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A COMMUNITY POLICY IN THE HYDROCARBONS SECTOR AND DRAFT RESOLUTION OF THE COUNCIL

(Communication from the Commission to the Council)

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CONTENTS

	<u>Page</u>
INTRODUCTION	1
I. Use of resources	3
II. Development of reliable sources of supply	3
III. Imports and exports of hydrocarbons	5
IV. The development of investments: Refining, Transport and Distribution.....	8
V. A price policy based on market transparency	10
VI. Measures required in the event of supply difficulties.	12

ANNEX - Draft Resolution on a Community Policy for Hydrocarbons

A COMMUNITY POLICY IN THE HYDROCARBONS SECTOR

Introduction

1. A number of factors, the responsibility for which is divided to a varying extent amongst the parties concerned, have made the world situation in the hydrocarbons sector very insecure. Consequently, efforts must be made to make supply more stable and to restore worldwide economic and monetary equilibrium: this task is the responsibility of all the various parties concerned and entails close cooperation between them. The Community must play a full part in this cooperation.

From a will for dialogue and cooperation between partners with common or complementary responsibilities (producer countries, consumer countries, industrial operators), obligations and commitments will arise, leading to the setting up of a new worldwide economic order.

2. Constituting a market of 250 million inhabitants attracting almost 40% of world trade in hydrocarbons, and with the strength deriving from its economic power and political influence which must result in greater cohesion, a better awareness of identity of interest and the necessity for greater solidarity, the Community should have a real influence in this direction.

But this requires a Community policy for the hydrocarbons sector which must be built on three main pillars:

- relations between the Community and exporting countries;
- relations between the Community and importing countries;
- a Community supply policy.

3. Concerning the first two pillars of a Community policy, the Commission has proposed its own guidelines on several occasions in communications to the Council. These guidelines are founded on the necessity for cooperation

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with importing countries - whether industrialized or developing - and with producing countries; they should be examined by the Council with the least possible delay.

With this in mind, the Commission is confining this communication to problems related to a Community supply policy. It emphasises that the actions proposed in the supply field are entirely compatible with its guidelines for external relations and emphasises also that internal progress is closely linked with the development of the external aspects of Community policy.

4. The Community supply policy must generally always depend upon the supply of sufficient and uniformly-based information, the widest possible consultation among the authorities, and between the latter and businesses. The purpose of this consultation must be to maintain and to implement progressively and unrestrainedly behaviour which recognises - within the rules of the Treaty - both the public interest and the legitimate interests of industry.

Thus the Community market, which can in no sense be isolated from the world market, must

- by the unity derived from the free movement of goods keep its attraction for business;
- permit fair competition by which consumers can benefit from the best long term supply conditions and business from the ability to direct their activity with the maximum of discretion, compatible with the public interest;
- display a sufficient transparency, so that the public authorities can assure themselves of its conformity with the objectives of the energy policy.

Where necessary, these principles imply the availability of the means of action, whether national or community.

This general philosophy finds expression in the various components of a common supply policy in the hydrocarbons sector.

I. Use of resources

The change — doubtless a permanent one — from a plentiful and cheap supply of hydrocarbons to a situation where there is pressure as regards both quantities and especially prices must, in view of its political, economic and financial implications, lead to practical attempts, which must, as far as possible, be harmonized at Community level, to eliminate waste and make rational use of hydrocarbons. The result should be to limit, if not to stabilize, the increase in necessary imports.

- Steps to eliminate waste, where some Member States are already setting an example, should be based principally upon an extensive informative campaign. Ultimately, however, there could be no question of ruling out more restrictive administrative measures, taking the form of prohibitions or of price actions. This type of action, which is both necessary for economic reasons and because it demonstrates an essential day-to-day solidarity, is envisaged in the Commission's communication on the rational use of energy (Doc COM(74)1950 final). It is important that such measures should be taken both at the national and Community levels in order to avoid any fresh distortions of the market; it is important also to take account of the social effects of such measures and to adopt them if necessary.
- Efforts to achieve rational utilization, on the other hand, are by nature more economic and technical; they seek to draw the maximum use of the available products, improve efficiency and reduce waste. As regards making the best use of products, the Commission has prepared proposals for two Directives on limiting the use of natural gas and fuel oil in conventional power stations.

As to the improvement of efficiency and reduction of waste, this is a basic issue, the importance of which goes beyond the hydrocarbons sector: specific examples are also given in the Commission's communication on the rational use of energy. In order to be truly effective and to prevent duplication, these schemes should be pursued either by the actions of public authorities or by relying on the intelligent self-interest of those concerned.

