trade, and hence the corresponding value added by wholesale trade, to the tax-exempt stage of retail trade, which would impair competitive neutrality to the detriment of wholesalers.

If the common TVA system is to have the same economic effects as a single-stage tax levied at the end of the chain of application, care must be taken lest the technical means of tax collection through fractional payments cause effects contrary to those intended. This is why the range of the system by which tax already charged at the preceding stage may be deducted, must be as wide as possible, barring, of course, the determination of certain limits to prevent possible abuse. To this end it was, on the other hand, provided that these deductions should in principle be made immediately and fully without any time lag, so as to avoid burdening the taxpayer with prepayment of the tax. For the same reason provision was made for the refund of any excess of the amount of deductions over the amount of TVA calculated on turnover. For administrative reasons, however, these refunds are in principle to be made only once, at the end of each calendar year.

Finally, cases subject to the "buffer rule" (*butoir*), which impede the normal application of the tax, were generally eliminated.

To sum up, the common system of taxation on value added, as now formulated, is as

(1) See Article 2 of the first Directive in conjunction with point 2 of Annex A at the end of the present Directive

(2) See Article 4, paragraph 2

(3) See Article 4, paragraph 3

(4) See Article 11

neutral as possible in its effects on competition and, by its broad scope, avoids a great number of technical difficulties.

III. Explanatory comments on certain provisions of the proposed TVA system

Article 1

The current legislative practice of making a distinction, in taxable acts, between delivery of goods, performance of services and import of goods, was found to be expedient also for purposes of the common TVA system.

While delivery of goods and performance of services are taxable only when effected by persons having the attributes specified in Article 2, imports are subject to the tax regardless of the attributes of the importer.

Since TVA is a consumption tax and is, therefore, chargeable only within the country, Article 1, paragraph 3, defines the territorial scope of TVA. This provision is relevant also to the application of the tax to imports (see Article 5) and to tax exemptions for exports (see Article 8, paragraphs 1 and 2). It follows that each Member State should so determine the area over which its own TVA is applied that this area coincides with the whole of the national territory. While this is the general rule, the escape clause provided for in Annex A, point 1, has the purpose of enabling Member States to maintain, subject to prior consultation, certain traditional arrangements, like those concerning free ports, bonded warehouses, certain parts of the country enjoying a privileged position by virtue of regional policies, etc.

The consultations required by Annex A, point 2, last paragraph, for the case that a Member State proposes to exclude the stage of retail trade from the scope of TVA, are particularly intended to verify that the determination of this stage remains within the desired limits.

Article 2

The law currently in force in certain Member States treats persons who are independent from a juridical point of view, but organically interlinked by economic, financial or organization ties, as one single taxpayer, so that transactions among these persons do not constitute tax acts. In this view, firms forming an *Organschaft* are, therefore, subject to the same fiscal conditions as an integrated firm which is one single juridical person.

It should be noted that in an undiluted application of the TVA system the aforementioned fiscal arrangement has no advantage, from the point of view of competition, over a fiscal arrangement under which members of an *Organschaft* are treated as separate taxpayers.

In these circumstances there would seem to be no major disadvantage in certain Member States continuing to consider an *Organschaft* as one single taxpayer, while others do not do so. Any Member State proposing to do so, however, should engage in prior consultations to examine whether the proposed arrangements do not cause disturbances in competition among Member States.

Article 3

— Paragraph 1

The concept of delivery of goods is so broad that it encompasses, among others, also the transfer of real estate and deliveries of second-hand goods. A Member State which, for special reasons, does not wish to tax these transactions, is free to exempt them in accordance with Article 8, paragraph 3, until the abolition of fiscal boundaries.

— Article 3, paragraph 2, *d)*

The interpretation given in point 6 of Annex A makes it clear that this provision is to be applied only in the case that a tax yield is expected in practice. This is not the case, for instance, of a taxpayer's use in his firm of a good serving as raw material or intermediate product for the manufacture of a taxed good. As regards the use of goods originally bought for the purposes of the firm and creating a claim for deduction, but subsequently diverted to other ends, such a transaction equally need not be taxed as a "delivery to self" because, in that case, it may prove more convenient to disallow the deduction or to rectify the assessment in case the deduction has already been allowed.

In these conditions each Member State can be guided by its own national customs and usages in determining the cases in which it wishes, in practice, to apply Article 3, paragraph 2,*d*, provided, of course, that the desired tax equality is actually safeguarded.

— Article 3, paragraph 2, *e)*

This provision implies that, whenever a sale or a purchase is effected through the intermediary of an agent or of some other middlemen acting in their own name or in the name of their firm, there are always two taxable deliveries, even if the good which is the object of the transactions is handed over directly by the first seller to the last buyer. In the case of a sale on commission, therefore, the principal effects a taxable delivery to the agent and the agent in his turn effects a taxable delivery to a third person (the buyer). In the case of a purchase on commission, the third person (the seller) effects a taxable delivery to the agent and the latter effects a taxable delivery to his principal.

When an intermediary does not act in his own name (e.g. a broker., he does not effect a delivery but performs a service taxable with respect to the amount of brokerage received.

— Article 3, paragraph 2, *f)*

This provision covers made-to-order work only in so far as it involves processing, transformation or some other production process applied to a movable good. Other work, such as, for instance, simple repairs, cleaning, etc., constitutes not a delivery but a service.

— Article 3, paragraph 3

The concept of location of delivery defined in this paragraph in no way prejudges the determination of the operative fact as under Article 3, paragraph 4, not that of the composition of the tax base as under Article 6.

Article 4

— Paragraph 2

While the tax is, in principle, to be generally applied to all services, harmonization with respect to services of only local significance does not appear indispensable, since differential fiscal practices in this field are not apt to cause disturbances in the conditions of competition among Member States. It was therefore felt to be expedient to leave it to Member States themselves to determine the arrangements they wish to apply to this rather large category of services.

By contrast, the rules of this Directive are applicable to the services enumerated in the list of Annex B, which concerns mainly services the cost of which has a direct or indirect, and marked, bearing on the price of goods.

This list was drawn up in a fairly restrictive manner. It is, in fact, not necessary to be too strict during the period when fiscal boundaries between Member States still subsist. When it comes to working out proposals for the abolition of these boundaries, there will be occasion to review the list in the light of intervening experience.

The application of the Community system to these services implies that they are to be taxed at the standard rate, according to Article 7, paragraph 1. But this principle does not preclude that each Member State may, for special reasons, apply reduced rates to some of these services (see Article 7, paragraph 2). Given the importance of limiting, or indeed completely avoiding exemptions in a system of taxation on value added, it is highly desirable that Member States should, in principle, not exempt any of the services enumerated in Annex B (see Annex A, point 10).

It would have been possible, even now, to include in the list of services in Annex B insurance and the leasing of real estate. These two categories of services were held in abeyance for the following reasons. As regards insurance, it was thought expedient to wait the results of investigations now in hand with a view to the harmonization of the relevant specific taxes and stamp duties. As regards the leasing of real estate, the Community fiscal treatment of these services will depend upon the Community tax system to be worked out later for the transfer of real estate and delivery of second-hand goods. As stated earlier (Article 3), the relevant system will in the meantime be dependent upon decisions to be taken by each Member State during the transition period.

— Article 4, paragraph 3

By virtue of Article 1, paragraph 2, services are subject to TVA only if they are performed within the country. To enable this rule to be applied, it is indispensable to establish a clear definition of the location of a service.

It should be recalled that the definition to be adopted for purposes of this Directive is due to be applied during a period when Member States are still divided by fiscal

boundaries. This circumstance implies certain particular requirements which will lose their importance as soon as fiscal boundaries disappear. The proposed definition is therefore susceptible of revision or indeed simplification on the occasion of the formulation of the third Directive.

In the proposed definition, the following principles were kept in mind to the extent possible :

1. to avoid cases of double taxation or non-taxation;

2. to safeguard neutrality of tax effects on competition;

3. to keep intact the character of TVA as a tax on consumption;

4. to make the definition applicable in practice without coming up against unsurmountable technical difficulties.

The principles mentioned under 1 and 2 are of quite particular importance for the free movement of services among Member States. Any solution which would result in a service rendered to a taxpayer in one Member State being subject to TVA in another Member State, would lead to double taxation since, at least so long as the fiscal boundaries subsist, the beneficiary of the service would have no possibility of claiming deduction for TVA paid in the other Member State.

This is why Article 4, paragraph 3, lays down that a service shall, in principle, be deemed to be located at the place where the service rendered is used or exploited.

However, to obviate the danger that a service used in a country other than that of the performer of the service goes untaxed, and to ensure compliance with the rule as laid down, provision is made in Annex A, point 11, that the performer of a service may be made subject to TVA in his own country whenever he cannot prove that TVA due in his client's Member State has already been paid. Furthermore, the last paragraph of point 11 indicates yet other possible means of making sure that the tax is paid in the country to which it is due.

In addition, point 11 of Annex A contains other provisions :

a) first, a provision that it is up to the performer of a service to furnish proof that the tax is not due in his country of residence;

b) secondly, provisions giving rules of interpretation with respect to repairs and other material work done to a good, on the one hand, and on the other hand with respect to transport services, for in these fields problems do arise which might be settled in different ways;

c) lastly, the deviating provisions with respect to the services of brokers, etc., and to publicity services in intra-Community relations are justified for the following reasons :

As regards brokers, etc., it is especially hard to lay down a uniform rule to locate their services at the place of use or exploitation, given the great diversity of the service rendered by these persons. With a view mainly to easy tax collection, it seemed expedient to deem these services to be located at the place of the establishment where they are wholly or substantially performed. In so far as a service may be considered to be used or exploited elsewhere than in the country where the service is performed, that country has the possibility of granting an exemption by virtue of Article 8, paragraph 3 or paragraph 4, subject, if need be, to taking measures to avoid non-taxation in intra-Community relations.

As regards publicity services on the intra-Community level, the rule that the service is to be taxed in the country of the establishment on whose account the service was ordered is based primarily on the consideration that under this arrangement it will be possible to deduct the tax imposed upon expenditures of this kind, which are sometimes very considerable. This arrangement, for the rest, often coincides with the application of the normal rule. When a publicity service is performed on account of an establishment situated in a non-member country, Member States may obviously provide for exemption by virtue of Article 8, paragraph 1.

Article 7

Until the abolition of fiscal boundaries Member States need not harmonize tax rates and exemptions. Nevertheless it was held necessary to lay down now certain rules for the determination of tax rates, so as to avoid technical complications and to prepare the situation following upon the abolition of fiscal boundaries.

To this end paragraph 1 provides for a uniform standard rate for deliveries and services. It should be noted that the term "standard rate" in itself implies that the

application of reduced or increased rates to certain transactions according to paragraph 2 is not precluded.

As regards reduced rates, paragraph 2 provides that these should be so fixed that the tax levied earlier can normally be absorbed in the mechanism of deductions. This provision is to be taken as a general guiding line, and is justified by the need to forestall cases where permanent claims for refunds threaten to become the normal rule. This provision is correlated with the provisions of Article 9, paragraph 2.

Article 8

— Paragraph 1

It follows from Article 1, paragraph 2 and from Article 3, paragraph 3, that deliveries of goods abroad are taxable transactions, but the principle of taxation in the country of destination requires their exemption.

— Article 8, paragraph 2

This provision was made facultative because Member States may in certain cases prefer to give tax relief from TVA by allowing deduction of TVA levied on the services concerned.

— Article 8, paragraph 3

Although each Member State is free, until the abolition of fiscal boundaries, to grant exemptions beyond those provided for in paragraphs 1 and 2, it bears repetition that it is highly desirable to limit the number of exemptions to the minimum possible. The procedure of prior consultations regarding this matter is in particular intended to avoid, as far as possible, any considerable divergences in the field of exemptions and to try now to facilitate alignment later.

Article 9

— Paragraph 1

The principle of TVA is to avoid cumulative taxation and thereby to achieve the greatest possible neutrality of tax effects on competition. This is why the range of the system by which tax already charged at the preceding stage may be deducted must be as wide as possible, barring certain limits to be determined to prevent possible abuse (see below, paragraph 4).

— Article 9, paragraph 2

This paragraph provides that the tax levied at the preceding stage shall not be deductible in the case of non-taxable transactions, that is transactions not within the scope of the tax, or of exempted transactions, that is, transactions within the scope of the tax but exempted for special reasons.

This system is proposed because in the view of the great majority of governments the application of deductions to non-taxable or exempted transactions would lead to many administrative complications. If this system were not applied the result would indeed be that certain taxpayers whose business consists exclusively or mainly of non-taxable or exempted transactions would forever be creditors of the tax administration, which would have to set up special departments to settle reimbursement claims after verification. On the other hand it was argued that this would constitute an inducement for all the economic sectors concerned to ask for exemption with possibility of deduction, so that the whole principle of a tax intended to fall quite generally on consumption expenditures might be compromised more and more. Finally, this would make it necessary to raise the general tax rate.

