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COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

**COUNCIL DIRECTIVE**

**imposing an obligation on Member States to maintain minimum stocks of crude oil  
and/or petroleum products**

(presented by the Commission)

{SEC(2008) 2858}

{SEC(2008) 2859}

## **EXPLANATORY MEMORANDUM**

### **CONTEXT OF THE PROPOSAL**

#### **Grounds for and objectives of the proposal**

The March 2007 European Council underlined the need to enhance the security of supply for the EU as a whole and for each Member State, inter alia by developing more effective crisis response mechanisms. It highlighted in this context the need to review EU oil stocks mechanisms, with special reference to the availability of oil in the event of a crisis, stressing complementarity with the crisis mechanism of the International Energy Agency (IEA).

The mandate of the European Council confirms the Commission's view that the weaknesses of the current system need to be addressed. Though no particular system in a Member State has to date demonstrably failed to provide for adequate supplies in case of crisis nor has been ruled as inadequate e.g. by the ECJ, the number and character of infringement proceedings in specific instances cast strong doubts on current practices, especially when considered together with other circumstantial evidence of possible irregularities in the current system found e.g. through IEA and/or Commission activities and/or assessments.

In particular, analysis of the current system reveals flaws which might prevent it from functioning suitably in case of an actual supply disruption. There are doubts whether the present systems could guarantee that the stocks held for emergencies would be fully available and could be effectively mobilised as needed. The EU also lacks coordinated intervention procedures, rendering prompt decision making and effective actions, which are crucial in a crisis, very difficult in practice. Better adaptation to the internationally accepted rules of the IEA also seems desirable because this would allow the use of EU stocks to have a better impact in an IEA action.

As a result of these flaws, the system may not deliver the desired results in a crisis, running the risk of exposing the economy to substantial damage. In view of the important role oil plays in modern economies and societies, the costs would be enormous, as evidenced in the impact assessment. Under these circumstances, waiting for hard proof would be irresponsible.

The current system is also prone to free riding: Member States with possibly less reliable systems can count on countries with sound arrangements. This however compromises the emergency preparedness of the EU as a whole.

The overall objective of the revision is to further strengthen the system while at the same time optimising the administrative obligations on Member States. The emergency response system needs to be brought more into line with the European Union's needs concerning its readiness to react to oil supply disruptions, should they occur, efficiently and in a fully coordinated manner.

#### **General context**

Oil is the most important energy source in the EU and the economy is crucially dependent on its continuous, reliable and affordable supply. In the light of high and increasing import dependence, security of oil supply is particularly important.

The EU must be in a position to offset or at least diminish any harmful effects resulting from possible supply disruptions. Experience shows that the release of emergency oil stocks is the easiest and fastest way of making large volumes of additional oil and/or petroleum products available to an undersupplied market, thereby alleviating market shortage and mitigating negative impacts on the economy.

In recent years the risk of oil supply disruptions has grown for a number of reasons. Current global trends, coupled with the EU's internal development (such as successive enlargements, completion of the internal market, decreasing indigenous production) are all factors calling for updating of the existing EU stock legislation created 40 years ago.

In 2002, the Commission proposed a directive to increase the volume of stocks to be maintained in each Member State to 120 days and to give the EU the possibility to decide how these stocks are used, not only in the event of a physical disruption but also in the event of a perceived risk which would trigger dangerous market volatility. The Commission faced much resistance in the European Parliament and the Council and subsequently decided to withdraw the proposal.

### **Existing provisions in the area of the proposal**

- Council Directive 2006/67/EC of 24 July 2006 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, OJ L 217, 8.8.2006, p. 8;
- Council Decision 68/416/EEC of 20 December 1968 on the conclusion and implementation of individual agreements between Governments relating to the obligation of Member States to maintain minimum stocks of crude oil and/or petroleum products, OJ L 308, 23.12.1968, p. 19;
- Council Directive 73/238/EEC of 24 July 1973 on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products, OJ L 228, 16.8.1973, p. 1.
- The proposed directive would replace all the above three pieces of legislation.

Directive 2006/67/EC is a codified version replacing Council Directive 68/414/EEC and Council Directive 98/93/EC amending it.

### **Consistency with other policies and objectives of the Union**

This proposal is fully consistent with the objectives of the Union, especially those concerning the establishment of an internal market, solidarity among Member States and the sustainable development of Europe based on balanced economic growth and price stability.

The proposal is also consistent with the climate and energy policy, one of the pillars of which is the security of energy supply.

## **CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

### **Consultation of interested parties**

#### *Consultation methods, main sectors targeted and general profile of respondents*

A public consultation was carried out between April and June 2008 to ascertain the views of all interested parties on possible revision of the existing legislation on emergency oil stocks. The consultation was based on a document outlining the key issues in the current regime that in the Commission's view need to be addressed and suggesting possible changes to the current legislation. In addition to several companies and industry associations, seventeen Member States submitted their contributions.

Apart from the on-line public consultation, the main platforms for the consultation of stakeholders were the Oil Supply Group and the Fossil Fuels (also known as Berlin) Forum. In addition to these structured dialogues, Member States, the stakeholder community and external experts were consulted through several informal meetings. The IEA was also a vital source of information and external expertise.

### Summary of responses and how they have been taken into account

Most stakeholders supported the objectives of the revision spelled out in the consultation document. In particular, efforts to ease the administrative burden, establish coherent emergency procedures complementary to those of the IEA and strengthen compliance through reinforced verification and control received general support. However, the stakeholder community, both Member States and industry, proved divided on the proposals aimed at improving stock availability. While some stakeholders insisted that all emergency stocks should be government-owned to ensure maximum availability, others argued that Member States should be able to adapt their systems to their special circumstances.

The majority of stakeholders opposed the idea of a strict physical separation of emergency stocks and commercial stocks, arguing for commingling (storing emergency and commercial stocks in the same facilities or even the same tanks) with a view to optimising cost and location. However, proper accounting and strict control was advocated to ensure that commingled emergency stocks are not used for commercial purposes.

#### **Collection and use of expertise**

The expertise feeding into the impact assessment and the legislative proposal was collected through numerous formal and informal consultations and meetings held during 2007 and 2008. Members of the Oil Supply Group answered two dedicated questionnaires: one on the composition and availability of emergency oil stocks, the other on the resources used for emergency stockholding under the current rules.

No external contractor was involved in preparing the impact assessment or the legislative proposal.

#### **Impact assessment**

Four options were considered in the accompanying impact assessment, and the outcome can be summarised as follows.

##### *Option 0: No policy change*

With no policy change, effective EU-wide emergency preparedness cannot be guaranteed. This gives cause for concern since supply disruptions might become more frequent and significant in the future.

##### *Option 1: Reinforcing control and coordination mechanisms within the existing system*

This option would not entail a change to current stockholding arrangements but would introduce a reinforcement of public control of the availability of emergency stocks and of emergency mechanisms. While enabling some improvements, such an approach would not allow the full range of current shortcomings to be tackled, making it impossible to create a consistently robust system across the EU. Reinforced controls could help to detect cases of non-compliance but the underlying causes of insufficient stock availability would not be addressed.

##### *Option 2: Establishing a centralised EU system with mandatory state/public ownership of emergency stocks*

This option would require that all 90 days of dedicated emergency stocks are state-owned, managed by an agency, possibly controlled at EU level, and held separately from commercial stocks. Such stocks would unquestionably be available for emergency purposes, but some of the benefits associated with commingling (automatic turnover of stocks, stocks closer to consumers) would be lost. This option would represent a significant change to the current stockholding system of most Member States, with substantial public expenditure. This may

not be justified by the experience of past disruptions and may be questioned from the point of view of proportionality and subsidiarity.

*Option 3: Creating dedicated EU emergency stocks within a revised version of the existing system*

Requiring Member States to hold an obligatory portion of emergency stocks in the form of government- or agency-owned stocks would result in ‘dedicated’ stocks unquestionably available as supplementary volumes in case of a disruption; levels much lower than 90 days would be sufficient to cope with disruptions such as those experienced in the past. Member States would have considerable flexibility in choosing how to satisfy the rest of the stockholding obligation. Most Member States are reasonably close to complying with this option. This option provides reasonable protection against supply disruptions while, in line with the proportionality principle, leaving scope for national decisions.

