II

*(Acts whose publication is not obligatory)*

# COUNCIL

## COUNCIL DECISION

**of 14 February 1977**

**on the exporting of crude oil and petroleum products from one Member State to another in the event of supply difficulties**

(77/186/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 103 (4) thereof,

Having regard to the proposal from the Commission,

Whereas the establishment of a Community energy policy is one of the objectives which the Community has set itself and it is for the Commission to propose the measures to be taken to this end;

Whereas the establishment of genuine solidarity between the Member States in the event of supply difficulties is one of the basic elements of a Community energy policy;

Whereas the Council has adopted Directive 73/238/EEC of 24 July 1973 on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products [1];

Whereas it is necessary to prevent such supply difficulties from causing disturbances in trade within the Community which would seriously jeopardize supplies to one or more Member States;

Whereas in periods of supply difficulties monitoring of intra-Community trade is necessary in order to keep a check on developments;

Whereas an appropriate system, with the least effect on intra-Community trade, would be a system of licences granted automatically;

Whereas protective measures may prove necessary;

Whereas, since protective measures are unnecessary for supplies of goods from third countries which are in transit through one Member State and are destined for another Member State, they should be excluded from the scope of this Decision;

Whereas, in conformity with the principles of solidarity and non-discrimination, the burden of deficits in supplies of oil and petroleum products must be fairly distributed among the Member States;

[1] OJ No L 228, 16. 8. 1973, p. 1.

Whereas it must be ensured that no one Member State is more affected than the other Member States as a result of respecting the principles of the Treaty;

Whereas all Community decisions to be taken concerning the reduction of energy consumption should be taken into consideration;

Whereas other complementary measures may be necessary to ensure optimum supplies of crude oil and petroleum products to the whole Community,

HAS ADOPTED THIS DECISION:

*Article 1*

1. Where difficulties arise in the supply of crude oil and/or petroleum products in one or more Member States, the Commission, acting at the request of a Member State or on its own initiative and after holding consultations within the group provided for in Directive 73/238/EEC, may decide to make intra-Community trade in products falling within heading No 27.09 and subheadings 27.10 A, B, C I and C II of the Common Customs Tariff subject to a system of licences to be granted automatically by the exporting Member State.

Licences shall be granted without delay and free of administrative charges in respect of any quantity requested and for a minimum period of 15 working days and a maximum of one month.

2. Where intervention by the Commission has been requested by a Member State, the Commission shall take a decision within a maximum of five working days of the date of receipt of that request.

3. This decision shall not affect supplies of goods from third countries to a Member State which are in transit through other Member States.

4. Any decision taken by the Commission to introduce a system of licences, pursuant to paragraph 1, shall be communicated to the Council and to the Member States. Any Member State may, within 10 working days of the date of communication, refer that decision to the Council. The Council, acting by a qualified majority, may repeal the decision of the Commission or alter the conditions and procedures laid down therein.

5. Decisions taken by the Commission shall apply as soon as they have been communicated to Member States. They shall not apply to products which have already been dispatched.

*Article 2*

Whenever a shortfall in supply of crude oil and/or petroleum products, either actual or imminent, creates an abnormal increase in trade in petroleum products between Member States, the Commission may, on the request of a Member State, after consulting the group provided for in Directive 73/238/EEC, authorize that Member State to suspend the issue of export licences to the extent necessary to prevent such abnormal trade. The Commission's authorization shall be valid for 10 working days.

The Council shall meet, at the request of a Member State, within 48 hours to confirm, amend or repeal, by a qualified majority, the authorization granted by the Commission.

*Article 3*

If a shortfall is likely to seriously endanger the supply of crude oil and/or petroleum products in a Member State, or if such a situation may reasonably be expected, the Commission may, on the request of a Member State, after consulting the group provided for in Directive 73/238/EEC, authorize that Member State to suspend the issue of export licences, provided that traditional trade patterns are maintained as far as possible.

The Council shall meet, at the request of a Member State, within 48 hours to amend or revoke, by a qualified majority, the authorization granted by the Commission. If the Council does not revoke or amend this authorization it shall remain in force.

*Article 4*

In the event of a sudden crisis in a Member State, when any delay would be gravely prejudicial to its economy, the Member State concerned may, after consulting the Commission and after informing the other Member States, temporarily suspend the issue of export licences. This decision shall be valid for 10 days.

At the request of a Member State or the Commission, the Council shall meet within 48 hours. It may adopt

the appropriate measures by a qualified majority acting on a proposal from the Commission. The measures decided on by the Council shall enter into force on the day following the expiration of the period of validity of the national measures. However, the Council, acting unanimously, may decide that the measures which it has adopted shall apply before that period of validity expires.

*Article 5*

1. If, after consulting the group provided for in Directive 73/238/EEC or on the basis of information communicated by a Member State, the Commission finds that the situation regarding supplies of crude oil and/or petroleum products in one or more Member States no longer justifies the continued application of the measures laid down in Articles 1 to 4:

(a) it shall decide to amend or repeal them if the measures were introduced by means of a decision by the Commission;

(b) it shall propose that the Council should amend or repeal them if the measures were introduced by means of a decision by the Council.

2. Decisions by the Commission taken pursuant to paragraph 1 (a) shall become applicable as soon as Member States have been notified of them. Any Member State may refer to the Council any decision by the Commission amending or repealing the measures laid down in Articles 1 to 4.

3. The Council shall take a decision by a qualified majority within 10 days of the matter being referred to it.

*Article 6*

The Council shall take a unanimous decision within 10 days on any complementary measure proposed by the Commission with a view to ensuring optimum supplies of crude oil and/or petroleum products for the whole Community.

*Article 7*

After consulting the Member States the Commission shall determine the detailed rules for the application of this Decision.

*Article 8*

This Decision is addressed to the Member States.

Done at Brussels, 14 February 1977.

*For the Council*

*The President*

J. SILKIN