But there is no reason to disallow deduction or refund of the tax levied earlier, whenever the delivery of a good or the performance of a service is not taxable or is exempted by virtue of the "export rule", for in that case the intention is precisely to provide complete tax relief. Nevertheless it was thought desirable to limit deductions even in cases of this kind only to transactions which would be taxed if effected within the country.

The exclusion of deductions for exempted or non-taxable transactions results in the application of the so-called pro rata rule in the case of firms which effect both transactions creating a claim for deductions and transactions creating no such claim, and this complicates the tax system.

The rules provided for in this paragraph entail, in addition, the following disadvantages :

a) the exempted or non-taxable goods and services bear a hidden tax burden. This "residual tax" cannot be deducted at a later stage. The result is cumulative taxation and, consequently, a higher tax burden than would exist if the delivery or service of the preceding stage had been taxed;

b) when goods exempted or not taxable within the country are imported, there is no possibility of compensation for this residual tax; the same disadvantage arises with respect to the export of goods made of exempted or non-taxable materials.

It should be stressed here again that, above all with a view to avoiding these disadvantages, it is highly desirable to limit the number of exemptions to the minimum possible (see Article 8, paragraph 3 above).

— Article 9, paragraph 3

This paragraph provides that deductions shall be imputed to TVA due for the period in the course of which the invoice for goods delivered or services rendered is received. Consequently, the deduction is in principle made immediately, without any time lag, so as to avoid burdening the taxpayer with prepayment of the tax.

The method of immediate deduction was also adopted with respect to the acquisiion of capital goods. On careful consideration this solution seemed preferable to another possible method, namely, the method of pro rata temporis deductions. This latter method provides for deductions with respect to capital goods as and when their value enters into the price of the product through depreciation allowances.

The system of immediate deductions is simpler in application than that of pro rata temporis deductions, which latter makes it necessary to follow the use of the goods throughout the depreciation period. Furthermore, the former system makes it possible to stray no further than necessary from the effects of a single-stage tax levied at the end of the chain of application, which differs from TVA only by the absence of fractional payments. In this way taxpayers need not bear the financial burden of prepayment with respect to the tax levied on investments, which tax they could not as yet deduct under the pro rata temporis system. It should also be noted that at a time of generally rising prices entrepreneurs would, in the case of fairly long depreciation periods, get deductions the real value of which would often have shrunk considerably.

But it must be admitted that these definite advantages are accompanied by a few disadvantages. By stimulating investment, immediate deductions reinforce a cyclical upswing, and this might occasionally not fit in with countercyclical policy. When current systems come to be replaced by a TVA system, immediate deductions lower the expected tax yield and for this reason necessitate a higher tax rate than would be required to achieve the same revenue by the pro rata temporis method.

A major financial problem of transition exists, finally, for Member States which now levy cumulative multi-stage taxes on existing capital goods which are not as yet amortized and bear a cumulative tax of often unknown amount.

To enable the Member States concerned to mitigate these difficulties, they are left free to allow deductions for capital goods according to the pro rata temporis method during a certain transitional period, which should be as short as possible (see Annex A, point 21).

Within the system of immediate deductions for capital goods, it was thought expedient to fix a five-year period for rectification of the initial deduction, in the case of variations in the turnover proportions for mixed transactions as under paragraph 2, second para above (see Article 9, paragraph 3, last sentence). The application of these technical provisions may to a large extent be limited by the establishment of certain tolerances, for example by forgoing rectification in the case of minor variations in turnover proportions (See Annex A, point 22). Rectifications are, of course, completely eliminated when the TVA system admits of no exempt or non-taxable transactions.

— Article 9, paragraph 4

In a TVA system, the range of deductions should be as wide as possible. On this principle, deductions should be excluded only if they refer to goods and services which can be used for personal and private purposes instead of for purposes of production and trade, such as, for example, luxury carpets, certain vehicles, certain expenditures like entertainment and travel expenditures.

— Article 9, paragraph 5

Whenever in any given period of declaration the amount of deductions exceeds the amount of TVA calculated on turnover, the excess is, according to this provision, to be refunded at the end of the calendar year. However, in export business the refund may be made before the end of the year (see Annex A, point 23).

At first it was thought feasible to adopt for the Community a system which avoided refunds by causing the amount of deductible tax paid on purchase to disappear in no other way than through offsetting it against the tax payable on sale. It would seem that such a system would have made it possible somewhat to mitigate the financial and cyclical consequences of investments which might be induced by immediate deductions.

After careful examination of this question, however, it was found that such a system would be rather uncongenial from the point of view of certain economic requirements. It would penalize firms newly set up and for this reason entitled to an amount of deductible TVA with respect to their investments, for this amount could sometimes not be offset until long after the foundation of the firm, thus leaving the latter to bear considerable financial costs. Furthermore, such a system might encourage the creation or development of certain sectors of existing large firms, which could offset the tax levied on their new investment against their general turnover, to the detriment of such small and medium-sized firms as anyone might wish to establish and which would not have the same possibility of recovering at once any TVA levied on new investments.

Article 10

— Paragraph 3

The system described in this paragraph in effect amounts to the periodical aggregation of purchases on the one hand and of sales on the other. It is on the basis of these aggregate figures that the amount of TVA to be paid by the taxpayer is calculated. This aggregation facilitates the application and control of the tax both for the taxpayers and for the tax administration.

The concessions provided for in the second sentence of this paragraph with respect to the timing of the periodical declaration are intended merely for purposes of administrative simplification and are not meant to confer any fiscal privilege.

Article 11

According to general belief the full application of the TVA system proposed in this Directive to small firms may encounter difficulties especially of a technical nature. This is why provision is here made for the possibility of relaxing the rules of application with respect to this category, or indeed to exclude the smallest-scale firms from the scope of TVA.

Given that, on the one hand, the situation of such firms varies greatly from country to country, and that, on the other hand, they have very different capacities of adaptation, it seems neither necessary nor expedient to adopt a common system in this matter. For this reason it was provided that every government should apply to these firms the tax system most suitable in the light of national requirements and possibilities, subject to prior consultation in accordance with Article 13.

Article 12

— Paragraph 1

In a system of taxation on value added and in agreement with the interests of farmers themselves, it would without doubt be better to apply normal taxation to their transactions as well and to do without special arrangements to the extent possible.

However, all Member States currently apply widely different special arrangements, partly because, in the absence of adequate accounts, farmers cannot in practice be made subject to the tax, and partly because of an unwillingness, for reasons of social policy, to apply the standard rate of turnover tax to their products.

As regards the first consideration, it seems unjustifiable that the introduction of as unadulterated and neutral a TVA system as possible should be impeded in the long run for the sole reason that one sector of major importance in the economy is unable to keep adequate accounts — which, incidentally, may be quite simple. The progressive introduction of regular bookkeeping in agriculture is in any event very desirable in the interests of farmers themselves and of the Common Market, not only for fiscal reasons but for others too.

This is why it is proposed as a general rule for the Community system to tax the activities of farmers.

As regards the tax burden on the agricultural products to be determined by common agreement, the TVA system allows of the application of reduced rates calculated according to the rule laid down in Article 7, paragraph 2.

The adoption of reduced rates can serve two ends at the same time, namely :

a) a purpose of social policy, in so far as agricultural products, as products of prime necessity, will be taxed but lightly, and

b) an aspiration of agricultural policy, in so far as reduced rates could actually be so fixed that the tax generally does not exceed the burden of taxes now paid by farmers on their purchases. Thus the total tax burden on agriculture would not increase.

— Article 12, paragraph 2

With the introduction of common price systems on 1 July 1967, a Common Market will be created for the majority of agricultural products. To prevent the introduction of the common TVA system from causing distortions of competition, common rules need to be established for the list of agricultural products as well as for the rates which Member States apply within the common TVA system until the abolition of fiscal boundaries.

Furthermore, care must be taken lest the application of TVA according to the proposed system disturb the functioning of the common organization of agricultural markets and, in particular, of the price systems involved therein. For this reason, it may become necessary to adopt special arrangements to take account of these requirements of the common agricultural policy.

To avoid the difficulties which the immediate application of the provisions of paragraph 1 might entail, transitional arrangements may be introduced until the abolition of fiscal boundaries.

For the afore-mentioned reasons the Commission is directed to submit relevant proposals to the Council not later than 1 April 1966.

in re Article 13

The prior consultations with which this provision is concerned, are required in the following cases :

a) deviation from the rule of Article 1, paragraph 3, concerning the territorial scope (Annex A, point 1);

b) application of the so-called *Organschaft* system (Annex A, point 2);

c) delimitation of the stage of retail trade, if this stage is excluded from the scope of TVA (Annex A, point 2);

d) application of certain customs rules to the collection of TVA on imports (Annex A, point 12);

e) exemptions (Article 8, paragraph 3);

f) adoption of special arrangement for small firms (Article 11).

Proposal for a second directive for the harmonization among Member States of turnover tax legislation, concerning the form and the methods of application of the common system of taxation on value added

(submitted by the Commission to the Council)

The Council of the European Economic Community

Having regard to the provisions of the Treaty setting up the European Economic Community and in particular to those of Articles 99 and 100 thereof;

Having regard to the provisions of the first Directive for the harmonization among Member States of turnover tax legislation adopted by the Council on ....., and in particular those of Articles 1, 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;

Whereas the replacement of turnover taxes now current in Member States by a common system of taxation on value added is intended in particular to achieve two main purposes, namely, first, neutrality of tax effects on competition both nationally and on the Community level, and secondly, the establishment, during a first stage, of one of the preconditions for the abolition of taxation on imports and exemption for exports in trade among Member States —

hereafter called "abolition of fiscal boundaries" — which is envisaged as the ultimate aim of turnover tax harmonization;

Whereas the common system of taxation on value added is initially to be applied during a period when fiscal boundaries still subsist and it is, in these circumstances, possible to concede to Member States far-reaching discretion in the determination of tax rates or differential tax rates;

Whereas the temporary subsistence of fiscal boundaries does not, as such, preclude the continued existence, for the time being, of certain differences in the methods of taxing value added in Member States, but whereas it is nevertheless highly desirable to limit these differences to the extent possible, lest the achievement of the ultimate aim require further major changes in national legislation;

Whereas it was found necessary to make provision for the possibility of deviating from the common methods of application in certain special cases where the introduction of the new system raises particularly serious difficulties in certain Member States;

Whereas this right of deviation must, however, obviously not lead to regulations which might entail disturbances in the conditions of competition among Member States and divergent regulations must not, on the other hand, be allowed to compromise the achievement of the ultimate aim, whence it is necessary to provide for prior consultation between the Commission and Member States in certain cases, so as to forestall the afore-mentioned consequences;

Whereas the common system of taxation on value added, to be as unadulterated and as neutral as possible and to achieve maximum simplicity, must have the broadest possible scope, which means that an attempt must be made to achieve complete generalization of the tax, this being in any case implicit in the very nature of the tax conceived as a general consumption tax on goods and services;

Whereas in this view it is highly expedient to encompass within the scope of the tax all economic activities in the field of services no less than in the fields of production and distribution and thus to extend the levy of the tax as far as the stage preceding end-use;

Whereas, to make the system simple and neutral in application and to keep the general tax rate within reasonable limits, it is therefore necessary to oppose in principle any claims for preferential and exceptional treatment in any particular field;

Whereas the system of taxation on value added certainly leaves room for a differentiation of tax rates by which the tax burden on certain goods and services may, in case of need, be diminished or increased for social or economic reasons, but whereas the system does not readily lend itself to the introduction of zero rates, so that it is highly desirable strictly to limit cases of exemption and to afford such relief as is deemed necessary by reducing of the tax rates to the minimum that still allows of the normal deduction of the tax paid at the preceding stage, the result, for the rest, being generally the same as that now achieved by exemptions in cumulative multi-stage systems;

Whereas it was found feasible to leave Member States free to determine their own system of taxation for the large category of services having no bearing on the price of goods as well as their own arrangements for taxing small firms, subject, in this latter case, to prior consultations;

Whereas it was found necessary to make special provisions with respect to taxation on value added in agriculture, such that they shall not disturb the common market for the majority of agricultural products which is to be created on 1 July 1967 with the introduction of common prices, and whereas, therefore, the Commission is directed to submit relevant proposals to the Council forthwith;

Whereas there is need for a fairly large number of detailed provisions dealing with interpretation, exceptions and certain details of application, and for a list of services subject to the Community system, which provisions and list are contained, respectively, in Annex A and Annex B;

Has adopted the present directive :

Article 1

1. Member States shall levy a turnover tax, to be termed "tax on value added" or "TVA" in this directive.

2. Tax on value added shall be charged on

a) the delivery of goods and the performance of services effected by a taxpayer

against remuneration and within the country,

b) the import of goods.

3. The term "within the country" shall be understood to mean the territory in which the Member State concerned applies TVA and which, in principle, should encompass the whole of the national territory (1).