## **LEGAL ELEMENTS OF THE PROPOSAL**

### **Summary of the proposed action**

While Option 3 is clearly the preferred option for the Commission, the results of the stakeholder consultations and impact assessment seem not to make it possible for the Commission to impose the constitution of dedicated stocks in an obligatory fashion at present. The Commission proposal therefore builds on this option while leaving the constitution of dedicated stocks at the discretion of Member States for the moment. Rules for reinforced control are proposed and, in the event of stocks not complying with certain criteria, annual reporting on the location and ownership of stocks will help to verify that such stocks are at the full disposal of Member States. A review clause will enable the Commission to assess after a period of time whether Member States not constituting dedicated stocks are applying alternative solutions giving convincing assurance of reliability.

The constitution of part of stocks as stocks specifically composed of products and owned by government or an agency is highly desirable, especially in the context of the proposed alignment of the general stockholding obligations of Member States with those under IEA rules. This alignment will bring more coherence into the EU system of oil stocks and facilitate interaction with the IEA. It will also simplify compliance and reduce the administrative burden for Member States, particularly those currently facing a dual obligation on the basis of their membership of both the EU and the IEA. It can, however, also lead to looser specifications for stockholding practices and should therefore be offset by public ownership and administration of at least part of the emergency stocks, as is the case e.g. in the US, Japan or Korea.

The proposed legislation will also create more flexibility for Member States in choosing the specific arrangements for complying with the stockholding obligations. Member States will gain the possibility to delegate between themselves the execution of some of their stockholding obligations. On the other hand, should a Member State choose to impose a stockholding obligation on companies, the companies will be given the right to delegate their obligation to a central stockholding entity. This option will remove some types of potential discrimination between categories of operators and will allow eradication of the problematic use of ‘ticket’ contracts and burdensome bilateral agreements. The proposal provides for rules and procedures to be followed in case of an IEA-led action and in emergency situations when no IEA action is implemented. The EU will be able to contribute better to an IEA action: IEA member countries will be able to participate without explicit Commission approval while the Commission will coordinate the contribution of non-IEA Member States.

Finally, the proposed rules will allow audits/inspections of emergency stocks to be carried out by or on behalf of the Commission.

### **Legal basis**

The legal basis for the proposal is Article 100 of the Treaty establishing the European Community.

### **Subsidiarity principle**

Community action will better achieve the objectives of the proposal for the following reasons.

Energy security is a public good and — given the existence of the internal market — the benefits of the stocks released in a crisis cannot be limited to a single country. The internal market ensures that any stock released can flow freely to any buyer EU-wide. The benefits from releasing stocks will not be captured by a single country but by the EU as a whole. As a result, if the emergency systems adopted by individual Member States are too diverse and provide different levels of preparedness and reliability, this may lead to reduced efficiency and a free rider problem.

Since oil markets are global, any disruptions to oil supply — whether occurring in one or more Member States or outside the EU — will have repercussions for all Member States. Furthermore, in integrated economies such as the EU internal market, the level of emergency preparedness of any single Member State will influence the level of preparedness of the Union as a whole. If minimum requirements are imposed throughout the EU, it may be easier to avoid the emergence of a problem or to cope with a disruption.

It must also be kept in mind that several Member States are not members of the IEA, which has a mandate to tackle global disruptions. The European Commission takes part in the work of the agency, but full EU participation in an IEA action can be guaranteed only through an EU mechanism involving Member States that are not members of the IEA.

The above arguments all mean that the objective of maintaining a high level of security in the supply of oil and petroleum products within the EU can be best achieved in a coordinated way.

### **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

This proposal does not go beyond what is necessary in order to achieve the objectives. Member States will continue to have considerable flexibility in choosing the stockholding arrangements and the composition of the stocks, with due regard to their geographical situation, refining capacities and other relevant factors.

The proposal does not prescribe the details of the stockholding arrangements to be established by Member States. It merely defines the criteria with which the emergency stocks must comply. Some of the proposed provisions are aimed at reducing the administrative burden on Member States and economic operators.

### **Choice of instruments**

Proposed instrument: directive.

The instrument proposed is a directive to be implemented by the Member States. A directive is the appropriate instrument as it clearly defines the objectives to be reached, while leaving Member States sufficient flexibility to implement it in the way that suits their particular national circumstances best.

## **BUDGETARY IMPLICATION**

The proposal will have a limited impact on the Community budget, in particular to cover expenditure on information technology and, should the Commission so decide, expenditure on audits or inspections of emergency stocks.

No major direct and unavoidable impact is foreseen for the budgets of Member States.

## **ADDITIONAL INFORMATION**

### **Simplification**

The legal framework for emergency stocks in the EU and rules relating to their use are currently dispersed across three distinct pieces of EU legislation. Under the proposal, these would be replaced by a single legislative act.

By aligning the stockholding obligation with that of the IEA, the proposal also provides for the simplification of Member States' administrative procedures.

### **Review clause**

After three years, the Commission may propose that part of the emergency stocks of each Member State is to be owned by the government or an agency.



Proposal for a

## **COUNCIL DIRECTIVE**

### **imposing an obligation on Member States 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 100 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 European Economic and Social Committee<sup>3</sup>,

After consulting the European Data Protection Supervisor<sup>4</sup>,

Whereas:

- (1) The supply of crude oil and petroleum products to the Community remains very important, particularly for the transport sector and the chemicals industry.
- (2) The increasing concentration of production, dwindling oil reserves and growing worldwide consumption of petroleum products are all contributing to an increased risk of supply difficulties.
- (3) The European Council underlined the need to enhance security of supply for the EU as a whole and for each Member State, inter alia by reviewing the EU's oil stocks mechanisms, with special reference to the availability of oil in the event of a crisis<sup>5</sup>.
- (4) That objective requires, among other things, greater convergence between the Community system and the system provided for by the International Energy Agency (hereinafter 'the IEA').
- (5) Under Council Directive 2006/67/EC of 24 July 2006 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products<sup>6</sup>, stocks are calculated on the basis of average daily inland consumption during the previous calendar year. However, stockholding obligations under the Agreement on an International Energy Programme of 18 November 1974 (hereinafter 'the IEA Agreement') are calculated on the basis of net imports of oil and petroleum products. For that reason, and owing to other differences in methodology, the way in which

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</sup> European Council Action Plan (2007-2009), Energy Policy for Europe, Annex I to document 7224/07 (Brussels European Council 8/9 March 2007, Presidency Conclusions), point 3.

<sup>6</sup> OJ L 217, 8.8.2006, p. 8.

stockholding obligations and Community emergency stocks are calculated should be brought more into line with the calculation methods used under the IEA Agreement.

