



MEMBERSHIP OF THE EUROPEAN COMMUNITIES

IMPLICATIONS FOR IRELAND

*Laid by the Government before
each House of the Oireachtas,
April, 1970.*

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INTRODUCTION AND SUMMARY

1. Following the Summit meeting of the Heads of State or Government of the member States of the European Communities at The Hague on 1/2 December 1969 there is now a definite prospect of negotiations on the Irish and other applications for membership of the European Communities opening about the middle of this year. A copy of the Communiqué issued after the meeting is attached as Appendix 1. While the Communiqué contains no reference to a specific date for the opening of negotiations, the member States agreed that their preparations should not extend beyond the end of June 1970 and that the negotiations with the applicants could start soon afterwards.

2. Ireland applied for membership of the European Economic Community (EEC) in July 1961 at the same time as the United Kingdom, and for membership of the European Coal and Steel Community (ECSC) in January 1963. Following the breakdown in the discussion on the British application in January 1963, action was also suspended on the applications by Ireland and the other two applicant countries, Denmark and Norway. The four countries reactivated their applications in 1967. Ireland also applied for membership of the European Atomic Energy Community (EURATOM) at that time. In December 1967 the Council of the European Communities failed to agree on the opening of negotiations with the applicant countries; they did, however, decide that the requests for accession should remain on their agenda but no progress was made until the Hague Summit meeting of 1/2 December 1969.

3. The reactivation of Ireland's application for membership was approved by Dáil Éireann on 26 July 1967 following a two-day debate. In a comprehensive statement opening the debate, the Taoiseach indicated in broad terms the main implications for Ireland of membership of the Communities. This White Paper gives a more up-to-date and detailed assessment of these implications. Its purpose is to set out for the information

of the Oireachtas and the general public what membership will involve both for particular sectors and for the country as a whole, to the extent that this can be done at the present time. The assessment is not confined to the economic aspects of membership but covers also constitutional, legal and political implications. The Government hope that the White Paper will encourage informed and constructive discussion of the important issues that arise in relation to our accession to the Communities, bearing in mind that this may take place within a few years. It is particularly desirable that the various economic interests affected should inform themselves as fully as possible of the opportunities and the problems which membership may create for them and prepare in good time for the changes which membership of the Communities will entail.

4. It is not possible to give a precise date for Ireland's accession to the Communities since this depends on such factors as the time taken to complete the negotiations with all the applicants and, assuming the negotiations are successful, on the period necessary to complete the ratification of instruments of accession in the member States and the applicant countries. However, it would not be unreasonable to expect that negotiations and ratification could be completed in time to allow accession to take effect in 1973. It is generally accepted that a transitional period would be necessary to enable the present member States and the acceding countries to adapt themselves to the enlargement of the Communities—in particular, to the elimination of industrial protection as between the present members and the acceding countries, the adoption of the common customs tariff by the acceding countries and the phasing in of their participation in the common agricultural policy. The Commission, in its Opinion of 1 October 1969, suggested that the transitional period should be the same for industry and agriculture, that the duration and rate of progress should be the same for all the countries joining and that exceptional arrangements should be kept to a minimum. Other sectors in which transitional arrangements would be necessary are the free movement of persons, services and capital and the introduction of the principle of equal pay for the same work as between men and women. The duration and application of the transitional period will be settled in the accession negotiations.

5. A detailed account of the provisions of the Treaties establishing the three Communities and of the measures taken in their implementation up to the end of 1966 was given in the White Paper issued by the Government in April 1967, entitled *European Communities*.* A number of the important measures taken since that date relate to the implementation of the EEC common agricultural policy and these are dealt with in a special study entitled *Irish Agriculture and Fisheries in the EEC* which will be issued by the Minister for Agriculture and Fisheries. A brief summary of the other major developments in the implementation of the Treaties since the 1967 White Paper is given in Appendix 2. Where necessary, these developments are set out in greater detail in the text of the present White Paper.

6. In many cases the assessments given in the present White Paper are necessarily incomplete or provisional. There are a number of reasons for this. In some instances a precise indication of the implications might anticipate the position the Government intend to adopt in the accession negotiations; for example, to give an estimate of the scale of Ireland's contribution to the expenses of the Community during the transitional period could be taken as indicating the arrangement which the Government would regard as acceptable for this purpose. In others, the assessment would depend on the outcome of the accession negotiations, in particular the transitional arrangements which would apply. In the case of industry and agriculture, the consequences will in considerable measure be determined not only by the terms of accession but also by the responses of individual firms and producers to the opportunities which will be created by our entry to the Communities. Another factor in the situation is that the Communities are an evolving entity. In a number of important areas decisions may be taken by the present member States which could modify any assessment of the implications for Ireland based on the present stage in the evolution of the Communities. Examples are the reform of agricultural structures in member States, possible changes in the level of the common

*This White Paper is available from the Government Publications Sale Office, GPO Arcade, Dublin 1 (Price 12/-, plus 1/- postage) or through booksellers.

agricultural prices and the eventual level of harmonised rates of added-value tax. It was, therefore, decided in preparing this White Paper that quantified assessments should be published only where these could be based on fairly realistic assumptions.