Article 2

The term "taxpayer" within the meaning of Article 1, paragraph 2,a, shall be understood to mean anyone who on his own account carries out an activity of production, trade or performance of services, whether he does so regularly or occasionally, with or without intent to earn a profit (2).

Article 3

1. The term "delivery of goods" shall be understood to mean the transfer of the title to dispose of any tangible good as owner (3).

2. The following shall be deemed taxable deliveries :

a) the actual handing over of a good by virtue of a hire-purchase contract (4);

b) the conveyance of title to property against payment of a compensation, by virtue of official requisition;

c) a taxpayer's withdrawal of a good from his firm for private use, or for use as a gift (5);

d) in certain cases, a taxpayer's use, for purposes of his firm, of a good produced or extracted by himself or on his account by a third person (6);

e) the transfer of a good by virtue of a contract for purchase or sale on commission;

f) the consignment of made-to-order work, that is, the contractor's delivery to his client of a movable good which the contractor has manufactured from materials furnished to him by the client to this end, regardless of whether the contractor has, or has not, furnished some part of these materials (7);

g) the consignment of construction work including work to incorporate a movable into an immovable good (7);

3. Regardless of legal or contractual provisions, a delivery shall be deemed to be located :

a) in case the good is despatched or transported by the supplier, the buyer or a third person, at the place where the good is located at the moment when its despatch or transport to the buyer begins;

b) in case the good is not despatched or transported, at the place where the good is located at the moment of transfer of the title to dispose of the good as owner.

4. The operative fact, that is, the creation of the tax liability, takes place at the moment of delivery. In case of a delivery involving advance payments, the operative fact exists already at the moment of invoicing or, at the latest, at the moment of cash receipt, with reference to the amount of this invoice or this receipt (8).

Article 4

1. The term "service" shall be understood to mean any transaction other than a delivery of goods in the meaning of Article 3 (9).

2. The provisions of this Directive regarding the taxation of services shall apply only to the services enumerated in Annex B (10).

3. A service shall in principle be deemed to be located at the place where the service rendered, the right assigned or granted, or the good leased is to be used or exploited (11).

4. The operative fact, that is, the creation of the tax liability, takes place at the moment of the performance of the service. In case of services of indeterminate duration, or of those lasting longer than a certain period or involving advance payments, the operative fact exists already at the moment of invoicing or, at the latest, at the moment of cash receipt, with reference to the amount of this invoice or this receipt.

Article 5

1. The term "import" shall be understood to mean the introduction of a good into

(1) See Annex A, point 1.
(2) See Annex A, point 2.
(3) See Annex A, point 3.
(4) See Annex A, point 4.
(5) See Annex A, point 5.
(6) See Annex A, point 6.
(7) See Annex A, point 7.
(8) See Annex A, point 8.
(9) See Annex A, point 9.
(10) See Annex A, point 10.
(11) See Annex A, point 11.

the territory in which the Member State concerned applies TVA.

2. As regards imports, the operative fact is the introduction of the good into the territory in which the Member State concerned applies TVA. This provision does not, however, preclude the operative fact and/or the due date ot TVA being linked with the operative fact and/or the due date ot customs duties and, as the case may be, of other taxes, dues and levies to which the imported good is subject [12].

Article 6

The tax base shall be as follows [13]:

a) for deliveries and services, everything which constitutes the counterpart for the delivery of the good or for the service, including all expenses and taxes, except TVA itself [14];

b) for the transactions mentioned in Article 3, paragraph 2, *c* and *d*, the purchase price of the goods or similar goods, or, failing a purchase price, their cost of production;

c) for the import of goods, their customs value as assessed for purposes of the application of ad valorem duties, plus all duties, taxes, dues and other levies payable on the import, except TVA itself. The same tax base shall be applicable when the good is free of customs duties or is not subject to ad valorem duties [15].

Article 7

1. The standard rate of TVA shall be fixed by each Member State as a percentage of the tax base, which percentage shall be the same for delivery of goods and performance of services.

2. Certain transactions may, however, be made subject to increased or reduced rates. Every reduced rate shall be so calculated that the amount of TVA due by virtue of the application of this rate normally allows of deduction of the whole TVA levied at the preceding stage [16].

3. The rate applied to imports of a good shall be the same as the rate applied within the country to deliveries of a like good.

Article 8

1. Exemption from TVA shall be granted, in conditions to be determined by each Member State, for deliveries of goods despatched or transported outside the territory within which the Member State concerned applies TVA [17].

2. Exemption from TVA may be granted, in conditions to be determined by each Member State, for services in connection with taxable goods despatched or transported outside the territory within which the Member State concerned applies TVA.

3. Each Member State may, subject to consultations as under Article 13, grant such other exemptions as it deems necessary [18].

Article 9

1. A taxpayer shall be entitled to deduct from TVA calculated on his turnover:

a) the amount of TVA for which he is charged with respect to goods delivered to him and services rendered to him [19],

b) TVA paid for imported goods,

to the extent to which the goods and services referred to under *a)* and *b)* are used for the purposes of his firm;

c) TVA which he has paid with respect to withdrawals as under Article 3, paragraph 2, *d*.

2. TVA levied on goods and services used for non-taxable or exempted transactions shall not be deductible. Deduction is allowable, however, with respect to deliveries of goods and to services which would be taxable within the country but are not taxable because effected abroad, or which are exempted by virtue of Article 8, paragraphs 1 and 2.

As regards goods and services used both in transactions creating a claim for deduction and in transactions creating no claim for deduction, deduction shall be allowable only with respect to that proportion of TVA which corresponds to the value of the first-named transactions (pro rata rule) [20].

3. TVA levied on the acquisition of goods and services shall be deductible from TVA due for the period in the course

(12) See Annex A, point 12.
(13) See Annex A, point 13.
(14) See Annex A, point 14.
(15) See Annex A, point 15.
(16) See Annex A, point 16.
(17) See Annex A, point 17.
(18) See Annex A, point 18.
(19) See Annex A, point 19.
(20) See Annex A, point 20.

of which the invoice for these goods and services is received (immediate deduction) [21].

In the case of partial deduction in accordance with paragraph 2, the amount to be deducted shall be provisionally determined on the basis of the general pro rata applicable to the preceding year and shall be adjusted at the end of the year, once the pro rata proportion for the year of acquisition has been calculated. With respect to capital goods, the adjustment shall be spread over a five-year period, including the year in which the goods were acquired, and shall relate each year to only one fifth of the tax levied on the capital goods concerned [22].

4. Certain goods and certain services may be excluded from the system of deduction, and especially such goods and services as are apt to be used exclusively or partially for the private purposes of the taxpayer or his staff.

5. Whenever in any one monthly, quarterly or half-yearly period of declaration the amount of deductions exceeds the amount of TVA calculated on turnover, the excess shall be carried forward to the following period. At the end of the calendar year any such excess then outstanding shall be refunded [23].

Article 10

1. Every taxpayer shall keep accounts in sufficient detail to allow of the application of TVA and of inspection by the tax administration.

2. Every taxpayer shall make out an invoice for deliveries of goods, as well as for services, to another taxpayer [24].

This invoice shall contain the following details [25]:

a) the personal name, or the name of the firm, and the address of the supplier and the client;

b) the nature, quantity and customary commercial designation of the goods delivered or of the services rendered;

c) the date of the invoice as well as that of the delivery or the service, or, as the case may be, the period over which the delivery or service is spread;

d) the net price and the tax corresponding to each relevant tax rate, as well as exemptions, if any [26].

3. Every taxpayer shall every month file a declaration containing, for the transactions of the preceding month, all the information necessary for the calculation of the tax and the deductions to be made. However, each Member State is free to authorize certain taxpayers for practical reasons to file their declarations quarterly, half-yearly or yearly. During the first six months of each year every taxpayer shall, if need be, make a declaration concerning the preceding year's transactions for purposes of the calculation of such rectification as may be necessary.

4. When filing his monthly, quarterly, half-yearly or yearly declaration, every taxpayer shall pay the corresponding amount of TVA to the tax collector.

5. Rules for declarations and payments of TVA with respect to imports shall be established by each Member State.

Article 11

Each Member State is free, subject to consultation in accordance with Article 13, to apply to small firms, with respect to which the application of the normal TVA system would encounter difficulties, such particular arrangements as may be most suitable in the light of national requirements and possibilities [27].

Article 12

1. The agricultural products to be enumerated in a common list shall be taxed at a reduced rate or possibly at differential reduced rates, in accordance with Article 7, paragraph 2.

2. The Commission shall submit to the Council, not later than 1 April 1966, proposals concerning:

a) the common list of agricultural products and the reduced rates applicable to these products;

[21] See Annex A, point 21.
[22] See Annex A, point 22.
[23] See Annex A, point 23.
[24] See Annex A, point 24.
[25] See Annex A, point 25.
[26] See Annex A, point 26.
[27] See Annex A, point 27.

b) methods of applying taxation on value added such that they do not impair the functioning of the common organization of agricultural markets nor, in particular, of the price systems involved therein;

c) transitional measures which Member States may apply until the abolition of fiscal boundaries.

The Council shall take its decision prior to 1 January 1967.

Article 13

1. In cases when a Member State is to engage in consultations in accordance with the provisions of this Directive itself or of Annex A thereto, the Member State shall refer the matter to the Commission in good time to enable it to examine in advance, together with the Member States, whether the measures proposed by the Member State concerned are not such as to distort the conditions of competition among Member States and to render subsequent harmonization more difficult.

2. After consultation with the Member States, the Commission shall address to the Member State concerned an appropriate recommendation, if any.

3. If the Member States does not comply with the recommendation addressed to it, the Council shall, by qualified majority and upon a proposal of the Commission, adopt such measures as may be necessary to obtain the objectives named in paragraph 1 of this Article, without prejudice to the procedures provided for in the Treaty.

Article 14

The provisions contained in the Annexes are integral parts of the present Directive.

Article 15

The present Directive is addressed to all Member States.

ANNEX A

Detailed Provisions

1. (referring to Article 1, paragraph 3)

If a Member State intends to apply TVA in an area not fully coinciding with the national territory, this Member State shall engage in consultations in accordance with Article 13.

2. (referring to Article 2)

The term "activity of production, trade or performance of services" shall be understood in the broad sense as encompassing all possible economic activities, including, therefore, those of mining and quarrying, agriculture, and the liberal professions.

Should a Member State propose, in the framework of this Directive, not to tax certain activities, it will be better to provide for exemptions rather than to exclude the persons exercising these activities from the scope of the tax.

Member States have full discretion in interpreting the words "carries out an activity of... occasionally".

The expression "On his own account" is intended particularly to preclude taxation of wage and salary earners bound to their employer by a labour contract, including persons working in their own home. This wording also leaves each Member State free to treat persons who are independent from a juridical point of view but interlinked by economic, financial or organizational ties not as separate taxpayers, but as one single taxpayer. However, a Member State proposing to adopt such treatment, shall engage in consultations as under Article 13.

The state, provinces, municipalities and other bodies in public law are in principle not to be regarded as liable to the tax, to the extent that they exercise activities deriving from their functions as public authorities. However, should these bodies exercise activities of an industrial or commercial nature such as could be exercised by private enterprise, then they are liable to the tax with respect to these activities.

Should a Member State propose, under Article 2, paragraph 3 of the Directive of...,

to limit the scope of TVA to the stage up to and including wholesale trade, this State should engage in consultations as under Article 13 with respect to the rules of delimitation which are to be introduced in national legislation in this connection.

3. (referring to Article 3, paragraph 1)

The term "tangible goods" shall be understood to encompass both movable and immovable tangible goods.

Deliveries of electricity, gas, heat, cold and similar goods which are regarded as tangible goods in the economy, are to be treated as deliveries of goods.

4. (referring to Article 3, paragraph 2, a)

The term "hire-purchase" shall be understood to mean a contract providing for rent of a good during a certain time, and containing a clause to the effect that ownership of the good is to be acquired on payment of the last instalment due. However, for fiscal purposes this contract shall not be considered as being partly a letting and partly a sales contract, but shall, from the moment of its conclusion, be regarded as a sale involving taxable delivery.

5. (referring to Article 3, paragraph 2, c)

As regards the withdrawal of a good purchased by a taxpayer, Member States are free not to apply the tax but instead to disallow the deduction or to rectify the assessment in case the deduction has already been allowed. Withdrawals for publicity gifts of small value and for samples, which may be imputed to overhead costs for fiscal purposes, should not be treated as taxable deliveries. Furthermore, the provisions of Article 9, paragraph 2, shall not be applicable to such withdrawals.

6. (referring to Article 3, paragraph 2, d)

This provision is to be applied only in order to establish tax equality, on the one hand, for goods purchased and intended for the purposes of the firm and creating no claim for immediate and full deduction, and on the other hand, for goods manufactured or extracted by the firm itself or on its account by a third person and also used for the same purposes.

