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Contents

	Page
Proposal for a Council regulation on the gradual establishment of a common organization of sugar markets	2
First directive concerning the participation of firms in the execution of building work for governments, their local or regional authorities and other public corporations	19
Proposal for a Council regulation on the abolition of double taxation of motor vehicles engaged in international traffic	27

Proposal for a Council regulation on the gradual establishment of a common organization of sugar markets

(submitted by the Commission to the Council on 12 March 1964)

Explanatory memorandum

I. GENERAL PROVISIONS

1. The attached draft regulation comprises a set of provisions designed to institute a common policy in the sugar sector in accordance with Articles 38, 40 and 43 of the Treaty establishing the European Economic Community.

2. This draft is a basic regulation whose detailed provisions will need to be supplemented by regulations of an essentially technical nature.

3. In view of the need to guarantee prices and to ensure the sale of the products by measures applied and financed in common, and having regard to the nature and scope of the methods followed by the national market organizations, it cannot be assumed that the aims of the common sugar policy can be achieved simply by co-ordinating the national market organizations and by applying common rules for competition.

The development of the common sugar policy must culminate in an integrated market between the Member States, having the characteristics of an internal market in that there is no longer any discrimination between producers or between consumers. This implies, pending the establishment of a common price level for sugar, harmonization of the present price systems.

4. This policy must aim at a balance between production and outlets both within and outside the Community with due regard for traditional trade flows.

In offering guidance and guarantees to producers, consideration must be given to specialization according to economic structures and natural conditions in the Community.

5. Trade policy in respect of non-member countries, which is the indispensable counterpart to a common market policy, must at the same time meet the need to maintain trading relations and political and economic ties with non-member countries and the obligation to guarantee price stability at the level deemed desirable for producers in the Community.

Having regard to the special features of international sugar trade and the concern of the Community not to hinder its development, protection vis-à-vis non-member countries will

in normal circumstances be limited to the imposition of a uniform system of levies and refunds. This system implies that measures at present in force on the national plane will have to be rescinded or modified as soon as the present regulation is adopted.

6. As regards the system applicable to sugar and sugar products imported into the Member States from the associated African States and Madagascar, it should be recalled that as these are competing products the Association Convention between EEC and the AASM signed at Yaoundé on 20 July 1963 requires the Community to take the interests of these States into consideration when determining its common agricultural policy.

By virtue of the Council decision of 2 and 3 December concerning the association of the overseas countries and territories with the EEC, the same principle should be applied to these as to the associated African States and Madagascar.

This being so, the Commission will submit proposals concerning the system for imports from the associated African States and Madagascar and the overseas countries and territories at a time which will permit this system to come into force simultaneously with the one provided for in Title II of the present Council Regulation.

7. The cane sugar production of the French overseas Departments is an integral part of the organization of the French sugar market. At Community level this situation is recognized in principle in Article 227 of the Treaty, according to which the provisions of the Treaty relating to agriculture are applicable to the overseas Departments with the exception of Article 40(4) concerning the Guidance and Guarantee Fund. As the market organization, particularly the price system, is closely linked with the action of the Fund, it is for the Council either to revise the provision of Article 227 concerning Article 40(4) or to find for the overseas Departments another form of financial intervention which will make it possible to apply the price system.

8. The formation of a single market must be preceded by a growing interpenetration of the national markets. In order that this interpenetration should not only be effective but

also occur gradually and without discrimination throughout the Community, it is necessary to substitute for the multiplicity of national import systems a single system applied by agreed arrangements which will readily lend themselves to the establishment of a preference. This object can be attained by a system of intra-Community levies and refunds.

9. Such are the reasons for which the Commission's proposals include at the same time provisions concerning a system of prices and a trading system. Both systems are moreover closely linked and the introduction of levies and refunds is conditional upon the adoption of a set of measures designed to give the price system a Community character.

The application of the provisions of the attached regulation will enable the Member States, progressively and without harmful consequences for their economy, to substitute for their present organizational measures a Community arrangement which offers to all interested parties the benefit of free development of trade and the maintenance of price stability at a level consonant with the economic well-being of the Community.

II. DETAILED PROVISIONS

1. The regulation on the establishment of a common organization of sugar markets provides for a system of prices whose level is ensured by trading arrangements based on import or export levies and export refunds or import subsidies.

The regulation is applicable to sugar and certain derived products. In order to provide the most suitable system for each product or group of products they have been divided under tariff headings as laid down in Article 1 and in the annex.

The list of processed products in the annex comprises products in respect of which the application of the special provisions may be ineffective, difficult, or even impossible, or involve the risk of provoking disequilibrium with similar or substitute products subject to another system. It has therefore seemed advisable to make provision for exemptions.

2. The price system comprises a target price, a threshold price, a reference price and an intervention price.

The target price is the keystone of the price and levy system.

Its purpose is:

- a) To guide production by giving growers and manufacturers a precise landmark;
- b) To determine indirectly the sugar-beet price level;

c) To determine the intervention price below which market prices may not fall;

d) To determine the threshold price and the levy to be applied to sugar imports;

e) To rationalize internal trade.

Because of the special features of the marketing of sugar-beet the grower's income can be assured only by the sugar price.

The essential factors underlying the choice of white sugar when fixing a target price stem from the structural characteristics of the sugar industry in the Community and also from the system of intra-Community trade planned. The Community's sugar refineries mainly produce white sugar and there is an increasing trend for mills with modern equipment to concentrate on the white rather than the raw product.

In order to enable the farmer to make his crop plans before the autumn sowing and to conclude his contracts with the sugar manufacturers in good time and on the basis of a price known in advance, the target price must be fixed before 15 November.

3. In the framework of the approximation of prices it will be for the Council to fix the upper and lower limits of the target prices.

These limits must depend on two factors: the prices at present prevailing in the Member States and the future pattern of the industry.

As regards the present prices in the Member States, in principle the basis should be the guaranteed price in these States or, if the guaranteed price concept does not exist in one or more Member States, the price approved by the Government as the ex-factory price for a certain quantity which is either the subject of a quota, in the sense given to this term when a production objective is fixed, or is determined by the needs of internal consumption.

As regards the future pattern of the sugar industry, a wheat/sugar-beet relationship should be established in accordance with the desirable balance between the various agricultural products.

In the interest of this relationship the regulations concerning sugar will need to be adjusted in the light of the decision to introduce a single price as part of the approximation of cereal prices.

4. Through the operation of levies, whose aim is to shelter home production from world market fluctuations and to ensure that goods are sold at the target prices of the importing country, the sugar refiner and, indirectly, the farmer or grower are placed in a position to dispose of their products at the target prices.

However, in order to guarantee prices to sugar-beet growers, the target prices of sugar must be accompanied by an intervention price serving as the basis for fixing a minimum purchasing price for sugar-beet.

In order to permit local fluctuations entailed by the free formation of prices, the amount of divergence allowed between the target and intervention prices must be sufficient to cover the gaps between prices freely formed in the territory of a Member State. The geographical concentration of production and consumption areas makes the directed regionalization of prices ineffective, and the results of the introduction of this principle would be incommensurate with the complications it would involve. Moreover, the difference between target price and intervention price must be sufficient to permit the fluctuations referred to above without too frequent recourse to a safeguard mechanism or to interventions.

For this reason the regulation provides for a maximum rate of 10% and a minimum of 5%.

Holders of stocks of home-produced sugar can, if they think fit, sell at the intervention price to the government purchasing agency at any time during the marketing year.

It is also the responsibility of the intervention agencies to stock the products bought and, according to market trends, to offer them again for sale, either on the external or on the internal market.

In order to keep internal market prices as close as possible to the target price, sales by the intervention agencies on the internal markets of the Member States will have to be made at a price which does not endanger the target prices.

Should sales prove impossible on these terms or the market outlook not point to any favourable change in the situation, the intervention agency must have the sugar exported, either as it is or in the form of processed products, or have it denatured for the manufacture of animal feed or for other industrial uses.

5. The fixing of a sugar price is only an indirect means of ensuring an adequate price to the sugar-beet grower. In order to ensure direct remuneration for the latter it is essential to fix a sugar-beet price in relation with the sugar price.

A ratio has been established between the price of sugar and the price of sugar-beet. So that the sugar refiner may guarantee the beet grower the minimum purchase price for his product, this purchase price has been directly linked with the intervention price for sugar.

The price paid to the sugar-beet grower is not necessarily the minimum price. The con-

tract price between grower and manufacturer can be higher, as when sugar is fetching more than the intervention price and part of the margin is passed on to the grower.

In view of the diversity of processing margins and the varying degrees of specialization in the sugar industry, it is not possible in the initial stage to establish a fixed ratio but a ratio moving in such a way as to promote competition on level terms.

The aim of a uniform ratio must be achieved on a Community basis, whereas the fixing of the prices of sugar and sugar-beet is a matter for the Member States.

6. The characteristics of the sugar market demand that output should be regulated in order to spread deliveries to the market over the year at as stable a price as possible. This aim must be pursued by a stocking system which makes it possible to bring the sugar on to the market as and when required. However, because of the structure of the sugar industry, it is the manufacturers who hold the stocks. As the selling margin is not commensurate with stocking costs, a system to finance these costs must be introduced so as to avoid a flood of heavy offers at the beginning of the marketing year, which would force down prices, and a scarcity at the end, sending prices up.

7. The object of the levies is to make up price differences between importing and exporting countries. They are imposed both vis-à-vis non-member countries and between Member States.

Should world market prices or the prices of the exporting Member State, allowing for certain arrangements resulting from the calculation of free-at-frontier prices, be below the price of the importing Member State, the upper term determining the level of the levy on imports shall be the threshold price. According to the origin the lower term of comparison shall be either the cif price for imports from non-member countries or the free-at-frontier price for those from Member States.

Because world prices of white and of raw sugar do not move concurrently, separate levies for raw and for white sugar will be indispensable in trade with non-member countries. Moreover, the advisability of such an arrangement follows from the fact that the prices for these two kinds of sugar are ascertained in different ways.

As regards intra-Community trade, the need to differentiate between the levy charged on raw sugar and that charged on white sugar can be avoided by fixing, at Community level, a margin representing the processing costs in relation to the raw sugar, allowing for a given extraction rate.

Trade in sugar-beet is only of minor importance. Nevertheless, because of regional trade flows between countries with greatly differing price levels, it is necessary to impose a levy on imported beet.