7. The principal implications which emerge are

—accession to the Communities would involve an amendment of the Constitution;

—as regards the political implications of membership, the EEC is still at an early stage in its political evolution and its members are at present bound only by the terms of the Treaty of Rome, which does not impose specific obligations in the political field. As the Communities evolve towards their political objectives, those participating in the new Europe thereby created must be prepared to play their part in achieving those objectives. Ireland would have a voice in the shaping of the political development of the Communities as in other aspects of their activities;

—for industry in general the expectation is that, while there would inevitably be problems in the shorter term, the gains from EEC membership would be progressive and, in the longer term, would significantly outweigh any losses that might occur. It is expected that access to the enlarged Common Market would considerably enhance the attractions of Ireland as a base for new foreign industrial investment. While our grants for encouraging industrial development would come under review in the Community it is considered that they are in keeping with the objectives of the Treaty;

—membership would provide improved outlets at remunerative prices for most of our agricultural production. The areas of agricultural production which would be most likely to benefit are cattle and beef, milk and dairy products, sheep and lambs. Producers of pigs, poultry and eggs would have to meet higher feed costs but the effects could be offset by more efficient production. Cereals might show a swing from wheat to coarse grains with perhaps no significant overall change in acreage. Production of sugar beet and potatoes might show little change. Horticulture

would be likely to encounter difficulty, due to increased competition from Community supplies;

—it is tentatively estimated that the volume of our gross agricultural output by the latter years of the decade could be of the order of 30-40 per cent over the present level;

—higher prices for agricultural products could result in an increase of 11-16 per cent in food prices which, allowing for some change in the present pattern of consumption, would result in an increase of 3-4½ per cent in the consumer price index; the increase would be spread over the transitional period;

—it is not considered likely that the Treaty requirements for free movement of workers would have any significant effect on the Irish labour market;

—as regards fiscal policy, the main implication is the requirement to introduce the added-value system of sales taxation, which could entail changes in the general tax structure;

—so far as economic and monetary policies are concerned, membership of the Communities would involve the co-ordination of Irish policies with those of the other member States but in general our economic policies are consistent with those of the member States;

—the cost of implementing the principle of equal pay in the private sector cannot be readily estimated. Abolition of sex-differentiation in pay in the public sector would cost £1.25 million per year; if, in consequence, marriage-differentiated scales were to be abolished and related adjustments made in the pay of grades consisting entirely of women, the total cost would exceed £9 million a year;

—it is estimated that Ireland's contribution to the cost of running the Communities could be of the order of £19 million a year as from the end of her transitional period but might well be less. Membership would give rise to a saving of at least £36 million a year in Exchequer support to agriculture.

CHAPTER 1

CONSTITUTIONAL AND LEGAL IMPLICATIONS

Constitutional Implications

1.1 Participation in the European Communities involves the exercise by Community institutions of certain powers previously reserved to the Governments, legislatures and judiciaries of the member States.

1.2 The Treaties establishing the European Economic Community and the European Atomic Energy Community confer on the Council and Commission power to issue regulations and directives and to take decisions. *Regulations* have general application, and are binding in their entirety and take direct effect in each member State. *Directives* impose obligations on the member States to which they are directed. They are binding as to the result to be achieved, while leaving to national authorities the choice of form and methods. *Decisions* are binding in every respect upon those to whom they are addressed.

1.3 Under the Treaty establishing the European Coal and Steel Community the Commission is empowered to take *decisions* which are binding in every respect, and to issue *recommendations* which are binding as to the objectives which they prescribe while leaving to those to whom they are directed the choice of appropriate methods for attaining those objectives.

1.4 Furthermore, the Treaties contain a number of provisions which are directly applicable in national law, e.g. Article 85 of

the EEC Treaty which prohibits various types of restrictive trade practices.

1.5 Among the provisions of the Constitution which have to be considered in this regard are:—

- (i) Article 5 which states that Ireland is a sovereign, independent, democratic state;
- (ii) Article 6.2 which provides that the legislative, executive and judicial powers of government are exercisable only by or on the authority of the organs of State established by the Constitution;
- (iii) Article 15.2 which vests in the Oireachtas the sole and exclusive power of making laws for the State and provides that no other legislative authority has power to make laws for the State.

1.6 The Court of Justice, which is common to all of the Communities, is given a special status under the three Treaties. For example, Article 164 of the EEC Treaty provides that the Court of Justice shall ensure that the law is observed in the interpretation and implementation of the Treaty, and Article 173 entitles any person to have resort to the Court of Justice in respect of regulations or decisions of the Community which affect him. These provisions could be held to be inconsistent with Article 34.1 of the Constitution which provides that "Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution".

1.7 Again, Article 177 of the EEC Treaty provides that, where any question concerning the interpretation of the Treaty, the validity and interpretation of measures taken by the institutions of the Community or the interpretation of the statutes of bodies set up by the Council is raised in a case before a domestic court from whose decision there is no right of appeal under domestic law, that court must refer the matter to the Court of Justice. This provision could be held to be in conflict with

Article 34.4.6° of the Constitution which states that "The decision of the Supreme Court shall in all cases be final and conclusive".

1.8 The EEC Treaty provides for the conclusion of agreements, in some cases on the basis of unanimous vote and in other cases on the basis of majority vote, between the Community and other States and Article 228 lays down that such agreements are binding on member States. These provisions could be held to be in conflict with Articles 29.5.2° and 29.6 of the Constitution which provide, respectively, that the State shall not be bound by any international agreement involving a charge upon public funds unless the terms of the agreement shall have been approved by the Dáil, and that no international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas.

1.9 An Interdepartmental Committee under the chairmanship of the Attorney General has considered the implications of membership of the European Communities with respect to the Constitution and has concluded that an amendment to the Constitution would be necessary to enable the State to undertake membership of the Communities and the obligations arising from such membership.

Legal Implications

1.10 The Treaties establishing the Communities are primarily concerned with economic and commercial activities and related social matters and it is principally in these fields that amendments to our domestic legislation would be necessary. Most other aspects of domestic law would be unaffected by our entry into the European Communities.

1.11 The Attorney General's Committee is examining with the individual Departments the changes which would be

required in our domestic laws in order to adapt them to the provisions of the Treaties and action taken in implementation of these provisions.

