

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

at any time thereafter, whether further or different provisions are necessary to give effect to the principles set out in paragraph 1 of this Article, and may decide to make the necessary provisions.

5. Nothing in this Article shall prevent the adoption and enforcement by a Member State of measures for the control of entry, residence, activity and departure of aliens where such measures are justified by reasons of public order, public health or morality, or national security, or for the prevention of a serious imbalance in the social or demographic structure of that Member State.

6. For the purposes of this Article:

(a) "nationals" means, in relation to a Member State,

(i) physical persons who have the nationality of that Member State, and

(ii) companies and other legal persons constituted in the territory of that Member State in conformity with the law of that State and which that State regards as having its nationality, provided that they have been formed for gainful purposes and that they have their registered office and central administration, and carry on substantial activity, within the Area of the Association;

(b) "economic enterprises" means any type of economic enterprise for production of or commerce in goods which are of Area origin, whether conducted by physical persons or through agencies, branches or companies or other legal persons.

ARTICLE 17

Dumped and subsidised imports

1. Nothing in this Convention shall prevent any Member State from taking action against dumped or subsidised imports consistently with its other international obligations.

2. Any products which have been exported from the territory of one Member State to the territory of another Member State and have not undergone any manufacturing process since exportation shall, when re-imported into the territory of the first Member State, be admitted free of quantitative restrictions and measures with equivalent effect. They shall also be admitted free of customs duties and charges with equivalent effect, except that any allowance by way of drawback, relief from duty or otherwise, given by reason of the exportation from the territory of the first Member State, may be recovered.

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3. If any industry in the territory of any Member State is suffering or is threatened with material injury as the result of the import of dumped or subsidised products into the territory of another Member State, the latter Member State shall, at the request of the former Member State, examine the possibility of taking such action as is consistent with its international obligations to remedy the injury or prevent the threatened injury.

ARTICLE 18

Security exceptions

1. Nothing in this Convention shall prevent any Member State from taking action which it considers necessary for the protection of its essential security interests, where such action

(a) is taken to prevent the disclosure of information,

(b) relates to trade in arms, ammunition or war materials or to research,