7. (referring to Articles 3, paragraph 2, f and g)

Member States which, for specific national reasons, consider the transactions described under *f)* and *g)* not as deliveries but as services, are free to classify them as services, subject to the explicit condition of applying to them the standard tax rate for deliveries.

The term "construction work" shall apply in particular to :

a) the construction of buildings, bridges, roads, ports, etc. in fulfilment of a works contract;

b) earth works, and the making of gardens;

c) installation of plant and equipment (central heating, baths, telephone exchanges, shop counters, refrigerated show-cases, etc.);

d) repairs to buildings, other than current maintenance.

8. (referring to Article 3, paragraph 4)

In cases where there is an obligation to deliver an invoice, the operative fact may be connected with the moment when the invoice is delivered or, at the latest, with the moment when it should have been delivered.

9. (referring to Article 4, paragraph 1)

The definition of the term service given in this provision implies that, among others, the following should also be counted as services :

a) cession of incorporeal goods;

b) fulfilment of an obligation to refrain from doing something;

c) performance of a service by virtue of official requisition;

d) work done to a movable good other than made-to-order work within the meaning of Article 3, paragraph 2, *f.* such as repairs, the services of a laundry, etc.

The definition of services in this paragraph does not prejudge the right of Member States to tax certain services performed by a taxpayer as "services to self", whenever this should be found necessary in order to prevent distortions in competition.

10. (referring to Article 4, paragraph 2)

Member States shall as far as possible abstain from exempting any of the services enumerated in Annex B.

As regards other services, Member States shall be free to apply, without prior consultation, either the provisions of this Directive concerning the taxation of services or any other system.

11. (referring to Article 4, paragraph 3)

A service shall be deemed to be located within the country of the performer of the service so long as the performer of the service does not prove that the service rendered, the right assigned or granted, or the good leased is used or exploited abroad.

Services consisting of a repair or some other material work done to a tangible good shall be deemed to be used or exploited at the place where the good is intended to be, wholly or mainly, used or exploited.

Transport services shall be deemed to be used or exploited within the territory of the Member State where the transport takes place, and, when transport takes place in the territory of two or more Member States, within the territories of these Member States in proportion to the respective distances covered in each.

For services performed in intra-Community relations, it is provided that, notwithstanding anything to the contrary laid down in Article 4, paragraph 3 :

a) services performed by brokers, forwarding and other agents, and other intermediaries shall be deemed to be located at the place where the intermediary concerned wholly or mainly performs the service;

b) publicity services shall be deemed to be located at the place of the establishment on whose account the service was ordered.

In case a service is deemed to be located in a Member State other than that where the establishment performing the service is situated,

a) the latter Member State may consider the service to be located at the place of this establishment whenever the performer of the service cannot prove that TVA due in the other Member State has already been paid; the application of this provision does not, however, preclude taxation by that other Member State;

b) the beneficiary of the service may be held jointly responsible for payment of the tax due, whenever this beneficiary is liable to TVA, without prejudice to other measures which the Member State to which the tax is due might adopt to ensure payment.

The criteria laid down in these provisions for the determination of the location of a service shall be without prejudice to the criteria used for the abolition of restrictions on the freedom to provide services within the meaning of Articles 59 to 66 of the Treaty.

12. (referring to Article 5, paragraph 2)

Without prejudice to the provisions of Article 1, paragraph 2, *b*, Article 5, Article 6, *c*, Article 7, paragraph 3, and Article 10, paragraph 5, each Member State may, subject to consultations in accordance with Article 13, apply to the collection of TVA on imports the rules governing collection of customs duties, including levies, provided the character of the tax is preserved.

13. (referring to Article 6)

A Member State which levies TVA only up to and including the stage of wholesale trade may provide that, for a taxpayer's sale of goods at retail, the tax base shall be reduced by a certain percentage; however, this reduced base shall not be less than the purchase price or cost of production increased, as the case may be, by all duties, taxes, dues and other levies to which the good is subject, except TVA itself, even in case of suspended payment.

It is left to Member States to define the concept of "sale of goods at retail" in accordance with national conceptions.

14. (referring to Article 6, a)

The term "counterpart" shall be understood to mean everything given in counterpart for a delivery of goods or a service, that is, not only agreed sums of money including incidental expenses (for packing, transport, insurance, etc.), but also, for example, the value of goods given in exchange or, in case of requisition, the amount of compensation actually received.

The preceding provision does not preclude that any Member State which considers it necessary in the interest of more

neutrality of tax effects on competition, may, if need be, exclude from the tax base such incidental expenses as arise beyond the location of delivery as defined in Article 3, paragraph 3, and may tax these incidental expenses instead as the counterpart of a service.

Expenses paid in the name, for account and on the order of the buyer and carried in the books of the supplier in contra accounts shall not enter into the tax base.

Similarly, customs duties and other dues, taxes, etc., on imports, paid in their own name by agents and other intermediaries in customs clearence, including forwarding agents, may be excluded from the tax base for their services.

15. (referring to Article 6, c)

After the abolition of customs duties in intra-Community trade, each Member State can apply to imports of goods within such trade a tax base corresponding as closely as possible to the tax base adopted for deliveries within the country.

16. (referring to Article 7, paragraph 2)

To the extent of recourse to the provisions of this paragraph with respect to transport services as under Annex B, point 5, these provisions shall be so applied as to safeguard equal treatment for different mean of transport.

17. (referring to Article 8, paragraph 1)

Exemption under this provision is intended to apply to the delivery of a good exported directly, that is, to the last delivery prior to despatch or transport of the good outside the country. Member States are free, however, to extend exemption also to delivery at the preceding stage.

18. (referring to Article 8, paragraph 3)

To the extent of recourse to the provisions of this paragraph with respect to transport services as under Annex B, point 5, these provisions shall be so applied as to safeguard equal treatment for different means of transport.

19. (referring to Article 9, paragraph 1 a)

In cases provided for in Article 3, paragraph 4, second sentence, and in Article 4, second sentence, deductions may be effected as of receipt of the invoice even if the goods are not yet delivered or the services not yet performed.

20. (referring to Article 9, paragraph 2)

The pro rata rule shall in principle be applied on the basis of the general turnover proportions as determined for the whole of a taxpayer's transactions. Exceptionally, a taxpayer may be authorized by the administration to apply special turnover proportions for certain sections of his activities.

21. (referring to Article 9, paragraph 3)

During a certain transitional period each Member State shall be free to apply deductions for capital goods in annual instalments (pro rata temporis deductions).

22. (referring to Article 9, paragraph 3)

Member States have discretion to fix certain tolerances in order to limit the occurrence of cases of rectification arising from changes in the annual turnover proportions in relation to the initial turnover proportions underlying deductions with respect to capital goods.

23. (referring to Article 9, paragraph 5)

Member States are free to adopt special provisions to the effect that any excess accumulated by taxpayers whose business is mainly in export shall be refunded before the end of the calendar year.

24. (referring to Article 10, paragraph 2)

Member States shall themselves fix, in accordance with their established practice and on the basis of usage and custom in different branches of the economy, the time limits within which invoices are to be delivered to buyers.

25. (referring to Article 10, paragraph 2)

Each Member State may, in special cases, provide for waivers to the provisions of the second sentence of this paragraph, but these waivers should be strictly limited.

26. (referring to Article 10, paragraph 2 d)

Notwithstanding any other measures to be taken by Member States to enforce payment of the tax and to prevent tax evasion, every person, whether a taxpayer or not, shall pay the amount of TVA he records in any invoice.

27. (referring to Article 11)

To the extent of recourse to the provisions of this Article with respect to transport services as under Annex B, point 5, these provisions shall be so applied as to safeguard equal treatment for different means of transport.

ANNEX B

List of services referred to in Art. 4, par. 2

1. Assignment of patents, trade marks and similar rights, as well as the granting of licence concerning these rights.

2. Work done to tangible goods and on behalf of a taxpayer, other than provided for in Article 3, paragraph 2, *f.*

3. Services in preparation, or concerned with the progress, of construction work, such as the services of architects, on-site supervision of construction work, etc.

4. Commercial advertising.

5. Transport of goods and their storage, together with ancillary services.

6. Leasing of movable tangible goods to a taxpayer.

7. Making personnel available to a taxpayer.

8. Banking transactions on behalf of a taxpayer.

9. Services of consultants, engineers, planning bureaux and similar offices, in the technical, economic and scientific field.

10. Fulfilment of an obligation not to exercise, wholly or partly, a professional activity or a right enumerated in this list.

11. Services of brokers, independent intermediaries, commercial agents and forwarding agents in connection with transactions involving goods or the services enumerated in this list.

Proposal for a Council directive concerning measures to prevent the importation of plant pests into Member States

(submitted by the Commission to the Council on 31 March 1965)

The Council of the European Economic Community,

Having regard to the provisions of the Treaty setting up the European Economic Community and in particular Article 43 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Whereas plant production is of eminent importance in the European Economic Community;

Whereas the yields of plant production are continually compromised by plant pests of animal or vegetable origin as well as by viruses;

Whereas protection against plant pests serves not only to prevent any diminution of productive capacity, but also to raise the productivity of agriculture;

Whereas pest control through methodical destruction on the spot within any one country would be of limited effectiveness in the absence of simultaneous measures to prevent the importation of pests from outside;

Whereas the afore-mentioned needs have long been recognized and have led to numerous national provisions and international agreements, among which latter the International Plant Protection Convention of 6 December 1961, which was concluded under the auspices of the Food and Agriculture Organization of the United Nations (FAO), now has world-wide coverage;

Whereas this International Plant Protection Convention as well as close collaboration of countries within the European and Mediterranean Plant Protection Organization (EPPO) have already led to some degree of harmonization in the law governing plant protection;

Whereas, existing international collaboration notwithstanding, States members of the European Economic Community need to go still further in harmonizing their own measures to control the importation of plant pests;

Whereas the Community needs, on the one hand, to create a common system of protection against the importation of plant pests from non-member countries, and, on the other hand, to reorganize its internal plant protection system in line with the progressive abolition of obstacles and controls in intra-Community trade;

Whereas it is one of the most important measures in this context to draw up an inventory of specially dangerous pests, the importation of which by any means whatever is to be prohibited. and of such other pests as are to be prevented from being introduced at least through the intermediary of specific plants;

Whereas there is no effective means of ascertaining the presence of certain pests when plants or plant products are imported from countries where these pests occur and provision must therefore be made, to a limited extent, for absolute entry prohibitions or for special controls in producer countries;

Whereas certain pests are, by reason of particular circumstances, a major danger only for certain Member States and it will be sufficient to give the latter authority to bring these pests into the coverage of the Community plant protection system;

Whereas, with a view to the progressive elimination of the now generally current system of double phytosanitary inspection in the exporting country and in the country of destination, a new system is to be established whereby, whenever plants and plant products as well as soil are sent from one Member State to another, the exporting country shall be under an obligation to provide for compulsory, and stricter, phytosanitary inspection, so as to preclude the possibility that plants, plant products and soil might carry pests into the country of destination;

Whereas notice of phytosanitary inspection with satisfactory results has to be entered in the phytosanitary certificate already established under the International Plant Protection Convention;

Whereas, to avoid superflous additional inspection, phytosanitary forwarding certificates are to be issued for any consignment from other countries which is accompanied by a phytosanitary certificate;

Whereas efficient phytosanitary inspection on the occasion of the export of plants and plant products as well as soil constitutes a guarantee that the merchandise is free of plant pests, and systematic inspection upon entry into the country of destination can therefore be eliminated;

Whereas such elimination can take place only gradually as and when Member States gain a certain measure of confidence in the good functioning of the control system at export;

Whereas there is justification, in this connection, to allow systematic inspection at entry to continue for another four years from the date of promulgation of this directive, while all its other provisions are to be given effect in national legislation within two years of said promulgation;

Whereas on expiration of this four-year period phytosanitary inspection at entry, barring certain formal checks like those concerning identification or the existence of a phytosanitary certificate, is to be permissible only to a limited extent or for special reasons;

Whereas such inspection will then have to be limited to occasional sample cheks and to cases in which there is reason to fear that the goods may have become contaminated since their inspection in the exporting country or in which there is a presumption of contamination, as may happen when plants are imported from a strongly infested region or from Member States whose pre-export phytosaniatry inspection is not as yet carried out with the requisite care;

Whereas for consignments from third countries, on the other hand, Member States need to prescribe systematic inspection at entry, at least with respect to the principal pest carriers;

Whereas each Member State must, however, be entitled to waive a certain number of compulsory provisions, especially in its relations with other Member States which forgo the application of such provisions vis-a-vis itself;

Whereas each Member State must be free, in the future, to protect itself also by measures other than those provided for in this directive, whenever there is an imminent danger of the introduction or spread of plant pests;

Whereas protection measures against plant pests which damage stocks are not, for the time being, within the purview of this directive;

Has adopted the present directive :

Article 1

This directive concerns measures to protect Member States against the importation of plant pests from other Member States or third countries.

Article 2

The following definitions shall apply :

a) Plants : living plants and parts thereof, including fresh fruit and seeds;

b) Plant products : products of plant origin, in so far as they are not plants and are either unprocessed or processed by simple methods such as milling, pressing, drying, fermentation or sawing;

c) Pests : pests of animal and vegetable origin, as well as viruses, which attack plants and plant products.

Article 3

1. Member States shall prescribe that the pests enumerated in Annex I, Part A, must not be introduced into the national territory.

2. Member States shall prescribe that the plants enumerated in Annex II, Part A, must not be introduced into the national territory if they are infested by the pests specified in the same Part of the same Annex.

3. Member States may prescribe that the pests enumerated in Annex II, Part A, must not be introduced into the national territory either when isolated or when adhering to articles other than those listed in the same Part of the same Annex.

4. Member States enumerated in Annex I, Part B, and in Annex II, Part B, may prescribe that the pests listed therein must not be introduced into the national territory.

Article 4

1. Member States shall prescribe that plants and plant products as well as soil, as listed in Annex III, Part A and originating in the countries specified therein, must not be introduced into the national territory.

2. Member States may :

a) prescribe that the plants, plant products and other articles enumerated in Annex III, Part B, must not be introduced into the national territory during the periods specified in the same Part of the same Annex;

b) prescribe that coniferous wood with bark must not be introduced into the national territory even from countries other than those specified in Annex III, Part A, No. 1, if these countries have no prohibition against the importation of coniferous wood with bark originating in the countries specified in Annex III, Part A, No. 1;

c) require that any plants, plant products or soil, as listed in Annex III, Part A and introduced into the national territory from other Member States, be accompanied by an official certificate specifying the country of origin of the goods.

Article 5

1. Member States shall prescribe that the plants enumerated in Annex IV, Part A, may be introduced into the national territory only subject to the requirements specified in the same Part of the same Annex.

2. Member States enumerated in Annex IV, Part B, may prescribe that the plants enumerated therein may be introduced into the national territory only subject to the requirements specified in the same Part of the same Annex.

Article 6

1. With respect to consignments of plants, plant products and soil, as listed in Annex V, from one Member State to another, the exporting Member State shall prescribe, at least, that these goods as well as their packing and conveyances be carefully inspected by officers of its plant protection services, such inspection to extend either to the whole consignment or to representative samples thereof and to make sure that

a) the goods are not infested by any of the pests enumerated in Annex I, Part A,

b) plants enumerated in Annex II, Part A, are not infested by the pests specified therein,

c) plants enumerated in Annex IV, Part A, meet the requirements specified therein.

2. Paragraph 1 shall be applicable by analogy to consignments of plants, plant products and other articles, their paching and conveyances, to any Member States where provisions authorized by Article 3, paragraph 3 or 4, or Article 5, paragraph 2, are in force.

Article 7

1. When the results of the inspection provided for in Article 6 establish a presumption that the conditions stated therein are fulfilled, an official phytosanitary certificate on the model of Annex VII, Part A, shall be issued in at least one of the Community's official languages, and preferably in the language of the country of destination. In the case of soil, the words "the plants, parts of plants or plant products described" shall be replaced in the certificate by the words "the soil described".

2. Member States shall prescribe that plants, plant products and soil, as listed in Annex V, must not be sent to any other Member States except when accompanied by a phytosanitary certificate issued according to paragraph 1. The phytosanitary certificate must not be issued earlier than 14 days prior to the date when the plants, plant products or soil concerned leave the exporting country.

Article 8

1. Member States shall prescribe that, barring any of the cases described in paragraph 2, plants, plant products and soil, as listed in Annex V, which are introduced into the national territory from a Member State and forwarded to another Member State, shall be exempt from a new inspection as under Article 6, provided the consignment is accompanied by a Member State's official phytosanitary certificate on the model of Annex VIII, Part A.

2. For the case that consignments from a Member State to a second Member State are forwarded from the latter to a third Member State after being divided up, stored, modified as to their packing or released from bond, Member States shall prescribe that such consignments shall be exempt from a new inspection as under Article 6, provided a plant protection official of the second Member State certifies that, while in its territory, the plants, plant products or soil have undergone no changes in conflict with the conditions stated in Article 6. In this case a phytosanitary forwarding certificate on the model of Annex VII, Part B, shall be issued in one of the Community's official languages, and preferably in the language of the country of destination.

The forwarding certificate must accompany the consignment in addition to the latter's official phytosanitary certificate or a certified copy thereof.

The phytosanitary forwarding certificate must not be issued earlier than 14 days prior to the date when the plants, plant products or soil concerned leave the forwarding country.

3. Member States may prescribe that the provisions of paragraphs 1 and 2 shall apply, by analogy, also to consignments from a third country or to consignments which have been divided up, stored, modified as to their packing or released from bond in a third country.

4. For the case that consignments from a Member State or a third country are divided up, stored, modified as to their packing or released from bond in any Member State or in a third country, Member States shall prescribe that on subsequent forwarding to another Member State such consignments shall be accompanied by their phytosanitary forwarding certificate, if any, or by a certified copy thereof.

Article 9

1. Member States shall prescribe that plants enumerated in Annex IV Part A, in so far as they originate in another Member State or a third country, may be sent

to another Member State only when accompanied by the originating country's official phytosanitary certificate on the model of Annex VII, Part A, or by a certified copy thereof.

2. Paragraph 1 shall, by analogy, be applicable also to the introduction of plants enumerated in Annex IV, Part B, into the territory of the Member States listed in the same Part of the same Annex.

Article 10

1. Member States shall undertake that plants, plant products and other articles, their packing and conveyances, in so far as they are not subject to an entry prohibition under Articles 3, 4 or 5, shall, upon entry into the national territory from another Member State, be subject to no restrictions deriving from measures connected with plant protection, except when

a) the certificates mentionned in Articles 7, 8 or 9 are not presented,

b) plants enumerated in Annex VI are not effectively disinfected,

c) plants, plant products and soil enter elsewhere than at the prescribed points of entry,

d) plants, plant products and soil are not duly presented for official checks of a kind permissible under paragraph 3,

e) the dues or charges for any of the measures provided for in this directive are not paid,

f) Such restrictions are prescribed on the basis of Article 14.

2. Member States may require only the following additional declaration in the phytosanitary certificate: "the plant protection regulations of ... (name of the Member State) ... have been complied with".

3. Beyond official checks concerning identification and the requirements permissible under paragraph 1, Member States may provide for official checks regarding compliance with the measures prescribed under Articles 3 and 5 only

a) as occasional sample checks,

b) when there is reason to fear contamination by any of the pests enumerated in Annexes I and II, or the development of such pests, during transportation, especially in view of the latter's route or duration.

c) when there exists some other indication suggesting that one of these requirements is not fulfilled,

d) when the consignment originates in a third country and in so far as no other Member State has as yet carried out an inspection as under Article 11, paragraph 1*a*

4. In case part of a consignment of plants, plant products or soil is found to be infested by any of the pests enumerated in Annexes I and II, entry of the remaining part shall not be prohibited if it is not suspected of infestation and if any spread of the pests on division of the two parts is excluded.

5. Member States shall prescribe that the phytosanitary certificates or forwarding certificates presented upon entry of plants, plant products and soil into the national territory shall be marked with an entry stamp indicating at least the name of the competent service and the date of entry.

Article 11

1. With respect to the entry into their national territory of the plants, plant products and soil enumerated in Annex V in so far as they originate in third countries, Member States shall prescribe at least:

a) that these plants, plant products and soil as well as their packing and conveyances must be carefully inspected by officers of the importing Member State's plant protection services, such inspection to extend to the whole consignment or to representative samples thereof and to make sure that

i) the goods are not infested by any of the pests enumerated in Annex I, Part A.

ii) plants enumerated in Annex II, Part A, are not infested by any of the pests specified therein,

iii) plants enumerated in Annex IV, Part A, meet the requirements specified therein;

b) that consignments must be accompanied by the certificates prescribed in Articles 7, 8 or 9 and that a phytosanitary certificate must not be issued earlier than 14 days prior to the date when the plants, plant products or soil have left the exporting country.

2. Paragraph 1 *a)* shall not apply to consignments introduced into the territory of a Member State *via* another Member State

which has already carried out the inspections provided for in paragraph 1 *a)*.

Article 12

1. Member States may, to the extent that there is no danger of pests spreading, waive :

a) in particular cases :

i) Article 4, paragraph 1,

ii) Articles 3, 5 and 11 for experimental or scientific purposes as well as for selective plant breeding projects,

iii) Article 11, provided certain plants, plant products or soil are only slightly infested by certain pests which already occur within the Community;

b) in general or in particular cases :

i) Article 4 paragraph 1 and Article 11 with respect to transit through the national territory or to direct traffic between two points of the national territory *via* the territory of another country,

ii) Articles 3, 5 and 11 in cases when plants, plant products or soil reach the national territory in direct traffic from another Member State *via* the territory of a third country,

iii) Article 11 with respect to :

aa) removal goods,

bb) small quantities of pot plants, wreaths with parts of plants, or bouquets, as well as to food and animal feed intended for the owner's or consignee's non-industrial and non-commercial use or for consumption during transport,

cc) plants originating in plots of land situated within the frontier district of a third country and farmed from neighbouring residential or farm business premises within a Member State's frontier district,

dd) seeds and seedlings for use in plots of land situated within a Member State's frontier district and farmed from neighbouring residential or farm business premises within the frontier district of a third country.

Article 13

In case of imminent danger of the introduction into or spread within the national territory of pests even other than those enumerated in the Annexes, every Member State may, in addition to the measures provided for in this directive, take such other measures as may be necessary to protect itself against the danger, pending the entry into force of relevant provisions by the Council of Ministers or the Commission. The Member State concerned shall at once inform the Commission of these additional measures, and the Commission shall inform the other Member States accordingly.

Article 14

Member States shall retain intact their right to take particular protection measures with respect to plant pests which damage stocks, whenever plants or plant products are introduced into the national territory.

Article 15

1. Member States shall adopt such laws, regulations and administrative measures as are necessary to give effect to the provisions of the present directive and its Annexes within two years, and, as regards restrictions which Article 10, paragraph 3 imposes upon the right to carry out official inspections, within four years, of the date of promulgation of this directive.

2. Member States shall notify the Commission of any future laws, regulations and administrative measures they propose to adopt with respect to the matters governed by this directive, and shall do so in good time for the Commission to be able to comment thereon.

3. Member States shall immediately inform the Commission of any laws, regulations and administrative measures adopted in implementation of the present directive. The Commission shall inform the other Member States accordingly.

Article 16

The present directive is addressed to Member States.

ANNEX I

(with reference to Articles 3, 6 and 11)

A. Pests subject to entry prohibition in all Member States

1. *Live pests of animal origin, at all stages of development:*

1. Ceratitis capitata Wied.
2. Conotrachelus nenuphar Herbst
3. Hyphantria cunea Drury
4. Laspeyresia molesta Busck
5. Phthorimaea operculella Zell.
6. Popillia japonica Newman
7. Prodenia litura F.
8. Prodenia littoralis Boisd.
9. Rhagoletis pomonella Walsh
10. Viteus vitifolli Fitch

2. *Pests of animal origin, at all stages of development, unless proven dead:*

1. Heterodera rostochiensis Wr.
2. Quadraspidiotus perniciosus Comst.

3. *Bacteria:*

1. Aplanobacterium populi Rid.

2. Corynebacterium sepedonicum (Spieck. et Kotth.) Skaptason et Burkh.

3. Erwinia amylovora (Burrill) Winslow et al.

4. *Funguses:*

1. Cronartium fusiforme (Hedge. et Hunt)
2. Cronartium quercuum (Berk.) Miyabe
3. Endothia parasitica (Murr.) And. et And.
4. Guignardia laricina (Saw.) Yam et Ito.
5. Hypoxylon pruinatum (Klotsche) Cke.
6. Septoria musiva Peck
7. Synchytrium endobioticum (Schilb.) Perc.