CHAPTER 2

POLITICAL IMPLICATIONS

2.1 The political implications of membership of the European Communities can be defined as the effects which it would have on Ireland's national sovereignty, viz. her autonomous powers of decision over domestic and foreign policies. It should be borne in mind that all international co-operation involves some limitation on sovereignty. Even a simple bilateral trade agreement, with its reciprocal commitments, places curbs on the freedom of action of the parties. International agreements to which Ireland is a party, such as the General Agreement on Tariffs and Trade, the Statute of the Council of Europe, the European Convention on Human Rights or the Charter of the United Nations, place obligations on the participating States, some of which involve substantial derogations from sovereignty. For instance, Article 25 of the United Nations Charter binds the Member States to accept and carry out the decisions of the Security Council; under the European Convention on Human Rights, Ireland has accepted the right of individual petition to and the compulsory jurisdiction of the European Court of Human Rights. The scope of the Treaties of Rome and Paris is, however, much wider than that of the usual type of international agreement, and, as indicated in the various chapters of this White Paper, inherent in becoming a party to them is a corresponding range of limitations on the freedom of action of the members.

2.2 The first aim of the Treaty of Rome, as stated in its Preamble, is "to establish the foundations of an ever closer union among the European peoples". Despite the fact that action to bring about the objective of European political union is not formally provided for in the Treaty, there is no doubt that this objective was present in the minds of the authors of the Treaty and that the work of the EEC Commission is oriented towards an essentially political goal. The Commission's

Opinion of October 1969 on the applications for membership of Ireland, Britain, Denmark and Norway stated that the current Treaties of Rome and Paris "are only one step towards the construction of an increasingly united and institutionalised Europe. The applicant countries must be fully aware of the fact that they are not only joining an economic and social undertaking, but that they will be required to participate fully in creating a continent which is economically and politically united". The Heads of State or Government of the six Common Market countries, in the Communiqué issued at the close of the Summit meeting held in The Hague in December 1969 (see Appendix 1) reaffirmed "their belief in the political objectives which give the Community its meaning and purport, their determination to carry their undertaking through to the end, and their confidence in the final success of their efforts".

2.3 It is difficult at present to define in any precise terms what political consequences would ensue from membership of the Communities, since there is no agreement among the Six as to what the political obligations of member States should be, nor is this specified in the Treaties establishing the Communities. Progress in the political development of the Communities has been very slow up to the present time. An effort was made in the direction of political development with the Bonn Declaration of July 1961 in which the Heads of State or Government of the Six recorded their resolve "to develop their political co-operation with a view to the union of Europe". A different approach to political development was embodied in the proposals of the Fouchet Committee of 1961-62, which envisaged a new institution covering foreign policy, defence and cultural matters, with a Council at Head of Government or Foreign Minister level, a Political Commission of high officials and an Assembly of very limited powers. This plan was not adopted.

2.4 The Commission has been urging the institutional development of the Communities, within the context of enlargement. The problems which will arise from the admission of four new member States are fully examined in the Commission's two Opinions of September 1967 and October 1969. Noting the disagreements which then persisted over the budgetary powers and

method of election of the European Parliament, the voting procedure in the Council and the Commission's executive authority, the Opinion of October 1969 stated that—

"the progress of integration has thus been appreciably slowed down and sometimes completely blocked. The delays affecting the Community's relations with the rest of the world, particularly in its commercial policy, and the high cost of certain aspects of the agricultural policy are, to a large extent, a result of these institutional aberrations. And these drawbacks are likely to be even more numerous in an enlarged Community".

Consequently, in order to avoid the Community's achievements being threatened by the effects of enlargement, the Commission urged the strengthening of the Community institutions and also stressed "that the cohesion and the dynamism which are indispensable for the Community depend in part on the convergence of the national policies of the member States, in particular, but not exclusively, of their foreign and defence policies".

2.5 At the Hague Summit meeting already referred to, the Heads of State or Government of the Six instructed the Foreign Ministers to study the best way of achieving progress in the matter of political unification, within the context of enlargement, and to report before the end of July 1970.*

2.6 It will be seen from the foregoing that the EEC is still at a very early stage in its political evolution and its members are at present bound only by the general terms of the Treaty of Rome, which do not impose specific obligations on member States in the political field. In this situation it is not possible to be more precise now about the political implications of membership which may evolve. The Government have clearly indicated our acceptance of the aims of the Treaty of Rome and our readiness to join with the member States of the EEC

*Following a discussion by the Foreign Ministers of the Six on 6 March 1970, a group of senior officials of the member States is to continue study of the question of political unification up to the end of May when the Foreign Ministers will again meet to discuss it.

in working towards the realisation of these aims. It is recognised that, as the Communities evolve towards their political objectives, those participating in the new Europe thereby created must be prepared to assist, if necessary, in its defence. As a member of the expanded Communities, Ireland would be playing her part in shaping their political development and, therefore, would have a voice in all the decisions to be taken in this field, as in other aspects of the Communities' activities.

CHAPTER 3

REPRESENTATION ON THE INSTITUTIONS OF THE COMMUNITIES

3.1 The enlargement of the Communities to admit the four applicant countries would involve changes in the composition of the Communities' institutions to allow for the representation of and participation by the new member countries in the institutions. It would also necessitate, in the case of the Council, the introduction of a new system of weighted voting and qualified majority to replace the system prescribed in the Treaties. The main institutions concerned are the European Parliament, the Council, the Commission and the European Court of Justice, which are common to the three Communities. The Economic and Social Committee, which is common to the EEC and EURATOM, assists the Council and Commission in a consultative capacity.

The European Parliament

3.2 Provision would require to be made, on the enlargement of the Communities, for the nomination by the Parliaments of the new member countries of delegates to the European Parliament. The total number of delegates at present provided for is 142 apportioned among the member States as follows:—

Belgium	14
France	36
Germany	36
Italy	36
Luxembourg	6
Netherlands	14
	<hr/>
	142
	<hr/>

3.3 Each member State has twice the number of seats in the European Parliament that it has in the Consultative Assembly of the Council of Europe. The distribution of seats in the Consultative Assembly is largely based on the populations of the countries which are members of the Council of Europe and, under this system, Ireland has 4 seats, Britain 18 and Denmark and Norway 5 each. The revised apportionment among member States of the enlarged Communities of delegates to the European Parliament will be a matter to be settled in the accession negotiations.

