

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(74) 1271 Final
Brussels, 31 July 1974

PROPOSAL FOR A

COUNCIL DECISION

authorizing the express or tacit extension of certain trade
agreements concluded between the Member States and
third countries

(submitted to the Council by the Commission)

EXPLANATORY MEMORANDUM

1. In implementation of Article 3 of the Council Decision of 16 December 1969¹⁾ on the progressive standardization of agreements concerning commercial relations between Member States and third countries and on the negotiation of Community agreements, the Commission proposes to the Council that the Member States should be authorized to extend, expressly or tacitly, the trade agreements annexed to the attached proposal for a Council decision. The agreements in question constitute the third batch for 1974 and expire or are due to be terminated between 1 August and 1 November 1974.

The prior consultation specified in Article 2 of this Decision took place on 21 June 1974. The outcome was the recognition that the conditions under which the agreements could be extended for a further year had been fulfilled.

2. The Commission stresses that the agreements involved do not include those with the Eastern European countries, for which, according to decisions adopted previously, notice of termination must be given by the Member States concerned so that they can be terminated before the end of 1974. The agreements in question are the following :

			<u>final date for notice of termination :</u>
Denmark/China	of	1.12.1957	31.8.1974
Denmark/Czechoslovakia	of	17. 5.1972	30.9.1974
Ireland/Romania	of	20. 7.1971	30.9.1974
Ireland/USSR	of	28.12.1973	30.9.1974
United Kingdom/Albania	of	10. 6.1925	30.9.1974
United Kingdom/Poland	of	21. 4.1971	30.9.1974

3. The Commission considers it appropriate to point out, moreover, that the proposals for authorizing the Member States to renew or extend, expressly or tacitly, certain agreements in this batch for a further one-year period are by no means indicative of any position it might adopt next time these agreements come up for renewal.

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1) O.J. no. L 326 of 29.12.1969, p.39

The Commission made its position on the subject known during the discussion on the second proposal relating to the second batch for 1974 at the Permanent Representatives Committee meeting of 12 and 19 June 1974.

The subject was also discussed at the Consultation Committee meeting of 21 June 1974 during examination of the agreements to be extended, which are enumerated in the annex to this proposal.

The results of these discussions have led the Commission to consider holding consultations from now on involving the joint examination of all agreements between Member States and the same third countries or group of third countries, regardless of the final date for notice of termination. This will enable the Commission to judge more comprehensively than in the past how far maintaining these agreements in force conforms to current rules and regulations and how desirable it is from the point of view of Community interests.

This examination, which the Commission intends to undertake in the very near future, will of course remain part of the consultation procedure specified under Title I of the Council Decision of 16 December 1969.

4. As in the past, the prime task of the examination will of course be to check, in accordance with Article 3 of the Decision of 16 December 1969, whether the provisions in the Member States agreements constitute an obstacle to implementation of the common commercial policy. In this respect, the Commission will have the responsibility of deciding whether or not the maintenance of certain agreements would be likely to hinder subsequent progress in this field.

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In this connection, the Commission would draw attention to the solution which was found for the current trade agreements between Member States and state-trading countries.

5. Therefore, the Commission must, as part of the comprehensive re-examination of all the other current agreements with third countries, and in consultation with experts from the Member States, check in respect of which agreements the necessary condition for extension (namely the absence of obstacles to implementation), albeit inadequate by itself, is fulfilled.

One of the problems here concerns maintaining in force agreements between Member States and Japan. The Commission proposes making a detailed examination of how far the delay in implementing the common commercial policy vis-à-vis Japan is due to maintaining in force national agreements.

One could doubtless say that from a legal point of view the situation as regards the presence of "obstacles" is fairly similar to that obtaining for the Eastern European countries, even though certain political aspects are entirely different.

Consequently, if the rules of analogy and a criterion which was strictly coherent from the legal angle were applied to the case in point, termination of the agreements in question would have to be considered. The Commission is nonetheless conscious of the serious and difficult problems posed by the relations between the Community and Japan and is aware of what would be the consequences of denouncing certain Member States' bilateral agreements at this stage. The Commission has therefore been led to propose authorizing the Member States to extend these agreements for a further year and intends making a detailed examination of this whole set of problems

vis-à-vis the third countries in question, so as to take the necessary steps to ensure both the proper functioning of the common market and the community administration of external regulations. If the Commission establishes, in the light of the aforementioned study, that extending national agreements with Japan beyond 31 December 1975 (the expiry date for all these agreements) would hinder the implementation of the common commercial policy, then it would clearly be unable to propose such an extension.

One of the problems to be discussed during the detailed examination of the various agreements between Member States and third countries is that of the compatibility of the common commercial policy with the maintenance in force of agreed quotas vis-à-vis third countries. Since the negotiation of trade concessions comes henceforth under the jurisdiction of the Community the existence of such quotas, which generally entail reciprocal concessions, may adversely affect the bargaining position of the Community and the working of the common market, thereby hindering the setting up of a common trade policy.