5. *Viruses:*

1. Viruses of Cydonia Mill., Malus Mill., Prunus L., Pyrus L., Ribes L., Rubus L.

2. Viruses of the strawberry (Fragaria [Tourn.] L.)

3. Viruses of the potato (Solanum tuberosum L.):

a) Potato spindle tuber virus

b) Potato stunt virus

c) Potato witches' broom virus

d) Potato yellow dwarf virus

e) Potato yellow vein virus

4. Viruses of the poplar (Populus L.)

5. Viruses of the rose (Rosa L.)

6. Viruses of the vine (Vitis L. partim)

B. Pests subject to permissible entry prohibition in certain Member States

1. *Live pests of animal origin, at all stages of development :*

Species	Member State
1. Aleurocanthus woglumi Ashby	Italy
2. Anastrepha fraterculus Wied.	Italy
3. Anastrepha ludens Loew	Italy
4. Aphis citricidus Kirk.	Italy
5. Busseola fusca Hmps.	Italy
6. Gonipterus scutellatus Gyll.	Italy
7. Dacus dorsalis Hendel	Italy
8. Dialeurodes citri Ril. et How.	Italy
9. Iridomyrmex humilis Mayr	France, Italy
10. Phoracantha semipunctata F.	Italy
11. Pseudaulacaspis pentagona Targ.	France, Italy
12. Pseudococcus comstocki Kuw.	France, Italy

2. *Funguses :*

Species	Member State
1. Cronartium ribicola J.C. Fischer	Italy
2. Diaporthe citri Wolf	Italy
3. Dibotryon morbosum (Schw.) Theiss. et Syd.	Italy
4. Diplodia natalensis Evans	Italy
5. Elsinoe Fawcetti Bitanc. et Jenk.	Italy

3. *Viruses :*

Species	Member State
1. Virus of citrus (Citrus L.)	France, Italy

ANNEX II

(with reference to Articles 3, 6 and 11)

A. Pests subject to entry prohibition in all Member States in combination with certain plants

1. *Live pests of animal origin, at all stages of development :*

Species	Object of attack
1. Acalla schalleriana F.	Azaleas (Rhododendron L. partim)
2. Anarsia lineatella Zell.	Cydonia Mill., Malus Mill., Prunus L., Pyrus L., Ribes L., Rubus L.
3. Diarthronomyia chrysanthemi Ahlb.	Chrysanthemums (Chrysanthemum [Tourn.] L. partim)
4. Ditylenchus destructor Thorne	Flower bulbs and corms
5. Ditylenchus dipsaci (Kühn) Filip.	Flower bulbs and corms
6. Gracilaria azaleella Brants	Azaleas (Rhododendron L. partim)
7. Lampetia eaquestris F.	Flower bulbs and corms
8. Rhagoletis cerasi L.	Cherries (Prunus avium L.)
9. Scolytidae in so far as they do not as yet occur in the Community	Coniferous wood
10. Taeniothrips simplex Moris	Gladiolus corms (Gladiolus [Tourn.] L.)
11. Tortrix pronubana Hbn.	Carnations (Dianthus L.)

2. *Bacteria*

Species	Object of attack
1. Agrobacterium tumefaciens (Sm. et Towns.) Conn.	Rooted plants of Cotoneaster B. Ehrhart, Cydonia Mill., Malus Mill., Prunus L. Pyrus L., Ribes L., Rosa L., Vitis L.
2. Pseudomonas marginata (McCull.)Stapp	Gladiolus corms (Gladiolus [Tourn.] L.) and freesia bulbs (Freeseia Klatt)
3. Xanthomonas begoniae (Takim.) Dows.	Begonias (Begonia L.) except their fruit seeds and tubers

3. *Funguses :*

Species	Object of attack
1. Ascochyta chrysanthemi Stev.	Chrysanthemums (Chrysanthemum [Tourn.] L. partim)
2. Botrytis convoluta Whetz. et Drayt.	Iris rhyzomes (Iris L.)
3. Ceratocystis fagacearum (Bretz) Hunt	Plants of Castanea Mill. and Quercus L.
4. Fusarium oxysporum Schlecht. f. narcissi (Cke. et Mass.) Synd. et Hans.	Narcissus bulbs (Narcissus L.)
5. Fusarium oxysporum Schlecht. f. gladioli (Mass.) Synd. et Hand	Freesia bulbs (Freesia Klatt), gladiólus corms (Gladiolus [Tourn.] L.) and crocus bulbs (Crocus L.)
6. Ovulinia azalae Weiss	Azaleas (Rhododendron L. partim)
7. Phytophthora fragariae Hickman	Strawberry plants (Fragaria [Tourn.] L.) except their fruit and seed
8. Puccinia horiana P. Henn.	Chrysanthemums (Chrysanthemum [Tourn.] L. partim)
9. Sclerotinia bulborum (Wakk.) Rehm	Flower bulbs
10. Sclerotinia gladioli (Mass.) Drayt.	Flower bulbs and corms
11. Sclerotinium tuliparum Kleb.	Flower bulbs and corms
12. Septoria azaleae Vogl.	Azaleas (Rhododendron L. partim)
13. Septoria gladioli Pass.	Flower bulbs and corms
14. Verticillium albo-atrum Rke. et Berth.	Hop (Humulus lupulus L.)

B. Pests subject to entry prohibition in certain Member States

1. *Live pests of animal origin, at all stages of development :*

Species	Object of attack	Member State
1. Eurytoma amygdali End.	Almond trees (Prunus amygdalus Batsch)	Italy

2. *Bacteria :*

Species	Object of attack	Member State
1. Corynebacterium flaccumfaciens (Hedges) Dows.	Beans (Phaseolus L.)	Italy
2. Xanthomonas citri (Hasse) Dows.	Citrus plants (Citrus L.) except their fruit	France, Italy

3. *Funguses :*

Species	Object of attack	Member State
1. Ascochyta chlorospora Speg.	Almond trees (Prunus amygdalus Batsch)	Italy
2. Corticium salmonicolor Berk. et Broome	Citrus (Citrus L.)	Italy
3. Gloeosporium limetticola Clausen	Citrus (Citrus L.)	France, Italy
4. Gloeosporium perennans Zell. et Childs	Apple trees (Malus pumila Mill.)	Italy

ANNEX III
(with reference to Article 4)

A. Plants, plant products and soil subject to entry prohibition in all Member States

Item	Country of origin
1. Wood of conifers (Gymnospermae) with bark	Countries in the temperate and subarctic zones of other continents
2. Plants of Castanea Mill. and of Quercus L., except fruit and seeds	Third countries
3. Wood with bark and bark of Castanea Mill. and of Quercus L.	Canada, United States
4. Plants of poplar (Populus L.) except fruit and seeds	American countries
5. Plants of Abies Mill., Larix Mill., Pinus L. and Tsuga Carr., except fruit and seeds	Non-European countries
6. Plants of Prunus armeniaca L., Prunus triloba Lindl., Prunus insititia L., Prunus cerasifera Ehrh., Prunus persica (L.) Batsch. and Prunus domestica L., except fruit and seeds	Bulgaria, Yugoslavia
7. Soil :	
a) soil containing parts of plants of humus, except peat	Non-European countries
b) soil adhering or added to plants, except peat	Canada, Japan, United States

B. Plants, plant products and other articles subject to permissible entry prohibition in certain Member States

Item	Period	Member State
1. Plants of Eucalyptus (Eucalyptus l'Hér.), except fruit and seeds	All the year	Italy
2. Deciduous trees and shrubs, except fruit and seeds	16.4-30.9	Belgium, Germany, Luxembourg, Netherlands
3. Dry wood and plants of vine (Vitis L. partim), except fruit and seeds as well as one-year cuttings and scions	All the year	Germany
4. Used vineyard stakes	All the year	Germany

ANNEX IV

(with reference to Articles 5, 6, 9 and 11)

A. Particular requirements for entry into all Member States

Plants	Requirements
1. Fruit and seeds of Castanea Mill. and Quercus L., if their country of origin is Canada or the United States	Production in areas not infested by Ceratocystis fagacearum (Bretz) Hunt
2. Plants with soil adhering thereto	Production in areas not infested by Popillia japonica Newman
3. Potato tubers (Solanum tuberosum L.)	Official verification that the producer farm is free of Synchytrium endobioticum (Schilb.) Perc.
4. Potato seedlings (Solanum tuberosum L.)	Official soil examination to verify that the area of cultivation is free of Heteroderarostochensis Wr.
5. Eating potatoes (Solanum tuberosum L.) it their country of origin is Canada or U.S.	Destruction of germination capacity
6. Rooted plants, planted or intended for planting	Official verification that the area of cultivation is free of Synchytrium endobioticum (Schilb.) Perc. and Heterodera rostochiensis Wr.
7. Cydonia Mill., Malus Mill., Prunus L., Pyrus L., Ribes L., Rubus L., except ornamental branches, fruit and seeds	Official verification that plants from the area of cultivation have shown no signs of virus diseases or of Erwinia amylovora (Burrill) Winslow et al. during the latest complete growth period
8. Rose plants (Rosa L.) except cut blossoms, fruit and seeds	Official verification that plants from the area of cultivation have shown no signs of virus diseases during the latest complete growth period
9. Vines (Vitis L. partim) except fruit and seeds	Official verification that plants from the area of cultivation have shown no signs of virus diseases or of Viteus vitifolii Fitch during the latest complete growth period
10. Strawberry plants (Fragaria [Tourn.] L.) except fruit and seeds	Official verification that during the last complete growth period any plants suspected of an attack, or attacked, by virus diseases or by Phytophthora fragariae Hickman were destroyed

B. Permissible particular requirements for entry into certain Member States

Plants	Requirements	Member State
1. Citrus plants (Citrus L.) except fruit and seeds	Official verification that plants from the area of cultivation have shown no sign of virus diseases during the latest complete growth period	France, Italy

ANNEX V

(with reference to Articles 6, 7, 8 and 11)

A. Plants and soil originating in Member States or third countries

1. *Plants except fruit and seeds:*

a) woody dicotyledoneae

b) chrysanthemums (Chrysanthemum (Tourn.) L. partim)

c) strawberries (Fragaria (Tourn.) L.)

d) carnations (Dianthus L.)

e) begonias (Begonia L.)

f) hop (Humulus lupulus L.)

g) potatoes (Solanum tuberosum L.)

h) dormant flower bulbs and corms, and Iris rhyzomes (Iris L.)

i) other rooted plants, planted or intended for planting

2. *Fruit of:*

a) Citrus L., except citrons, lemons (Citrus medica L.)

b) Cydonia Mill.

c) Malus Mill.

d) Prunus L.

e) Pyrus L.

f) Ribes L.

g) Rubus L.

h) Vitis L.

3. *Soil:*

a) soil containing parts of plants or humus, except peat

b) soil adhering or added to plants, except peat

B. Plants and plant products originating in certain third countries

1. Unworked, shaped and sawn wood and wood wastes, including sawdust, of Castanea Mill. and Quercus L. grown in Canada or the United States

2. Fruit and seeds of Castanea Mill. and Quercus L. grown in Canada or the United States

3. Plants, except fruit and seeds, of Angiospermae grown in Canada, Japan or the United States

4. Fruit having a wholly or partly fleshy pericarp, if grown in Canada, Japan or the United States

5. Plants grown in Austria, Czechoslovakia, Greece, Hungary, Romania, the Union of Soviet Socialist Republics or Yugoslavia:

a) Angiospermae except:

i) their underground parts and their fruit and seeds

ii) Monocotyledoneae if imported during the period 1 November - 15 April

b) Fruit having a wholly or partly fleshy pericarp, except tomatoes (Solanum lycopersicum L.), if imported during the period 1 November - 15 April

ANNEX VI

Disinfection

Plants of :

Acer L., Cotoneaster B. Ehrhart, Crataegus L., Cydonia Mill., Evonymus L., Fagus L., Juglans L., Ligustrum L., Malus Mill., Populus L., Prunus L., Pyrus L., Ribes L., Rosa L., Salix L., Sorbus L., Syringa L., Tilia L., Ulmus L., Vitis L., except their fruit, seeds and underground parts.

ANNEX VII

(with reference to Articles 7, 8, 9, 10 and 11)

A. Model

Phytosanitary certificate

Plant Protection Service of ..... No. .....
This is to certify that the plants, parts of plants or plant products described below or representative samples thereof were thoroughly examined on (date) .....
by (name) ..... an authorized officer of the (service) ..... and were found to the best of his knowledge to be substantially free from injurious diseases and pests; and that the consignment is believed to conform with the current phytosanitary regulations of the importing country both as stated in the additional declaration hereon and otherwise.

Fumigation or disinfection treatment (if required by importing country) :
Date .....
Treatment .....
Duration of exposure .....
Chemical and concentration .....

Additional declaration

..... 19 .....
.....
(signature)
.....
(rank)

(Stamp of the service)

Description of the consignment

Name and address of exporter : .....
Name and address of consignee : .....
Number and description of packages : .....
Distinguishing marks : .....
Origin (if required by importing country) : .....
Means of conveyance : .....
Point of entry : .....
Quantity and name of produce : .....
Botanical name (if required by importing country) : .....

B. **Model**

Phytosanitary forwarding certificate

Plant Protection Service of ..... No. .....
This is to certify that the plants, plant products or other articles in the consignment described below were imported on ..... from ..... into .....
(country where the certificate is issued) ....., that the consignment was accompanied by the phytosanitary certificate No. ..... of which a certified copy is attached, and that, while in ..... (country where the certificate is issued) ....., the consignment has undergone no change in contravention of the phytosanitary provisions of the importing country.

