Supplement to

BULLETIN

of the European Economic Community

No. 7 - 1964

EXECUTIVE SECRETARIAT OF THE COMMISSION
OF THE EUROPEAN ECONOMIC COMMUNITY

Contents

Draft Council directive
(modified in conformity with Article 149(2) of the EEC Treaty) on weights and measures of commercial road vehicles and on additional technical requirements applicable to such vehicles

(Submitted by the Commission to the Council on 23 May 1964)

Explanatory memorandum

1. The regulations on maximum weights and dimensions of commercial road vehicles at present in force in Member States vary considerably.

This situation is liable to impede Community road traffic and reduce the effectiveness of measures adopted or contemplated for abolishing obstacles to the free circulation of goods and services. Moreover, since the cost of road transport is partly dependent on the weights and dimensions of the vehicles used, the existence of different regulations in this field may distort the conditions of competition between carriers of different countries.

Furthermore, the existence of different national regulations hampers trade in motor vehicles and hence may be tantamount to restrictions on imports and exports in this sector.

It is therefore necessary to established uniform maximum limits for the weights and dimensions of commercial road vehicles operating between Member States and within national frontiers; this measure is dictated both by the requirements of common transport policy and by the development of the Common Market in general.

2. In implementing a common transport policy as set out in the "Memorandum on the general lines of a common transport policy", emphasis has been laid on the necessity of dealing with these matters in accordance with Article 75 of the Treaty of Rome.

Moreover priority was given to this question in the Action Programme concerning a common transport policy.

3. The Commission accordingly submitted to the Council in September 1962 a "draft Council directive on authorized weights and dimensions of commercial road vehicles operating between Member States" (Doc. VII COM(62) 244 final).

On 9 April 1963, the Commission prepared a new draft directive, adding to the original text provisions "on additional technical requirements" of importance for road safety and reliability in operation which could influence the fixing of certain maximum limits of weights and dimensions (Doc. VII COM(63) 131).

The Economic and Social Committee examined these two documents separately. It rendered an opinion on 24 April 1963 on the initial draft directive and during its plenary session of 29/31 October 1963 on the additional technical requirements.

At its session of 14/18 October 1963, the European Parliament rendered an opinion on the Commission's second draft directive.

Whilst accepting in broad outline the draft submitted by the Commission, the Economic and Social Committee and the European Parliament suggested in their respective opinions certain changes, the most important of which concern the scope of the directive, the weight per axle and the length of the vehicle train.

As a result of the opinions expressed by the European Parliament and the Economic and Social Committee and taking into account the new information which has been received, the Commission made in conformity with Article 149 of the Treaty the following amendments to its initial draft.

4. As regards the dimensions of vehicles, the increase in transport by road of light materials and farm products necessitates sufficient loading capacity.

Accordingly, and taking into account the regulations at present in force in Member States, it is proposed to allow a maximum of 18 metres for the length of a vehicle train instead of 17.20 metres as first proposed; the difference as regards safety in overtaking is negligible.

5. As regards vehicle weights, since it is desirable to promote road transport productivity, to avoid increasing the number of vehicles used in consequence of a reduction in their loads and to take into account improved methods of road-building, a maximum of 13 metric tons load on a single axle is laid down. However, in order to give certain Member States time to carry out the necessary road improvements, this regulation will come into force only after a long transitional period.

As the load per single axle is related to other maximum weights, these have been modified accordingly.

During the period of transition, the maximum weights prescribed in the original draft directive will be in force. However, it seems desirable during this period, as road improvements and works are completed, to add gradually to the list of roads which can carry the final maximum weights. Moreover where the regulations of Member States allow weights in excess of those applicable during the period of transition, vehicles of other Member States will be allowed to operate in compliance with those specifications. This measure is intended to prevent distortions in the conditions of competition between domestic vehicles and those of other Member States operating on the same territory, since weight specifications influence transport productivity.

These two exceptions to the enforcement of lower maximum weights during the period of transition render superfluous the exception originally proposed in Community regulations for vehicles already on the road or about to be put on the road.

The fixing of the maximum force exerted by the wheels of either axle in a combination at 9 metric tons is intended to reduce uneven distribution of weight as between the two axles caused by uneven road surfaces. It follows that differences between axle loading in a twin axle combination, measured when the vehicle is at rest, must be reduced.

6. As regards definitions it seems necessary to specify that measurements must be taken with the wheels pointing directly ahead.

7. As regards the additional technical requirements, the minimum ratio authorized for vehicle trains of 1:1.37 between the overall weight of the towing vehicle and that of the trailer, allows a combination which is very common in certain countries, namely a towing vehicle of 16 metric tons and a trailer of 22 metric tons.

8. As regards the scope of the directive, it was originally proposed to extend Community regulations to commercial road vehicles used in the inland ttaffic of Member States, but the date for this was not fixed. It appears desirable to fix that date now, putting it sufficiently far ahead to allow this extension of the regulations without causing difficulties.

9. In extending Community regulations to inland traffic an exception should be made for special transport operations and city and suburban transport services which meet special needs.

The scope of the directive being thus extended, no distinction need be made in the title between inland and international traffic.

10. The changes to the draft directive of April 1963 have necessitated certain drafting amendments, concerning chiefly the order of the articles and the implementing provisions.

Draft Council directive on weights and dimensions of commercial road vehicles and on additional technical requirements applicable to such vehicles (1)

The Council of the European Economic Community,

Having regard to the provisions of the Treaty and in particular Article 75 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the Economic and Social Committee;

Having regard to the opinion of the European Parliament,

Whereas certain discrepancies between the regulations at present governing weights and dimensions of commercial vehicles in the Member States are liable to distort the conditions of competition and be a hindrance to traffic between the Member States;

Whereas the maximum weights and dimensions and certain technical definitions for the various types of commercial vehicles should be fixed in a uniform manner as part of the common transport policy;

Whereas these limits must be such as to enable commercial vehicles to be used rationally and economically, with due regard for requirements in respect of road maintenance and of safety and reliability in operation;

Whereas the regulations of certain Member States impose additional technical requirements related, directly of indirectly, to the maximum weights and dimensions of commercial vehicles;

(1) The changes made to the draft directive of April 1963 are indicated in italics. As regards the articles of the directive, the nature of the changes and their origin are briefly indicated in the column on the right of the text.

Whereas discrepancies persisting between these additional technical requirements may detract from the effectiveness of standardization, within the Community framework, of regulations concerning exclusively maximum weights and dimensions;

Whereas it is expedient to harmonize those additional technical requirements which are most important for road safety and reliability in operation;

Whereas lack of uniformity in other national regulations on the same matters as those covered by regulations which have been harmonized must not be an obstacle to commercial traffic between Member States;

Whereas different standards of weight specification must be avoided for inland and Community transport on the same territory, having regard to the influence of weight specification on transport productivity and hence on the conditions of competition;

Whereas it is desirable to designate routes on which the final regulations regarding maximum weights shall be applicable and to increase the number of those routes to ensure progressive adaptation of the Community road network to these regulations;

Whereas it is essential to allow time for road improvements to be effected, where necessary, before certain maximum weights and dimensions come into force;

Whereas it is also essential to allow time for carriers to adapt themselves to the new provisions;

Has adopted the present directive,

Article 1

From 1 January 1965 commercial road vehicles operating between the territories of Member States shall conform to the specifications set out in Articles 2, 3, 4 5, *without prejudice to the provisions of Articles 7, 8, 9 and 11.*

Article 2

The dimensions of vehicles or coupled vehicles operating between Member States shall not exceed the following:

1) Maximum Length	
single vehicle	12 m
articulated vehicle	15 m
vehicle train	*18 m*
2) Maximum Width	2.50 m
3) Maximum Height	4 m

Article 3

The weights of vehicles and coupled vehicles used in traffic between Member States shall not exceed the following:

Changes made to the draft directive of April 1963

The addition of the phrase in italics is necessary because of the exceptions allowed in Articles 7, 8, 9 and 11.

Part of the former Article 2 fixing of maximum dimensions.

Adoption of 18 m instead of 17.20 m for the vehicule train (modification proposed by the Economic and Social Committee. and the European Parliament).

The maximum weights set out in former Article 2 are transferred to this article.

Two stages are established for bringing the maximum weights into force.

1. From 1 January 1965 to 31 December 1973:

Maximum weight:

1) Per axle

a) *Single: 10 metric tons*

b) *Twin: 16 metric tons, provided that the load on the wheels of either axle of the combination does not exceed 9 metric tons.*

From 1 January 1965 to 31 December 1973: the maximum weights are the same as those proposed in the draft directive of April 1963, except for the load on the wheels of either axle of the combination (9 metric tons instead of 10 metric tons - national experts agreed on this proposal)

2) Gross weight:

a) *Single vehicle*

with two axles:	*16 metric tons*
with more than two axles:	*22 metric tons*
b) *Articulated vehicle:*	*36 metric tons*
c) *Vehicle train:*	*38 metric tons*

2. From 1 January 1974:

From 1 January 1974, higher maxima in accordance with the opinions of the Economic and Social Committee and the European Parliament.

Maximum weight:

1) Per axle

a) *Single: 13 metric tons*

b) *Twin: 19 metric tons, provided that the load on the wheels of either axle of the combination does not exceed 10 metric tons.*

2) Gross weight:

a) *Single vehicle*

with two axles:	*19 metric tons*
with more than two axles:	*26 metric tons*
b) *Articulated vehicle:*	*38 metric tons*
c) *Veticle train:*	*38 metric tons*

Article 4

Formerly Article 3.

Single axle load shall be defined as the total force exerted on the road by all wheels the centre of which can be included between two parallel, transverse, vertical planes 1 metre apart.

Twin axle weight shall be defined as the total force exerted on the road by the wheels of a pair of axles, the distance between their centre-lines being not less than 1 metre but less than 2 metres.

In determining the distance between axles, measurements shall refer to the vehicle at rest, empty, on the level and with *its wheels pointing directly ahead.*

The phrases in italics give more detailed specifications than the text of April 1963 : these changes in drafting were suggested by the Economic and Social Committee.