The saccharose content will be assessed yearly on a standard basis.

Trade in molasses is not likely to affect the sugar market directly. Nevertheless, this trade accounts for a part of the sugar industry's receipts and is one factor in production costs and sugar prices. It therefore appeared advisable to provide for its profitable sale in the framework of the price policy. The factors in computing the levy on molasses are on the one hand, for intra-Community trade, the prices of molasses reckoned as part of the production costs of sugar and, on the other hand, in trade with non-member countries, these same prices as well as those which over a certain period are found to be representative of the world market. Subject to necessary adjustments to ensure balance in supply and demand for molasses, the levy will be fixed annually.

For special uses of molasses, exceptions can be envisaged with due regard to the requirements of policy for conversion into livestock products or the need to adjust the terms of competition for certain products made from molasses.

As regards products processed from sugar or likely to compete directly with sugar, the charging of a fixed levy will protect the processing industry, taking into account the components of the product other than the sweetening agent.

In addition the possibility should be provided of harmonizing the protection enjoyed by these processed products and by sugar if this should prove necessary. To this end the regulation allows the Council to add to the fixed levy a variable levy based on the levy applicable to the proportion of sugar contained in the processed product; processed products which contain a sweetening agent other than sugar are placed on the same footing as the products which resemble them most.

The complexity of these products makes it necessary to apply average standards, and any attempt to be more specific by frequent changes in these standards would have only a limited value out of proportion to the administrative complications. The fixing of the levy for the processed product can therefore be envisaged for fairly long periods.

It is to be expected, as a result of certain features of the sugar market, that the world prices of processed products of more or less complex composition will not correspond to the intrinsic value of their components or to the real processing costs. Moreover, as the

variable element is computed on the basis of a rate representing the average composition of a product or even a group of products, price divergences resulting from the difference between the average content and the real content could be appreciable. To rectify these divergences a supplementary amount will be added to the levy.

8. The object of the threshold price is to ensure the domestic price level in the importing Member States. Although no target prices are fixed for raw sugar, the interdependence of raw and white sugar, the characteristics of the sugar industry in the Community, and the nature of the imports nevertheless make it necessary to fix a threshold price for white sugar and another for raw sugar.

As the aim of the threshold price is to support internal prices it must be closely linked with a price which is characteristic and representative of the sugar industry. The target price corresponds to the level which the system envisaged aims at. This is why the threshold price must be fixed in relation to the target price, taking into account marketing costs from the single frontier-crossing point fixed for each Member State to the nearest refinery.

Furthermore, as the threshold price must be so fixed as to ensure the level of internal prices while at the same time allowing a Community preference, the "standard amounts" provided for in Article 11 must be taken into account when fixing it.

The lack of a target price for raw sugar suggests as a reference for fixing a threshold price for this product the establishment of a ratio between white sugar and raw sugar corresponding to an economically reasonable processing margin, representative and uniformly valid for the Community, assuming a given extraction rate.

As the types of sugar on which the prices are based in the various Member States have different characteristics, the basis on which the levy is computed must be harmonized. It is therefore essential to define a uniform standard for the Community.

9. Since the purpose of the levy is to make up price differences between importing and exporting Member States, it is important that the price of the exporting country, which is the lower term in the calculation of the levy, should be determined with sufficient precision to ensure that the real difference in prices is entirely covered. As regards the world prices to be used as the lower term in computing the levy on imports in trade with non-member countries, the lower term should be the lowest price on the world market adjusted to allow for costs free-at-frontier of

the importing Member State and, when the single market stage is reached, free at the common external frontier.

There are a certain number of varieties among the different forms of sugar. There can be no question of establishing specific prices and levies for each of these, but it is sufficient to determine a standard variety corresponding to the prices fixed in relation to which the prices of the other varieties can find their level freely in accordance with their quality.

The lack of precise information on cif prices is aggravated by the fact that for certain transactions the price of sugar is not determined by considerations of an economic order. This justifies replacing the cif price by a price determined in the light of effective supply.

10. In intra-Community trade the lower term for the calculation of the levy is the free-at-frontier price.

In view of the absence of national price quotations for the sugar market and of the marketing stage at which the target price will be fixed, it is necessary, when calculating the free-at-frontier price, to use a reference capable of reflecting the market situation and based on the incidence of the level of world prices on the domestic market. In this connection there are three hypothetical cases to be considered: world prices may be below the intervention price, between the target price and the intervention price, or above the target price. Should world prices, in fact cif prices, be lower than or equal to the intervention price of the exporting Member State, and if the latter has exportable surpluses, it is foreseeable and economically justified that exports will be made at the intervention price.

If the cif prices are between the target price and the intervention price of the exporting Member State, it is normal that trade should be on the basis of the cif price.

Should the cif prices be above the target price of the exporting Member State, exports to the world market will be made at least at the price of this Member State, which will result in lively demand from outside the Community and higher prices on the home market. As, on the other hand, Article 13 provides for measures to curb exports and prevent any increase above the target price, the latter can be adopted for intra-Community trade.

For intra-Community trade in raw sugar it is necessary, in the absence of home market quotations, to make use of white sugar prices. Since the home market is not subject to the same influences as the world market, any fluctuations in the prices of white and raw sugar will be parallel and, in calculating the free-at-frontier price of raw sugar, the price of white sugar less the processing margin can be adopted, assuming a given extraction rate.

11. In intra-Community trade the immediate effect of the proposed system is to give an advantage to those Member States with the lowest prices thanks to the possibility they enjoy of making their export sales on the basis of their domestic prices.

This advantage is not sufficient to ensure expansion of trade between Member States and a preferential system must therefore be provided for these States. This consists of reducing the levy applicable between Member States by a standard amount fixed in such a way as to stimulate this flow of trade and ensure its steady expansion with a view to creating the conditions for the introduction of a single market but at the same time without affecting price levels in the Member States.

12. The levy on sugar-beet and processed products depends on their sugar content and on the levy imposed on sugar.

For imports from non-member countries the levy is computed at a standard rate on the basis of the levy on sugar.

As regards intra-Community trade, however, there would be practical difficulties in taking the free-at-frontier price into consideration.

For the sake of simplicity, it therefore appeared advisable in this case to apply a fixed levy computed on the difference between the threshold prices.

13. The world sugar market is subject to violent fluctuations and shortages can send prices soaring. Under these conditions a deficit country may be prompted to ensure supplies or stable prices by paying import subsidies making it possible to sell sugar at the home market price. In this case the subsidy is calculated according to the same principle as the levy charged in trade with non-member countries.

The same arrangements may be allowed for imports of processed products.

If exports are free the level of world market prices can set up a flow of exports jeopardizing supplies in a Member State. To ensure priority for the Member States in difficult supply situations it therefore seemed advisable to introduce an export levy, granting a preference to intra-Community trade. However, a levy having the effect of increasing the price of sugar to the level of the cif price might well impede trade flows and limit export possibilities to the immediate neighbours of a Member State. For this reason the levy is reduced by the amount of the transport costs in order to maintain the necessary stimulus to exports to another Member State or to the world market.

14. The amounts of the levies are modified by the Member States if the factors on the basis of which they were computed, i.e. the threshold price, the cif price or the free-at-frontier price, undergo a change.

The threshold prices are fixed in advance at a uniform level for the whole marketing year; they can only be changed from one marketing year to the next.

The cif prices are determined by the Commission continuously and, as far as possible, daily. The free-at-frontier prices are revised only if a fluctuation of the cif prices makes this necessary.

If the levy system were strictly applied, any change in the cif prices would be followed by a change in the levy, and with minor variations the procedure for fixing and collecting the levies would be considerably complicated. It is therefore advisable to allow a certain margin within which world market prices may fluctuate without causing any change in the levy.

15. The system of levies and refunds will rest upon the supply of information, which is needed in particular for the control of availabilities and the exact and judicious fixing of the sums to be charged or refunded. For this reason import and export transactions are subject to the issue of a licence which must give information on the nature and quantity of the goods, the fixing in advance of the levy, the country of origin and the type of transport.

The validity of the import licences has been restricted to 45 days, corresponding to the period for "cash" dealings.

In view of the difficulties of exporting sugar, the exporter needs to be in a position to prospect import markets. Export licences must therefore be valid for a reasonable period, i.e. until the expiry of the third month following the one in which they were issued.

Furthermore, the exporter, and in particular the processing exporter, must have sufficient time between the conclusion of the contract and delivery to carry out the processing. This presupposes that at the time when the contract is concluded, the exporter will know what levy will be charged at the time of export. Although the amount of the refunds is normally that obtaining on the day of import, it nevertheless appears advisable to make an exception to the general rule by providing the possibility of fixing in advance on the day of application the refund applicable for a period equal to the life of the export licence.

In order to provide a certain assurance that undertakings to import or export will be duly

discharged, the issue of the licence will be subject to the deposit of a surety which will be forfeit if the import or export does not take place within the specified time-limit. A period of grace will be allowed if there are delays beyond the control of the importer or exporter.

16. In order that it may fully serve its purpose, which is to make up the difference between prices on domestic and external markets, the levy must be established on the day when the goods arrive in the importing country, i.e. in principle, at the exact time of import. However, strict application of this principle may be incompatible with the practices and exigencies of the trade; it may be impossible for importers to conclude contracts for deferred delivery because of uncertainty over the amount of the levy on the day of import. This being so, it would appear advisable to eliminate this element of uncertainty by giving the importing trade the possibility of fixing in advance the amount of the levy for imports to be made from non-member countries within a specified time-limit.

However, in order to check abusive speculation and meet the risks of unforeseen developments for the regulating body, the fixing of the levy in this way is subject to the payment of a premium the amount of which is fixed at the same time. The aim of this is to preclude any danger to the market of the importing country from imports which have borne an insufficient levy fixed in advance. This premium will be determined in the light of the world market situation and of harvest prospects on the Community, so that supplies purchased at low prices on the world market in the months preceding the harvest may not be added to an internal harvest which promises to be abundant.

17. As their purpose is to protect the home markets and ensure price stability, the levies, by their effects, take the place of the various traditional methods of protection.

This being so, with respect both to non-member countries and to Member States (with member countries) the introduction of the exceptions concerning trade with certain non-levy system is incompatible with the maintenance of customs duties or charges with equivalent effect, and in intra-Community trade it also justifies abandonment of recourse to Article 44 of the Treaty.

The levy system also makes it possible to abolish quantitative restrictions in trade.

18. The working of the system would be compromised by certain aids, in particular export aids. It is therefore advisable to

make applicable to aids which would distort the mechanism of the levies, those Treaty provisions under which aids incompatible with the Common Market may be condemned. Articles 92 and 94 of the Treaty will apply to state aids or aids granted from state resources.

The sugar-cane production of the French overseas Departments is an integral part of the organization of the French sugar market. For this reason the French system provided a subsidy permitting access to the home market at local prices. The continuance of this flow of trade appears desirable in the interests of a balance between resources and requirements, and the grant of aid to cover the costs of bringing this sugar on to the French market is indispensable.

19. World market prices are generally lower than Community prices. When the Community has a surplus, exports to the world market must be made possible by refunds. Furthermore, as these exports are made to places remote from the common external frontier, the refunds must take account of transport and marketing costs not allowed for in the levy, and must therefore be higher than the latter.

When world market prices are below those of an exporting Member State and this Member State exports to another whose threshold price is lower than the free-at-frontier price, the exporting Member State must be able to arrange at least the same terms as those provided for sales to the world market.

When exports are made from one Member State with low prices to another, with higher prices, or when transport and marketing costs bring the free-at-frontier price above the threshold price of the importing Member State, it would be unfair to penalize the Member State with the lowest prices by obliging it to sell at world market prices and to refund, for the benefit of an importing Member State, any difference between internal prices, which are already low, and the world market price. For this reason, the importing Member State does not impose a levy on transactions of this kind, so that the refund concerns only the difference between the free-at-frontier price and the threshold price. In order to safeguard Community preference the standard amount is added to the refund. In order to set objective and automatic criteria for appraising the price level, account will be taken of the level of the intervention price in the exporting Member State and of the target price in the importing Member State.

In order to support the market the intervention agencies will have to buy and sell sugar. In order not to jeopardize the internal price

level, only unprocessed products must be sold at prices below those of the Community. In certain circumstances there may be an advantage in marketing the sugar in the form of processed products, and processors might feel able to dispense with temporary admission if they could obtain the sugar at the world market price on the understanding that it was for export in processed form.

The amount of the levies on processed products will have to be established later. The same is true of the criteria for fixing refunds.

20. Because of the general condition of over-supply and the difficulty of ascertaining prices, the sugar market is extremely sensitive. The result is that market reactions are often disproportionate to the quantities involved and likely to bring prices rapidly down to the level of the intervention price. In order therefore to avoid too frequent recourse to government purchasing, it seemed advisable to introduce as a danger mark a reference price between the target price and the intervention price, at which the issue of import licences would be stopped before internal prices fell to the level of the intervention price.

In order to be able to attenuate any divergences in the prices of white and of raw sugar on the internal market and to limit the suspension of the issue of import licences to the product concerned, the reference price must be fixed for each of these two types of sugar.

21. In exceptional circumstances Member States may be permitted to apply safeguard measures in conformity with the general rules already adopted by the Council for other regulations.

22. The financial operations entailed by the system must come within the purview of the regulation on the financing of the common agricultural policy.

A decision will have to be taken as regards the French overseas Departments, because under Article 227 market organization measures are extended to them but without benefit of Article 40(4).

23. The sugar market organization will call for many decisions which will have to be taken within a certain time-limit and for which the co-operation of the Member States will be needed.

For this purpose the regulation provides that a Management Committee shall be set up by the same procedure as that adopted by the Council for other regulations.

Proposal for a Council regulation on the gradual establishment of a
common organization of sugar markets

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community and particularly Articles 42 and 43 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament; and

Whereas the operation and the development of the Common Market for agricultural products must be accompanied by the institution of a common agricultural policy including a common organization of agricultural markets established product by product;

Whereas the sugar sector is of special importance to the economy of the Community both as a source of income for producers and as a source of supply for processing and manufacture;

Whereas, in order to maintain for Community producers the necessary guarantees as regards their employment and standard of living, a target price for sugar and a minimum purchasing price for sugar-beet used in sugar manufacture should be fixed annually in each Member State;

Whereas in order to establish a single market these national prices should be gradually approximated and finally reach a common price;

Whereas, to enable sugar manufacturers to respect the minimum purchase price for sugar-beet, an intervention price for sugar, being the price at which the competent authorities of the Member States will purchase, should be fixed in relation to the target price and serve as a basis for fixing the minimum sugar-beet price;

Whereas trade in agricultural products between the Member States is impeded by a number of obstacles, such as customs duties, charges with equivalent effect, quotas and other quantitative restrictions, the progressive abolition of which during the transition period would be governed, failing co-ordinating action by the institutions of the Community, by varying procedures and timing; and whereas on the other hand a uniform frontier measure covering intra-Community trade will permit the progressive and parallel removal of barriers in all Member States at a pace adapted to the gradual establishment of the common agricultural policy;

Whereas such a uniform frontier measure, in place of all the national measures, must firstly ensure adequate support for the agricultural markets of Member States during the transition period, and secondly permit the progressive establishment of a single market by developing the free movement of goods within the Community;

Whereas these objects can be attained by means of a system of intra-Community levies corresponding to the difference between prices in the importing Member State and the exporting Member State respectively, designed to prevent disturbances on the market of a country where prices are relatively high caused by imports from a country where prices are lower;

Whereas the substitution of these intra-Community levies for other measures which by virtue of the Treaty are due to be abolished during the transition period would be contrary to the principle of the progressive establishment of the Common Market if provisions were not at the same time made for their gradual reduction;

Whereas the gradual reduction of levies on sugar and molasses is to be made concurrently with the approximation of the prices of these products; and whereas the levy on the other products is computed by their sugar content; whereas, however, for processed products provision must be made for a standard levy, diminishing gradually and automatically, to ensure protection of the processing industry, and also for a levy based on sugar content, in order to harmonize, if necessary, the protection of these products and that of sugar;

Whereas new protective measures at the internal frontiers of the Community, affording guarantees to producers in Member States, are justified in relation to the principles of the Treaty only if they replace all other protective measures at present available to the Member States;

Whereas the system to be introduced must maintain the preference in respect of Member States which results from the application of the Treaty; and whereas this requirement can be met by imposing on imports from non-member countries levies corresponding to the difference between world market prices and the prices of the importing Member State and replacing all other protective measures at the frontier, and also by a standard rebate of the intra-Community levy fixed so as to permit the gradual development of trade within the Community;

Whereas, in order to ensure security of supplies, when the world market price is higher than the price in the Member States, it is necessary to provide that the exporting Member State shall impose a levy corresponding to the difference between prices on the world market and in that State; whereas the same measure should be applied in intra-Community trade; and whereas it is, however, necessary to fix a standard rebate of the intra-Community levy so as to permit the gradual development of trade in the Community;

Whereas the operation of this trading system requires that the provisions of the Treaty which enable aids to be reviewed and action to be taken against those which are incompatible with the Common Market must be extended to aids which distort the mechanism of this system; and whereas in the case of exports of white sugar from a Member State having a relatively high price to another Member State where the price is lower the practice of reducing the export price to the world market level can be maintained subject to certain special arrangements; whereas if the world price is higher than the price in an importing Member State it should be permissible under certain conditions to grant a subsidy on sugar imports, and whereas, furthermore, the French Republic should be allowed to grant aid for the transport of sugar produced in the overseas departments;

Whereas the practice in processing traffic whereby trade between Member States in processed products incorporating imported basic products is conducted on the basis of world prices for such basic products is incompatible with the application of the trading system envisaged;

Whereas the link between the price system and this trading system can be properly ensured by determining the threshold price of the importing Member State, and whereas the intra-Community levies and those in respect of non-member countries will be fixed on the basis of this price in such a way that the selling price of imported sugar reaches the target price;

Whereas in order to facilitate the implementation of the proposed provisions, it is necessary to lay down procedure for close co-operation between the Member States and the Commission within a Management Committee;

Whereas it is necessary that the common organization of markets in the sugar sector be fully established by the end of the transition period,

Has made the present regulation

Article 1

1. In order to promote the development of the Common Market and the common agricultural policy, a common organization of the market in the sugar sector shall be gradually established, comprising a price system and a trading system.

2. The common organization of the sugar market shall apply to the following products:

Common customs tariff No.	Description of goods
a) 17.01	Beet-sugar and cane sugar, solid: I. Raw sugar II. White sugar
b) 12.04	Sugar-beet, whole or sliced, fresh, dried or powdered; sugar cane;
c) 17.03	Molasses whether or not decolourized
d)	The processed products listed in the annex hereto.

3. The Council, acting by qualified majority on a proposal of the Commission, shall determine the categories of sugar which correspond to the designations of raw sugar and white sugar.

Title I. — Price system

Article 2

The Member States shall fix annually for white sugar a target price ex-factory, bulk and net of tax. This price, fixed for an identical quality standard in all the Member States, shall be decided on or before 15 November, notified forthwith to the Commission and applied during the following marketing year.

The quality standard referred to in the above paragraph shall be decided by the Council acting on a proposal of the Commission, unanimously during the second stage and by qualified majority thereafter.

Article 3

1. For the 1965/66 marketing year the Council, acting unanimously on a proposal of the Commission, shall fix before 1 October 1964 an upper limit and a lower limit of the target prices, applicable in all Member States.

The upper and lower price limits shall be fixed:

a) On the basis of the prices in the Member States for the 1964/65 marketing year. If in a Member State the price is applicable only for a specified quantity this price alone is adopted;

b) With a view to the desirable future pattern of the sugar industry.

2. Without prejudice to the provisions of Article 23, divergences between the target prices laid down by the Member States by virtue of the present regulation shall be gradually reduced in order to arrive at a single target price at latest by the end of the transition period.

On a proposal of the Commission, the Council, acting unanimously during the second stage and by qualified majority thereafter, shall decide each year before 15 October, the price measures to be applied by the Member States for the following marketing year.

Article 4

1. Before the beginning of the marketing year Member States shall fix an intervention price for white sugar. This price, fixed for the same quality standard as the target price, shall be equal to the latter less a fixed percentage determined by each Member State between a minimum of 5% and a maximum of 10%. The Council, acting by qualified majority on a proposal of the Commission, shall lay down provisions for this fixing of a single percentage for the Community before the end of the transition period.