Description of the consignment

Name and address of exporter .....
Name and address of consignee .....
Number, description and unit weight of packages .....
Distinguishing marks .....
Means of conveyance .....
Total weight and name of produce .....

..... 19 .....

.....

(stamp of the service) (signature)

Proposals by the Commission to the Council for measures to assist redundant Italian sulphur-mine workers

(submitted by the Commission to the Council on 15 April 1965)

Explanatory memorandum

General

1. The ad hoc Liaison and Action Committee for the sulphur industry in Italy, set up by decision of the Representatives of the Member Governments meeting in the Council on 27 November 1962, recommended in its final report various relief measures for workers in that industry becoming redundant as a result of reorganization.

In particular the Committee called for:

a) Lump-sum payments to sulphur workers who leave the industry of their own accord;

b) Interim benefit for workers over 45 years of age until they retire, should they not find in the same area a job for which they are fitted;

c) Retraining courses arranged in co-operation with the firms who will re-employ the workers concerned and the payment of allowances equal to the last wage;

d) A system of interim benefits for workers under 45 years of age;

e) Resettlement allowances, similar to those given under the ECSC scheme, for workers obliged to move elsewhere in the Community to find a new job;

f) Grants to enable the children of workers who are over 45 years of age, or have retired to undergo vocational training in an establishment approved by the Commission.

At its session of 8 May 1964 the Council took note of the Committee's recommendations, both economic and social, and requested the Commission to submit the necessary proposals for action on these recommendations.

In June and October 1964 the Italian Government sent to the Commission lists of the names of workers on the payrolls of Italian sulphur mines and in March 1965 provided the data needed to draft social measures, at the same time confirming its intention to stand by the proposals in the Liaison and Action Committee's report and to implement them under an ad hoc agreement with the Community.

2. The Commission closely examined the recommendations of the Liaison and Action Committee and the relevant social measures planned by the Italian Government, and decided to propose to the Council that the Community make a financial contribution.

The various forms of aid proposed fall into three categories:

A. Those which have a legal basis in the Treaty provisions on the European Social Fund. So that they may be granted to the extent and under the conditions desired, they are provided for in a Council regulation, adopted by virtue of Article 127 of the Treaty, to permit the temporary waiver of certain provisions of Regulation No. 9, since it would not be possible, given the urgency of the situation, to await approval of new general regulations concerning the Social Fund.

Aid under this heading would consist of:

a) A contribution from the Fund towards expenditure on retraining when the required period of six months, instead of the 12 months, following the retraining period;

b) A contribution towards resettlement expenditure reckoned according to the ECSC ceiling most favourable to the beneficiary;

c) Advance payment to the Government concerned of part of the estimated expenditure towards which the Community may contribute.

B. Aids on which the Council has power to decide in accordance with the fourth and tenth general principles of a common policy on vocational training, which were adopted by the Council on 2 April 1963, and with the Declaration of Intent in Protocol III, paragraph 3(b), on sulphur. This heading covers vocational training for the children of redundant miners who are over 45 years of age.

C. Those for which there is no specific legal basis in the Treaty and which, con-

sequently, must be dealt with under Article 235. They concern interim benefit and the supplementary redundancy payment, of which the Governments of the Member States have already expressed approval in the above-mentioned Protocol No. III on sulphur.

The measures proposed to the Council are on the lines set out above and take into account both the special economic and social situation of the Italian sulphur-mining areas and the recommendations made on a number of occasions by the European Parliament, in particular the resolution of 29 March 1963 on the reorganization of the sulphur industry in Sicily.

The Social Fund Committee has approved the proposed measures in substance. In respect of the proposal in Article 3(2) of the draft regulation permitting a temporary waiver of Regulation No. 9, the Committee expressed the opinion that advances should be granted up to 25 % of the estimated expenditure, so as to come into line with the amendments put forward in the draft supplementary regulation concerning the Social Fund submitted to the Council on 27 January 1965.

3. The following technical aspects of the three proposals should be noted:

i) The various forms of aid and the main conditions for the grant thereof have been strictly defined;

ii) The beneficiaries of the various aids have been precisely designated;

iii) The scope of the relevant legal provisions has been circumscribed;

iv) Precise limits have been set to the commitments which the Community is ready to assume in contributing to the expenditure on the aids listed above;

v) Community aid will only be granted in accordance with Community rules;

vi) It has been left to the Italian authorities to decide that the conditions for the grant of each form of aid are satisfied, but the EEC Commission reserves the right to check that this is so;

vii) The necessary implementing measures will be adopted by the Commission.

PART I

Proposal for a Council decision concerning a financial contribution of the European Economic Community to relief for redundant Italian sulphur-mine workers

(submitted by the Commission to the Council.

The Council of the European Economic Community,

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

Having regard to the protocol concerning Italy annexed to the said Treaty;

Having regard to Protocol No. III concerning sulphur [1], annexed to the Agreement of 2 March 1960 on the establishment of part of the common customs tariff;

Having regard to the Decision of 25 September 1962 of the Representatives of the Governments of the Member States meeting in the Council setting up a Liaison and Action Committee for the sulphur industry in Italy [2];

Having regard to the report of 15 November 1963 of the said Committee;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Whereas the sulphur industry in Italy is of importance mainly in the south, in particular, the economically less developed provinces in Sicily;

Whereas reorganization of this industry is a direct consequence of the establishment of the Common Market, and whereas it is in any case necessary to remedy the backwardness of this area in relation to other areas in the Community, this being one of the aims of the Treaty;

Whereas the reorganization of the Italian sulphur industry proposed in the above-

(1) Official gazette No. 80 C, 20 December 1960, p. 1849.
(2) Ibid., No. 93, 10 October 1962, p. 2384.

mentioned report of the Committee involves the closure or reduced working of various mines and, as a consequence, the dismissal of a certain number of workers, who must be given adequate protection;

Whereas the Italian Government has undertaken to carry out in its entirety the reorganization programme set out in the Committee's report;

Whereas it is desirable, by way of exception and solely for workers employed in the Italian sulphur mining industry at 30 June 1963, that redundancy payments be made in the event of dismissal;

Whereas by such benefit the workers concerned will receive the same level of pay as before dismissal, or they will be paid a lump sum to tide them over until they find other paid employment; and whereas, consequently, such payments are to be assimilated to financial aid from the European Social Fund;

Whereas it is expedient that, in apportioning the expenditure incurred among the Member States, the scale set out in Article 200(2) of the Treaty be applied and that the Community's contributions be paid through the Social Fund;

Whereas the Treaty does not provide the necessary powers for this purpose,

Has adopted the present decision:

Article 1

1. In order to provide for the needs of workers in the sulphur-mining industry in Italy who have become redundant following reorganization measures in the industry, the Italian Republic shall be granted Community aid equal to 50 % of expenditure incurred in respect of:

a) Redundancy payments of Lit. 450 000, in addition to severance pay, to workers who leave their jobs of their own accord;

b) Interim benefit for workers under 50 years of age, and for a period not exceeding 12 months from the cessation of work, equal to the net monthly pay last received but not exceeding Lit. 120 000 per month;

c) Monthly allowances, for workers between 50 and 55 years of age, equal to 25 % of the pay fixed by collective agreement, plus full family allowances, continued payment of voluntary old-age pension contributions until the minimum pensionable age, and payment of health insurance contributions.

2. The above measures shall apply to workers whose names were on the payroll of sulphur-mining undertakings at 30 June 1963.

Article 2

Community aid shall be granted only in respect of measures applied from 30 June 1963 in accordance with the terms of the following articles.

Article 3

1. The benefits provided for in Article 1 above shall not be cumulative.

2. Any worker reaching the age of 50 during the period in which he receives interim benefit shall be entitled, from the first month following his fiftieth birthday, to the monthly allowance referred to in Article 1 *c)*. From the same date the worker shall cease to receive interim benefit.

Article 4

The redundancy payment in addition to severance pay referred to in Article 1(1*a*) shall be paid to the beneficiary in a lump sum.

Article 5

1. Workers entitled to one of the benefits provided for in sub-paragraps *b)* and *c)* of Article 1 may opt for the redundancy payment in addition to severance pay referred to in the preceding sub-paragraph *a)* referred to in the preceding sub-paragraph *a)*.

2. Such option shall be irrevocable.

Article 6

1. The interim benefit referred to in Article 1 (1*b*) shall be reckoned on the basis of the beneficiary's last net monthly pay, excluding family allowances, as stated on the worker's pay sheet and received by him during the two hundred normal working hours immediately preceding the expiry of the work contract in the case of a manual worker, or during the preceding normal working month preceding expiry in the case of a non-manual worker.

2. In computing interim benefit, the monthly pay so determined shall be rounded off to the upper hundred lire.

Article 7

To be eligible for interim benefit or the monthly allowance, the worker concerned must be registered at the relevant employment office as seeking work.

Article 8

The amount of interim benefit or monthly allowance shall be reduced by a sum equal to the amount of daily unemployment benefit to which the worker concerned is entitled by virtue of regulations in force in Italy.

Article 9

Any worker who declines a vacancy of which he is informed by the relevant employment office shall forfeit his right in interim benefit or monthly allowance, unless he be prevented from accepting the job by considerations of health or qualifications duly recognized by the competent Italian authorities. Any worker under 45 years of age who refuses to attend the specially arranged retraining courses shall likewise forfeit his right to the monthly allowance.

Article 10

1. If, on taking a new permanent job, any worker receives a net monthly wage lower than the amount of interim benefit for which he is eligible, he shall be entitled to have the difference made up until the expiry of the twelve-month period specified in Article 1.

2. Should he again be dismissed during the said period, the worker concerned shall receive interim benefit until expiry of that period.

Article 11

If the number of hours worked in the new job is not more than 150 per month, interim benefit shall be paid in full.

Article 12

Payment of the monthly allowance shall be suspended when the worker concerned takes a new permanent job and resumed if he is again dismissed and this shall apply until he reaches the age of 55.

Article 13

1. For the duration of retraining courses the periods specified in Article 1 (1*b*) shall cease to run.

2. Workers taking retraining courses shall receive a daily attendance allowance not less in amount than the net pay they were receiving at the time of ceasing work.

Article 14

1. Workers over 45 but under 50 years of age may be allowed, at their request and if they are considered suitable, to take the retraining courses specially arranged for workers under the age of 45.

2. In this case the workers concerned shall receive interim benefit in accordance with the rules applicable to workers under 45 years of age.

Article 15

1. The Community's contributions towards implementation of the measures described in Article 1 of this decision shall be paid by the European Social Fund.

2. The expenditure incurred shall be entered in the budget of the European Economic Community in the Part relating to the Commission, under the section for expenditure of the European Social Fund.

3. The total of these contributions may not exceed Lit. 1 650 million, equivalent to 2 640 000 units of account.

4. The expenditure shall be apportioned among the Member States according to the scale set out in Article 200(2) of the Treaty.

Article 16

1. The Fund shall advance the total amount of aid provided for in Article 15 above in five annual payments from 1965 as follows :

1965 : Lit. 600 million or 960 000 u.a.
1966 : Lit. 600 million or 960 000 u.a.
1967 : Lit. 200 million or 320 000 u.a.
1968 : Lit. 150 million or 240 000 u.a.
1969 : Lit. 100 million or 160 000 u.a.

2. The sums shall be credited to a special account at the *Tesoreria centrale dello Stato italiano.*

3. On each payment by the Commission the Italian authorities shall credit this account with the same amount.

4. The Italian Government shall send to the Commission each month a statement of account as at the end of the preceding month, with a breakdown of expenditure for the purposes set out in Article 1.

5. Any further advance of Community aid will be paid in its entirety if the Italian Government, by the end of the preceding year, has used at least three quarters of the amounts available in the account referred to in paragraph 2 above; otherwise the advance will be reduced by a sum equal to the difference between the total of the advances made by the Commission and half of the sums paid out by the Italian Government.

6. The sum thus withheld may, however, be utilized at a later date and paid to the Italian Government during the following financial year if that Government satisfies the Commission that the money can be applied for the purposes intended.

Article 17

Should the amounts paid in by the Commission at 31 December 1971 exceed or fall short of 50 % of the expenditure shown to have been actually incurred by the Italian Government in helping workers entitled to the aid referred to in Article 1, in accordance with the provisions of this decision, the difference shall, within the limits set by Article 15(3), be made good between the Italian Government and the Commission by 31 March 1972.

Article 18

The Commission shall ensure, in general by sample checks, that the provisions in this decision relating to the grant of aids described in Article 1 are being observed.

Article 19

The necessary implementing measures for this decision shall be adopted by the Commission.

Article 20

This decision is addressed to the Member States.

