Supplement to

BULLETIN

of the European Economic Community

No. 2 — 1965

EXECUTIVE SECRETARIAT OF THE COMMISSION
OF THE EUROPEAN ECONOMIC COMMUNITY

Contents

Proposal for a Council directive requiring the Member States of the European Economic Community to keep minimum stocks of crude oil and petroleum products (Article 103(2 and 4) EEC)

(submitted by the Commission to the Council on 5 November 1964)

Explanatory memorandum

I. Short-term security of supplies of petroleum products

1. In the last few years the trend of the European Economic Community's consumption of energy products has been marked by a very rapid increase in that of petroleum — from 20 million metric tons in 1950 to 143.7 million in 1963.

This trend is likely to be maintained in future; it has been estimated that about 250 million metric tons of petroleum will be needed in 1970 and over 300 million in 1975.

2. At present the Community produces only 7 % of the petroleum it consumes. Unless there are further discoveries of petroleum or natural gas around the North Sea, it can reasonably be supposed that, in view of the pace with which energy needs are expanding and in view of the increasing proportion of these needs covered by petroleum, Europe will continue to be dependent upon imports of crude oil in the coming years.

3. The Community is thus faced with a problem of security and regularity of supplies.

Compulsory stocking should make it possible, if certain flows of imports are interrupted, to guarantee in the short term that supplies to domestic markets are maintained until the situation is restored to normal or until supplies can be obtained from other sources.

4. The level of stocks to be held thus depends on the extent of the risk against which the Community wishes to protect itself and on the financial burden it is prepared to assume to this end.

5. It should also be emphasized that to hold stocks is only one among several ways of ensuring greater security of supplies. One might equally well plan to make more use of the deposits of oil and natural gas within the Community, or to encourage prospecting in areas other than the Middle East in order to attain greater diversification of supplies, or one could maintain a large reserve fleet so that transport might be sufficiently flexible in times of crisis. When the decision is being taken as to the level of reserve stocks to be held by Community industries, it would therefore be advisable at the same time to study how and to what extent these other methods might be adopted in order to increase the security of supplies.

II. Procedure

1. In the Memorandum on Energy Policy submitted on 25 June 1962, the Inter-Executive Working Party on Energy proposed that there should be a common policy on the stocking of petroleum products as an essential step towards ensuring the security of petroleum supplies within the Community.

2. On 21 April 1964 the representatives of the Governments of Member States in the Special Council of Ministers of the ECSC undertook, by adopting a Protocol of Agreement, to work for "a common policy on the stocking of hydrocarbons" within the framework of the Treaty of Rome.

3. In order to establish the main lines of the common policy on stocking, the Commission's staff produced a memorandum on problems connected with the stocking of crude oil and petroleum products in the Community; this was submitted to the senior national officials responsible for the petroleum and natural gas sectors at their meeting on 28 February 1964, at which the chair was taken by M. Marjolin.

In its conclusions the memorandum stresses the need to maintain in each Member State

stocks of crude oil and derived products above a certain minimum level so that, if difficulties arise over supplies, there will be time to import from other sources.

4. The present proposal for a directive is accordingly intended to increase the security of the Community's supplies; it is proposed that Member States should be required to hold permanent stocks of important petroleum products above a certain minimum level.

III. Existing rules

1. National obligations

At present only France, Belgium, Italy and Luxembourg have laws specifically relating to the stocking of petroleum. In the Netherlands there is a gentleman's agreement between several oil companies and the Government, fixing the minimum level of stocks to be held; in Germany stock-building is discussed by the Government and the professional organizations in a joint committee, which also keeps a watch on existing stocks in the light of the OECD's recommendations.

2. International obligations

The OECD Oil Committee has been studying the different aspects of the question of stock-holding for several years, and has adopted two recommendations with a view to co-ordinating the policies of the various countries.

The second recommendation, issued by the OECD Council in July 1962, called upon countries whose stocks were below the current average to build up as soon as possible a minimum stock equivalent to 60 days' normal internal consumption (1), and upon countries with larger stocks to maintain them at the present level.

IV. Legal basis of the directive

1. As the aim of stock-building is to increase the security of the Community's supplies while sharing the burden fairly between the Member States, the Community obligation should relate essentially to the minimum level of stocks, defined on a common basis, which should be held for this purpose in each Member State.

2. For the common obligation to be fulfilled, it is not essential that all categories of operators in each Member State should be required to bear the same burden; it would be enough if Member States were to provide physical proof of the existence on their territory of stocks of the size that, as members of the Community, they are committed to hold, and of the availability of these stocks in the event of an emergency.

In the present circumstances, the agreement would cover only the level of stocks, it being understood that new suggestions may be considered later when experience has been gained of the working of this agreement.

3. As the security of the EEC's petroleum supplies will be one factor determining the maintenance and strengthening of the general economic situation, the legal basis for pusuing this objective will be Article 103 of the Treaty. The directive does not prejudice the later implementation of other provisions of the Treaty, particularly Articles 100 to 102.

4. In order to inventory reserve stocks, it is proposed, for the sake of simplicity, to start from the general definition adopted by the OECD Oil Committee, but to supplement it by Community provisions clarifying certain points :

i) *Definition of stocks*

As it is not a straightforward question of bringing all existing regulations into line, the problem is simply one of determining, among the stocks held, which categories in fact contribute to security and can be measured statistically.

It is proposed that the statistical return should not include crude oil in deposits within the Member States, although this does in fact help to increase security.

Similarly, the return would not include quantities in direct transit, or quantities in pipelines, in piping and plant at refineries, being transported in road tankers or already delivered to consumers.

(1) Later this was increased to 65 days' average consumption in the preceding year, in order to allow for the increase in consumption from one year to another.

ii) *Products of which stocks are to be held*

The Community obligation could be limited to the following types :

1) Motor spirit and aviation fuels (aviation spirit, jet fuels of the petrol or kerosene type);

2) Kerosene;

3) Gas oil/diesel oil;

4) Fuel oil.

iii) *Method of reckoning stocks*

In order to enable the level of stocks to be better assessed and comparisons to be made between countries, the method adopted is to reckon stocks in days of consumption.

It is proposed that the basis of calculation should be the volume of internal consumption, bunkering excluded, in the preceding year.

The EEC Member States will be required, in the first stage, to keep stocks representing at least 65 days' average internal consumption in the preceding year, that is, in view of the increase in consumption of petroleum products from one year to another, for approximately 60 days of the current year.