3.4 The procedure for the nomination of delegates is left to each member State. The European Parliament submitted proposals to the Council in 1960, in accordance with the Treaty, for the direct election of its members on the basis of universal suffrage. No progress has been made on the adoption by member States of the proposals which provide, *inter alia*, for the number of members to be trebled to 426.

The Council

3.5 The Council consists of a representative of the Government of each member State. The Foreign Ministers of the member States are generally regarded as their countries' chief representatives on the Council but the Ministerial representation may vary according to the subjects under discussion. Upon the admission of the four applicant countries to the Communities, the Council would have to be increased from six to ten to allow for representation of each of the new members including Ireland.

3.6 The introduction of a new system of weighted voting and qualified majority on matters relating to the EEC and EURATOM would consequentially be necessary. Under the EEC and EURATOM Treaties certain decisions are taken by the Council unanimously and others by qualified majority vote.* For the latter purpose, the member States have been allotted the following weighted votes:—

*In this connection see paragraphs 35 and 36 of the White Paper of April 1967.

France, Germany, Italy	4 each
Belgium, Netherlands	2 „
Luxembourg	1

—————
Total 17

The qualified majority has been prescribed as

- 12 votes in cases where the Treaty requires a decision to be taken on a proposal by the Commission;
- 12 votes cast in favour by at least four members in all other cases.

Each of the new member States would have to be allotted a weighted vote and, in the working out of the new system, the votes of the present member States might have to be altered. The qualified majority would also require adaptation. The new system will be a matter to be settled in the accession negotiations. Some changes might also be necessary in the Council's voting procedures on matters relating to the European Coal and Steel Community (see paragraph 643 of the 1967 White Paper).

The Commission

3.7 The Executives of the three Communities were merged into a single Commission as from 1 July 1967. Prior to the merger, the EEC Commission had a membership of nine which was increased to fourteen in the merged Commission. The Treaty for the merger of the Councils and the Executives provides for a Commission membership of fourteen until the entry into force of a Treaty establishing a single European Community or, at the latest, for a period of three years, and for a reduction then to nine members. The number of Commission members can be changed by unanimous decision of the Council. Only nationals of the member States can be appointed to the Commission. Not more than three nationals of any member State can be members of the Commission of fourteen. For the Commission of nine members it is stipulated that at least one and not more than two nationals of each member State should be members.

3.8 The changes necessary in the membership of the Commission consequent on the enlargement of the Communities will be a matter to be settled in the accession negotiations. The Commission, in its Opinion dated 1 October 1969, expressed the view that it would not be politically feasible at the present stage of development of the Communities to envisage an arrangement under which the Commission would not include nationals of all member States.

3.9 The members of the Commission are appointed by mutual agreement between the Governments of the member States.

The Court of Justice

3.10 The Court of Justice at present consists of seven judges. The Treaties provide that they shall be chosen from persons whose independence can be fully guaranteed and who fulfil the conditions required for the exercise of the highest judicial functions in their respective countries or who are legal experts of universally recognised and outstanding ability. The judges are appointed by mutual agreement between the Governments of the member States for a term of six years but they are eligible for reappointment. The Treaties contain no provision for the appointment of judges on the basis of nationality. In practice, however, at least one national of each member State is appointed a judge. A consideration in the agreement among member States that a national of each of them should be appointed to the Court was that, since the national law of a member State would be involved in practically all cases heard by the Court, there should be at least one judge well versed in the system of law concerned.

3.11 With the admission of the four applicant countries to the Communities, the question would arise of an increase in the membership of the Court and the appointment of judges well versed in the systems of law of the new member States. The suitability of judges appointed from the new member States would be assessed by reference to the criteria prescribed in the Treaties and the appointments would require the agreement of all the member States. The question of increasing the membership of the Court will be settled in the accession negotiations.

The Economic and Social Committee

3.12 The Economic and Social Committee, which is a consultative body, represents various categories of economic and social activity, in particular, producers, farmers, transport operators, workers, merchants, artisans, the professions and the general interest. The Committee consists of 101 members allotted as follows among member States:—

France, Germany, Italy	...	24	each
Belgium, Netherlands	...	12	„
Luxembourg	...	5	

The members are appointed by the Council in their personal capacity. The appointments are for four years and are renewable. Member States submit lists, containing twice as many names as they have seats allotted to them, and appointments are made from these lists.

3.13 With the admission of the applicant countries to the Communities, the Economic and Social Committee would require to be enlarged to allow for the representation of the new member States. The question of the allocation of seats to the new members will be a matter for negotiation.

Other Committees

3.14 The admission of new member States to the Communities would also entail the enlargement of the various other committees which are specifically provided for in the Treaties or which have been established by the main institutions in pursuance of their functions. Ireland, as a member of the Communities, would be entitled to representation on these bodies.

CHAPTER 4

INDUSTRY

4.1 In this Chapter, consideration is given to the principal consequences and implications which our accession to the EEC would have for the industrial sector. These are dealt with under the following main headings:

- the Customs Union;
- Restrictive Practices and Abuse of Dominant Positions;
- Dumping;
- State Aids;
- Technology.

4.2 The general state of preparedness of Irish industry for EEC membership is commented on in paragraphs 4.34 and 4.35 (with more detailed information in Appendix 3). In the final paragraphs of this Chapter a general assessment is made of the prospects for Irish industry in EEC conditions.

The Customs Union

4.3 The more obvious implications of EEC membership in the industrial sector arise from the obligations we would assume and the advantages that would accrue to us under the provisions relating to the Customs Union. We would be required, over the transitional period:—

- (a) to dismantle protection against imports originating in other member States of the enlarged Community, and
- (b) to bring our protection against imports from non-member countries into line with the common level of protection of the Community.

In return, Irish producers would become entitled to access for their products to the enlarged Community, free of the duties, quotas or other restrictions which now apply to them.