2. Throughout the marketing year the intervention agencies of the Member States shall be required to purchase at the intervention price, and at this price only, any white sugar offered them by holders of home-produced sugar.

They may also conclude stocking contracts in order to avoid the necessity of purchasing white sugar in pursuance of the above paragraph.

3. The intervention agencies of a Member State may not sell in that Member State any sugar purchased in conformity with paragraph 2 above on such terms as to prevent prices from reaching the target price. They may sell white sugar at a lower price on condition that it has been made unfit for human consumption, or grant a denaturing bonus subject to this same condition.

4. The criteria for the conclusion of stocking contracts shall be determined by the Council acting by qualified majority on a proposal of the Commission.

Further details for implementing this article shall be decided in accordance with the procedure laid down in Article 25.

Article 5

1. Each year the Member States shall fix at the same date as the sugar target price a minimum sugar-beet price for beet at a specified stage of delivery and of identical quality standard for all Member States. This price shall be derived from the intervention price for sugar by applying a ration established according to certain criteria.

2. Sugar manufacturers shall be required to buy their sugar-beet at this minimum price subject to any premium or discount applied according to the characteristics of the product and the terms of delivery.

The scale of premiums and discounts shall be fixed by each Member State on the same date as the minimum sugar-beet price.

3. On a proposal of the Commission the Council, acting unanimously during the second stage and by qualified majority thereafter, shall lay down the details for implementing this article, in particular:

a) The quality standard and the stage of delivery for which the minimum price is fixed;

b) The criteria for fixing the ratio between the price of sugar and that of beet. These criteria shall take account in particular of the value of the by-products, especially molasses, and of the need to arrive, in the light of developments in the processing industry, and at the latest by the end of the transition period, at a single ratio assuming a single molasses price;

c) The criteria for the harmonization of scales of premiums and discounts.

Article 6

1. A system of compensation for costs of stocking white sugar shall be established in each Member State.

The costs incurred for stocking during the last nine months of the marketing year shall be refunded to those entitled.

The financing of this expenditure shall be ensured by contributions from sugar manufacturers, refiners and importers in proportion to the quantities of white sugar they produce or import.

2. The details for implementing this Article shall be laid down by the Council acting on a proposal of the Commission unanimously during the second stage and by qualified majority thereafter.

Title II. — The trading system

Article 7

1. When raw sugar and white sugar are imported into a Member State a levy shall be applied which shall be equal:

a) If the product comes from non-member countries, to the difference between the threshold price of the importing Member State fixed in conformity with Article 8, and the cif price of the product determined in conformity with Article 9;

b) If the product comes from another Member State, to the difference between the threshold price of the importing Member State, and the free-at-frontier price of the product from the exporting Member State determined in conformity with Article 10; this difference shall be reduced by a standard amount fixed in conformity with Article 11.

2. When the products referred to in Article 1(2, b) are imported into a Member State a levy shall be applied which shall be computed on the basis of the saccharose content fixed at a standard rate, and of:

a) The levy on white sugar in the case of imports from non-member countries;

b) The difference between the threshold prices of white sugar in the importing Member State and in the exporting Member State in the case of imports from Member States.

3. When the products referred to in Article 1(2, c) are imported into a Member State from a non-member country or another Member State a levy shall be applied which shall be equal:

a) In trade between Member States, to the difference between the prices of molasses in the importing Member State and in the exporting Member State; the molasses prices here referred to are those which were taken into account when fixing, for the purposes of Article 5, the ratio between the sugar intervention price and the minimum sugar-beet price;

b) In trade with non-member countries, to the difference between the price referred to above in the importing Member State and the price applied on the world market during a reference period.

The amount of the levies referred to in this paragraph shall be fixed according to the procedure laid down in Article 25 for the duration of the marketing year. They can be revised in the course of the marketing year if this is necessary to ensure the balance of the market.

Lower levies can be fixed according to the same procedure for products intended for special uses.

4. When processed products are imported into a Member State a levy shall be charged as protection for national processing industries.

The Council, acting by qualified majority on a proposal of the Commission, may further decide to add to this levy a variable component which can be fixed and revised as a standard amount:

a) Corresponding, for processed products manufactured from raw or white sugar, to the incidence on the cost price of these products:

i) Of the levy on imports from non-member countries of raw or white sugar;

ii) Of the difference between the threshold prices of raw or refined sugar in the importing Member State and in the exporting Member State in the case of imports from Member States;

b) Fixed, for processed products not containing raw or white sugar, by reference to market conditions for processed products referred to in the foregoing paragraph which most resemble them as to the content of sweetening agent. Nevertheless, account shall be taken of the maximum import charge resulting from binding in GATT.

5. Should effective offers from non-member countries of processed products subject to a levy comprising a variable component not correspond to the price which results from the price of the sugar content plus processing costs, an additional amount to the levy may be fixed in accordance with the procedure laid down in Article 25.

6. The intra-Community levies on imports shall be gradually reduced as the prices of sugar or of molasses are approximated.

However, the fixed component in the levy applicable to processed products shall be reduced by one-sixth per year beginning with the first year of implementation of the trading system established by this regulation.

7. On a proposal of the Commission the Council, acting by qualified majority, shall decide on the details for implementing paragraphs 2 and 4.

Article 8

1. The Member States shall fix annually three months before the beginning of the following marketing year a threshold price for raw sugar and a threshold price for white sugar.

2. The threshold price of white sugar shall be fixed for the same quality standard as that for which the target price is fixed so that it shall be possible, taking into account the standard amount provided for in Article 11, to attain the level of the sugar target price.

3. The threshold price of raw sugar shall be fixed for an identical quality standard in all the Member States. It shall be derived from the threshold price of refined sugar by applying a coefficient representing a single processing margin for the Community. On a proposal of the Commission the Council acting by qualified majority shall lay down the quality standard and the coefficient corresponding to the processing margin.

Article 9

1. The cif price of raw sugar and of white sugar, established on the basis of the most favourable offers on the world market and calculated for a frontier crossing point designated by each Member State, shall be determined on the basis of international prices adjusted in relation to any quality differences compared with the quality standard for which the threshold price is fixed and allowing for the reliability of the available quotations.

2. In the event of free quotations on the world market not being determinant for the offer price or of this offer price being lower than the international prices, the cif price shall be replaced, solely for the imports in question, by a price determined in the light of the offer price.

3. The Commission shall determine the prices referred to in this article. The criteria to be applied and the details for implementing the present article shall be decided by the procedure of Article 25.

Article 10

1. The price of white sugar from an exporting Member State delivered free-at-frontier of the importing Member State shall be determined on the basis of:

a) The intervention price when the cif price is lower than or equal to the intervention price of the exporting Member State;

b) The cif price when this is between the intervention price and the target price of the exporting Member State;

c) The target price when the cif price is equal to or higher than the target price of the exporting Member State.

2. The price of raw sugar from an exporting Member State delivered free-at-frontier of the importing Member State shall be determined on the basis of the price calculated in conformity with the preceding paragraph less the processing margin provided for in Article 8(3).

3. The prices established in conformity with paragraphs 1 and 2 shall be increased by the marketing and transport costs up to the frontier crossing point.

4. The Commission shall determine the prices referred to in this article. The criteria to be applied shall be decided in accordance with the procedure laid down in Article 25.

Article 11

1. The standard amounts shall be fixed in such a way that trade between the Member States shall develop gradually and regularly until the establishment of the single market, with due regard to availabilities on the markets of the Member States of home-produced sugar or of sugar from other Member States. These amounts shall be determined annually by the procedure of Article 25 and in accordance with the criteria decided by the Council acting in accordance with the criteria decided by the Council acting on a proposal of the Commission, unanimously during the second stage and by qualified majority thereafter. They shall be published before the beginning of the marketing year.

2. If, in the course of the marketing year, intra-Community trade should not develop as envisaged in paragraph 1, the standard amounts laid down in the said paragraph shall be revised by the procedure of Article 25. In this case a new threshold price shall be fixed.

Article 12

1. If the cif price of raw or of white sugar is above the threshold price of an importing Member State, the latter may grant a subsidy to imports of the product in question from non-member countries. This subsidy shall

be equal to the difference between the cif price and the threshold price. The Member State in question shall grant the same subsidy to imports from Member States.

2. If a Member State makes use of the facility provided for in paragraph 1 above it may, when importing processed products subject to a levy comprising a variable component, grant a subsidy calculated in accordance with criteria established by the Council acting by qualified majority on a proposal of the Commission.

3. If the cif price of white sugar is higher than the target price of a Member State, the latter shall impose on exports of refined sugar to Member States and non-member countries a levy equal to the difference between the cif price and the target price.

If the cif price of raw sugar is higher than the target price of white sugar allowing for the processing margin provided for in Article 8(3), the Member State shall charge a levy on exports of raw sugar to other Member States and to non-Member States equal to the difference between the cif price and the target price thus reduced.

In trade between Member States the levy provided for in the above paragraphs shall be reduced by the standard amount and the costs of transport and marketing up to the frontier crossing point of the importing Member State.

In trade with non-member countries the levy shall be reduced by the transport and marketing costs incurred to gain access to the world market.

4. If a Member State charges an export levy in conformity with paragraph 3, it may charge on the export of processed products subject to a levy comprising a variable component a levy computed according to criteria determined by the Council acting by qualified majority on a proposal of the Commission.

5. Without prejudice to the provisions of Article 23, the provisions of the present article shall be applicable to trade between Member States at latest until the end of the transition period.

The details for implementing this article shall be laid down by the procedure of Article 25.

Article 13

1. Subject to the provisions of Article 7(3) the amounts of the levies shall be computed by the Member States and communicated forthwith to the Commission.

These amounts shall be amended by the Member State in the light of variations in the factors on which they are based. Criteria for amending the levies and the relevant implementing details shall be determined by the procedure of Article 25.

Changes in the amounts of the levies shall be communicated forthwith to the Commission.

Article 14

1. All imports and exports of the products specified in Article 1 *a)* to *c)* shall be subject to an import or export licence issued by a Member State on application by the party concerned. The Member State shall keep the Commission informed of the quantities for which licences have been issued.

2. Import licences shall be valid from the date of issue until the 45th day following that date. Export licences shall be valid from the date of issue until the end of the third month following that date.

3. The issue of an import or export licence shall be subject to the deposit of a surety which shall be forfeit if the operation is not carried out within the period of validity of the licence.

