

described in Annex C, or

(b) any other form of aid, the main purpose or effect of which is to frustrate the benefits expected from the removal or absence of duties and quantitative restrictions on trade between Member States.

2. If the application of any form of aid by a Member State, although not contrary to paragraph 1 of this Article, frustrates the benefits expected from the removal or absence of duties and quantitative restrictions on trade between Member States and provided that the procedure set out in paragraphs 1 to 3 of Article 31 has been followed, the Council may, by majority decision, authorise any Member State to suspend to the Member State which is applying the aid, the application of such obligations under this Convention as the Council considers appropriate.

3. The Council may decide to amend the provisions of this Article and of Annex C.

ARTICLE 14

Public undertakings

1. Member States shall ensure the progressive elimination, during the period from 1st July, 1960 to 31st December, 1966 2, in the practices of public undertakings, of 1 Introduced by Council Decision No. 15 of 1987 (14th December, 1987) and entered into force

1st July, 1988.

2 As amended by Council Decision No. 10 of 1963 (10th May, 1963).

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(a) measures the effect of which is to afford protection to domestic production which would be inconsistent with this Convention if achieved by means of a duty or charge with equivalent effect, quantitative restriction or government aid, or

(b) trade discrimination on grounds of nationality in so far as it frustrates the benefits expected from the removal or absence of duties and quantitative restrictions on trade between Member States.

2. In so far as the provisions of Article 15 are relevant to the activities of public undertakings, that Article shall apply to them in the same way as it applies to other enterprises.

3. Member States shall ensure that new practices of the kind described in paragraph 1 of this Article are not introduced.

4. Where Member States do not have the necessary legal powers to control the activities of regional or local government authorities or enterprises under their control in these matters, they shall nevertheless endeavour to ensure that those authorities or enterprises comply with the provisions of this Article.

5. The Council shall keep the provisions of this Article under review and may decide to amend them.

6. For the purposes of this Article, "public undertakings" means central, regional, or local government authorities, public enterprises and any other organisation by means of which a Member State, by law or in practice, controls or appreciably influences imports from, or exports to, the territory of a Member State.

ARTICLE 15

Restrictive business practices

1. Member States recognise that the following practices are incompatible with this

Convention in so far as they frustrate the benefits expected from the removal or absence of duties and quantitative restrictions on trade between Member States:

(a) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises which have as their object or result the prevention, restriction or distortion of competition within the Area of the Association;

(b) actions by which one or more enterprises take unfair advantage of a dominant position within the Area of the Association or a substantial part of it.

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2. If any practice of the kind described in paragraph 1 of this Article is referred to the Council in accordance with Article 31, the Council may, in any recommendation in accordance with paragraph 3 or in any decision in accordance with paragraph 4 of that Article, make provision for publication of a report on the circumstances of the matter.

3. (a) In the light of experience gained, the Council shall consider not later than 31st December, 1964, and may consider at any time thereafter, whether further or different provisions are necessary to deal with the effects of restrictive business practices or dominant enterprises on trade between Member States.

(b) Such review shall include consideration of the following matters:

(i) specification of the restrictive business practices or dominant enterprises with which the Council should be concerned;

(ii) methods of securing information about restrictive business practices or dominant enterprises;

(iii) procedures for investigations;

(iv) whether the right to initiate inquiries should be conferred on the Council.

(c) The Council may decide to make the provisions found necessary as a result of the review envisaged in sub-paragraphs (a) and (b) of this paragraph.

ARTICLE 16

Establishment

1. Member States recognise that restrictions on the establishment and operation of economic enterprises in their territories by nationals of other Member States should not be applied, through accord to such nationals of treatment which is less favourable than that accorded to their own nationals in such matters, in such a way as to frustrate the benefits expected from the removal or the absence of duties and quantitative restrictions on trade between Member States.

2. Member States shall not apply new restrictions in such a way that they conflict with the principle set out in paragraph 1 of this Article.

3. Member States shall notify to the Council, within such period as the Council may decide, particulars of any restrictions which they apply in such a way that nationals of another Member State are accorded in their territories less favourable treatment in respect of the matters set out in paragraph 1 of this Article than is accorded to their own nationals.

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4. The Council shall consider not later than 31st December, 1964, and may consider