ELIMINATION OF PROTECTION IN INTERNAL COMMUNITY TRADE

Imports into Ireland

4.4 The obligations we would assume in the EEC to eliminate, over the transitional period, protection against imports originating in the enlarged Community are, in principle, much the same as we have already assumed in relation to most of our trade in industrial goods with the U.K., under the Anglo-Irish Free Trade Area Agreement. The obligations of EEC membership in the industrial sector, however, involve more than a geographical extension of the Free Trade Area Agreement. There is, of course, the basic distinction that the Agreement is primarily concerned with bilateral trade relations as such whereas the Treaty provisions provide a framework for the integration of the national markets and the economies of the member States. Furthermore, from the free trade aspect, the product coverage of the Treaty provisions is total whereas the coverage of the Free Trade Area Agreement is less than total. Certain Irish imports of industrial products, e.g. jute, sugar confectionery, chocolate confectionery and biscuits, are excluded from free trade in the Anglo-Irish context due principally, in the case of the latter three products, to the existence of different price support systems in the U.K. and Ireland resulting in British manufacturers having access to the necessary raw materials at lower prices. Furthermore, there is provision in Article 1 (5) of the Agreement for the possible exclusion from the further operation of free trade of goods representing up to 3 per cent by value of imports from the U.K. into Ireland, following a review to be conducted in the year beginning 1 July 1970. The permanent exclusion of industrial goods would not be permitted within the EEC, so that goods excluded from free trade under the Free Trade Area Agreement would be subject to the dismantlement of protection and this would apply to imports from the U.K. as a member of the enlarged Community. The action that could be taken to deal with sectoral difficulties will be one of the matters which will arise in the negotiations for EEC membership. An assessment of the implications for Irish industry of the

removal of protection is given in paragraphs 4.36 to 4.47 of this Chapter, which deal with the prospects for our industry in EEC conditions.

Exports from Ireland

4.5 The existing members of the EEC and the applicant countries (other than the U.K.) would have an obligation to eliminate their duties and other forms of protection against imports from Ireland. (In the case of the U.K. we already have duty-free access for all our industrial exports.) In general, the EEC duties applicable to Irish industrial products are already at a fairly low level and when the final "Kennedy Round" tariff reductions, due to be made in 1972, are implemented the average EEC tariff on manufactured goods will be of the order of 8 per cent.

ALIGNMENT OF PROTECTION IN COMMUNITY EXTERNAL TRADE

4.6 Concurrently with the removal of protection against goods from within the EEC, the new members of the Community would be adjusting their protection against non-EEC countries so as to bring it into line with the common level of external protection adopted in the Community. There is no corresponding requirement in the Free Trade Area Agreement since both Ireland and the U.K. are, apart from certain very limited obligations, free under the Agreement to vary the level of their external duties.

4.7 During the transitional period, our tariffs against non-EEC goods would, except in cases where both the Irish and EEC duty positions are "nil", be moving (upwards from "nil" duty positions and downwards from higher duty positions) to the level of the EEC external duty for each heading in the EEC Tariff. This would have implications for Irish producers for the home and export market as regards (i) access to and cost of materials for processing, and (ii) competition from imports from outside the Community area. Where, as in the case of very many industries, Irish manufacturers at present draw their materials from sources within the EEC and the applicant States, or where existing non-EEC sources could be replaced by satisfactory EEC sources, materials costs would not be affected. Where, however, Irish manufacturers are drawing

materials from a non-EEC source which cannot be matched within the Community, the cost of these materials would be increased in so far as production for sale within the Community is concerned. However, the EEC external tariffs on raw materials are generally low.

4.8 So far as the British market is concerned, Irish exporters and British home manufacturers at present have, in many cases, access to the same sources of raw materials without payment of duty. Where such materials became subject to the common customs tariff of the EEC—which would, of course, apply only to sources outside the enlarged Community—the existing relative competitive position as between Irish and British producers should not be significantly affected. However, the British market generally would become subject to increasing competition from other manufacturers within the EEC according as the present British duties against the existing member States were eliminated. Where an Irish exporter at present has an advantage in raw materials costs over his British competitors, e.g. by getting duty-free materials where British producers have to pay duty or buy dearer British materials, the Irish exporter would lose this advantage in due course as his British competitors would have access to materials on common terms.

4.9 The practice whereby Irish exporters may claim a refund of duty or obtain duty-free licences in respect of imported materials required for the export trade—generally termed "drawback"—does not affect our right to duty-free access to the British market, subject to compliance with the Rules of Origin under the Free Trade Area Agreement. In general, drawback is not permitted in intra-Community trade—the appropriate common customs tariff must normally be paid on non-EEC materials used in processed goods before they can qualify for free circulation within the Community. In due course, therefore, the existing practice in regard to drawback would have to be eliminated in respect of dutiable raw materials imported from outside the enlarged Community and incorporated in Irish exports to the enlarged Community, including the U.K. Exporting firms which now draw raw materials from sources within the enlarged EEC or use materials which are not dutiable in the Community would, as already indicated, be unaffected in this regard. The use of drawback in respect of exports

to non-EEC countries could be permitted to continue, subject to EEC regulations generally aimed at protecting the position of Community raw materials of the kind involved and Community exporters using these materials.

4.10 There is provision in the EEC for the establishment of "tariff quotas" i.e. fixed quantities of certain materials which may be imported either free of duty or on payment of a rate below the level of the common customs tariff. These apply, however, only to a limited number of commodities, largely basic raw materials, the Community production of which is inadequate.

4.11 The reduction of our duties on products originating outside the enlarged EEC to the generally lower levels of the common customs tariff could create problems for home market producers in addition to those arising from EEC competition. In certain sensitive areas of trade, e.g. the textile sector generally, it would be possible for us, in accordance with the common commercial policy of the Community (see Chapter 10), to take protective measures against such imports from low-cost sources and State-trading countries.

4.12 The association agreements which have been concluded between the Community and certain countries* are not currently of major trading significance from our point of view. However, it seems likely that, following the conclusion of the accession negotiations for the four applicants for membership of the EEC, arrangements would be concluded which would regulate trading relations between the enlarged Community and certain European countries. It has also been suggested that agreements similar to the Yaoundé Convention might be entered into with certain developing Commonwealth countries.

*Association agreements have been concluded with Greece, Turkey, Morocco, Tunisia, the East African States (Kenya, Uganda and Tanzania) and, in the Yaoundé Convention, with the following African and Malagasy States:

Kingdom of Burundi, Federal Republic of Cameroon, Central African Republic and the Republics of Chad, Congo (Brazzaville), Congo (Kinshasa), Dahomey, Gabon, the Ivory Coast, Malagasy Republic (Madagascar), Mali, Mauritania (Islamic), Niger, Rwanda, Senegal, Somalia, Togo, Upper Volta.

4.13 Developments on the lines indicated in paragraph 4.12 would eventually extend our free trade obligations and advantages over a wide geographical area and might include European countries with which we now have important mutual trade. While this would open our markets to additional competition from some highly industrialised countries, there would be the compensating advantages of more favourable terms of access for our exports to these and other countries than we have at present. Furthermore, the developing countries likely to enter into association with the Community are important suppliers of raw materials to which we would continue to have duty-free access and these countries are providing increasingly important opportunities for exports.

Restrictive Practices and Abuse of Dominant Positions

4.14 The rules of competition laid down in the Treaty, covering restrictive practices and abuse of dominant positions, are explained in some detail in Chapter 7—Competition Policy—of the White Paper of April 1967. In summary, the Treaty prohibits any agreements, decisions or concerted practices which may affect trade between member States and which have as their object or effect the prevention, restriction or distortion of competition within the Common Market. There is provision for the exemption from this prohibition of arrangements which help to improve the production or distribution of goods or to promote technical or economic progress subject, however, to the maintenance of reasonable competition and consumer benefit. The Treaty also prohibits action by one or more enterprises to take improper advantage of a dominant position, to the extent to which trade between member States may be affected; the relevant provisions are not, however, designed to prevent the attainment of a dominant position as such.

4.15 The provisions of the Treaty in this field are directly binding on individuals and companies in member States and no specific prior decision prohibiting a particular restrictive practice or abuse of a dominant position is required.

4.16. The Commission is empowered to carry out investigations and to issue recommendations and decisions to undertakings and associations regarding the compatibility of particular

practices with the Treaty provisions. It can impose penalties for infringements. In July 1968 the Commission announced a new and more flexible policy towards inter-company agreements. The Commission favours co-operation between small and medium-sized companies where such co-operation facilitates more productive and more competitive operation in the Community market. Co-operation among larger enterprises will also be allowed provided it does not restrict competition.

4.17 In the carrying out of investigations, the Commission's practice is to maintain close contact with the Governments concerned and to consult them before a final decision is taken. While no fines were imposed in the first 8 years of the Community's existence, the powers of the Commission were emphasised recently when in July 1969 six Community quinine producers were fined a total of \$500,000 for operating a market-sharing agreement and ten manufacturers of dyestuffs, a number being non-Community firms, were fined almost \$500,000 for price fixing.

4.18 It is not envisaged that acceptance of the Treaty provisions and EEC regulations on restrictive trade practices, etc. would give rise to any serious problems for Ireland.

Dumping

4.19 Dumping normally takes place when goods are exported abroad at prices lower than those at which they are sold on the home market and injury is caused or threatened thereby to an industry in the country to which they are exported.

4.20 The Treaty allowed action to be taken against dumping from within the Community during the transitional period, which expired on 31 December 1969. The Commission, after investigating a complaint of dumping, could authorise an injured member State to take appropriate protective measures if its recommendation to those responsible for the dumping practices had not proved effective in putting an end to them. As a further discouragement to dumping the Treaty also contains what is known as a "boomerang" provision under which exported products must be re-admitted to the country of export free of

all customs duties, quotas or other similar measures. During the transitional period to be agreed upon for the applicants we would expect that the arrangements outlined in this paragraph would apply.

4.21 The Treaty does not provide for action against dumping as between member States after the transitional period, since the unified market of the six member States is deemed to be, in effect, an enlarged home market. However, Article 86 of the Treaty prohibits the exploitation in an improper manner of a dominant position within the Common Market or a substantial part of it, including such improper practices as unfair purchase or selling prices. The Commission is empowered to ensure the observance of this prohibition by the imposition of penalties and could possibly take action against dumping under this provision.

4.22 Measures directed against dumping in the EEC by non-members come within the scope of the Community's common commercial policy (see Chapter 10). A regulation which came into force on 1 July 1968 lays down procedures for the examination of complaints of dumping from third countries and the imposition of anti-dumping duties. During the transitional period the examination of complaints and the imposition of duties could be undertaken by individual member States except where the markets of all the member States were affected at the same time or the goods were agricultural products subject to the common agricultural policy. With the expiration of the transitional period the examination of complaints and the determination of rates of duty have become the responsibility of the Commission and the Council. The regulation provides that after the transitional period the determination of injury caused by dumping shall, save in exceptional circumstances, be based on the effects of the imports on the particular Community industry as a whole.

4.23 Ireland is particularly vulnerable to dumping from highly industrialised countries because of the small size of our home market and of our industrial units. In so far as the EEC arrangements could create difficulties in this regard, it would be proposed to discuss the matter in the course of the negotiations.

State Aids

4.24. State aids which distort or threaten to distort competition are, to the extent to which they adversely affect trade between member States, deemed to be incompatible with the Common Market. The Commission, subject to the overriding authority of the Council, decides what aids can be allowed and which have to be eliminated or adapted.

4.25 The Commission has already indicated the general principles on which it considers Community policy should be based. Its views may be summarised as pointing to the conclusion that State aids are justifiable in two fields only, (a) regional policy and (b) sectoral policy as part of a structural policy designed to achieve the adaptation of industry to meet Common Market conditions.

4.26 The question of State aids for regional development is dealt with in Chapter 9 (paragraph 9.26) under the heading of "Regional Policy".