It is, however, proposed to allow deduction of that part of internal consumption that is covered by products derived from petroleum extracted within the territory of the Member State in question, up to a limit of 15 % of the said internal consumption.

Stock returns are to be made on the following dates : 1 January, 1 April, 1 July and 1 October.

Proposal for a Council directive requiring the Member States of the European Economic Community to keep minimum stocks of crude oil and petroleum products

(Article 103(2 and 4) EEC)

The Council of the European Economic Community,

Having regard to the Treaty, and in particular Article 103 (2 and 4) thereof;

Having regard to the proposal of the Commission;

Whereas an increasing proportion of the Community's supplies of energy products consists of imported crude oil and petroleum products; and whereas any difficulty that impedes supplies of these products from non-member countries, even temporarily, would be likely to cause grave disturbance of the economic activity of the Community; and whereas it is therefore important to be able to offset, or at least to mitigate, the harmful effects of such an event;

Whereas an unexpected crisis may arise over supplies; and whereas it is therefore essential that the necessary means to overcome a possible shortage should be created now;

Whereas, to this end, it is necessary to increase the security of Member States' supplies of crude oil and petroleum products by building up and maintaing stocks of the most important petroleum products above a certain minimum level,

Has adopted the present directive :

Article 1

The Member States shall, subject to the provisions of Article 6, take steps to maintain stocks of the petroleum products referred to in Article 2 equivalent to at least 65 days' average daily internal consumption of petroleum products in the preceding year. Provided that the proportion of internal consumption that is covered by products derived from petroleum extracted in the territory of the Member State in question may be deducted, up to a limit of 15 % of the said internal consumption. The bunkering of sea-going vessels shall not be included in the figures for internal consumption.

The present directive does not apply to military stocks and special stocks of a military nature kept by oil companies.

Article 2

The following products are to be included in calculating internal consumption:

i) Motor spirit and aviation fuels (aviation spirit, jet fuels of the petrol or kerosene type);

ii) Kerosene;

iii) Gas oil/diesel oil;

iv) Fuel oil.

In calculating the stocks referred to in Article 1, crude oil, feedstocks and blending products may take the place of the above products.

Article 3

The Member States shall send to the EEC Commission a return of current stocks at the end of each quarter, following the definition given in Articles 4 and 5 and stating the number of days of the preceding year's average consumption that these stocks represent. The return must be submitted within 90 days of the end of the quarter.

Article 4

In the returns of stocks, finished products shall be reckoned at their actual tonnage; crude oil and feedstocks shall be reckoned by the quantities of each of the products obtained in the preceding year in the refineries of the State in question. Blending products, when they are intended for manufacture of the finished products listed above, may take the place of the products for which they are intended.

Article 5

1. In calculating the minimum level laid down in Article 1, the only stocks to be included in the return referred to in Article 3 are those which are entirely at the disposal of the Member State should difficulties arise over petroleum supplies.

In principle, these stocks must be held within the territory of the Member State in question.

Bonded stocks may only be included in the return if the government concerned has taken all necessary steps to ensure that it will be free to make use of them if supply difficulties arise.

2. For the purposes of the present directive, stocks can be held on the territory of one Member State on behalf of enterprises established in another Member State, subject to the agreement of the governments concerned. The Member State in which these stocks are held may not oppose their utilization on behalf of the other Member State, nor the transport of them to the latter State; it shall not include them in the return of its stocks. The Member State for which these stocks are intended may include them in its return, on condition that the enterprises in question have given an undertaking to make them available to this State should difficulties arise over the Community's petroleum supplies.

Agreements of the kind mentioned in the preceding paragraph that are already in existence when the present directive is adopted by the Council shall be annexed to the present directive.

The drafts of new agreements shall be submitted to the Commission for its opinion before they are concluded; the Commission will inform the other Member States of the agreements concluded.

On the request of a Member State, and in order to assist the achievement of the objectives of the present directive, the Commission may submit draft agreements to the Member States concerned.

3. The following are to be included in the return of stocks:

i) Oil on board oil tankers in port for unloading and which is intended for refineries or consumption within the Member State when the port formalities have been completed;

ii) Oil that has been unloaded in ports and is intended for refineries or consumption within the Member State;

iii) Oil contained in tanks at the entrance to pipelines and which is intended for domestic refineries or refineries in one of the other Member States on the conditions laid down in Article 2 above;

iv) Oil in the tanks of refineries, excluding oil in the piping or plant of the refinery;

v) Oil held in store by refiners, importers or wholesalers;

vi) Oil being transported in rail tank-cars or in barges or other small vessels within national frontiers and intended for refiners, importers and wholesalers.

The return shall therefore not include crude oil in deposits, oil in direct transit with the exception of that referred to in the third sub-paragraph of Article 1 and in Article 2 above, oil in pipelines, in road tankers, or held by distributors or consumers.

Article 6

Should difficulties arise over the Community's petroleum supplies, the Commission, acting either on the request of a Member State or on its own initiative, shall arrange a consultation between the Member States, and shall then submit appropriate proposals to the Council.

Article 7

Each year the Commission shall submit to the Council a report on the implementation of the present directive. It shall formulate any necessary suggestions, taking into account changes that occur in the conditions affecting supplies of petroleum products.

Article 8

The formation of stocks as required by the present directive must be completed within six months from the notification thereof.

Article 9

The present directive is addressed to the Member States.

INITIATIVE 1964

Proposal for a Council decision on the abolition of intra-Community customs duties, the application of the common customs tariff, and the prohibition of quantitative restrictions between the Member States

and

Proposal for a Council resolution on accelerated implementation of the Treaty in respect of certain agricultural products

(submitted by the Commission to the Council on 16 January 1965)

Proposal for a Council decision on the abolition of intra-Community customs duties, the application of the common customs tariff, and the prohibition of quantitative restrictions between the Member States

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 14(7) and 235 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Whereas the establishment of the European Economic Community has given rise to more rapid and more far-reaching economic adjustments and changes within the Community than were foreseen when the Treaty was drawn up;

Whereas in view of these developments the Governments of the Member States have several times agreed to proceed more rapidly towards the achievement of the aims of the Treaty, particularly as regards customs duties and quantitative restrictions applicable to trade between Member States; and whereas in consequence the present position represents a considerable advance on the commitments arising from the Treaty;

Whereas this state of affairs makes possible the complete abolition of customs duties on imports between Member States, and the final alignment of national duties on those of the common customs tariff, on dates considerably earlier than those laid down in the Treaty; and whereas the achievement of the aims of the Treaty in this matter may even be jeopardized if this faster pace is not maintained;

