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SECOND COUNCIL DIRECTIVE

of 18 December 1962

adding to and amending the First Directive for the implementation of Article 67 of the Treaty[1]

(63/21/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 5, 67 (1), 69, 105 (2) and 106 (2), thereof;

Having regard to the Decision of 11 May 1960 on the application to Algeria and to the French overseas departments of the provisions of the Treaty concerning the movement of capital;

Having regard to the First Directive of 11 May 1960 for the implementation of Article 67 of the Treaty;

Having regard to the proposal from the Commission, which, for that purpose, consulted the Monetary Committee;

Whereas it is appropriate to consolidate within the European Economic Community the liberalisation of capital movements to which Member States have already committed themselves within the framework of the Organisation for Economic Co-operation and Development;

Whereas the abolition of certain restrictions on the free movement of capital, closely connected with the movement of goods, persons and services, is necessary to ensure the satisfactory establishment and functioning of a common market in these fields;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 2 (3) of the First Directive of 11 May 1960 for the implementation of Article 67 of the Treaty (hereinafter called 'First Directive') is hereby repealed.

Article 2

Annexes I and II to the First Directive shall be amended as follows:

[1] OJ No 43, 12.7.1960, pp. 919 to 932.

ANNEX I

LIST A

1. After the words 'Transfers of capital belonging to residents who emigrate' delete the words:

'amounts required for establishment with a view to carrying on a gainful activity'.

2. After the words 'Transfers of capital belonging to emigrants returning to their country of origin':

(a) delete the words:

'amounts imported and sums earned in carrying on a gainful activity';

(b) add the following items:

	Items of nomenclature
'Transfers of workers' savings during their period of stay';	X H
'Transfers by instalment of blocked funds belonging to non-residents by the holders of such funds in case of special hardship';	X I
'Annual transfers of blocked funds to another Member State by a non-resident account-holder, up to an amount or a percentage of the total assets, fixed uniformly by the Member State concerned for all applicants';	X L
'Transfer of minor amounts abroad'.	X M

3. Each time the words 'commercial transactions' appear in the list, they should be followed by the words 'or provision of services'.

4. The following items shall be added after Item XI.

	Items of nomenclature
'Death duties';	XIV A
'Damages (where these can be considered as capital)';	XIV B
'Refunds in the case of cancellation of contracts and refunds of uncalled-for payments (where these can be considered as capital)';	XIV C
'Authors' royalties. Patents, designs, trade marks and inventions (assignments and transfers arising out of such assignments)';	XIV D
'Transfers of the moneys required for the provision of services'.	XIV E

LIST C

5. Each time the words 'commercial transactions' appear in the list, they should be followed by the words 'or provision of services'.

LIST D

6. Each time the words 'commercial transactions' appear in the list, they should be followed by the words 'or provision of services'.

7. For Item XIV 'Other capital movements', there shall be substituted the following item:

	Items of nomenclature
'Other capital movements: Miscellaneous'.	XIV F

ANNEX II

8. For the heading of Category VII 'Granting and repayment of credits related to commercial transactions', there shall be substituted the following heading:

'Granting and repayment of credits related to commercial transactions or to provision of services'.

9. For the heading of Category VIII 'Granting and repayment of loans and credits not related to commercial transactions' there shall be substituted the following heading:

'Granting and repayment of loans and credits not related to commercial transactions or to provision of services'.

10. Under 'Personal capital movements', in Category X, the following items shall be inserted:

	Items of nomenclature
'Transfers of workers' savings during their period of stay';	H
'Transfers by instalment of blocked funds belonging to non-residents by the holders of such funds in the case of special hardship';	I
'Annual transfers of blocked funds to another Member State by a non-resident account-holder, up to an amount or a percentage of the total assets, fixed uniformly by the Member State concerned for all applicants';	L
'Transfers of minor amounts abroad'.	M

11. Under 'Personal capital movements', in Category XIV, the following items shall be inserted:

	Items of nomenclature
'Death duties';	A
'Damages (where these can be considered as capital)';	B
'Refunds in the case of cancellation of contracts and refunds of uncalled-for payments (where these can be considered as capital)';	C
'Authors' royalties. Patents, designs, trade marks and inventions (assignments and transfers arising out of such assignments)';	D
'Transfers of the moneys required for the provision of services (not included in Category IX)';	E
'Miscellaneous'.	F

Article 3

Member States shall within three months of notification of this Directive take the necessary measures to comply with it and shall forthwith inform the Commission thereof.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 18 December 1962.

For the Council

The President

E. COLOMBO

At its 90th Session on 17 December 1962, the Council of the European Economic Community approved the Second Directive for the implementation of Article 67 of the Treaty concerning the free movement of capital adding to and amending the First Directive of 11 May 1960.[1]

As this instrument led to the alteration of the lists and nomenclature annexed to the First Directive, it seemed appropriate to publish the text of the lists and nomenclature as it stands with additions and revisions, following the Council's approval of the Second Directive. The text appears below.

[1] Published in the *Official Journal of the European Communities*, 12 July 1960, pp. 919-932.

ANNEX I

LIST A

Capital movements referred to in Article 1 of the Directive

	Items of nomenclature
Direct investments	I
excluding purely financial investments made with a view only to giving the persons providing the capital indirect access to the money or capital market of another country, through the creation of an undertaking or participation in an existing undertaking in that country	
Liquidation of direct investments	II
Investments in real estate	V
Personal capital movements	
Gifts and endowments	X B
Dowries	X C
Inheritances	X D
Settlement of debts in their country of origin by immigrants	X E
Transfers of capital belonging to residents who emigrate	X F
Transfers of capital belonging to emigrants returning to their country of origin	X G
Transfers of workers' savings during their period of stay	X H
Transfers by instalment of blocked funds belonging to non-residents by the holders of such funds in case of special hardship	X I
Annual transfers of blocked funds to another Member State by a non-resident account holder, up to an amount or a percentage of the total assets, fixed uniformly by the Member State concerned for all applicants	X L
Transfers of minor amounts abroad	X M
Granting and repayment of short- and medium-term credits related to commercial transactions or to provision of services in which a resident is participating	VII I A (i) and (ii) B (i) and (ii)
Sureties, other guarantees and rights of pledge and transfers connected with them	
related to short- and medium-term credits in respect of commercial transactions or provision of services in which a resident is participating	XII A and B in conjunction with VII I A (i) and (ii) B (i) and (ii)
related to long-term loans with a view to establishing or maintaining lasting economic links	XII A and B in conjunction with I A 3 B 3