II. Development of reliable sources of supply

It is important to maximise, although on the basis of sound economic criteria, the contribution made by hydrocarbons situated within the Community to the energy supply. This general line of conduct caters for the need to enhance

Community solidarity generally, in which energy, despite its importance, is only one element. The policy must, in any event, be directed both to the further development of traditional resources and to the development from scratch of new, more sophisticated techniques.

- The substantial rise in hydrocarbons prices should make certain discoveries economically interesting (e.g., by increasing the size of recoverable reserves), and make prospecting in zones which hitherto have been partly or totally disregarded a more attractive proposition. Any increase in recoverable reserves requires the companies exploiting them to conduct a reappraisal, the conclusions of which should be passed on in a manner yet to be determined, to the public authorities, thus making possible the joint consultations which the Commission, for its part, intends to develop.

The increase in exploration effort requires the Member States to adopt a liberal policy as regards the granting of exploration licences and operating concessions, based on a wide-ranging and frank consultation between the interested parties, observing the Treaty rules on non-discrimination and freedom of establishment. If in future it should be necessary, the Commission reserves the right to submit to the Council a proposal for Community arrangements on this subject.

As to the possibility of granting specific financial aid to certain projects of this type which are especially worthy of interest because of their potential contribution to the Community's supplies and/or because of the characteristics of the interested parties, the Commission thinks this should be met by the extension, as it is proposing to the Council, of the scope of activities (see Document COM(74)1962 final) and the amount of funding stipulated in the Regulation on Community Projects. This latter should be extended to 50 million units of account a year from 1976 onwards (see Document COM(74) final).

- Research into and the development of new techniques is of particular importance in the hydrocarbons sector given the growth in off-shore exploration and production, in particular on the deep sea bed. The

Council demonstrated its understanding of this by adopting the Regulation on Community Projects, and the interest which this Regulation aroused in industry was reflected in the twenty-three applications received. Examined by the Commission, these applications have been passed on to the Council, and they have been thoroughly discussed within the Council's Working Party on Energy; the Commission hopes that the Council will reach a decision on this matter during the session on energy problems.

III. Imports and exports of hydrocarbons

The action required is based on the provision of information, on sufficient joint consultation, on the instruments of a commercial policy and on the enhanced promotion of Community-orientated operations.

- (a) The provision of information and joint consultation arising in connection with these matters is already extensive but must nevertheless be further extended.

The Community is already provided with information on a regular basis by virtue of EEC Regulation 1055/72 adopted by the Council. This Regulation has proved both effective and useful. There might, however, be a case for amending it to cater for the new supply conditions. The provision of information on a regular basis should, in addition, be extended to imports of refined petroleum products and to exports of hydrocarbons; the former will probably prove to be of great importance, the latter not inconsiderable. This is the purpose of two proposals sent to the Council by the Commission in July 1973 and subsequently amended to take account of the views expressed by the Member States' experts.

Joint consultation is already practised for this type of information: it is conducted with the Member States by means of periodic reports first discussed within the Energy Committee and then sent to the Council. Joint consultation with industry should be instituted without delay, by means of meetings similar to those on prices recently held on a trial basis.

Such joint consultation with industry will, moreover, be a means of escaping from the inevitably rigid format of regularly supplied information and will also, for example, be a way to have an exchange of views with

industry on forecasts of imports for five years ahead, or on draft agreements giving practical expression to a Community supply strategy.

- (b) Commercial policy must, according to the unequivocal provisions of the Treaty, be based upon uniform Community principles. This matter raises both quantitative questions and tariffs on custom's issues.

The quantitative aspect is dealt with in the same way for all hydrocarbons (crude oil, refined petroleum products and natural gas) in the proposal from the Commission to the Council, in Annex III to the "New Strategy"¹.

For both imports and exports, monitoring is proposed by means of the automatic granting of an import or export licence. Provision is made for safeguard measures in the event of the Community's security of supply being threatened. In the opinion of the Commission, this system has the merits of simplicity, liberality and compatibility with the requirements of a genuine supply policy.

The monitoring system for hydrocarbons will make it possible, in the light of the quantitative objectives for the Community adopted by the Council, to ensure that imports and exports as a whole are in line with the industry's annual forecasts and with the said objectives and will also provide an opportunity, in the event of discrepancies, to enquire about the reasons.. It will thus be possible, by means of the permanent statistical instrument provided by the monitoring system, to vary the objectives of the Community's energy policy if necessary.