4. The details for implementing the present article, including the exceptional cases in which the licence may be extended or in which the surety may not be forfeit shall be determined by the procedure of Article 25.

Article 15

1. The amount of levy to be charged is that applicable on the day of import or export.

2. However with respect to imports or exports of raw or white sugar, the levy effective on the day of application for a licence adjusted, where necessary, according to the threshold price effective on the proposed date of importation or exportation shall, if so requested by the party concerned when applying for the licence, be chargeable on an imported or exported consignment within the period of validity of the licence. In this case a premium fixed at the same time as the levy shall be applied thereto.

3. The scale of the premiums shall be determined by the Commission in accordance with criteria laid down by the Council on a proposal of the Commission, acting unanimously in the course of the second stage and by qualified majority thereafter. The details for implementing this article shall be determined by the procedure of Article 25.

Article 16

1. In trade between the Member States and between Member States and non-member countries as regards both import and export, the following shall be incompatible with the trading system set up by this regulation:

- a) The imposition of any customs duty or charge having equivalent effect;
- b) The application of any quantitative restriction or measure having equivalent effect; and
- c) Recourse to Article 44 of the Treaty.

It shall be deemed a measure having equivalent effect to a quantitative restriction, *inter alia*, to issue import or export licences only to a specified category of applicants.

2. Subject to the provisions of Article 18, any export from one Member State to another:

- a) Of products covered in Article 1 which have not borne the levies applicable to them in the exporting Member State or have enjoyed total or partial drawback of such levies;
- b) Of products covered by Article 1 or subject to a common market organization providing for similar arrangements to those of this paragraph and into the manufacture of which entered, either during such manufacture or at an earlier stage, products covered by Article 1 which have not borne the customs duties or levies applicable to them in the exporting Member State or have enjoyed total or partial drawback of such customs duties or levies, shall be incompatible with the trading system set up by this regulation.

3. On a proposal of the Commission the Council, acting by qualified majority, may decide on exceptions to the abolition of quantitative restrictions and measures having equivalent effect in trade with non-member countries.

Article 17

As soon as the trading system instituted by this regulation is implemented, and subject to the provisions of Article 18, Articles 92 to 94 of the Treaty shall be applicable to production of and trade in the products referred to in Article 1.

The French Republic may grant aid to sugar produced in its overseas Departments. Such aid may not exceed the amount of the transport costs between these Departments and metropolitan France.

Article 18

1. In order to enable exports of white sugar to be made to non-member countries at world prices, the difference between the said prices and the intervention price of the exporting Member State may be covered by a refund under conditions determined by the procedure of Article 25.

2. When white sugar is exported from a Member State to another Member State, and subject to the provisions of Article 12(3), the exporting Member State may grant a refund if the free-at-frontier price, determined in conformity with Article 10, is higher than the threshold price of the importing Member State.

The maximum amount of this refund shall be equal to the amount which can be granted in trade with non-member countries in pursuance of paragraph 1.

However, if the intervention price of the exporting Member State is below the target price of the importing Member State, the maximum amount of the refund shall be equal to the difference between the free-at-frontier price of the product, determined in conformity with Article 10, and the threshold price of the importing Member State, this difference being increased by the standard amount provided for in Article 11.

If an exporting Member State grants a refund in pursuance of the provisions of paragraphs 1 and 2, the importing Member State shall charge the levy applicable to imports from non-member countries less the standard amount provided for in Article 11.

3. The Council, acting by qualified majority on a proposal of the Commission, shall determine the criteria for fixing the amount of the refunds which can be granted in respect of the export to non-member countries or Member States of processed products subject to a levy comprising a variable component.

4. The intervention agencies may sell white sugar bought in conformity with Article 4(2) with a view to its export to non-member countries:

- a) Either at world market prices, on the same terms as those decided on for the implementation of paragraph 1 if the white sugar is to be exported as such;

- b) Or at the cif price determined in conformity with Article 9 if the white sugar is to be exported in the form of a processed product.

Article 19

1. The Member States shall fix each year three months before the opening of the marketing year a reference price for raw sugar and a reference price for white sugar of the same quality standard as that for which the threshold price is fixed. The reference price for refined sugar shall be fixed between the target price and the intervention price and in an identical relationship with these two prices in all the Member States. This relationship shall be laid down by the procedure of Article 25.

The reference price of raw sugar shall be derived from that of white sugar by applying a coefficient representing the processing margin provided for in Article 8(3).

2. If internal market prices are below the reference price for a product the Member State in question shall suspend the issue of licences for the import of this product from non-member countries and shall inform the Commission to this effect forthwith.

3. The details for implementing this article, in particular those concerning the ascertainment of prices on the internal market, shall be determined in accordance with the procedure of Article 25.

Article 20

1. If, as a result of the application of the measures relating to the gradual establishment of a common organization of sugar markets, these markets in one or more of the Member States should, by reason of imports, suffer or be threatened with serious disturbances likely to jeopardize the attainment of the objectives defined in Article 39 of the Treaty, the Member State or States concerned may, during the transition period, take the necessary safeguard measures regarding imports of the products in question.

2. The Member State or States concerned shall notify the other Member States and the Commission of such measures not later than at the date of their entry into force.

The Member State or States applying such measures shall make arrangements to ensure that goods in transit are not affected by them. If the frontier is closed a period of grace of not less than three days shall be allowed. The Member States must be prepared to open negotiations immediately with a view to provisional arrangements to prevent excessive or avoidable loss to exporters. These arrange-

ments shall be notified forthwith to the other Member States and to the Commission.

On the basis of the provisions of paragraph 1, and being concerned not to raise the level of protection between Member States, the Commission, after consulting the Member States through the Management Committee provided for in Article 24, shall decide by emergency procedure within a time-limit of four working days reckoned from the date of the notification referred to in the first paragraph above whether the measures shall be retained, amended or abolished. The Commission may also decide as to measures to be applied by the other Member States.

The decision of the Commission shall be notified to all the Member States and shall take effect immediately.

3. Any Member State may refer to the Council the decision of the Commission within a time-limit of three working days reckoned from the date of its notification. The Council shall meet without delay. It may, on the basis of the provisions of paragraph 1, and with the object of not raising the level of protection between the Member States, amend or annul by a qualified majority the decision taken by the Commission.

If a Member State which has taken the safeguard measures referred to in paragraph 1 refers the matter to the Council, the decision of the Commission shall be suspended. This suspension shall terminate ten days after the said decision has been referred to the Council if the Council has not by then modified or annulled it.

4. Any safeguard measure affecting trade between the Member States shall be applied simultaneously if not earlier to trade with non-member countries, the principle of Community preference being observed.

5. If, after the end of the transition period, Community markets in the products specified in Article 1 suffer or are threatened with serious disturbance by reason of imports from non-member countries, and especially if the intervention agencies are impelled to make large purchases on the market of the products mentioned in Article 4, the issue of import licences in respect of non-member countries may be suspended, subject to possible exceptions in the case of products for particular uses, until the disturbance or threat of disturbance has subsided. The conditions for the application of the present paragraph shall be determined by the Council acting by qualified majority on a proposal of the Commission.

Title III — General provisions

Article 21

1. The Member States shall take steps to adjust their laws, regulations and administrative practices so that the provisions of the present regulation may be effectively applied as from the dates laid down in Article 30.

2. If in a Member State grave difficulties are encountered in making the adjustments referred to in paragraph 1 this State may request an extension of the time-limit referred to in that paragraph.

On a proposal of the Commission the Council, acting unanimously, may authorize this extension for one year on condition that this does not entail any hindrance to the development of trade or damage to the interests of the other Member States. This authorization may be renewed for one year on the same conditions and by the same procedure.

The Commission shall see that the conditions to which the authorization is subject are observed and for this purpose shall send the necessary directives to the Member States concerned after consulting the Member States in the Management Committee.

Article 22

On a proposal of the Commission the Council, acting unanimously during the second stage and by qualified majority thereafter, shall have power to amend the list of products referred to in Article 1(2d) and take measures by way of exception to the provisions of this regulation in respect of each of the products covered by Article 1.

Article 23

The Council, acting in accordance with the procedure laid down in Article 43 of the Treaty, shall make adjustments to the provisions of the present regulation so as to permit the establishment:

- a) Of a single target price for white sugar for the whole Community;
- b) Of an intervention price, a reference price and a threshold price for white sugar and of a threshold price for raw sugar which shall be the same for the whole Community;
- c) Of a single minimum sugar-beet price for the Community;
- d) Of a single frontier-crossing point for the Community for the purpose of determining the cif price;

e) In trade with non-member countries:

i) Of a single import levy for the Community when the cif price is below the threshold price;

ii) Of a single import subsidy and a single export levy for the Community when the cif price is above the threshold price;

f) Of a Community system of compensation for the costs of stocking white sugar.

Such adjustment shall be made in such a way that the single market is achieved for sugar in the same year as for cereals.

Article 24

1. There shall be set up a Sugar Management Committee, hereinafter called "the Committee", consisting of representatives of the Member States and presided over by a representative of the Commission.

2. Within this Committee the votes of the Member States shall be weighted as laid down in Article 148(2) of the Treaty. The chairman shall not vote.

Article 25

1. In cases where the present regulation expressly provides for application of the procedure laid down in the present article, the matter shall be referred to the Committee by its chairman, either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall render its opinion on these measures within a time-limit fixed by the chairman according to the urgency of the matters under consideration. It shall act by a majority of twelve votes.

3. The Commission shall adopt measures which shall be immediately applicable. However, if they are at variance with the opinion rendered by the Committee, the measures shall at once be communicated by the Commission to the Council. In such a case, the Commission may defer for a maximum period of one month from the date of this communication the application of the measures it has decided upon.

The Council, acting by qualified majority, may take a different decision within a period of one month.

Article 26

The Committee may consider any other question raised by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 27

At the end of the transition period, the Council, acting by qualified majority on a proposal of the Commission, shall decide in the light of experience whether to maintain or amend the provisions of Article 25.

Article 28

Council Regulation No. 25 concerning the financing of the common agricultural policy and the implementing provisions thereto shall apply to the market in sugar with effect from the implementation of the trading system set up by the present regulation.

Article 29

This regulation shall be applied in such a way as to take account simultaneously and in appropriate manner of the objectives laid down in Articles 39 and 110 of the Treaty.