In applying the regulations concerning maximum weights per axle, the total force exerted on the road shall be measured when the vehicle is at rest, on the level, and with *its wheels pointing directly ahead.*

Article 5

Formerly Article 4.

1. The outside projection of any single vehicle or any vehicle train shall not exceed a radius of 12 m

nor the inside projection a radius of 6.50 m, when the extreme forward point of the towing vehicle follows a circular path of 12 m radius.

The outside projection of any articulated vehicle (traction vehicle + semi-trailer) must not exceed a radius of 12 m nor the inside projection a radius of 5.30 m, when the extreme forward point of the towing vehicle follows a circular path of 12 m radius.

2. The rear overhang of any vehicle shall not exceed 3.50 m.

Formerly Article 4.

For all articulated vehicles, the distance measured horizontally between the coupling pin and any point on the forward part of the semi-trailer shall not exceed 1.75 m.

3. The power of the towing vehicle shall not be less than 5.5 horsepower per metric ton of the total maximum weight authorized plus, in the case of coupled vehicles, the overall gross weight of the trailer.

The power referred to shall be brake horsepower with all usual accessories driven.

This power shall be checked either by a specialized laboratory or in the presence of an official who shall certify the validity of the control.

Before 1 October 1965 the Council shall issue, on a proposition from the Commission, a regulation on a uniform method of measuring this power.

The date been changed in view of the time elapsed since April 1963.

4. For all vehicle trains, the minimum ratio between the overall gross weight of the towing vehicle and that of the trailer *shall not be less than 1 : 1.37,* it being understood that this minimum ratio shall apply only to vehicle trains fitted with power brakes throughout.

The ratio was changed from 1:1.3 to 1:1.37 to allow the use of certain vehicle train combinations very common in some countries. Agreed by national experts.

Article 6

Commercial road vehicles operating between Member States and conforming to the specifications laid down in the preceding articles shall be considered to conform to the national legislation of the Member State in which they are operating as regards all provisions governing the matters referred to in the preceding articles or any equivalent provisions.

Formerly Article 5.

Article 7

Until 31 December 1973, any Member State authorizing higher maximum weights than those prescribed in Article 3(1), shall allow vehicles of other Member States to operate on its territory in compliance with those higher maximum weights.

Article added to prevent distortions of competition between domestic vehicles and those of other Member States operating on the territory in question.

Article 8

1. Between 1 January 1965 and 31 December 1973, the Commission shall periodically consult the Member States with a view to their listing routes on which vehicles conforming to the specifications of Article 3(2) may operate in transport between Member States, having regard to the development of trade in the Common Market and the improvement of infrastructures.

2. During this period the Member States shall endeavour to increase progressively the number of routes referred to in the preceding paragraph.

Article added

a) at the suggestion of the Economic and Social Commitee and the European Parliament so that vehicles conforming to the weight specifications of Article 3 (2) may operate over certain routes.

b) to effect gradual improvement of infrastructures with a view to allowing the maximum weights set out in Article 3 (2).

Article 9

Up to 31 December 1973 the Member States shall allow commercial road vehicles conforming with Articles 3 and 4 and registered *before 1 January 1967 to operate between their territories, even if they do not conform to the conditions set out in Articles 2 and 5.*

Formerly Article 7.

The waiver is not applicable to weights in view of the new provisions on this matter.

Article 10

After 1 January 1974, the provisions of Articles 2, 3(2), 4 and 5 shall also apply to commercial vehicles operating within a Member State, without prejudice to the provisions of Article 11.

Article added to extend the scope of this directive to inland transport in Member States, in accordance with the opinion of the European Parliament.

Article 11

The provisions of the present directive shall not apply to special transport operations *nor to city and suburban passenger transport.*

Formerly Article 6, amplified to cover city and suburban transport services since the directive has been extended to inland transport. Proposal made by the European Parliament.

Article 12

The Member States shall make the necessary statutory and administrative provisions to give effect to the present directive on the dates specified.

The Member States shall duly inform the Commission of the statutory and administrative provisions that they propose to make in order to give effect to the present directive.

Formerly Article 8.

Drafting amendments.

Article 13

The present directive is addressed to all Member States.

Formerly Article 9.

Proposal for a Council regulation making the rules for competition applicable to transport by rail, road and inland waterway

(Submitted by the Commission to the Council on 8 June 1964)

Explanatory memorandum

The Commission considers that apart from integration of transport, the essential aim of the common transport policy provided for in Articles 3 and 74 of the Treaty is to organize the Community transport market so as to allow the most rational use of production factors in this sector and thereby an optimum contribution of this sector to the gross product of the Community.

In its proposals for regulations submitted to the Council on 10 March 1963, the Commission recommends a system of rate brackets for goods transport by rail, road and inland waterway, a Community quota for goods transport by road and the harmonization of certain provisions affecting competition in the various types of inland transport. Another proposal submitted by the Commission to the Council on 8 April 1964, advocates uniform rules for international passenger traffic by road.

These proposals of the Commission aim at regulating certain essential conditions governing activity in the transport market, in particular the general conditions of competition and price formation in the three types of inland transport, as well as access to the market for road transport of goods and passengers within the Community. Within this framework it is nevertheless necessary to establish rules of competition between the different types of transport and between transport undertakings.