The tariff or customs problem arises only in connection with imports and differs according to whether natural gas and crude oil or petroleum products are concerned.

Crude oil and natural gas are imported free of duty and this system which is consolidated under the GATT could not possibly be altered.

Imported petroleum products, on the other hand, are subject to a customs duty averaging approximately 3.5%. The present system displays very great diversity, varying from the generalized preference system to importation at normal rate of duty, with, in between, complex and

¹ Doc COM(74)550 final

diverse systems (preferential agreements at zero or reduced rate of duty, in the form of quotas or ceilings)¹.

In view of the importance that producer countries may attach to refining their own petroleum products and the probable effects of such a likely development on the Community's refining industry, it is important to give careful consideration to this problem and to work out simple solutions which do their best to meet the concerns of all parties involved.

Here it would be appropriate to retain the principle of the present customs duty; despite the low rate, its effects are far from being negligible, owing to the rise in oil prices. It provides the Community with a bargaining counter for negotiations with the producer countries to which, in turn, it is an incentive to open negotiations and in any event it gives a significant degree of protection for the Community's refinery capacity (there is a threat of a surplus developing if present trends continue).

Whether within the framework of generalised preferences or within that of preferential agreements, the aim could be to institute a unique regime for agreements with producing countries, which could be the form of a ceiling whose level could be calculated after joint consultation with the Member States (which supposes a deeper consideration of the development of refinery capacity in the Community). This could permit a certain necessary margin for manoeuvre in re-establishing the tariffs, and should, therefore, receive a favourable reception from the producing countries. As to the distribution of this ceiling amongst Member States, this will require from those responsible for energy policy in the Community (public authorities and the oil industry) a very valuable, periodic joint consultation, providing an extremely sound base for the necessary dialogue with the interested producing countries. These arrangements would enable the imports introduced within the framework of industrial agreements between Community activities and the producing countries to be taken account of.

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¹The tariff quota is allocated between Member States and when the quota is exceeded, the duty is automatically restored. Where ceilings are imposed, however, there is no allocation between Member States and once the ceiling is exceeded, the duty is restored only at the request of a Member State or the Commission.

(o) More emphasis on Community-orientated operations, where imported petroleum products are concerned, would be the result of the system described above. Consideration should also be given to this problem as regards natural gas and crude oil. In this field, however, the action required falls essentially within the competence of the industrial concerns themselves.

With regard to natural gas, the Community is fortunate that many of the import operations either carried out or contemplated are the concern of widely-based industrial consortia. It is a matter for regret, however, that this is not always the case.

As regards crude oil, it is difficult to conceive of such consortium-based import operations, although they may become attractive in the event of the producer companies taking further steps towards the direct marketing of their own crude.

IV. The development of investments: Refining, Transport and Distribution

An energy strategy can be adopted by the public authorities: it can be implemented only if decisions concerning the necessary investments are taken in good time, which implies that investors must be fairly well informed about the measures to be implemented and must have sufficient funds.

— A harmonious expansion of investments is not possible unless sufficient information is provided and unless extensive joint action programmes are initiated.

At Community level, prospective investors could be provided with information more easily if common objectives in the form of figures similar to those proposed by the Commission in its communication to the Council of 5 June 1974 entitled "Towards a new energy policy strategy for the Community" were drawn up by the Community. In its Resolution of 17 September 1974, the Council stated, furthermore, that "quantitative objectives are..... important guidelines for producers.....of energy in the Community" (paragraph 3 of the Resolution).

The supply of information on investments is ensured by the EEC Council Regulation No 1056/72, by which the Commission is informed each year for three years ahead of the installed capacities or capacities under construction or scheduled to be decommissioned in the hydrocarbons sector. This information covers oil and gas pipelines, storage facilities and refinery capacity.

The information to be provided under that Regulation would not be of any real value if it were not accompanied by joint action and discussions on the problems raised and the solutions to be implemented. The objective is to ensure that the growth of investments is compatible and consistent with the objectives and guidelines set out in a Community energy policy. It is obvious that in this respect, the problem of refinery capacity is of particular importance.

At public authority level such joint action normally takes place within the Energy Committee: it is a permanent feature there but, where investment is concerned, it may be scheduled to take place regularly, i.e. when the annual report on the implementation of Regulation No 1056/72 is presented to the Council by the Commission.