6. Another point which the Community has raised on several occasions (latterly during the recent Permanent Representatives' Committee discussions) is the problem of the existence of Community agreements alongside national agreements with the same third countries.

The putting into effect of the common trade policy means replacing national trading agreements by Community agreements or by autonomous Community measures. In order to enable this replacement to be made gradually, allowance was made in the Council's decision of 16.12.1969 for authorising provisional extension of national agreements even beyond the end of the transition period.

Therefore, whenever there is in existence a Community agreement with a third country, the provisions of that agreement replace the provisions of any national agreements with the same country which are incompatible or identical with the Community agreements provisions. Moreover, most Community agreements contain a clause explicitly confirming this replacement.

It can therefore result that when a Community agreement has in this way superseded all the provisions of a national agreement, the extension of such a national agreement would be contrary to Community law, and could not be authorised under Section I of the Council's decision of 16.12.1969.

7. Having established that there are no obstacles to the implementation of a common commercial policy, the expediency of maintaining in force the national agreements should be examined, taking into account the general interests of the Community.

With one or two exceptions, it can be stated in general that provisions negotiated on a multilateral basis such as the most-favoured-nation clause and commitments by Member States under the common commercial and agricultural policies go far beyond the content of a large number of the agreements still in force. Lists of quotas, where they appear, have mostly lapsed.

It may thus be concluded that the importance of formally maintaining these agreements in force is more psychological and political than commercial.

In this respect the Commission may exercise discretion since, as a result of the consultation and according to Article 3 of the Decision of 16.12.1969, it is the Commission's responsibility to judge whether it is opportune to propose the extension of agreements (1).

(1) The text specifies that if there are no obstacles to the implementation of the common policy, the Commission may propose that the Council authorize the Member States to extend their agreements with third countries.

Proposal for
COUNCIL DECISION

~~authorizing the express or tacit extension~~
of certain trade agreements concluded
between the Member States and third countries

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 Council Decision of 16 December 1969 (1) on the progressive standardization of agreements concerning commercial relations between Member States and third countries and on the negotiations of Community agreements, and in particular Article 3 thereof ;

Having regard to the proposal from the Commission ;

Whereas tacit extension beyond the end of the transitional period has already been authorized in the case of the Agreements listed in the Annex hereto by the Council under its Decision of 28 January 1969 (2), 26 June 1969 (3), 30 June 1969 (4), 15 September 1969 (5), 17 October 1969 (6), 8 December 1969 (7), 20 December 1969 (8), 6 February 1970 (9), 8 June 1970 (10), 13 July 1970 (11), 29 September 1970 (12), 23 November 1970 (13), 25 October 1971 (14), 18 October 1972 (15) and 22 October 1973 (16) ;

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| (1) OJ n° L 326 du 29.12.1969, p. 39 | (13) OJ n° L 262 du 3.12.1970, p. 18 |
| (2) OJ n° L 43 du 20.2.1969, p. 15 | (14) OJ n° L 248 du 9.11.1971, p. 7 |
| (3) OJ n° L 159 du 1.7.1969, p. 20 | (15) OJ n° L 250 du 6.11.1972, p. 1 |
| (4) OJ n° L 169 du 10.7.1969, p. 2 | (16) OJ n° L 301 du 30.10.1973, p. 30 |
| (5) OJ n° L 238 du 23.9.1969, p. 9 | |
| (6) OJ n° L 266 du 24.10.1969, p. 32 | |
| (7) OJ n° L 323 du 24.12.1969, p. 10 | |
| (8) OJ n° L 6 du 9.1.1970, p. 1 | |
| (9) OJ n° L 36 du 14.2.1970, p. 29 | |
| (10) OJ n° L 133 du 18.6.1970, p. 14 | |
| (11) OJ n° L 157 du 18.7.1970, p. 29 | |
| (12) OJ n° L 225 du 12.10.1970, p. 24 | |

Whereas the Member States concerned have, with a view to avoiding interruption in their commercial relations with the third countries concerned based on agreement, requested authorization to extend, expressly or tacitly, the above-mentioned Agreements;

Whereas authorization should be granted only to the extent necessary to maintain commercial relations between the Member States and the third countries concerned pending the replacement of the relevant Agreement by Community agreements to be negotiated; whereas such authorization cannot therefore affect the obligation incumbent upon the Member States to avoid, and where appropriate eliminate, any incompatibility between their Agreements and the provisions of Community law;

Whereas, moreover, the provisions of the instruments to be extended must not during the period under consideration constitute an obstacle to the implementation of the common commercial policy;

Whereas the Member States concerned have declared that the express or tacit extension of the Agreements in question would not constitute an obstacle either to the opening of Community negotiations with the third countries concerned to the transfer of the commercial content thereof to Community agreements, nor would it, during the period under consideration, hinder the adoption of the measures necessary to complete the standardization of the import arrangements applied by the various Member States;

Whereas at the conclusion of the consultations provided for in Article 2 of the Decision of 16 December 1969 it was established, as the foresaid declarations by the Member States confirm, that the provisions of the Agreements to be expressly or tacitly extended would not during the period under consideration constitute an obstacle to the implementation of the common commercial policy;

.../...