4.27 Dealing with a structural policy for industry, the EEC's Second Medium-Term Economic Policy Programme recommends that support for individual industries should be given only in exceptional cases. It should go firstly to a small group of particularly promising growth industries where, having regard to the high cost of research, independent and worthwhile development is beyond the means of individual enterprises and too risky for them to undertake on their own. Secondly, public support should be used to help certain industries that have to cope with considerable structural difficulties and might be the source of serious economic and social damage if left to their own devices. At the same time, in the case of declining industries, it is only in exceptional circumstances that action should be taken to slow down the process of contraction. Efforts should rather be concentrated on retraining the workers and finding them new jobs.

4.28 The aim of the Commission as regards sectoral aids is to harmonise the levels of assistance offered in individual member States. One of the industries which the Commission considers

requires State assistance, in order to combat the distortion of competition by non-member countries, is shipbuilding and agreement has been reached on the harmonising of State aids in that sector.

4.29 Our system of industrial grants, as at present operated, is of national application with regional variations designed to have regard to the geographical and other disadvantages inherent in establishing an industrial undertaking in the western areas of the country. On joining the European Communities our State aids would come under review by the Commission with a view to determining their compatibility with the Common Market, and we would maintain that, having regard to the purpose of these incentives for industrial development and the circumstances of the Irish economy, they are in keeping with the objectives of the Treaty.

Technology

4.30 The member States reached agreement during 1967 on the necessity for co-operation in science and technology. The background to this agreement was an awareness of the growing technological gap between Europe and the United States of America and of the need in Europe to keep pace with the development and application in industrial production of new techniques and methods. Member States began practical consideration of possible co-operation in October 1967. Following agreement among them on procedures and the completion of technical studies by a Community expert group, invitations to participate in the proposed co-operation were addressed in November 1969 by the Community to Ireland, the three other applicant countries (the U.K., Denmark and Norway) and to five other European countries (Austria, Portugal, Spain, Sweden, Switzerland).

4.31 The Community furnished with its invitations documents summarising the results of the studies carried out by the expert group. These covered co-operation possibilities in seven sectors, viz. information science (i.e. data-processing), telecommunications, new means of transport, oceanography, metallurgy, environmental pollution and meteorology, and identified forty-seven

projects as being suitable for co-operative development at European level. There had been a large measure of agreement among the member States on the importance and urgency of thirty of these projects. The Government have replied welcoming the initiative and accepting the invitation and have indicated, on the basis of a preliminary examination, that some of the projects are of likely interest to this country. The Community was informed that additional information would be necessary to permit a considered assessment of the programme as a whole and that the Government were ready to collaborate in an examination of the projected activities. The other countries invited have also replied affirmatively to the Community's invitation.

4.32 It is envisaged that there should now be discussions of the proposed programme by experts representing all the participating countries followed by decisions at Ministerial level on the experts' recommendations. If the proposed co-operation in technological and scientific research proceeds, it is important that Ireland should participate in it. It would clearly be of advantage to small countries such as Ireland with limited technological and scientific research capacity to be associated with this co-operative venture.

The state of preparedness of Irish industry

4.33 In Appendix 3 an account is given of the measures and policies adopted to prepare Irish industry for the onset of free trade. Information is also given in the Appendix on the progress achieved in the expansion of industrial production, employment and exports.

4.34 Attitudes in Irish industry have, without doubt, changed considerably over the past seven or eight years: protectionist, inward-looking attitudes have, for the most part, been replaced by a more progressive, outward-looking, export-conscious, approach. These psychological changes are not quantifiable but are nevertheless real. However, there are a number of disquieting aspects. It is doubtful, for example, if, even still, there is everywhere in industry a sufficiently deep appreciation of the realities of free trade or a proper realisation of the changes it will entail in the trading and industrial situation to which Irish industry has been accustomed. More disturbing, however, is the

fact that inflationary increases in industrial costs are making our products progressively less competitive in home and export markets even before free trade has become a reality.

4.35 In brief it can be said that

- industry is now much stronger and more widely-based than it was when the surveys by the Committee on Industrial Organisation (CIO) began in 1961;
- this increased strength is reflected in the increased volume of output and, more so, of exports, and in the increased employment provided by older-established as well as by the newer firms sponsored by the Industrial Development Authority (IDA).
- the extent of the investment in new equipment reflects the increased confidence of much of Irish industry in its capacity to meet free trade;
- industry in general is now far less protection-minded than formerly; there is a much better appreciation and acceptance of the need for changes in attitudes and practices but there is room for much further improvement;
- adaptation to free trade is a continuous process, the pace of which must now be accelerated in view of the likelihood of our early accession to EEC;
- by providing funds, incentives, facilities and services, the State has assisted industry to make the necessary transformation but the State cannot itself effect that transformation;
- the responsibility rests mainly with industry to gear itself for free trade; despite the undoubted progress on different fronts of the past seven or eight years, industry's all-round preparedness might be described as uneven and capable of considerable improvement.

General Assessment

4.36 Consideration of the implications of EEC membership for Irish industry must, in the first instance, have regard to the operation of the Anglo-Irish Free Trade Area Agreement. The

fifth annual reduction of tariffs under this Agreement is due to be made on 1 July 1970 and we shall then be at the half-way stage in the progression to a free trade situation with the U.K. Indeed, taking into account the two unilateral tariff reductions introduced by the Government in 1963 and 1964, Irish tariffs on most British industrial products have already been cut to about half the level at which they were originally fixed. From now on, the reductions in these tariffs will be progressively more critical. For many sectors of industry, therefore, the impact of free trade will have become fairly fully felt some time before our market would be open to European competition in general. For these industries, the main testing time will be the two or three years immediately prior to 1975. Undoubtedly there will be some industries for which the removal of protection against imports from the EEC and the reduction of protection against third countries would likely be of special significance because of the particular competitiveness of the imported goods concerned.