Joint consultations between the public authorities and the industrial operators should be started quickly in the way described in the New Strategy. It should concern longer-term (e.g. five years) investment programmes by industry and should gradually be extended to cover all the fields in which it could prove useful or necessary, given a general acceptance of the problems to be studied.

Finally, once the necessary discussions have been held with the producing countries on important questions, such as the expansion and location of refining capacities, such joint action should result in the best, though flexible, use of the investments, and should thus meet the problems both of the public authorities and of the industrial operators.

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- No matter how much investment is required, most of the necessary funds should come from the market itself. However, this fundamental guideline presupposes an adequate price level and the absence of unjustified distortions of competition between industrial operators.

Nevertheless, the public authorities may provide incentives, particularly when Community operators are endeavouring to coordinate their efforts to increase the security of supplies. This is also the objective of the Council Regulation on Community Projects, and is why the Commission is proposing to extend the scope of that Regulation (see Document COM(74)196 final).

V. A price policy based on market transparency

This is a fundamental issue to all those concerned with the proper functioning of the market.

It is also a problem, and a particularly complex one, since the objectives pursued must be matched to the concerns of all those involved.

In an attempt to see the problem clearly, therefore, these concerns and objectives must first be analysed, and this must be followed by an outline of a Community policy of this kind in specific terms, or at least of how such a policy might look.

(a) The objectives of a price policy

The adoption of common criteria or the acceptance of harmonized behaviour regarding prices on the Community market is a necessity for consumers, the companies supplying the market and for the public authorities.

- Consumers must be protected against unwarranted price increases.

Price transparency based on a clear estimation of costs is a basic factor here: an estimation made at the stage of prices net of taxes.

Taxes and duties on petroleum products should eventually be harmonized at Community level so that the true effect of the cost of energy is

comparable in the various Member States. The actual level of these taxes and duties is itself the result of budgetary requirements or of political-economic decisions (taxation being regarded as an instrument of economic and/or energy policy) all aspects of which should be clearly defined and explained to the public.

- The level of consumer prices, excluding tax, must be such as to enable the industry to operate with an adequate amount of self-financing so that it can successfully conduct its present and future operations on the hydrocarbons market, or even on the energy market in general. This implies that the industry will make known and will explain objectively a reasonable level of self-financing, as well as its overall finance needs and the investments to which they relate.

Moreover, the policy adopted regarding prices must be such as to provide a satisfactory degree of competition between firms or categories of firms supplying the market. In this connection, there are grounds for fearing that present trends in supply conditions may result in excessive distortions of competition between types of company. This is a delicate, and possibly a temporary, problem; its solution is in any event not a matter for a traditional price policy.

- Finally, observance of the rules of the Treaty of Rome, together with the desire to ensure that the market operates properly, requires that the price levels ruling in the various Community countries be sufficiently harmonized as to permit the free movement of goods, without irrational movements. This is the responsibility of the public authorities. At Member State level, both prices themselves and the pricing system must, at one and the same time, provide a sufficient assurance of supplies for the importing countries without producing any risk of causing a shortage of products in the exporting countries.

Generally speaking, the level of prices is determined principally by costs alone and by actual supply conditions.

(b) A Community prices policy

In its New Strategy (pages 31, 33 and 34) the Commission set out the guidelines which it thinks necessary to guarantee transparency of prices. The Commission considers that those guidelines are still applicable but cannot

make any concrete proposals before the Energy Committee has given further details on how it would like this system of transparency to work.

Nevertheless, the Commission notes that discussions have been begun or are taking place, either within or in cooperation with the Energy Committee, with national experts and representatives of companies, thus enabling the Community to make a better analysis of and become more closely acquainted with the conditions governing the formation of costs and prices of petroleum products and the components of those costs and prices.

VI. Measures required in the event of supply difficulties

The manner in which the Community, as such, reacted to the supply difficulties which arose from October 1973 onwards should be a lesson for the future. In the opinion of the Commission, the oil crisis showed the need for adequate emergency stocks and for a special framework in which the benefit of genuine Community solidarity could prevail over the temptation to adopt different -- or even widely diverging -- national attitudes.

The availability of permanent emergency stocks of a minimum level is the simplest and most effective way of coping with any supply difficulties.

In this field, the Member States of the Community undertook, by the Council Directives of 20 December 1968 and 19 December 1972, to hold 65 days' stocks of petroleum products, and to increase this to 90 days' from 1 January 1975.

