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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:

Article 1

Member States shall adopt such laws, regulations or administrative provisions as may be appropriate in order to maintain at all times, subject to the provisions of Articles 2 and 7, their stocks of petroleum products at a level corresponding, for each of the categories of petroleum products listed in Article 3, to at least 65 days' average daily internal consumption in the preceding calendar year.

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 15% of the said consumption.

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

Article 2

Without prejudice to Article 1, Member States may exempt undertakings from the obligation to maintain stops in respect of an amount not exceeding the quantity of products which those undertakings manufacture from indigenously produced crude oil.

Article 3

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.

Article 4

Member States shall submit to the Commission a statistical summary showing stocks existing at the end of each quarter, 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 within ninety days of the end of the quarter.

Article 5

In the statistical summary of stocks provided for in Article 4, finished products shall be accounted for

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

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 10% 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 3, may be substituted for the products for which they are intended.

Article 6

1. When calculating the level of minimum stocks provided for in Article 1, only those quantities which would be fully at the disposal of a Member State should difficulties arise in obtaining oil supplies shall be included in the statistical summary.

Subject to the provisions of paragraph 2, those stocks must be located within the territory of the State concerned.

2. For the purposes of implementing this Directive, stocks may be established, under individual agreements between Governments, within the territory of a Member State for the account of undertakings established in another Member State.

In such cases, the Member State in whose territory the stocks are held may not oppose their transfer to the other Member States; it shall as far as possible keep a check on such stocks 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.

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 specify the procedures for checking and identifying the stocks provided for;

— 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.

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;

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 distributing stations, 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 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.

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.

Done at Brussels, 20 December 1968.

For the Council

The President

V. LATTANZIO