4.37 The EEC obligation to align our duties against non-Community imports with the level of the common customs tariff could involve increased costs for some firms using imported dutiable materials from outside the enlarged Community, and thus affect their competitive position in both the home and British markets. It seems unlikely, however, that this aspect will have serious implications for industry in general. To a large extent the materials used by Irish industry, both for home and export purposes, are bought from countries which will make up, or which are likely to be associated with, the enlarged Community and even where this is not so, it is possible that, in some cases, satisfactory alternative sources of supply within the enlarged Community could be found. Where Irish firms found it necessary to continue to draw basic raw materials from outside the Community, it is likely that, in most cases, the materials would be either free of duty or subject to a fairly low level of duty. However, where Irish producers trading on the home market or in the British market had to meet extra materials costs arising from payment of the common customs tariff or the substitution of materials from more costly EEC sources, this aspect would add to the difficulties arising from the increasing competition in these markets as the Irish and British duties are removed.

4.38 Industrial activities at the Shannon Customs-Free Industrial Zone are based to a substantial degree on the processing for re-export of materials imported free of duty from countries other than those which will constitute the enlarged Community. The position of the Zone will have to be the subject of discussion with the Community.

4.39 Not every Irish firm can expect to survive in free trade. It is to the potential for exports within the enlarged Community—a buoyant market of over 250 million consumers where the variety of demand will be virtually limitless—that we must look for the gains to offset in any losses in the home market and also to permit of the necessary expansion of our industrial base. There would be increased opportunities—

- (a) for existing firms through access to wider markets;
- (b) for the establishment of new export-oriented industries to serve the enlarged free trade market.

This further widening of the industrial base could be expected to lead in turn, through linkage, to added opportunities for existing manufacturers, including those in the small industry category, and for service-type industries. The necessary switch of labour resources would be facilitated by our scheme for the retraining and resettling of workers, which would be eligible for assistance from the European Social Fund (see Chapter 11).

4.40 While it is reasonable to expect that membership of the EEC would considerably enhance the attractions of Ireland as a base for new foreign industrial investment, it is essential that the existing industries should exploit to the fullest extent the new export opportunities which would be open to them. In so far as the EEC duties on industrial products will be at a low level, following full implementation of the “Kennedy Round” reductions, it could be suggested that the additional trading margins arising from the elimination of the duties following our accession to membership would not be very great. It is only part of the answer to this to say that, in the keenly competitive field of export marketing, the margin represented by even a moderate level of duty would very often be critical. Removal of the duties is only one aspect. Membership of the Common Market would require our fellow-members

to remove restrictions on Irish products; it would provide common terms of access to raw materials for ourselves and other Community producers; and, in general, progress in the harmonisation of customs procedures, taxation and fiscal policies, and in many other fields, is aimed at the elimination of all obstacles which tend to inhibit trade within the Community.

4.41 In 1969, our industrial exports, excluding those from the Shannon Customs-Free Industrial Zone, to the six present member countries of the EEC were valued at approximately £29 million. This represents, at current prices, almost a nine-fold increase as compared with 1960 and these exports expressed as a percentage of our total industrial exports have more than doubled in that period. In the same period, industrial exports to the EFTA countries, other than the U.K., increased from approximately £1.2 million to about £3.6 million. At present, Irish exports to the Community, where dutiable, are subject to the common customs tariff on the full value of the finished goods. As a member of the EEC we would have duty-free access to the enlarged Community for all our exports though any materials of third country origin included in the goods would, of course, have been charged with the common customs tariff on importation into Ireland. This would provide scope not only for a substantial increase in exports in absolute terms but also for an acceleration of the process of diversification of export markets, which would make us less vulnerable to fluctuating conditions in an individual market.

4.42 Looking, therefore, at industry as a whole it is reasonable to expect that the gains from membership would be progressive and, in the longer term, should significantly outweigh any losses that might occur. The probable position in the earlier years of membership is more difficult to forecast as it is then that the problems caused by elimination of protection and adjustment to the enlarged market would chiefly arise; but given a determined effort to overcome those problems, it should be possible to maintain in those years an industrial growth rate of the order of that projected in the Third Programme for the period 1969/72. The increasing pressures of trading in a situation where tariff and quota protection of the home market against Community imports would not be permitted, and where traditional export markets would become increasingly competitive, would undoubtedly create serious difficulties in some

sectors. However, experience would be likely to vary from sector to sector within industry as a whole and even from firm to firm within a particular industry. In some sectors, the result would often depend on the extent to which a particular firm had adapted its production methods or rationalised its product policy in sufficient time, and with sufficient energy, to cope with the new situation. Changes in the structure and pattern of Irish industry, partly as a result of increasing competitive pressures and partly as a result of the opening up of new trading opportunities, would seem inevitable—this has been the experience of the operation of the Common Market on the economies of the existing member States of the Community.

4.43 The prospect of increased competition at home, and the possibilities of increased exports in an enlarged EEC, underline the need to maintain industrial costs at competitive levels. This applies particularly to labour costs which in 1969 increased at a much faster rate than in the EEC or in any of the other applicant countries. If the benefits of membership are to be maximised, and the disadvantages minimised, this trend must be corrected.

4.44 It is necessary to face up to the fact that membership of the EEC would pose problems, possibly of a serious nature, for some sectors of industry as well as for individual firms. Nothing must be left undone, either at the appropriate levels in industry or by the State agencies concerned, to solve or at least mitigate these difficulties. But it would be an unbalanced reaction to become obsessed with the difficulties and not attempt to view the situation in wider perspective.

4.45 The dominant feature of our accession to the EEC must be seen to be the opening up of much wider markets and greater opportunities and not the increased competition in the limited home market. For many industries the additional competition from EEC countries would be unlikely to add greatly to the competition they are already committed to face in the Irish market under the Anglo-Irish Free Trade Area Agreement. Therefore, viewed from our present position, the balance of advantages in the industrial sector favours membership of the EEC and the benefits may be expected to increase as time goes on.

4.46 The Confederation of Irish Industries, indeed, has recognised ("Challenge"—February 1968) that, in certain respects,