Whereas the Council's decision fixing a common price for cereals for the 1967/68 marketing year will ensure the free movement of these products from that time on; and whereas the Council has already decided that certain products derived from cereals

shall also circulate freely from that time on; and whereas it is likely that as a result of these decisions common prices will be fixed for the products subject to the common organization of agricultural markets for the same marketing year, so that the free movement of the goods in question within the Community will then be assured; and whereas in view of the importance of the sector in question it is essential to avoid any imbalance between the different sectors by ensuring that the free movement of industrial and agricultural products is achieved as fully as possible by 1 July 1967 and in any event that the customs union is complete;

Whereas it therefore appears necessary to take a decision, in pursuance of the Treaty, as soon as possible; and whereas a time-table for the abolition of all intra-Community duties, such as to take into account the present discrepancy between the levels of tariff disarmament reached for the products listed in Annex II and for the others, will dispel the uncertainty of those engaged in intra-Community trade as regards the customs duties to which trade will be subject during the third stage; and whereas this aim will be more easily fulfilled if linear reductions are made in accordance with the practice that has generally been followed hitherto; and whereas, moreover, such a time-table will offer an incentive to unification in other fields and will thus promote European integration; and whereas for the same reasons it is essential, in conjunction with the elimination of intra-Community duties, to fix the date when the common customs tariff will finally be applied; and whereas, in its provisions concerning the application of the common customs tariff, the Treaty has not provided for the requisite powers of action to this end; and whereas it is also advisable to confirm in the same way the abolition of all quantitative restrictions on trade in industrial products between member countries of the Community; and whereas, by so doing, the Community will fulfil its task of promoting in its member countries the harmonious development of economic activities and greater stability,

Has adopted the present decision :

Article 1

Subject to the provisions of Article 4 below, the Member States shall eliminate the customs duties still remaining between them :

i) on products not listed in Annex II to the Treaty, applying on 1 January 1966 a reduction of 80 % of the basic duty on each product, and abolishing such duties entirely on 1 July 1967;

ii) on the products listed in Annex II to the Treaty, applying on 1 January 1966 and 1 January 1967 reductions of respectively 65 % and 80 % of the basic duty on each product, and abolishing such duties entirely on 1 July 1967.

Provided that the Member States shall be entitled to apply in intra-Community trade any customs duties authorised directly by the Commission for a specified period.

Article 2

Without prejudice to the provisions of Article 23 (1 *c*) of the Treaty, and subject to the provisions of Article 4 below, the Member States shall apply the common customs tariff from 1 July 1967.

Article 3

All quantitative restrictions on imports of products not listed in Annex II of the Treaty from other Member States of the European Economic Community shall be prohibited.

Article 4

The provisions of the present decision shall not apply to products falling under Regulations 19, 20, 21, 22, 23, 13/64/CEE, 14/64/CEE and 16/64/CEE.

Article 5

The present decision is addressed to all the Member States.

Proposal for a Council resolution on accelerated implementation of the Treaty in respect of certain agricultural products

The Council of the European Economic Community,

Whereas the Council has already decided to abolish the protective component b) from 1 July 1967 for products falling under Regulations Nos. 20, 21 and 22;

Whereas it has been decided to complete the customs union on 1 July 1967 for the

products listed in Annex II, with the exception of those falling under Regulations Nos. 19, 20, 21, 22, 23, 13/64/CEE, 14/64/CEE and 16/64/CEE;

Whereas protection for these products has various components: the variable component of the levy depending on the price of the products themselves or of the products from which they are derived; the fixed component of the levy, which may take various forms; and the customs duty,

Agrees that for these products the customs duties and the fixed component shall be abolished in intra-Community trade by 1 July 1967 at the latest, and that the common customs tariff shall be applied and a uniform fixed component of protection introduced in trade with non-member countries by the same date;

And, to this end, instructs the Commission to submit the necessary proposals to it by 31 March 1965.

Proposal for a Council directive concerning indirect taxes on capital contributions

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

Explanatory memorandum

I. General

Before the aim of economic union laid down in the Treaty of Rome can be attained, it is essential that there should be free movement of capital. To this end, and in particular to open up and promote the integration of capital markets in the Member States, several measures of a financial nature have already been taken or are contemplated. As regards taxation also, which is of paramount importance in this matter, steps must be taken to create the necessary conditions for the free movement of capital. Direct taxes on capital (capital levies and estate duties) and income (income tax and company tax) and, to a lesser extent, indirect taxes on capital movements (capital duty, stamp duty on securities, tax on stock exchange dealings and the like) undoubtedly affect the mobility of capital, the use to which it is put and the return on investments.

In order to liberalize capital movements there is thus a case for rescinding from fiscal legislation all elements of direct and indirect taxation likely to obstruct free movement. However, the question of direct taxes viewed from the angle of the free movement of capital obviously cannot be singled out for consideration from the whole range of taxation problems, which are currently being studied by the Commission's staff in close co-operation with government experts in the Member States. If their findings suggest that it would be both desirable and feasible to make certain adjustments to direct taxes in order to remove obstacles to the free movement of capital, the Commission will duly submit proposals. In this connection, the Commission's staff are closely studying the taxation of earnings on capital at the source.

The Commission has preferred, however, not to wait until the study of direct taxation is concluded but to go ahead with its work on indirect taxes on capital movements.

Such taxes can be divided into two categories — those on capital contributions and those on transactions in securities. The present draft directive deals with the former category, which includes duty on companies' own capital, stamp duties on home securities and on foreign securities offered or issued on home markets, and other similar indirect taxes. Indirect taxes on transactions in securities, stock exchange dealings for example, are for the time being unaffected but will be the subject of a subsequent draft directive.

Priority is given to taxes on capital contributions because it is these that have the most perceptible effects on the free movement of capital. The stamp duty charged by certain Member States when foreign securities are offered or issued on the home market has the same financial impact as the countervailing charges provided for in turnover tax regulations. The continued application of such countervailing charges between Member States is clearly incompatible with the notion of a free capital market. Since, moreover, neither capital duty nor stamp duty on securities is refunded in the event of export, it follows that the stamp duty payable in the importing country constitutes double taxation. This, it should be noted, can also happen with

capital duty, the rules on which vary from one Member State to another, so that a single transaction may be taxed several times over. Lastly, it should be pointed out that both duties give rise to discrimination since the bases of assessment, rates and special regulations applied vary with the nationality of the company or security.

It was found, however, that the prospects of free capital movement would not be enhanced simply by abolishing stamp duty on securities, a limited step which would do nothing to remove the fundamental differences between the national systems applicable to capital and stamp duties. Some of the factors already distorting capital movements might go unchecked; even new ones might arise.

As work on this problem progressed, it seemed to the Commission's staff that to bring about the conditions required for the free movement of capital, there were three ways of dealing with capital duties :

a) By abolishing duties on capital contributions, stamp duties on securities and similar indirect taxes;

b) By exempting from stamp duty all securities representing loan capital (debentures, "rentes") together with securities from non-member countries (debentures and shares). Furthermore, companies' own capital would be subject to capital duty (uniform in rate and structure) once only in the Community, while the corresponding securities would no longer pay stamp duty either when issued or when brought to market in another Member States;

c) By imposing a charge on all capital contributions. In addition to a harmonized capital duty on securities representing companies' own capital, similarly harmonized stamp duties would be payable, again once only, on securities representing loan capital. Those duties would replace capital duty and could be extended to securities issued or offered for sale in the Community by residents of non-member countries if failure to tax such securities in this way appeared likely to distort capital movements.

In weighing these alternatives, the Commission has borne the following points in mind :

Duties on companies' own capital and stamp duties on loan capital and non-member countries' securities can hamper the functioning and development of the Community's capital market. From an economic point of view, the duties on companies' own capital and loan capital are an unwelcome fiscal burden and a drag on capital contributions, which are of the highest importance to firms operating in the heavily industrialized economies of the Community.

Moreover, with capital duty and stamp duty on securities, firms in a position to make public issues of shares or debentures may first be tempted to seek funds by methods which do not involve payment of those duties.

Again, firms may have too strong an incentive to finance capital programmes out of reserves, a method which does not always ensure that capital will find its way to the sectors in which it can best be used from an economic point of view.

Finally, the Commission, together with the Fiscal and Financial Committee, takes the view that indirect taxes on capital contributions have no further place in a well-ordered fiscal system. There seems no economic justification for taxing capital contributions and groupings — both of which the Common Market makes necessary and the Treaty seeks to facilitate — before such operations have had time to provide a return at least equal to the tax. There were grounds for such duties in the days when income tax was in its infancy, but Inland Revenue authorities now have much more effective means at their disposal.

It should not be forgotten that in most of the countries where stamp duty is imposed, this duty is payable only on loans issued against debentures or other negotiable securities and that even then there are inevitably important exceptions. Partial taxation of this kind is likely to upset the balance between the various ways of raising loan capital. There is some evidence that the current regulations on stamp duties are the cause of capital market disturbances in some Member State.

As has already been stressed, stamp duties imposed by one Member State on another's securities, being in the nature of a countervailing charge, must be regarded as a serious obstacle to the free movement of capital. They are a particularly severe hindrance to firms who wish to introduce their securities on other Community stock exchanges. Such a situation does not only make for delay in the integration of capital markets but also limits the range of securities which Community investors can buy on stock exchanges in their home country. Over

and above the reasons of expediency which may be advanced for according equal treatment to Member States' securities and those of other countries, the above consideration also constitute an argument for not taxing securities from non-member countries. It must be added that if foreign securities were taxed, buyers would be tempted to acquire them abroad and leave them there in order to evade taxation.

The Commission has therefore come to the conclusion that the most desirable solution from the point of view of a free capital market would be to abolish all capital and stamp duties.

It has been realized however that Member States will probably not find this solution acceptable, since they do not seem prepared to forgo entirely the revenue accruing from the taxes in question, particularly from capital duty.

The Commission therefore proposes that stamp duties on securities representing companies' own capital or loan capital, whatever the country of issue, be abolished and that capital duties be maintained but harmonized, for the foregoing reasons, at as low a level as possible.

This proposal is in line with current trends in the relevant fiscal regulations of Member States. France and Luxembourg have long since abandoned stamp duty both on domestic securities representing loan capital and on foreign securities. The Federal German Republic is in the process of abolishing the duty while Belgium and Italy seem prepared to do so.

II. Basic principles

It seems useful at this point to summarize the principles underlying the provisions contained in the present draft directive, especially those concerning the harmonization of capital duties.

If shares and similar securities issued by residents of Member States are to move freely throughout the Community without countervailing charges being levied at national frontiers, care must be taken to ensure that they are all taxed in the same degree, irrespective of their origin. In other words, firms seeking capital in any one Member State must not be placed at a disadvantage, even on their home market, compared with firms in other Member States where taxes are lower.

With this objective in view, the present draft directive provides that stamp duties on such securities be removed and capital duties on companies' own capital — and thus, indirectly, on the securities representing this capital — be harmonized at the same time and in such a way that capital duty will produce virtually identical effects in all Member States.

If this is to happen, all the relevant factors in capital duty will have to be brought into line, e.g. the operations attracting duty, basis of assessment, rates and exemptions. Member States have been leff some latitude here, however, particularly as regards the operations which attract tax, and exemption. For instance, they may or may not charge the duty when profits or reserves are capitalized. Although it would have been desirable to have capital duty compulsory in such cases, it seemed preferable to leave it optional for an initial period, since other taxes on this form of capitalization vary from one Member State to another. In this matter the unification of capital duty alone might well upset the connection which exists in all Member States between capital duty and direct taxes on operations of this kind. If trends in direct taxation in this field show signs of converging, the optional charging of capital duty on such transactions would have to be reviewed.

In order to equate the effects of taxes on securities, it is also essential to ensure that all transactions attracting tax should be subject only to capital duty and in only one Member State. To this end, the draft directive provides for the abolition of all indirect taxes on capital contributions, other than capital duty, and stipulates that only the country in which a company has its central management will be authorized to charge this duty. It seems logical to confine such authorization to the country where the company to whose advantage the transactions operate has its central management.

With the same object in view, it was found necessary to place capital duty on an economic rather than legal foundation. Harmonization based on legal concepts which vary from one Member State to another would simply have produced uneven fiscal effects. This is why harmonization had to be conceived in terms of a capital duty on transactions which legally connote capital contributions, but only inasmuch as they add to the company's business potential.

Lastly, it should be noted that the propsed directive commits all Member States to pursue its objectives but leaves them free to choose their means and methods. They are therefore at liberty to continue with their own system of collecting capital duties provided that it is in keeping with the requirements of the directive.