- (6) Indigenous production of oil can in itself contribute to security of supply and could therefore provide justification for oil-producing Member States to hold lower stocks than other Member States. A derogation of that kind cannot, however, result in stockholding obligations that differ substantially from those that apply under Directive 2006/67/EC. It therefore follows that the stockholding obligation for certain Member States should be set on the basis of inland oil consumption and not on the basis of imports.
- (7) The Presidency Conclusions of the Brussels European Council of 8 and 9 March 2007 show that it is becoming increasingly vital and pressing for the Community to put in place an integrated energy policy, combining action at European and Member State level<sup>7</sup>. It is therefore essential to ensure greater convergence between the stockholding mechanisms in place in the various Member States.
- (8) The availability of oil stocks and the safeguarding of energy supply are essential elements of public security for Member States and for the Community. The existence of central stockholding entities or services in the Community brings those goals closer. Where oil stocks may be held in any location across the Community and by any central entity or service set up for that purpose, prohibiting their use for commercial purposes is sufficient to allow the various Member States concerned to make optimum use of national law to define the terms of reference for their central stockholding entities while easing the financial burden placed on final consumers as a result of such stockholding activities.
- (9) Given the objectives of the Community legislation on oil stocks, possible security concerns which may be expressed by some Member States and the desire to make mechanisms for solidarity amongst Member States more rigorous and more transparent, central entities acting without an intermediary must be restricted to operating within national boundaries.
- (10) It should be possible for oil stocks to be held at any location across the Community. Consequently, economic operators on which such stockholding obligations fall must be able to discharge their obligation by delegating it to any one of the central stockholding entities. Furthermore, if that obligation is delegated with payment of an amount limited to the cost of the services provided by a freely chosen central stockholding entity located within the Community, the risk of discriminatory practices at national level will be reduced.
- (11) Member States should ensure full availability of all stocks held pursuant to Community legislation. In order to guarantee that availability, there should be no restrictions or limitations on the right of ownership of those stocks. Petroleum products owned by companies facing a significant risk of enforcement proceedings against their assets should not be taken into account. Where a stockholding obligation has been imposed on operators, initiation of bankruptcy or settlement proceedings may be considered to demonstrate the existence of such a risk.
- (12) In view of what is required in connection with setting up emergency policies, convergence among national stockholding mechanisms and the need to ensure a better

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<sup>7</sup> Doc. 7224/07, point 36.

overview of stock levels, particularly in the event of a crisis, Member States and the Community must have the means for reinforced control of those stocks.

- (13) The fact that a substantial part of those stocks is owned by the Member States or the central entities set up by the various national authorities means that it would be possible to increase the level of control and transparency, at least for that part of the stocks.
- (14) To help enhance security of supply in the Community, the stocks, known as 'dedicated stocks', purchased by the Member States or the central entities and constituted on the basis of decisions taken by the Member States should correspond to actual needs in the event of a crisis. They should also have separate legal status to ensure full availability should such a crisis occur. To that end, the Member States concerned should ensure that appropriate steps are taken to protect those stocks unconditionally against all enforcement measures.
- (15) At this stage, the volumes to be owned by the central entities or the Member States should be set at a level determined independently and voluntarily by each of the Member States concerned.
- (16) Given the need to increase the level of control and transparency, Member States should be subject to increased monitoring requirements with regard to emergency stocks that are not dedicated stocks and, in certain cases, should be required to notify measures governing the availability of emergency stocks and any changes in the arrangements for maintaining them.
- (17) Directive 2006/67/EC has made a significant contribution to the creation and organisation of oil stocks at individual Member State level, but does not require separate accounting where stocks form part of commercial oil stocks or oil stocks held for operational reasons. In such cases, stock transparency should therefore be increased.
- (18) The frequency with which stock summaries are drawn up and the deadline for their submission, as laid down by Directive 2006/67/EC, seem to be out of step with the various oil stock systems that have been set up in other parts of the world. In a resolution on the macroeconomic impact of the increase in the price of energy, the European Parliament voiced its support for more frequent reporting<sup>8</sup>.
- (19) In order to prevent double reporting with regard to the information to be provided by Member States on the different product categories, Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics should serve as a point of reference for the different categories of petroleum products covered by this Directive.
- (20) In order to enhance security of supply, provide the markets with fuller information, reassure consumers about the state of oil stocks and optimise the way in which information is transmitted, provision must be made for possible subsequent amendment or clarification of the rules for the preparation and submission of statistical summaries.
- (21) With the same objectives in mind, the preparation and submission of statistical summaries should also be extended to stocks other than emergency stocks and dedicated stocks, with those summaries to be submitted on a weekly basis.

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<sup>8</sup> Doc. 2006/2247, point 36.

- (22) Biofuels and certain additives are often blended with petroleum products. When blended with those products, it should be possible to take them into account both when calculating the stockholding obligation and when calculating the stocks held.
- (23) As there may be errors or discrepancies in the summaries submitted to the Commission, the Commission's employees or authorised agents should be able to verify the existence of the stocks and the documents used by the authorities of the Member States.
- (24) Complex electronic and statistical data processing should be carried out for the data received or collected. This requires the use of integrated tools and procedures. The Commission should therefore be able to take all appropriate measures to that effect, in particular developing new computer systems.
- (25) The protection of individuals with regard to the processing of personal data by the Member States is governed by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>9</sup>, while the protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>10</sup>. In particular, those Acts require the processing of personal data to be justified by a legitimate purpose and stipulate that any personal data gathered accidentally must be deleted immediately.
- (26) It is desirable to allow the Member States concerned to fulfil any obligations they may be subject to as a result of a decision to release stocks taken pursuant to the IEA Agreement or its implementing measures.
- (27) Council Directive 73/238/EEC of 24 July 1973 on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products<sup>11</sup> is intended, in particular, to offset, or at least to diminish, the adverse effects of any difficulties, even temporary, having the effect of considerably reducing supplies of crude oil or petroleum products, including the serious disruption to the economic activity of the Community that such a reduction could cause. This Directive should include similar measures.
- (28) Directive 73/238/EEC also aims to set up a consultative body to facilitate the coordination of practical measures taken or proposed by the Member States in this field. Such a body should be provided for in this Directive. It remains necessary for each Member State to draw up a plan that could be used in the event of difficulties arising in the supply of crude oil and petroleum products. Each Member State should also make arrangements with regard to the organisational measures to be taken in the event of a crisis.
- (29) Given that no compulsory standard minimum level has been set at Community level for dedicated stocks and in view of the number of new mechanisms set up by this Directive, its implementation should be reviewed relatively soon after its entry into force.

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<sup>9</sup> OJ L 281, 23.11.1995, p. 31.

<sup>10</sup> OJ L 8, 12.1.2001, p. 1.

<sup>11</sup> OJ L 228, 16.8.1973, p. 1.

- (30) This Directive replaces or covers all of the aspects dealt with in Council Decision 68/416/EEC of 20 December 1968 on the conclusion and implementation of individual agreements between Governments relating to the obligation of Member States to maintain minimum stocks of crude oil and/or petroleum products<sup>12</sup>. That Decision therefore no longer serves any purpose.
- (31) Since the objective of the proposed action, namely to maintain a high level of security of oil supply in the Community through reliable and transparent mechanisms based on solidarity amongst Member States while complying with the internal market and competition rules, cannot be achieved satisfactorily by Member States but, owing to the scale and impact of that action, can be better achieved at Community level, the Community may adopt measures by virtue of the principle of subsidiarity, as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (32) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>13</sup>.
- (33) Directives 73/238/EEC and 2006/67/EC and Decision 68/416/EEC should therefore be repealed,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

##### *Objective*

This Directive lays down rules aimed at ensuring a high level of security of oil supply in the Community through reliable and transparent mechanisms based on solidarity amongst Member States, maintaining minimum stocks of oil or petroleum products and putting in place the necessary procedural means to deal with a serious shortage.

#### *Article 2*

##### *Definitions*

For the purposes of this Directive:

- (a) ‘reference year’ means the calendar year of the consumption or import data used to calculate either the stocks to be held or the stocks actually held at a given time;
- (b) ‘additives’ means non-hydrocarbon compounds added to or blended with a product to modify its properties;
- (c) ‘biofuel’ means liquid or gaseous fuel for transport produced from biomass, ‘biomass’ being the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;

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<sup>12</sup> OJ L 308, 23.12.1968, p. 19.

<sup>13</sup> OJ L 184, 17.7.1999, p. 23.