Article 30

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

However, the date for bringing into operation the price system is fixed at 1 July 1964 for the Italian Republic and at 1 October 1964 for the other Member States. The date for bringing into operation the trading system is fixed at 1 October 1964.

If transitional arrangements are necessary, they shall be determined in accordance with the procedure of Article 25.

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

ANNEX

Common customs tariff No.	Description of goods
Ex. 17.02	Other sugars; sugar syrups, artificial honey (whether or not mixed with natural honey) caramel sugar and molasses, with the exception of lactose and lactose syrup and of glucose and glucose syrup.
17.05	Flavoured or coloured sugars, syrups and molasses, including vanilla sugar and vanillin sugar, but not including fruit juices containing added sugar in any proportion.
Ex. 20.01	Vegetables and fruit, prepared or preserved by vinegar or acetic acid with sugar.
20.03	Fruit preserved by freezing, containing added sugar.
20.04	Fruit, fruit-peel and parts of plants, preserved by sugar (drained, glacé or crystallized).
Ex. 20.05	Jams, fruit jellies, marmalades, fruit purée and fruit pastes, being cooked preparations, containing added sugar.
Ex. 20.06 B	Fruit other than nuts including groundnuts otherwise prepared or preserved with or without spirit and with added sugar.
Ex. 20.07	Fruit juices (including grape must) and vegetable juices, containing added sugar but unfermented and not containing spirit.

First directive concerning the participation of firms in the execution of building work for governments, their local or regional authorities and other public corporations

(submitted by the Commission to the Council on 16 March 1964)

EXPLANATORY MEMORANDUM

I. In the General Programmes for the removal of restrictions on freedom of establishment and freedom to supply services certain questions arise where public contracts are concerned. They may be considered under two headings:

i) The abolition of laws, regulations or administrative practices which in a given Member State exclude or restrict, even indirectly, the participation of contractors from other Member States in the execution of works for the Government, local or regional authorities or other public corporations.

ii) The establishment of common procedure for the award of public contracts so as to ensure that contracts in each Member State are awarded in accordance with criteria that are as objective as possible and that firms from other Member States are in fact placed on the same footing as nationals.

The present proposal for a directive is concerned only with matters arising under the first heading above; the co-ordination of procedures for the award of public works contracts is to be the subject of a later proposal by the Commission.

II. In this proposal the principles laid down in the General Programmes for the gradual liberalization of public works contracts have been borne in mind; the measures proposed are designed to cushion the effects of abolishing discrimination within each Member State during the transition period.

The chief aims of the directive are:

a) to remove restrictions on freedom of establishment and freedom to supply services for the benefit of public works contractors;

b) to lay down the conditions under which the Member States may suspend the award of public works contracts to nationals of other Member States during the transition period;

c) to extend liberalization to public works concessions;

d) to extend these measures to cover works contracts awarded by national railway boards.

This last extension does not exclude special rules being laid down for the methods by which national railway boards may award

works contracts when Community rules on this matter are drawn up.

III. Title I of the proposal contains three articles.

Article 1 embodies the basic rule obliging each Member State to remove restrictions on the operations of contractors from the other Member States as regards public works.

Restrictions are to be removed in respect of all works executed for governments, local or regional authorities or the public corporations listed in the annex to the directive.

Article 2 indicates more precisely the activities and works to which the directive applies; the definitions in this article are not of general scope but are intended only to define the ambit of the proposed directive.

Article 3 lists the beneficiaries of the directive; the inclusion of public works concessionaires among them is worthy of note. This was considered necessary because of the tendency in the Member States to have a growing proportion of public works executed by concessionaires. Furthermore, the inclusion of concessionaires is in pursuance of a specific point in Title III of the General Programmes.

IV. Title II concerns the discretionary powers of Member States to suspend the award of public works contracts to nationals and companies of the other Member States during the transition period. These powers apply in particular to contracts involving more than 600 000 units of account, because these are expected to be the most affected by the removal of restrictions. A safeguard clause had to be written in for Luxembourg because of the special circumstances of the construction industry in that country.

The rules governing the exercise of this discretion contain details not to be found in Title V C e) of the General Programme for the removal of restrictions on freedom to supply services. These details were deemed necessary having regard to the specific aim of the Programme — "to ensure that restrictions will be lifted in a gradual and balanced manner".

Under the provisions of this Title, liberalization of public works contracts in each Member State in 1965 is to be 15% of the annual

average amount of contracts concluded in 1963-64. The rate of liberalization will have to be increased for the subsequent periods (1966-67 and 1968-69) in conformity with the General Programmes. It was not thought feasible to fix the liberalization rates for these two periods at this stage, because account will have to be taken of factors that cannot be known at present. In order that these rates may be determined by a simple and rapid procedure, Article 6 provides that they will be fixed by the Commission after the Member States have been consulted.

Articles 7, 8 and 9 impose the necessary restrictions on the exercise by each Member State of its power to suspend the award of contracts, and stipulate that sufficient publicity shall be given to any decision that such suspension is lifted.

V. Title III makes standing arrangements for collaboration between the Commission

and the Member States, this is provided for by Article 54(3 b) of the Treaty and is necessary in particular in studying the desirability of supplementary provisions.

VI. In the final provisions of Title IV there has been inserted a clause concerning the publication of notices about public works contracts and concessions, which is essential to enable firms to submit tenders or obtain concessions.

VII. The list of public corporations appended to the proposal was drawn up by reference to the number and size of the contracts they offer.

In accordance with the General Programmes, other public corporations awarding works contracts will be brought under liberalization arrangements to be set out in a directive that will be issued before the end of the transition period.

First directive concerning the participation of firms in the execution of building work for governments, their local or regional authorities and other public corporations

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54(2) and Article 63(2) thereof;

Having regard to the General Programme for the removal of restrictions on freedom of establishment ⁽¹⁾, and in particular Title IV B 1 thereof;

Having regard to the General Programme for the removal of restrictions on freedom to supply services ⁽²⁾, and in particular Title V C e) 1 thereof;

Having regard to the amendments to these Programmes made by the Council in its decision dated ... ⁽³⁾;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

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

Whereas the above-mentioned General Programmes require that freedom of establishment and freedom to supply services in the matter of public works be realized simultaneously and at an early stage; whereas such works, when they are not carried out by direct labour, may be executed either under contract or under concession; whereas the present directive must also cover public works concessions as they represent a considerable proportion of such works; and whereas its scope would otherwise be much restricted;

Whereas the removal of restrictions must be accompanied by arrangements enabling its effects to be mitigated within each Member State during the transition period;

Whereas to this end each Member State must be free to suspend the award of public contracts to nationals of the other Member States when contracts already awarded to such nationals reach or exceed a given quota, fixed annually, and subject to certain other conditions;

Whereas use of this power to suspend the award of contracts must, however, be limited by the guarantees needed to protect the interests of contractors;

Whereas this power of suspension should preferably be used in respect of contracts for more than 600 000 units of account, since the

(1) See official gazette of the European Communities, No. 2, 15 January 1962, p. 36/62.
(2) *ibid.*, p. 32/62.
(3) See p. 26.

effects of lifting restrictions will probably be felt most of all in this category of public contract;

Whereas, in order to attain complete liberalization gradually, the first quota should be calculated on a basis of 15% since the present directive will come into force relatively late in the transition period;

Whereas quotas for subsequent years will have to be fixed with due regard to factors that cannot be known at present, and whereas it would be best to make the Commission responsible for fixing these quotas by a simple and rapid procedure;

Whereas the simultaneous realization of freedom of establishment and freedom to supply services as regards public works contracts concluded in the Member States for governments, local or regional authorities and other public corporations must be effected in step with the co-ordination of national procedures for awarding public works contracts, on which a separate directive will be issued;

Whereas it is expedient to set up an Advisory Committee, under Article 54(3 b), to assist the Commission in examining the various problems that may arise in giving effect to the present directive, and in order to assist in the drafting of further Community enactments on public works,

Has adopted the present directive:

TITLE I

Removal of restrictions on the right to operate as a building contractor

Article 1

1. With effect from 1 January 1965 the Member States shall, in respect of works to be carried out for governments, local or regional authorities or the public corporations referred to in the present directive, remove restrictions on the right to operate as a self-employed building contractor in the Member States, subject to the conditions set out below.

Projects undertaken for bodies, howsoever constituted, which control the national railways in the six Member States shall be regarded as works to be carried out on government account.

2. The restrictions to be removed are those set out in Title III of the General Programmes for the removal of restrictions on freedom of establishment and on freedom to supply services, hereinafter referred to as the General Programmes.

The following in particular shall be considered incompatible with freedom of establishment and freedom to supply services: laws, regulations or administrative practices in any Member State which exclude or limit the participation of builders from the other Member States in work for governments, local or regional authorities or the public corporations referred to in the present directive. The same shall apply in technical standards obstructing, even indirectly, the activity of building firms from the other Member States.

Article 2

For the purposes of the present directive, the following definitions shall apply:

a) *Activities*: Those referred to in Schedule I to the General Programme for the removal of restrictions on freedom of establishment, Major Class 40, Group 400. These cover all operations relating to the construction, maintenance or demolition of works carried out for the principals referred to in Article 1 above.

b) *Works*: All works or component parts thereof executed above or below ground; for instance, buildings of all kinds, earthworks, bridges, viaducts, tunnels, hydraulic, harbour, maritime, river and inland-waterway works, roads, railways (track preparation and laying), pipelines, telecommunication buildings and line laying.

The following shall be considered works or component parts thereof:

i) Work relating to the finishing of buildings, such as paintwork, glazing, insulation, lighting, heating, ventilation or air-conditioning;

ii) Installation of passenger lifts and goods lifts of less than 500 kg capacity.

Mechanical, electrical and fuel-powered industrial installations, other than such part thereof as is normally regarded as construction work, shall not be considered works or component parts thereof.

For details of classification not settled by the above provisions, each Member State shall refer to its own legislation until a common nomenclature is drawn up.

Article 3

The removal of the restrictions referred to in Article 1 shall operate to the benefit of the persons designated in Title I of the General Programmes. These include:

a) Builders, whether individuals or corporations — submitting tenders, obtaining con-

tracts or concessions or, where this is permitted under national law, becoming sub-contractors;

b) Companies and partnerships without legal personality whose members are qualified to contract collectively under national law.