Proposal for a Council directive concerning indirect taxes on capital contributions

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 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 purpose of the Treaty is to establish an economic union having the same characteristics as a national market, to which end it is essential to ensure the free movement of capital;

Whereas the indirect taxes on capital contributions now applied in the Member States, namely capital duties and stamp duties on securities, give rise to discrimination, double taxation and anomalies which obstruct the free movement of capital and which must therefore be abolished by harmonization measures;

Whereas the said taxes should be harmonized in such a way as to produce the minimum repercussions upon the Member States' budgets;

Whereas the imposition of stamp duty by one Member State on securities of another Member State issued or introduced on its territory runs counter to the notion of a Community market having the same characteristics as a national market; whereas moreover, the maintenance of stamp duties on domestic issues of debentures or on foreign securities issued or introduced on the market of a Member State is not desirable from an economic point of view and is contrary to the trend of legislation in the Member States;

Whereas stamp duties on securities should therefore be abolished, whether they represent companies' own capital or loan capital and whatever their origin;

Whereas a common market having the same characteristics as a national market implies that a company's own capital should be subject only once to capital duty, fixed at the same level in all Member States in order to avoid disturbance to the flow of capital;

Whereas, therefore, the structures and rates of those duties should be brought into line;

Whereas the maintenance of other indirect taxes similar in nature to capital or stamp duties may frustrate the intention of the foregoing measures and must therefore be abolished,

Has adopted the present directive :

Article 1

Member States shall impose a duty, hereinafter called capital duty, on capital brought into joint stock companies or partnerships (1), the said duty being harmonized in accordance with the provisions of Articles 2-9.

Article 2

1. Capital duty shall be payable only in the Member State in which the company has its central management when the transactions attracting the duty are effected.
2. If a company has its central management in a non-member country and its registred office in a Member State, capital duty shall be payable in the latter State.

Article 3

1. Companies shall mean for the purpose of this directive :

a) Companies incorporated under Belgian, Federal German, French, Italian Luxembourg and Netherlands law and described respectively as :

société anonyme, Aktiengesellschaft, société anonyme, società per azioni, société anonyme, naamloze vennootschap;

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(1) Fr. "société de capitaux"; Ger. "Kapitalgesellschaft". These terms, as well as denoting joint stock companies, are used of various forms of limited partnership, and certain articles of the directive evidently apply to undertakings which in English would be so described. The word "company" is therefore to be understood in this necessarily broad sense.

Furthermore, since many of the terms used in the original are relevant only to "companies" of the particular legal forms referred to, they can be given only approximate equivalents. (Translator's note).

société en commandite par actions, Kommanditgesellschaft auf Aktien, société en commandite par actions, società in accomandita per azioni, société en commandite par actions, commanditaire vennootschap op aandelen;

société de personnes à responsabilité limitée, Gesellschaft mit beschränkter Haftung, société à responsabilité limitée, società a responsabilita limitata, société à responsabilité limitée;

b) Any company, association or corporation whose shares are dealable on stock exchanges;

c) Any company, association or corporation engaged in profit-making activities whose members can sell their shares (*parts sociales*) to third parties without authorization and whose liability for the debts of the company is limited to the amount of capital they have provided.

2. Joint stock companies shall also include any other profit-making company, association or corporation, provided that Member States shall be free not to consider them as such for capital duty purposes.

Article 4

1. Capital duty shall be charged when:

a) A joint stock company is formed;

b) A company, association or corporation, not being a joint stock company, is converted into the said form of company;

c) The capital of a company is increased by the addition of assets of any kind whatsoever:

d) A company's corporate assets are increased by the addition of any assets whatsoever entitling the contributor not to shares in the company's capital or assets but to rights similar to those enjoyed by members, e.g. the right to vote or to a share in profits or the proceeds of liquidation;

e) A company, association or corporation having its registered office in a non-member country transfers its central management from that country to a Member State where it is considered as a joint stock company for capital duty purposes;

f) A company, association or corporation transfers its central management to a Member State in which it is considered for capital duty purposes as a joint stock company from a Member State in which it is not so considered.

2. Capital duty may be chargeable when:

a) A company's is increased by the capitalization of profits or reserves;

b) A company's assets are increased by contributions from a member which do not add to the company's capital but either have their counterpart in an amendment to corporate rights or are likely to increase the value of the shares (*parts sociales*);

c) A company contracts a loan entitling the lender to a share in profits;

d) A company obtains a loan from a member, his or her spouse or children, or again from a third party backed by a member, provided that such loans serve the same purpose as an increase in capital.

3. Paragraph 1 *a)* above shall not be applicable when amendments are made to the memorandum or articles of association of a company, particularly in cases where:

a) A company is converted into another company of different form;

b) A company, association or corporation moves its central management or registered office from one Member State to another, being considered in both as a company for capital duty purposes;

c) A company amends its objetcs;

d) A company's business life is extended, provided that this is done before its term expires.

Article 5

1. The duty shall be payable:

a) When a company is formed, or its capital or corporate assets increased, as referred to in Article 4 (1 *a*, *c* and *d*) — on the real value of the assets, whatever their nature, brought in by its members, less the value of any resultant commitments and encumbrances;

b) When an undertaking is converted into a company and moves its central management, as referred to in Article 4 (1 *b*, *e* and *f*) — on the real value of assets of whatsoever kind held by the company at the time, less the value of current commitments and encumbrances;

c) When capital is increased by the incorporation of profits or reserves as referred to in Article 4 (2 *a*) — on the nominal amount of the increase;

d) When a company's assets are increased as referred to in Article 4 (2 *b*) — on the

real value of the contributions made, less the value of any resultant commitments and encumbrances;

e) When loans are contracted as referred to in Article 4 (2 *c* and *d*) — on the nominal amount of the loan.

2. In the cases referred to in paragraph 1 (*a*, *b* and *c*), the sum on which duty is charged may not be lower than the real or nominal value of shares (*parts sociales*) allotted to or held by each member, whichever is the higher.

3. The sum on which duty is paid in the case of capital increases shall not include :

a) The amount of company assets capitalized, on which capital duty has already been paid;

b) Loans contracted by the company and converted into shares after paying capital duty.

Article 6

1. Member States shall be free to exclude from the basis of assessment determined as specified in Article 5 any capital contributions made by a member bearing unlimited liability for a company's debts as well as his share of the corporate assets in the event of the conversion of a company or the transfer of its central management.

