

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 569 final

Brussels, 19 October 1981

Recommendation for a

COUNCIL DECISION

On the signature and notification of provisional application
Of the Sixth International Tin Agreement

(submitted to the Council by the Commission)

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of provisional application of the Sixth International Tin Agreement

Explanatory Memorandum

1. The negotiations on the 1981 International Tin Agreement (Sixth International Tin Agreement) were concluded on 26 June 1981, after fourteen weeks of negotiations extending over four sessions of the negotiating conference, which began on 14 April 1980¹⁾.

The main features differentiating the new Agreement, due to last five years, from the previous Agreement are :

- i) a normal buffer stock comprising a maximum of 30 000 tonnes of tin metal, financed by government contributions, supplemented by an additional stock of 20 000 tonnes of tin metal, financed by means of loans secured by the stock and, if necessary, by government guarantees;
- ii) financial contribution to the cost of establishing the buffer stock apportioned equally between producing and consuming members according to the percentage of production or consumption which each member represents;
- iii) financial contribution to the administrative budget apportioned equally between producing and consuming members according to the number of votes held by each member
- iv) introduction of export control by a decision of the Council on a two-thirds distributed majority vote, when at least 70% of the maximum volume of the buffer stock consists of tin metal held in the stock;
- v) introduction of export control by a decision of the Council on a simple distributed majority vote, when at least 80% of the maximum volume of the buffer stock consists of tin metal held in the stock;
- vi) suspension of export control when the market price determined as a moving average over 15 days, remains, for 12 consecutive trading days, at or above the lower limit of the middle sector of the price range;

1) Doc. 8029/81 Proba 45 of 6.7.81

- vii) possibility of limiting the financial liquidity of the buffer stock to the equivalent of 10 000 tonnes of tin metal;
- viii) consultation, at a member's request, regarding factors having a direct effect on tin supply or demand;
- ix) enabling clause to permit association of the Agreement with the Common Fund;
- x) provisional and definitive entry into force conditioned by minimum participation levels of 65% and 80%, respectively, by producers as well as consumers;
- xi) no limit, within the 5 years duration of the Agreement, to the period during which the Agreement may be in force provisionally;
- xii) possibility of provisional application of the Agreement "within the limitations of its constitutional and/or legislative procedures" by any Government which notifies this explicitly, for at most 12 months (unless the Tin Council decides otherwise) from the provisional entry into force.

2. The Agreement was negotiated by the Community and its Member States in accordance with the directives approved by the Council¹⁾. As from 30 March 1981, this negotiation was conducted according to the provisions of the Arrangement between the Council and the Commission²⁾. These directives were properly observed with regard to the objectives and the content of the Agreement. The new Agreement contains many improvements in relation to the Fifth International Agreement, notably concerning the volume of the buffer stock, the apportionment of the financial contributions and the introduction and suspension of export control; these new features represent, overall, a better balance of rights and obligations for the members of the Agreement, in particular the consuming members.

The Community and its Member States have played a key role in the negotiation and drafting of the new Agreement. The presentation of a statement of agreement by the Community and its Member States at the closing

1) Council documents :

Doc. 6459/80 Proba 19 of 17.4.1980 approved at the 623rd Council meeting held on 22.4.1980

Doc. 6921/80 Proba 22 of 7.5.1980 and summary record of the 985th Coreper meeting held on 8.5.1980

2) Doc. 5887/81 Proba 20 of 27.3.1981, adopted by the Council on 30.3.1981

plenary session of the negotiating conference was however, at the request of the German and Belgian Delegations, made subject to an internal explanatory amendment to the effect that the efforts which the Community and its Member States would make to encourage the main consuming and producing countries to participate in the Agreement would also concern Germany and Belgium.

3. The Agreement is open for signature from 3 August 1981 to 30 April 1982 inclusive. It will enter into force definitively or provisionally on 1 July 1982 succeeding the Fifth International Tin Agreement, which was extended until 30 June 1982.

The definitive entry into force of the Agreement means that the governments of producing and consuming countries accounting for at least 80% of the total production or consumption set out in Annexes A and B have deposited their instruments of ratification, approval and accession. It will therefore depend largely on the participation of the United States, which major tin consuming country accounts for 26.1% of total world tin consumption.

As long as the United States does not participate and even if it decides not to do so, the provisional entry into force of the Agreement would appear to be an appropriate solution in the interests of avoiding a break in international cooperation in the context of tin when the Fifth International Tin Agreement expires on 30 June 1982.

Provisional entry into force means that the governments of producing and consuming countries accounting for at least 65% of the total production or consumption set out in Annexes A and B have deposited their instruments of ratification, acceptance, approval or accession, or have notified the depositary that they intend to apply the Agreement provisionally.