In particular the procedure must be laid down for putting an end to agreements which restrict competition and the improper exploitation of a dominant position on the transport market. It is laid down in Article 1 of Council Regulation No. 141 of 26 November 1962 (1) that the first implementing regulation pursuant to Articles 85 and 86 of the Treaty (Council Regulation No. 17 (2) does not apply to agreements, decisions and concerted practices which directly concern transport operations. This exception is valid for transport by rail, road and inland waterway until 31 December 1965.

Article 2 of Regulation No. 141 stipulates that the Council, taking due account of such measures as may be adopted within the framework of the common transport policy, shall make such provisions as shall be necessary to give effect to rules of competition in the field of transport by rail, road or inland waterway, and that to this end the Commission shall submit proposals to the Council before 30 June 1964.

The Commission proposes that the Council should make a regulation having three principal aims:

1. To prohibit from 1 January 1967 all agreements, decisions or concerted practices concerning transport by rail, road and inland waterway which restrict competition within the meaning of Article 85(1) and the improper exploitation of a dominant position on the market within the meaning of Article 86 of the Treaty (Art. 1).

The provision laid down in pursuance of Articles 85 and 86 of the Treaty will be applicable subject to sufficient time being allowed for notification of existing agreements in accordance with the provisions of Regulation No. 17. To advise on matters of cartels and dominant positions in the transport sector, transport experts will sit on the Consultative Committee set up in accordance with Regulation No. 17 (Art. 2).

2. Experience has shown that in applying Articles 85 and 86 and the common transport policy required by Article 74 of the Treaty, the special aspects of transport make it expedient to exempt from the general ban certain categories of agreements, decisions and concerted practices. This has reference to restrictions of competition which do not materially affect the common transport policy but have a definite value for the rational co-operation of transport firms. The exemption will also considerably reduce the administrative burden.

Even under the arrangements for general exemptions, the Commission must be empowered to decide, in each specific case, whether the conditions required for exemption from the general ban are in fact fulfilled.

Quite apart from such exemption, firms engaged in transport by rail, road and inland waterway are able (like any other firm) to seek benefit of Article 85(3) of the Treaty in accordance with the procedure laid down by Regulation No. 17.

(1) See official gazette of the European Communities, No 124, 28 November 1962, p. 2751.
(2) *ibid.*, No 13, 21 February 1962, p. 204.

Examples of types of exemption from the general ban

a) Standardization of rolling stock, inland waterway craft, road trailers, containers, pallets.

b) Joint operation by several transport firms of rolling stock, pusher-barges, containers, pallets.

c) Co-operation between transport firms for combined traffic by rail and inland waterway and between firms engaging in transport by rail and road in rail-road trailer traffic.

d) Rational routing of goods by rail in international traffic without material loss to the user.

e) Harmonization of time-tables by railways and road services to provide convenient connections for passenger traffic (Art. 3).

3. As the common transport policy is brought into effect, it may be expedient to consider other exemptions from the general rules on competition laid down by the Treaty or to formulate new regulations answering the needs of the common policy and the special structure of the transport market. In particular, attention should be given to the repercussions of introducing, in accordance with the Commission's proposals, a rate bracket system for the three types of inland transport, a Community quota for road haulage and of harmonizing certain provisions affecting competition in the transport sector.

Consequently it is proposed that the Commission should submit to the Council by 1 January 1966 a report on competitive positions in the three types of inland transport and if necessary, in pursuance of Article 75 of the Treaty, other proposals for applying rules of competition in this sector (Art. 4).

The European Parliament, in its resolution of 23 November 1962 (1), expressly invited the Commission of EEC to present in the near future, a survey of the overall position in this sector. The European Parliament expects to be consulted very soon on the special rules of competition to be applied to transport by rail, road and inland waterway, taking due account of the common transport policy.

In order that the Commission may have at its disposal the necessary information for a report on this subject, it should be notified of all agreements in force on 1 January 1965 restricting competition in the sphere of transport by rail, road and inland waterway, even if such agreements do not affect trade between Member States, exclusive however of the categories exempted from the general ban by Article 3(1) (Art. 5).

Economic data must be collected having a bearing on the implementation of the common transport policy, without prejudice to the procedure laid down in Articles 85 *et seq.* and the regulations made thereunder.

In another resolution, the European Parliament expressed the opinion that in order to provide an exact evaluation of the conditions of competition in the transport sector, it would be useful to make the notification of all existing agreements in this sector of the economy compulsory, independently of notification under the terms of Regulation No. 17 (2).

The Commission may enforce compliance with the provisions concerning the communication of the above-mentioned information by means of a decision or, if necessary, by means of daily fines. These measures are subject to review by the Court of Justice. Before imposing a fine the Commission must give interested parties an opportunity of stating their views (Arts. 6-9).

Finally it is proposed to authorize the Commission to daw up the necessary implementing provisions (Art. 10).

(1) Official gazette of the European Communities, No. 134, 14 December 1962, p. 2849.

(2) Minutes of the 86th session of the Council, 26 November 1962 (R/1030 (62), p. 7).