2. If a Member State applies the provisions of the foregoing paragraph, capital duty shall subsequently be payable if :

a) The company concerned moves its central management to another Member State which does not apply the said provisions;

b) A transaction is effected by which a member's liability is limited to the capital he has provided, as when the company concerned adopts another form.

In such cases capital duty shall be paid on the value of the share in corporate assets owned by members carrying unlimited liability for the company's debts.

Article 7

1. The rate of capital duty shall be 1 %.

2. This rate shall be reduced to 0.5 % on initial capital issued or on increases of capital arising when companies are merged or split up, and shall be payable by the company or companies concerned if their central management or registred office is located in a Member State at the time.

3. Capital duty at 0.5 % shall also be payable on :

a) Additions to a company's capital involving an equivalent reduction in the capital of one or more other companies belonging to the same group;

b) Additions to a company's capital which are subscribed by another company belonging to the same group provided that the latter company has previously increased its own capital by at least the same amount, and thus paid capital duty thereon at the full rate.

Two or more companies shall be deemed to belong to the same group if one holds directly or indirectly all or nearly all of the others' shares.

4. The rate may be reduced if a company's capital is increased [see Article 4 (1 *c*)] following a previous reduction made by reason of losses incurred.

5. The rate may also be reduced if a Member State elects to charge capital duty under Article 4 (2).

Article 8

Member States may grant total or partial exemption from capital duty on the transactions referred to in Article 4 (1 and 2) in respect of :

a) Companies supplying services in the public interest, such as transport, water, gas or electricity companies in which the government or local authorities hold at least 50 % of the capital;

b) Companies which, by their articles of association, effectively and directly pursue only cultural, charitable or educational aims.

Article 9

In the case of certain types of transaction or certain forms of company, capital duty may be remitted, or the rate of duty may be reduced or increased, in the interests of fiscal equity or on social grounds, or again to enable a Member State to deal with special situations. The Commission shall authorize such measures by way of a directive issued at the request of one or more Member States and after consultation with the others. The Commission shall take

steps to ensure the smooth functioning of the capital market.

Article 10

With the exception of capital duty, Member States shall not impose on companies engaged in profit-making activities any other charge of whatever kind in respect of:

a) The transactions referred to in Article 4;

b) Capital contributions or loans which come under Article 4;

c) Registration or any other formality which a company, by reason of its legal form, must complete before engaging in a profit-making activity.

Article 11

Member States shall not impose any charge whatsoever on:

a) The creation, issue, admission to quotation, sale or negotiation of shares, *parts* or similar securities, and certificates therefor, by whomsoever issued;

b) Loans, including *rentes*, represented by debentures or other negotiable securities, by whomsoever issued, and all formalities related thereto; nor on the creation, issue, admission to quotation, sale or negotiation of such debentures or other negotiable securities.

Article 12

1. By way of exception to Articles 10 and 11, Member States may impose:

a) Charges, whether or not on a flat-rate basis, on transfers of stocks and shares, including charges for quotation in the stocks exchange list;

b) Conveyance charges, including land registration charges, on the transfer of real property in their territory to a profit-making company;

c) Conveyance charges on property of any kind whatsoever transferred to a profit-making company for a consideration other than shares (*parts sociales*).

d) Taxes on the constitution, registration or termination of mortgages, liens and annuity encumbrances on land;

e) Fixed taxes in the nature of remuneration.

2. The taxes and charges referred to in paragraph 1 shall be the same for all profit-making companies, whether or not they have their central management in the Member State in which the said taxes and charges are payable. Moreover, these shall not be higher than the taxes or charges which that Member State imposes on other transactions of a like nature.

Article 13

After consulting the Member States, the Commission may issue directives for the detailed application of the foregoing articles.

Article 14

Member States shall introduce the necessary laws, regulations and administrative instructions to give effect to the present directive within twelve months of notification and shall inform the Commission immediately they have done so.

Article 15

Member States shall advise the Commission, in good time for it to present its comments, of any draft laws, regulations or administrative instructions they propose to adopt in the fields covered by this directive.

Article 16

This directive is addressed to the Member States.

Proposal for Council provisions introducing a charge on oils and fats in pursuance of Article 201 of the Treaty

(submitted by the Commission to the Council on 10 December 1964)

Explanatary memorandum

By its Resolution on the basic principles of the common organization of markets in oils and fats, published in the official gazette of the European Communities dated 27 February 1964 (64/128/EEC) the Council decided to impose a charge on

Community-produced or imported oils and fats of vegetable origin or derived from marine mammals and intended for use as foods. The proceeds of the charge will accrue to the Community and go to cover the costs of the system applicable to Community imports of oleaginous products from the Associated African States and Madagascar and the Overseas Countries and Territories as well as the expenditure borne by the Agricultural Guidance and Guarantee Fund under the common organization of the markets in oils and fats.

It was deemed necessary to set a limit to the total revenue derived from the charge — the figure has in accordance with the Council's decision been fixed at 87.5 million units of account — and to authorize certain Member States to waive the charge provisionally if any special difficulties were encountered.

The attached draft provides the legal basis for the introduction of the charge and provides a framework for future implementing decisions by the Council.

Once the provisions set forth hereunder have been approved, the Council will recommend their adoption by the Member States in accordance with their respective constitutional procedures.

It is important that the charge be applied to all oils and fats for human consumption, without any distinction as to the origin of the product of the form in which it is consumed.

The entire range of oils and fats of vegetable or marine origin can be used either in foodstuffs or for technical and industrial purposes. Since the use to which they are finally put cannot generally be determined in advance, it is proposed to impose the charge on all products which can be used in food, irrespective of the extent to which they have been processed, and to refund the charge if they are used in industries other than those producing foodstuffs or if they are exported.

The details for implementing the present provisions will be set forth in regulations of an essentially technical character.

The same will apply to the liability of the agricultural Guidance and Guarantee Fund for Community expenditure arising from the regulation for the organization of the markets in oils and fats of vegetable origin or derived from fish or marine mammals.

Proposal for Council provisions introducing a charge on oils and fats in pursuance of Article 201 of the Treaty

The Council of the European Economic Community,

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

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Whereas the common organization of markets in oils and fats and the arrangements applicable to oleaginous products originating in the Associated African States and Madagascar and the Overseas Countries and Territories places certain financial burdens on the Community, which must therefore seek fresh sources of revenue; whereas this object can be attained by introducing a charge on oils and fats for human consumption; and whereas this step can be taken by the procedure provided for in Article 201 of the Treaty.

Has adopted the following provisions :

Article 1

A charge shall be imposed on oils and fats for human consumption and collected by Member States as provided for in Article 2 and 8, the proceeds thereof accruing to the Community.