(d) ‘inland consumption’ means the total quantities delivered within a country for both energy and non-energy use, including deliveries to electrical power stations for transformation and deliveries to households, industry or transport for ‘final’ consumption;

(e) ‘effective international decision to release stocks’ means any current decision taken by the Governing Board of the International Energy Agency to release a Member State’s stocks of oil or petroleum products;

(f) ‘central stockholding entity’ means the body or service upon which powers may be conferred to act, without intermediary, within the territory of a given Member State to acquire, maintain or sell dedicated stocks in that territory;

(g) ‘major supply disruption’ means a substantial and unforeseen drop in the supply of crude oil or petroleum products to the Community or to a Member State, irrespective of whether or not it has led to an effective international decision to release stocks;

(h) ‘international marine bunkers’ means the aggregate defined in Section 2.1 of Annex A to Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics;

(i) ‘oil stocks’ means stocks of crude oil or petroleum products as defined in the first paragraph of Section 3.1 of Annex C to Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics;

(j) ‘emergency stocks’ means the oil stocks that each Member State is required to maintain pursuant to Article 3 of this Directive;

(k) ‘commercial stocks’ means those oil stocks held by economic operators which are not a requirement under this Directive;

(l) ‘dedicated stocks’ means oil stocks that meet the criteria set out in Article 9.

The definitions set out in this Article may be clarified or amended in accordance with the regulatory procedure referred to in Article 24(2).

### *Article 3*

#### *Emergency stocks – Calculating stockholding obligations*

1. Member States shall adopt such laws, regulations or administrative provisions as may be appropriate in order to ensure, by 31 December 20XX<sup>14</sup>, that the total oil stocks maintained at all times within the European Community for their benefit correspond, at the very least, to 90 days of net imports or 70 days of consumption, whichever of the two quantities is greater.

2. The net imports to be taken into account shall be calculated on the basis of the average crude oil equivalent of daily imports during the previous calendar year, determined in accordance with the method and procedures set out in Annex I.

The consumption to be taken into account shall be calculated on the basis of the crude oil equivalent of average daily inland consumption during the previous calendar year, established and calculated in accordance with the method and procedures set out in Annex II.

3. However, notwithstanding paragraph 2, net imports and consumption, as referred to in that paragraph, shall be determined, from 1 January to 31 March of each calendar year, on the

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<sup>14</sup> This will be 31 December of the second calendar year following the year of adoption of this Directive.

basis of the quantities imported or consumed during the last year but one before the current calendar year.

4. The methods and procedures for calculating stockholding obligations, as referred to in this Article, may be amended in accordance with the regulatory procedure referred to in Article 24(2).

#### *Article 4*

##### *Calculating stock levels*

1. The levels of stocks held shall be calculated using the methods set out in Annex III. When calculating stock levels for each category held pursuant to Article 9, those methods shall apply only to the products in the category in question.

2. The levels of stocks held at a given time shall be calculated using data from the calendar year that corresponds to the reference year determined as stipulated in Article 3.

3. The methods and procedures for calculating stock levels, as referred to in paragraphs 1 and 2, may be amended in accordance with the regulatory procedure referred to in Article 24(2).

#### *Article 5*

##### *Availability of stocks*

1. Member States shall ensure that emergency stocks and dedicated stocks, within the meaning of Article 9, which are held within their national territory are physically accessible and available at all times. They shall establish arrangements for the identification, accounting and control of those stocks so as to allow them to be verified at any time. For emergency stocks and dedicated stocks that form part of or are commingled with stocks held by economic operators, separate accounts must be kept.

Member States shall, in particular, take all necessary measures to prevent emergency stocks and dedicated stocks from being used as collateral or for any other securities-related purpose. Emergency stocks and dedicated stocks may not be encumbered by any financial or legal charges whatsoever.

2. Where there is reason to implement the emergency procedures provided for in Article 21, Member States shall take the necessary measures to enable any other Member State for which they hold emergency stocks or dedicated stocks within their national territory to decide, in such circumstances, on the allocation, transportation and release of the stocks in question.

#### *Article 6*

##### *Register of emergency stocks – Annual report*

1. Each Member State shall keep and continually update a detailed register of all emergency stocks held for its benefit which do not constitute dedicated stocks within the meaning of Article 9. That register shall contain, in particular, all the information needed to pinpoint the exact location of the stocks in question and to determine the quantities involved, the owner of the stocks and their exact nature, with reference to the categories identified in the first paragraph of Section 3.1 of Annex C to Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics.

Within 30 days of the end of each calendar year, Member States shall send the Commission a copy of the stock register showing the stocks existing on the last day of the calendar year in question.

Member States shall also send the Commission a copy of the register within eight days of a request by the Commission. Such requests may be made no later than 10 years after the date to which the requested data relate.

2. Each Member State that has not undertaken to maintain dedicated stocks within the meaning of Article 9 shall draw up an annual report analysing the measures taken by its national authorities to ensure and verify the availability of its emergency stocks and setting out any developments in the institutional and organisational arrangements for maintaining both national emergency stocks and emergency stocks held within its territory on behalf of other Member States. That report shall be sent to the Commission within three months of the end of the calendar year to which it relates.

## *Article 7*

### *Setting up central stockholding entities*

1. Member States may set up central stockholding entities.

However, where Member States impose stockholding obligations on economic operators operating on the domestic market, they shall be required to set up a central stockholding entity.

No Member State may set up more than one central stockholding entity or any other similar body. A Member State may set up its central stockholding entity at any location within the Community.

The central stockholding entity shall take the form of a non-profit making body or service and shall not be considered to be an economic operator within the meaning of this Directive.

2. The main purpose of the central stockholding entity shall be to acquire, maintain and sell oil stocks within the national territory of the Member State that set it up. It is the only body or service upon which powers may be conferred to act, without intermediary, within the territory of the Member State that set it up to acquire, maintain or sell dedicated stocks within the meaning of Article 9.

With the exception of the acquisition and sale of dedicated stocks, central stockholding entities may make arrangements with economic operators for them to undertake tasks relating to the management of oil stocks, provided that any such delegations relate to oil stocks held within the territory of the Member State that set up the central stockholding entity in question. Tasks thus delegated may not be subdelegated.

3. No central stockholding entity may acquire, constitute, maintain or manage emergency stocks outside the national territory of the Member State that set it up, unless an agreement delegates those tasks to the Member State within whose territory those stocks are located or to the central stockholding entity set up by that Member State.

No Member State may acquire, constitute, maintain or manage emergency stocks outside its own territory, unless an agreement delegates these tasks to the Member State within whose territory those stocks are located or to the central stockholding entity set up by that Member State.

4. Each Member State shall require its central stockholding entity to:



- (a) publish, on an ongoing basis, full information, broken down by product category, on the stock volumes that it can undertake to maintain for economic operators pursuant to Article 8;
- (b) publish, at least six months in advance, the conditions subject to which it offers these services to economic operators.

## *Article 8*

### *Delegations by economic operators*

1. Each Member State shall ensure that any economic operators on which it imposes stockholding obligations in order to fulfil its obligations under Article 3 are given the right to delegate those obligations in whole or in part, at the choice of the operator:

- (a) to the central stockholding entity of the Member State concerned, or
- (b) to one or more other central stockholding entities capable of maintaining such stocks, or
- (c) to other economic operators which have surplus stocks within the territory of the Member State that imposed the stockholding obligations, on the basis of an agreement to be signed with those operators.

Obligations delegated in accordance with point (c) in the first subparagraph may not be subdelegated.

Member States shall take the necessary measures to prohibit economic operators from delegating their stockholding obligations in any other way.

2. Economic operators shall exercise their right to delegate stockholding obligations that have been imposed on them no later than 80 days prior to the start of the period to which the obligation in question relates, unless they were informed of that obligation less than 100 days before the start of the period concerned.

Where economic operators are informed less than 100 days before the start of the period to which the stockholding obligation relates, they may exercise their right to delegate that obligation at any time.

3. Each Member State shall require the central stockholding entity it set up to receive, in objective, transparent and non-discriminatory conditions, all delegation requests sent by economic operators by virtue of paragraph 1, within the limits of its stockholding capacities within national territory and subject to a payment which shall not exceed the costs of the services rendered.

4. A Member State's central stockholding entity may not refuse delegation requests which exceed its stockholding capacities within the national territory where such requests are made by an economic operator on which that Member State has imposed a stockholding obligation.