Proposal for a Council regulation making the rules for competition applicable to transport by rail, road and inland waterway

The Council of the European Economic Community,

Having regard to the provisions of the Treaty establishing the European Economic Community, and in particular Articles 75 and 87 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the Economic and Social Committee;

Having regard to the opinion of the European Parliament;

Whereas by virtue of Council Regulation No. 141 of 26 November 1962, Council Regulation No. 17 of 6 February 1962 is not applicable to agreements, decisions and concerted practices in the transport sector whose purpose or effect is to fix terms and conditions of transport, limit or regulate the supply of transport or share transport markets, nor to the exploitation of a dominant position, within the meaning of Article 86 of the Treaty, in the transport market;

Whereas in respect of transport by rail, road and inland waterway Regulation No. 17 remains in force only until 31 December 1965;

Whereas the application of rules of competition to the three types of inland transport constitutes one of the essential features of common transport policy and of general economic policy; and whereas it is expedient to waive the general rules on competition established by the Treaty to the limited extent necessary for purposes of common transport policy;

Whereas in order to give undertakings participating in agreements, decisions and concerted practices time to make the necessary adjustments, it seems expedient to maintain in force for a further year, that is until 31 December 1966, Article 1 of Regulation 141 concerning transport by rail, road and inland waterway;

Whereas certain types of agreements, decisions and concerted practices in which transport undertakings participate and which do not materially affect the common transport policy of the Community, can be exempted from the ban of Article 85(1) in so far as they do not affect the development of trade to a degree contrary to the interests of the Community and do not lead to market-sharing in transport; whereas moreover the Commission, subject to review of its decision by the Court of Justice, must have sole competence to determine whether the requirements for such exemption are fulfilled, in order to prevent discrepancies in the common transport are fulfilled, in order to prevent discrepancies in the common transport policy and to guarantee legal security and non-discriminatory treatment for the transport firms concerned;

Whereas the special features of the transport market may warrant other exemptions from the general rules in addition to those provided by the present regulation; and whereas the Commission should therefore submit to the Council, before 1 January 1966, a report on the situation regarding competition in the field of transport by rail, road and inland waterway and if necessary make further proposals;

Whereas in order that this report may be prepared, the transport undertakings concerned should be obliged to communicate to the Commission all agreements, decisions and concerted practices of direct concern to transport and whose purpose or effect is to prevent, restrict or distort competition, even if they do not affect trade between Member States, excluding however agreements, decisions and concerted practices which do not materially affect the common transport policy of the Community, and to which by virtue of the present regulation the ban laid down in Article 85(1) will not apply;

Whereas the Commission must be able to enforce the fulfilment of this obligation by means of daily fines; and whereas the Court of Justice shall exercise, in pursuance of Article 172 of the Treaty, full jurisdiction in regard to fines decided by the Commission,

Has adopted the present regulation:

Section I

Application of the rules of competition

Article 1

1. From 1 January 1967, without prejudice to the provisions of Article 3 of the present regulation, agreements, decisions and concerted practices within the meaning of Article 85(1) of the Treaty in which one or more undertakings concerned with transport by rail, road or inland waterway participate and whose purpose or effect is to fix rates and conditions of transport, limit or regulate the supply of transport or share transport markets, as also the improper exploitation of a dominant position on the transport market, within the meaning of Article 86 of the Treaty, shall be prohibited, no prior decision to this effect being required.

2. In Article 3 of Regulation No. 141 fnr the word "until 31 December 1965" there shall be substituted the words "until 31 December 1966".

Article 2

1. The regulations made in pursuance of Articles 85 and 86 of the Treaty shall be applied, from 1 January 1967, to the agreements, decisions, concerted practices and dominant positions referred to in Article 1 above.

2. Articles 5 and 7 of Regulation No. 17 shall apply to agreements, decisions and concerted practices in existence on 1 January 1967 and in respect of which those concerned wish to invoke Article 85(3) of the Treaty or Article 7 of Regulation No. 17, subject to the notification of the said agreements, decisions and concerted practices to the Commission before 1 April 1967.

3. When questions relating to cartels or dominant positions in the transport sector are referred to the Consultative Committee set up in accordance with Article 10 of Regulation No. 17, officials appointed by Member States and competent in transport matters shall participate in the deliberations.

Article 3

1. The prohibition set out in Article 85(1) of the Treaty shall not apply to agreements, decisions and concerted practices involving one or more undertakings concerned with transport by rail, road or inland waterway in so far as the said agreements, decisions and concerted practices do not affect the development of trade to a degree contrary to the interests of the Community and in so far as they do not lead to market-sharing in transport, when their purpose is:

a) To effect technical improvements and in particular the uniform application of standards and use of types of transport material and equipment;

b) To rationalize the operation of transport undertakings by interchange of transport material and equipment;

c) Technical co-operation between transport undertakings using different types of transport in combined or complementary operations;

d) To effect operations using a single type of transport by the most expeditious route;

e) To co-ordinate time-tables inasmuch as this will improve the service.