PART II

Proposal for a Council regulation temporarily waiving certain provisions of Regulation No. 9 concerning the European Social Fund in order to assist redundant Italian sulphur-mine workers

The Council of the European Economic Community,

Having regard to the provisions of the Treaty establishing the European Economic Community, and in particular Article 127 thereof;

Having regard to the protocol concerning Italy annexed to the Treaty;

Having regard to Protocol No. III concerning sulphur [1], annexed to the Agreement of 2 March 1960 on the establishment of part of the common customs tariff;

Having regard to Council Regulation No. 9 concerning the European Social Fund [2], amended by Regulation No. 47/63/CEE [3];

Having regard to the Decision of 25 September 1962 of the Representatives of the Governments of the Member States meeting in the Council, setting up the Liaison and Action Committee for the sulphur industry in Italy [4];

Having regard to the report of 15 November 1963 of the said Committee;

[1] Official gazette No. 90 C, 20 December 1960, p. 1849

[2] Official gazette No. 56, 31 August 1960, p. 1189.

[3] Ibid., No. 86, 10 June 1963, p. 1605.

[4] Ibid., No. 93, 10 October 1962, p. 2384.

Having regard to the Commission's proposal, which was referred to the Committee of the European Social Fund;

Having regard to the opinion of the European Parliament;

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

Whereas the adoption of the measures proposed by the Italian Government to reorganize the sulphur industry in Italy mainly concerns the south and involves the closure or reduced working of various mines and consequently the dismissal of a certain number of workers;

Whereas it is the function of the European Social Fund to contribute to the retraining and resettlement of workers;

Whereas it is expedient that certain conditions and procedures applied in granting aid from the Fund should be adjusted to the special situation of workers dismissed from the Italian sulphur mines, in accordance with the provisions contained in the Council's Decisions of ... and...;

Whereas such adjustment necessitates extension of the time-limit of twelve months established in Article 4(3) of Regulation No. 9, in order to make allowance for the difficulty of immediately re-employing these workers who, under the decisions quoted above, receive interim benefit for a maximum period of twelve months following retraining;

Whereas, on the other hand, in order to improve the effectiveness of aid from the Fund in resettling these workers in the Community, it is expedient to abolish, in determining the said aid, the maximum established in Article 8(3) of Regulation No. 9;

Whereas, furthermore, it is also expedient to speed up the process of aid from the Fund for retraining and resettlement to be carried out in the framework of measures to reorganize the sulphur industry in Italy by advancing part of the total aid to be granted for these operations;

Whereas, consequently, it is necessary to amend temporarily certain provisions of Regulation No. 9 concerning the European Social Fund to promote retraining and resettlement schemes for workers dismissed from sulphur mines in Italy.

Has adopted the present regulation:

Article 1

For the purposes of this regulation:

1. Regulation No. 9 shall mean Council Regulation No. 9 concerning the European Social Fund [1] as amended by Regulation No. 47/63/CEE [2].

2. Italian sulphur workers shall mean workers dismissed from Italian sulphur mines and whose names appear on the payrolls of mining undertakings at 30 June 1963.

3. Retraining and resettlement schemes for Italian sulphur workers shall mean schemes begun after 30 June 1963 and not later than 31 December 1967.

Article 2

For the purpose of granting aid from the Fund towards retraining and resettlement schemes for Italian sulphur workers, Regulation No. 9 shall be applied subject to the following amendments:

1. The period of twelve months following the end of the retraining course referred to in Article 4(3) of Regulation No. 9 shall be extended to 18 months for those workers who, after retraining, are entitled to interim benefit as provided for in Article 1 (1 *b*) of the Council Decision of ....

2. The maximum amount fixed in Article 8(3) of Regulation No. 9 shall not apply.

The allowance referred to in Article 8(3) may nevertheless not exceed Lit 200 000 for a worker with a dependent family, plus Lit. 25 000 for each person dependent upon him, and for unmarried workers Lit. 100 000.

3. The time-limit set in Article 19(*a*) of Regulation No. 9 shall be extended to 24 months.

Article 3

1. The Fund may make advance payments on the total amount of aid to be allotted for retraining and resettlement schemes begun within the time-limit set in Article 1(3)[1].

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[1] Official gazette No. 56, 31 August 1960, p. 1189.

[2] Ibid., No. 86, 10 June 1963, p. 1605.

[1] This proposal involves making certain amendments to the Financial Regulation relating to the methods and procedures whereby the contributions of Member States specified in Article 200 (1 and 2) of the Treaty establishing the European Economic Community shall be made available to the Commission, and to the technical conditions for conducting the financial affairs of the European Social Fund (Article 209 (b) of the Treaty) (official gazette, 30 March 1961). The amendments which are found to be necessary to implement the above procedure for making advance payments will be contained in a separate proposal shortly to be submitted by the Commission to the Council.

2. These advance payments may be made from the start of such schemes up to 50 % of the estimated expenditure which can be claimed from the Fund for such schemes in accordance with the regulations in force.

3. Applications for advance payments submitted to the Commission by the Italian Government must contain a detailed estimate of expenditure and any other information showing that the schemes to be undertaken are in conformity with the provisions of this regulation.

4. Applications for aid in connection with the above schemes submitted by the Italian Government within the time-limits set by Article 2 above shall contain the particulars required by Regulation No. 9, subject to the amendments effected by the present regulation.

5. Should the advance made exceed the amount of aid to be granted, the excess amount shall be debited to the account held by the Commission on behalf of the

Italian Republic according to the rules set out in the financial regulation of 31 January 1961 relating to the technical conditions for conducting the financial affairs of the European Social Fund (1).

Article 4

The money to enable the Fund to make the advance payments referred to in the preceding article will be supplied to the Commission by the Member States according to the scale laid down in Article 200(2) of the Treaty and by procedure which the Commission will prescribe for this purpose.

The total amount of such advances may not exceed Lit. 875 000 000 or 1 400 000 units of account.

Article 5

The present regulation shall enter into force on the day following its publication in the official gazette of the European Communities.

The present regulation shall be binding in all its parts and directly applicable in all Member States.

(1) Official gazette No. 22, 30 March 1961, p. 509.

PART III

Proposal for a Council decision on a financial contribution of the European Economic Community towards the award of vocational training scholarships for children of redundant Italian sulphur-mine workers

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 128 thereof;

Having regard to the protocol concerning Italy annexed to the said Treaty;

Having regard to Protocol III concerning sulphur (1), annexed to the Agreement of 2 March 1960 on the establishment of part of the common customs tariff;

Having regard to the Decision of 25 September 1962 on the Representatives of the Governments of the Member States meeting in the Council setting up a Liaison and Action Committee for the sulphur industry in Italy (2);

Having regard to the Council's decision of 2 April 1963 establishing general principles for the implementation of a common vocational training policy (3), and in particular the fourth and tenth principles;

(1) Official gazette No. 80 C, 20 December 1960, p. 1849.

(2) Official gazette No. 93, 10 October 1962, p. 2384.

(3) Ibid., No. 63, 20 April 1963, p. 1338.

Having regard to the report of 15 November 1963 of the Liaison and Action Committee for the sulphur industry in Italy;

Having regard to the proposal of the Commission;

Whereas the sulphur industry in Italy is of importance mainly in the south, in particular, the economically less developed provinces in Sicily;

Whereas reorganization of this industry is a direct consequence of the establishment of the Common Market and whereas it is in any case necessary to remedy the backwardness of this area in relation to other areas in the Community, this being one of the aims of the Treaty;

Whereas the reorganization of the Italian sulphur industry proposed in the above-mentioned report of the Committee involves the closure or reduced working of various mines and, as a consequence the dismissal of a certain number of workers, who must be given adequate protection;

Whereas the Italian Government has undertaken to carry out in its entirety the reorganization programme set out in the Committee's report;

Whereas workers over 45 years of age cannot easily be retrained and consequently have great difficulty in finding new employment;

Whereas, therefore, workers in this category will find themselves in a particularly difficult situation with adverse effects on their families and, in particular, their children, for it has been usual for them to take up their father's trade;

Whereas, consequently, it is expedient to promote the vocational training of children of workers who are over 45 years of age and who have been dismissed from Italian sulphur mines.

Has adopted the present decision:

Article 1

In order to promote the training and to raise the educational level of children of workers who have been dismissed from Italian sulphur mines in consequence of the reorganization of the industry and who are over 45 years of age, Community aid will be granted to cover 50 % of the expenditure incurred by the Italian State on:

a) 1 500 scholarships tenable for three years and worth up to Lit. 400 000 per year, for attendance at schools, institutes and training centres where the curricula follow on from that of the compulsory middle school (*scuola media unica*);

b) 150 scholarships, for the most gifted and deserving students, tenable for two years and not exceeding an annual value of Lit. 400 000, in order to continue the secondary schooling undertaken during the three years covered by the scholarships referred to in sub-paragraph (*a*);

c) 50 scholarships, tenable in general for four years and of an annual value not exceeding Lit. 800 000, for particularly gifted students who, on finishing secondary school, wish to attend university or other establishment of higher education.

Article 2

Community aid shall be given only if the scholarships are awarded in accordance with the following articles.

Article 3

The scholarships shall not be held at the same time as other scholarships or grants for the same school year or academic year.

Article 4

Only the children, under 18 years of age at 30 June 1963, of Italian sulphur workers who are over 45 years of age and whose names appear on that date on the payroll of a mining undertaking, shall be eligible for these scholarships.

Article 5

Financial aid from the Community shall be subject to the condition that the scholarships are awarded for study at an educational establishment of training centre recognized by the Commission on the recommendation of the Italian Government.

Article 6

1. The scholarships shall be awarded by a special committee, appointed by the Italian Government, within the limits set out in Article 1 and on the basis of lists drawn up according to merit only.

2. No scholarship can be given to a pupil who has to repeat a school year, to a university student "fuori corso" (i.e. who has

not taken his examinations in the prescribed time) or to one who has not passed all the examinations of the previous academix year with an average of at least 21 out of 30.

3. If the student abandons his studies the scholarship will be withdrawn.

4. Exceptionally a scholarship may be restored to students who have temporarily discontinued their studies for serious health reasons and have a certificate to this effect issued by the Italian health authorities.

Article 7

1. Applicants for scholarships shall undergo a medical examination and psychological tests in an educational or vocational guidance centre.

2. The cost of the above shall be borne entirely by the Italian Government.

3. The object of the medical examination and psychological tests shall be to advise the student, having regard to openings in the various occupations and to the foreseeable trends of the economy.

4. The vocational guidance given to a scholarship candidate must in no circumstances hamper his freedom of choice of an occupation.

Article 8

Detailed arrangements for the award of scholarships shall be made by the Italian Government.

Article 9

The Commission shall ensure, in general by sample checks, that the award and use of scholarships are in conformity with the provisions of this decision.

Article 10

1. Expenditure connected with Community aid for the award of the scholarships referred to in Article 1 of the present decision shall be entered in the budget of the European Economic Community in the Part relating to the Commission, under the section "Joint financing of vocational training".

2. Such expenditure may not exceed Lit. 1 048 000 000, equivalent to 1 676 800 units of account.

Article 11

1. The Commission shall advance the total amount of the aid provided for in Article 10 above in ten annual instalments beginning 1965, as follows :

1965 : Lit. 30 0000 000, or 480 000 u.a.

1966 : Lit. 300 000 000, or 480 000 u.a.

1967 : Lit. 300 000 000, or 480 000 u.a.

1968 : Lit. 30 000 000, or 48 000 u.a.

1969 : Lit. 30 000 000, or 48 000 u.a.

1970 : Lit. 20 000 000, or 32 000 u.a.

1971 : Lit. 20 000 000, or 32 000 u.a.

1972 : Lit. 20 000 000, or 32 000 u.a.

1973 : Lit. 20 000 000, or 32 000 u.a.

1974 : Lit. 8 000 000, or 12 800 u.a.

2. The sums paid by the Commission shall be credited to a special account at the *Tesoreria centrale delle Stato italiano.*

3. On each payment by the Commission the Italian authorities shall credit this account with the same amount.

4. The Italian Government shall send to the Commission on 31 January and 31 July of each year a statement of account as at the end of the preceding month.

5. Any further advance of Community aid will be paid in its entirety if the Italian Government, by the end of the preceding year, has used at least three quarters of the amounts available in the account referred to in paragraph 2 above; otherwise the advance will be reduced by a sum equal to the difference between the total of the advances made by the Commission and half of the sum paid out by the Italian Government.

6. The sum thus withheld may however, be utilized at a later date and paid to the Italian Government during the following financial year if that Government satisfies the Commission that the money can be applied for the purposes intended.

Article 12

1. The scholarships referred to in Aticle 1 may be awarded until 31 December 1975. On that date a balance will be struck between the payments made by the Commission into the special account and the total amount it is due to pay in accordance with

the sums actually paid out by the Italian Government under the present decision.

2. Should the amounts paid in by the Commission exceed or fall short of 50 % of the expenditure shown to have been actually incurred by the Italian Government, the difference shall, within the limits set by Article 10(2), be made good between the Italian Government and the Commission by 31 March 1976.

Article 13

The necessary implementing measures for this decision shall be adopted by the Commission.

Article 14

The present decision is addressed to the Member States.