II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 4 May 1976

regarding a Community procedure for information and consultation on the prices of crude oil and petroleum products in the Community

(76/491/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 213 thereof,

Having regard to the draft from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the establishment of a common energy policy is one of the objectives which the Community has set itself, and it is the task of the Commission to propose measures for this purpose;

Whereas knowledge of supply and market conditions is one of the basic elements of such a common energy policy;

Whereas transparency of the costs and prices of petroleum products is a necessary condition for the satisfactory operation of the market, and particularly for the free movement of goods within the Community;

Whereas the Council, in paragraph 3 (III) of its resolution of 13 February 1975 concerning measures to be implemented to achieve the Community energy policy objectives adopted by the Council on 17 December 1974 (3), approved the principle of a consumer price policy based on transparency of the costs and prices of hydrocarbons;

Whereas it is therefore necessary to set up a Community procedure for information and consultation on the prices of crude oil and petroleum products;

Whereas the achievement of this objective requires the acquisition, at regular intervals, of certain information regarding the prices of crude oil and the principal petroleum products, at least in aggregate form at Member State level;

Whereas the information regarding the prices of crude oil and the principal petroleum products should be supplied by the oil undertakings, and the Member States should, by reference to objective criteria, designate the individuals and undertakings who will provide the Member States with such information;

Whereas within one year at most of the first application of this Directive consideration should be given to the advisability of the Member States' communicating to the Commission the information supplied to them by the undertakings;

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(1) OJ No C 28, 9. 2. 1976, p. 9.
(2) OJ No C 50, 4. 3. 1976, p. 2.
(3) OJ No C 153, 9. 12. 1975, p. 6.

Whereas the trends of oil costs and prices obtaining in the Community should be compared on the basis of the information collected;

Whereas, if this comparison is to take account of differences of structure between markets, it should cover price levels net and inclusive of duties and taxes for the principal petroleum products and ex-refinery realizations;

Whereas the trend, in each Member State and in the Community as a whole, in the average ex-refinery value per metric ton of crude oil processed should be analyzed on the basis of the information collected;

Whereas the information collected and the results of the study carried out by the Commission should be communicated at Community level to the Member States and be the subject of consultation between them and the Commission;

Whereas the information collected shall be confidential and the results of the study carried out by the Commission may be used only for the information of the Member States and for consultation between them and the Commission;

Whereas if the Commission finds anomalies or inconsistencies in the figures communicated to it, it should be able to obtain a breakdown of the requisite information supplied by the undertakings;

Whereas the Commission should be able to specify, where necessary, details such as the form and content of the communications to be made,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Within the first 45 days of each quarter, the Member States shall communicate to the Commission information based on the information supplied to them by the undertakings designated in accordance with Article 2. Such information, submitted as laid down in Article 3, shall indicate:

(a) For the principal types of crude oil:

— fob and/or cif prices for each type of crude oil imported from third countries during the preceding quarter;

— prices free at the refinery gate or port of discharge for the principal types of crude oil produced in the Community traded between different undertakings or between producer undertakings and their subsidiaries and refined in the Member State concerned during the preceding quarter.

(b) For the principal types of petroleum products:

— fob and/or cif prices for each type of petroleum product imported from third countries and from the Member States of the Community respectively during the preceding quarter;

— consumer prices at the beginning of the current quarter for each of the principal petroleum products, both net and inclusive of duty and tax;

— the estimated average gross ex-refinery realization during the preceding quarter for each of the principal petroleum products disposed of on the domestic market of the Member State in question.

2. Those Member States which have systems of maximum consumer prices shall also inform the Commission of the maximum consumer prices in force on the first day of the current quarter for each of the principal petroleum products, both net and inclusive of duty and tax.

Lists of the principal types of crude oil imported from third countries and of petroleum products are given in the Annex to this Directive. The Annex to this Directive also gives definitions of the form in which information is to be communicated and of imports, crude oil produced in the Community, consumer prices, estimated average gross ex-refinery realization and maximum consumer prices.

Article 2

1. The Member States shall take all necessary steps to ensure that the undertakings whose activities fall within their jurisdiction provide the information necessary to enable them to fulfil their obligations pusuant to Article 1.

2. Within the first 45 days of each quarter, the Member States shall communicate to the Commission a list of the individuals and undertakings supplying the information referred to in paragraph 1. The list of individuals and undertakings shall be drawn up so as to cover a significant part of the operations carried out on their territories, namely:

— for import prices: at least 85% of the total quantity of imported crude oil and approximately 75% of imported petroleum products;

— for consumer prices: approximately 70% of the domestic consumption of all petroleum products.

On this list, the Member States shall name all the individuals and undertakings in descending order of importance for each type of activity indicated above.

Article 3

1. The information which the Member States are obliged to communicate to the Commission pursuant to Article 1 shall be obtained by aggregating the information received from the undertakings referred to in Article 2 (2). This information shall be presented in such a way as to give as representative a picture as possible of each Member State's oil market.

2. Within one year of the date fixed in Article 10, the Council shall consider whether the information supplied by undertakings to the Member States should be communicated to the Commission, as a means of obtaining a clearer picture of conditions on the Community oil market.

Article 4

On the basis of the information collected pursuant to Article 1 the Commission shall prepare and communicate quarterly to the Member States *inter alia:*

— summary information on the prices of crude oil and of petroleum products;

— a comparison of the price levels for petroleum products in the Community;

— developments, for each Member State and for the Community, in the average ex-refinery value per metric ton of crude oil processed. Average ex-refinery value per metric ton of crude oil processed is defined in the Annex to this Directive;

— a comparison of the developments in the terms of supply of crude oil and petroleum products and the average ex-refinery value per metric ton of crude oil processed.

Article 5

1. The Member States and the Commission shall consult together quarterly, or, at the request of a Member State or on the initiative of the Commission, at shorter intervals.

2. These consultations will relate particularly to the Commission communications referred to in Article 4. Following such consultations the Commission will, if necessary, make proposals to the Council for such measures as may appear to be necessary.

Article 6

1. All information communicated pursuant to Article 1 (1) and the list forwarded pursuant to Article 2 (2) shall be confidential. This provision shall not however prevent the distribution of general or summary information in terms which do not disclose details relating to individual undertakings, i.e. in terms which refer to at least three undertakings.

2. Information communicated to the Commission pursuant to Article 1 and the general or summary information obtained pursuant to Article 4 may be used only for the purposes laid down in Article 5.

3. If the Commission establishes the existence of anomalies or inconsistencies in the figures communicated, it may ask the Member States to permit it to acquaint itself with the appropriate unaggregated information supplied by the undertakings and the calculation and assessment procedures used to arrive at the aggregated information.

Article 7

Within the limits laid down by this Directive, the Commission shall adopt implementing provisions regarding the confidential nature, the form, the content, and all other aspects of the communications provided for in Article 1.

Article 8

In the event of significant changes in supply conditions, and in order to allow it to assess the market situation, the Commission may require the communications provided for in Articles 1 and 2 to be made within amended time limits or for other periods.

Article 9

For each of the first three years following the date laid down in Article 10, the Commission shall