Article 2

1. The charge shall apply to oils and fats of vegetable origin or derived from fish and marine mammals, and to food products containing them. A list of such products shall be drawn up by the Council, acting on a proposal of the Commission and after consulting the European Parliament, unanimously during the second stage and by qualified majority thereafter.

2. The operation attracting the charge shall be defined by the Council, acting by

the same procedure, so that products are not taxed at more than one stage of processing.

The charge shall not apply to intra-Community trade in the products, except as provided for in Article 7.

Article 3

The basis of assessment shall be the quantity of pure fats of vegetable or marine origin contained in the product. This quantity can be established as a standard amount.

Article 4

The amount of charge per kilogramme of pure fats shall be fixed each year by the Council, at the same rate for all Member States, in accordance with the procedure established for the adoption of the Community budget, in such a way as to ensure that the estimated net proceeds are sufficient to cover the expenditure referred to in Article 6.

Provided that the estimated net proceeds of the charge shall not exceed 87.5 million units of account.

The net proceeds shall be the gross receipts obtained from the charge less the refunds provided for in Article 5.

Article 5

Member States shall refund the charge:

a) If the products referred to in Article 2(1) are exported to non-member countries or to Member States which by virtue of Article 7 do not apply the charge;

b) If the products are used in industries other than those producing food for human consumption.

Article 6

Member States shall periodically pay over to the Community the entire proceeds of the charge.

Member States shall periodically receive from the Community budget the refunds referred to in Article 5.

The net proceeds of the charge shall go to defray:

a) Expenditure incurred under the system applicable to Community imports of oleaginous products from the Associated African States and Madagascar and the Overseas Countries and Territories.

b) Expenditure borne by the Agricultural Guidance and Guarantee Fund under the common organization of markets in oils and fats.

Article 7

1. The Federal Republic of Germany and the Netherlands shall be authorized to postpone the introduction of the charge until ... If they take this course, both countries shall pay to the Community an amount equal to the net proceeds which would have accrued to them had they applied the charge. This amount shall be fixed by the Council acting unanimously on a proposal from the Commission.

2. The Council, acting unanimously on a proposal from the Commission, may extend the authorization referred to in paragraph 1 for a period not exceeding one year if economic difficulties so warrant.

3. For the period during which the aforesaid Member States avail themselves of the authorization provided for above, trade with those Member States shall not be considered as intra-Community trade within the meaning of Article 2.

Article 8

1. Details for implementing the above arrangements, particularly the date from which the charge will be imposed, shall be laid down by the Council, acting on a proposal from the Commission, unanimously during the second stage and by qualified majority thereafter.

2. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may amend the provisions relating to the scope of the charge, the basis of assessment and refunds.

Article 9

Member States shall notify the Secretariat of the Council when the procedures required under their national laws for the adoption of the present provisions have been completed.

The present provisions shall enter into force on the first day of the month following receipt of the last of the notifications referred to in the preceding paragraph.

Proposal for a Council regulation concerning the system applicable to certain processed products originating from the Associated African States and Madagascar and from the Overseas Countries and Territories

(submitted by the Commission to the Council on 9 December 1964)

Explanatory memorandum

Under the Convention of Association between the European Economic Community and the African States including Madagascar associated with the Community, which came into force on 1 June 1964, the Community undertook, in framing its common agricultural policy, to have due regard for the interests of the Associated States in respect of products similar to and competitive with European products. By a Council Decision of 25 February 1964 this undertaking was extended to the Overseas Countries and Territories.

The AASM and OCT are exporters of products governed by Regulation No. 141/64/CEE, which concerns the system applied to processed cereal and rice products.

Among these products there are some, for instance manioc flour, meal and starch, which benefited from exceptional arrangements made by Council Regulations No. 156 and No. 10/63/CEE. These two regulations have been extended on several occasions, and most recently by Regulation No. 77/64/CEE. The latter regulation expires on 31 December 1964, on which date, failing any further decision, the system laid down by Regulation No. 141/64/CEE for manioc flour, meal and starch will come into force automatically.

The aim of the present proposal is to establish permanent rules for imports of these products in the more general framework of a special system applicable to all products governed by Regulation No. 141/64/CEE and originating from the AASM and OCT.

The relevant provisions lay down that the obligation undertaken by the Community shall be fulfilled, as a general rule, by granting imports of the products concerned the benefit of a reduction in the levy, the fixed component being lowered. This system will allow processed products imported from the AASM and the OCT to benefit from the same commercial advantage as is granted between Member States.

Special measures are laid down for products which raise particular problems. For manioc flour, meal and starch, the proposed regulation provides that the fixed component shall henceforth be nil.

This measure, which grants a supplementary advantage, is justified by the existing situation, for it would not be logical economically if imports which at present enjoy total exemption from levies were subjected to a levy higher than that to be applied at the end of the transition period.

The immediate application of the variable component to imports of manioc starch would have unfavourable repercussions on trade with the AASM. Provision has therefore been made for levy-free imports of this product for a specified period and up to certain quantities.

The proposed regulation also lays down for rice bran of high starch content originating from the Associated States and

Countries the same levy as is applicable to rice bran of medium starch content. Although this applies to imports of this product originating from any of the AASM and OCT, the problem arises in particular for bran imported from Surinam, since it sometimes possesses an above-average starch content and should consequently be subject to the levy applicable to bran which is very rich in starch.

In certain cases, however, this levy could compromise the marketing of the product in the Community.

The measure has been limited in time, since a period of two years should be enough for trade in these products to adapt itself to the different amounts of levy applicable.

