12.7.60 OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES 921/60

FIRST DIRECTIVE

for the implementation of Article 67 of the Treaty

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

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

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

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 capital movements;

Whereas the attainment of the objectives of the Treaty establishing the European Economic Community requires the greatest possible freedom of movement of capital between Member States and therefore the widest and most speedy liberalisation of capital movements;

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall grant all foreign exchange authorisations required for the conclusion or performance of transactions or for transfers between residents of Member States in respect of the capital movements set out in List A of Annex I to this Directive.

2. Member States shall enable such transfers of capital to be made on the basis of the exchange rate ruling for payments relating to current transactions.

Where such transfers are made on a foreign exchange market on which the fluctuations of exchange rates are not officially restricted, this obligation shall be taken to mean that the exchange rates applied must not show any appreciable and lasting differences from those ruling for payments relating to current transactions.

The Monetary Committee shall watch closely the trend of exchange rates applied to such transfers of capital, and shall report thereon to the Commission. If the Commission finds that these rates show appreciable and lasting differences from those ruling for payments relating to current transactions, it shall initiate the procedure provided for in Article 169 of the Treaty.

Article 2

1. Member States shall grant general permission for the conclusion or performance of transactions and for transfers between residents of Member States in respect of the capital movements set out in List B of Annex I to this Directive.

2. Where such transfers of capital are made on a foreign exchange market on which the fluctuations of exchange rates are not officially restricted, Member States shall endeavour to ensure that transfers are made at rates which do not show appreciable and lasting differences from those ruling for payments relating to current transactions.

The Commission may, after consulting the Monetary Committee, make recommendations in this connection to the Member States.

3. Where the transfers are made either on the same foreign exchange market as payments relating to current transactions, or on a market on which exchange rate fluctuations are kept within limits applicable to such market as aforesaid, the application of paragraph 1 of this Article may, as a temporary measure, be confined—as regards the acquisition of foreign securities by residents—to the financial institutions and to the undertakings which acquire securities of foreign companies established for a like purpose.

The Commission may, after consulting the Monetary Committee, make recommendations in this connection to the Member States.

Article 3

1. Subject to paragraph 2 of this Article, Member States shall grant all foreign exchange authorisations

required for the conclusion or performance of transactions and for transfers between residents of Member States in respect of the capital movements set out in List C of Annex I to this Directive.

2. Where such free movement of capital might form an obstacle to the achievement of the economic policy objectives of a Member State, the latter may maintain or reintroduce the exchange restrictions on capital movements which were operative on the date of entry into force of this Directive. It shall consult the Commission on the matter.

The Commission shall examine the measures for co-ordinating the economic policies of Member States which will enable these difficulties to be overcome and, after consulting the Monetary Committee, shall recommend their adoption by the Member States.

3. The Commission may recommend that the State in question abolish the exchange restrictions which are maintained or reintroduced.

Article 4

The Monetary Committee shall examine at least once a year the restrictions which are applied to the capital movements set out in the lists contained in Annex I to this Directive; it shall report to the Commission regarding restrictions which could be abolished.

Article 5

1. The provisions of this Directive shall not restrict the right of Member States to verify the nature and genuineness of transactions or transfers, or to take all requisite measures to prevent infringements of their laws and regulations.

2. Member States shall simplify as far as possible the authorisation and control formalities applicable to the conclusion or performance of transactions and transfers and shall where necessary consult one another with a view to such simplification.

3. The restrictions on capital movements under the rules for establishment in a Member State shall be abolished pursuant to this Directive only in so far as it is incumbent upon the Member States to grant freedom of establishment in implementation of Articles 52 to 58 of the Treaty.

Article 6

Member States shall endeavour not to introduce within the Community any new exchange restrictions affecting the capital movements that were liberalised at the date of entry into force of this Directive nor to make existing provisions more restrictive.

Article 7

Member States shall make known to the Commission, not later than three months after the entry into force of this Directive:

(a) the provisions governing capital movements at the date of entry into force of this Directive which are laid down by law, regulation and administrative action;

(b) the provisions adopted in pursuance of the Directive;

(c) the procedures for implementing those provisions.

They shall also make known, not later than the time of entry into force thereof, any new measures going beyond the obligations of this Directive, and any amendment of the provisions governing the capital movements set out in List D of Annex I to this Directive.

Article 8

The provisions of this Directive shall apply to the Member States mentioned in Article 227 (1) of the Treaty, to Algeria and to the French overseas departments, and to European territories for whose external relations a Member State is responsible.

Article 9

This Directive shall apply without prejudice to the provisions of Articles 67 (2), 68 (3) and 221 of the Treaty.

Article 10

Lists A, B, C and D contained in Annex I, together with the Nomenclature of Capital Movements and the Explanatory Notes in Annex II, form an integral part of this Directive.

Done at Luxembourg, 11 May 1960.

For the Council

The Secretary-General — CALMES

The President — Eugène SCHAUS

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 to giving the person 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
— amounts required for establishment with a view to carrying on a gainful activity	
Transfers of capital belonging to emigrants returning to their country of origin	X G
— amounts imported and amounts earned in carrying on a gainful activity	
The granting and repayment of short-term and medium-term credits in respect of commercial transactions in which a resident is participating	VII 1 A (i) and (ii) B (i) and (ii)
Sureties, other guarantees and rights of pledges and transfers connected with them	
related to the short-term and medium-term credits in respect of commercial transactions in which a resident is participating	XII A and B in conjuncition with VII 1 A (i) and (ii) B (i) and (ii)
where 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
Transfers in performance of insurance contracts	XI
as and when freedom of movement in respect of services is extended to those contracts in implementation of Article 59 *et seq.* of the Treaty	

The use of the proceeds of liquidation of assets abroad belonging to residents must be permitted at least within the limits of the obligations as regards liberalisation accepted by Member States.

LIST B

Capital movements referred to in Article 2 of the Directive

	Items of nomenclature
Operations in securities	
Acquisition by non-residents of domestic securities dealt in on a stock exchange (excluding units of unit trusts) and repatriation of the proceeds of liquidation thereof	IV A
Acquisition by residents of foreign securities dealt in on a stock exchange and use of the proceeds of liquidation thereof	IV B
— excluding the acquisition of bonds issued on a foreign market and denominated in national currency	
— excluding units of unit trusts	
Physical movements of the securities mentioned above	IV E in conjunction with IV A IV B

The use of the proceeds of liquidation of assets abroad belonging to residents must be permitted at least within the limits of the obligations as regards liberalisation accepted by Member States.

LIST C

Capital movements referred to in Article 3 of the Directive

	Items of nomenclature
Issue and placing of securities of a domestic undertaking on a foreign capital market	III A 2
Issue and placing of securities of a foreign undertaking on a domestic capital market	III B 2
Operations in securities	
Acquisition by non-residents of domestic securities not dealt in on a stock exchange and repatriation of the proceeds of liquidation thereof	IV C
Acquisition by residents of foreign securities not dealt in on a stock exchange and use of the proceeds of liquidation thereof	IV D
Acquisition by non-residents of units of domestic unit trusts dealt in on a stock exchange and repatriation of the proceeds of liquidation thereof	IV A
Acquisition by residents of units of foreign unit trusts dealt in on a stock exchange and use of the proceeds of liquidation thereof	IV B
Acquisition by residents of foreign bonds dealt in on a stock exchange, issued on a foreign market and denominated in national currency	IV B 3 (i)
Physical movements of the securities mentioned above	IV E in conjunction with IV C, D and IV B 3 (i)

	Items of nomenclature
Granting and repayment of long-term credits related to commercial transactions in which a resident is participating	VII 1 A (iii) and B (iii)
Granting and repayment of medium- and long-term credits related to commercial transactions in which no resident is participating	VII 2 A (ii) and (iii) B (ii) and (iii)
Granting and repayment of medium- and long-term loans and credits not related to commercial transactions	VIII A (ii) and (iii) B (ii) and (iii)
Sureties, other guarantees and rights of pledges and transfers connected with them and relating to:	
Long-term credits in respect of commercial transactions in which a resident is participating	XII A and B in conjunction with VII 1 A (iii) B (iii)
Medium- and long-term credits in respect of commercial transactions in which no resident is participating	XII A and B in conjunction with VII 2 A (ii) and (iii) B (ii) and (iii)
Medium- and long-term loans and credits not related to commercial transactions	XII A and B in conjunction with VIII A (ii) and (iii) B (ii) and (iii)

The use of the proceeds of liquidation of assets abroad belonging to residents must be permitted at least within the limits of the obligations as regards liberalisation accepted by Member States.

LIST D

Capital movements referred to in Article 4 of the Directive

	Items of nomenclature
Short-term investments in Treasury bills and other securities normally dealt in on the money market	VI
Opening and placing of funds on current or deposit accounts, repatriation or use of balances on current or deposit accounts with credit institutions	IX
Granting and repayment of short-term loans related to commercial transactions in which no resident is participating	VII 2 A (i) B (i)
Granting and repayment of short-term loans and credits not related to commercial transactions	V III A (i) B (i)
Personal capital movements	X A
Loans	
Sureties, other guarantees and rights of pledges and transfers connected with them	
related to short term credits in respect of commercial transactions in which no resident is participating	XII A and B in conjunction with VII 2 A (i) B (i)