2. After consultation with Member States and after hearing the views of the transport undertakings of associations of undertakings concerned and of such other natural and legal persons as it may think fit, the Commission shall, subject to review of its decision by the Court of Justice, have sole competence to determine, by a decision which shall be published, which agreements, decisions and concerted practices fulfil the conditions of paragraph 1.

3. The Commission shall proceed to make such findings either *ex officio* or at the request of a Member State or of an undertaking or association of undertakings concerned.

4. The publication shall name the parties concerned and give the essential content of the decision and shall respect the legitimate concern of transport undertakings that their business secrets should not be divulged.

Section II

Report on the situation regarding competition

Article 4

1. The Commission shall submit to the Council before 1 January 1966, a report on the situation regarding competition in the field of transport by rail, road and inland waterway so far as agreements, decisions and concerted practices and dominant positions are concerned. In so far as the development of the common transport policy may require, the Commission shall present to the Council other proposals concerning the application of rules of competition in this sector.

2. The report provided for in paragraph 1 above shall not contain information relating to particular undertakings or associations of undertakings nor information which, by its nature, constitutes a business secret.

Article 5

1. In order that the Commission may draw up this report and without prejudice to the provisions of Articles 4 and 5 of Council Regulation No. 17, undertakings and associations of undertakings concerned with transport by rail, road and inland waterway, subject to the provisions of paragraph 3, shall notify the Commission before 1 April 1965 of all agreements, decisions and concerted practices of whatever nature existing on 1 January 1965 of all agreements, decisions and concerted practices of whatever nature existing on 1 January 1965 whose purpose or effect is to fix rates and conditions of transport, limit or regulate the supply of transport or share transport markets and to prevent, hinder or distort the play of competition. This communication shall not be deemed a notifi-

cation within the meaning of Articles 4 and 5 of Regulation No. 17.

2. The agreements, decisions and concerted practices covered by Article 3(1) of the present regulation shall not be communicated.

3. All transport undertakings participating in agreements, decisions and concerted practices referred to in paragraph 1 shall communicate the same to the Commission accordingly. Communication need only be given by one of the undertakings concerned. It shall convey the entire content of the agreements, decisions or concerted practices; the indication of the name or style of the other undertakings or associations of undertakings involved shall not, however, be compulsory.

4. Communications to the Commission in pursuance of paragraph 1 shall not be used for any purpose other than that specified therein.

Article 6

1. Where an undertaking or association of undertakings fails to comply with Article 5(1 and 3) or supplies incomplete information, the Commission's request for information shall be made by means of a decision. This decision shall specify the information requested, fix an appropriate time-limit within which it is to be supplied and call attention to the sanctions applicable under paragraph 2, and shall indicate that there is a right to institute proceedings against the decision before the Court of Justice.

2. If the decision taken in accordance with paragraph 1 is not respected, the Commission may, by means of a decision, impose on the undertaking or association of undertakings a daily fine of from 10 to 500 units of account and fix another time-limit for communication of the information requested. If the undertaking or association of undertakings does not supply the information before the expiry of the second time-limit, the Commission shall take a further decision.

Article 7

Before taking a decision in accordance with Article 6(2), the Commission shall give the undertakings and associations of undertakings concerned an opportunity to express their views.

Article 8

The Court of Justice shall have full jurisdiction within the meaning of Article 172 of the Treaty to adjudicate on proceedings instituted against decisions by which the Commission has fixed a daily fine; it may cancel, reduce or increase the fine imposed.

Article 9

For the purposes of Article 6 the unit of account shall be that adopted for the budget of the Community in accordance with Articles 207 and 209 of the Treaty.

Section III

Implementing provisions

Article 10

The Commission shall have authority to lay down implementing provisions concerning the form, content and other details of the communication provided for in Article 5.

The present regulation shall be binding in every respect and directly applicable in each Member State.

Directive for the harmonization amongst Member States of turnover tax legislation (1)

(Amended proposal submitted by the Commission to the Council on 12 June 1964)

Explanatory memorandum

On 5 November 1962 the Commission submitted to the Council a proposed directive for the harmonization amongst Member States of turnover tax legislation (IV/COM (62) 217 final, of 31 October 1962).

The proposal was referred by the Council to the Economic and Social Committee and the European Parliament, which have since rendered their opinions.

The Commission has considered it advisable to make — as it is entitled to do under the terms of the second paragraph of Article 149 of the EEC Treaty — a number of amendments to its original proposal in order to comply with certain recommendations of the Economic and Social Council and the European Parliament and also in order to adapt the proposals to the progress made in the study of this field which is being made in collaboration with government experts.

Amendments to the original proposal centre mainly on the following points:

1. Article 3 of the original draft proposed that a common system of added-value taxation should be introduced in two phases. During the first phase, laid down in Article 1, it was sufficient for the Member States, which for turnover taxes at present apply a multi-stage, cumulative system, to replace it by a non-cumulative system that would not necessarily be in the form of an added-value tax. In the second phase, terminating at the end of the transitional period, non-cumulative systems introduced in accordance with Article 1 would have to be transformed into the common added-value tax system.

For various reasons the European Parliament considered that there should be only one phase, during which all Member States would introduce the common added-value tax system. The Economic and Social Committee shared this opinion though it expressed the idea in more cautious form.