Whereas in these circumstances the Agreements concerned may be extended, either expressly or tacitly, for a period not exceeding one year;

HAS ADOPTED THIS DECISION :

Article 1

The trade Agreements between Member States and third countries listed in the Annex hereto may be expressly or tacitly extended so as to apply until the dates specified in each case in the said Annex.

Article 2

This Decision is addressed to the Member States.

Done at
For the Council
The President

BILAG - ANHANG - ANNEX - ANNEXE - ALLEGATO - BIJLAGE

Medlemsstat	Tredjeland	Aftalens art og datering	Udløb efter forlængelse	
Mitgliedstaat	Drittland	Art und Datum des Abkommens	Ablauf nach Verlängerung	
Member state	Third country	Type and date of agreement	Extended until	
Etat membre	Pays tiers	Nature et date de l'accord	Echéance après reconduction	
Stato membro	Paese terzo	Natura e dato dell'accordo	Scadenza dopo il rinnovo	
Lid - Staat	Derde land	Aard en datum van het akkoord	Vervaldatum na verlenging	
BENELUX	Grèce	Accord commercial	9. 3.1960	31. 1.1976
	Japon	Accord commercial	8.10.1960	31.12.1975
		Protocoles et Agreed minutes	13. 4.1963	
		Echange de lettres	30. 4.1963	
DANMARK	Argentina	Handels- og betalingsaftale	25.11.1957	31.12.1975
	Elfenbenskysten	Handelsaftale	23.11.1966	9. 1.1976
	Irak	Handelsaftale	13. 1.1960	13. 1.1976
	Israel	Handelsaftale	13.11.1952	13.11.1975
	Østrig	Vareudvekslingsaftale	29.11.1948	28.11.1975
	Portugal	Vareudvekslingsaftale	2. 6.1950	31.12.1975
DEUTSCHLAND	Arabische Republik Ägypten	Abkommen über den Warenverkehr	18. 2.1956	31.12.1975
	Argentinien	Handels- und Zahlungsabkommen	25.11.1957	31.12.1975
	Äthiopien	Wirtschafts- und Handelsabkommen	21. 4.1964	31.12.1975
	Australien	Liste der Einfuhrkontingente		31.12.1975
	Brasilien	Handelsabkommen	1. 7.1955	31.12.1975
	Ceylon	Handelsabkommen	1. 4.1955	31.12.1975
	Chile	Protokoll über Handels- und Zahlungsverkehr	2.11.1956	31.12.1975

Dahome	Wirtschaftsabkommen	19. 6.1961	31.12.1975
Elfenbeinküste	Wirtschaftsabkommen	18.12.1961	31.12.1975
Finnland	Notenwechsel	3.12.1969	2.12.1975
Gabun	Wirtschaftsabkommen	11. 7.1962	31.12.1975
Guinea	Wirtschaftsabkommen	19. 4.1962	31.12.1975
Irak	Handelsabkommen	7.10.1951	13. 1.1976
Japan	Handelsabkommen	1. 7.1960	31.12.1975
Kamerun	Handelsabkommen	8. 3.1962	31.12.1975
Kenia	Wirtschafts- und Handelsabkommen	4.12.1964	31.12.1975
Kongo	Wirtschaftsabkommen	30.10.1962	31.12.1975
Madagaskar	Wirtschaftsabkommen	6. 6.1962	31.12.1975
Malta	Handelsabkommen und Protokoll	29. 2.1964	31.12.1975
Marokko	Handelsabkommen und Briefwechsel	15. 4.1961	} 31.12.1975
	Protokoll	20. 1.1964	
Neuseeland	Handelsabkommen	20. 4.1959	31.12.1975
Niger	Wirtschaftsabkommen	14. 6.1961	31.12.1975
Nigeria	Handelsabkommen	25. 3.1963	31.12.1975
Norwegen	Handelsabkommen	20.12.1950	31. 5.1976
Österreich	Handelsabkommen	13. 5.1954	} 31.12.1975
	Briefwechsel und Protokoll	21. 1.1963	
Obervolta	Wirtschaftsabkommen	8. 6.1961	31.12.1975
Pakistan	Handelsabkommen und Protokoll	9. 3.1957	31.12.1975
Paraguay	Handelsabkommen	25. 7.1955	31.12.1975
Schweiz	Handelsabkommen und spätere Zusatzprotokolle	2.12.1954	31.12.1975
Sambia	Wirtschaftsabkommen	10.12.1966	31.12.1975
Sierra Leone	Wirtschaftsabkommen	13. 9.1963	31.12.1975
Somalia	Handelsabkommen	19. 1.1962	31.12.1975
Südafrika	Liste der Einfuhrkontingente		31. 8.1975
Tansania	Handels- und Wirtschaftsabkommen	6. 9.1962	31.12.1975
Tschad	Wirtschaftsabkommen	31. 5.1963	31.12.1975