4. Considering that the participation of the United States in the Agreement is highly desirable, in particular for economic and financial reasons, the Commission, in accordance with its communication to the Council¹⁾, is continuing its efforts to persuade the United States Government, which appears to have not yet adopted its final position.

1) Doc. COM(81)387 of 3.7.1981

In view of the uncertainty regarding the participation of the United States, it would appear therefore that the Community, which accounts for 27.2% of total world tin consumption, is in a position where its participation will determine the provisional entry into force of the Agreement.

Since the Community has played a positive role in the negotiation of the Agreement, it should act similarly with regard to the implementation of the Agreement for its own economic and political reasons. Although the United States is not likely to run short of tin supplies on account of the volume of its strategic stock, the same is not true of the Community, which consequently has good reason to encourage economic cooperation with regard to tin.

Such cooperation is particularly important since the main tin producing countries are members of ASEAN, with which the Community maintains close links under an economic Cooperation Agreement. The Community's participation in the new International Tin Agreement, which represents a distinct improvement over the earlier Agreements, will therefore make it possible to achieve this double objective.

Such participation will represent a major contribution by the Community to North-South Cooperation and will give practical effect to the statements made in this context on several occasions by both the Council and the European Council.

Moreover, it should be remembered that all the Member States participated in the Fourth Tin Agreement, even in the absence of the United States. They should do so again in the case of the new Agreement which, as the American Delegation itself stated, would unquestionably be viable even without the accession of the United States.

Since the Community has brought a decisive contribution to the success of the negotiation, and in order to foster as large a participation as possible, it is important that the Community and its Member States should sign the 6th Agreement without delay.

5. On the basis of the arrangement between the Council and the Commission¹⁾ concerning the signature, conclusion and administration of Commodity agreements, the Commission recommends that :

1) Doc. 5887/81 Proba 20 of 27.3.1981 adopted by the Council on 30.3.1981

- i) the Community and its Member States sign the International Tin Agreement 1981, and notify its provisional application;
- ii) the Council therefore adopts the attached draft Decision;
- iii) the financial charges relating to the Agreement's administrative budget be covered, for practical reasons and in the interests of consistency vis-à-vis external parties, by the Community budget under Item 2984, which currently covers a voluntary contribution to the Fifth International Tin Agreement.

Recommendation for a Council Decision on the signature and notification of provisional application of the Sixth International Tin Agreement

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the Recommendation from the Commission,

Whereas the 1981 International Tin Agreement (Sixth International Tin Agreement) is open for signature until 30 April 1981; whereas this Agreement constitutes an instrument for the regulation of international trade, having as its principal objective the balancing of tin supply and demand with a view to stabilizing the price of tin taking account of conditions on the market; whereas the application of this Agreement by the Community will contribute to the implementation of its common commercial policy,

Whereas the Community should therefore sign this Agreement and give notification to the Secretary-General of the United Nations that it intends to apply the Agreement provisionally, subject to its subsequent conclusion,

HAS DECIDED AS FOLLOWS :

Article 1

The Community will sign the Sixth International Tin Agreement in accordance with Article 51 thereof, and will give notification to the Secretary-General of the United Nations before in accordance with Article 53 that it will apply that Agreement provisionally, as a consuming member, when it enters into force in accordance with Article 55.

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the Agreement, and to deposit the notification of provisional application attached to this decision.

Done at Brussels,

For the Council,

The President

Notification of provisional application
of the Sixth International Tin Agreement

In accordance with Article 53 of the 1981 International Tin Agreement, the Council of the European Communities hereby notifies the Secretary-General of the United Nations, the depositary of the Agreement, that it intends to put into operation the institutional procedure required for approval of the Agreement and that the Community, as a consuming member, will apply the Agreement provisionally when it enters into force in accordance with Article 55.

FINANCIAL MEMORANDUM

1. Budget heading : 2984. Community contribution to the administrative budget of the International Tin Council.

2. Legal basis and aim

The Community participates in the Fifth International Tin Agreement pursuant to a Council Decision of 18 April 1978. This Agreement is extended until 30 June 1982 pending the entry into force of the Sixth Agreement. It will therefore be necessary for the Community - in accordance with Opinion 1/78 of the Court of Justice of the European Communities to the effect that the type of agreement in question falls within the scope of Article 113 of the EEC Treaty - to provide the whole of its contribution to the administrative budget whereas, under the Fifth Agreement, the Community and the Member States each contributed a share.

3. Financial implication

For 1982/83/84 : annual appropriations requested of 250 000 ECU.

4. Method of calculation

The administrative expenses of the International Tin Council are, for the years in question, estimated at USD 2 million per year, half of which to be paid by the tin consuming countries and half by the producing countries.

The International Tin Council each year determines its administrative budget, to which its members contribute according to the number of votes which they hold.

Hence, the Community's total estimated contribution is 30% of the share of the consuming countries.