5. Where an economic operator on which a Member State has imposed a stockholding obligation delegates that obligation to the central stockholding entity of the Member State in question, that Member State shall make the necessary arrangements to ensure that the stocks can be maintained by its central stockholding entity, if necessary by creating new stockholding capacity within its national territory corresponding to that required by the delegation request.

Where it is necessary to build or upgrade new storage facilities for the purpose, neither the Member State that imposed the stockholding obligation nor its central stockholding entity may require payment from the economic operator until the work has been completed and the stocks constituted.

## Article 9

### *Creating dedicated stocks*

1. Each Member State may irrevocably undertake to maintain a minimum level of oil stocks, calculated in terms of number of days of consumption, in accordance with the conditions set out in this Article (hereinafter ‘dedicated stocks’).

Emergency stocks held pursuant to Article 3 may form part of the stocks held pursuant to this Article.

2. Dedicated stocks shall be owned by the Member State or the central stockholding entity set up by it.

3. Dedicated stocks cover only the following product categories, as defined in Section 4 of Annex B to Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics:

- Refinery gas (not liquefied)
- Ethane
- LPG
- Motor gasoline
- Aviation gasoline
- Gasoline-type jet fuel (naphtha-type jet fuel or JP4)
- Kerosene-type jet fuel
- Other kerosene
- Gas/diesel oil (distillate fuel oil)
- Fuel oil (high sulphur content and low sulphur content)
- White spirit and SBP
- Lubricants
- Bitumen
- Paraffin waxes
- Petroleum coke

4. Petroleum products constituting dedicated stocks shall be identified by each Member State on the basis of the categories listed in paragraph 3. Member States shall ensure that, for the products included in the categories used, the total crude oil equivalent of inland consumption is at least equal to 80% of inland consumption for the reference year determined according to the rules laid down in Article 3, as calculated using the method set out in Annex II.

For each of the categories chosen by the Member State, the dedicated stocks it undertakes to maintain shall be measured on the basis of their crude oil equivalent and shall correspond to a given number of days of average daily inland consumption during the reference year, as calculated using the method set out in the third and fourth paragraphs of Annex II, restricted to the category in question.

5. Each Member State that has decided to maintain dedicated stocks shall send the Commission notification, to be published in the Official Journal of the European Union, specifying the level of the dedicated stocks that it has irrevocably undertaken to maintain

permanently for each category. There shall be no compulsory minimum level other than the one thus notified, and it shall be applied in the same way for all categories of dedicated stocks used by the Member State.

The Member State may increase the minimum level that applies to all categories of its dedicated stocks, in which case it shall send the Commission a new notification stating the increased level, which shall be published in the Official Journal.

6. By the date of publication of each of those notifications, the Member State concerned shall adopt such laws, regulations or administrative provisions as may be appropriate in order to ensure that stocks are held permanently at the notified level for each category that forms part of its dedicated stocks.

## *Article 10*

### *Managing dedicated stocks*

1. Each Member State shall keep and continually update a detailed register of all dedicated stocks held within its national territory. That register shall contain, in particular, all information needed to pinpoint the exact location of the stocks in question.

Member States shall also send the Commission a copy of the register within eight days of a request by the Commission. Such requests may be made no later than 10 years after the date to which the requested data relate.

2. Where dedicated stocks are commingled with other oil stocks, Member States shall make the necessary arrangements to prevent commingled products from being moved without prior written authorisation by the authorities of the Member State in whose territory the stocks are located.

3. Member States shall take the necessary measures to confer unconditional immunity from enforcement action on all dedicated stocks maintained or transported within their territory, irrespective of whether those stocks are owned by them or by other Member States.

4. With the exception of the acquisition and sale of stocks, Member States may make arrangements with economic operators for them to undertake tasks relating to the management of dedicated stocks located within their national territory. Tasks thus delegated may not be subdelegated.

## *Article 11*

### *Agreements between Member States and central stockholding entities with regard to dedicated stocks*

Member States and their central stockholding entities may entrust tasks relating to the management of dedicated stocks outside their national territory only to other Member States or central stockholding entities. Any such delegation shall be made for a limited period and any tasks thus delegated may not be subdelegated.

## *Article 12*

### *The effect of delegations and agreements*

The delegations referred to in Articles 7, 8 and 10 and the agreements referred to in Article 11 shall in no way alter the obligations incumbent upon each Member State pursuant to this Directive.

### *Article 13*

#### *Statistical summaries of stocks covered by Article 3*

1. With regard to the levels of stocks to be held pursuant to Article 3, each Member State shall draw up statistical summaries and submit them to the Commission in accordance with the rules set out in Annex IV.
2. The rules for drawing up the summaries referred to in paragraph 1, their scope, content and frequency and the deadlines for their submission may be amended in accordance with the regulatory procedure referred to in Article 24(2). The rules for submitting those summaries to the Commission may also be amended in accordance with the regulatory procedure referred to in Article 24(2).
3. Member States may not include quantities of crude oil or petroleum products which are subject to a seizure order or enforcement action in their statistical summaries of emergency stocks. This also applies to stocks owned by companies that are bankrupt or have entered into an arrangement with creditors.

### *Article 14*

#### *Statistical summaries of dedicated stocks*

1. Each Member State concerned shall draw up and submit to the Commission a statistical summary, for each product category, showing the dedicated stocks existing on the last day of each calendar month and specifying the quantities and the number of days of average consumption in the reference year which those stocks represent. If some of those dedicated stocks are held outside a Member State's national territory, it shall provide details of the stocks maintained in or by the various Member States and central stockholding entities concerned. It shall also provide a detailed indication of whether it owns all of those stocks or whether they are owned, in whole or in part, by its central stockholding entity.
2. Each Member State concerned shall also draw up and submit to the Commission a summary of the dedicated stocks located within its national territory and owned by other Member States or central stockholding entities, showing the stocks existing on the last day of each calendar month and broken down into the product categories identified pursuant to Article 9(4). In that summary, the Member State shall also indicate, in each case, the Member State or central stockholding entity concerned and the quantities involved.
3. The statistical summaries referred to in paragraphs 1 and 2 shall be submitted during the calendar month following that to which they relate.
4. Copies of the statistical summaries shall also be sent immediately upon request by the Commission. Such requests may be made no later than 10 years after the date to which the data in question relate.
5. The scope, content and frequency of the statistical summaries and the deadlines for their submission may be amended in accordance with the regulatory procedure referred to in Article 24(2). The rules for submitting those summaries to the Commission may also be amended in accordance with the regulatory procedure referred to in Article 24(2).

### *Article 15*

#### *Summaries of commercial stocks*

1. Member States shall send the Commission a weekly statistical summary of the levels of commercial stocks held within their national territory. When doing so, they shall ensure that sensitive data are protected and shall abstain from mentioning the names of the owners of the stocks concerned.
2. Using aggregate levels, the Commission shall publish a weekly statistical summary of the commercial stocks in the Community on the basis of the summaries submitted by the Member States.
3. The Commission shall establish rules for the implementation of paragraphs 1 and 2 in accordance with the regulatory procedure referred to in Article 24(2).

#### *Article 16*

##### *Data processing*

The Commission shall be responsible for developing, hosting, managing and maintaining the IT resources needed to receive, store and carry out any processing of the data provided in the statistical summaries, all other information submitted by Member States or gathered by the Commission pursuant to this Directive and any data on oil stocks gathered pursuant to Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics and needed for the purpose of drawing up the summaries required by this Directive.

#### *Article 17*

##### *Biofuels and additives*

1. When calculating stockholding obligations under Articles 3 and 9 and when calculating the stock levels actually maintained, biofuels and additives shall be taken into account only where they have been blended with the petroleum products concerned.
2. The rules for taking biofuels and additives into account when calculating stockholding obligations and stock levels, as laid down in paragraph 1, may be amended in accordance with the regulatory procedure referred to in Article 24(2).