This objective must be attained and any difficulties in the way must be overcome. From the legal angle, this assumes that all Member States must enact the necessary regulations as soon as possible. From the financial and economic angles, the difficulties experienced by certain Member States would be greatly eased if mutual assistance agreements between them were to become general, as is provided for in the Directive of 20 December 1968.

Furthermore, the Commission, while continuing its investigations into the best way of financing these stocks, will, in due course, submit to the Council proposals to standardize, on a Community-wide basis, the arrangements governing the way of calculating and managing emergency stocks and for cutting out any discrimination which may arise from the existing Directives.

The importance of emergency stocks as a means of reducing the effects of a supply crisis also provides the justification for the proposal from the Commission (Doc COM(73)2245 final) on the holding of stocks at a certain minimum level at fossil-fired power stations.

Lastly, the Commission considers that the share likely to be accounted for by natural gas in 1985 (25% of the energy balance, 40 of which imported) should prompt the Community to examine the advisability of holding stocks of natural gas, in accordance with specific detailed rules.

A sudden drop in imports of hydrocarbons, which typifies a difficult supply situation, generally affects all importing countries. To cope with such a situation, far-reaching international cooperation is necessary. The problem of allocating available oil supplies in the event of supply difficulties should therefore be examined in parallel with that of the Community's external relations.

Complementary action is needed at Community level, however. The Directive adopted by the Council in 1973 on measures designed to mitigate the effects of supply difficulties is a first step in this direction; its usefulness was shown at the time of the last crisis when it led to regular joint consultations between the representatives of the Member States.

These provisions should be added to, however, by building on the lessons learnt at the time of the last crisis, when Community solidarity and observance of the provisions of the Treaty (in particular those relating to free movement of goods) were sorely tried.

To that end, a number of policy measures of a permanent nature mentioned in this document will be useful; monitoring of imports and exports, and moves towards price harmonization are examples. These moves should be supplemented by the adoption of two areas of policy-making yet to be implemented. The first of these would be designed to reduce energy consumption in the Community: this would be achieved by harmonized measures

tailored to the inherent energy pattern of each Member State and arranged so as not to interfere with the free movement of goods. The second would be an information system about and, if necessary, control of intra-Community trade in crude oil and petroleum products (see document COM(74)196 final).

DRAFT RESOLUTION ON A COMMUNITY POLICY FOR HYDROCARBONS

The Council of the European Communities,

having taken note of the Commission's communication (Doc COM(74) 1961 final) entitled "A Community policy for oil and gas":

1. Recognises that this communication forms part of the process of formulating a Community energy policy whose purpose is to guarantee a certain and lasting supply under economically satisfactory conditions, which new information on the conditions prevailing in the world energy market makes more urgent and necessary.
2. Observes that oil and gas will keep a preponderant share of the Community's energy supply for a long time to come.
3. Emphasises the need to reduce the dependence of the Community on external sources of oil and gas supplies.
4. Insists therefore on the necessity for a Community policy for oil and gas to be defined and implemented.
5. Confirms that a Community policy for oil and gas must be built on cooperation between consuming countries and with producing countries, cooperation in which the Community as such and the Member States intend to participate.
6. Declares that this policy must, at the Community level, find expression in a supply policy based on Community and national means of action, and for which precise and consistent information and a flexible system of consultation with industrial interests, on a continuing basis, are indispensable.

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7. Recognises that this Community supply policy implies:

- (a) an effort to obtain the rational use of the oil and gas resources consumed on the Community market;
- (b) the optimal development, based on economic criteria, of the Community's oil and gas resources, which requires concerted action by the public authorities and the operators in the industry and, should the need arise, support for the development of new techniques (for example, to exploit the seabed in deep water) and for intensifying the exploration effort;
- (c) the search for a diversified and sure external supply by a greater effort of information and consultation, by adopting Community measures for commercial policy and joint initiatives for the industrial or commercial activities undertaken by firms supplying the market;
- (d) information and consultation on existing or proposed investment in the Community, especially in the refining sector;
- (e) a price policy for consumers based on competition and on transparency of costs and prices to guarantee that the levels of prices, based on the actual development of supply conditions, shall be coherent between Member States;
- (f) the availability of Community mechanisms which, should there be supply difficulties, ensure that the unity of the common market would be maintained.

8. Invites the national governments, producers, importers and consumers of oil and gas in the Community to follow the guidelines established above, each according to his responsibilities and capabilities.