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Brussels, 29 July 1977

EXEMPTION FROM THE COMMON CUSTOMS TARIFF FOR WAR MATERIAL IMPORTED
INTO THE COMMON MARKET

The Commission has just sent a letter to the Member States in which it explains its position concerning exemption from the Common Customs Tariff duties for material intended for national defence, particularly equipment necessary for construction of the YF 16 fighter. Such unilateral exemption by Member States is incompatible with the Common Customs Tariff.

The Commission's approach aims at dissipating whatever misunderstandings there may be in this connection. In its opinion, one could not, for example, invoke Article 223 of the Treaty to justify such a practice. This Article refers to the measures which are considered necessary for the protection of the essential interests of Member States' security and which are connected with the production of or trade in arms, munitions and war material. Such measures must not, however, adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes. In view of the close interdependence of the civil and military sectors in most Community aircraft firms, such an exemption, which favours the use of material from non-member countries vis-à-vis similar Community material, cannot but have repercussions on the conditions of competition in the common market as regards non-military material manufactured by these Community firms.

Moreover, the Commission's affirmation that Member States cannot exempt unilaterally from the Common Customs Tariff duties any material intended for their national defence is likely, as regards more particularly the aircraft sector, to stimulate on a new basis the current negotiations between the Community and the United States for the latter to discontinue the imposition of its customs duties on aircraft constructed in the Community. Pending the conclusion of these negotiations to the satisfaction of both parties, only recourse to Article 28 of the Treaty, which requires the Member States to act unanimously, would enable the Member States concerned to import free of Common Customs Tariff duties any material required for their national defence.