#### *Article 18*

##### *Coordination Group for oil and petroleum products*

1. A Coordination Group for oil and petroleum products is hereby set up (hereinafter the 'Coordination Group'). The Coordination Group shall contribute to analysing the situation within the Community with regard to security of supply for oil and petroleum products and facilitate the coordination and implementation of measures in that field.
2. The Coordination Group shall be made up of representatives of the Member States. It shall be chaired by the Commission. Representative bodies from the sector concerned may take part in the work of the Coordination Group at the invitation of the Commission.

#### *Article 19*

##### *Commission controls*

1. The Commission may at any time decide to carry out checks on emergency stocks and dedicated stocks in the Member States. The Commission may ask the Coordination Group for advice when preparing those checks.

2. The objectives of the checks referred to in paragraph 1 may not include gathering personal data. Any personal data found or uncovered during those checks may not be gathered or taken into consideration and, if gathered accidentally, shall be destroyed immediately.

3. Information gathered pursuant to this Article may be forwarded to the Coordination Group and any representative bodies from the sector concerned which are taking part in its work.

Officials, agents and other persons working under Commission supervision and members of the Coordination Group may not disclose any information which has been gathered or exchanged pursuant to this Article and which, by its nature, is covered by professional secrecy, such as the identity of the owners of the stocks. This obligation also applies to all representatives and experts from the Member States and to representatives from the sector concerned who are attending meetings of the Coordination Group pursuant to Article 18.

4. Member States shall ensure that, when the checks referred to in paragraph 1 are being carried out, those responsible for maintaining and managing emergency stocks and dedicated stocks within their national territory cooperate with the Commission's employees or authorised agents.

5. Member States shall recognise the right of the Commission's employees or authorised agents to carry out any checks relating to stocks maintained pursuant to this Directive and shall ensure, in particular, that they are granted the right to consult all documents and registers relating to those stocks and have permanent right of access to all sites on which they are held.

6. Member States shall ensure that their authorities offer every assistance to the Commission's employees or authorised agents while they are carrying out their checks.

7. Member States shall take the necessary measures to ensure that all data, records, summaries and documents relating to emergency stocks and dedicated stocks are kept for a period of at least 10 years.

#### *Article 20*

##### *Protection of individuals with regard to the processing of data*

This Directive leaves intact and in no way affects the level of protection of individuals with regard to the processing of personal data under the provisions of Community and national law and, in particular, does not alter Member States' obligations with regard to the processing of personal data, as laid down by Directive 95/46/EC, or the obligations incumbent upon Community institutions and bodies under Regulation (EC) No 45/2001 with regard to the processing of personal data by them in the course of their duties.

#### *Article 21*

##### *Emergency procedures*

1. Member States shall take such measures as may be necessary to enable their competent authorities to release some or all of their emergency stocks and dedicated stocks in the event of a major supply disruption and to impose general or specific restrictions on consumption in line with the estimated shortages, including by allocating petroleum products to certain groups of users on a priority basis.

2. Member States shall at all times have contingency plans to be implemented in the event of a major supply disruption and shall provide for organisational measures to be taken to allow those plans to be implemented. Upon request, Member States shall immediately send the Commission a copy of their contingency plans and the corresponding organisational arrangements.

3. In the event of an effective international decision to release stocks, the Member States concerned may use their emergency stocks and dedicated stocks to fulfil their international obligations under that decision. Any Member State so doing shall notify the Commission immediately, so that the Commission can call a meeting of the Coordination Group or consult its members by electronic means to assess, in particular, the impact of that release.

4. In the event of difficulties arising in the supply of crude oil or petroleum products to the Community or to a Member State, the Commission shall call a meeting of the Coordination Group as soon as possible, either at the request of a Member State or on its own initiative. The Coordination Group shall examine the situation, and the Commission shall determine whether a major supply disruption has occurred.

If a major supply disruption is deemed to have occurred, the Commission may authorise the release of some or all of the quantities put forward for that purpose by the Member States concerned.

5. In the event of an effective international decision to release stocks, the Commission shall have the right to require Member States to release some or all of their emergency stocks and dedicated stocks. That right may be exercised only after a meeting of the Coordination Group has been held with that item on its agenda.

6. Where paragraphs 3, 4 or 5 are applied, Member States may temporarily hold stocks at levels lower than those stipulated in this Directive. In that case, the Commission shall determine, notably by taking into account the situation on the international oil and petroleum products markets, the time frame within which Member States must bring their stocks back up to the minimum required levels.

7. Decisions taken by the Commission by virtue of this Article shall be without prejudice to any other international obligations on the Member States concerned.

## *Article 22*

### *Penalties*

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take such measures as may be necessary to ensure that they are applied. Such penalties shall be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by 31 December 20XX<sup>15</sup> and shall notify it without delay of any subsequent amendment affecting them.

## *Article 23*

### *Review*

Within three years of the entry into force of this Directive, the Commission shall review its implementation, looking in particular at whether it would be appropriate to require all Member States to hold a compulsory minimum level of dedicated stocks.

## *Article 24*

### *Committee*

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<sup>15</sup> This will be 31 December of the second calendar year following the year of adoption of this Directive.

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

#### *Article 25*

##### *Repeal*

Directive 73/238/EEC, Directive 2006/67/EC and Decision 68/416/EEC are hereby repealed with effect from 31 December 20XX<sup>16</sup>.

References to the repealed Directives and Decision shall be construed as references to this Directive.

#### *Article 26*

##### *Transposition*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 20XX<sup>17</sup> at the latest. They shall forthwith communicate to the Commission the text of those provisions and a table of correlation between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 27*

##### *Entry into force*

This Directive shall enter into force on the 20<sup>th</sup> day following that of its publication in the *Official Journal of the European Union*.

Article 15(1) and (2) shall apply as soon as the implementing rules referred to in paragraph 3 of that Article enter into force.

#### *Article 28*

##### *Addressees*

This Directive is addressed to the Member States.

Done at Brussels,

*For the Council*

*The President*

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<sup>16</sup> This will be 31 December of the second calendar year following the year of adoption of this Directive.

<sup>17</sup> This will be 31 December of the second calendar year following the year of adoption of this Directive.



## ANNEX I

Method for calculating the crude oil equivalent of imports of petroleum products

The crude oil equivalent of imports of petroleum products, as referred to in Article 3, is to be calculated using the following method:

The crude oil equivalent of imports of petroleum products is obtained by calculating the sum of the net imports of crude oil, NGL, refinery feedstocks and other hydrocarbons as defined in Section 4 of Annex B to Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics, adjusting the result to take account of any stock changes, deducting 4% for naphtha yield (or, if the average naphtha yield within the national territory is greater than 7%, deducting the net actual consumption of naphtha or the average naphtha yield) and adding this to the net imports of all other petroleum products excluding naphtha, also adjusted to take account of stock changes and multiplied by a factor of 1.065.

The contents of international marine bunkers are not included in the calculation.

## ANNEX II

Method for calculating the crude oil equivalent of inland consumption

The crude oil equivalent of inland consumption, as referred to in Article 3, is to be calculated using the following method:

Inland consumption, as referred to above, is the sum of the inland consumption of the following products only: motor gasoline, aviation gasoline, gasoline-type jet fuel (naphtha-type jet fuel or JP4), kerosene-type jet fuel, other kerosene, gas/diesel oil (distillate fuel oil) and fuel oil (high sulphur content and low sulphur content) as defined in Section 4 of Annex B to Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics.

The contents of international marine bunkers are not included in the calculation.

The crude oil equivalent of inland consumption is calculated by multiplying by a factor of 1.2.

### ANNEX III

Methods for calculating the level of stocks held

The following methods are to be used to calculate stock levels:

No quantity may be counted as stock more than once.

Crude oil stocks are reduced by 4%, which corresponds to the average naphtha yield.

Stocks of naphtha and petroleum products for international marine bunkers are not included.

Other petroleum products are included in the stock count using one of the two methods set out below. Member States must continue to use the method they have chosen throughout the whole of the calendar year in question.