TITLE II

Quotas

Article 4

1. For the purposes of the present Title, the following definitions shall apply:

a) *Nationals and companies of the other Member States*: Contractors from Member States other than that in which the contract is concluded, whether they obtain contracts directly in that State or through their agencies or branches in that State;

b) *Public works contract*: Written contract between the contractor and the government, local or regional authority or public corporation referred to in the present directive for the construction, maintenance or demolition of a work as referred to in Article 2, b);

c) *Amount of contract*: The price initially agreed at which the contractor undertakes to carry out the work, whether this is a fixed sum or is an estimate based on unit prices from a price list or bracket.

In determining the amount of contracts for calculating the quotas, the price of all materials and supplies needed for construction and finishing shall also taken into consideration, irrespective of the means of procuring such materials and supplies;

d) *Unit of account*: As defined in Article 4 of the Statute of the European Investment Bank.

2. For the purposes of the present Title, concessions granted to individuals for the execution of works as referred to in Article 2, b) and contracts between such concessionaires and building firms shall be considered public works contracts.

Where the present Title requires the amount of a contract to be taken into consideration, the figure taken shall be the estimate made when the project was drawn up as far as the concessions referred to above are concerned.

Article 5

1. Each Member State may suspend, until the end of the current year at latest, the award of public works contracts of whatever amount to nationals and companies of the other Member States, when at one of the dates

referred to in Article 8(1) any of the following situations has been reached:

a) The amount of public works contracts awarded by the government, local or regional authorities and the public corporations referred to in the present directive to such nationals and companies exceeds the quota fixed annually in relation to the total of public works contracts, while the amount of the public works contracts obtained in the other Member States since 1 January by their own nationals and companies is no more than half the aforesaid amount;

b) The amount of public works contracts exceeding 600 000 units of account awarded since 1 January by the government, local or regional authorities and the public corporations referred to in the present directive to such nationals or companies exceeds the quota fixed annually in relation to the total of contracts of more than 600 000 units of account, while the amount of the public works contracts exceeding 600 000 units of account obtained in the other Member States since 1 January by their own nationals and companies is no more than half the aforesaid amount;

c) The amount of public works contracts of 600 000 units of account or less awarded since 1 January by the government, local or regional authorities and the public corporations referred to in the present directive to such nationals or companies exceeds the quota fixed annually in relation to the total of contracts of 600 000 units of account or less, while the amount of the public works contracts of 600 000 units of account or less obtained in the other Member States since 1 January by their own nationals and companies is no more than half the aforesaid amount.

2. Independently of the provisions of paragraph 1 above, each Member State may suspend, until the end of the current year at latest, the award of public works contracts exceeding 600 000 units of account to nationals and companies of the other Member States where the amount of such contracts awarded to such nationals and companies is double the quota fixed annually in relation to the total of contracts exceeding 600 000 units of account.

3. If the situations specified in paragraph 1 above arise and special circumstances so warrant, the Grand Duchy of Luxembourg may be authorized by the Commission of the European Community to suspend the award of public works contracts to nationals and companies of the other Member States, irrespective of the total amount of the public works contracts obtained in the other Member States since 1 January by its own nationals or companies.

Article 6

1. The first quota shall open on 1 January 1965; the last quota shall close on 31 December 1969.

2. As regards the quota fixed in relation to the total of public works contracts, each Member State shall fix the 1965 quota at 15% of the annual average of the amounts of public works contracts concluded between 1 January 1963 and 31 December 1964.

3. As regards the quota fixed in relation to the total of public works contracts exceeding 600 000 units of account, each Member State shall fix the 1965 quota at 15% of the annual average of the amounts of public works contracts exceeding 600 000 units of account concluded between 1 January 1963 and 31 December 1964.

4. As regards the quota fixed in relation to the total of public works contracts of 600 000 units of account or less, each Member State shall fix the 1965 quota at 15% of the annual average of the amounts of public works contracts of 600 000 units of account or less concluded between 1 January 1963 and 31 December 1964.

5. For each category of quota referred to in paragraphs 2 to 4 above, the rate for each subsequent two-year period shall be fixed by the Commission of the European Economic Community at a higher figure after consulting the Member States.

6. Notwithstanding the provisions of Article 4(2), the annual average referred to in paragraphs 2 to 4 above shall not apply to concessions granted prior to 1 January 1965.

Article 7

1. Each Member State shall notify to the Commission of the European Economic Community not later than 31 March of the current year:

a) the amount of the public works contracts concluded during the previous year, breaking this down into contracts exceeding 600 000 units of account and contracts of 600 000 units of account or less;

b) the quota for the current year for each of the categories mentioned in Article 6(2, 3, 4).

For the application of the first quota, however, the Member States shall modify the annual average of the amounts of contracts concluded during the two previous years, broken down as under a) above, and the quota referred to in b).

All these figures shall be expressed in national currency and converted into units of account.

2. The Commission of the European Economic Community shall cause the quotas fixed as above to be published for information purposes in the official gazette of the European Communities.

Article 8

1. On 30 April, 30 June and 31 October of each year, and for statistical purposes on 31 December, each Member State shall ascertain the amount, expressed in national currency and converted into units of account, of contracts awarded to nationals and companies of each of the other Member States and to nationals and companies of all the other Member States. The amount shall be broken down into contracts exceeding 600 000 units of account and contracts of 600 000 units of account or less.

Each Member State shall forward this information before 31 May, 31 July, 30 November and 31 March respectively to each of the other Member States and to the Commission of the European Economic Community.

2. In order to ascertain the amount of contracts awarded to nationals and companies of the other Member States:

i) Any contract awarded to a subsidiary which is clearly unable to undertake the work without the intervention of the parent company shall be deemed to be awarded to the parent company;

ii) Where, in conformity with national regulations, the principal firm undertaking a given contract has part of the work done by one or more approved sub-contractors, such contract shall be deemed to be concluded with such sub-contractor or sub-contractors to the extent of the amount of the work to be executed by the same; the remainder with the principal firm;

iii) Any contract concluded with a consortium of firms which are not all established in the same Member State shall be deemed to be concluded with the firms to which the amount payable is stated individually and in that amount. In the case of a contract containing no breakdown of the total amount by firm, the Member States may take steps to oblige the consortium, after signature of the contract, to effect and make known such breakdown.

If the breakdown by firm is not contained in the contract nor made known after signature thereof, the contract shall be deemed to be concluded with the party to whom payment is to be made.

Article 9

1. Any Member State exercising its power under Article 5 to suspend the award of public works contracts to nationals and companies of the other Member States must promptly inform the Commission of the European Economic Community to this effect.

The Commission of the European Economic Community shall cause any such decision to be published in the official gazette of the European Communities.

2. Suspension by a Member State shall be effective until the end of the current year unless, in one of the situations described in Article 5(1), the amount of the public works contracts obtained in the other Member States since 1 January by nationals and companies of the said State established on their home territory becomes greater, either at 30 June or at 31 October of the current year, than half the amount of the contracts awarded to the nationals and companies of the other Member States. In this case, the Member State suspending the award of public works contracts to nationals and companies of the other Member States shall resume such awards and inform the Commission of the European Economic Community immediately to this effect.

3. A decision taken by a Member State to suspend the award of contracts may not have the effect of excluding nationals and companies of the other Member States from participating in contracts for which a call for tender was issued before such decision or the award of the said contracts was announced.

4. The Commission of the European Economic Community shall publish an announcement in the official gazette of the European Communities that the Member State concerned has resumed the award of public works contracts to nationals and companies of other Member States.

TITLE III

Role of the Commission; Advisory Committee on Public Works

Article 10

The Commission of the European Economic Community shall be assisted by an Advisory Committee in investigating disputes and problems arising from measures taken by the Member States to give effect to the directives for the removal of restrictions on freedom of establishment and freedom to supply services in the matter of public works and for the co-ordination of procedures for awarding public works contracts. To this end, the Advisory Committee shall be charged:

a) To draw up formal opinions for the Commission on specific cases, referred to it by the Commission or by a member of the Committee, relating to the implementation of the directives and the application by the national authorities of the rules governing the participation in any Member State of nationals and companies of the other Member States in works commissioned by public authorities or public corporations;

b) To study, in relation to the application of the directives, the desirability of amendments or supplementary provisions.

Article 11

The Member States shall furnish the Committee, at the request of its chairman, with all information relevant to the discharge of its task.

Article 12

The members of the Committee shall be officials designated by the Member States — one full member and one alternate per country. Alternates may attend all meetings.

The members of the Committee may call on the assistance of other officials in an expert capacity.

The Committee may if it sees fit consult any other person for the examination of specific cases.

The Commission shall defray the travelling and subsistence expenses of members and alternates.

The Member States shall defray the travelling and subsistence expenses of experts and other persons consulted.

Article 13

The Chairman of the Committee shall be an official of the Commission of the European Economic Community.

The Chairman shall have no vote. He may call on the assistance of technical advisors.

Secretarial services shall be provided by the Commission.

Article 14

Without prejudice to the provisions of Article 214 of the Treaty, members of the Committee and technical advisors shall be bound to secrecy regarding their discussions.

Article 15

The Committee shall be convened by its Chairman, either on his own initiative or at the request of one of the Member States.

Article 16

Two thirds of the members shall constitute a quorum. Each member, or his alternate, shall have one vote.

The opinions of the Committee shall be motivated: they shall be adopted by an absolute majority of the votes cast; they shall be accompanied by a statement of the views expressed by the minority where the latter so requests.

Article 17

The Committee shall draw up rules of procedure as necessary.

TITLE IV

Final provisions

Article 18

The Member States shall take the necessary measures to give effect to the present directive

in accordance with the time-table laid down in foregoing articles and shall notify the Commission of the European Economic Community thereof forthwith.

Article 19

The Member States shall inform the Commission of the European Economic Community of any further laws, regulations or administrative practices they contemplate adopting in the matters covered by the present directive.

Article 20

The text of the annex to the present directive is an integral part thereof.

Article 21

The present directive is addressed to the Member States.

ANNEX

Schedule of the public corporations referred to in Article 1

Other than governments (and the bodies referred to in Article 1(1), second subparagraph, of the directive) and local or regional authorities such as Länder, regions, provinces, departments and communes, the following public corporations shall be subject, from 1 January 1965, to the system instituted to govern the participation of firms from all Member States in public works contracts.