FRANCE	Tunesien	Handelsabkommen und Zusatzprotokoll	29. 1.1960 22.12.1963	} 31.12.1975
	Uganda	Handelsabkommen	17. 3.1964	31.12.1975
	Zentralafrika- nische Republik	Wirtschaftsabkommen	29.12.1962	31.12.1975
	Zypern	Handelsabkommen	30.10.1961	31.12.1975
	Argentine	Accord commercial et de paiement	25.11.1957	31.12.1975
	Autriche	Accord commercial et protocole	26. 7.1963	31.12.1975
	Espagne	Accord commercial	27.11.1963	31.10.1975
	Iran	Accord commercial et échange de lettres	4. 6.1959 28. 2.1969	} 31.12.1975
	Islande	Accord économique	6.12.1951	31.12.1975
	Israël	Accord commercial Protocole Echange de lettres	10. 7.1953 16. 1.1967 24.12.1968	} 31.12.1975
	Japon	Accord commercial et protocole Protocole	14. 5.1963 26. 7.1966	} 10. 1.1976
	Mexique	Accord commercial	11. 7.1950	28.11.1975
	Norvège	Accord commercial Protocole Echange de lettres	3.7.1951 2.4.1960 6.2.1964	} 31.12.1975
	Portugal	Arrangement commercial	25.3.1961	31.12.1975
	Suède	Accord commercial	3. 3.1949	31.12.1975
IRELAND	Suisse	Accord commercial	21.11.1967	31.12.1975
	Turquie	Accord commercial	31. 8.1946	31.12.1975
	Yougoslavie	Accord commercial Protocole	25. 1.1964 6. 5.1970	} 31.12.1975
	Norway	Trade agreement	2. 7.1951	31.12.1975

ITALIA	Afghanistan	Accordo commerciale	10.12.1960	23.11.1975
	Argentina	Accordo commerciale e scambio di note	25.11.1957	31.12.1975
	Canada	Modus vivendi commerciale	28. 4.1948	31.12.1975
	Costa Rica	Modus vivendi commerciale e Scambio di note	20. 2.1953 23. 6.1953	12.11.1975
	Giappone	Agreed minutes	31.12.1969	30. 9.1975
	Guatemala	Modus vivendi commerciale	6. 6.1936	31.12.1975
	Irak	Accordo commerciale	30. 9.1963	30.11.1975
	Malta	Accordo commerciale	28. 7.1967	31.12.1975
	Marocco	Accordo commerciale Protocollo	28. 1.1961 24. 2.1965	31.12.1975
	Messico	Accordo commerciale Protocollo Scambio di note	15. 9.1949 28.10.1963 20. 7.1965	31.12.1975
	Pakistan	Accordo commerciale	10. 1.1961	10. 1.1976
	Paraguay	Accordo commerciale	8. 7.1959	23. 1.1976
	Portogallo	Accordo commerciale e scambio di note Scambio di lettere	4. 3.1961 30.12.1961	31.12.1975
	Repubblica araba d'Egitto	Protocollo commerciale	29.4.1959	31.12.1975
	Siria	Accordo commerciale	10.11.1955	31.12.1975
	Stati Uniti	Scambio di note	19.10.1966	30. 9.1975
	Tunisia	Accordo commerciale e protocolle addi- zionale	23.11.1961 2. 8.1963	31.12.1975

NEDERLAND	Arabische Republiek			
	Egypte	Handelsovereenkomst	21. 3.1953	31.12.1975
	Argentinië	Handels- en betalings- overeenkomst	25.11.1957	31.12.1975
	Turkije	Handelsakkoord	6. 9.1949	31.12.1975
UEBL	Argentine	Accord commercial et de paiement	25.11.1957	31.12.1975
	Finlande	Accord commercial	8.11.1955	30. 9.1975
	Pakistan	Accord commercial	15. 3.1962	31.12.1975
UNITED KINGDOM	Cameroon	Agreement on commer- cial and economic cooperation with protocol and exchange of letters	29. 7.1963	31.12.1975
	Spain	Trade and payments agreement extended by exchanges of notes ending with that of	23. 6.1948 19/25.6.1952	31.12.1975