Member States may either:

(a) include all other stocks of the petroleum products identified in the first paragraph of Section 3.1 of Annex C to Regulation (EC) No \*\*\*\*\* of the European Parliament and of the Council of \*\*\*\*\* on energy statistics and calculate the crude oil equivalent by multiplying the quantities by a factor of 1.065; or

(b) include stocks of only the following products: motor gasoline, aviation gasoline, gasoline-type jet fuel (naphtha-type jet fuel or JP4), kerosene-type jet fuel, other kerosene, gas/diesel oil (distillate fuel oil) and fuel oil (high sulphur content and low sulphur content) and calculate the crude oil equivalent by multiplying the quantities by a factor of 1.2.

The calculation may include quantities held:

- in refinery tanks,
- in bulk terminals,
- in pipeline tankage,
- in barges,
- in intercoastal tankers,
- in oil tankers in port,
- in inland ship bunkers,
- in storage tank bottoms,
- as working stocks,
- by large consumers as required by law or otherwise controlled by governments.

However, those quantities may not be included when calculating levels of dedicated stocks where such stocks are calculated separately from emergency stocks.

The calculation may never include:

(a) crude oil not yet produced,

(b) quantities held:

- in pipelines,
- in rail tank cars,
- in seagoing ships' bunkers,
- in service stations and retail stores,
- by other consumers,
- in tankers at sea,
- as military stocks.

When calculating their stocks, Member States must reduce the quantities of stocks calculated as set out above by 10%. That reduction applies to all quantities included in a given calculation.

Notwithstanding the above, no 10% reduction is to be applied when calculating the level of dedicated stocks or the levels of the different categories of dedicated stocks where those stocks or categories are considered separately from the emergency stocks, particularly with a view to verifying compliance with the minimum levels laid down by Article 9.

## ANNEX IV

Rules for the preparation and submission to the Commission of statistical summaries of stocks to be held pursuant to Article 3

Member States must draw up and submit to the Commission, on a monthly basis, a definitive statistical summary of the level of stocks actually held on the last day of the calendar month, calculated either on the basis of the number of days of net oil imports or on the basis of the number of days of inland oil consumption, in accordance with Article 3. The statistical summary must provide precise details of why the calculation is based on the number of days of imports or, conversely, on the number of days of consumption and must specify which of the calculation methods set out in Annex III was used.

If some of the stocks included when calculating the level of stocks held pursuant to Article 3 are held outside national territory, each summary shall give details of the stocks held by the various Member States and central stockholding entities concerned on the last day of the period to which it relates. In its summary, each Member State must also indicate, in each case, whether the stocks are being held pursuant to a delegation request made by one or more economic operators or whether they are being held at its request or at the request of its central stockholding entity.

For any stocks held by a Member State within its national territory on behalf of other Member States or central stockholding entities, that Member State must draw up and submit to the Commission a summary showing the stocks existing on the last day of each calendar month, broken down by product category. In that summary, the Member State must also indicate, in particular, the Member State or central stockholding entity concerned and the quantities involved in each case.

The statistical summaries referred to in the previous three paragraphs must be submitted to the Commission within 45 days of the end of the month to which they relate. Those same summaries must also be submitted within two months of a request by the Commission. Such requests may be made no later than 10 years after the date to which the data relate.

## LEGISLATIVE FINANCIAL STATEMENT

*This document is intended to accompany and complement the Explanatory Memorandum. As such, when completing this Legislative Financial Statement, and without prejudice to its legibility, an attempt should be made to avoid repeating information contained in the Explanatory Memorandum. Before filling in this template, please refer to the specific Guidelines that have been drafted to provide guidance and clarification for the items below.*

**1. TITLE OF THE PROPOSAL:**

Proposal for a Council Directive imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products

**2. ABM / ABB FRAMEWORK**

Policy area(s) concerned and associated activity/activities:

06: Energy and Transport

06 04: Conventional and renewable energies

**3. BUDGET LINES**

**3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex-BA lines)), including headings:**

06 01 01: Expenditure relating to staff in active employment in the 'Energy and Transport' policy area

06 01 04 03: Conventional energy — Expenditure on administrative management

06 04 03: Security of conventional energy supplies

**3.2. Duration of the action and of the financial impact:**

Start: 2010 End: unspecified

**3.3. Budgetary characteristics (*add rows if necessary*):**

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
	NCE	NDA				
06 01 01	NCE	NDA	None	None	None	<b>No 5</b>
06 01 04 03	NCE	NDA	None	None	None	<b>No 1a</b>
06 04 03	NCE	DA	None	None	None	<b>No 1a</b>

#### 4. SUMMARY OF RESOURCES

##### 4.1. Financial resources

##### 4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to three decimal places)

Expenditure type	Section No		2010	2011	2012	2013	2014	2015 and later	Total
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##### Operational expenditure<sup>18</sup>

Commitment Appropriations (CA)	8.1	a	0.15	0.15	0.15	0.15	0.15	0.15	0.90
Payment Appropriations (PA)		b	0.05	0.20	0.15	0.15	0.15	0.20	0.90

##### Administrative expenditure within reference amount<sup>19</sup>

Technical & administrative assistance (NDA)	8.2.4	c		0.01	0.01	0.01	0.01	0.01	0.05
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##### TOTAL REFERENCE AMOUNT

<b>Commitment appropriations</b>		<b>a+c</b>	<b>0.15</b>	<b>0.16</b>	<b>0.16</b>	<b>0.16</b>	<b>0.16</b>	<b>0.16</b>	<b>0.95</b>
<b>Payment appropriations</b>		<b>b+c</b>	<b>0.05</b>	<b>0.21</b>	<b>0.16</b>	<b>0.16</b>	<b>0.16</b>	<b>0.21</b>	<b>0.95</b>

##### Administrative expenditure not included in reference amount<sup>20</sup>

Human resources and associated expenditure (NDA)	8.2.5	d	0.585	0.829	0.829	0.829	0.829	0.829	4.73
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e		0.07	0.07	0.07	0.07	0.07	0.35

<sup>18</sup> Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

<sup>19</sup> Expenditure within Article xx 01 04 of Title xx.

<sup>20</sup> Expenditure within Chapter xx 01 other than Articles xx 01 04 or xx 01 05.



**Total indicative financial cost of the action**

<b>TOTAL CA including cost of human resources</b>		a+c +d+ e	0.735	1.059	1.059	1.059	1.059	1.059	6.03
<b>TOTAL PA including cost of human resources</b>		b+c +d+ e	0.635	1.109	1.059	1.059	1.059	1.109	6.03

**Part-financing details**

If the proposal involves part-financing by Member States or other bodies (please specify which), an estimate of the level of this part-financing should be provided in the table below (additional lines may be added if different bodies are foreseen for the provision of the part-financing):

*EUR million (to three decimal places)*

Part-financing body		2010	2011	2012	2013	2014	2015 and later	Total
.....	f							
<b>TOTAL CA including part-financing</b>	a+c +d+ e+f							

**4.1.2. Compatibility with financial programming**

- The proposal is compatible with existing financial programming.
- This proposal will entail reprogramming of the relevant heading in the financial perspective.
- This proposal may require application of the provisions of the Interinstitutional Agreement<sup>21</sup> (i.e. flexibility instrument or revision of the financial perspective).

**4.1.3. Financial impact on revenue**

- The proposal has no financial impact on revenue
- Financial impact – the effect on revenue is as follows:

**Note: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.**

*EUR million (to one decimal place)*

	Prior to	
		Situation following action

<sup>21</sup> See points 19 and 24 of the Interinstitutional Agreement.

Budget line	Revenue	action [2009 ]	[201 0]	[201 1]	[201 2]	[201 3]	[201 4]	[2015] <sup>22</sup>
	a) Revenue in absolute terms							
	b) Change in revenue	Δ						

*(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)*

**4.2. Human resources, FTE (including officials, temporary and external staff) – see details under point 8.2.1.**

Annual requirements	2010	2011	2012	2013	2014	2015 and later
Total number of human resources	5	7	7	7	7	7

**5. CHARACTERISTICS AND OBJECTIVES**

Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:

**5.1. Need to be met in the short or long term**

The Directive requires existing IT infrastructure to be updated and new applications to be developed (for commercial stocks). All adjustments to the IT infrastructure will have to be made by the time the Directive enters into force.