I. *In all the Member States*

Associations of local authorities, such as "associations de communes", "syndicats de communes", "Gemeindevorände":

II. *In the Federal Republic of Germany*

"Bundesunmittelbare Körperschaften, Anstalten und Stiftungen des öffentlichen Rechts";

III. *In the Kingdom of Belgium*

"Le Fonds des Routes 1955-1969"

"La Régie des voies aériennes"

"Les Commissions d'assistance publique"

"Les fabriques d'église"

"L'Office régulateur de la navigation intérieure"

"La Régie des services frigorifiques de l'Etat belge";

IV. *In the French Republic*

Other national, departmental or local administrative boards;

V. *In the Italian Republic*

The State universities and university institutes, consortia for university improvement and reconstruction

The higher scientific and cultural institutes and the astronomic, astrophysical, geophysical or volcanological observatories

The "Enti di riforma fondiaria"

All types of social assistance and welfare institutions;

VI. *In the Grand Duchy of Luxembourg*

The social insurance funds;

VII. *In the Kingdom of the Netherlands*

The "Waterschappen"

The State universities, the teaching hospitals of the State universities, the Municipal University of Amsterdam and the higher technical institutes

The "Nederlandse Centrale Organisatie voor toegepast natuurwetenschappelijk onderzoek (TNO)" and its subsidiary bodies.

**Decision amending the general programmes on freedom of establishment and
freedom to supply services**

(submitted by the Commission to the Council on 16 March 1964)

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community and in particular Articles 54 and 63 thereof;

Having regard to the General Programme for the removal of restrictions on freedom of establishment ⁽¹⁾, and in particular Titles III and IV B and Schedule I thereof;

Having regard to the General Programme for the removal of restrictions on freedom to supply services ⁽²⁾, and in particular Titles III and V C e) thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

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

Whereas the General Programmes lay down, in the matter of public works contracts, that freedom of establishment and freedom to supply services in building is to be realized by 31 December 1963;

Whereas 31 December 1963 has been found too early a date for the introduction of the necessary measures:

Whereas studies made in executing these Programmes have shown that regard must be had to certain requirements which were not evident when the Programmes were drawn up;

Whereas one of these requirements is that in laying down rules for the exercise of the power granted the Member States in the General Programmes to suspend the award of contracts, it must be borne in mind that the consequences expected from the removal of restrictions will be felt most of all in works contracts for large sums;

Whereas another requirement is that the proposed liberalization should apply to all bodies, howsoever constituted, which control national railways, in order to prevent liberalization having unequal effects in this important sector as between Member States;

Whereas the liberalization arrangements adopted for public works contracts should be extended to public works concessions, since the Member States are increasingly using this form of execution of public works,

Has adopted the present decision:

(1) See official gazette of the European Communities, No. 2, 15 January 1962, p. 36/62.

(2) *ibid.*, p. 32/62.

Article 1

Title V C e) of the General Programme for the removal of restrictions on freedom to supply services shall be amended as follows:

“e) Public works contracts

1. Where the supply of services takes the form of participation by nationals or companies of other Member States in the public works contracts of governments, local or regional authorities such as Länder, regions, provinces, departments or communes, or other public corporations still to be determined, the final date shall be 1 January 1965, subject to the conditions set out below, which take account of the particular character and requirements of this sector and ensure that restrictions will be lifted in a gradual and balanced manner at the same time as the requisite measures are taken to co-ordinate procedures:

a) When the amount of public works contracts within any State awarded by the government, local or regional authorities or the other public corporations determined as above to nationals or companies of the other Member States exceeds a given quota, calculated on an overall basis or by category of contract, the State concerned shall be entitled to suspend until the end of the current year the award of contracts to such nationals and companies.

This quota shall be determined on the basis of a given percentage of the average total of public works contracts awarded during the preceding two years, the percentage being in principle the same for all Member States; it shall be fixed for the first time for 1965 and shall rise every two years from 1 January 1966 to 31 December 1969.

The amount of public works contracts which nationals or companies of one Member State, established in that State, obtain in other Member States shall, unless there is good reason to the contrary, also be taken into account.

b) Public works contracts awarded in any State to the nationals or companies of other Member States shall mean:

i) Contracts awarded in any State directly to nationals or companies of other Member States, and

ii) Contracts awarded to such nationals or companies through their agencies or branches established in that State.

Each Member State shall take the necessary steps to determine and make known periodically the amount of public works contracts awarded to the nationals or companies of other Member States.

2. The final date shall be the end of the transition period in cases where the supply of services takes the form of participation in public works contracts awarded by public corporations which, on 1 January 1965, have not been included among those referred to in the first sub-paragraph of paragraph 1 above.

3. The arrangements for gradual liberalization laid down for government works contracts shall also apply to contracts concluded by the bodies, howsoever constituted, which control the national railways in the six Member States.

4. The arrangements applying to public works contracts shall also apply to the award of works concessions."

Article 2

Title IV B of the General Programme for the removal of restrictions on freedom of establishment shall be amended as follows:

a) In paragraph 2, for "on 31 December 1963" read "on 1 January 1965";

b) Add paragraphs 3 and 4 as follows:

"3. The arrangements for gradual liberalization laid down for government works contracts shall also apply to contracts concluded by the bodies, howsoever constituted, which control the national railways in the six Member States.

4. The arrangements applying to public works contracts shall also apply to the award of works concessions."

Proposal for a Council regulation on the abolition of double taxation on motor vehicles engaged in international traffic

(submitted by the Commission to the Council on 20 March 1964)

The Council of the European Economic Community,

Having regard to the Treaty instituting the European Economic Community, and in particular Article 75 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 setting-up of a common transport policy implies laying down common rules applicable to international traffic from or to the territory of a Member State or passing through the territory of one or more Member States; whereas the laying down of such common rules also entails adopting specific measures as regards taxation;

Whereas in this connection it is necessary to avoid commercial vehicles engaged in the carriage of passengers and/or goods and registered in Member States being subject in the territory of the Community to double taxation as regards motor vehicle tax; whereas such double taxation makes international traffic dearer by comparison with national traffic, thus constituting a possible obstacle to the development of intra-Community traffic;

Whereas the bilateral agreements between certain Member States for the abolition of double taxation on commercial vehicles

differ as to the extent of duration of the tax exemptions and the methods of application and thereby lead to distortion and disturbances in competition;

Whereas it therefore seems advisable to adopt Community regulations, since it would be very difficult to make such bilateral agreements uniform and generalize them;

Whereas the question of eliminating double taxation on private vehicles has already been settled by the Convention on the tax system for privately used road vehicles in international traffic concluded on 18 May 1956 at Geneva under the auspices of the Economic Commission for Europe,

Has adopted the following regulation :

Article 1

Motor vehicles engaged in international traffic and registered in a Member State shall be exempt in the territory of other Member States from the taxes and charges on motor vehicles payable in such Member States.

Article 2

Motor vehicles benefiting from the exemption stipulated in Article 1 shall be subject to the taxes and charges on motor vehicles applicable in their country of registration as if they circulated solely in such country.

Article 3

For the purposes of this regulation, "motor vehicle" means any mechanically propelled vehicle travelling on a road under its own power, and any trailer.

Article 4

1) For the purposes of this regulation, "taxes and charges on motor vehicles" means any taxes and charges payable solely by reason of the use or possession of motor vehicles.

2) The field of application of this regulation does not extend to taxes or charges on transport services or on turnover, charges or dues relating to the drawing-up of transport contracts, consumption taxes or duties, customs duties and tolls or other similar payments.

Article 5

1) The field of application of this regulation does not extend to motor vehicles engaged in the carriage of persons and used for private purposes and having, including the driver's seat, less than ten seats.

2) For the purposes of this regulation "private purposes" means use for purposes other than the carriage of persons for pecuniary or other material consideration and other than the transport of goods whether or not for reward.

3) The concept of "private purposes" includes a vehicle being hired without a chauffeur, the carriage of personal luggage of passengers and that of commercial samples by a commercial traveller.

Article 6

Each Member State shall be entitled to prevent the exemption stipulated in Article 1 from benefiting trailers circulating attached to a tractor vehicle registered in such Member State, unless the taxes and charges on motor vehicles have been paid on such trailers in their country of origin.

Article 7

The list of taxes and charges on motor vehicles referred to in Article 4 is given in the annex hereto. If the Commission finds that alterations have taken place in the tax system of Member States, it shall, by way of decision, after consulting the Member States

concerned, make the necessary changes in the annex.

Article 8

In order to benefit from the exemptions stipulated in this regulation, in addition to the obligation that motor vehicles must carry the registration plate of their respective country and bear letters showing their nationality, a document attesting that registration has taken place in the country concerned must be carried on board the vehicle.

Article 9

1) The Member States shall adopt by 1 January 1965 at latest the laws, regulations and instructions necessary to give effect to this regulation.

2) The Member States shall in due course transmit to the Commission drafts of the laws, regulations and instructions referred to in paragraph 1. The Commission shall satisfy itself that the provisions of the drafts of the Member States meet the requirements of this regulation. The Commission may forward a recommendation or an opinion to the Member State concerned within the thirty days following receipt of the draft.

The Commission may, by the agreement with the Member State concerned, extend such period.

3) The Member States shall not put into effect the enactments referred to in paragraph 1 until the Commission has made its recommendation or expressed its opinion or until the periods stipulated in paragraph 2 have elapsed.

Article 10

The exemption stipulated in Article 1 shall take effect as from 1 January 1965.

Article 11

1) The present regulation shall be binding in all its parts and directly applicable in every Member State.

2) The present regulation shall come into force on the day after its publication in the official gazette of the European Communities.

ANNEX

Lists of taxes and charges referred to in Article 7 of Regulation No. ...

Federal Republic of Germany:	Kraftfahrzeugsteuer
Belgium:	i) Taxe sur les automobiles et véhicules à vapeur ou à moteur ii) Taxe quotidienne sur les automobiles et autres véhicules (Lois coordonnées relatives à la taxe de circulation sur les véhicules automobiles)
France:	i) Taxe générale sur les véhicules servant au transport des marchandises ii) Surtaxe sur les véhicules servant au transport des marchandises
Italy:	i) Tassa di circolazione sugli autoveicoli ii) Tassa addizionale del 5 per cento sulle tasse di circolazione
Luxembourg:	Impôt sur les véhicules à moteur
Netherlands:	Motorrijtuigenbelasting

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