In this connection, the Commission wishes to stress that it certainly did not look on a two-phase procedure as the best way of arriving at a common system. The proposal was made only in order to avoid certain practical difficulties which some Governments seemed likely to encounter in switching over directly to the common system of added-value taxation. But it now appears that the Governments too have come to consider that a single-stage operation is to be preferred.

In these circumstances the Commission of course sees no reason for not adapting its original proposal to meet so widely felt a wish, and the amended draft therefore contains a proposal to introduce the common system in all Member States in a single phase.

It must here be pointed out that the adoption of such a procedure does not prevent, of course, Member States from making certain changes, where necessary, in their present systems during this initial phase in order to render the switch to the common system easier.

2. Combining the first and second phases of the original proposal raises the problem of the date by which the common system should be introduced. The European Parliament is of the opinion that the common added-value tax system should be brought into force at latest by 31 December 1967, while the Economic and Social Committee proposes that the date should be put back to the end of the transitional period, namely 31 December 1969.

For its part, the Commission considers that it would be possible to introduce the common system in two separate steps: one, adoption of the common system, together with the necessary legislative action by parliaments; two, entry into force of the system.

The system should be adopted and the related laws passed by 31 December 1967 without exception, but entry into force could be postponed until the end of the transitional period, namely 31 December 1969.

There is in fact no reason why the entry into force of the common system must necessarily coincide with its adoption. Indeed, Member States ought to be allowed a certain time for preparing and passing certain executive measures such as informing those who pay the tax, instructing officials, adapting tax administration to the new system, choosing the most favourable moment for its implementation, etc.

(1) See the Commission's original proposal in supplement to Bulletin 12-62.

3. It is clear that the proposal contained in point 2 above makes it necessary to bring forward the date originally laid down for working out the structure of the common added-value tax system and the details of how it is to be applied. In Article 3 of the present draft the date laid down for a second proposed directive on structure and implementation details has therefore been brought forward to 1 April 1965.

This speed-up in establishing the common system falls in with the recommendations made by the institutions that were consulted, by Governments and by a number of the bodies concerned. It has however been pointed out from various sides that it would be helpful if Governments were informed without delay of the broad lines of the common system to enable them to reach a decision, in full knowledge of tne general principles that will underly the system, on the draft directive submitted to the Council.

In order to comply with these recommendations, the Commission has defined in Article 2 of the amended draft certain characteristics of the added-value tax which it is advocating. The three main points on which the proposed system is based are that:

a) The added-value tax will take the form of a general tax on consumption;

b) It will be collected by successive instalments;

c) The added value will be determined with a system of "tax-on-tax deductions".

It must be pointed out that the Commission, in order to make it clearer that the common system must be applied over as wide a field as possible, has drafted Article 2 of the amended proposal in such a fashion that taxation extends in principle even to retail trade; this does not however exclude the possibility of making less burdensome arrangements for small enterprises and so making the system simpler to apply. Furthermore, where a Member State is faced with practical and political difficulties which prevent the inclusion of retail trade in added-value taxation, it can decide to apply the system up to and including the stage of wholesale trade.

On the basis of the results obtained by the *ad hoc* Study Group of experts from the Commission and the tax departments of Member States which has been given the task of working out the common system, the Commission has decided on the guiding principles in accordance with which the common added-value tax system should be established. The Commission has considered it useful to explain these principles in a note addressed to all the Member States.

4. It was only after full reflection that the Commission decided not to change the essentials of the procedure, laid down in Article 4 of its original proposal, for achieving the ultimate aim which lies behind harmonization of turnover taxes, namely the abolition of fiscal frontiers between Member States. It still holds that it is too early to lay down a time-table and programme for this final stage.

The Commission has consequently maintained its original proposal, according to which the measures to be taken and the time-table for the attainment of this objective will be dealt with in a third directive which the Commission believes it can submit to the Council before the end of 1968, so that the Council may take a decision on the proposal before the end of the transitional period.

Furthermore, the Commission saw no reason for not adopting the two amendments to Article 4 proposed by the European Parliament. One is intended to clarify the sense of the last few words of the first sentence and the other is a new paragraph listing certain basic problems which must be taken into account.

5. Finally, the Commission has thought it useful to add to the amended draft a new provision of a transitional nature. As has already been stated at the end of point 1 above, it is to be expected that certain Member States will wish to make changes, in the interval between the adoption of the directive and the end of the transitional period, to their present systems in order to make the switch to the common system easier and simpler. Care must however be taken that these steps do not bring about unduly abrupt changes in trade between member countries. This is why the Commission proposes to add to the directive a new provision requiring prior consultation with the Commission and other Member States on these measures. The adoption of such a provision would make it possible to revise the procedure laid down in the decision of 21 June 1960 taken by the representatives of the Member Governments meeting in the Council.