**5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy**

The Directive imposes a stockholding obligation on Member States; the Commission must monitor compliance with that obligation. As well as submitting information on the levels of emergency stocks, Member States will also have to notify commercial stock levels.

Oil markets are global, and any disruption of oil supplies will affect all Member States. The EU is responsible for ensuring security of oil supply and must make sure that, under integrated internal market conditions, all Member States have an adequate level of emergency preparedness. This issue should therefore be dealt with at Community level.

<sup>22</sup> Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years.

### 5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

The objective of the proposal is to enhance the emergency oil stocks system and the mechanisms for using such stocks in the event of a crisis. This is expected to guarantee the availability of emergency stocks and to ensure that they can be mobilised when needed, thereby making oil supplies more secure for Europe's consumers. The Directive will help reduce any harmful effects resulting from possible supply disruptions, such as fuel shortages and price increases. The Directive will also contribute to transparency in the oil markets by introducing weekly reporting for commercial stocks.

### 5.4. Method of implementation (indicative)

Show below the method(s)<sup>23</sup> chosen for the implementation of the action.

*Centralised management*

Directly by the Commission

Indirectly by delegation to:

Executive Agencies,

bodies set up by the Communities, as referred to in Article 185 of the Financial Regulation,

national public bodies / bodies with a public service mission.

*Shared or decentralised management*

With Member States

With third countries

*Joint management with international organisations (please specify)*

Relevant comments:

## 6. MONITORING AND EVALUATION

### 6.1. Monitoring system

The Commission will review the implementation of the Directive after three years.

### 6.2. Evaluation

#### 6.2.1. Ex-ante evaluation

Not applicable

#### 6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

Not applicable

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<sup>23</sup> If more than one method is indicated, please provide additional details in the 'Relevant comments' section of this point.

6.2.3. *Terms and frequency of future evaluation*

Not applicable

**7. ANTI-FRAUD MEASURES**

No specific measures are needed. The normal arrangements will apply for contracts and the reimbursement of experts.

## 8. DE TAILS OF RESOURCES

### 8.1. Objectives of the proposal in terms of their financial cost

*Commitment appropriations in EUR million (to three decimal places)*

(Headings of objectives, actions and outputs should be provided)	Type of output	Average Cost	2010		2011		2012		2013		2014		2015 and later		TOTAL	
			Number of outputs	Total cost	Number of outputs	Total cost	Number of outputs	Total cost	Number of outputs	Total cost	Number of outputs	Total cost	Number of outputs	Total cost	Number of outputs	Total cost
OPERATIONAL OBJECTIVE No 1 <sup>24</sup> ...																
<b>Action 1.....</b>																
- Output 1	contract		1	0.15											1	0.15
- Output 2																
<b>Action 2.....</b>																
- Output 1	contract				3	0.15	3	0.15	3	0.15	3	0.15	3	0.15	15	0.75
Sub-total Objective 1																
OPERATIONAL OBJECTIVE No 2...																
<b>Action 1.....</b>																
- Output 1																
Sub-total Objective 2																

<sup>24</sup>

As described under Section 5.3.

OPERATIONAL OBJECTIVE No n																
Sub-total Objective n																
<b>TOTAL COST</b>	contract		1	0.15	3	0.15	3	0.15	3	0.15	3	0.15	3	0.15	16	0.9

## 8.2. Administrative expenditure

### 8.2.1. Number and type of human resources

Type of post		Staff to be assigned to management of the action using existing and/or additional resources ( <b>number of posts/FTEs</b> )					
		2010	2011	2012	2013	2014	2015
Officials or temporary staff <sup>25</sup> (XX 01 0 1)	A*/AD	1.5	2	2	2	2	2
	B*, C*/AS T	3	4.5	4.5	4.5	4.5	4.5
Staff financed <sup>26</sup> by Art. XX 01 02		0.5	0.5	0.5	0.5	0.5	0.5
Other staff financed <sup>27</sup> by Art. XX 01 04/05							
<b>TOTAL</b>		<b>5</b>	<b>7</b>	<b>7</b>	<b>7</b>	<b>7</b>	<b>7</b>

### 8.2.2. Description of tasks deriving from the action

- Verifying implementation of the Directive, gathering, analysing and publishing data on stocks, inspecting/auditing Member States' stocks and emergency systems, infringement proceedings.
- Preparing, organising and following up meetings of the Coordination Group and of the Committee (committee procedure).
- In the event of a disruption, working together with the International Energy Agency to coordinate the measures taken by the Member States.

### 8.2.3. Sources of human resources (statutory)

(When more than one source is stated, please indicate the number of posts originating from each of the sources)

- Posts currently allocated to the management of the programme to be replaced or extended
- 3.5 FTEs are already allocated to tasks relating to the Directive currently in force.
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/PDB procedure
- 3.5 new FTEs are to be requested to carry out additional tasks resulting from the draft Directive: 1.5 FTEs from 2010 and 2 additional FTEs from 2011.

<sup>25</sup> Cost of which is NOT covered by the reference amount.

<sup>26</sup> Cost of which is NOT covered by the reference amount.

<sup>27</sup> Cost of which is included in the reference amount.

- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question



8.2.4. *Other administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

*EUR million (to three decimal places)*

Budget line (number and heading)	2010	2011	2012	2013	2014	2015 and later	TOTAL
<b>1. Technical and administrative assistance (including related staff costs)</b>							
Executive Agencies <sup>28</sup>							
Other technical and administrative assistance							
- <i>intra muros</i>							
- <i>extra muros</i>		0.01	0.01	0.01	0.01	0.01	0.05
<b>Total technical and administrative assistance</b>		0.01	0.01	0.01	0.01	0.01	0.05

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

*EUR million (to three decimal places)*

Type of human resources	2010	2011	2012	2013	2014	2015 and later
Officials and temporary staff (XX 01 01)	0.549	0.793	0.793	0.793	0.793	0.793
Staff financed by Art. XX 01 02 (auxiliary, DNEs, contract staff, etc.) (specify budget line)	0.036	0.036	0.036	0.036	0.036	0.036
<b>Total cost of human resources and associated costs (NOT included in the reference amount)</b>	<b>0.585</b>	<b>0.829</b>	<b>0.829</b>	<b>0.829</b>	<b>0.829</b>	<b>0.829</b>

<sup>28</sup> Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation– **Officials and temporary agents**

Reference should be made to Point 8.2.1, if applicable

Year n: 4.5 officials (EUR 122 000 per official per year)

Year n+1 and later: 6.5 officials (EUR 122 000 per official per year)

Calculation – **Staff financed under Article XX 01 02**

Reference should be made to Point 8.2.1, if applicable

0.5 DNEs (EUR 73 000 per DNE per year)

8.2.6. **Other administrative expenditure not included in the reference amount**

EUR million (to three decimal places)

	2010	2011	2012	2013	2014	2015 and later	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings and conferences							
XX 01 02 11 03 – Committees <sup>29</sup>		0.07	0.07	0.07	0.07	0.07	0.35
XX 01 02 11 04 – Studies and consultations							
XX 01 02 11 05 - Information systems							
<b>2. Total other management expenditure (XX 01 02 11)</b>		0.07	0.07	0.07	0.07	0.07	0.35
<b>3. Other expenditure of an administrative nature</b> (specify, including reference to budget line)							
<b>Total administrative expenditure, other than human resources and associated costs (NOT included in the reference amount)</b>							

Calculation - **Other administrative expenditure not included in the reference amount**

Four Committee meetings planned per year, with 27 delegates and an average cost of EUR 650 per delegate per meeting:  $4 \times 27 \times 650 = \text{EUR } 70\,200$  per year

Human resources and administrative needs will be covered by the managing DG's allocation under the annual allocation procedure in the light of budgetary constraints.

<sup>29</sup> Coordination Group and Committee (committee procedure), as provided for in the proposal for a Directive.