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# COUNCIL DIRECTIVE

## of 20 December 1968

## imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products

(68/414/EEC)

(OJ L 308, 23.12.1968, p. 14)

Amended by:

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| ►**M2** | Council Directive 98/93/EC of 14 December 1998 | L 358 | 100 | 31.12.1998 |

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►**C1** Corrigendum, OJ L 999, 1.1.1973, p. 29 (68/414)

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# COUNCIL DIRECTIVE

## of 20 December 1968

## imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products

(68/414/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament [1];

Whereas imported crude oil and petroleum products are of increasing importance in providing the Community with supplies of energy; whereas any difficulty, even temporary, having the effect of reducing supplies of such products imported from third States could cause serious disturbances in the economic activity of the Community; whereas the Community must therefore be in a position to offset or at least to diminish any harmful effects in such a case;

Whereas a crisis in obtaining supplies could occur unexpectedly and whereas it is therefore essential to establish forthwith the necessary means to make good a possible shortage;

Whereas, to this end, it is necessary to increase the security of supply for crude oil and petroleum products in Member States by establishing and maintaining minimum stocks of the most important petroleum products;

Whereas national production contributes in itself to the security of supply; whereas the conditions of Community production and the greater security of supply inherent in such production justify making it possible for Member States to place the burden of maintaining stocks on imports;

HAS ADOPTED THIS DIRECTIVE:

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*Article 1*

1. Member States shall adopt such laws, regulations or administrative provisions as may be appropriate in order to maintain within the European Community at all times, subject to the provisions of Article 7, their stocks of petroleum products at a level corresponding, for each of the categories of petroleum products listed in Article 2, to at least 90 days' average daily internal consumption in the preceding calendar year referred to in Article 4.

2. That part of internal consumption met by derivatives of petroleum produced indigenously by the Member State concerned may be deducted up to a maximum of 25 % of the said consumption. The distribution within the Member States of the result of such a deduction shall be decided by the Member State concerned.

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*Article* ►M2 *2* ◄

The following categories of product shall be taken into account in calculating internal consumption:

— motor spirit and aviation fuel (aviation spirit and jet-fuel of the gasoline type);

— gas oil, diesel oil, kerosine and jet-fuel of the kerosine type;

— fuel oils.

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[1] OJ No 20, 6.2.1965, p. 330/65.

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Bunker supplies for sea-going vessels shall not be included in the calculation of internal consumption.

*Article 3*

1. Stocks maintained in accordance with Article 1 shall be fully at the disposal of Member States should difficulties arise in obtaining oil supplies. Member States shall ensure that they have the legal powers to control the use of stocks in such circumstances.

At all other times, Member States shall ensure the availability and accessibility of these stocks; they shall establish arrangements allowing for the identification, accounting and control of the stocks.

2. Member States shall ensure that fair and non-discriminatory conditions apply in their stockholding arrangements.

The cost burden resulting from the maintenance of stocks in accordance with Article 1 shall be identified by transparent arrangements. In this context, Member States may adopt measures to obtain appropriate information regarding the cost burden of stockholding in accordance with Article 1 and to make such information available to interested parties.

3. To fulfil the requirements of paragraphs 1 and 2, Member States may decide to have recourse to a stockholding body or entity which will be responsible for holding all or part of the stocks.

Two or more Member States may decide to have recourse to a joint stockholding body or entity. In that case they shall be jointly responsible for the obligations deriving from this Directive.

*Article 4*

Member States shall submit to the Commission a statistical summary showing stocks existing at the end of each month, drawn up in accordance with Articles 5 and 6 and specifying the number of days of average consumption in the preceding calendar year which those stocks represent. This summary must be submitted at the latest by the 25th day of the second month after the month to be reported.

A Member State's stockholding obligation shall be based on the previous calendar year's internal consumption. At the beginning of each calendar year, Member States must re-calculate their stockholding obligation at the latest by 31 March in each year and ensure that they comply with their new obligations as soon as possible and, in any event, at the latest by 31 July in each year.

In the statistical summary, stocks of jet fuel of the kerosene type shall be reported separately under category II.

*Article 5*

Stocks required to be maintained by Article 1 may be maintained in the form of crude oil and intermediate products, as well as in the form of finished products.

In the statistical summary of stocks provided for in Article 4, finished products shall be accounted for according to their actual tonnage; crude oil and intermediate products shall be accounted for:

— in the proportions of the quantities for each category of product obtained during the preceding calendar year from the refineries of the State concerned, or

— on the basis of the production programmes of the refineries of the State concerned for the current year, or

— on the basis of the ratio between the total quantity manufactured during the preceding calendar year in the State concerned of products covered by the obligation to maintain stocks and the total amount of crude oil used during that year; the foregoing shall apply to not more than 40 % of the total obligation for the first and second categories (petrol and gas oils), and to not more than 50 % for the third category (fuel oils).

Blending components, when intended for processing into the finished products listed in Article 2, may be substituted for the products for which they are intended.

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*Article 6*

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1. When calculating the level of minimum stocks provided for in Article 1, only those quantities which would be held in accordance with Article 3(1) shall be included in the statistical summary.

2. For the purposes of implementing this Directive, stocks may be established, under agreements between Governments, within the territory of a Member State for the account of undertakings, or bodies/entities, established in another Member State. It is for the Government of the Member State concerned to decide whether to hold a part of its stocks outside its national territory.

In such cases, the Member State on whose territory the stocks are held under the framework of such an agreement shall not oppose the transfer of these stocks to the other Member States for the account of which stocks are held under that agreement; it shall keep a check on such stocks in accordance with the procedures specified in that agreement but shall not include them in its statistical summary. The Member State on whose behalf the stocks are held may include them in its statistical summary.

In such cases, together with the statistical summary provided for by Article 4, each Member State shall send a report to the Commission concerning the stocks maintained within its own territory for the benefit of another Member State, as well as the stocks held in other Member States for its own benefit. In both cases, the storage locations and/or companies holding the stocks, quantities and product category — or crude oil — stored will be indicated in the report.

Drafts of the agreements mentioned in the first subparagraph shall be sent to the Commission, which may make its comments known to the Governments concerned. The agreements, once concluded, shall be notified to the Commission, which shall make them known to the other Member States.

Agreements shall satisfy the following conditions:

— they must relate to crude oil and to all petroleum products covered by this Directive,

— they must lay down conditions and arrangements for the maintenance of stocks with the aim of safeguarding control and availability of these stocks,

— they must specify the procedures for checking and identifying the stocks provided for, inter alia, the methods for carrying out and cooperating on inspections,

— they must as a general rule be concluded for an unlimited period,

— they must state that, where provision is made for unilateral termination, the latter shall not operate in the event of a supply crisis and that, in any event, the Commission shall receive prior information of any termination.

When stocks established under such agreements are not owned by the undertaking, or body/entity, which has an obligation to hold stocks, but are held at the disposal of this undertaking, or body/entity, by another undertaking, or body/entity, the following conditions shall be met:

— the beneficiary undertaking, or body/entity, must have the contractual right to acquire these stocks throughout the period of the contract; the methodology for establishing the price of such acquisition must be agreed between the parties concerned,

— the minimum period of such a contract must be 90 days,

— storage location and/or companies holding the stocks at the disposal of the beneficiary undertaking, or body/entity, as well as quantity and category of product, or crude oil, stored in that location must be specified,

— the actual availability of the stocks for the beneficiary undertaking, or body/entity, must be guaranteed, at all times throughout the period of the contract, by the undertaking or body/entity holding the stocks at the disposal of the beneficiary undertaking, or body/entity,

— the undertaking, or body/entity, holding the stocks at the disposal of the beneficiary undertaking, or body/entity, must be one which is subject to the jurisdiction of the Member State on whose territory the stocks are

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situated insofar as the legal powers of that Member State to control and verify the existence of the stocks are concerned.

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3. Subject to the provisions of paragraph 1, the following may be included in the stocks:

— supplies on board oil tankers in port for the purpose of discharging, once the port formalities have been completed;

— supplies held in ports of discharge;

— supplies held in tanks at the entry to oil pipelines;

— supplies held in refinery tanks, excluding those supplies in pipes and refining plant;

— supplies held in storage by refineries and by importing, storage or wholesale distribution firms;

— supplies held in storage by large-scale consumers in compliance with the provisions of national law concerning the obligation to maintain permanent stocks;

— supplies held in barges and coasting-vessels engaging in transport within national frontiers, in so far as it is possible for the competent authorities to keep a check on such supplies and provided that the supplies could be made available immediately;

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Consequently the following shall, in particular, be excluded from the statistical summary: indigenous crude oil not yet extracted; supplies intended for the bunkers of sea-going vessels; supplies in direct transit apart from the stocks referred to in paragraph 2; supplies in pipelines, in road tankers and rail tank-wagons, in the storage tanks of retail outlets, and those held by small consumers. Quantities held by the armed forces and those held for them by the oil companies shall also be excluded from the statistical summary.

*Article 6a*

Member States shall adopt all the necessary provisions and take all the necessary measures to ensure control and supervision of stocks. They shall put in place mechanisms to verify the stocks according to the provisions of this Directive.

*Article 6b*

Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive and shall take any measure necessary to ensure the implementation of these provisions. The penalties shall be effective, proportionate and dissuasive.

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*Article 7*

If difficulties arise with regard to Community oil supplies, the Commission shall, at the request of any Member State or on its own initiative, arrange a consultation between the Member States.

Save in cases of particular urgency or in order to meet minor local needs, Member States shall refrain, prior to the consultation provided for above, from drawing on their stocks to any extent which would reduce those stocks to below the compulsory minimum level.

Member States shall inform the Commission of any withdrawals from their reserve stocks and shall communicate as soon as possible:

— the date upon which stocks fell below the compulsory minimum;

— the reasons for such withdrawals;

— the measures, if any, taken to replenish stocks;

— an appraisal, if possible, of the probable development of the situation with regard to the stocks while they remain below the compulsory minimum.

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*Article 8*

The establishment of stocks as required by this Directive shall be offered as soon as possible after notification thereof and not later than 1 January 1971.

Member States shall inform the Commission of measures taken to this effect.

*Article 9*

This Directive is addressed to the Member States.