Directive for the harmonization amongst Member States of turnover tax legislation

The Council of the European Economic Community,

Having regard to the provisions of the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal of the Commission;

Having regard to the opinion of the Economic and Social Committee;

Having regard to the opinion of the European Parliament;

Whereas the aim of the Treaty is to create an economic union based on vigorous competition and having the characteristics of an internal market;

Whereas an essential prerequisite for this aim is that the turnover tax legislation of Member States should not distort competition nor hinder the free circulation of goods and services in the Common Market;

Whereas the legislation at present applied by Member States does not meet the above-mentioned requirements since on the one hand the systems of multi-stage, cumulative taxation practised in five of the Member States are not neutral in their effects on competition, and on the other hand the legislation in all Member States permits in respect of intra-Community trade the application of countervailing charges to imports and drawbacks on exports, thus maintaining tax frontiers between Member States;

Whereas it is in the interest of the Common Market to harmonize turnover tax in order to eliminate as far as possible all distortions in the terms of competition, both nationally and at Community level, as well as to abolish the above-mentioned tax measures affecting Community trade;

Whereas from studies in this field it is evident that harmonization must culminate in the abolition of multi-stage, cumulative tax systems and the adoption by all Member States of a common system of added-value tax;

Whereas an added-value tax system attains maximum simplicity and neutrality if the tax is levied as generally as possible and if the system embraces all stages of production and marketing, and also the services sector, and whereas it is therefore in the interest of the Member States and of the Common Market to adopt as its common system an added-value tax which extends to retail trade;

Whereas, however, in the present circumstances the extension of the common tax to retail trade could in some Member States involve certain practical and political difficulties and whereas for this reason the Member States must be left the option of applying the common system only up to and including the stage of wholesale trade and of levying, where necessary, supplementary tax of their own on retail sales;

Whereas the proposed harmonization must be carried out by stages as it will entail considerable modifications to the tax structures of Member States and have far-reaching consequences in the budgetary, economic and social fields;

Whereas substitution for the systems of multi-stage, cumulative taxes applied in most Member States of the common system of added-value taxation must lead, even if rates and reliefs are not harmonized at the same time, to neutrality of effect on competition inasmuch as within each country like goods will be taxed at the same rate irrespective of the number of stages in their production and distribution, and in international trade the amount of tax charged will be known, so that it will be possible to offset it exactly; and whereas provision must consequently be made in a first phase for the adoption by all Member States of the common system of added-value taxation without, however, compelling them to adopt harmonized rates and reliefs;

Whereas the Member States are free during the first phase to make certain changes to their present systems with a view to progressive adjustment to the future system, but whereas the Commission and other Member States must be consulted on such changes to avoid unbalanced measures, which might disturb the normal development of trade between the Member States;

Whereas it is hardly possible at present to indicate by what date the necessary conditions for achieving the ultimate aim, which is the abolition of fiscal frontiers, can be fulfilled; and whereas it is therefore preferable that the second phase and the measures to be taken in that phase should be fixed at a later date on the basis of proposals made by the Commission to the Council,

Has adopted the present directive:

Article 1

Member States shall replace their present turnover tax systems by the common system of added-value taxation laid down in Article 2 below.

The national laws by which this substitution is to be implemented shall be passed by 1 January 1968 and come into force at a date to be fixed by each Member State; this date shall in no case be later than 1 January 1970.

From the date of the entry into force of these laws, standard-rate measures to offset taxes on imports and exports shall no longer be permitted in trade between Member States.

Article 2

The principle of the common system of added-value taxation is to apply to goods and services a general consumption tax in exact proportion to the prices of the goods or services, whatever may be the number of transactions in the chain of production and distribution up to the point at which the tax is applied.

At each stage in the chain of production the added-value tax, calculated on the price of the good or service at the rate applicable to such good or service shall be levied after deduction has been made of the amount of added-value tax already levied directly on the various elements that can contribute to price formation.

The common system of added-value taxation shall extend to the retail trade. Member States are, however, free to apply the system only to stages up to and including the wholesale trade and to levy, where necessary, a supplementary tax of their own on retail sales.

Article 3

The Commission shall make a proposal to the Council at latest by 1 April 1965 on the form and methods of applying the common system of added-value taxation.

Article 4

The Commission shall submit to the Council before the end of 1968 proposals indicating how and by what date the harmonization of turnover taxes is to achieve its ultimate aim, which is to abolish the taxes levied on imports and the tax drawback on exports in trade between Member States, while ensuring that the turnover taxes shall be neutral in respect of the origin of goods or of services supplied.

In this connection account must be taken of the ratio of direct to indirect taxes, which varies from one Member State to another, of the effects of changes in the system of taxation on the fiscal and budgetary policy of Member States, and of the influence exerted by systems of taxation on the competitive situation and the social situation in the Community.

The Council shall issue its decision by the end of the transitional period.

Article 5

Any Member State that wishes to take measures to facilitate the adaptation of its present system to the common system of added-value taxation shall inform the Commission early enough for Member States to be consulted on the measures under consideration.

The main aim of such consultations — for which the Council, acting on a proposal of the Commission, has laid down the procedure — is to avoid unbalanced changes which might adversely affect the conditions of trade between Member States and so injure the common interest.

Article 6

The present directive is addressed to all Member States.

PUBLISHING SERVICES OF THE EUROPEAN COMMUNITIES
4001*/5/VII/1964/5