10.2.60 OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES 147/60

DIRECTIVES

determining the procedure for progressive implementation of the right of establishment in the overseas countries and territories and the French overseas departments

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the provisions of the Treaty, and in particular Articles 131, 132 (5), 136, 189 and 198 thereof,

Having regard to the provisions of the Implementing Convention on the Association of the Overseas Countries and Territories with the Community, in particular Articles 8, 14, 16 and 17 thereof,

Having regard to the Opinion of the Economic and Social Committee,

Having regard to the opinion of the governmental or local authorities of the associated overseas countries and territories,

Having regard to the proposal from the Commission,

Whereas priority should be given to activities in respect of which freedom of establishment would make an especially useful contribution to promotion of the economic and social development of the overseas countries and territories;

Whereas in preparing these directives account has been taken of the degree of freedom of establishment that has actually been attained in the judicial systems of the various countries as described by the governments concerned, and whereas the purpose of these directives is to strengthen, by setting out certain results to be achieved, the steps which those governments have taken;

Whereas, therefore, none of them could be interpreted to preclude any measures to extend the right of establishment which might be taken by national or local authorities themselves, within the framework of the Treaty and the Implementing Convention annexed thereto;

Whereas the Implementing Convention has been concluded for a limited period;

Whereas, account being taken of the fact that other economic measures affecting the association are being implemented, the abolition of discrimination as regards the right of establishment in the overseas countries and territories must take place progressively;

Whereas Article 14 of the Implementing Convention provides that the results achieved by the end of the fifth year as regards the right of establishment must be maintained;

Whereas under the second paragraph of Article 136 of the Treaty aforesaid the Council, before the Implementing Convention expires, is to lay down provisions for a further period on the basis of the experience acquired and of the principles set out in the Treaty;

Whereas consequently the abolition of certain discriminations must be deferred until after the five-year period;

Whereas present circumstances make it difficult for the time being to apply Article 8 of the Implementing Convention in the territories specified in Article 16 of that Convention, save as regards certain laws, regulations and administrative provisions in the French overseas departments;

Whereas in the Belgian Congo and Ruanda-Urundi there is triple tax exemption in favour only of Belgian *sociétés anonymes* which convert themselves into Congolese companies limited by shares, and whereas a study is at present being conducted as to whether this exemption should be cancelled by the authority which introduced it, and whereas it is accordingly appropriate to set this question aside for the time being;

Whereas consequently it appears to be unnecessary at the present time to issue any directives on that subject;

Whereas there exists no discrimination in Italian Somaliland and consequently there is no need to issue any directives in regard to that country;

Whereas any Member State is entitled to invoke the provisions of Article 8 aforesaid of the Implementing Convention concerning each associated country or territory, whatever the present international status of such country or territory may be;

Whereas under Article 132 (5) the right of establishment of nationals and companies or firms of the associated countries and territories is to be regulated in accordance with the provisions and procedures laid down in the Chapter relating to the right of establishment and on a non-discriminatory basis, subject to any special provisions laid down pursuant to Article 136;

Whereas the problems relating thereto do not form the subject of the text hereinafter contained;

HAS ADOPTED THE FOLLOWING DIRECTIVES:

Article 1

In the overseas countries and territories the right of establishment shall be extended progressively to nationals and companies or firms of Member States other than the Member State which has special relations with the countries or territories concerned, in manner following:

(a) *In the second year of application of the Convention:*

1. In the Republic of Senegal, the Republic of Soudan, the Republic of Ivory Coast, the Republic of Dahomey, the Islamic Republic of Mauritania, the Republic of Niger, the Republic of Upper Volta, the Republic of Madagascar,

   in Saint Pierre and Miquelon, the Comoro Archipelago, French Somaliland, New Caledonia and dependencies, French Polynesia, the Southern and Antarctic Territories:

   companies and firms of Member States other than the French Republic shall be given full legal recognition. These companies and firms and their subsidiaries may, in particular, own property and carry out judicial acts; this last implies *inter alia* the right to be a party to legal proceedings.

2. In the Republic of Senegal, the Republic of Soudan, the Republic of Ivory Coast, the Republic of Dahomey, the Islamic Republic of Mauritania, the Republic of Niger, the Republic of Upper Volta, the Republic of Madagascar,

   in French Somaliland, New Caledonia and dependencies, French Polynesia:

   the right to carry on the occupation of hotel-keeper shall be extended to nationals and companies and firms of Member States other than the French Republic.

3. In the Republic of Senegal, the Republic of Soudan, the Republic of Ivory Coast, the Republic of Dahomey, the Islamic Republic of Mauritania, the Republic of Niger, the Republic of Upper Volta, the Republic of Madagascar,

   in French Somaliland:

   the right to carry on the occupation of land-surveyor and valuer shall be extended to nationals of Member States other than the French Republic who hold the official certificate or diploma required in France or an equivalent certificate in their State of origin, on condition in the latter case that the functions of a land-surveyor and valuer are subject to regulation in that State.

4. In the Republic of Senegal, the Republic of Soudan, the Republic of Ivory Coast, the Republic of Dahomey, the Islamic Republic of Mauritania, the Republic of Niger, the Republic of Upper Volta, the Republic of Congo, the Central African Republic, the Republic of Chad, the Republic of Gabon, the Republic of Madagascar,

   in Saint Pierre and Miquelon, the Comoro Archipelago, French Somaliland, New Caledonia and dependencies, French Polynesia, the Southern and Antarctic Territories,

   in the Republic of Togoland and the State of Cameroun:

   the right to carry on the occupation of architect on the part of nationals of Member States other than the French Republic who hold the diploma required in France or an equivalent certificate in their State of origin, on condition in the latter case that the functions of an architect are subject to regulation in that State, shall no longer be subject to reciprocity in favour of French nationals practising in the other Member States.

(b) *At the latest during the third year of application of the Convention:*

1. In the Republic of Madagascar, French Somaliland, New Caledonia and dependencies: