

**COUNCIL DIRECTIVE 98/93/EC****of 14 December 1998****amending Directive 68/414/EEC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 103a(1) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

- (4) Whereas it is important that the security of oil supply is enhanced;
  - (5) Whereas it is necessary that the organisational arrangements for oil stocks do not prejudice the smooth running of the internal market;
  - (6) Whereas the provisions of this Directive do not affect the full application of the Treaty, in particular the provisions concerning the internal market and competition;
  - (7) Whereas, in accordance with the principle of subsidiarity and in accordance with the principle of proportionality as stipulated in Article 3b of the Treaty, the objective of maintaining a high level of security of oil supply in the Community through reliable and transparent mechanisms based on solidarity amongst Member States and, at the same time, complying with the rules of the internal market and competition, can be carried out more adequately at the level of the Community; whereas this Directive does not exceed what is necessary to achieve this objective;
  - (8) Whereas it is necessary that stocks are at the disposal of Member States should difficulties in oil supply arise; whereas Member States should possess the powers and the capacity to control the use of stocks so that they can be made available promptly for the benefit of the areas which most need oil supplies;
  - (9) Whereas organisational arrangements for the maintenance of stocks should ensure the stocks' availability and their accessibility to the consumer;
  - (10) Whereas it is appropriate that organisational arrangements for the maintenance of stocks are transparent, ensuring a fair and non-discriminatory sharing of the burden of the stock-holding obligation; whereas, therefore, information relating to the cost of holding oil stocks may be made available by Member States to interested parties;
- (1) Whereas the Council adopted Directive 68/414/EEC of 20 December 1968 imposing an obligation on Member States of the European Economic Community to maintain minimum stocks of crude oil and/or petroleum products <sup>(4)</sup>;
  - (2) Whereas imported crude oil and petroleum products continue to play an important role in the Community's energy supplies; whereas any difficulty, even temporary, having the effect of reducing supplies of such products, or significantly increasing the price thereof on international markets, could cause serious disturbances in the economic activity of the Community; whereas the Community must be in a position to offset or at least to diminish any harmful effects in such a case; whereas it is necessary to update Directive 68/414/EEC adapting it to the reality of the internal market of the Community and the evolution of the oil markets;
  - (3) Whereas in Directive 73/238/EEC <sup>(5)</sup> the Council decided upon appropriate measures — including drawing on oil stocks — to be taken in the event of difficulties in the supply of crude oil and petroleum products to the Community; whereas Member States have undertaken similar obligations in the Agreement on an 'International Energy Programme';

<sup>(1)</sup> OJ C 160, 27. 5. 1998, p. 18.

<sup>(2)</sup> OJ C 359, 23. 11. 1998.

<sup>(3)</sup> Opinion delivered on 10-11 September 1998 (not yet published in the Official Journal).

<sup>(4)</sup> OJ L 308, 23.12.1968, p. 14. Directive as amended by Directive 72/425/EEC (OJ L 291, 28.12.1972, p. 154).

<sup>(5)</sup> OJ L 228, 16. 8. 1973, p. 1.

- (11) Whereas, in order to organise the maintenance of stocks, Member States may have recourse to a system based on a stockholding body or entity which will hold all, or part, of the stocks making up their stockholding obligation; whereas the balance, if any, should be maintained by refiners and other market operators; whereas partnership between the Government and the industry is essential to operate efficient and reliable stockholding mechanisms;
- (12) Whereas indigenous production contributes in itself to security of supply; whereas the oil market evolution can justify an appropriate derogation from the obligation to maintain oil stocks for Member States with indigenous oil production; whereas, in accordance with the principle of subsidiarity, Member States may exempt undertakings from the obligation to maintain stocks in respect of an amount not exceeding the quantity of products which those undertakings manufacture from indigenously produced crude oil;
- (13) Whereas it is appropriate to adopt approaches which are already followed by the Community and the Member States within their international obligations and agreements; whereas, owing to changes in the pattern of oil consumption, international aviation bunkers have become an important component of this consumption;
- (14) Whereas there is a need to adapt and simplify the Community statistical reporting mechanism concerning oil stocks;
- (15) Whereas oil stocks can, in principle, be held anywhere in the Community and, therefore, it is appropriate to facilitate the establishment of stocks outside national territory; whereas it is necessary that decisions for holding stocks outside national territory are taken by the Government of the Member State concerned according to its needs and supply security considerations; whereas in the case of stocks held at the disposal of another undertaking, or body/entity, more detailed rules are needed to guarantee their availability and accessibility in the event of oil supply difficulties;
- (16) Whereas it is desirable, in order to ensure the smooth running of the internal market, to promote the use of agreements between Member States concerning minimum stockholding in order to further the use of storage facilities in other Member States; whereas it is for the Member States concerned to take the decision to conclude such agreements;
- (17) Whereas it is appropriate to strengthen the administrative supervision of stocks and establish efficient mechanisms for the control and verification of stocks; whereas a regime of sanctions is necessary to impose such a control;
- (18) Whereas Directive 72/425/EEC raised from 65 to 90 days the reference period appearing in the first paragraph of Article 1 of Directive 68/414/EEC and laid down the conditions to implement this increase; whereas that Directive has been rendered obsolete by this Directive; whereas Directive 72/425/EEC should therefore be repealed;
- (19) Whereas it is appropriate to inform the Council on a regular basis on the situation concerning security stocks in the Community,
- HAS ADOPTED THIS DIRECTIVE:
- Article 1*
- Directive 68/414/EEC is hereby amended as follows:
1. Article 1 shall be replaced by the following:
- 'Article 1*
1. Member States shall adopt such laws, regulations or administrative provisions as may be appropriate in order to maintain within the European Community at all times, subject to the provisions of Article 7, their stocks of petroleum products at a level corresponding, for each of the categories of petroleum products listed in Article 2, to at least 90 days' average daily internal consumption in the preceding calendar year referred to in Article 4.
2. That part of internal consumption met by derivatives of petroleum produced indigenously by the Member State concerned may be deducted up to a maximum of 25 % of the said consumption. The distribution within the Member States of the result of such a deduction shall be decided by the Member State concerned.'
2. Article 2 shall be deleted;
3. the existing Article 3 shall become Article 2 and shall be supplemented by the following paragraph:
- 'Bunker supplies for sea-going vessels shall not be included in the calculation of internal consumption.'