Proposal for a Council regulation concerning the system applicable to certain processed products originating from the Associated African States and Madagascar and from the Overseas Countries and Territories

The Council of the European Economic Community,

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

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Whereas by the Convention of Association between the European Economic Community and the Associated African States and Madagascar (1), the Community has undertaken, in framing its common agricultural policy, to have due regard for the interests of the Associated States in respect of products similar to and competitive with European products;

Whereas the Council Decision of 25 February 1964, concerning the association of the Overseas Countries and Territories with the European Economic Community (2), provides for the same undertaking as regards the interests of the said countries and territories;

Whereas the consultations referred to in Article 11 of the Convention of Association have taken place;

Whereas the system to be set up must have as its object the expansion of trade between the Associated States and the Member States;

Whereas Council Regulations No. 19(3) and No. 16/64/CEE (4), establish for processed cereal products, including rice, a levy system replacing all other protection measures at frontiers;

Whereas the levy on processed products consists of a variable component and a fixed component; and whereas the latter is intended to protect the processing industry;

Whereas the undertaking assumed by the Community can be fulfilled by granting imports of processed products originating from the Associated African States and Madagascar and the Overseas Countries and Territories the benefit of a progressive reduction of the fixed component of the levy;

Whereas to prevent unfavourable repercussions on trade in denatured manioc flour and meal and manioc starch between the Member States on the one hand and the Associated African States and Madagascar and the Overseas Countries and Territories on the other, and in order to permit adjustment to the new situation, a special system must be set up for such trade by setting the fixed component at nil and authorizing within certain limits imports of manioc starch free of levy;

Whereas a similar problem arises for rice bran, imported from the Associated States and Countries, which sometimes possesses a high starch content and consequently, under Regulation No. 141/64/CEE, is subject to the levy applicable to brans rich in starch; whereas this levy may impede the marketing of such bran; whereas a suitable means of mitigating this difficulty is to apply to this product the levy applicable to rice bran having a medium starch content.

Has adopted the following regulation :

Article 1

Subject to the provisions of Article 2 of this regulation, there shall be imposed on imports of products governed by Regulation No. 141/64/CEE and originating from the Associated African States and Madagascar and the Overseas Countries and Territories a levy consisting of :

a) A variable component applicable to imports from non-member countries;

b) A fixed component applicable to trade between Member States.

(1) Official gazette of the European Communities, No. 93, 11 June 1964, p. 1431/64.
(2) ibid., p. 1472/64.
(3) Official gazette of the European Communities, 20 April 1962, p. 933/62.
(4) ibid., No. 34, 27 February 1964, p. 574/64.

Article 2

1. For imports of denatured manioc flour and meal the fixed component shall be nil.

2. Manioc starch shall be imported:

a) Until 31 December 1966, free of levy up to a quantity for each Member State equal to the average of the quantities imported by that State from the Associated African States and Madagascar and the Overseas Countries and Territories as a whole in 1961, 1962 and 1963;

b) From 1 January 1967 with a fixed component of nil.

3. Until 31 December 1966 the variable component for imports of bran and other residue from sieving, milling or other treatment of rice shall be equal to that laid down by the regulations in force for the class of the same product having the lowest starch content.

4. The Member States shall communicate to the Commission by 31 March 1965 the average referred to in paragraph 2(a), and each year by 31 March the quantities imported in accordance with the provisions of this article.

Article 3

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

It shall be applied until 1 June 1969.

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

Proposal for a Council regulation amending Article 11(2) of Regulation No. 23

(submitted by the Commission to the Council on 8 January 1965)

Explanatory memorandum

In its resolution of 15 December 1964 concerning the organization of the market in fruit and vegetables, the Council invited the Commission to submit to it proposals to amend Article 11(2) of Regulation No. 23 [1] in such a way that the provisions would be as effective as those under the other common organizations of markets.

To this end, and in view of the characteristics of the market in fruit and vegetables as well as the special nature of these products, these amendments will have to take into account the need to ensure respect of the reference price by means of countervailing duties on imports from non-member countries.

The present draft regulation, based on a similar system already in force for eggs and poultry, amends Article 11(2) of Regulation No. 23 on the lines indicated by the Council.

Compared with the system at present in force (under Article 11(2) and Commission Regulation No. 100) [2], the most important change is to abolish one of the conditions on which the measures laid down may be applied, that is, if Community markets suffer or become liable to suffer serious disturbances by reason of imports from non-member countries. This condition makes it difficult to ensure that these provisions are as effective as those of the other common organizations of markets, and must therefore be withdrawn.

The new text takes into account the preference expressed by the Council for countervailing duties as a method of ensuring respect of the reference price.

The other amendments include certain additional components to be used in calculating the reference price and the free-at-frontier price (formerly called *prix à l'entrée*). These components have been added in order to enable the Council to fix criteria which will facilitate the adoption of the implementing regulations. Some of these criteria are already to be found in Commission Regulation N 9. 100.

(1) See official gazette of the European Communities, No. 30, 20 April 1962, p. 965/62.

(2) ibid., No. 67, 30 July 1962, p. 1929/62.

Proposal for a Council regulation amending Article 11(2) of Regulation No. 23

The Council of the European Economic Community,

Having regard to the Treaty establishing the European Economic Community and in particular Article 43 thereof,

Having regard to the proposal of the Commission,

Having regard to the opinion of the European Parliament,

Whereas in the light of experience gained in the implementation of the provisions of Article 11(2) of Council Regulation No. 23, it is necessary to amend these provisions in order that the preference in favour of Member States arising from the application of the Treaty may be maintained;

Whereas, in view of the characteristics of the market in fruit and vegetables, these amendments must take into account the need to ensure respect of the reference prices by means of countervailing duties,

Has adopted the following regulation :

Article 1

To avoid disturbances resulting from offers from non-member countries made at abnormal prices, a reference price shall be fixed annually for each product.

The reference price applicable throughout the Community shall be calculated on the average quotations on the producer markets in the Member States, increased by a standard amount such as to render comparable, at the same stage of marketing, the reference price and the price of the products imported from non-member countries. The prices to be used in calculating this average are those paid to growers, over the three years preceding the date when the reference price is fixed, on markets having the lowest price levels for a product of Community origin and of a specified standard of quality. From 1966 the reference prices shall be so fixed as to take into account also intervening developments on those markets.

The trend of free-at-frontier prices for products imported from non-member countries shall be closely observed.

The free-at-frontier price of products imported from non-member countries shall be calculated on the basis of the lowest prices noted on the most representative import markets of the Member States for a product of a specified standard of quality, less customs duties and other import charges.

Where the free-at-frontier price of a product imported from non-member countries is lower than the reference price, imports of this product from non-member countries shall be subject to a countervailing duty. Provided that if products are imported at free-at-frontier prices lower than the reference price only from certain non-member countries, it will be necessary to fix the countervailing duty only for imports from those countries.

The amount of the countervailing duty shall be equal to the difference between the reference price and the free-at-frontier price. This duty shall be the same for all the Member States and shall be added to the customs duties in force.

The following matters shall be decided by the procedure laid down in Article 13 :

i) The manner of application of the present paragraph, to be decided not later than 31 March 1965;

ii) The reference prices;

iii) The amount of the countervailing duty, the Management Committee acting in this case according to the urgency of the matter.

Article 2

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

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

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